



# AGENDA

## CAPITOLA PLANNING COMMISSION

### Thursday, March 7, 2019 – 7:00 PM

Chairperson TJ Welch  
Commissioners Courtney Christiansen  
Ed Newman  
Mick Routh  
Peter Wilk

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

#### 2. ORAL COMMUNICATIONS

##### A. Additions and Deletions to Agenda

##### B. Public Comments

*Short communications from the public concerning matters not on the Agenda. 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.*

##### C. Commission Comments

##### D. Staff Comments

#### 3. APPROVAL OF MINUTES

##### A. Planning Commission - Special Meeting - Feb 7, 2019 6:30 PM

##### B. Planning Commission - Regular Meeting - Feb 7, 2019 7:00 PM

#### 4. CONSENT CALENDAR

*All matters listed under "Consent Calendar" are considered by the Planning Commission to be routine and 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 Planning Commission votes on the action unless members of the public or the Planning Commission request specific items to be discussed for separate review. Items pulled for separate discussion will be considered in the order listed on the Agenda.*

##### A. 510 El Salto Drive

#19-0017

APN: 036-125-16

Request for a one-year extension of a previously approved Design Permit for a single-story addition and Variance request to the on-site parking requirement for an existing home in the R-1 (Single-Family Residential) zoning district.

This project is in the Coastal Zone and requires a Coastal Development Permit, which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.

Environmental Determination: Categorical Exemption

Property Owner: John McEnery III

Representative: Derek Van Alstine, Filed: 01/16/2019

## 5. PUBLIC HEARINGS

*Public Hearings are intended to provide an opportunity for public discussion of each item listed as a Public Hearing. The following procedure is as follows: 1) Staff Presentation; 2) Public Discussion; 3) Planning Commission Comments; 4) Close public portion of the Hearing; 5) Planning Commission Discussion; and 6) Decision.*

**A. 401 Capitola Avenue                      #19-0031                      APN: 035-121-11**

Conditional Use Permit for a take-out restaurant located within the CN (Neighborhood Commercial) zoning district.

This project is in the Coastal Zone but does not require a Coastal Development Permit.

Environmental Determination: Categorical Exemption

Property Owner: Amy Cheng

Representative: Amy Cheng, Filed: 01.23.2019

**B. Update to Zoning Ordinance/ LCP Implementation Plan**

Comprehensive Update to the City of Capitola Zoning Code/Local Coastal Plan Implementation Plan and updated Zoning Map and subsequent maps relative to the Zoning Code.

The Zoning Code serves as the Implementation Plan of the City's Local Coastal Program and therefore must be certified by the Coastal Commission.

Environmental Determination: Addendum to the General Plan Update EIR

Property: The Zoning Code update affects all properties within the City of Capitola.

Representative: Katie Herlihy, Community Development Director, City of Capitola

## 6. DIRECTOR'S REPORT

## 7. COMMISSION COMMUNICATIONS

## 8. ADJOURNMENT

**APPEALS:** The following decisions of the Planning Commission can be appealed to the City Council within the (10) calendar days following the date of the Commission action: Conditional Use Permit, Variance, and Coastal Permit. The decision of the Planning Commission pertaining to an Architectural and Site Review Design Permit can be appealed to the City Council within the (10) working days following the date of the Commission action. If the tenth day falls on a weekend or holiday, the appeal period is extended to the next business day.

All appeals must be in writing, setting forth the nature of the action and the basis upon which the action is considered to be in error, and addressed to the City Council in care of the City Clerk. An appeal must be accompanied by a five hundred dollar (\$500) filing fee, unless the item involves a Coastal Permit that is appealable to the Coastal Commission, in which case there is no fee. If you challenge a decision of the Planning Commission in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this agenda, or in written correspondence delivered to the City at, or prior to, the public hearing.

**Notice regarding Planning Commission meetings:** The Planning Commission meets regularly on the 1<sup>st</sup> Thursday of each month at 7 p.m. in the City Hall Council Chambers located at 420 Capitola Avenue, Capitola.

**Agenda and Agenda Packet Materials:** The Planning Commission Agenda and complete Agenda Packet are available on the Internet at the City's website: [www.cityofcapitola.org](http://www.cityofcapitola.org). Need more information? Contact the Community Development Department at (831) 475-7300.

**Agenda Materials Distributed after Distribution of the Agenda Packet:** Materials that are a public record under Government Code § 54957.5(A) and that relate to an agenda item of a regular meeting of the Planning Commission that are distributed to a majority of all the members of the Planning Commission more than 72 hours prior to that meeting shall be available for public inspection at City Hall located at 420 Capitola Avenue, Capitola, 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 Community Development Department 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:** Planning Commission meetings are cablecast "Live" on Charter Communications Cable TV Channel 8 and are recorded to be replayed on the following Monday and Friday at 1:00 p.m. on Charter Channel 71 and Comcast Channel 25. Meetings can also be viewed from the City's website: [www.cityofcapitola.org](http://www.cityofcapitola.org).



**DRAFT MINUTES  
CAPITOLA PLANNING COMMISSION SPECIAL MEETING  
THURSDAY, FEBRUARY 7, 2019  
6:30 P.M. – CAPITOLA CITY COUNCIL CHAMBERS**

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

**2. TRAINING**

**A. Brown Act Training**

Reed Gallogly of the City Attorney's office provided Brown Act training to the Planning Commission. He emphasized the significance of the Brown Act to all forms of local government and explained the Brown Act's rules within the context of the Capitola Planning Commission and experiences that Commissioners will likely have.

**3. ADJOURNMENT**

Approved by the Planning Commission at the regular meeting on March 7, 2019.

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Chloé Woodmansee, Clerk to the Commission

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**DRAFT MINUTES  
CAPITOLA PLANNING COMMISSION MEETING  
THURSDAY, FEBRUARY 7, 2019  
7 P.M. – CAPITOLA CITY COUNCIL CHAMBERS**

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

**A. Swearing- in of new Planning Commissioners**

<b>RESULT:</b>	<b>Swore-in Commissioners Christiansen, Routh, and Welch</b>
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**2. NEW BUSINESS**

**A. Election of Chair and Vice Chair**

MOTION: Nominate Commissioner Welch as Commission Chair.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Ed Newman
<b>SECONDER:</b>	Peter Wilk
<b>AYES:</b>	Christiansen, Newman, Routh, Welch, Wilk

MOTION: Nominate Commissioner Newman as Commission Vice-Chair.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Peter Wilk
<b>SECONDER:</b>	Mick Routh
<b>AYES:</b>	Christiansen, Newman, Routh, Welch, Wilk

**B. Commission and Appointments**

**1. Art & Cultural Commission**

Commissioner Wilk announced his desire to be appointed, though he deferred to Commissioner Christiansen when she indicated that she would like to serve.

MOTION: Select Commissioner Christiansen as the Planning Commission's appointee to the Art and Cultural Commission.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Ed Newman
<b>SECONDER:</b>	Peter Wilk
<b>AYES:</b>	Christiansen, Newman, Routh, Welch, Wilk

**3. ORAL COMMUNICATIONS**

**A. Additions and Deletions to Agenda**

Director Herlihy announced that there were two last minute additional materials sent in to the City, which were available to all commissioners on the dais and for the public at the back of the room.

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**B. Public Comments - none****C. Commission Comments**

Commissioner Newman welcomed all commissioners, old and new.

**D. Staff Comments**

In response to several questions, Director Herlihy clarified that any item before the Commission that complies with all Zoning and City requirements is initially put directly on the Consent Calendar. Projects can then be pulled for discussion if a member of the public or the Commission so wishes.

**4. APPROVAL OF MINUTES****A. Planning Commission - Regular Meeting - Dec 6, 2018 7:00 PM**

As they were not present for the Regular Planning Commission meeting on December 6, Commissioners Christiansen, Routh, and Wilk abstained from approving the minutes.

MOTION: Approve the minutes

<b>RESULT:</b>	<b>APPROVED</b>
<b>MOVER:</b>	Ed Newman
<b>SECONDER:</b>	TJ Welch
<b>AYES:</b>	Newman, Welch
<b>ABSTAINED:</b>	Christiansen, Routh, Wilk

**5. CONSENT CALENDAR**

Due to her association with the project, Commissioner Christiansen recused herself from voting on Item 5.A. There was then a separate vote on items 5.B and 5.C.

**A. 210 Esplanade #19-0007 APN: 035-221-08 & 035-221-09**

Sign Permit for wall sign and projecting sign for the Capitola Hotel located in the CV (Central Village) zoning district.

This project is in the Coastal Zone but does not require a Coastal Development Permit.

Environmental Determination: Categorical Exemption

Property Owner: Bhavana and Dharmesh Patel

Representative: FUSE Architects Inc., Filed: 01/04/19

MOTION: Approve the Sign Permit with the following conditions and findings.

**CONDITIONS:**

1. The project approval consists of a 42-square-foot wall sign and a six-square-foot projecting sign at the Capitola Hotel at 210 Esplanade. The existing wall signs on the front and side façade of the hotel will be removed. The Capitola Hotel lettering above the arbor will remain. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on February 7, 2019, except as modified through conditions imposed by the Planning Commission during the hearing.
2. The projecting sign may not expose any direct lighting or electrical. All electrical shall be concealed. The lettering on the projecting sign will be backlit. The letters shall be routed out and remain open.
3. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any

significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.

4. Prior to issuance of building permit, all Planning fees associated with permit #19-007 shall be paid in full.
5. Prior to installation of signs, the existing wall signs shall be removed from the building.
6. Prior to building permit, of the projecting sign, the applicant shall acquire a revocable encroachment permit from the public works department.
7. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
8. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends except for Saturday work between nine a.m. and four p.m. or emergency work approved by the building official. §9.12.010B
9. Compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a permit amendment for Planning Commission consideration. Failure to remedy a non-compliance in a timely manner may result in permit revocation.
10. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.
11. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.

#### **FINDINGS:**

- A. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance and General Plan.**  
Community Development Department Staff and the Planning Commission have reviewed the sign application and determined that the proposed signs will secure the purpose of the zoning ordinance and general plan.
- B. **The application will maintain the character and integrity of the neighborhood.**  
Community Development Department Staff and the Planning Commission have reviewed the signs and determined that the signs maintain the character and integrity of the Central Village.

**C. This project is categorically exempt under Section 15301 of the California Environmental Quality Act and is not subject to Section 735.5 of Title 14 of the California Code of Regulations.**

The signs are proposed on an existing hotel in the Central Village. No adverse environmental impacts were discovered during project review by either the Planning Department Staff or the Planning Commission.

<b>RESULT:</b>	<b>APPROVED</b>
<b>MOVER:</b>	Peter Wilk
<b>SECONDER:</b>	Mick Routh
<b>AYES:</b>	Newman, Routh, Welch, Wilk
<b>RECUSED:</b>	Christiansen

**B. 1730 42nd Avenue #18-0604 APN: 034-121-14**

Design Permit for demolition of existing home and construction of a new two-story, single-family home located within 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 California Coastal Commission after all possible appeals are exhausted through the City.

Environmental Determination: Categorical Exemption

Property Owner: Troy Obrero & Lori Giver

Representative: Kurt Useldinger, Architect, Filed: 11.26.18

MOTION: Approve the Design Permit and Coastal Development Permit with the following conditions and findings.

**CONDITIONS:**

1. The project approval consists of demolition of an existing one-story single-family home and construction of a 2,159-square-foot two-story single-family home. The maximum Floor Area Ratio for the 4,000-square-foot property is 54% (2,160 square feet). The total FAR of the project is 53.9% with a total of 2,159 square feet, compliant with the maximum FAR within the zone. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on February 7, 2019, except as modified through conditions imposed by the Planning Commission during the hearing.
2. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans
3. Prior to issuance of a demolition permit, documentation must be provided to the City that there are no existing pest issues on the site and any prior pest issues have been resolved.
4. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
5. At time of submittal for building permit review, Public Works Standard Detail SMP STRM shall be printed in full and incorporated as a sheet into the construction plans. All

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construction shall be done in accordance with the Public Works Standard Detail BMP STRM.

6. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.
7. Prior to issuance of building permit, a final landscape plan shall be submitted and approved by the Community Development Department. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of irrigation systems.
8. Prior to issuance of building permit, all Planning fees associated with permit #18-0604 shall be paid in full.
9. Prior to issuance of building permit, Affordable housing in-lieu fees shall be paid as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance.
10. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel Creek Water District, and Central Fire Protection District.
11. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, shall be submitted to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
12. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).
13. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan.
14. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
15. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official. §9.12.010B
16. Prior to a project final, all cracked or broken driveway approaches, curb, gutter, or sidewalk shall be replaced per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches, curb, gutter or sidewalk shall meet current Accessibility Standards.

17. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a permit amendment for Planning Commission consideration. Failure to remedy a non-compliance in a timely manner may result in permit revocation.
18. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.
19. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.
20. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
21. Prior to issuance of building permits, the building plans must show that the existing overhead utility lines will be underground to the nearest utility pole.
22. Trees permitted for removal within this development permit application may not be removed prior to issuance of a building permit.

#### **FINDINGS:**

- A. **The project, subject to the conditions imposed, secures the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**  
Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The proposed construction of a 2,159-square-foot two-story single-family home complies with the development standards of the R-1 (Single-Family Residential) Zoning District. The project secures the purpose of the Zoning Ordinance, General Plan, and Local Coastal Plan
- B. **The project will maintain the character and integrity of the neighborhood.**  
Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the application for the construction of a 2,159-square-foot two-story single-family home. The modern design of the home, with horizontal wood siding and fiber cement plain panels on the first and second story, abundant windows, a small second-story rear deck, and a lanai with an outdoor kitchen at the rear of the home, will fit in nicely with the existing neighborhood. The project will maintain the character and integrity of the neighborhood.
- C. **This project is categorically exempt under Section 15303(a) of the California Environmental Quality Act and is subject to Section 753.5 of Title 14 of the California Code of Regulations.**  
Section 15303(a) of the CEQA Guidelines exempts one single-family residence, or a second dwelling unit in a residential zone. This project involves the construction of a single-family residence within the R-1 (Single-Family Residential) zoning district. No adverse environmental impacts were discovered during review of the proposed project.

**COASTAL FINDINGS:**

***D. Findings Required. A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program, including, but not limited to:***

- The proposed development conforms to the City's certified Local Coastal Plan (LCP). The specific, factual findings, as per CMC Section 17.46.090(D) are as follows:

***(D) (2) Require Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (D)(2)(a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the adverse effects which have been identified will be alleviated or mitigated by the dedication. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.***

***(D) (2) (a) Project Effects on Demand for Access and Recreation. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project's effects upon existing public access and recreation opportunities. Analysis of the project's cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative buildout. Projection for the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project's cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities***

- The proposed project is located at 1730 42<sup>nd</sup> Avenue. The home is not located in an area with coastal access. The home will not have an effect on public trails or beach access.

***(D) (2) (b) Shoreline Processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development. Description and***

***analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;***

- The proposed project is located along 42<sup>nd</sup> Avenue. No portion of the project is located along the shoreline or beach.

***(D) (2) (c) Historic Public Use. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use);***

- There is not a history of public use on the subject lot.

***(D) (2) (d) Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;***

- The proposed project is located on private property on 42<sup>nd</sup> Avenue. The project will not block or impede the ability of the public to get to or along the tidelands, public recreation areas, or views to the shoreline.

***(D) (2) (e) Other Adverse Impacts on Access and Recreation. Description of the development's physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.***

- The proposed project is located on private property that will not impact access and recreation. The project does not diminish the public's use of tidelands or lands committed to public recreation nor alter the aesthetic, visual, or recreational value of public use areas.

***(D) (3) (a – c) Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F) (2) applies to a development shall be supported***

**by written findings of fact, analysis and conclusions which address all of the following:**

**a. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;**

**b. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;**

**c. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.**

- The project is not requesting a Public Access Exception, therefore these findings do not apply.

**(D) (4) (a-f) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:**

**a. Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;**

- The project is located in a residential area without sensitive habitat areas.

**b. Topographic constraints of the development site;**

- The project is located on a flat lot.

**c. Recreational needs of the public;**

- The project does not impact the recreational needs of the public.

**d. Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;**

**e. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;**

**f. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.**

**(D) (5) Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);**

- No legal documents to ensure public access rights are required for the proposed project.

***(D) (6) Project complies with visitor-serving and recreational use policies;***

**SEC. 30222**

***The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.***

- The project involves a single-family home on a residential lot of record.

**SEC. 30223**

***Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.***

- The project involves a single-family home on a residential lot of record.

***c) Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.***

- The project involves a single-family home on a residential lot of record.

***(D) (7) Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;***

- The project involves the construction of a single-family home. The project complies with applicable standards and requirements for provision for parking, pedestrian access, alternate means of transportation, and/or traffic improvements.

***(D) (8) Review of project design, site plan, signing, lighting, landscaping, etc., by the city's architectural and site review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;***

- The project complies with the design guidelines and standards established by the Municipal Code.

***(D) (9) Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola's shoreline;***

- The project will not negatively impact public landmarks and/or public views. The project will not block or detract from public views to and along Capitola's shoreline.

***(D) (10) Demonstrated availability and adequacy of water and sewer services;***

- The project is located on a legal lot of record with available water and sewer services.

***(D) (11) Provisions of minimum water flow rates and fire response times;***

- The project is located within a mile of the Central Fire Protection District's Capitola Station. Water is available at the location.

***(D) (12) Project complies with water and energy conservation standards;***

- The project is for the construction of a new single-family residence. The GHG emissions for the project are projected at less than significant impact. All water fixtures must comply with the low-flow standards of the Soquel Creek Water District.

***(D) (13) Provision of park dedication, school impact, and other fees as may be required;***

- The project will be required to pay appropriate fees prior to building permit issuance.

***(D) (14) Project complies with coastal housing policies, and applicable ordinances including condominium conversion and mobile home ordinances;***

- The project does not involve a condo conversion or mobile homes.

***(D) (15) Project complies with natural resource, habitat, and archaeological protection policies;***

- Conditions of approval have been included to ensure compliance with established policies.

***(D) (16) Project complies with Monarch butterfly habitat protection policies;***

- The project is outside of any identified sensitive habitats, specifically areas where Monarch Butterflies have been encountered, identified and documented.

***(D) (17) Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;***

- Conditions of approval have been included to ensure compliance with applicable erosion control measures.

***(D) (18) Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project complies with hazard protection policies including provision of appropriate setbacks and mitigation measures;***

- Geologic/engineering reports have been prepared by qualified professionals for this project. Conditions of approval have been included to ensure the project applicant shall comply with all applicable requirements of the most recent version of the California Building Standards Code.

***(D) (19) All other geological, flood and fire hazards are accounted for and mitigated in the project design;***

- Conditions of approval have been included to ensure the project complies with geological, flood, and fire hazards and are accounted for and will be mitigated in the project design.

***(D) (20) Project complies with shoreline structure policies;***

- The proposed project is not located along a shoreline.

***(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;***

- This use is an allowed use consistent with the single-family zoning district.

***(D) (22) Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures;***

- The project conforms to the requirements of all city ordinances, zoning requirements, and project development review and development procedures.

***(D) (23) Project complies with the Capitola parking permit program as follows:***

- The project site is not located within the area of the Capitola parking permit program.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Peter Wilk
<b>SECONDER:</b>	Mick Routh
<b>AYES:</b>	Christiansen, Newman, Routh, Welch, Wilk

**C. 607 Oak Drive                      #19-0006                      APN: 035-073-06**

Design Permit for the demolition of an existing single-story residence and construction of a new two-story home located in the R-1 (Single-Family Residential) zoning district.

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

Environmental Determination: Categorical Exemption

Property Owner: Dave Shehan

Representative: Robin Alaga, Filed: January 4, 2019

MOTION: Approve the Design Permit and Coastal Development Permit with the following conditions and findings.

**CONDITIONS:**

1. The project approval consists of construction of a new 1,413 square-foot single-family residence. The maximum Floor Area Ratio for the 2,800 square foot property is 57% (1,596 square feet). The total FAR of the project is 50.5% with a total of 1,413 square feet, compliant with the maximum FAR within the zone. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning



Commission on February 7, 2019, except as modified through conditions imposed by the Planning Commission during the hearing.

2. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans
3. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
4. At time of submittal for building permit review, Public Works Standard Detail SMP STRM shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with the Public Works Standard Detail BMP STRM.
5. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.
6. Prior to demolition of the existing structure, a pest control company shall resolve any pest issue and document that all pest issues have been mitigated. Documentation shall be submitted to the city at time of demolition permit application.
7. Prior to issuance of building permit, a final landscape plan shall be submitted and approved by the Community Development Department. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of irrigation systems.
8. Prior to issuance of building permit, all Planning fees associated with permit #19-0006 shall be paid in full.
9. Prior to issuance of building permit, Affordable housing in-lieu fees shall be paid as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance.
10. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel Creek Water District, and Central Fire Protection District.
11. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, shall be submitted to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
12. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).

13. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan.
14. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
15. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official. §9.12.010B
16. Prior to a project final, all cracked or broken driveway approaches, curb, gutter, or sidewalk shall be replaced per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches, curb, gutter or sidewalk shall meet current Accessibility Standards.
17. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a permit amendment for Planning Commission consideration. Failure to remedy a non-compliance in a timely manner may result in permit revocation.
18. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.
19. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.
20. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
21. Prior to issuance of building permits, the building plans must show that the existing overhead utility lines will be underground to the nearest utility pole
22. Trees approved for removal within this development application may not be removed prior to issuance of a building permit.

**FINDINGS:**

- A. **The project, subject to the conditions imposed, secures the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The proposed two-story addition and deck complies with the development standards of the R-1 (Single Family Residential) District.

**B. The project will maintain the character and integrity of the neighborhood.**

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the application for the two-story addition and deck. The design of the home with horizontal siding, French doors, and gabled roof will fit in nicely with the existing neighborhood. The project will maintain the character and integrity of the neighborhood.

**C. This project is categorically exempt under Section 15301(e) of the California Environmental Quality Act and is subject to Section 753.5 of Title 14 of the California Code of Regulations.**

Section 15303(a) of the CEQA Guidelines exempts one single-family residence, or a second dwelling unit in a residential zone. This project involves construction of a new single-family home in the R-1 (Single-Family Residential) Zoning District. No adverse environmental impacts were discovered during review of the proposed project.

**COASTAL FINDINGS:**

***D. Findings Required. A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program, including, but not limited to:***

- The proposed development conforms to the City's certified Local Coastal Plan (LCP). The specific, factual findings, as per CMC Section 17.46.090(D) are as follows:

***(D) (2) Require Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (D)(2)(a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the adverse effects which have been identified will be alleviated or mitigated by the dedication. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.***

***(D) (2) (a) Project Effects on Demand for Access and Recreation. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project's effects upon existing public access and recreation opportunities. Analysis of the project's cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative buildout. Projection for the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project's cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities***

- The proposed project is located at 607 Oak Drive. The home is not located in an area with coastal access. The home will not have an effect on public trails or beach access.

***(D) (2) (b) Shoreline Processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;***

- The proposed project is located along Oak Drive. No portion of the project is located along the shoreline or beach.

***(D) (2) (c) Historic Public Use. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use);***

- There is not a history of public use on the subject lot.

***(D) (2) (d) Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;***

- The proposed project is located on private property on Oak Drive. The project will not block or impede the ability of the public to get to or along the tidelands, public recreation areas, or views to the shoreline.

***(D) (2) (e) Other Adverse Impacts on Access and Recreation. Description of the development's physical proximity and relationship to the shoreline and any public***

***recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.***

- The proposed project is located on private property that will not impact access and recreation. The project does not diminish the public's use of tidelands or lands committed to public recreation nor alter the aesthetic, visual, or recreational value of public use areas.

***(D) (3) (a – c) Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F) (2) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:***

***a. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;***

***b. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;***

***c. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.***

- The project is not requesting a Public Access Exception, therefore these findings do not apply.

***(D) (4) (a-f) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:***

***a. Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;***

- The project is located in a residential area without sensitive habitat areas.

***b. Topographic constraints of the development site;***

- The project is located on a flat lot.

***c. Recreational needs of the public;***

- The project does not impact the recreational needs of the public.

- d. Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;**
- e. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;**
- f. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.**

**(D) (5) Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);**

- No legal documents to ensure public access rights are required for the proposed project.

**(D) (6) Project complies with visitor-serving and recreational use policies;**

**SEC. 30222**

***The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.***

- The project involves a single-family home on a residential lot of record.

**SEC. 30223**

***Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.***

- The project involves a single-family home on a residential lot of record.

**c) Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.**

- The project involves a single-family home on a residential lot of record.

**(D) (7) Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;**

- The project involves the construction of a single-family home. The project complies with applicable standards and requirements for provision for parking, pedestrian access, alternate means of transportation, and/or traffic improvements.

**(D) (8) Review of project design, site plan, signing, lighting, landscaping, etc., by the city's architectural and site review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;**

- The project complies with the design guidelines and standards established by the Municipal Code.

***(D) (9) Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola's shoreline;***

- The project will not negatively impact public landmarks and/or public views. The project will not block or detract from public views to and along Capitola's shoreline.

***(D) (10) Demonstrated availability and adequacy of water and sewer services;***

- The project is located on a legal lot of record with available water and sewer services.

***(D) (11) Provisions of minimum water flow rates and fire response times;***

- The project is located within a half mile of the Capitola fire department. Water is available at the location.

***(D) (12) Project complies with water and energy conservation standards;***

- The project is for the construction of a new single-family residence. The GHG emissions for the project are projected at less than significant impact. All water fixtures must comply with the low-flow standards of the Soquel Creek Water District.

***(D) (13) Provision of park dedication, school impact, and other fees as may be required;***

- The project will be required to pay appropriate fees prior to building permit issuance.

***(D) (14) Project complies with coastal housing policies, and applicable ordinances including condominium conversion and mobile home ordinances;***

- The project does not involve a condo conversion or mobile homes.

***(D) (15) Project complies with natural resource, habitat, and archaeological protection policies;***

- Conditions of approval have been included to ensure compliance with established policies.

***(D) (16) Project complies with Monarch butterfly habitat protection policies;***

- The project is outside of any identified sensitive habitats, specifically areas where Monarch Butterflies have been encountered, identified and documented.

***(D) (17) Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;***

- Conditions of approval have been included to ensure compliance with applicable erosion control measures.

***(D) (18) Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project complies with hazard protection policies including provision of appropriate setbacks and mitigation measures;***

- Geologic/engineering reports have been prepared by qualified professionals for this project. Conditions of approval have been included to ensure the project applicant shall comply with all applicable requirements of the most recent version of the California Building Standards Code.

***(D) (19) All other geological, flood and fire hazards are accounted for and mitigated in the project design;***

- Conditions of approval have been included to ensure the project complies with geological, flood, and fire hazards and are accounted for and will be mitigated in the project design.

***(D) (20) Project complies with shoreline structure policies;***

- The proposed project is not located along a shoreline.

***(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;***

- This use is an allowed use consistent with the single-family zoning district.

***(D) (22) Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures;***

- The project conforms to the requirements of all city ordinances, zoning requirements, and project development review and development procedures.

***(D) (23) Project complies with the Capitola parking permit program as follows:***

- The project site is not located within the area of the Capitola parking permit program.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Peter Wilk
<b>SECONDER:</b>	Mick Routh
<b>AYES:</b>	Christiansen, Newman, Routh, Welch, Wilk

## 6. PUBLIC HEARINGS

### A. 211 Monterey Avenue #18-0641 APN: 035-185-19

Conceptual review of a proposed Design Permit to demolish an existing duplex and build a three-story 3,720 square-foot duplex with a variance to the on-site parking and open space requirement located within the C-V (Central Village) zoning district. This project is in the Coastal Zone and does not require a Coastal Development Permit Environmental Determination: Categorical Exemption  
 Owner: Maor Katz  
 Representative: Dennis Norton, filed: 12.21.2018



Assistant Planner Landry presented the staff report. She identified five main topics on which the Planning Commission should focus their review: the request for a curb-cut, the upper deck overhanging the sidewalk, the on-site parking variance, the 10% open space requirement variance, and the overall design.

Commissioner Routh commented that the parking variance would be more like two variances, one to allow parking at all, and another to allow substandard parking.

Chair Welch asked staff how long the City has been aware of this parking request. Director Herlihy replied that the applicant was informed at the time of a previous application staff could only support a 10% addition to the existing floor area and that a request for a parking variance and proposed curb-cut would not be supported by Planning or Public Works staff.

Commissioner Wilk asked who would be required to pay for the curb-cut if it was approved, to which Director Herlihy responded that the applicant would be required to pay for and install it to City standards.

Commissioner Routh asked what is permitted on the first story if residential is prohibited due to the floodplain. Planning Staff explained that commercial uses are allowed.

Commissioner Newman agreed that the parking situation at this property is confusing and clarified with Staff that the project would be required to provide the correct number of parking spots, dependent upon project size, however no parking is allowed on that spot per City code. The current duplex has an obligation to provide four parking spaces, and the duplex can remain as is or be increased by 10% without the on-site parking requirements being triggered.

Architect Dennis Norton spoke at length, explaining the project and the choices that the applicant has made. He acknowledged that the project raises a lot of questions that will affect the future of the village. Mr. Norton emphasized that the property owners were present at the meeting and that they remain open to changes to build a project that suits both them and the Planning Commission. Mr. Norton also spoke about the significance of maintaining and promoting residential use in the Village to keep the area healthy and vibrant. Mr. Norton commented approximately three and half feet of the home is within the floodplain.

Commissioner Newman began the Conceptual Review of the project by stating that if the project moves forward as proposed, floodplain requirements will go into effect which will prohibit residential use on the first floor. He clarified that in this case, it would be acceptable to simply lift the home by three-and-a-half feet rather than adding an entire first floor.

Maor Katz, property owner since 2014, spoke in defense of the project and provided background to his family's ownership of the building. Mr. Katz expressed a desire to improve the property, which at present he views as an eyesore, and emphasized his belief that he has already helped the Village by removing a third housing unit and completing a 2016 renovation of the building.

Commissioner Routh asked Mr. Katz if he had considered commercial use for the first floor to expand the building while remaining compliant with floodplain requirements. Mr. Katz responded that he is not interested in turning his home into a business and that the many vacant storefronts in the Village do not make him optimistic for the earning potential of a retail space.

Dave Johnson, a neighbor to the property at 213 Monterey Avenue, spoke with concern about the proposed curb-cut being unsafe for pedestrians and that a current loading zone would be compromised by any future curb-cut. He also shared apprehension about construction and traffic disruptions, and the impacts this project would have on the proper ventilation of his property.

Dori Arthur spoke against this project on behalf of Barbara Reding, property owner at 201 Monterey Avenue. Ms. Arthur explained that Ms. Reding had been denied a proposed curb-cut in 1972 and that if this project is approved Ms. Reding would be first in line to request one again. Ms. Arthur

implored the Commission to consider the precedent they will be setting in approving a project of this nature.

Mr. Norton argued that curb-cuts do not seem to pose a safety risk. He concluded by saying that allowing a curb-cut and providing onsite parking will free up the Village for visitor use.

Director Herlihy addressed the question of the curb-cut and acknowledged that, should it be installed, one of two twenty-minute loading spaces, which become parking spots after 1 p.m., will be eliminated.

The Commissioners decided to review the proposed project and provide feedback, discussing each of the following five elements separately:

#### Curb-Cut:

Commissioner Wilk thanked Mr. Katz for investing in the community and announced that he has no problem with a curb-cut as a part of this project.

Commissioner Christianson appreciated having parking on private land rather than City property and for that reason supported the idea of a curb-cut.

Commissioner Newman did not support the curb-cut and said that he did not think the project meets requirements for a variance.

Commissioner Routh concurred with Commissioner Newman and said that the Commission's primary goal should be to maintain the character of the Village. He explained that there is nothing about this property that warrants a variance, and that for this reason he would prefer the project present a two-story house lifted out of the floodplain.

Chair Welch said that the curb-cut is his main concern with this project. He recalled the Commission's earlier decision to allow a curb-cut on Monterey Avenue and said he still questions the safety of that decision.

#### Front Deck:

Director Herlihy showed additional plans from the applicant to clarify the location of the proposed deck in relation to the property line and the public sidewalk.

Commissioner Wilk stated no issues with the front deck.

Commissioner Christiansen said that the deck is overpowering within the streetscape and is too visually dominating to be looked upon favorably.

Commissioner Newman was hesitant to give specific comments about this as it is something that will be discussed when reviewing an application, rather than when giving a conceptual review.

#### 10% Open Space Requirement Variance:

Commissioner Wilk said that he would like at least an attempt to meet this requirement for open space. Commissioner Christianson agreed.

Commissioner Routh said that since this project would be new construction, there is no reason that the 10% open space requirement should be ignored.

#### Onsite Parking Variance:

Commissioner Wilk said that he is fine granting this variance.

Commissioner Christiansen maintained that having onsite parking would be beneficial but agreed with granting the variance.

Commissioner Newman explained that allowing for onsite parking at this site requires a variance for which the property does not qualify. Commissioner Wilk asked if the floodplain issue would be considered a special circumstance, and thus qualify the application for a variance. Commissioner Newman answered no; because the entire Village is in the floodplain, this circumstance is not special. Commissioner Newman also clarified that the need for a variance is triggered because the Katz's are proposing an increase in size by more than 10%, not because their property is in the floodplain.

Commissioner Routh emphasized that FEMA has been in effect since the early 1980's and has not caused a problem for people to work within the requirements. He mentioned the potential for supporting the variance if the property was to be two stories.

Chair Welch emphasized that this project may get more complicated as the Coastal Commission reviews it.

Design:

Commissioner Routh restated his belief that this project should focus on a lifted, two-story house, allowing for habitable space on the first floor, which would give the street visual variety and eliminate the need for a curb-cut.

Commissioner Newman said that the project's visuals are not ideal and that it is overly massive. He maintains that the front garage is a negative that also feeds into the other issues of onsite parking. He concluded that another type of smaller redevelopment that does not include parking or a curb-cut would likely be reviewed more positively when the project returns to the Commission.

Commissioner Wilk stated that he did not want to be involved with the design of the project but did note that there is legitimate guidance within the Zoning Code against flat roofs and regarding the massing of projects.

In conclusion, Chair Welch agreed that he could potentially support granting a variance for parking on the street if the other issues, such as the third story and massing, are resolved.

Mr. Norton thanked the Commission for its feedback on this project and indicated that they will likely bring an application that does not include onsite parking or a curb-cut.

Director Herlihy pointed out that the FEMA guidelines have exceptions for historic structures to be rebuilt within the floodplain and suggested that this property could potentially face less restrictions if it were to remain on the historic register. Director Herlihy also provided a summary of the Commission's comments for the project applicant and representative.

<b>RESULT:</b>	<b>REVIEWED PROJECT CONCEPT, PROVIDED DIRECTION</b>
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**B. 718 Capitola Avenue**

**#18-0487**

**APN: 036-062-11**

Design Permit for a 120-square-foot accessory structure at the rear of an existing commercial structure with a Variance for the required side yard setback located in the AR (Automatic Review) overlay and CN (Neighborhood Commercial) zoning district.

This project is in the Coastal Zone but does not require a Coastal Development Permit

Environmental Determination: Categorical Exemption

Property Owner: Bruce Canepa

Representative: Manuel Monjaraz, Filed: 09.14.2018

Assistant Planner Orbach presented the staff report, emphasizing that, although staff found no special circumstances to recommend the granting of this variance, many neighboring properties are also nonconforming and have similar variances.

Manuel Monjaraz, business owner at 718 Capitola Avenue, spoke about this project and presented his desire to bring the property up to City standards. He emphasized that he had been unaware that any construction had been done without City permission, as he had worked closely with Capitola building staff and that all work had been licensed and done correctly. Mr. Monjaraz was not aware that permits and permissions from the planning department were also needed at that time.

Dennis Norton spoke in support of this project, which is on the property adjacent to his office. He stated that it is an asset to the community and hopes the project will be approved so that it can remain and flourish in Capitola.

Commissioner Routh asked why staff recommends a denial of this project. Director Herlihy responded that using a strict interpretation of the code, staff did not have findings of special circumstances. Director Herlihy also confirmed that the Building department did work with the applicant at the time of installation and that noncompliance should have been caught by staff at that time.

Commissioner Newman acknowledged that he is generally tough on variances and does not appreciate applications that come to the Commission due to code violations, but that he was in support of this application. Commissioner Newman communicated that he could approve a variance because the western property line is not at a 90-degree angle, which seems to be the special circumstance that caused the applicant's side-yard setback issue for new storage.

Commissioner Routh asked the applicant what would happen to his restaurant if the storage issue is not resolved, to which Mr. Monjaraz explained that worst case scenario he could use a trailer which the City may approve but the County Health Department may not. Commissioner Routh stated support for the variance to aid Mr. Monjaraz's business to continue.

Commissioner Wilk expressed support for the applicant to bring the property up to code based on staff conditions and findings.

Commissioner Christiansen stated that if the business' neighbors approve, she is fine with approving the project.

MOTION: Approve Design Permit and Variance with the following conditions and findings

**CONDITIONS:**

1. The project approval consists of construction of a 120-square-foot accessory structure with a variance for the required side yard setback. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on February 7, 2019, except as modified through conditions imposed by the Planning Commission during the hearing.
2. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans
3. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
4. At time of submittal for building permit review, Public Works Standard Detail SMP STRM shall be printed in full and incorporated as a sheet into the construction plans. All

construction shall be done in accordance with the Public Works Standard Detail BMP STRM.

5. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.
6. Prior to issuance of building permit, a final landscape plan shall be submitted and approved by the Community Development Department. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of irrigation systems.
7. Prior to issuance of building permit, all Planning fees associated with permit #18-0487 shall be paid in full.
8. Prior to issuance of building permit, Affordable housing in-lieu fees shall be paid as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance.
9. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel Creek Water District, and Central Fire Protection District.
10. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, shall be submitted to the City and approved by Public Works. Gutters and downspouts shall be installed on the accessory structure and the existing commercial structure. Drainage plan shall show the location of gutters and downspouts and where the downspouts drain. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
11. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).
12. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan.
13. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
14. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official. §9.12.010B

15. Prior to a project final, the driveway approach along Capitola Avenue (where the two parking spaces used to be and where the outdoor patio is now) shall be removed and replaced with a standard curb and sidewalk per the Public Works Standard Details and to the satisfaction of the Public Works Department. The new curb, gutter, and sidewalk shall meet current Accessibility Standards.
16. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a permit amendment for Planning Commission consideration. Failure to remedy a non-compliance in a timely manner may result in permit revocation.
17. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.
18. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.
19. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.

#### **FINDINGS:**

- A. **The project, subject to the conditions imposed, secures the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**  
Community Development Staff and the Planning Commission have reviewed the project. The proposed 120-square-foot accessory structure, with a variance for the required side yard setback, complies with the development standards of the CN (Neighborhood Commercial) District. The project secures the purpose of the Zoning Ordinance, General Plan, and Local Coastal Plan
- B. **The project will maintain the character and integrity of the neighborhood.**  
Community Development Staff and the Planning Commission have reviewed the application for the 120-square-foot accessory structure. The design of the structure with board and batten siding matching the existing commercial structure will fit in nicely with the existing neighborhood. With the conditions imposed under this permit, the project will maintain the character and integrity of the neighborhood.
- C. **This project is categorically exempt under Section 15303(e) of the California Environmental Quality Act and is subject to Section 753.5 of Title 14 of the California Code of Regulations.**  
Section 15303(e) of the CEQA Guidelines exempts accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences. This project involves a 120-square-foot accessory structure within the CN (Neighborhood Commercial) zoning district. No adverse environmental impacts were discovered during review of the proposed project.

**D. Special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, exist on the site and the strict application of this title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification;**

The side property line is not at a ninety degree angle to the street and the strict application of this title would deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

**E. The grant of a variance would not constitute a grant of a special privilege inconsistent with the limitation upon other properties in the vicinity and zone in which subject property is situated.**

The grant of a variance would not constitute a grant of a special privilege inconsistent with the limitation upon other properties in the vicinity and zone in which the property is situated. Most properties in the vicinity and zone in which the property is located enjoy setbacks that do not conform to the current requirements of the Capitola Municipal Code. Granting the variance will allow the applicant to enjoy the same privilege as those properties.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Mick Routh
<b>SECONDER:</b>	Peter Wilk
<b>AYES:</b>	Christiansen, Newman, Routh, Welch, Wilk

**C. Update to General Plan Land Use Element and Land Use Map**

General Plan Update to Land Use Element and Land Use Map.

The Land Use Map includes properties in the Coastal Zone.

Environmental Determination: An Addendum to the General Plan Environmental Impact Report has been drafted and circulated for 60-day public review.

Property: City-wide

Representative: Katie Herlihy, Community Development Director

Director Herlihy presented the staff report and included highlights for new commissioners.

Commissioner Newman asked about the proposed change in density standard and if it is to encourage affordable housing projects. Staff responded that the determination is to keep the General Plan consistent with the prior General Plan and prior Zoning Code.

Commissioner Routh asked Director Herlihy which proposed density calculation standard would better facilitate the mall's redevelopment. Director Herlihy said that removing the density standard would allow for the most flexibility, though developers may see security in there being a clear permissible number if the density standard were to remain. Director Herlihy explained that the mall developers are aware that the City has been reviewing this standard, and they have not indicated that either way is a problem.

Commissioner Wilk asked why the former Capitola theater site is singled out for more relaxed requirements for future development. Director Herlihy said that keeping the reference to this specific site would uphold the original intent that resulted from the public input process associated with the General Plan update.

Commissioner Wilk asked that no site be specified, as the relaxed requirements may be beneficial for multiple sites for potential development within Capitola Village. Director Herlihy responded that if the Commission would like these requirements broadened to more locations, an amendment to the Zoning Code would be necessary.

Commissioner Newman asked that for clarity's sake, this location be referred to as the Capitola Theater Site rather than by APN numbers because APN numbers can change over time.

**MOTION:** Provide a positive recommendation to City Council, accepting the red-lined changes indicating that density in a mixed use or commercial zone will be regulated through FAR rather than the dwelling units per acre and denying the inclusion of the Capitola Theater Site wording.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Peter Wilk
<b>SECONDER:</b>	Mick Routh
<b>AYES:</b>	Christiansen, Newman, Routh, Welch, Wilk

## 7. DIRECTOR'S REPORT

Director Herlihy announced that Merlone Geier Partners bought the Sears site, and that the previous owners' appeal has been officially withdrawn. Director Herlihy has invited Merlone Geier to attend a future Planning Commission meeting to give an update on their plans for the Mall.

Director Herlihy explained that the February 21, 2019, special meeting has been set to discuss Capitola's Local Coastal Plan (LCP). Members of the Coastal Commission have been invited to attend the meeting to provide insight into their proposed changes. Director Herlihy will provide the Planning Commission with copies of the zoning code red-lined with the Coastal Commissions proposed changes along with Staff comments.

Director Herlihy informed the Planning Commission that the Geological Hazards and Nonconforming sections of the municipal code are not ready for certification. She outlined the options for certification. The Planning Commission could adopt the portion of the Code that is ready, allowing time for more work on the Geologic Hazards and Nonconforming chapters, or they could wait to adopt the entire code at one time. Waiting to adopt the entire code at one time would be a longer process. Director Herlihy informed the Planning Commission she would request direction on which adoption strategy they would prefer at the special meeting on February 21.

Director Herlihy answered that there are no updates regarding the Orchard Supply site when asked by the Chair Welch.

## 8. COMMISSION COMMUNICATIONS

Chair Welch welcomed new Commissioners.

## 9. ADJOURNMENT

The meeting was adjourned to the special meeting on February 21, 2019 with an early 6 p.m. start.

Approved by the Planning Commission at the regular meeting of March 7, 2019.

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Chloé Woodmansee, Clerk to the Commission





## STAFF REPORT

TO: PLANNING COMMISSION  
 FROM: COMMUNITY DEVELOPMENT  
 DATE: MARCH 7, 2019  
 SUBJECT: **510 El Salto Drive #19-0017 APN: 036-125-16**

Request for a one-year extension of a previously approved Design Permit for a single-story addition and Variance request to the on-site parking requirement for an existing home in the R-1 (Single-Family Residential) zoning district. This project is in the Coastal Zone and requires a Coastal Development Permit, which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.  
 Environmental Determination: Categorical Exemption  
 Property Owner: John McEnery III  
 Representative: Derek Van Alstine, Filed: 01/16/2019

### **APPLICANT PROPOSAL**

The applicant is requesting a one-year extension of Design Permit #15-174, which included a 700-square-foot addition to the existing 1,188-square-foot single-family home and a variance to the on-site parking requirement located in the R-1 (Single-Family Residential) zoning district. This project was approved by the Planning Commission on December 3, 2015. No new modifications to the previously approved project are being proposed.

### **BACKGROUND**

On December 3, 2015, the Planning Commission approved Design Permit #15-174 (Attachment A and Attachment B).

A one-year extension for Design Permit #15-174 was approved on January 18, 2018 (Attachment C). That extension expired on January 18, 2019.

The property owner submitted a request for an additional extension of Design Permit #15-174 on January 16, 2019, prior to the expiration date of the previous extension.

### **DISCUSSION**

Pursuant to the Capitola Municipal Code Section 17.63.130, design permit approvals of the Planning Commission are valid for two years and require an extension to remain valid. A building permit has not been issued, therefore the applicant submitted for a second extension of the permit.

Since the Planning Commission originally approved the design permit, they have the authority to grant, "one or more extensions, each of which shall be for one year." Both Section 17.81.160

(Extension of Permit) and Section 17.46.120.B.2 (Coastal Zone Expiration of Permits) state that a request for an extension may be granted upon a finding that no relevant substantial change of circumstances, regulations or planning policies has occurred and that such extension would not be detrimental to the purpose of the certified local coastal program and zoning ordinance. Since neither the physical characteristics of the lot nor the zoning ordinance has changed since approval of the permit, staff supports the request for a one-year extension.

It should be noted that while the Planning Commission has the power to approve or deny extensions, it has no power to exact conditions unless codes and circumstances have changed. Conditions can be added, but only if agreed upon by the applicant.

### **CEQA**

Section 15301(e) of the CEQA Guidelines exempts additions to existing structures. This project involves construction of a 700 square foot addition (41%) to an existing home in the R-1 (Single-Family Residential) Zoning District. No adverse environmental impacts were discovered during review of the proposed project.

### **RECOMMENDATION**

It is recommended that the Planning Commission approve the request for a one-year extension, subject to the original permit findings and conditions, as follows:

### **CONDITIONS OF APPROVAL**

1. The project approval consists of construction of a 700-square-foot addition to an existing single-family home and approval of a variance to the on-site parking requirements. The maximum Floor Area Ratio for the 7,528-square-foot property is 48% (3,613 square feet). The total FAR of the project is 32% with a total of 2,411 square feet, compliant with the maximum FAR within the zone. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on December 3, 2015, except as modified through conditions imposed by the Planning Commission during the hearing.
2. The December 3, 2015, design permit and variance were granted a one-year extension on January 18, 2018. The design permit and variance were extended through January 18, 2019.
3. The December 3, 2015, design permit and variance were granted a second one-year extension on March 7, 2019. The design permit and variance will remain valid through March 7, 2020.
4. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans
5. At time of submittal for building permit review, the building plans must show that the existing overhead utility lines will be underground to the nearest utility pole.
6. The applicant is required to provide one additional 9' by 20' parking space on-site in addition to the existing two covered garage spaces (§17.15.130).
7. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.

8. At the time of submittal for building permit review, Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP) shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP).
9. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.
10. Prior to issuance of building permit, a final landscape plan shall be submitted and approved by the Community Development Department. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of irrigation systems.
11. Prior to issuance of building permit, all Planning fees associated with permit # 15-174 shall be paid in full.
12. Prior to issuance of building permit, Affordable housing in-lieu fees shall be paid as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance.
13. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel Creek Water District, and Central Fire Protection District.
14. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, shall be submitted to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
15. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).
16. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan. Erosion and sediment control shall be installed prior to the commencement of construction and maintained throughout the duration of the construction project.
17. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
18. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official.

§9.12.010B

19. Prior to a project final, all cracked or broken driveway approaches, curb, gutter, or sidewalk shall be replaced per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches, curb, gutter or sidewalk shall meet current Accessibility Standards.
20. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a permit amendment for Planning Commission consideration. Failure to remedy a non-compliance in a timely manner may result in permit revocation.
21. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.
22. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.
23. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.

## **FINDINGS**

**A. A substantial change of circumstances has not occurred since Planning Commission approval of the permit on December 3, 2015. A one-year extension of the permit would not be detrimental to the purpose of the certified local coastal program and zoning ordinance.**

The Planning Commission finds that there have been no relevant substantial changes of circumstances, regulations, or planning policies since approval of the permit on December 3, 2015. Therefore, a one-year extension (to March 7, 2020) of said permit is appropriate.

**B. The application, subject to the conditions imposed, secures the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**

The proposed addition at 510 El Salto will conform to the development standards of the Zoning Ordinance with addition of one on-site parking as conditioned.

**C. The application will maintain the character and integrity of the neighborhood.**

The proposed addition will maintain the existing single-family character and integrity of the Depot Hill neighborhood, as conditioned. The proposed materials within the addition blend seamlessly into the existing home.

**D. This project is categorically exempt under Section 15301-E of the California Environmental Quality Act and is subject to Section 753.5 of Title 14 of the California Code of Regulations.**

This project involves the addition to an existing single-family residence in the R-1 (Single-Family Residential) Zoning District. Section 15301-E of the CEQA Guidelines exempts additions to existing homes in a residential zone.

- E. Special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, exist on the site and the strict application of this title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification;**

The existing hedge located in the public right-of-way is considered to be a character-defining feature of the property and a significant asset to the neighborhood. The hedge is viewed as a special circumstance applicable to the topography and use of the subject property. The location of the existing hedge constitutes a special circumstance and makes it difficult to locate two off-street parking spaces; therefore, a variance is approved to preserve the hedge.

- F. The grant of a variance permit would not constitute a grant of a special privilege inconsistent with the limitation upon other properties in the vicinity and zone in which subject property is situated.**

The grant of a variance permit would not constitute the grant of a special privilege. Many of the adjacent properties in the Depot Hill neighborhood use this same right-of-way area for parking and other miscellaneous property improvements. In addition, the city has no plans to install sidewalks or any other improvements in this ten-foot wide public right-of-way area.

The existing character-defining hedge constitutes a special circumstance prohibiting the applicant from meeting parking requirements on site.

### **COASTAL FINDINGS**

***D. Findings Required. A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program, including, but not limited to:***

- The proposed development conforms to the City's certified Local Coastal Plan (LCP). The specific, factual findings, as per CMC Section 17.46.090 (D) are as follows:

***(D) (2) Require Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (D) (2) (a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the adverse effects which have been identified will be alleviated or mitigated by the dedication. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.***

***(D) (2) (a) Project Effects on Demand for Access and Recreation. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project's effects upon existing public access and recreation opportunities. Analysis of the project's cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative build-out. Projection for the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project's cumulative effects to any such projected increase. Description of the physical characteristics of the site and its***

***proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities;***

- The proposed project is located at 510 El Salto Dr. The home is not located in an area with coastal access. The home will not have an effect on public trails or beach access.

***(D) (2) (b) Shoreline Processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;***

- The proposed project is located along El Salto Dr. No portion of the project is located along the shoreline or beach.

***(D) (2) (c) Historic Public Use. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use);***

- There is not history of public use on the subject lot.

***(D) (2) (d) Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;***

- The proposed project is located on private property on El Salto Dr. The project will not block or impede the ability of the public to get to or along the tidelands, public recreation areas, or views to the shoreline.

***(D) (2) (e) Other Adverse Impacts on Access and Recreation. Description of the development's physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.***

- The proposed project is located on private property that will not impact access and recreation. The project does not diminish the public's use of tidelands or lands committed to public recreation nor alter the aesthetic, visual or recreational value of public use areas.

***(D) (3) (a – c) Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F) (2) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:***

- The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;***
- Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;***
- Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.***

- The project is not requesting a Public Access Exception, therefore these findings do not apply.

***(D) (4) (a – f) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:***

- Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;***

- The project is located on a residential lot.

***b. Topographic constraints of the development site;***

- The project is located on a relatively flat lot.

***c. Recreational needs of the public;***

- The project does not impact recreational needs of the public.

***d. Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;***

***e. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;***

***f. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.***

***(D) (5) Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);***

- No legal documents to ensure public access rights are required for the proposed project.

***(D) (6) Project complies with visitor-serving and recreational use policies;***

**SEC. 30222**

***The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.***

- The project involves a single family home on a residential lot of record.

**SEC. 30223**

***Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.***

- The project involves a single family home on a residential lot of record.

***c) Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.***

- The project involves a single family home on a residential lot of record.

***(D) (7) Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;***

- The project involves the construction of a single family home. The project complies with applicable standards and requirements for provision for parking, pedestrian access, alternate means of transportation and/or traffic improvements.

***(D) (8) Review of project design, site plan, signing, lighting, landscaping, etc., by the city's architectural and site review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;***

- The project complies with the design guidelines and standards established by the Municipal Code.

***(D) (9) Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola's shoreline;***

- The project will not negatively impact public landmarks and/or public views. The project will



not block or detract from public views to and along Capitola's shoreline.

***(D) (10) Demonstrated availability and adequacy of water and sewer services;***

- The project is located on a legal lot of record with available water and sewer services.

***(D) (11) Provisions of minimum water flow rates and fire response times;***

- The project is located within close proximity of the Capitola fire department. Water is available at the location.

***(D) (12) Project complies with water and energy conservation standards;***

- The project is for a single family home. The GHG emissions for the project are projected at less than significant impact. All water fixtures must comply with the low-flow standards of the soquel creek water district.

***(D) (13) Provision of park dedication, school impact, and other fees as may be required;***

- The project will be required to pay appropriate fees prior to building permit issuance.

***(D) (14) Project complies with coastal housing policies, and applicable ordinances including condominium conversion and mobile home ordinances;***

- The project does not involve a condo conversion or mobile homes.

***(D) (15) Project complies with natural resource, habitat, and archaeological protection policies;***

- Conditions of approval have been included to ensure compliance with established policies.

***(D) (16) Project complies with Monarch butterfly habitat protection policies;***

- The project is outside of any identified sensitive habitats, specifically areas where Monarch Butterflies have been encountered, identified and documented.

***(D) (17) Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;***

- Conditions of approval have been included to ensure compliance with applicable erosion control measures.

***(D) (18) Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project complies with hazard protection policies including provision of appropriate setbacks and mitigation measures;***

- Geologic/engineering reports have been prepared by qualified professionals for this project. Conditions of approval have been included to ensure the project applicant shall comply with all applicable requirements of the most recent version of the California Building Standards Code.

***(D) (19) All other geological, flood and fire hazards are accounted for and mitigated in the project design;***

- Conditions of approval have been included to ensure the project complies with geological, flood, and fire hazards and are accounted for and will be mitigated in the project design.

***(D) (20) Project complies with shoreline structure policies;***

- The proposed project complies with shoreline structure policies.

***(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;***

- This use is a principally permitted use consistent with the Single Family zoning district.

***(D) (22) Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures;***

- The project conforms to the requirements of all city ordinances, zoning requirements and project development review and development procedures with the approved variance.

***(D) (23) Project complies with the Capitola parking permit program as follows:***

- The project site is not located within the area of the Capitola parking permit program.

**ATTACHMENTS:**

1. 510 El Salto Drive - #15-174 - Staff Report and Attachments
2. 510 El Salto Drive - Final Local Action Notice - 12.18.2015
3. 510 El Salto Drive - Extension - Final Local Action Notice - 02.02.2018

Prepared By: Matt Orbach  
Assistant Planner



## STAFF REPORT

TO: PLANNING COMMISSION  
 FROM: COMMUNITY DEVELOPMENT  
 DATE: DECEMBER 3, 2015  
 SUBJECT: **510 El Salto Dr #15-174 APN: 036-125-16**

Design Permit for a single-story addition and Variance request to the on-site parking requirement for an existing home in the R-1 (Single-Family Residential) Zoning District. This project is in the Coastal Zone and requires a Coastal Development Permit, which is appealable to the California Coastal Commission after all possible appeals are exhausted through the city.

Environmental Determination: Categorical Exemption  
 Property Owner: John McEnery III  
 Representative: Derek Van Alstine, filed 10/20/15

### **APPLICANT PROPOSAL**

The applicant submitted a design permit to construct a 700 square foot addition to the existing 1,188 square foot single-family home located in the R-1 (Single-Family Residential) Zoning District. The applicant is also requesting a variance to one onsite parking space. The existing home is not listed on Capitola's 2005 Historic Structures List.

### **BACKGROUND**

On November 18<sup>th</sup>, 2015, the Architectural and Site Review Committee reviewed the application.

- City Public Works representative, Danielle Uharriet, told the applicant that Stormwater calculations need to be submitted and the direction of flow of the downspouts must be shown on the site plan.
- City Building Official, Brian Van Son, informed the applicant that a soils report will be required.
- City Architect Representative, Frank Phanton, liked the design and supported the request to have the lot oriented off of El Salto Drive instead of Sacramento Avenue.
- City Landscape Architect Representative, Craig Walsh, asked that the applicant show the trees that will be preserved on the site plan. The initial submittal only included trees on the survey.
- City Planner, Ryan Safty, informed the applicant that the plans as submitted do not meet parking requirements.

Following the Architectural and Site Review meeting, the applicant submitted a complete stormwater application and revised the project plans to address the concerns brought about by the Architectural and Site Committee. The applicant revised the site plan to show additional

landscaping and downspout details. Instead of revising the plans to meet parking requirements, the applicant is requesting a variance from the parking requirement.

**Site Planning and Zoning Summary**

The following table outlines the zoning code requirements for development in the R-1(Single Family Residential) Zoning District relative to the application.

**R-1 (Single Family Residential) Zoning District**

<b>Coastal</b>		
<b>Is project within Coastal Zone?</b>		YES
<b>Is project within Coastal Appeal Zone?</b>		YES
<b>Use</b>		
<b>Existing Use</b>		R-1
<b>Proposed Use</b>		R-1
<b>Principal Permitted or CUP?</b>		PP
<b>Historic</b>		
<b>Level of Historic Feature</b> (local/state/federal or n/a)		n/a
<b>Development Standards</b>		
<b>Building Height</b>	<b>R-1 Regulation</b>	<b>Proposed</b>
	25'-0"	13'-3"
<b>Floor Area Ratio (FAR)</b>		
<b>Lot Size</b>		7,528 sq. ft.
<b>Maximum Floor Area Ratio</b>		48% (Max 3,613 sq. ft.)
Existing First Story Floor Area		1,188 sq. ft.
New First Story Floor Area		700 sq. ft.
Existing Garage Floor Area		525 sq. ft.
<b>TOTAL FAR</b>		2,411sq. ft. (32% FAR)
<b>Yards</b> (setbacks are measured from the edge of the public right-of-way)		
Corner lot		YES
<b>EXISTING</b>	<b>R-1(<i>corner lot</i>) Regulations</b>	<b>Existing Home</b>
<b>Front Yard</b> (El Salto Dr)	15 ft	52 ft from right-of-way
<b>Side Yard</b> (Sacramento Ave)	10 ft	3 ft from right-of-way*
<b>Side Yard</b> (West Side)	7 ft	35 ft from right-of-way
<b>Rear Yard</b> (North Side)	4 ft	3 ft from right-of-way*
<b>PROPOSED</b>	<b>R-1(<i>corner lot</i>) Regulations</b>	<b>Proposed Addition</b>
<b>Front Yard</b> (El Salto Dr)	15 ft	42 ft
<b>Side Yard</b> (Sacramento Ave)	10 ft	37 ft
<b>Side Yard</b> (West Side)	7 ft	8 ft
<b>Rear Yard</b> (North Side)	4 ft	8 ft
<b>EXISTING Detached Garage</b>	<b>R-1(<i>corner lot</i>) Regulations</b>	<b>Existing Detached Garage</b>
<b>Detached Garage</b> (existing)	8 ft minimum rear yard	43 ft from property line
	3 ft minimum side yard	4 ft from property line
	40 ft minimum front yard	8 ft from property line*
	3 ft separation from home	8 ft from main residence
<b>Parking</b>		
	<b>Required</b>	<b>Proposed</b>

Attachment: 510 El Salto Drive - #15-174 - Staff Report and Attachments (510 El Salto Drive)

<b>Residential (from 2,001 up to 2,600 sq. ft.)</b>	3 spaces total 1 covered 2 uncovered	2 spaces total 2 covered 0 uncovered – <b>Variance Request</b>
<b>Underground Utilities: required with 25% increase in area</b>		YES

\* Denotes an existing non-conformity.

**DISCUSSION**

The applicant is proposing to construct a 700 square foot addition to the rear of the existing 1,188 square foot residence. The existing home contains a living room, kitchen, two bedrooms and two bathrooms. The proposal will add a master bedroom, bathroom, closet, and laundry room to the existing residence. The exterior finishes match the existing home including fiber cement trim and lap siding, vinyl windows, and a composition shingle roof with a one foot overhang. The existing detached garage that fronts along El Salto Drive will not be remodeled as a part of this proposal (Attachment 1).

The existing residence is located on the north-western corner of Sacramento Avenue and El Salto Drive in the Depot Hill neighborhood. The subject property is located on a corner lot. In determining the front yard on a corner lot, section §17.03.720 states, “on a corner lot the front line of the lot shall ordinarily be construed as the least dimension of the lot fronting on a street.” According to this code section, the front yard of the subject property would be off of Sacramento Avenue (80 feet wide) and not El Salto Drive (90 feet wide). However, the applicant has requested that the subject property be oriented so that the front yard is off of El Salto Drive due to the existing orientation of the home and detached garage. (Attachment 2) Staff supports this request due to the orientation of the existing home.

The applicant plans to preserve the existing landscaping during the remodel. The one modification proposed to the front yard is to add to the existing stone walkway and connect the existing trellis area to the detached garage. The applicant is also proposing a wooden landing deck behind the new addition. The deck is less than 30 inches in height and thus does not count towards the allowable floor area ratio of the property.

The subject property at 510 El Salto Drive contains an existing 1,188 square foot single-story residence and a 523 square foot detached garage, both of which are located in the required setback areas and are thus non-conforming. The applicant has submitted a “Permissible Structural Alterations” calculation sheet (§17.72.070), showing that the addition will not result in an 80% increase to the fair market value of the structure. (Attachment 3) The new addition area meets required setback standards and will be attached to the existing residence.

**Parking**

The subject property contains a large hedge along the street-fronting sides of the property. The hedge is approximately six feet in height and is located in the public right-of-way, screening the property from both El Salto Drive and Sacramento Avenue. On the El Salto Drive side of the property are the existing two car, detached garage and driveway area. The parking spaces in the driveway are located over the property line with eight feet on the property and ten feet within the right-of-way. Pursuant to Municipal Code section 17.15.130, “parking spaces required by this section (single-family zone) may not be located in any public or private right-of-way.”

The applicant is proposing to add a 700 square feet addition to the existing 1,713 square foot property (1,188 square foot home and 525 square foot detached garage), resulting in a 41%

Attachment: 510 El Salto Drive - #15-174 - Staff Report and Attachments (510 El Salto Drive)

addition. According to the Municipal Code, “no additional square footage which exceeds ten percent of the existing gross floor area may be added to an existing single-family residence unless minimum parking requirements are met” (§17.15.130-E). Since the addition is greater than 10%, the applicant must meet the current parking standards of three parking spaces. The proposal has two parking spaces within the garage. The area leading up to the garage is 8 feet deep and does not comply with the required 18 foot minimum depth.

### **Variance**

The applicant is requesting a variance for the third on-site parking space. The current parking space in front of the garage extends across the property line and therefore does not comply with the code. The owner would like to maintain and preserve their yard area and continue to use the space that extends into the right-of-way. Pursuant to §17.66.090, the Planning Commission, on the basis of the evidence submitted at the hearing, may grant a variance permit when it finds:

- A. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification;
- B. That the grant of a variance permit would not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated.

The applicant is requesting a variance due to the desire to maintain the hedge and landscaped front yard area. The required third space could be accommodated onsite but would likely result in the removal of a portion of the hedge to create a parking space within the front yard. Historically, the owner has utilized the parking in front of the garage, although it does not meet the standards of the code.

Based on staff’s analysis of the subject property and neighboring properties, staff cannot make findings for approval of the variance to parking. The subject property is large (7,528 sq. ft.) in relation to the neighboring lots. There is ample room to locate the required uncovered parking spaces in the front yard area with minimum impact to the hedge. Staff is unable to find any special circumstances which would deprive the property owner of privileges currently enjoyed by others in the same area. Staff therefore recommends the variance be denied and the applicant be directed to provide required off-street parking.

### **Underground Utilities**

The new 700 square foot addition is greater than 25% of the existing 1,713 square foot structures, therefore the applicant is required to underground their utilities. Condition #3 has been included to ensure the following requirement is enforced.

*New residential construction or any residential remodels that result in an increase of twenty-five percent or greater of the existing square footage shall be required to place existing overhead utility lines underground to the nearest utility pole. (§17.18.180)*

### **CEQA REVIEW**

Section 15301(e) of the CEQA Guidelines exempts additions to existing structures. This project involves construction of a 700 square foot addition (41%) to an existing home in the R-1 (Single-Family Residential) Zoning District. No adverse environmental impacts were discovered during review of the proposed project.

### **RECOMMENDATION**

Staff recommends the Planning Commission review the application, **approve** the design permit, **deny** the variance request, and condition the applicant to provide one additional onsite parking space for application #15-174 based on the following findings and conditions.

### **CONDITIONS**

1. The project approval consists of construction of a 700 square foot addition to an existing single-family home. The maximum Floor Area Ratio for the 7,528 square foot property is 48% (3,613 square feet). The total FAR of the project is 32% with a total of 2,411 square feet, compliant with the maximum FAR within the zone. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on December 3<sup>rd</sup>, 2015, except as modified through conditions imposed by the Planning Commission during the hearing.
2. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans
3. At time of submittal for building permit review, the building plans must show that the existing overhead utility lines will be underground to the nearest utility pole.
4. The applicant is required to provide one additional 9' by 20' parking space on-site in addition to the existing two covered garage spaces (§17.15.130).
5. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
6. At the time of submittal for building permit review, Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP) shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP).
7. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.
8. Prior to issuance of building permit, a final landscape plan shall be submitted and approved by the Community Development Department. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of irrigation systems.
9. Prior to issuance of building permit, all Planning fees associated with permit # 15-174 shall be paid in full.
10. Prior to issuance of building permit, Affordable housing in-lieu fees shall be paid as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance.

11. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel Creek Water District, and Central Fire Protection District.
12. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, shall be submitted to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
13. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).
14. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan. Erosion and sediment control shall be installed prior to the commencement of construction and maintained throughout the duration of the construction project.
15. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
16. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official. §9.12.010B
17. Prior to a project final, all cracked or broken driveway approaches, curb, gutter, or sidewalk shall be replaced per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches, curb, gutter or sidewalk shall meet current Accessibility Standards.
18. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a permit amendment for Planning Commission consideration. Failure to remedy a non-compliance in a timely manner may result in permit revocation.
19. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.
20. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the



applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.

21. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.

## **FINDINGS**

- A. **The application, subject to the conditions imposed, secures the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**  
The proposed addition at 510 El Salto will conform to the development standards of the Zoning Ordinance with addition of one on-site parking as conditioned.
- B. **The application will maintain the character and integrity of the neighborhood.**  
The proposed addition will maintain the existing single-family character and integrity of the Depot Hill neighborhood, as conditioned. The proposed materials within the addition blend seamlessly into the existing home.
- C. **This project is categorically exempt under Section 15301-E of the California Environmental Quality Act and is subject to Section 753.5 of Title 14 of the California Code of Regulations.**  
This project involves the addition to an existing single-family residence in the R-1 (Single-Family Residential) Zoning District. Section 15301-E of the CEQA Guidelines exempts additions to existing homes in a residential zone.
- D. **Special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, do not exist on the site and the strict application of this title is found not to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification;**  
There are no special circumstances applicable to the subject property that would deprive the owner of privileges enjoyed by other neighboring properties. The subject property is located on a flat lot. The owner can meet the parking requirement onsite.
- E. **The grant of a variance permit would constitute a grant of a special privilege inconsistent with the limitation upon other properties in the vicinity and zone in which subject property is situated.**  
The grant of a variance permit would constitute a grant of a special privilege. Recent remodels in the Depot Hill neighborhood have been required to meet parking standards. There are no special circumstances prohibiting the applicant from meeting the parking requirements.

## **COASTAL FINDINGS**

***D. Findings Required. A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program, including, but not limited to:***

- The proposed development conforms to the City's certified Local Coastal Plan (LCP). The specific, factual findings, as per CMC Section 17.46.090 (D) are as follows:

***(D) (2) Require Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (D) (2) (a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the adverse effects which have been identified will be alleviated or mitigated by the dedication. As used in this section, “cumulative effect” means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.***

***(D) (2) (a) Project Effects on Demand for Access and Recreation. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project’s effects upon existing public access and recreation opportunities. Analysis of the project’s cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative build-out. Projection for the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project’s cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities;***

- The proposed project is located at 510 El Salto Dr. The home is not located in an area with coastal access. The home will not have an effect on public trails or beach access.

***(D) (2) (b) Shoreline Processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;***

- The proposed project is located along El Salto Dr. No portion of the project is

located along the shoreline or beach.

***(D) (2) (c) Historic Public Use. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use);***

- There is not history of public use on the subject lot.

***(D) (2) (d) Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;***

- The proposed project is located on private property on El Salto Dr. The project will not block or impede the ability of the public to get to or along the tidelands, public recreation areas, or views to the shoreline.

***(D) (2) (e) Other Adverse Impacts on Access and Recreation. Description of the development's physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.***

- The proposed project is located on private property that will not impact access and recreation. The project does not diminish the public's use of tidelands or lands committed to public recreation nor alter the aesthetic, visual or recreational value of public use areas.

***(D) (3) (a – c) Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F) (2) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:***

***a. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;***

**b. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;**

**c. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.**

- The project is not requesting a Public Access Exception, therefore these findings do not apply

**(D) (4) (a – f) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:**

**a. Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;**

- The project is located in a residential lot.

**b. Topographic constraints of the development site;**

- The project is located on a relatively flat lot.

**c. Recreational needs of the public;**

- The project does not impact recreational needs of the public.

**d. Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;**

**e. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;**

**f. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.**

**(D) (5) Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);**

- No legal documents to ensure public access rights are required for the proposed project

**(D) (6) Project complies with visitor-serving and recreational use policies;**

**SEC. 30222**

***The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.***

- The project involves a single family home on a residential lot of record.

**SEC. 30223**

***Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.***

- The project involves a single family home on a residential lot of record.

***c) Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.***

- The project involves a single family home on a residential lot of record.

***(D) (7) Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;***

- The project involves the construction of a single family home. The project complies with applicable standards and requirements for provision for parking, pedestrian access, alternate means of transportation and/or traffic improvements.

***(D) (8) Review of project design, site plan, signing, lighting, landscaping, etc., by the city's architectural and site review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;***

- The project complies with the design guidelines and standards established by the Municipal Code.

***(D) (9) Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola's shoreline;***

- The project will not negatively impact public landmarks and/or public views. The project will not block or detract from public views to and along Capitola's shoreline.

***(D) (10) Demonstrated availability and adequacy of water and sewer services;***

- The project is located on a legal lot of record with available water and sewer services.

***(D) (11) Provisions of minimum water flow rates and fire response times;***

- The project is located within close proximity of the Capitola fire department. Water is available at the location.

***(D) (12) Project complies with water and energy conservation standards;***

- The project is for a single family home. The GHG emissions for the project are projected at less than significant impact. All water fixtures must comply with the low-flow standards of the soquel creek water district.

***(D) (13) Provision of park dedication, school impact, and other fees as may be required;***

- The project will be required to pay appropriate fees prior to building permit issuance.

***(D) (14) Project complies with coastal housing policies, and applicable ordinances including condominium conversion and mobile home ordinances;***

- The project does not involve a condo conversion or mobile homes.

***(D) (15) Project complies with natural resource, habitat, and archaeological protection policies;***

- Conditions of approval have been included to ensure compliance with established policies.

***(D) (16) Project complies with Monarch butterfly habitat protection policies;***

- The project is outside of any identified sensitive habitats, specifically areas where Monarch Butterflies have been encountered, identified and documented.

***(D) (17) Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;***

- Conditions of approval have been included to ensure compliance with applicable erosion control measures.

***(D) (18) Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project complies with hazard protection policies including provision of appropriate setbacks and mitigation measures;***

- Geologic/engineering reports have been prepared by qualified professionals for this project. Conditions of approval have been included to ensure the project applicant shall comply with all applicable requirements of the most recent version of the California Building Standards Code.

***(D) (19) All other geological, flood and fire hazards are accounted for and mitigated in the project design;***

- Conditions of approval have been included to ensure the project complies with geological, flood, and fire hazards and are accounted for and will be mitigated in the project design.

***(D) (20) Project complies with shoreline structure policies;***

- The proposed project complies with shoreline structure policies.

***(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;***

- This use is a principally permitted use consistent with the Single Family zoning district.

***(D) (22) Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures;***

- The project conforms to the requirements of all city ordinances, zoning requirements and project development review and development procedures.

***(D) (23) Project complies with the Capitola parking permit program as follows:***

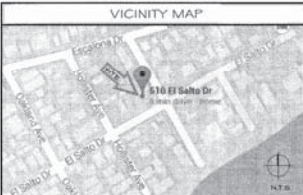
- The project site is not located within the area of the Capitola parking permit program.

**ATTACHMENTS:**

1. 510 El Salto Plan Set.pdf
2. Request to Change Lot Orientation
3. Permissible Structural Alterations

Prepared By: Ryan Safty  
Assistant Planner

# McENERY RESIDENCE



### BUILDING INFORMATION SUMMARY

<b>PROJECT DESCRIPTION:</b>	SINGLE STORY ADDITION OF 200 SQ. FT. TO EXISTING SINGLE STORY, SINGLE FAMILY DWELLING.		
<b>PROJECT ADDRESS:</b>	510 E. SALTO DRIVE CAPITOLA, CA 95010		
<b>PARCEL NUMBER:</b>	036-123-16		
<b>ZONING DESIGNATION:</b>	R1		
<b>OCCUPANCY CLASSIFICATION:</b>	TYPE R-3		
<b>CONSTRUCTION TYPE:</b>	TYPE V-B		
<b>LOT AREA:</b>	7,528 SQ. FT.		
<b>SETBACK INFORMATION:</b>	FRONT YARD 15'-0"	SIDE YARD 4'-0", 8'-0"	CORNER YARD 10'-0"
<b>FLOOR AREA:</b>	EXISTING	PROPOSED	
<b>FIRST FLOOR AREA:</b>	1,168 SQ. FT.	1,868 SQ. FT.	
<b>GARAGE AREA:</b>	323 SQ. FT.	323 SQ. FT.	
<b>TOTAL FLOOR AREA:</b>	1,711 SQ. FT.	2,411 SQ. FT.	
<b>FLOOR AREA RATIO ALLOWED:</b>	48%		
<b>FLOOR AREA PROPOSED:</b>	2,411 SQ. FT. / 7,528 SQ. FT. = 32%		
<b>PARKING (RECOMMENDED):</b>	10.8 COVERED AND 10.2 UNCOVERED		
<b>CODE NOTE:</b>	THESE PLANS CONFORM TO THE 2018 CALIFORNIA RESIDENTIAL BUILDING, MECHANICAL, PLUMBING, ELECTRICAL AND ENERGY CODE. STRUCTURAL ENGINEERING SHALL CONFORM TO 2018 CALIFORNIA BUILDING CODE AS AMENDED BY THE STATE OF CALIFORNIA.		

### CONTACTS

**OWNER:**  
JOHN F. McENERY II  
510 E. SALTO DRIVE  
CAPITOLA, CA 95010  
951-251-1007

**PROJECT DESIGNER:**  
DEREK VAN ALSTINE RESIDENTIAL DESIGN, INC.  
DEREK VAN ALSTINE  
1355 SCADSBURY AVENUE SUITE 200  
SANRAJ, CA 95067  
PH: (931) 426-8400  
FAX: (931) 426-8446  
DVA@dvadrd.com

**SUPERVISOR / CIVIL ENGINEER:**  
LARRY DEAN / LARRY DEAN & ASSOCIATES  
2275 HUNTER STREET, #3  
SANTA CRUZ, CA 95062  
PH: (931) 478-6625  
FAX: (931) 465-8314

### DRAWING INDEX

<b>BUILDING DESIGN</b>
T1 TITLE SHEET
T2 STREET PROFILES
A1 SITE PLAN
A2 EXISTING/DEMOLITION FLOOR PLAN
A3 FLOOR PLAN
A4 ROOF PLAN
A5 EXTERIOR ELEVATIONS
A6 EXTERIOR ELEVATIONS

DEREK VAN ALSTINE  
RESIDENTIAL DESIGN, INC.



McENERY RESIDENCE  
510 EL SALTO DR.

DATE: 10/14/18  
SCALE: AS SHOWN  
PROJECT NO: 18-0001  
DRAWING NO: 18-0001-01  
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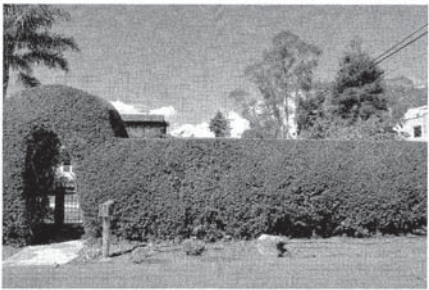
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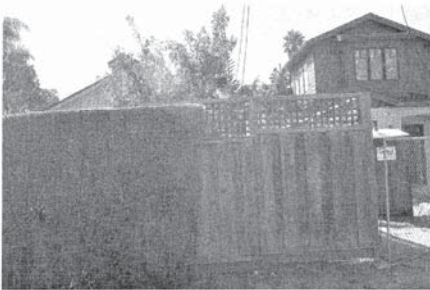
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DEREK VAN ALSTINE  
RESIDENTIAL DESIGN, INC.

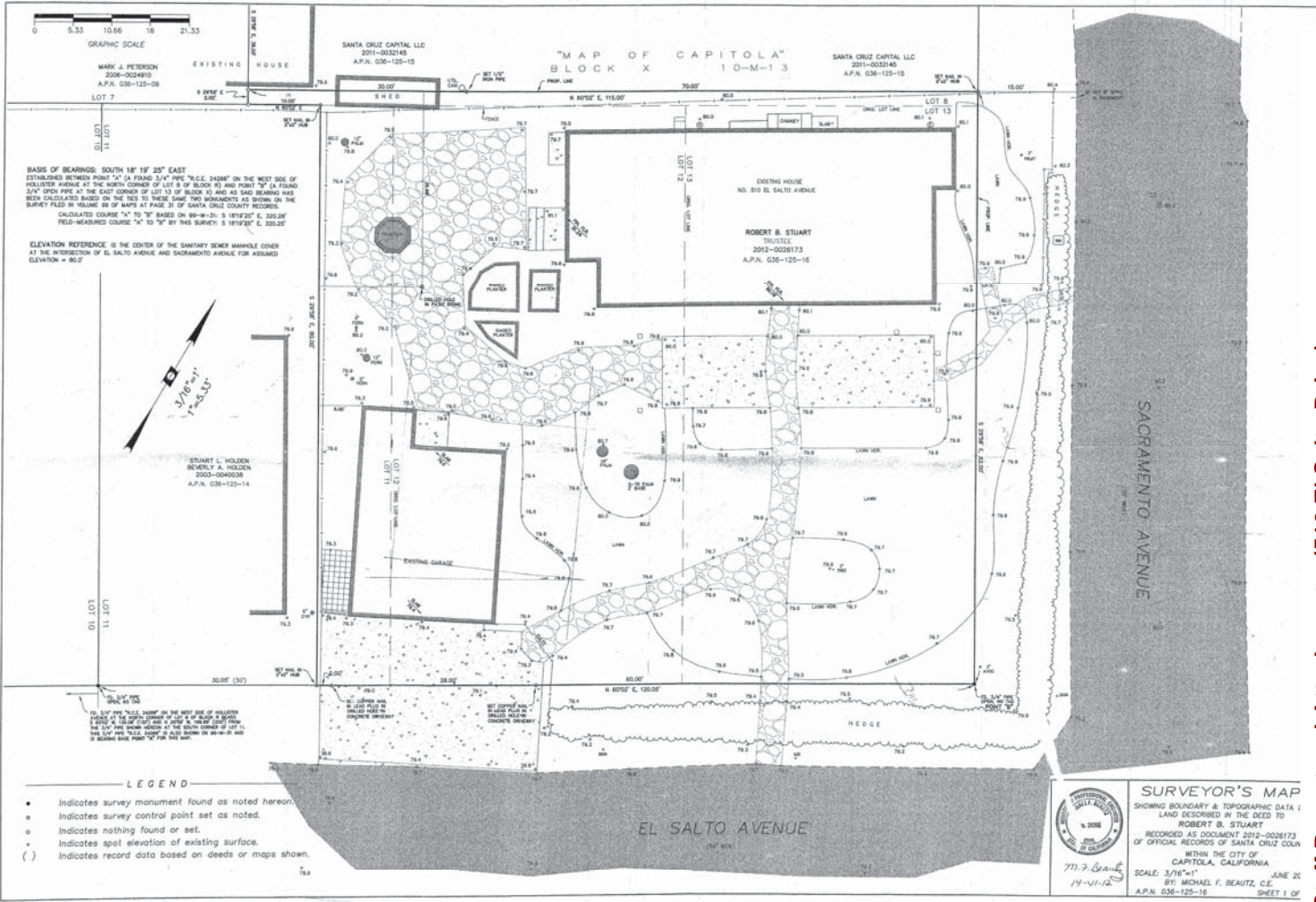
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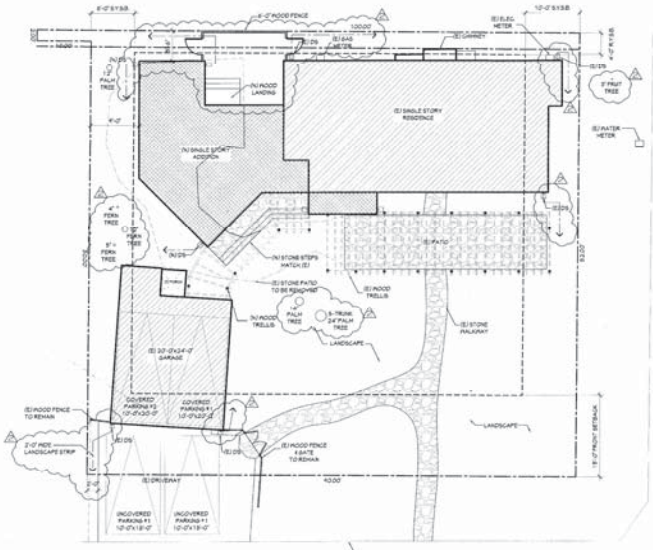
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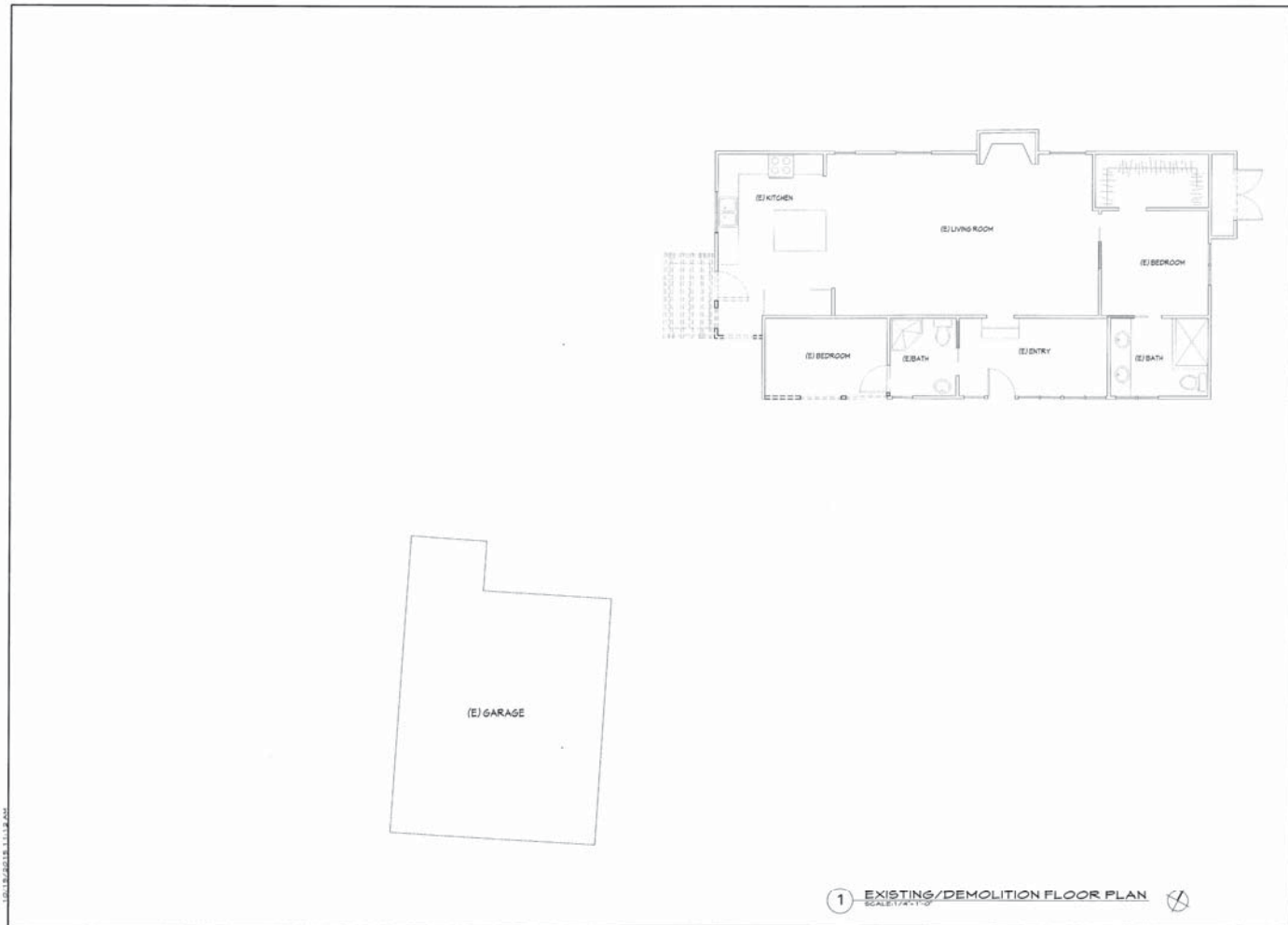


**DRAINAGE NOTE:**  
ALL DOWNSPOUTS TO TERMINATE AT SPLASHBACK  
AND DIRECTED TOWARDS LANDSCAPE AREA.

**1 SITE PLAN**  
SCALE: 1/8" = 1'-0"

LEGEND	LANDSCAPE AREA
(R) STRUCTURE TO REMAIN	EXISTING LANDSCAPE COVERAGE: 4150 SGFT.
PROPOSED ADDITION	PROPOSED LANDSCAPE COVERAGE: 4309 SGFT.
STONE FINISH	ADDED LANDSCAPE COVERAGE: 88 SF.
SETBACK	
PROPERTY LINE	

IMPERVIOUS COVERAGE	
<b>EXISTING IMPERVIOUS COVERAGE</b>	
STRUCTURE:	
TOTAL:	1,188 SF.
RESIDENCE:	928 SF.
GARAGE:	260 SF.
TOTAL:	1,188 SF.
PAVING:	
DRIVEWAY:	392 SF.
PARKS & PATIO:	1,842 SF.
TOTAL:	2,234 SF.
TOTAL EXISTING IMPERVIOUS COVERAGE:	3,422 SF.
<b>PROPOSED IMPERVIOUS COVERAGE</b>	
STRUCTURE:	
TOTAL:	1,000 SF.
RESIDENCE:	928 SF.
GARAGE:	72 SF.
TOTAL:	2,411 SF.
PAVING:	
DRIVEWAY:	392 SF.
PARKS & PATIO:	418 SF.
TOTAL:	810 SF.
TOTAL PROPOSED IMPERVIOUS COVERAGE:	3,221 SF.





McENERY RESIDENCE  
510 EI SALTO DR

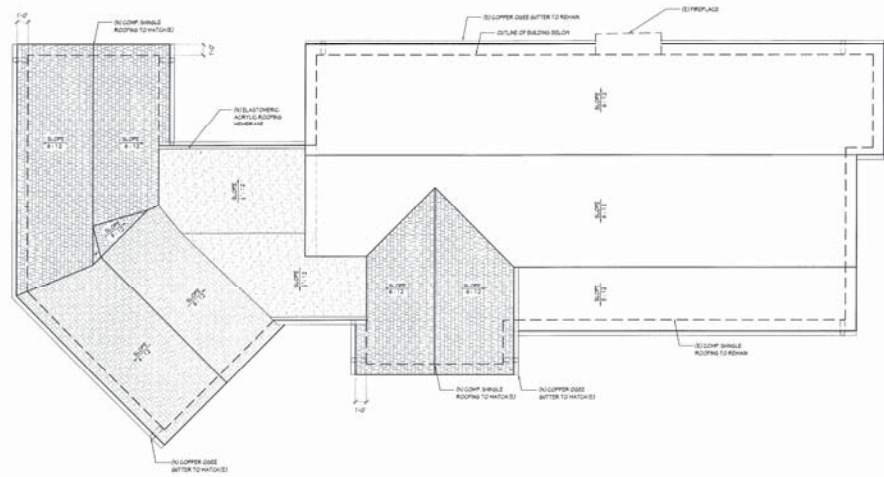
DEREK VAN ALSTINE  
RESIDENTIAL DESIGN INC.

DATE: OCT. 14, 2014

PROJECT: 15-174

SCALE: 1/8" = 1'-0"

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1 ROOF PLAN  
SCALE 1/4" = 1'-0"

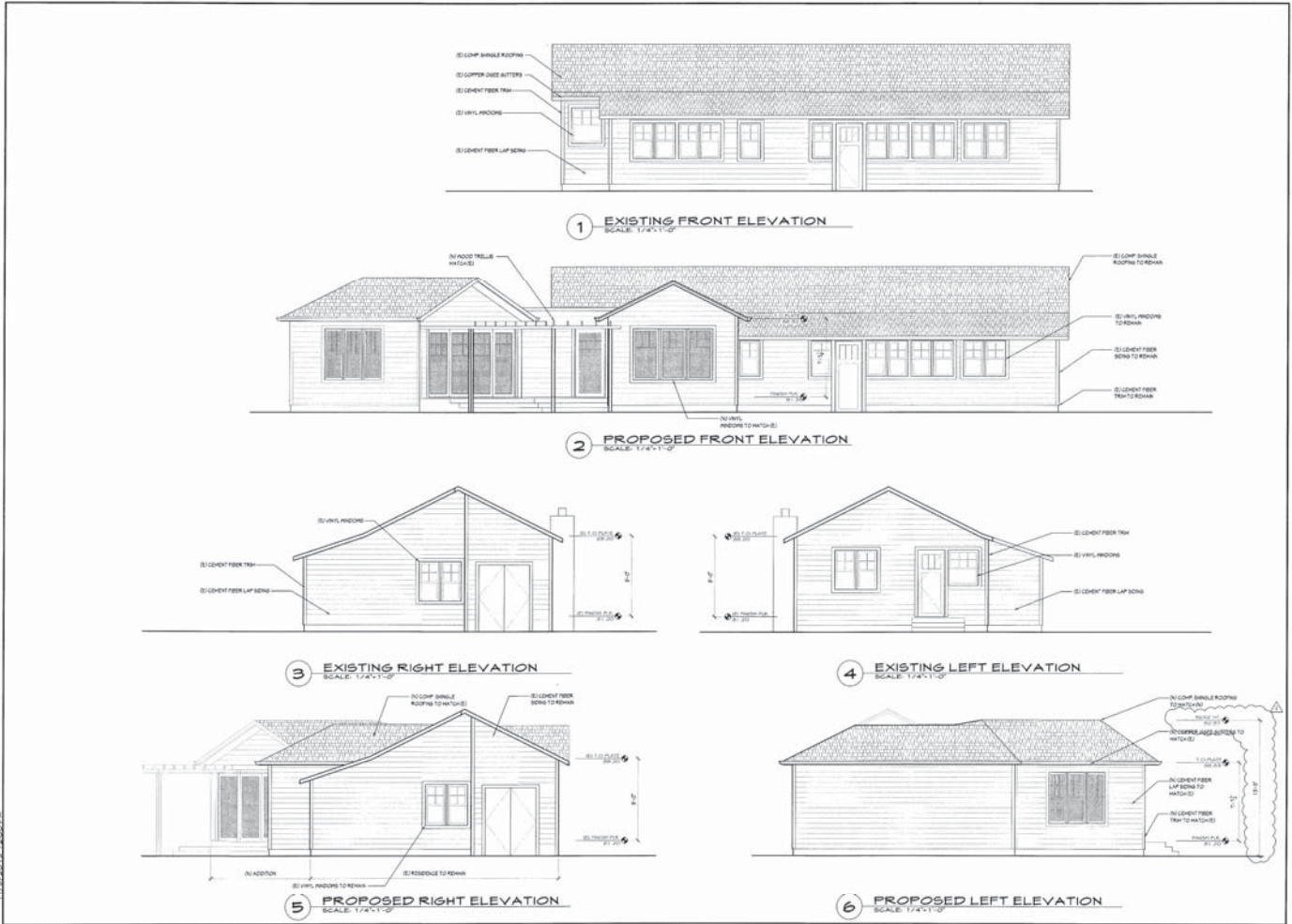
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RESIDENTIAL DESIGN INC.



McENERY RESIDENCE  
510 EL SALTO DR.

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DEREK VAN ALSTINE  
RESIDENTIAL DESIGN INC.

DVR

McENERY RESIDENCE  
510 EL SALTO DR.

PROJECT NO.	2020-122
DATE	OCT. 14, 2020
PROJECT NAME	McENERY RESIDENCE
CLIENT	510 EL SALTO DR.
ARCHITECT	DEREK VAN ALSTINE
SCALE	1/4"=1'-0"
DATE	OCT. 14, 2020
PROJECT NO.	2020-122
DATE	OCT. 14, 2020
PROJECT NAME	McENERY RESIDENCE
CLIENT	510 EL SALTO DR.
ARCHITECT	DEREK VAN ALSTINE
SCALE	1/4"=1'-0"
DATE	OCT. 14, 2020





# DEREK VAN ALSTINE RESIDENTIAL DESIGN, INC.

November 9, 2015

Ryan Safty, Assistant Planner  
City of Capitola  
420 Capitola Avenue  
Capitola, CA 95010

Re: McEnery Residence  
510 El Salto, Capitola  
APN: 036-125-16

Dear Ryan:

On behalf of our client, John McEnery, we would like to request that the front of the property be converted from Sacramento to El Salto.

Thank you,



Derek Van Alstine, President  
Derek Van Alstine Residential Design, Inc.

1535 Seabright Ave., Ste. 200, Santa Cruz, CA 95062  
phone 831-426-8400 • 831-426-8446 fax  
derek@vanalstine.com

Attachment: 510 El Salto Drive - #15-174 - Staff Report and Attachments (510 El Salto Drive)

**510 EL SALTO DR. #15-174**  
**CONSTRUCTION COST BREAKDOWN PER Section 17.72.070**

**Existing Building Costs:**

Existing residence:	1,188 square feet	
	@ \$200.00/square foot	\$237,600.00
Existing garage:	523 square feet	
	@ \$90/square foot	\$40,070.00

Total Existing Value: ~~\$284,670.00~~ # 277,670.00


80% of Total Existing Value ~~\$227,736.00~~ # 222,136.00

**New Construction Costs:**

New conditioned space:	700 square feet	
	@ \$200.00/square foot	\$140,000.00
New deck/porch:	190 square feet	
	@ \$25.00/square foot	\$4,750.00

**Total Construction/Remodel Cost: \$144,750.00 (51%) 66%**

**APPROVED**

Signed   
Date 11/23/15  
Permit No. PER 22222222 # 'S

Attachment: 510 El Salto Drive - #15-174 - Staff Report and Attachments (510 El Salto Drive)

# FINAL LOCAL ACTION NOTICE AND ZONING PERMIT

December 18, 2015

John McEnery III  
510 El Salto Dr.  
Capitola, CA 95010

RE: **Notice of Final Action on Project Application #15-174**

**510 El Salto Dr #15-174 APN: 036-125-16**

Design Permit for a single-story addition and Variance request to the on-site parking requirement for an existing home in the R-1 (Single-Family Residential) Zoning District. This project is in the Coastal Zone and requires a Coastal Development Permit, which is appealable to the California Coastal Commission after all possible appeals are exhausted through the city.

Environmental Determination: Categorical Exemption

Property Owner: John McEnery III

Representative: Derek Van Alstine, filed 10/20/15

The above matter was presented to the Planning Commission on December 3, 2015, and was **approved**, with the following findings and conditions. Any modifications to the staff report are indicated below in ~~strikeout~~ and underline notation. \*Please note that this project includes a Coastal Development Permit, which is appealable to the Coastal Commission pursuant to Coastal Act Section 30603 and City Zoning Ordinance Section 17.46.110. **The Coastal Development Permit will not be effective until after the Coastal Commission's 10 working day appeal period has expired and no appeal has been filed.** The Coastal Commission's appeal period begins the first working day after receipt by the Coastal Commission of adequate notice of this final City action. Any such appeal must be made directly to the California Coastal Commission's Central Coast District Office in Santa Cruz; there is no fee for such an appeal. Should you have any questions regarding the Coastal Commission appeal period or process, please contact Susan Craig at (831) 427-4863.

## CONDITIONS

1. The project approval consists of construction of a 700-square-foot addition to an existing single-family home and approval of a variance to the on-site parking requirements. The maximum Floor Area Ratio for the 7,528-square-foot property is 48% (3,613 square feet). The total FAR of the project is 32% with a total of 2,411 square feet, compliant with the maximum FAR within the zone. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on December 3, 2015, except as modified through conditions imposed by the Planning Commission during the hearing.

2. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans
3. At time of submittal for building permit review, the building plans must show that the existing overhead utility lines will be underground to the nearest utility pole.
4. The applicant is required to provide one additional 9' by 20' parking space on-site in addition to the existing two covered garage spaces (§17.15.130).
5. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
6. At the time of submittal for building permit review, Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP) shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP).
7. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.
8. Prior to issuance of building permit, a final landscape plan shall be submitted and approved by the Community Development Department. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of irrigation systems.
9. Prior to issuance of building permit, all Planning fees associated with permit # 15-174 shall be paid in full.
10. Prior to issuance of building permit, Affordable housing in-lieu fees shall be paid as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance.
11. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel Creek Water District, and Central Fire Protection District.
12. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, shall be submitted to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
13. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).
14. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan. Erosion and sediment

control shall be installed prior to the commencement of construction and maintained throughout the duration of the construction project.

15. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
16. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official.  
§9.12.010B
17. Prior to a project final, all cracked or broken driveway approaches, curb, gutter, or sidewalk shall be replaced per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches, curb, gutter or sidewalk shall meet current Accessibility Standards.
18. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a permit amendment for Planning Commission consideration. Failure to remedy a non-compliance in a timely manner may result in permit revocation.
19. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.
20. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.
21. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.

Attachment: 510 El Salto Drive - Final Local Action Notice - 12.18.2015 (510 El Salto Drive)

**FINDINGS**

- A. The application, subject to the conditions imposed, secures the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**  
The proposed addition at 510 El Salto will conform to the development standards of the Zoning Ordinance with addition of one on-site parking as conditioned.
- B. The application will maintain the character and integrity of the neighborhood.**  
The proposed addition will maintain the existing single-family character and integrity of the Depot Hill neighborhood, as conditioned. The proposed materials within the addition blend seamlessly into the existing home.

**C. This project is categorically exempt under Section 15301-E of the California Environmental Quality Act and is subject to Section 753.5 of Title 14 of the California Code of Regulations.**

This project involves the addition to an existing single-family residence in the R-1 (Single-Family Residential) Zoning District. Section 15301-E of the CEQA Guidelines exempts additions to existing homes in a residential zone.

**D. Special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, ~~do not exist~~ exist on the site and the strict application of this title is found not to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification;**

~~There are no special circumstances applicable to the subject property that would deprive the owner of privileges enjoyed by other neighboring properties. The subject property is located on a flat lot. The owner can meet the parking requirement onsite.~~

The existing hedge located in the public right-of-way is considered to be a character-defining feature of the property and a significant asset to the neighborhood. The hedge is viewed as a special circumstance applicable to the topography and use of the subject property. The location of the existing hedge constitutes a special circumstance and makes it difficult to locate two off-street parking spaces; therefore, a variance is approved to preserve the hedge.

**E. The grant of a variance permit would not constitute a grant of a special privilege inconsistent with the limitation upon other properties in the vicinity and zone in which subject property is situated.**

~~The grant of a variance permit would constitute a grant of a special privilege. Recent remodels in the Depot Hill neighborhood have been required to meet parking standards. There are no special circumstances prohibiting the applicant from meeting the parking requirements.~~

The grant of a variance permit would not constitute the grant of a special privilege. Many of the adjacent properties in the Depot Hill neighborhood use this same right-of-way area for parking and other miscellaneous property improvements. In addition, the city has no plans to install sidewalks or any other improvements in this ten foot wide public right-of-way area. The existing character-defining hedge constitutes a special circumstance prohibiting the applicant from meeting parking requirements on site.

**COASTAL FINDINGS**

***D. Findings Required. A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program, including, but not limited to:***

- The proposed development conforms to the City’s certified Local Coastal Plan (LCP). The specific, factual findings, as per CMC Section 17.46.090 (D) are as follows:

***(D) (2) Require Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (D) (2) (a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the adverse effects which have been identified will be alleviated or mitigated by the dedication. As used in this section, “cumulative effect” means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.***

Attachment: 510 El Salto Drive - Final Local Action Notice - 12.18.2015 (510 El Salto Drive)

**(D) (2) (a) Project Effects on Demand for Access and Recreation.** Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project's effects upon existing public access and recreation opportunities. Analysis of the project's cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative build-out. Projection for the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project's cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities;

- The proposed project is located at 510 El Salto Dr. The home is not located in an area with coastal access. The home will not have an effect on public trails or beach access.

**(D) (2) (b) Shoreline Processes.** Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;

- The proposed project is located along El Salto Dr. No portion of the project is located along the shoreline or beach.

**(D) (2) (c) Historic Public Use.** Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use);

- There is not history of public use on the subject lot.

**(D) (2) (d) Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;**

- The proposed project is located on private property on El Salto Dr. The project will not block or impede the ability of the public to get to or along the tidelands, public recreation areas, or views to the shoreline.

**(D) (2) (e) Other Adverse Impacts on Access and Recreation. Description of the development's physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.**

- The proposed project is located on private property that will not impact access and recreation. The project does not diminish the public's use of tidelands or lands committed to public recreation nor alter the aesthetic, visual or recreational value of public use areas.

**(D) (3) (a – c) Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F) (2) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:**

**a. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;**

**b. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;**

**c. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.**

- The project is not requesting a Public Access Exception, therefore these findings do not apply

**(D) (4) (a – f) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:**



**a. Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;**

- The project is located in a residential lot.

**b. Topographic constraints of the development site;**

- The project is located on a relatively flat lot.

**c. Recreational needs of the public;**

- The project does not impact recreational needs of the public.

**d. Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;**

**e. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;**

**f. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.**

**(D) (5) Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);**

- No legal documents to ensure public access rights are required for the proposed project

**(D) (6) Project complies with visitor-serving and recreational use policies;**

**SEC. 30222**

***The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.***

- The project involves a single family home on a residential lot of record.

**SEC. 30223**

***Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.***

- The project involves a single family home on a residential lot of record.

**c) Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.**

- The project involves a single family home on a residential lot of record.

**(D) (7) Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;**

- The project involves the construction of a single family home. The project complies with applicable standards and requirements for provision for parking, pedestrian access, alternate means of transportation and/or traffic improvements.

**(D) (8) Review of project design, site plan, signing, lighting, landscaping, etc., by the city’s architectural and site review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;**

- The project complies with the design guidelines and standards established by the Municipal Code.

**(D) (9) Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola’s shoreline;**

- The project will not negatively impact public landmarks and/or public views. The project will not block or detract from public views to and along Capitola’s shoreline.

**(D) (10) Demonstrated availability and adequacy of water and sewer services;**

- The project is located on a legal lot of record with available water and sewer services.

**(D) (11) Provisions of minimum water flow rates and fire response times;**

- The project is located within close proximity of the Capitola fire department. Water is available at the location.

**(D) (12) Project complies with water and energy conservation standards;**

- The project is for a single family home. The GHG emissions for the project are projected at less than significant impact. All water fixtures must comply with the low-flow standards of the soquel creek water district.

**(D) (13) Provision of park dedication, school impact, and other fees as may be required;**

- The project will be required to pay appropriate fees prior to building permit issuance.

**(D) (14) Project complies with coastal housing policies, and applicable ordinances including condominium conversion and mobile home ordinances;**

- The project does not involve a condo conversion or mobile homes.

**(D) (15) Project complies with natural resource, habitat, and archaeological protection policies;**

- Conditions of approval have been included to ensure compliance with established policies.

***(D) (16) Project complies with Monarch butterfly habitat protection policies;***

- The project is outside of any identified sensitive habitats, specifically areas where Monarch Butterflies have been encountered, identified and documented.

***(D) (17) Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;***

- Conditions of approval have been included to ensure compliance with applicable erosion control measures.

***(D) (18) Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project complies with hazard protection policies including provision of appropriate setbacks and mitigation measures;***

- Geologic/engineering reports have been prepared by qualified professionals for this project. Conditions of approval have been included to ensure the project applicant shall comply with all applicable requirements of the most recent version of the California Building Standards Code.

***(D) (19) All other geological, flood and fire hazards are accounted for and mitigated in the project design;***

- Conditions of approval have been included to ensure the project complies with geological, flood, and fire hazards and are accounted for and will be mitigated in the project design.

***(D) (20) Project complies with shoreline structure policies;***

- The proposed project complies with shoreline structure policies.

***(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;***

- This use is a principally permitted use consistent with the Single Family zoning district.

***(D) (22) Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures;***

- The project conforms to the requirements of all city ordinances, zoning requirements and project development review and development procedures.

***(D) (23) Project complies with the Capitola parking permit program as follows:***

The project site is not located within the area of the Capitola parking permit program.

This permit is issued to the owner of the property. In executing this permit, owner agrees to comply with all terms of permit, including conditions of approval, if any. Permit must be exercised within 24 months of date of issuance (December 3, 2017) unless otherwise indicated in conditions of approval. Should you have any questions on this matter, do not hesitate to call.

Respectfully,

Katie Cattan, AICP  
Senior Planner

cc: Derek Van Alstine  
Coastal Commission

# FINAL LOCAL ACTION NOTICE AND ZONING PERMIT

February 2, 2018

John McEnery III  
510 El Salto Dr.  
Capitola, CA 95010

RE: **Notice of Final Action on Project Application #15-174**

**510 El Salto Drive #15-174 APN: 036-125-16**

Request for a one year extension of a previously approved Design Permit and Variance for a single-story addition to an existing home in the R-1 (Single-Family Residential) Zoning District.

This project is in the Coastal Zone and requires a Coastal Development Permit, which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.

Environmental Determination: Categorical Exemption

Property Owner: John McEnery III

Representative: Derek Van Alstine, filed 10/20/15

The above matter was presented to the Planning Commission on January 18, 2018, and was **approved**, with the following findings and conditions. Any modifications to the staff report are indicated below in ~~strikeout~~ and underline notation. \*Please note that this project includes a Coastal Development Permit, which is appealable to the Coastal Commission pursuant to Coastal Act Section 30603 and City Zoning Ordinance Section 17.46.110. **The Coastal Development Permit will not be effective until after the Coastal Commission's 10 working day appeal period has expired and no appeal has been filed.** The Coastal Commission's appeal period begins the first working day after receipt by the Coastal Commission of adequate notice of this final City action. Any such appeal must be made directly to the California Coastal Commission's Central Coast District Office in Santa Cruz; there is no fee for such an appeal. Should you have any questions regarding the Coastal Commission appeal period or process, please contact Susan Craig at (831) 427-4863.

## **CONDITIONS OF APPROVAL**

1. The project approval consists of construction of a 700-square-foot addition to an existing single-family home and approval of a variance to the on-site parking requirements. The maximum Floor Area Ratio for the 7,528-square-foot property is 48% (3,613 square feet). The total FAR of the project is 32% with a total of 2,411 square feet, compliant with the maximum FAR within the zone. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on December 3, 2015, except as modified through conditions imposed by the Planning Commission during the hearing.

2. The December 3, 2015 design permit and variance was granted a one year extension on January 18, 2018. The design permit and variance will remain valid through January 18, 2019.
3. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans
4. At time of submittal for building permit review, the building plans must show that the existing overhead utility lines will be underground to the nearest utility pole.
5. The applicant is required to provide one additional 9' by 20' parking space on-site in addition to the existing two covered garage spaces (§17.15.130).
6. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
7. At the time of submittal for building permit review, Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP) shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP).
8. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.
9. Prior to issuance of building permit, a final landscape plan shall be submitted and approved by the Community Development Department. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of irrigation systems.
10. Prior to issuance of building permit, all Planning fees associated with permit # 15-174 shall be paid in full.
11. Prior to issuance of building permit, Affordable housing in-lieu fees shall be paid as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance.
12. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel Creek Water District, and Central Fire Protection District.
13. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, shall be submitted to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
14. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).

15. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan. Erosion and sediment control shall be installed prior to the commencement of construction and maintained throughout the duration of the construction project.
16. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
17. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official. §9.12.010B
18. Prior to a project final, all cracked or broken driveway approaches, curb, gutter, or sidewalk shall be replaced per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches, curb, gutter or sidewalk shall meet current Accessibility Standards.
19. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a permit amendment for Planning Commission consideration. Failure to remedy a non-compliance in a timely manner may result in permit revocation.
20. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.
21. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.
22. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.

## **FINDINGS**

- A. A substantial change of circumstances has not occurred since Planning Commission approval of the permit on December 3<sup>rd</sup>, 2015. A one-year extension of the permit to December 3<sup>rd</sup>, 2018, would not be detrimental to the purpose of the certified local coastal program and zoning ordinance.**

The Planning Commission finds that neither the physical characteristics of the lot nor the zoning ordinance has changed since approval of the permit on December 3<sup>rd</sup>, 2015. Therefore, a one-year extension (to January 18,2019) of said permit is appropriate.

**B. The application, subject to the conditions imposed, secures the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**

The proposed addition at 510 El Salto will conform to the development standards of the Zoning Ordinance with addition of one on-site parking as conditioned.

**C. The application will maintain the character and integrity of the neighborhood.**

The proposed addition will maintain the existing single-family character and integrity of the Depot Hill neighborhood, as conditioned. The proposed materials within the addition blend seamlessly into the existing home.

**D. This project is categorically exempt under Section 15301-E of the California Environmental Quality Act and is subject to Section 753.5 of Title 14 of the California Code of Regulations.**

This project involves the addition to an existing single-family residence in the R-1 (Single-Family Residential) Zoning District. Section 15301-E of the CEQA Guidelines exempts additions to existing homes in a residential zone.

**E. Special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, exist on the site and the strict application of this title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification;**

The existing hedge located in the public right-of-way is considered to be a character-defining feature of the property and a significant asset to the neighborhood. The hedge is viewed as a special circumstance applicable to the topography and use of the subject property. The location of the existing hedge constitutes a special circumstance and makes it difficult to locate two off-street parking spaces; therefore, a variance is approved to preserve the hedge.

**F. The grant of a variance permit would not constitute a grant of a special privilege inconsistent with the limitation upon other properties in the vicinity and zone in which subject property is situated.**

The grant of a variance permit would not constitute the grant of a special privilege. Many of the adjacent properties in the Depot Hill neighborhood use this same right-of-way area for parking and other miscellaneous property improvements. In addition, the city has no plans to install sidewalks or any other improvements in this ten-foot wide public right-of-way area. The existing character-defining hedge constitutes a special circumstance prohibiting the applicant from meeting parking requirements on site.

**COASTAL FINDINGS**

***D. Findings Required. A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program, including, but not limited to:***

- The proposed development conforms to the City's certified Local Coastal Plan (LCP). The specific, factual findings, as per CMC Section 17.46.090 (D) are as follows:

***(D) (2) Require Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (D) (2) (a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the adverse effects which have been identified will be alleviated or mitigated by the dedication. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of***



***past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.***

***(D) (2) (a) Project Effects on Demand for Access and Recreation. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project’s effects upon existing public access and recreation opportunities. Analysis of the project’s cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative build-out. Projection for the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project’s cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities;***

- The proposed project is located at 510 El Salto Dr. The home is not located in an area with coastal access. The home will not have an effect on public trails or beach access.

***(D) (2) (b) Shoreline Processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;***

- The proposed project is located along El Salto Dr. No portion of the project is located along the shoreline or beach.

***(D) (2) (c) Historic Public Use. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use);***

- There is not history of public use on the subject lot.

**(D) (2) (d) Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;**

- The proposed project is located on private property on El Salto Dr. The project will not block or impede the ability of the public to get to or along the tidelands, public recreation areas, or views to the shoreline.

**(D) (2) (e) Other Adverse Impacts on Access and Recreation. Description of the development's physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.**

- The proposed project is located on private property that will not impact access and recreation. The project does not diminish the public's use of tidelands or lands committed to public recreation nor alter the aesthetic, visual or recreational value of public use areas.

**(D) (3) (a – c) Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F) (2) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:**

- The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;**
  - Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;**
  - Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.**
- The project is not requesting a Public Access Exception, therefore these findings do not apply

**(D) (4) (a – f) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:**

- Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;**
- The project is located in a residential lot.
- Topographic constraints of the development site;**
- The project is located on a relatively flat lot.

**c. Recreational needs of the public;**

- The project does not impact recreational needs of the public.

**d. Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;**

**e. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;**

**f. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.**

**(D) (5) Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);**

- No legal documents to ensure public access rights are required for the proposed project

**(D) (6) Project complies with visitor-serving and recreational use policies;**

**SEC. 30222**

**The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.**

- The project involves a single family home on a residential lot of record.

**SEC. 30223**

**Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.**

- The project involves a single family home on a residential lot of record.

**c) Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.**

- The project involves a single family home on a residential lot of record.

**(D) (7) Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;**

- The project involves the construction of a single family home. The project complies with applicable standards and requirements for provision for parking, pedestrian access, alternate means of transportation and/or traffic improvements.

**(D) (8) Review of project design, site plan, signing, lighting, landscaping, etc., by the city's architectural and site review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;**

- The project complies with the design guidelines and standards established by the Municipal

Code.

***(D) (9) Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola’s shoreline;***

- The project will not negatively impact public landmarks and/or public views. The project will not block or detract from public views to and along Capitola’s shoreline.

***(D) (10) Demonstrated availability and adequacy of water and sewer services;***

- The project is located on a legal lot of record with available water and sewer services.

***(D) (11) Provisions of minimum water flow rates and fire response times;***

- The project is located within close proximity of the Capitola fire department. Water is available at the location.

***(D) (12) Project complies with water and energy conservation standards;***

- The project is for a single family home. The GHG emissions for the project are projected at less than significant impact. All water fixtures must comply with the low-flow standards of the soquel creek water district.

***(D) (13) Provision of park dedication, school impact, and other fees as may be required;***

- The project will be required to pay appropriate fees prior to building permit issuance.

***(D) (14) Project complies with coastal housing policies, and applicable ordinances including condominium conversion and mobile home ordinances;***

- The project does not involve a condo conversion or mobile homes.

***(D) (15) Project complies with natural resource, habitat, and archaeological protection policies;***

- Conditions of approval have been included to ensure compliance with established policies.

***(D) (16) Project complies with Monarch butterfly habitat protection policies;***

- The project is outside of any identified sensitive habitats, specifically areas where Monarch Butterflies have been encountered, identified and documented.

***(D) (17) Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;***

- Conditions of approval have been included to ensure compliance with applicable erosion control measures.

***(D) (18) Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project complies with hazard protection policies including provision of appropriate setbacks and mitigation measures;***

- Geologic/engineering reports have been prepared by qualified professionals for this project. Conditions of approval have been included to ensure the project applicant shall comply with all applicable requirements of the most recent version of the California Building Standards Code.

***(D) (19) All other geological, flood and fire hazards are accounted for and mitigated in the project design;***

- Conditions of approval have been included to ensure the project complies with geological, flood, and fire hazards and are accounted for and will be mitigated in the project design.

***(D) (20) Project complies with shoreline structure policies;***

- The proposed project complies with shoreline structure policies.

***(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;***

- This use is a principally permitted use consistent with the Single Family zoning district.

***(D) (22) Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures;***

- The project conforms to the requirements of all city ordinances, zoning requirements and project development review and development procedures with the approved variance.

***(D) (23) Project complies with the Capitola parking permit program as follows:***

The project site is not located within the area of the Capitola parking permit program.

This permit is issued to the owner of the property. In executing this permit, owner agrees to comply with all terms of permit, including conditions of approval, if any. Permit must be exercised within 24 months of date of issuance (January 18, 2020) unless otherwise indicated in conditions of approval. Should you have any questions on this matter, do not hesitate to call.

Respectfully,

Katie Herlihy, AICP  
 Senior Planner

cc: Derek Van Alstine, 1535 Seabright Ave #200, Santa Cruz, CA 95062  
 Coastal Commission



## STAFF REPORT

TO: PLANNING COMMISSION  
 FROM: COMMUNITY DEVELOPMENT  
 DATE: MARCH 7, 2019  
 SUBJECT: **401 Capitola Avenue#19-0031 APN: 035-121-11**

Conditional Use Permit for a take-out restaurant located within the CN (Neighborhood Commercial) zoning district.

This project is in the Coastal Zone but does not require a Coastal Development Permit.

Environmental Determination: Categorical Exemption

Property Owner: Amy Cheng

Representative: Amy Cheng, Filed: 01.23.2019

### **APPLICANT PROPOSAL**

The applicant is requesting a Conditional Use Permit (CUP) to allow a take-out restaurant within the existing commercial building at 401 Capitola Avenue in the CN (Neighborhood Commercial) zoning district.

### **BACKGROUND**

The existing commercial building was approved by the Planning Commission under permit #13-082 on June 5, 2014, replacing a duplex that was located on the site (Attachment 3 and Attachment 4). The approval included a design permit, Coastal Development Permit, and variances for the front and rear yard setback and off-site parking.

### **DISCUSSION**

The 1,115-square-foot commercial space was previously occupied by a home décor and gift shop. The proposal is for a to-go restaurant that will sell beverages, salads, rice bowls, and ice desserts. The proposed floor plan includes a small 208-square-foot shop in the front space, a kitchen in the back, and a storage area on the second floor (Attachment 1). The to-go restaurant use will be limited to six seats.

The applicant provided a management plan for the proposed use (Attachment 2). The applicant plans to operate primarily as a to-go establishment with limited onsite dining and primarily off-site consumption of food and drink. The proposed business hours are 8:00 a.m. to 8:00 p.m., seven days a week during the months of March through October and 10:00 a.m. to 7:00 p.m. seven days a week during the months of November through February. The proposed use is consistent with the General Plan and Zoning Ordinance with the issuance of a Conditional Use Permit.

### **Conditional Use Permit**

The applicant is requesting approval of a CUP for a to-go restaurant. Pursuant to 17.60.030, in considering an application for a CUP, the Planning Commission must give due regard to the nature and condition of all adjacent uses and structures. The conditional use permit chapter also lists additional requirements and review criteria for some specific uses requiring a CUP, but there are no additional requirements for to-go restaurants. In issuing a CUP, the Planning Commission may impose requirements and conditions with respect to location, design, siting, maintenance and operation of the use as may be deemed reasonable and necessary for the protection of the adjacent properties and in the public interest, and to preserve the integrity and character of the district.

### Parking

The existing structure was granted a variance to parking in 2015 and is a legal, non-conforming structure. Pursuant to the nonconforming parking requirements of §17.51.135(A), in the case of nonresidential structures in any district, which are changed in occupancy to a more intensive use category, such off-street parking facilities need to be provided only for that portion of the structure constituting and increase in capacity. The previous retail use required one parking space per 240 square feet of floor area. A take-out food establishment with six or fewer seats has the same parking requirement as retail. The new occupancy is limited to a maximum of six seats and will not be more intensive in terms of parking, therefore no additional parking is required.

### Off-Street Loading Facilities

Within the parking and loading requirements of the code, §17.51.120 requires that “off-street loading facilities required for the uses mentioned in this chapter, and for similar uses, shall in all cases be on the same or immediately adjacent lot or parcel of land as the structure they are intended to serve.” Section §17.51.140 further states that off-street loading is required for uses with a floor area of 10,000 square feet or more. In this case, the building is under 10,000 square-feet and off-street loading facilities cannot be provided on-site or on the adjacent parcels (the trestle to the south and the Central Fire Protection District to the north). Also, the curb from the trestle to the fire station is a no parking zone to protect the sight lines for fire engines coming and going from the fire station. However, the building is located approximately 150 feet from the one-hour free public parking across the street in front of Capitola City Hall, 0.1 miles from the Beach and Village Public Parking lots behind the Capitola City Hall, and there is metered street parking available starting at 409 Capitola Avenue. There is also a crosswalk directly in front of the building at 401 Capitola Avenue that leads to the public parking areas around Capitola City Hall. Planning Commission can impose requirements and conditions with respect to loading locations and timing on the conditional use permit.

### CEQA

This project is categorically exempt under Section 15301 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations. The proposed project involves a restaurant use occupying an existing commercial space. No adverse environmental impacts were discovered during project review by Planning Staff.

### RECOMMENDATION

Staff recommends the Planning Commission approve application #19-0031, subject to the following conditions and based upon the following findings:

### CONDITIONS OF APPROVAL

1. The project approval consists of a Conditional Use Permit to allow a to-go restaurant within the existing commercial space located at 401 Capitola Avenue.

2. Seating is limited to a maximum of 6 seats.
3. There shall be no amplified audible entertainment inside the business that can be audible outside of the business.
4. The applicant is responsible for maintaining the area directly in front of the business free from litter and/or graffiti.
5. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
6. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.

### **FINDINGS**

**A. The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance and General Plan.**

Community Development Department Staff and the Planning Commission have reviewed the application and determined that the business owner may be granted a conditional use permit for a to-go restaurant within the CN Zoning District. The use meets the intent and purpose of the Neighborhood Commercial Zoning District. Conditions of approval have been included to ensure that the use is consistent with the Zoning Ordinance and General Plan.

**B. The application will maintain the character and integrity of the neighborhood.**

Community Development Department Staff and the Planning Commission have reviewed the proposed use and determined that the use complies with the applicable provisions of the Zoning Ordinance and maintain the character and integrity of this area of the City. This area of the City is a mix of commercial and residential uses. Conditions of approval have been included to carry out these objectives.

**C. This project is categorically exempt under Section 15301 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

The proposed project involves the conversion of an existing commercial space into a to-go restaurant. No adverse environmental impacts were discovered during project review by either the Community Development Department Staff or the Planning Commission.

### **ATTACHMENTS:**

1. 401 Capitola Avenue - Full Plan Set - 02.28.2019
2. 401 Capitola Avenue - TeaTalk Deli Business Management Plan
3. 401 Capitola Ave - #13-082 - Staff Report - 06.05.2014
4. 401 Capitola Ave - #13-082 - Final Local Action Notice - 07.19.2014
5. Public Comment - Ed Newman - 02.27.2019
6. Public Comment - Michael Lavigne - 02.27.2019

Prepared By: Matt Orbach  
Assistant Planner





**GENERAL NOTES**

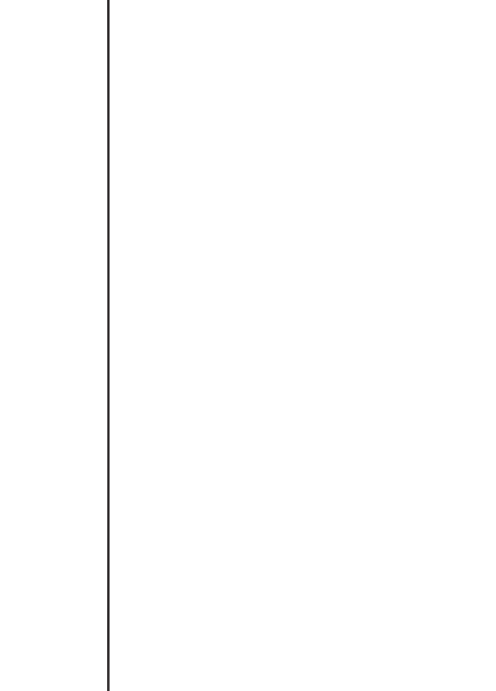
1. All work shall be performed in accordance with National, State and Local regulations. Secure required permits. Arrange with appropriate agencies for utility relocation. Obtain utility maps and coordinate all existing structures and devices scheduled to remain or to be salvaged for reuse with owner.
2. All bidders submitting proposals for this work shall first examine the site (premises) and all such conditions as may affect the work. Bidders shall be responsible for the accuracy of the site information. Bidders shall be held responsible for providing work that will be required to complete the work without additional cost to the owner.
3. Work to be performed under this contract shall include all demolition, site work, building construction, and improvements to be properly designed and detailed. In all construction documents, reference shall be made to the plans and specifications for the work to be performed. It shall be the contractor's responsibility to verify that the existing conditions, including existing structure, are in accordance with the specifications. The contractor shall be responsible for obtaining all necessary permits, including existing structure, before any existing structure is demolished or replaced. The contractor shall be responsible for obtaining all necessary permits, including existing structure, before any existing structure is demolished or replaced.
4. Before existing structure is demolished, the contractor shall verify that the existing structure is in accordance with the specifications. The contractor shall be responsible for obtaining all necessary permits, including existing structure, before any existing structure is demolished or replaced.
5. The contractor shall be responsible for obtaining all necessary permits, including existing structure, before any existing structure is demolished or replaced.
6. Contractor shall remove from the job site all crates, packing debris, etc. from kitchen equipment. The contractor shall be responsible for obtaining all necessary permits, including existing structure, before any existing structure is demolished or replaced.
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**GENERAL NOTES**

1. DEMOLITION AND REMOVAL OF EXISTING STRUCTURE SHALL BE COMPLETED IN ACCORDANCE WITH THE SPECIFICATIONS AND THE GENERAL NOTES.
2. THE CLEARANCE FOR DEMOLITION SHALL NOT BE STEEPER THAN 1:20 (5%), THE CROSS SLOPE OF WALKING SURFACES SHALL NOT BE STEEPER THAN 1:50 (2%), AND THE CROSS SLOPE OF WALKING SURFACES SHALL NOT BE STEEPER THAN 1:50 (2%).

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**(E) SITE PLAN**

1/4" = 1'



Innovative Design Architecture, Inc.

**IDA**

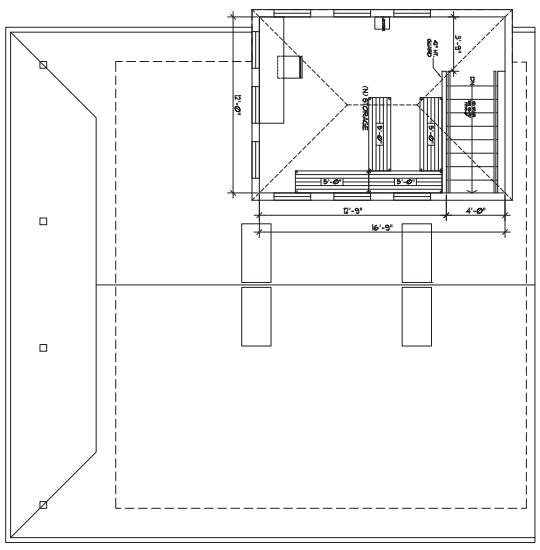
JOHN BA, AIA  
510 LAWRENCE EXPRV.  
SUNNYVALE, CA 94085  
TEL: (408) 245-0891  
TEL: (408) 245-0711

OWNER:  
MS AMY CHEUNG  
401 CAPITOLA AVE  
CAPITOLA, CA 95051

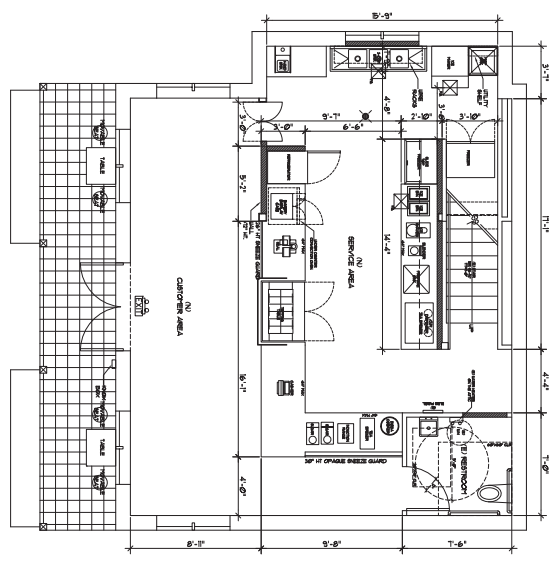
**TEATALK - CAPITOLA  
TENANT IMPROVEMENT**

401 CAPITOLA AVE.  
CAPITOLA, CA 95051

DATE	2009-02-11	PROJECT NO.	09-16-09
SCALE	AS SHOWN	DRAWN	JH/AT
SHEET			
<b>A-10</b>			
OF SHEETS			



■ SECOND FLOOR

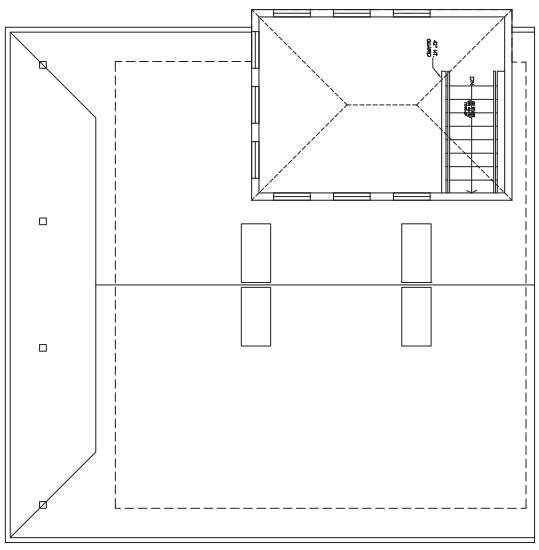


■ FIRST FLOOR

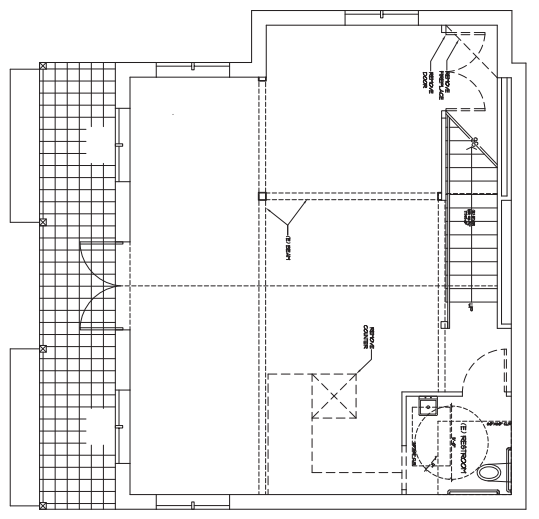
- LEGEND**
- EXISTING WALL TO REMAIN, REMOVE AND REBUILD AT TYPE 2.5" OR 4" PER DEPTH OF WALL (INDICATED SHADING)
  - EXISTING 1-1/2" PARTIAL WALL
  - EXISTING WINDOW
  - EXISTING DOOR (FROM WORK)
  - EXISTING DOOR (TO WORK)
  - 2X6 EXISTING WINDOW
  - 2X6 EXISTING WINDOW
  - 4" FLOOR OUTLET
  - 1" CABLE JACK
  - NEW CONDUIT (BY CONTRACTOR) TO BE INSTALLED AT 12" DEPTH, SEE DETAIL 2-24 (B-C) MODIFIED AT 4"X8" TO 4"X4"

PROPOSED FLOOR PLAN

1/4" = 1'



■ SECOND FLOOR



■ FIRST FLOOR

- LEGEND**
- EXISTING WALL TO REMAIN, REMOVE AND REBUILD AT TYPE 2.5" OR 4" PER DEPTH OF WALL (INDICATED SHADING)
  - EXISTING 1-1/2" PARTIAL WALL
  - EXISTING WINDOW
  - EXISTING DOOR (FROM WORK)
  - EXISTING DOOR (TO WORK)
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(E) FLOOR PLANS + DEMO PLAN

1/4" = 1'

**TEATALK - CAPITOLA**  
**TENANT IMPROVEMENT**  
 401 CAPITOLA AVE.  
 CAPITOLA, CA 95051

Innovative Design Architecture, Inc.

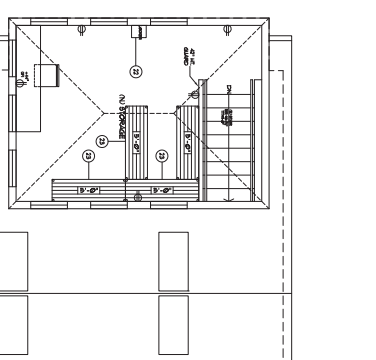
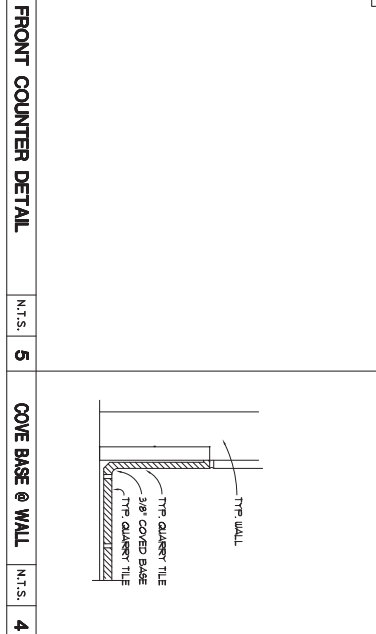
**JOB# EA, MA**  
 SIO LAWRENCE EXPRV.,  
 SUNNYVALE, CA 94085  
 TEL: (408) 245-0891  
 TEL: (408) 245-0711

OWNER:  
**MS AMY CHEUNG**  
 401 CAPITOLA AVE  
 CAPITOLA, CA 95051

DATE: 2009-02-11  
 SCALE: AS SHOWN  
 SHEET: A-20  
 PRODUCT NO.: 19-16-93  
 DRAWN: JMATT  
 SHEET: 1 OF 3 SHEETS

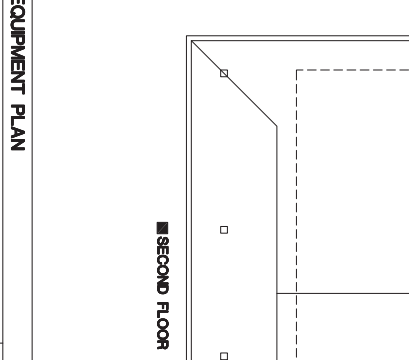
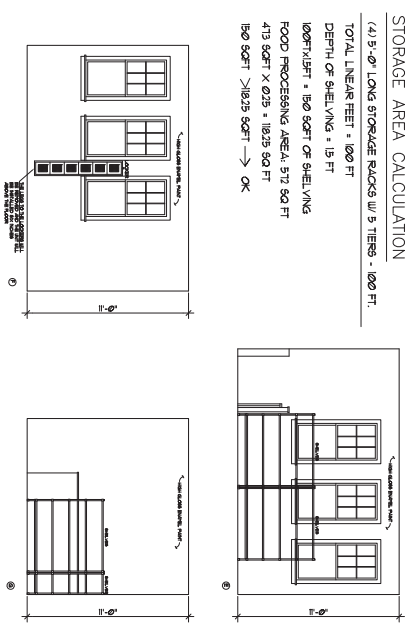






**FRONT COUNTER DETAIL** N.T.S. **5** **COVE BASE @ WALL** N.T.S. **4**

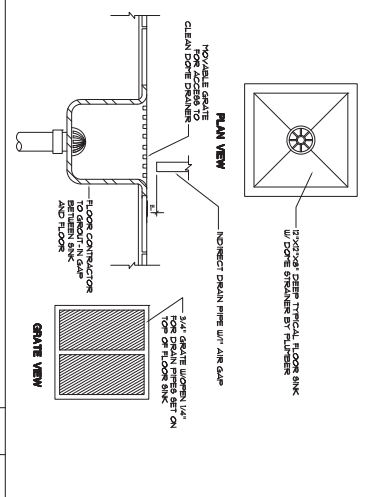
**STORAGE AREA CALCULATION**  
 (4) 5'-0" LONG STORAGE BLOCKS W/ 5 TIERS - 100 FT.  
 TOTAL LINEAR FEET = 100 FT  
 DEPTH OF SHELVING = 15 FT  
 100 FT x 15 FT = 1500 SQ FT OF SHELVING  
 FOOD PROCESSING AREA: 571 SQ FT  
 413 SQ FT x 0.25 = 103.25 SQ FT  
 1500 SQ FT - 103.25 SQ FT → OK



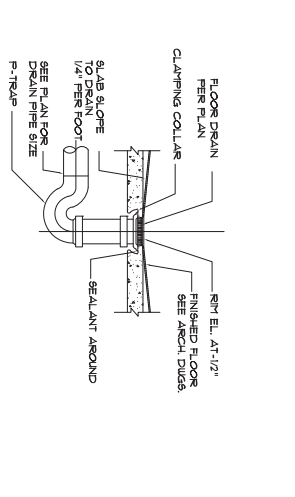
**EQUIPMENT PLAN** N.T.S. **1**

**EQUIPMENT SCHEDULE** 1/4" **3** **EQUIPMENT SCHEDULE** 1/4" **2**

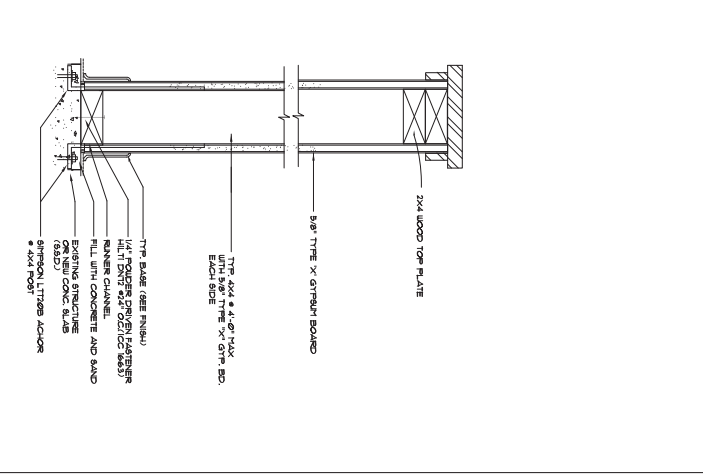
NO.	QTY	EQUIPMENT	DNBS (W/D/H)	MANUFACTURER	MODEL NUMBER	REMARKS
01	1	CASHER	BY OWNER			
02	1	TOPPING TABLE	60.576"x34.287"x40.375"	TRIELE MANUFACTURING	TRSSU-80-24M-B-9T	UL NSF
03	1	SEALING MACHINE	67"x87"x28.5"	SEALMAX	CTS-626	NSF/ETL
04	1	CONNECTION OVEN	32.1267"x30.7330"x30.857"	ALTO-SHAAM	ASC-2E	ANSI/NFPA
05	1	REFRIGERATOR	28.67"x32.67"x32.67"	TURBO	TBC-36SD	NSF
06	1	SLIDING TOP FREEZER	39.7267"x33.5"	REFREGENCY	600MB182	NSF
07	2	DROP-IN ICE BIN	67"x18"	GLOBAL BEAR	FOOM-M	
08	1	ICE SHAVER	67"x11"x12"	VITABARK	WH400C	
09	1	BLENDER	8.67"x10.17"x8.67"	ADVANCE TABCO	DM-1-2012	
10	1	1-COMPARTMENT SINK	23.7267"x18"	ADVANCE TABCO	ALBELLA 1 2	
11	1	TEA BREWERS	33.7267"x18"	INDOVA	CS90013600	
12	3	TEA DISPENSER	4.187267"x8"	SAN JAMAR	TR-301	
13	1	TEA BREWERS	30.7267"x18"	PARALE	WH400C	
14	1	INDUCTION RANGE	47.57"x18"	ADVANCE TABCO	DM-1-2012	
15	1	HAND SINK	9.7267"x18"	RESALE GROUP	WB24.5 & 14728	
16	1	STOCK SINK	19.7267"x36"	MAINT OROCO	Z1990-24	
17	1	STOCK SINKS SHELVING	30.7267"x36.5"	ZIEN	K-2245	
18	1	ICE LAMINATOR	24.24"	ADVANCE TABCO	UL-66	UL NSF
19	1	UTILITY SHELF	39.67267"x18.375"	WH-HOLT	56-74-8800	NSF
20	1	LOCKER	60.7267"x36"	CUSTOM		
21	1	FREEZER				
22	1	FREEZER				
23	4	SHELVING (6'-0")				
24	2	SPRINK GUARD				



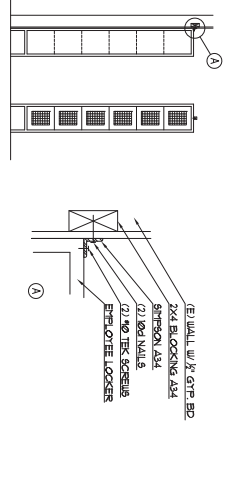
FLOOR SINK DETAIL 1 NTS 1



FLOOR DRAIN DETAIL 2 NTS 2



PONY WALL DETAIL 3 3\"/>



EMPLOYEE LOCKER ANCHOR DETAIL 3 NTS 3

Innovative Design Architecture, Inc.

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 CAPITOLA, CA 95051

**TEATALK - CAPITOLA**  
**TENANT IMPROVEMENT**

401 CAPITOLA AVE.  
 CAPITOLA, CA 95051

REVISIONS

SHEET TITLE:  
 ARCHITECTURAL DETAILS

DATE: 2009-09-27  
 SCALE: AS SHOWN  
 SHEET: A-30

PROJECT NO: 09-16-09  
 DRAWN: JH/ATW/JU  
 SHEET: 09 SHEETS

## Management Plan

The company:

TeaTalk Deli Capitola by the Sea

401 Capitola Ave, Capitola, CA 95010

Introduction:

TeaTalk Deli To-Go Restaurant is offering trending boba tea with variety of delicious toppings, variety flavors of snow ice desserts, hot and cold coffee, organic salad or rice bowl with organic high quality meat toppings.

Opening Hours:

TeaTalk Deli Opening Hours:

Monday to Sunday (March to October) 8am to 8pm; (Nov to Feb) 10am to 7pm

Capacity:

To-Go Restaurant is limited seating capacity of 6 seats

Entertainment:

No onsite entertainment

Alcohol License:

There is no plan to sell alcohol

Recycling – Waste Management:

Trash and Recycling Enclosure is on the side of the building





## STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: JUNE 5, 2014

SUBJECT: **401/403 Capitola Avenue #13-082 APN: 035-131-11**  
 Design Permit, Variance, Sign Permit, and Coastal Development Permit to demolish the existing duplex at 401/403 Capitola Avenue and construct a new two-story commercial building in the CN (Neighborhood Commercial) Zoning District and Floodplain District.  
 This project requires a Coastal Development Permit which is not appealable to the California Coastal Commission.  
 Environmental Determination: Categorical Exemption  
 Property Owner: Starley Moore, filed: 6/17/13  
 Representative: Derek Van Alstine

### APPLICANT PROPOSAL

The application under review is for a new commercial building at 401/403 Capitola Avenue. Charlie and Co., the local retail store currently located at 515 Capitola Avenue, will relocate into the new building. The plans include demolition of the existing duplex and construction of a new commercial building on the site. The project requires approval of a design permit, variance, sign permit, and coastal development permit by the Planning Commission. The project is located in the CN (Neighborhood Commercial) zoning district and the AE flood zone and therefore must comply with the development standards of the CN zone and the floodplain overlay district.

### BACKGROUND

The existing structure is currently in a dilapidated state due to impacts of the 2011 Noble Creek flood and a period of abandonment with lack of routine maintenance by a previous owner. Following the flood, the City Building Official condemned the structure primarily due to structural and electrical safety issues. The current owner purchased the property in its current state.

On January 8, 2014, the Architectural and Site Review Committee reviewed the application.

- City Design Representative Frank Phanton reviewed the application and stated support for a variance to achieve the proposed design.
- City Public Works Director Steve Jesberg reviewed the application and noted that locating a driveway on the site may require the existing crosswalk to be relocated. He informed the applicant that the new storm water regulations adopted by the state apply to the project. Also, any modifications to the driveway approach will require the sidewalk to be brought into compliance with ADA.
- City Building Inspector, Brian Van Son informed the applicant that further research is necessary to see if there is a code exemption to allow ADA parking requirement off-site. (Attachment E: ADA Code Exemption)

- City Historic Representative Carolyn Swift raised questions on whether or not the building is historic. She informed the applicant that the duplex was built in the 1920's and was once home of Capitola Realty. She requested that a Department of Parks and Recreation form (DPR 523) be completed to evaluate the historic significance of the property.

A historical and architectural evaluation of the property (DRP523) based on CEQA guidelines was completed by Franklin Maggi of Archives and Architecture. The purpose of the evaluation was to consider if the property meets the criteria for listing on the California Register of Historical Resources and therefore would be subject to CEQA regulations. The evaluation concluded that "the duplex potentially qualifies under Criteria 1 at the local level based on association with an important period of development, its contribution to that period within the larger urban setting, and its level of integrity to its historic period of construction which took place at least 90 years ago when Capitola was first evolving into a city." For the property to be considered a historic resource under CEQA, it must qualify for listing under Capitola's Historic Features Ordinance.

### Historic Determination

The duplex at 401/403 Capitola Avenue is listed on the Capitola Architectural Survey of 1986 but is not listed on National or State Historic Registers or the local Capitola Register of Historic Features. Any structures listed on 1986 Capitola Architectural Survey but not listed on the National or State register are potentially significant resources. Pursuant to section 17.87.010 of the zoning code, the Planning Commission may deem a feature historic if it can make any of the following findings:

- A. *That the potential historic feature evidences one or more of the following qualities:*
1. *The proposed feature is particularly representative of a distinct historic period, type, style, or way of life,*
  2. *The proposed feature is an example of a type of building once common in Capitola but now rare,*
  3. *The proposed feature is of greater age than most other features serving the same function,*
  4. *The proposed feature is connected with a business or use which was once common but is now rare,*
  5. *The architect or builder is historically important,*
  6. *The site is the location of an important historic event,*
  7. *The proposed feature is identified with historic persons or important events in local, state, or national history,*
  8. *The architecture, the materials used in construction, or the difficulty or ingenuity of construction associated with the proposed feature are significantly unusual or remarkable,*
  9. *The proposed historic feature by its location and setting materially contributes to the historic character of the city,*
  10. *The proposed historic feature is a long established feature of the city,*
  11. *The proposed historic feature is a long established feature of the city, or is a prominent and identifying feature of the landscape and is of sufficient aesthetic importance to be preserved;*
- B. *That the designation, as an historic feature, will not deprive the owner of all reasonable use of his or her property;*
- C. *That after weighing the detriments of the designation to the owner against the value of the public interest in the designation, the designation is worthwhile. (Ord. 515 § 4 (part), 1982)*

Franklin Maggi, the historic consultant, suggested that the property "could" qualify under qualities 1,2,3,9,10, and 11, but that listing on the Register of Historic Features is a discretionary decision by the Planning Commission. If the Planning Commission makes a finding that the existing structure is not a local historic feature, the existing structure may be demolished without further CEQA review. If the Planning Commission decides that the structure is historic, the current application must be

continued and the current request for a demolition will require further CEQA analysis. Staff has included a finding within the current application that the existing structure is not a local historic feature.

The existing structure was constructed during the same period as the Old Riverview Historic District and is within the Riverview subdivision, yet is not within the historic district boundary. Also, the duplex was built during the H. Allen Rispin Era (1919-1936), but is clearly not of Spanish Colonial Revival or Mediterranean architectural themes featured by many Rispin era structures. Common architectural features of the Rispin era typically include modernized landscapes with the use of concrete, stucco, and tile within new buildings. The duplex lacks any of these characteristics. Moreover, the duplex is in severe disrepair and has been condemned since the flood in 2011.

**Site and Structural Data**

The property is located just north of the trestle and is the first property within the CN (Neighborhood Commercial) zoning district along Capitola Avenue. The area is characterized by a mix of uses including retail, offices, public facilities, and residential. The block has a mix of building forms and architectural styles. The older properties along the block are characterized by zero front and rear yard setbacks and little or no parking. There are a few structures within the block that have parking either within the first story of the home or in the front or side yard.

The following table outlines the requirements of the CN zone and how the application fits within some of the zoning requirements. The applicant is seeking a variance for parking and front and rear yard setbacks.

Site Specifications		Existing	Proposed
<b>Lot Area</b>			1,776 square feet
<b>Floor Area of 1<sup>st</sup> Story</b>		1,080 square feet	916 square feet
<b>Floor Area of 2<sup>nd</sup> Story</b>			199 square feet
<b>Total Floor Area</b>		1,080 square feet	1,115 square feet
<b>CN Zone Regulation</b>			
<b>Height</b>	27 feet max		
<b>Setbacks</b>			24.75 feet, complies
<b>Front yard</b>	Allow for a 15-foot landscape strip	5 feet Non-conforming	8 feet <b>Variance Requested</b>
<b>Side yard</b>	10% of the lot width for the first floor (5') and 15 % of the lot width for the second floor (8').	8 inches Non-conforming	6.66 feet on 1 <sup>st</sup> floor 8 feet on 2 <sup>nd</sup> floor <b>Complies</b>
<b>Rear yard</b>	For commercial development all rear yards adjacent to residential areas will provide a ten-foot landscape strip and solid masonry wall to protect the adjacent residential development. Rear yard for residential development shall be twenty percent of the lot depth (8').	1 foot Non-conforming	1' <b>Variance Requested</b>
<b>Parking</b>	Commercial Requirement: 3 uncovered spaces and 1 van accessible. Parking spaces shall not be in the front yard landscape area.	None Non-conforming	<b>Variance Requested for allowance of offsite parking</b>

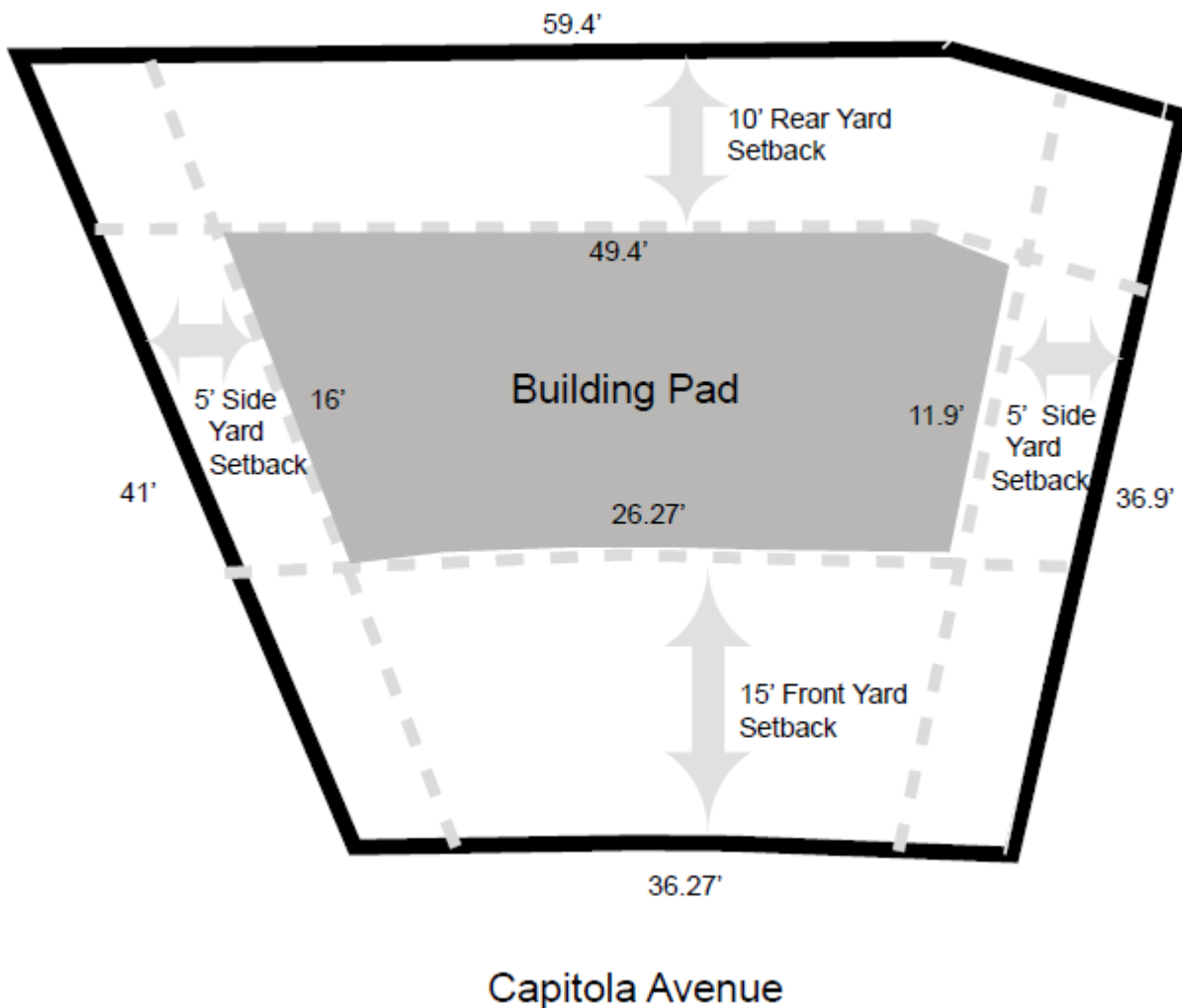
Attachment: 401 Capitola Ave - #13-082 - Staff Report - 06.05.2014 (401 Capitola Avenue)

**Design Permit**

The applicant is proposing a new Commercial Building at 401/403 Capitola Avenue which requires approval of a design permit by the Planning Commission. The new building has a front gable with a rear tower element in the north-west corner. The front façade has a full width front porch oriented toward Capitola Avenue. Decorative elements of the front porch include chamfered posts and ornate bracing. French doors are centered on the front façade with 2 large double hung windows on either side. Exterior finishes include fiber cement board lap siding, wood trim, aluminum clad windows, and a galvanized metal roofing. The building is sited differently than the existing zero front yard duplex. The new commercial building will be setback from the sidewalk to accommodate planters and the front porch.

**Variance**

Along Capitola Avenue, the CN zoning district extends from the trestle to Pine Street. Between 401 and 431 Capitola Avenue the lot depths vary tremendously, as shown in Attachment C. The lots within this block range from 20 feet to 87 feet in depth. The lots further north on Capitola Avenue within the CN district remain consistent with depths of 90 feet or greater. The lot at 401/403 Capitola Avenue has an average depth of approximately 38 feet and a frontage width of 40 feet. The rear property line is approximately 59 feet in width due to a triangular wedge located adjacent to the trestle. The lack of depth within the lot creates challenges for setbacks and parking.



Attachment: 401 Capitola Ave - #13-082 - Staff Report - 06.05.2014 (401 Capitola Avenue)

### *Setbacks*

The applicant is requesting a variance for the required front and rear yard setbacks. The zoning ordinance requires a 15 foot landscape strip in the front yard. A rear yard with a ten-foot landscape strip and solid masonry wall is required for commercial development adjacent to residential. The applicant is requesting a front yard setback of 8 feet and a rear yard setback of 1 foot.

### *Parking*

Parking is also a challenge due to the shallow lot depth and no parking allowed in the front yard. The design requires 4 parking spaces on the site. To accommodate the parking, the first story would be a garage with the commercial building on the second story. This design would be inconsistent with the existing streetscape and the City's desire to enhance the pedestrian experience along Capitola Avenue.

Pursuant to §17.66.090, the Planning Commission, on the basis of the evidence submitted at the hearing, may grant a variance permit when it finds:

- A. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification;
- B. That the grant of a variance permit would not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated.

Staff finds that the following special circumstances are applicable to the subject property:

1. The property is located in the 400 block of Capitola Avenue. This block lacks the typical depth of a Neighborhood Commercial lot of approximately 100 feet. The lot has an average depth of 38 feet. Requiring strict adherence to setback and on-site parking requirements would deprive the property owner of a privilege enjoyed by the majority of properties within the vicinity.
2. The site has never had onsite parking. Strict adherence to on-site parking requirements would require a first-story garage with second-story commercial. A two-story design with a ground level garage would not be in keeping with the character of the 400 block of Capitola Avenue.
3. The proposed project would not result in an increased parking demand from existing conditions.. The existing duplex requires 4 parking spaces, 2 uncovered and 2 covered. The proposed commercial building would also require 4 spaces.

### **SIGN PERMIT**

The application also includes a wood sign centered on top of the porch roof above the entryway. The sign is 1 ½ feet tall by 8 ½ feet long. Three goose necks lights will be attached to the roof above the sign to direct light onto the sign.

### **FLOODPLAIN DISTRICT**

The site is located in a Special Flood Hazard Area (SFHA) which is classified as an AE Flood Zone by FEMA. A no rise study letter was conducted by a certified engineer which found that the new structure would not impact the flood way. (Attachment D) The flood way is the channel of a stream plus any adjacent floodplain area that must be kept free of encroachment so that a 100 year flood event (1% annual chance) can be carried without substantial increase in flood height.

**COASTAL PERMIT**

Within the issuance of a Coastal Permit, the following finding is required:

*§17.46.090(D)23(h): No additional development in the village that intensifies use and requires additional parking shall be permitted. Changes in use that do not result in additional parking demand can be allowed and exceptions for onsite parking as allowed in the land use plan can be made.*

The new use will not increase the required parking. The project does not result in additional parking demand.

**CEQA REVIEW**

Section 15303(c) of the CEQA Guidelines exempts the construction of a commercial building within an urbanized area under 10,000 sf. This project involves construction of a new commercial building within the CN (Neighborhood Commercial) Zoning District. No adverse environmental impacts were discovered during review of the proposed project.

**RECOMMENDATION**

Staff recommends the Planning Commission **approve** project application #14-035 based on the following Conditions and Findings for Approval.

**CONDITIONS**

1. The project approval consists of construction of a new 1,115 square-foot commercial building. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on June 5, 2014, except as modified through conditions imposed by the Planning Commission during the hearing.
2. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans.
3. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
4. At time of submittal for building permit review, Public Works Standard Detail SMP STRM shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with the Public Works Standard Detail BMP STRM.
5. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.
6. Prior to issuance of building permit, a final landscape plan shall be submitted and approved by the Community Development Department. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of irrigation systems.
7. Prior to issuance of building permit, all Planning fees associated with permit #13-082 shall be paid in full.

8. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel Creek Water District, and Central Fire Protection District.
9. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, shall be submitted to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
10. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).
11. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan.
12. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
13. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of 9 p.m. and 7:30 a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between 9 a.m. and 4 p.m. or emergency work approved by the building official. §9.12.010B
14. Prior to a project final, all cracked or broken driveway approaches, curb, gutter, or sidewalk shall be replaced per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches, curb, gutter or sidewalk shall meet current Accessibility Standards.
15. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a permit amendment for Planning Commission consideration. Failure to remedy a non-compliance in a timely manner may result in permit revocation.
16. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.
17. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.
18. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.

**FINDINGS****A. The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**

Community Development Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the plans for the new commercial building. The project conforms to the development standards of the CN (Neighborhood Commercial) Zoning Districts with the granting of a variance for setbacks and parking. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance, General Plan and Local Coastal Plan.

**B. The application will maintain the character and integrity of the neighborhood.**

Community Development Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the application for the new commercial building. The Planning Commission has granted a variance for setbacks and height to maintain the character and integrity of 400 block of Capitola Avenue within the CN Zoning District. This block is defined by commercial and residential properties with limited parking and setbacks. Conditions of approval have been included to ensure that the project maintains the character and integrity of the neighborhood. The proposed design compliments the existing streetscape in the neighborhood in use, mass and scale, materials, height, and architecture. The Planning Commission finds that the existing structure at 401/403 Capitola Avenue is not a local historic feature and may be demolished.

**C. This project is categorically exempt under Section 15301(e) of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

Section 15303(c) of the CEQA Guidelines exempts the construction of a commercial building within an urbanized area under 10,000 sf. This project involves construction of a new commercial building within the CN (Neighborhood Commercial) Zoning District. No adverse environmental impacts were discovered during review of the proposed project.

**ATTACHMENTS**

- A. Project Plans
- B. DPR523
- C. Aerial of lot depths along Capitola Avenue
- D. No Rise Letter
- E. ADA Letter
- F. Coastal Findings

**Report Prepared By: Katie Cattan  
Senior Planner**



# FINAL LOCAL ACTION NOTICE AND ZONING PERMIT

June 19, 2014

Starley Moore  
512 Sunset Dr.  
Capitola, CA 95010

RE: Notice of Final Action on Application #13-082

**401/403 Capitola Avenue #13-082 APN: 035-131-11**

Design Permit, Variance, Sign Permit, and Coastal Development Permit to demolish the existing duplex and construct a new two-story commercial building in the CN (Neighborhood Commercial) Zoning District and Floodplain District.

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

Environmental Determination: Categorical Exemption

Property Owner: Starley Moore, filed: 6/17/13

Representative: Derek Van Alstine

The above matter was presented to the Planning Commission on June 5, 2014, and was **approved**, with the following findings and conditions. Any modifications to the conditions and findings are indicated below in strikeout and underline notation.

## CONDITIONS

1. The project approval consists of construction of a new 1,115 square-foot commercial building. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on June 5, 2014, except as modified through conditions imposed by the Planning Commission during the hearing.
2. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans.
3. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
4. At time of submittal for building permit review, Public Works Standard Detail SMP STRM shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with the Public Works Standard Detail BMP STRM.

5. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.
6. Prior to issuance of building permit, a final landscape plan shall be submitted and approved by the Community Development Department. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of irrigation systems.
7. Prior to issuance of building permit, all Planning fees associated with permit #13-082 shall be paid in full.
8. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel Creek Water District, and Central Fire Protection District.
9. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, shall be submitted to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
10. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).
11. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan.
12. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
13. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of 9 p.m. and 7:30 a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between 9 a.m. and 4 p.m. or emergency work approved by the building official. §9.12.010B
14. Prior to a project final, all cracked or broken driveway approaches, curb, gutter, or sidewalk shall be replaced per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches, curb, gutter or sidewalk shall meet current Accessibility Standards.
15. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a

- permit amendment for Planning Commission consideration. Failure to remedy a non-compliance in a timely manner may result in permit revocation.
16. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.
  17. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.
  18. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.

**FINDINGS**

**A. The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**

Community Development Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the plans for the new commercial building. The project conforms to the development standards of the CN (Neighborhood Commercial) Zoning Districts with the granting of a variance for setbacks and parking. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance, General Plan and Local Coastal Plan.

**B. The application will maintain the character and integrity of the neighborhood.**

Community Development Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the application for the new commercial building. The Planning Commission has granted a variance for setbacks and height to maintain the character and integrity of 400 block of Capitola Avenue within the CN Zoning District. This block is defined by commercial and residential properties with limited parking and setbacks. Conditions of approval have been included to ensure that the project maintains the character and integrity of the neighborhood. The proposed design compliments the existing streetscape in the neighborhood in use, mass and scale, materials, height, and architecture. The Planning Commission finds that the existing structure at 401/403 Capitola Avenue is not a local historic feature and may be demolished.

**C. This project is categorically exempt under Section 15301(e) of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

Section 15303(c) of the CEQA Guidelines exempts the construction of a commercial building within an urbanized area under 10,000 sf. This project involves construction of a new commercial building within the CN (Neighborhood Commercial) Zoning District. No adverse environmental impacts were discovered during review of the proposed project.

**COASTAL FINDINGS**

***D. Findings Required. A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program, including, but not limited to:***

Attachment: 401 Capitola Ave - #13-082 - Final Local Action Notice - 07.19.2014 (401 Capitola Avenue)

- The proposed development conforms to the City's certified Local Coastal Plan (LCP). The specific, factual findings, as per CMC Section 17.46.090 (D) are as follows:

***(D) (2) Require Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (D) (2) (a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the adverse effects which have been identified will be alleviated or mitigated by the dedication. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.***

***(D) (2) (a) Project Effects on Demand for Access and Recreation. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project's effects upon existing public access and recreation opportunities. Analysis of the project's cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative build-out. Projection for the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project's cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities;***

- The proposed project is located at 401/403 Capitola Avenue. The business is not located in an area with coastal access. The business will not have an effect on public trails or beach access.

***(D) (2) (b) Shoreline Processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in***

**combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;**

- The proposed project is located at 401/403 Capitola Avenue. No portion of the project is located along the shoreline or beach.

**(D) (2) (c) Historic Public Use. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use);**

- There is no history of public use on the subject lot.

**(D) (2) (d) Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;**

- The proposed project is located at 401/403 Capitola Avenue. The project will not block or impede the ability of the public to get to or along the tidelands, public recreation areas, or views to the shoreline.

**(D) (2) (e) Other Adverse Impacts on Access and Recreation. Description of the development's physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.**

- The proposed project is located on private property that will not impact access and recreation. The project does not diminish the public's use of tidelands or lands committed to public recreation nor alter the aesthetic, visual or recreational value of public use areas.

**(D) (3) (a – c) Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F) (2) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:**

**a. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to**

***be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;***

***b. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;***

***c. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.***

- The project is not requesting a Public Access Exception, therefore these findings do not apply

***(D) (4) (a – f) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:***

***a. Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;***

- The project is located in an existing commercial building. There are no sensitive habitat areas on the property.

***b. Topographic constraints of the development site;***

- The project is located on a flat lot.

***c. Recreational needs of the public;***

- The project does not impact recreational needs of the public.

***d. Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;***

***e. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;***

***f. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.***

***(D) (5) Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);***

- No legal documents to ensure public access rights are required for the proposed

project

***(D) (6) Project complies with visitor-serving and recreational use policies;***

**SEC. 30222**

***The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.***

- The project involves a commercial use within an existing neighborhood commercial zone.

**SEC. 30223**

***Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.***

- The project involves a commercial use within an existing neighborhood commercial lot of record.

***c) Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.***

- The project involves a commercial use within an existing neighborhood commercial lot of record.

***(D) (7) Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;***

- The project involves a commercial use within an existing neighborhood commercial lot of record. The project complies with applicable standards and requirements for provision for parking, pedestrian access, alternate means of transportation and/or traffic improvements.

***(D) (8) Review of project design, site plan, signing, lighting, landscaping, etc., by the city's architectural and site review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;***

- The project complies with the standards established by the Municipal Code with the granting of a variance from the Planning Commission.

***(D) (9) Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola's shoreline;***

- The project will not negatively impact public landmarks and/or public views. The project will not block or detract from public views to and along Capitola's shoreline.

***(D) (10) Demonstrated availability and adequacy of water and sewer services;***

- The project is located on a legal lot of record with available water and sewer services.

***(D) (11) Provisions of minimum water flow rates and fire response times;***

- The project is located within close proximity of the Central Fire District. Water is available at the location.

***(D) (12) Project complies with water and energy conservation standards;***

- The project is a commercial use within an existing neighborhood commercial lot of record. The GHG emissions for the project are projected at less than significant impact. All water fixtures must comply with the low-flow standards of the Soquel Creek Water District.

***(D) (13) Provision of park dedication, school impact, and other fees as may be required;***

- The project will be required to pay appropriate fees prior to building permit issuance.

***(D) (14) Project complies with coastal housing policies, and applicable ordinances including condominium conversion and mobile home ordinances;***

- The project does not involve a condo conversion or mobile homes.

***(D) (15) Project complies with natural resource, habitat, and archaeological protection policies;***

- There are no impacts to natural resource, habitat, and archaeological resources.

***(D) (16) Project complies with Monarch butterfly habitat protection policies;***

- The project is outside of any identified sensitive habitats, specifically areas where Monarch Butterflies have been encountered, identified and documented.

***(D) (17) Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;***

- The project will comply with drainage and erosion and control measures as conditions.

***(D) (18) Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project complies with hazard protection policies including provision of appropriate setbacks and mitigation measures;***

- The project is not located in a geologically unstable area.

***(D) (19) All other geological, flood and fire hazards are accounted for and mitigated in the project design;***

- All geological, flood, and fire hazards are accounted for and mitigated in the project design.



***(D) (20) Project complies with shoreline structure policies;***

- The proposed project is not located along a shoreline.

***(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;***

- This use is an allowed use consistent with the neighborhood commercial zoning district.

***(D) (22) Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures;***

- The project conforms to the requirements of all city ordinances, zoning requirements and project development review and development procedures with the granting of a variance by the Planning Commission.

***(D) (23) Project complies with the Capitola parking permit program as follows:***

- The parking demand is not increased through this application.

This permit is issued to the owner of the property. In executing this permit, owner agrees to comply with all terms of permit, including conditions of approval, if any. Permit must be exercised within 24 months of date of issuance (June 5, 2016) unless otherwise indicated in conditions of approval. Should you have any questions on this matter, do not hesitate to call.

Respectfully,

Rich Grunow  
Director of Community Development

cc: Derek Van Alstine  
California Coastal Commission

**From:** Edward Newman <[edward@capitolalawfirm.com](mailto:edward@capitolalawfirm.com)>  
**Sent:** Wednesday, February 27, 2019 8:03 AM  
**To:** Herlihy, Katie ([kherlihy@ci.capitola.ca.us](mailto:kherlihy@ci.capitola.ca.us)) <[kherlihy@ci.capitola.ca.us](mailto:kherlihy@ci.capitola.ca.us)>  
**Subject:** 401 Capitola Avenue - Conditional Use Permit Application #190031

Dear Ms. Herlihy,

This is to address the pending application referenced above for a take-out restaurant use at 401 Capitola Avenue. We are writing in the interest of the eight business owners with offices at 331 Capitola Avenue, whose parking is to the immediate south of the building in question. The concern is that 411 Capitola Avenue has no onsite parking and no offsite parking nearby for both deliveries and customer pick-ups. The proposed use is probably the worst possible use for a site with absolutely no parking. The occupants at 331 Capitola Avenue have no excess parking available and need to be able to come and go throughout the day. They do not want to be engaged in an endless parking war with delivery trucks and customers of an adjacent take-out restaurant. A similar issue not long ago resulted in denial of an application for a convenience store at 118 Stockton Avenue, due in part to the potential use by customers of the parking lot belonging to Quality Market across the street.

The staff and the Planning Commission might also note the potential impacts on the adjacent fire station if delivery trucks or customers make temporary stops in front of the building.

Edward W. Newman  
331 Capitola Ave., Suite K  
Capitola, CA 95010  
831-476-6622 – voice  
831-476-1422 – fax  
[Edward@capitolalawfirm.com](mailto:Edward@capitolalawfirm.com)

**From:** Michael Lavigne <[mike@finemontereybayhomes.com](mailto:mike@finemontereybayhomes.com)>  
**Sent:** Wednesday, February 27, 2019 2:14 PM  
**To:** Herlihy, Katie ([kherlihy@ci.capitola.ca.us](mailto:kherlihy@ci.capitola.ca.us)) <[kherlihy@ci.capitola.ca.us](mailto:kherlihy@ci.capitola.ca.us)>  
**Subject:** 401 Capitola Ave, Conditional Use Permit, opposition

Katie Herlihy, Community Development Department  
 City of Capitola

Ms Herlihy:

As an adjacent Capitola Village business owner, I oppose the request for a Conditional Use Permit for a change-in-use of the retail/professional office designation at 401 Capitola Ave to a take-out restaurant.

A take-out restaurant permit for this location is not practical; there is no adjacent street parking (and no onsite parking whatsoever) for either potential patrons of a take-out restaurant, or for the frequent commercial truck deliveries of food and supplies that will be required for a restaurant.

As can be plainly seen from the attached photos, the entire stretch of curb in front of the building is a red curb no parking zone. Also, 401 Capitola Ave is directly adjacent to the fire department, which for obvious reasons is also a red curb no parking zone.

The only quick and convenient parking nearby this location is either across the street at the Police Station and City Hall at 420 Capitola Ave, or the private parking lot at 331 Capitola Ave, which is adjacent to and expressly for the use of businesses located within the Trestle Building at 331 Capitola Ave.

The private parking lot at the Trestle Building/331 Capitola Ave is frequently overfull, just from the authorized use of it by business tenants and clients who visit the Trestle Building.

Approval of a change-in-use for a take-out restaurant at 401 Capitola Ave will inevitably lead to unauthorized use of the private parking lot reserved for the Trestle Building businesses at 331 Capitola Ave, and will also put additional pressure on the already limited number of short-term visitor parking spaces available at City Hall and the Police Department.

People who utilize take-out restaurants prefer quick and convenient parking---this location offers neither. A conditional use permit for a restaurant is therefore inappropriate.

I urge both Community Development and Planning Staff and the Planning Commission to deny the request for a change-in-use to a take out restaurant at 401 Capitola Avenue and to instead keep the CN zoning and the retail/office designation in place at this location.

It is the least logical place in Capitola Village for a take out restaurant to be considered, given the complete lack of onsite parking, the lack of adjacent street parking, and the location of the building itself.

**Michael Lavigne**  
**Broker/Realtor**  
**331 Capitola Ave Ste B**

Attachment: Public Comment - Michael Lavigne - 02.27.2019 (401 Capitola Avenue)

Capitola, CA 95010  
DRE License 01782392



Attachment: Public Comment - Michael Lavigne - 02.27.2019 (401 Capitola Avenue)



## STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT

DATE: MARCH 7, 2019

SUBJECT: **Update to Zoning Ordinance/ LCP Implementation Plan**

Comprehensive Update to the City of Capitola Zoning Code/Local Coastal Plan Implementation Plan and updated Zoning Map and subsequent maps relative to the Zoning Code.

The Zoning Code serves as the Implementation Plan of the City's Local Coastal Program and therefore must be certified by the Coastal Commission.

Environmental Determination: Addendum to the General Plan Update EIR

Property: The Zoning Code update affects all properties within the City of Capitola.

Representative: Katie Herlihy, Community Development Director, City of Capitola

### **BACKGROUND:**

The City Council adopted the general plan update on June 26, 2014. Following adoption of the general plan, staff began the process of updating the City's zoning code. The last comprehensive update to the zoning code was completed in 1975, although remnant sections date back to 1951. The zoning code has been amended numerous times since the 1975 update to address various community concerns, changed circumstances, and new legal requirements.

The current update to the zoning code has been underway since 2014. In fall of 2014, the City began a series of stakeholder outreach meetings to help identify key issues and opportunities to improve the zoning code. Staff also created an online survey to obtain input from members of the public. The information gathered from stakeholders and the public was utilized to develop an issues and options white paper to guide decision-making on key issues raised during public outreach. The Planning Commission and City Council provided direction on each of the issues, which became the foundation of the new zoning code.

The first draft of the comprehensive update to the zoning code was released on February 4, 2016. The Planning Commission discussed the first draft of the code during 11 public hearings in 2016, and the City Council during the draft code at six public hearings. All input provided by the Planning Commission and City Council was incorporated into a second draft of the zoning code that was published on January 9, 2017. The Planning Commission reviewed the second draft at three meetings in the spring of 2017, followed by two City Council meetings. On May 11, 2017, the City Council directed staff to publish an updated version incorporating all Planning Commission and City Council direction for a 60-day public review period.

The zoning code and zoning map were circulated for a 60-day public review period from June 1

to July 31, 2017. On September 6, 2017, the Planning Commission reviewed the public comments and unanimously recommended approval of the draft zoning code to the City Council. The City Council reviewed the draft on November 21, 2017 and at a special meeting on November 29, 2017. On January 11, 2018, the City Council approved the first reading of the ordinance, followed by final adoption on January 25, 2018.

Since the adoption of the zoning code, staff has been working with Coastal Commission toward certification of the new code. On February 21, 2019, the Planning Commission reviewed the Coastal Commission suggested modifications to the code and provided direction all of the following ten topics, except accessory dwelling units:

Discussion #	Topic	Page #
1	Monarch Cove Inn. Footnote #12	28-4
2	Encroachments in Public Right of Way	48-5
3	Fences and Public Views	60-3
4	ESHA and development in sensitive habitat areas	64-1
5	ESHA and Soquel Creek setback	64-2
6	ESHA and waiver of Biological Study	64-4
7	Accessory Dwelling Units	74-1
8	Residential Parking Program	76-22
9	City and Government Installed Signs	80-3
10	Future Village Hotel Height	88-3

The hearing was continued to March 7, 2019. The Planning Commission provided staff with additional topics for discussion which have been incorporated into a spreadsheet (Attachment 1). During the Planning Commission meeting, staff will present each of the requested topics.

### **DISCUSSION:**

#### **Local Coastal Program – Implementation Plan Adoption**

In accordance with the California Coastal Act of 1976, Capitola has a certified local coastal program (LCP). The LCP applies to areas within Capitola's coastal zone as depicted on the City of Capitola zoning map and includes approximately two-thirds of the city. The LCP consists of the land use plan (LUP) and the implementation plan (IP). The land use plan is a comprehensive long-term plan for land use and physical development within the city's coastal zone that consists of proposed policies and recommendations for land use in the coastal zone consistent with the Coastal Act (Attachment 10). The implementation plan includes the zoning code, the zoning map, and other certified sections of the municipal code. The Coastal Commission must certify the update to the zoning code as an update to the LCP-IP prior to the new zoning taking effect within the coastal zone. Since the adoption of the zoning code on January 25, 2018, the City has applied the regulations of the old zoning code in areas inside the coastal zone and the new zoning code outside the coastal zone. Once the Coastal Commission certifies the IP, the new zoning regulations will be applied throughout the City.

Over the past year, Capitola staff has been working closely with the Coastal Commission staff toward certification of the zoning code/LCP-IP. Attachment 9 is an updated draft of the zoning code with all Coastal Commission staff recommended edits. The majority of the Coastal Commission modifications are improvements to the code and staff recommends accepting the changes. There are some minor modifications that Capitola staff recommends not accepting and these items are highlighted or crossed out within the updated draft with Capitola staff comments in the sidebar stating the reason to not accept the change.

## Zoning Code Revisions

Since the adoption of the zoning code, staff has identified several items requiring revisions to reflect direction provided by the Planning Commission over the past year or comply with state law. These edits are included in the updated draft as Capitola staff edits differentiated in color from the Coastal Commission staff edits. Many of the edits are minor in nature such as correcting a reference to a section of code. There are three substantial modifications added by Capitola staff. A fourth item, floor area ratio exceptions for garage space, was added during the February 21, 2019, meeting.

Cliffwood Heights Setbacks: Section 17.16.030.B.4 on page 16-5 introduces an allowance for decreased setbacks for existing structures in the Cliffwood Heights neighborhood. This exception allows a reduced setback for the existing structure, but requires all new development and additions to comply with the setbacks of the single family (R-1) zoning district. The proposed standard was in response to a recent application in which staff realized the majority of the homes in Cliffwood Heights are non-conforming due to being located within side yard setbacks. The lots in Cliffwood Heights are wide and the required side yard setback is 10 percent of the lot width. The new standard reads:

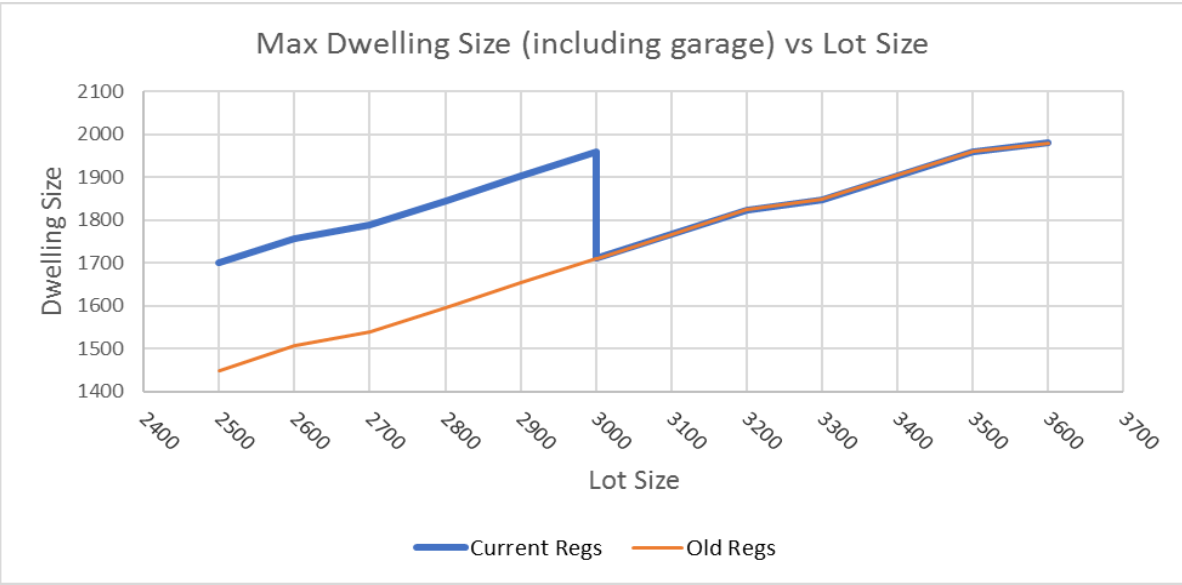
17.16.030.B.4. Cliffwood Heights Side Yard Setback. For properties in the Cliffwood Heights neighborhood, when an existing, legally established structure is located within the required side yard setback, the side yard setback for the existing structure is reduced to the existing setback of the built structure, but in no case less than three feet from the property line. Proposed additions and new development shall comply with the standards of Table 17.16-2.

Density limits in CC and CR zones: Based on the recent guidance for the General Plan update, the maximum residential density limits in the Community Commercial (CC) and Regional Commercial (CR) zoning districts will be removed from Table 17.24-3 on page 24-5. The development standards of floor area ratio, height, setbacks, open space, and parking will be the control limits for residential and commercial development in commercial and mixed-use zones.

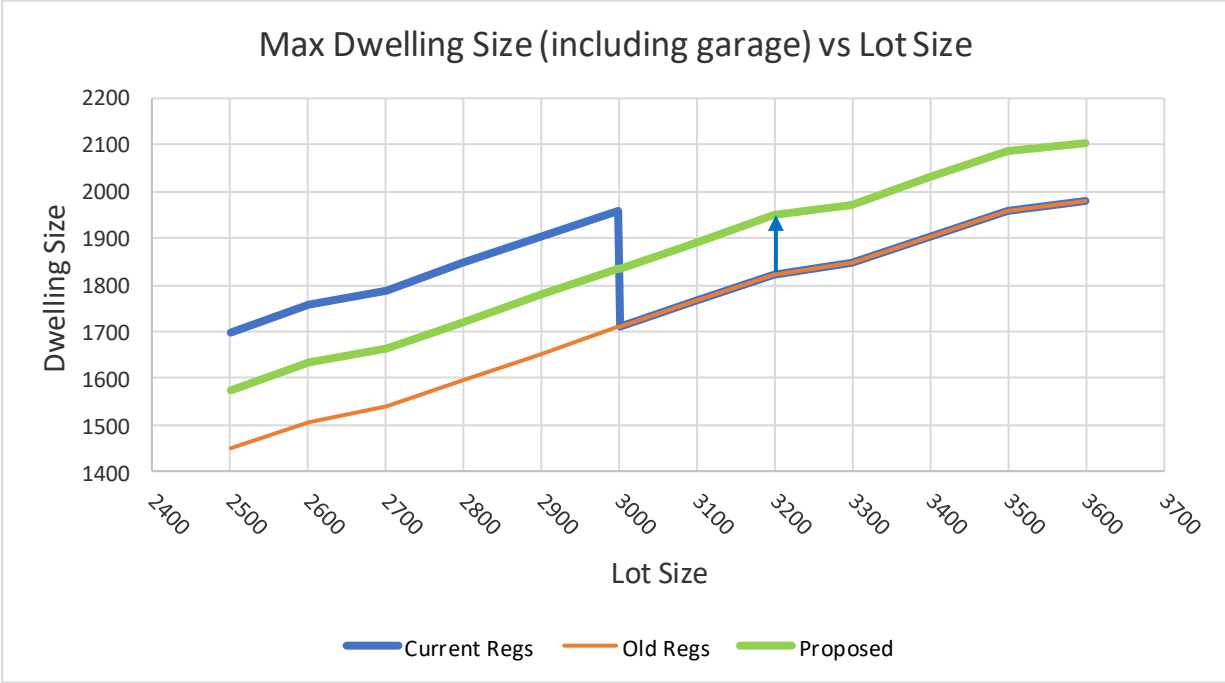
Chapter 17.74: Accessory Dwelling Units: Major changes in state law require that Capitola update the regulations for accessory dwelling units. The state mandated modifications include:

1. Removing the minimum lot size for an internal ADU on a lot zoned single-family (R-1).
2. Limit the size of an internal ADU to the size established by the city or up to 50 percent of the existing home, whichever is less.
3. Update parking exceptions to reflect those required by the state.
4. Add state allowance for conversion of existing garage, carport, or covered parking area to an ADU.
5. Restructure chapter to only require discretionary review for deviations from the standards.

Item 4: Floor Area Ratio and Garage Exception on Small Lots: Section 17.48.040.B.6 on page 48-5. Prior to the February 21, 2019 meeting, the Planning Commission received a request from Peter Shamshoian, a Capitola property owner, to review the floor area ratio exception of up to 250 square-feet for a garage on a lot of 3,000 square feet or less (Attachment 3). Mr. Shamshoian noted that the 250-square-foot FAR exception that was created for small lots allows a larger home on a 3,000-square-foot lot than can be achieved on a 3,500-square-foot lot and provided the following graph to show the inequitable advantage.



Mr. Shamshoian asked the Planning Commission to consider a fairer standard of 125 square-feet of ancillary space within a garage on all lots regardless of lot size. The suggestion to allow 125 square-feet of ancillary space was attributed to providing usable garages in which a car and limited storage/hobby space can coexist, without the area counting toward the floor area of the home. He provided the following graphic representation of his request.



In response, the Planning Commission requested staff look into the origins of the 250-square-foot exemption and further analyze the ancillary space request.

On October 19, 2015, during the initial review of the zoning code issues and options white paper, the City Council directed staff to add an exception of up to 250 square-feet of floor



area for a garage on lots of 3,000 square feet or less. Although the minutes do not specify the reason for the request, staff assumes that the request was to incentivize garages on smaller lots, possibly with the intent of incentivizing garages on lots that are not required to have covered parking.

The following table includes the covered parking requirements for single-family homes. Covered parking is required for a home with 1,501 or more square feet.

Floor Area of Single-Family Home	Required Parking	
	Covered Space	Total Space
0 – 1500 sf	0 covered	2 total
1501 – 2000 sf	1 covered	2 total
2001 – 2600 sf	1 covered	3 total
2601 – and up	1 covered	4 total

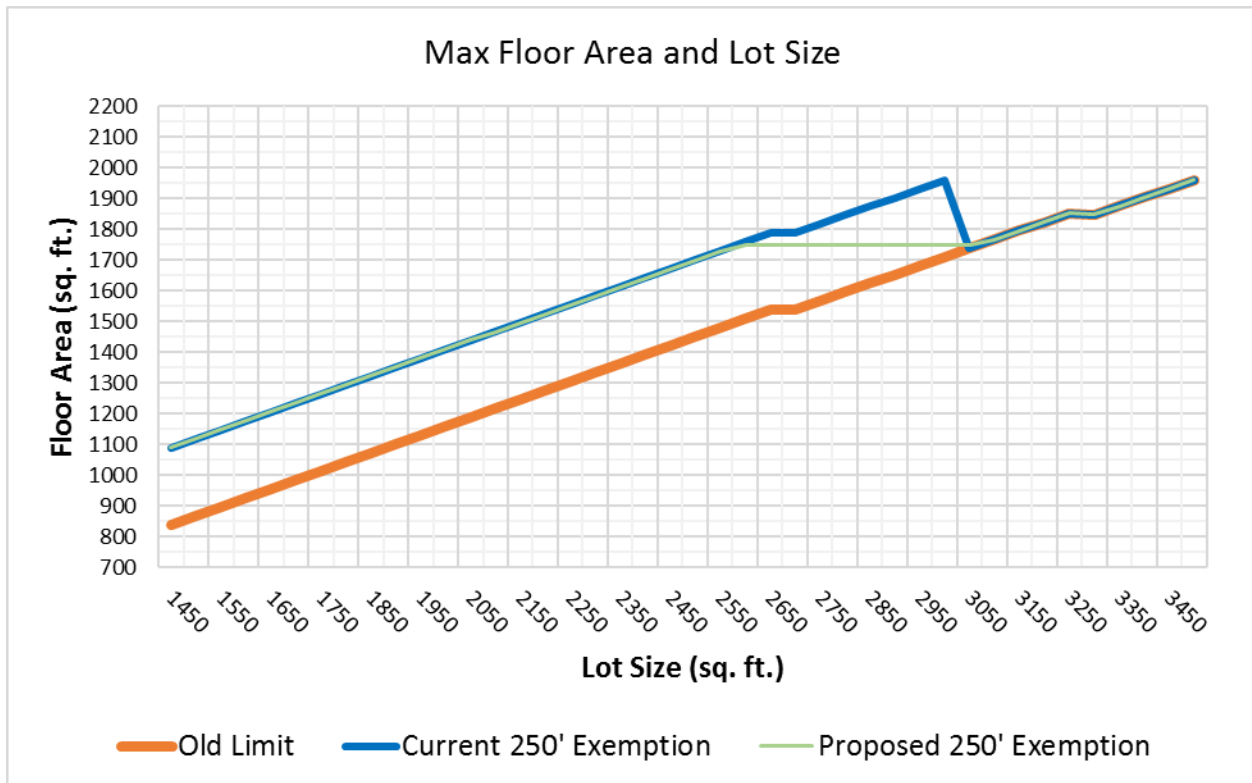
The 3,000-square-foot lot size appears to not have any direct correlation to the required parking standards. If the goal was to incentivize homes that are not required to have covered parking to have a garage, the lot size for the exception should have been set at 2,586 square-feet. A 2,586-square-foot lot has a maximum FAR of .58 resulting in a 1,499 square foot home, making it the largest lot that does not require covered parking.

Lot Size	FAR	Max Floor Area	Required Parking	
			Covered	Total Spaces
2586	0.58	1499.88	0	2
2587	0.58	1500.46	1	2

To incentivize properties that are not required to have covered parking to provide covered parking, the Planning Commission could revise the limit of the 250-square-foot exception to apply to lots of 2,586 square-feet or less. To avoid an inequitable advantage for small lots, the revised standard could incorporate a plateau at the maximum floor area that could be achieved on a 2,586-square-foot lot with the 250-square-foot exception (1500 + 250 = 1750).

Lot Size	FAR	Max Floor Area	With 250 sf Garage Exception
2586	0.58	1499.88	1750
2587	0.58	1500.46	
3018	0.58	1750.44	

A 3,018-square-foot lot may accommodate a home with a maximum floor area of 1,750 square-feet. The standard could be drafted to allow up to 250 square-feet of an enclosed garage on a lot of 2,586 square-feet or less and allow lots between 2,586 and 3,018 square-feet with an enclosed garage to have a garage area exception for the difference between their maximum floor area and 1,750 square feet, which would allow them build up to 1,750 square-feet of floor area. The following is a graphic representation of this modified standard.



Floor area ratio is a development standard that controls mass and scale. All of the other specific exceptions to floor area ratio that exist in the updated zoning code are geared toward not including areas that do not contribute to mass and scale (basements, decks) and allowing exceptions to provide articulation in the massing (bay windows, chimney), as follows:

- a. Covered or uncovered [decks](#) and patios.
- b. [Trellises](#), porte-cocheres not more than ten feet in height, and similar outdoor space which is open on at least three sides, not including [carports](#).
- c. Bay windows, chimneys, and other similar [wall](#) projections.
- d. Up to two hundred fifty square feet of an enclosed [garage](#) on a lot three thousand square feet or less.
- e. Underground parking [garages](#) not visible from a public [street](#).
- f. [Basements](#) when all [walls](#) are below grade and not visible. [Basements](#) are included in calculations of required on-site parking to serve the use.

In reviewing the new request to allow 125 square-feet of ancillary space to garages on all lots, the Planning Commission must assess whether or not they support home sizes getting larger. A focus of the zoning code update that stemmed from the General Plan was to preserve the character of existing neighborhood. During the zoning code update, specific modification were made to FAR to not include covered and second story decks, multiple flights in a staircase, and 250 square feet of garage on small lots in the FAR calculation. The request of an additional 125-square-foot exception for ancillary garage space, if implemented, would result not only larger garages but overall larger home sizes.

The prior zoning code included the floor area of the garage space in the calculation of the required on-site parking. In the updated zoning code, section 17.76.030.D (page 76-6), the floor area for the required parking space (i.e. 10 feet x 20 feet) within a garage is not included in the

calculation of floor area for the purpose of determining on-site parking. This update also incentivizes garages. Rather than allow additional FAR for ancillary space as suggested above, an exception could be added to 17.76.030.D to not include up to 125 square feet of ancillary space within a garage in the calculation of floor area for the purpose of determining on-site parking. This would provide an incentive for providing usable garage space without making home sizes larger within the Single-Family zone.

In summary, there are many ways to create land use incentives within floor area ratio exceptions. The purpose of floor area ratio is to control mass and scale. Staff recommends the Planning Commission revise the FAR exception to allow up to 250 square-feet of an enclosed garage on a lot of 2,586 square-feet or less and allow lots between 2,586 and 3,018 square-feet with an enclosed garage to have a garage area exception of the difference between their maximum floor area and 1,750 square feet to adequately incentivize garages on small lots while removing the inequitable advantage. Staff also recommends the Planning Commission consider allowing up to 125 square feet of ancillary space within a garage that is not calculated toward the onsite parking requirement.

#### **Additional Items for Discussion**

The Planning Commission provided staff with additional topics for discussion which have been incorporated into a spreadsheet (Attachment 1). During the Planning Commission meeting, staff will present each of the requested topics.

**CEQA:** An Addendum to the General Plan Update Environmental Impact Report (EIR) was adopted for the amendment to the Zoning Code of Chapter 17.

#### **STAFF RECOMMENDATION:**

1. Recommend that the City Council adopt the Ordinance which will amend the Zoning Code of Chapter 17 to incorporate Coastal Commission staff edits and recent updates.

#### **ATTACHMENTS:**

1. Requested Discussion Items and Edits
2. R-1 All Parcels FAR
3. Draft Zoning Ordinance with Coastal Commission edits 2.21.2019
4. LCP Land Use Plan
5. Capitola Planning Commission submission-Pete Shamshoian 2.21.19 v2
6. Adopted ZoningMap\_8.5x11\_Updated\_12212017
7. Archaeological Sensitivity Map
8. GPU EIR Addendum
9. Coastal Map\_Without Permit Jurisdiction\_Updated011117
10. Capitola ESHA Map


Prepared By: Katie Herlihy  
Community Development Director

Edit or # Discussion Item	Source	Section	Page	Commissioner Comment	Staff suggestion
Edit	CC Staff	17.04.040.B.A	02--04	1) Remove Chapter 17.112 Permit Application and Review from the IP (04-2)	Staff suggest accepting this change. The appeal language for a coastal development permit will have to stay in the chapter 44 (Coastal Overlay Zone)
1	CC Staff	17.12.020.A and table 17.12-1	12-1 and 12-2	Keep General Plan/Land Use Plan Land Use Map	Staff suggest adding a reference to the Local Coastal Program Land Use Plan Land Use Map within section 17.04.040. The LCP LUP land use map should be updated to reflect the General Plan.
2	Planning Commission	17.16.030.B	16-5	Cliffwood Heights reads too much like spot zoning. I suggest we mimic paragraph 3, i.e. "The Planning Commission may approve"	Cliffwood Heights Side-Yard Setback. For properties in the Cliffwood Heights neighborhood, when an existing, legally established structure is located within the required side-yard setback, <u>the Planning Commission may approve a reduction</u> to the side-yard setback for the existing built structures, but in no case less than three feet from the property line. Proposed additions and new development shall comply with the setback standards of Table 17.16-2.
3	Planning Commission	Table 17.24-3	24-5	I'm curious how the FAR affects the residential density in the CC zone as opposed to CC development standards. Taking the AAA site as an example, what would be the allowable units under each scenario?	During the recent general plan discussion the PC directed staff to remove maximum density limits (du/acre) from CC/CR. By removing density (dwelling units per acre) future development is regulated by the development standards of height, setbacks, open space, and parking. Parking is typically the standard that will limit what can be developed on a lot. If a developer were to build a very dense project, they would have to build a parking garage which adds great cost
Edit	Planning Commission	Figure 17.28-1 and Table 17.28.020	28-1 through 28-5	Remove VS-NB. This is State property that we do not have oversight on.	The Coastal Commission disagrees. In their perspective, by including NB in the LCP implementation plan, New Brighton is subject to the requirements of the IP. Checking in with our attorney. Staff will provide update at March 7 meeting.
4	CC Staff	Table 17.28-1	28-4	Suggest modifying language to allow only <u>in conjunction with if ancillary</u> to visitor accommodations.	Discuss. This provides more flexibility to the property owner. By removing "ancillary" the single family home no longer has to be secondary to the visitor accommodation.
5	Planning Commission	17.28.030.E.	28-6	Our current lighting standard is defined enough. Remove Dark Skies technology and light spill, sky glow statement. Remove E. 2. Lighting of natural areas (Riverview Dist along public path and river)	17.96.110 is referenced and has stricter, quantitative standards. Suggest removing repeated standards. Discuss lighting of natural areas. This is likely a good standard for habitat areas. Not necessary a good standard for public pathways. Suggest clarifying.
Edit	Planning Commission	17.28.030.C.5	28-6	Does the CDP language belong in the height exception paragraph only? Or should it be subparagraph F?	This should be a subparagraph. Will move to Subparagraph F.

Edit or # Discussion Item	Source	Section	Page	Commissioner Comment	Staff suggestion
Edit	Planning Commission	17.32.020.D.3	32-2	Erosion Control. Why are we recommending removing? Seems we would want a say in protecting our beaches and shoreline. -Coastal Zone is too broad and far reaching. CDP should reside with the City, aside from the bluff, repairman and ESHA's Page 36-1 intensity is one example, so is Cliffwood heights non[conforming setbacks.	Suggest amending as follows: The Coastal Commission revised the language to be more broad allowing "appropriate public facilities (e.g. the flume and jetties), required shoreline protective structures ( <u>approved beach erosion control structures</u> ), and structures required for public health and safety (e.g. lifeguard stands) if otherwise consistent with the Local Coastal Program.
6	CC Staff	17.36.040.B	36-1	Coastal Commission staff request that the reference to the Local Coastal Program in the coastal zone be kept in.	Staff does not agree with this requested change. Density limits are established in the General Plan.
7	Planning Commission	17.36.080.G.7	36-5	Page 36-5 agree with staff to remove "protect and enhance coastal resource"	Staff agrees. All of the findings within G 1 - 7 must be made. A PD not located on the coast will likely will not "protect and enhance" coastal resources. Standards should not be added to required findings if they likely cannot be satisfied.
8	CC Staff	17.36.080.G.7	36-5	Coastal Commission staff requests that the reference be left in.	Staff suggests amending as follows: For planned developments located adjacent to the coast, the proposed development will protect and/or enhance coastal resources and conform with the findings for approval of a CDP as specified in 17.44.130 (Finding for Approval).
Edit	Planning Commission	17.44.010	44-1	17.44.010. - wording as highlighted doesn't make sense.	The purpose of this chapter is to establish review and permit procedures for the implementation of Capitola's Local Coastal Program. <del>This chapter, and to ensure</del> that all private and public development within the City's coastal zone as depicted by the (CZ) coastal overlay zone is consistent with the City's certified Local Coastal Program Land Use Plan and Impentation Program which together consistute the City's certified Local Coastal Program (LCP) <del>and including:</del>
9	Planning Commission	17.44.010.B	44-2	Remove the words "broadest interpretation possible, so as to protect, restore and enhance coastal resources, including that public access to navigable waters shall be protected". We understand the "navigable waters" are protected.	Currently states "In achieving these purposes, this chapter shall be given the broadest interpretation possible so as to protect, restore, and enhance coastal resources, including that public access to the navigable waters shall be provided and protected consistent with the goals, objectives and policies of the California Coasta Act and ARticle X, Section 4, of the California Constitution."
Edit	Planning Commission	17.44.020.B	44-2	17.44.020 (B) has only one subpart now. So eliminate the subpart and merge three language into B.	Suggest amending as follows: B. Implementation Plan. The Implementation Plan (IP) first certified in January 1990, consists of the Zoning Code (Title 17) chapters and Municipal Code Chapters as identifice in Section 17.04.040 (Relationship to the Local Coastal Program) as well as the zoning districts and maps.
Edit	Planning Commission	17.44.030.J	44-4	Remove California endangered species	It would be appropriate to keep California endangered species referenced here. This edit was made in error by Capitola staff. The references within the ESHA chapter to the California Native Plants Society was intended to be removed. Not the reference to CA endangered species. Recommend leaving

Attachment: Requested Discussion Items and Edits (Update to Zoning Ordinance/ LCP Implementation

Edit or # Discussion Item	Source	Section	Page	Commissioner Comment	Staff suggestion
Edit	CC Staff	17.44.030.J	44-4	Keep California endangered species	reference in definition.
10	Planning Commission	17.44.070.B.1	44-7.	17.44.070(B)(2). As far as I know, unlike the Co. of SC, our staff does not hold noticed public hearings. If so, eliminate that subparagraph and modify the following subparagraph accordingly.	Staff clarification: This is new. For a coastal development permit that would be administrative and not appealable (ex. Accessory Dwelling Unit, minor design permit, etc.) the City would notice an administrative meeting on a specific date and the action would be taken by the Community Development Director. The administrative review process has been structured for minor design permit in the zoning code update. Property is posted and neighbors are noticed. The public can request the design be reviewed by Planning
11	CC Staff	17.44.060	44-6	Coastal Commission staff requests that the second sentence not be stricken. They agree with removing the third sentence. The request is to allow the planning commission to apply discretion for the Planning Commission in review of coastal permits.	Staff recommends discussing. The Coastal Commission revision would clarify the discretion of the Planning Commission. The recommended change would read "Development Standards. General. Development standards, e.g. structure height, setbacks) that apply to property in teh - CZ overlay zone are the same as in the underlying bas zoning district. All standards including with respect to heigh, setbacks, density, coverage, etc.) shall be interpreted as maximums (or minimumsas applicable) that shall be reduced (or increased as applicable) to protect and enhance coastal resources and meet LCP objectives to the maximum extent feasible depending on the facts presented.
12	Planning Commission	17.44.070.D.	44-7/8	Page 44-7/8 any legal property prior to the Coastal Act should be able to repair, modify or add if it meets the City zoning/building requirements.	The standards states: "Legal Development and Permitting Processes. Development that was legally established prior to the effective date of Proposition 20 (i.e. February 1, 1973) for property within 1,000 yards of the mean high tide or the Coastal Act of 1976 (i.e. January 1, 1977) for all coastal zone property, whichever is applicable, is considered lawfully established development that does not require a Coastal Development Permit in order to continue as it legally existingd prior to those dates. Any additional development since those dates (including improvements, repair, modification, and/or additions) <u>may</u> requires a CDP in accordance with the provisions of this chapter."

Edit or # Discussion Item	Source	Section	Page	Commissioner Comment	Staff suggestion
Edit	CC Staff	17.44.110	44-16	Coastal Commission staff agrees removing all but the first paragraph of the 17.44.110	Staff suggests accepting the CC modification. Section 17.44.110 will be limited to the first paragraph as follows : 17.44.110 Application Submittal. A. Coastal Development Permit applications shall include all the information and materials required by the Community Development Department together with all required applicatio fees. It is the responsibility of the applicant to provide all evidence to allow the review authority to make a decision regarding whether the proposed development is consistent with the LCP, including the respect to the findings required by Section 17.44.130 (Finding for Approval).
13	CC Staff	17.44.120	44-17	Coastal Commission staff requests keeping the standards in 17.44.120 to avoid certification of chapter 17.112.	Staff recommends making this change but mirroring the language for public notice that exists in chapter 17.148 to create consistency in the process.
clarification	Planning Commission	17.48.030.F	48-5	KH3 comment incomplete	KH Comment should have included the underlined text, as follows: Discussion 2. Encroachments are listed in Chapter 12.56.060 which is not part of the LCP. Coastal Commission has advised not to reference sections outside the LCP. Leaving the refence out will <u>prevent municipal code chapter 12.56 "Privately Installed Improvements on Public Property or Easements" from becoming part of the City's LCP and subject to certification by Coastal Commission.</u>
clarification	Planning Commission	17.48.030.F	48-5	Comment kh4 - did city require an annual fee from Caruso restaurant when they wanted to provide outdoor seating using city parking spaces? What document authorizes city to collect fee?	Yes. The two year pilot program took effect on April 15, 2017 and is due to terminate on April 15, 2019. In addition to the \$4,497.15 application and \$1,000 security deposit, there was an annual cost per parking space of \$3,220. It would cover the revenue ordinarily collected for parking.
14	Planning Commission	17.56.020.A1	56-1	17.56.020 A1 - seems like this should remain to provide a layer of oversight.	A1 was deleted. It stated :An archaeological/paleontological sensitivy area as shown in the Capitola Resource Map (Local Coastal Program, Map 1). The map is extremely broad and would require and excessive amount of studies.
15	Planning Commission	17.060.030.C1	60-3	17.060.030 C1 - there is decorative privacy lattice that is used throughout the city but is not 50% transparent. 25% is more realistic.	This is the standard. C. Decorative features and Materials for Fence. 1. An additional 2 feet of fence height is permitted above a 6 foot heigh fence for lattice or other similar material that is at least 50 percent transparent.  

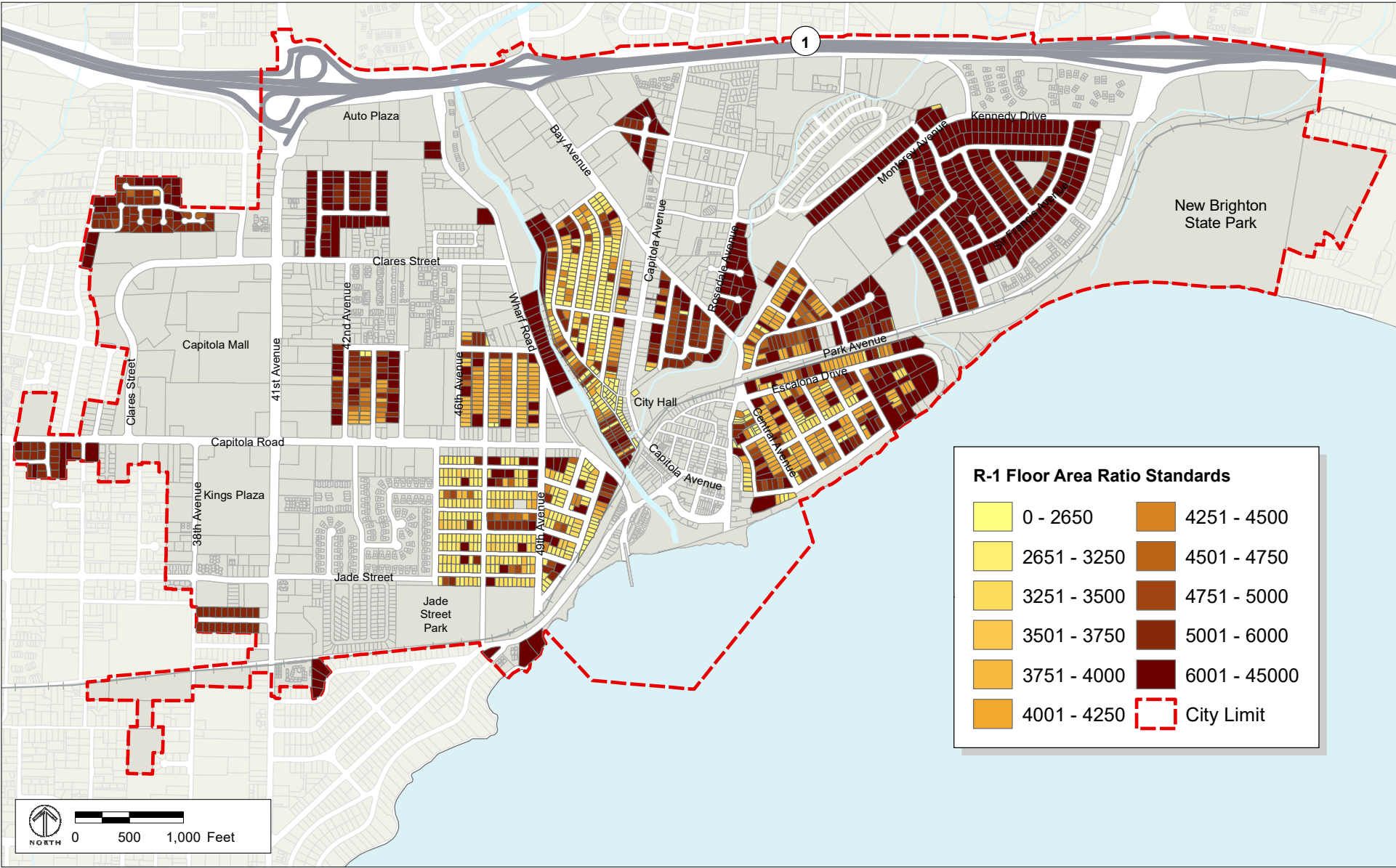
Edit or # Discussion Item	Source	Section	Page	Commissioner Comment	Staff suggestion
Clarification	Planning Commission	17.60.040.C	60-3	17.60.040 - does "adjacent" apply to the fence constructed at the end of the Riverview path?	Yes. It is adjacent to the Grand Avenue Walkway. This standard will prevent future fences along Grand Avenue Walkway from exceeding 3 1/2 feet in height. The standard reads "All fences adjacent to the pedestrian paths along the east side of Soquel creek north of Stockton Avenue and along teh Grand Avenue Walkway shall comply with the following standards: a) maximum height 3 1/2 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. In all cases, such fences shall not adversely impact significant public views of the coastline, as identified within the LCP
clarification	Planning Commission	Table 17.64-1		Table 17.64-1 agree with kh3 comment	Decreased setback to 25 feet consistent with LCP Land Use Plan
Edit	Planning Commission	17.72.060.A.	72-5	Page 72-5 remove plant comments from coastal commission	Staff suggest deleting the second sentence of the Coastal Commission edit, as follows: Plant Selection along the Blufftop, Beach, or ESHA. Native plants adapted to local climate shall be required within 50 feet of the blufftop edge, the beach or ESHA. <del>No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plan Council, or as may be so identified from time to time by the State of California and no plant species listed as "noxious weed" by the State of California or the U.S. Federal Governmetn, is allowed.</del> See Chapter 17.64 (Enviornmentally Sensitive Habitat Areas) for habitat
16	Planning Commission	17.74.040 B & 17.74.040 F.2		does this mean any SFR can be converted into a duplex? Do not agree with the language allowing this on any lot size.	17.74.040.F.2 means that any lot zoned Single-Family (R-1) may have one accessory dwelling unit , no matter the size of the lot. However, the single-family lot must have an existing single family home and the accessory dwelling unit must be contained within the existing space of the single-family residence or existing accessory structure as long as side and rear setbacks are sufficient for fire safety.



Edit or # Discussion Item	Source	Section	Page	Commissioner Comment	Staff suggestion
clarification	Planning Commission	17.74.040.I.3.a		17.74.040.I.3 a - appears to need language restricting parking from front yard required landscaped areas.	17.74.I.2.b includes a reference to to 17.76.040.B (Parking in Front and Exterior Side Setback Areas which has specific standards for parking in the front and exterior side yard in the R-1, MU-V, and MU-N zones and is prohibited in all others. The section in question 17.74.040.I.3.a is specific to garage conversions. State law 65852.2.a.1D(xi) requires cities to allow the replacement spaces in any configuration on the same lot as the accessory dwelling unit , including but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use o fmechanical automobile parking lifts. To create stricter standards for parking in theR-1 district than allowed under 17.74.I.2.b would be contrary to the state
17	CC Staff	17.76-1	76-3	CC Staff would like to discuss modifying this language to ensure that there isn't a net loss of parking. CC Staff recognize that the village site serves as existing parking, but also want to ensure that any offsite parking is appropriately compensated for) (76-3)	Staff does not agree with the coastal commission request. At the time of a hotel application, a parking study will be completed and the hotel will be required to provide adequate off-street parking for the hotel.
18	Capitola Staff	17.76.040.C.3	76-8	Standard was not carried over in it entirety from old code in its entirety.	Staff suggest reintroducing (a) back into the standard and referencing the map in the LUP- Exhibit B. 3. MU-V Zoning District. Required parking spaces for new nonresidential development and intensified uses in the MU-V zoning district shall be provided on sites outside of the Village area. These spaces shall be within walking distance of the use which it serves or at remote sites served by a shuttle system. The planning commission may approve exceptions to allow on-site parking in the MU-V district for: <u>a. Nonhistoric structures in residential areas bounding the central commercial district of the village; and</u> b. The Capitola Theater site (APN 035-262-04) and Mercantile site (APN 035-221-17) if driveway cuts are minimized to the extent possible and parking areas are located on the interior of the sites; and c. If mandated under Federal Emergency Management Agency regulations and as consistent with the certified local coastal program.
Minor Edit	Planning Commission	17.80.060.U	80-7(U)	do not understand. How does a "tenant only parking" sign affect a public right of way? Is it ok for public parking to block the right of way?	Staff suggest rewording to "sign affecting public property (e.g.'tenant parking only') not placed there by the public entitiy having the possessory interest in such property.
Minor Edit	Planning Commission	17.84.070.(I)(7)	84-6	"coastal zone" - no caps	Caps will be removed.
19	Planning Commission	17.84.080(F)(5)	84-8	This should not be an alternative basis for approval, but a universal; requirement. Section F should be restructured so that the review authority must find one of 1-4 plus 5.	Discuss.

Edit or # Discussion Item	Source	Section	Page	Commissioner Comment	Staff suggestion
Edit	CC Staff	17.84.070.I.6	84-6	CC Staff: It must be consistent with the geological hazards and setback standards—coastal standards are not waivable.	Accept CC change
Edit	CC Staff	17.84.080.F.	84-7	CC Staff: Findings to Approve demolition in CZ—reinsert language—demolition is development under the Coastal Act (84-7)	Accept CC change
Edit	Capitola Staff	17.96.	96-1	Standard 17.81.040.E rules for openspace did nt get carried over from old code. Suggest adding the standard under section 17.96 Supplemental Standards	Language in Previous Zoning Code: 17.81.040.E. Rules Governing Openspace. In the Soquel Creek area within the city limits, the following shall apply: All bulkheads shall be constructed in a rustic manner and finished in wood. All handrails on decks shall not exceed forty-two inches in height, nor shall the space between the deck and the handrails be filled in creating a solid appearance. Only two freestanding lights shall be allowed for each deck and to a maximum height of eight feet.
Edit	Planning Commission	17.120.040.C.6	120-3	Change “upon request of” to “by”. “Required” and “request” are inconsistent.	Suggest rewording to: "Story poles shall only be required <del>upon request of</del> <u>by</u> the Planning Commission."
Edit	Planning Commission	17.128.090(A)and (B)	128-3	Something is wrong with this. If an applicant in the coastal zone is denied a variance, they should not have an appeal to the CC. That should be limited to variance approvals.	Staff suggest rewording to "and, <u>when appealed</u> in the coastal zone <u>in conjunction with a coastal development permit</u> , as described in Chapter 17.44 (Coastal Overlay
Clarification	Planning Commission	17.144	144-1	17.144 Amendments - has this chapter ever been in any previous zoning ordinances?	The previous code had much less detail. Previous code chapter 17.09 applied to zoning map changes. The standards for Planning Commission Hearings and Actions were previously tied to the different types of permit such as design permits, conditional use permits, and variances within the individual chapters. The updated code places the information in one chapter for consistency. The LCP amendment requirements were previously in 17.69.120 which referenced Title 14 Article 15 Section 13551 of the
20	Planning Commission	D.9		Definition of Development need improvement. Current definition "Development" means any human-caused change to land that requiries a permit or approval from the City. See section 17.44.030 for the definition of "Development that applies in the coastal zone.	Staff suggest rewording to "Development" means any proposed change to the land or structure that requires a permit or approval from the City including construction, rehabilitation, and reconstruction. See section 17.44.030 for the definition of "Development" that applies in the coastal
Edit	Planning Commission	P.1	160-11	“Parcel” reject the change . Lot and parcel are synonymous as the code now provides. See, e.g., 16.08.082, 16.08.110.	Staff agrees.

# CITY OF CAPITOLA



Attachment: R-1 All Parcels FAR (Update to Zoning Ordinance/ LCP Implementation Plan)

Source: City of Capitola, February 2019.

# PART 1

## Enactment and Applicability

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**Chapter 17.04 - Purpose and Effect of Zoning Code.....04-1**

- 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 Relationship to the Local Coastal Program
- 17.04.050 Applicability of the Zoning Code

**Chapter 17.08 - Interpretation..... 08-1**

- 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

**Chapter 17.12 - Zoning Districts and Map..... 12-1**

- 17.12.010 Purpose
- 17.12.020 Zoning Districts
- 17.12.030 Zoning Map



## 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 Relationship to the Local Coastal Program
- 17.04.050 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.
  11. Ensure the protection of coastal resources.

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Capitola Staff edits are in RED.

17.04

PURPOSE AND EFFECT OF ZONING CODE

**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~~ Portions of the Zoning Code ~~is a component~~ are components of Capitola's Local Coastal Program (LCP) prepared in accordance with the California Coastal Act of 1976 (Coastal Act). The LCP consists of the Local Coastal Program Land Use Plan (LUP) and the Local Coastal Program Implementation Plan (IP). The LCP applies to areas within ~~the~~ Capitola's coastal zone as ~~identified~~ generally depicted on the City of Capitola Zoning Map (also part of the IP) 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. The following Zoning Code chapters are a part of Capitola's Local Coastal Program IP:
    - a. All chapters in ~~Part~~ Parts 1 (Enactment and Applicability), 2 (Zoning Districts and Overlay Zones), and All chapters in Part 3 (Citywide Standards).
    - b. Chapters 17.112 Permit Application and Review, 17.128 (Variances), 17.136 (Minor Modifications), 17.140 (Reasonable Accommodations), 17.144 (Zoning Code Amendments and Local Coastal Program Amendments, and 17.148 (Public Notice and Hearing) in Part 4 (Permits and Administration).
    - ~~b.c.~~ Chapter 17.160 (Glossary) in Part 5 (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.
  3. The Local Coastal Program IP also includes other Municipal Code Chapters and Sections, as follows:
    - a. Chapters 9.40 (Signs on Public Property or Rights of Way), 10.36 (Stopping, Standing, and Parking), 12.12 (Community Tree and Forest Management), 12.44 (Limiting Boats on Capitola Beaches During Evening Hours), 15.28 (Excavation and Grading), and 16.68 (Condominium and Community Apartment Conversions).
    - b. Title 16 (Subdivisions).
- C. Conflicting Provisions.** If provisions of the Local Coastal Program Implementation Plan ~~conflicts~~ conflict with provisions of the Local Coastal Program Land Use Plan, and/or if there are any questions regarding intent, the Local Coastal Program Land Use Plan, the California Coastal Act, and applicable state law shall govern.

04-2

**17.04.050 Applicability of the Zoning Code**

- A. **Applicability to Property.** The Zoning Code applies to all land, uses, and development (including 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, the California Coastal Act, and applicable state law 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 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.

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Capitola Staff edits in Purple

- 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 (including for discretionary review and approval for “P” uses) beyond those identified in the land use regulations tables, including but not limited to Design Permits, Coastal Development Permits, and Historic Alteration Permits.
- 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 the Local Coastal Program Land Use Plan.
    - 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 is 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**

**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.

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INTERPRETATION

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.
- F. Coastal Zone Interpretations.** An applicant may submit to the Director a request for interpretation on matters related to the coastal matters zone from the Coastal Commission Executive Director for the Director to consider when making an official interpretation of the Zoning Code: including as specified in Chapter 17.44 (Coastal Overlay Zone).

#### 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 17.12 - ZONING DISTRICTS AND MAP

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**Sections:**

- 17.12.010 Purpose
- 17.12.020 Zoning Districts
- 17.12.030 Zoning Map

**17.12.010 Purpose**

This chapter identifies the zoning districts that apply to land within the Capitola city limits and establishes the official Capitola Zoning Map.

**17.12.020 Zoning Districts**

**A. Base Zoning Districts.** Capitola is divided into zoning districts that implement the General Plan/~~Land Use Plan~~ Land Use Map as shown in Table 17.12-1.

**Commented [kh2]:** The Land Use Plan includes the General Plan's Land Use Map. To list the Land Use Plan here is incorrect as the General Plan includes the Land Use Designations.  
  
Staff recommends not accepting the CC modification.

**TABLE 17.12-1: BASE ZONING DISTRICTS**

Zoning District Symbol	Name of Zoning District	General Plan/ <del>Land Use Plan</del> Land Use Designation
<b>Residential Zoning Districts</b>		
R-1	Residential Single-Family	Single-Family Residential (R-SF)
RM-L	Residential Multi-Family, Low Density	Multi-Family Residential (R-MF)
RM-M	Residential Multi-Family, Medium Density	
RM-H	Residential Multi-Family, High Density	
MH	Mobile Home Park	Mobile Home Park (MH)
<b>Mixed-Use Zoning Districts</b>		
MU-V	Mixed Use, Village	Village Mixed-Use (MU-V)
MU-N	Mixed Use, Neighborhood	Neighborhood Mixed-Use (MU-N)
<b>Commercial and Industrial Zoning Districts</b>		
C-C	Commercial, Community	Community Commercial (C-C)
C-R	Commercial, Regional	Regional Commercial (C-R)
I	Industrial	Industrial (I)

17.12

ZONING DISTRICTS AND MAP

Zoning District Symbol	Name of Zoning District	General Plan/ <del>Land Use Plan</del> Land Use Designation
<b>Other Zoning Districts</b>		
CF	Community Facility	Public/Quasi-Public Facility (P/QP)
P/OS	Parks and Open Space	Parks and Open Space (P/OS)
PD	Planned Development	N/A

**B. Overlay Zones.** The Zoning Code and Zoning Map include the overlay zones shown in Table 17.12-2. Overlay zones impose additional regulations on properties beyond what is required by the underlying base zoning district.

**TABLE 17.12-2: OVERLAY ZONES**

Overlay Zone Symbol	Name of Overlay Zone
-AH	Affordable Housing
-VRU	Vacation Rental Use
-VR	Village Residential
-VS	Visitor Serving
-CZ	Coastal Zone

**17.12.030 Zoning Map**

- A. Adoption.** The City Council hereby adopts the Capitola Zoning Map (“Zoning Map”), which establishes the boundaries of all base zoning districts and overlay zones provided for in the Zoning Map.
- B. Incorporation by Reference.** The Zoning Map, including all legends, symbols, notations, references, and other information shown on the map, is incorporated by reference and made a part of the Zoning Code.
- C. Location.** The Zoning Map is kept, maintained, and updated electronically by the Community Development Department, and is available for viewing by the public at the Department.

# PART 2

## Zoning Districts and Overlay Zones

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**Chapter 17.16 - Residential Zoning Districts..... 16-1**

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

**Chapter 17.20 - Mixed Use Zoning Districts..... 20-1**

- 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

**Chapter 17.24 - Commercial and Industrial Zoning Districts..... 24-1**

- 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

**Chapter 17.28 - Visitor Serving Overlay Zone..... 28-1**

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

**Chapter 17.32 - Special Purpose Zoning Districts.....32-1**

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

**Chapter 17.36 - Planned Development Zoning District.....36-1**

- 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

**Chapter 17.40 - Residential Overlay Zones..... 40-1**

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

**Chapter 17.44 - Coastal Overlay Zone..... 44-1**

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



## 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 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 will feature high quality design that enhances the visual character of the community. The mass, scale, and design of new homes shall be compatible with existing homes in neighborhoods and 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 will respect 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 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.

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Capitola Staff edits in PURPLE

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

Key	Zoning District			Additional Regulations
	R-1	RM	MH	
<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>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
Accessory Dwelling Units	A/C	A/C [4]	-	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	
Public Pathways and Coastal Accessways	<del>C</del>	<del>C</del>	<del>C</del>	
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	Section 17.96.040
Temporary Uses and Structures	M	M	-	Section 17.96.180
<b>Urban Agriculture</b>				
Home Gardens	P	P	P	
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.

**Commented [kh2]:** Public Pathways and Coastal Accessways – The CC added Public Pathways and Coastal Accessways to the land use tables as a Conditional Use Permit. This is consistent with the City’s Land Use Policy Chapter II “Public Access Component”. The LUP identifies existing public access through a descriptive narrative (pages 24-29) and within Shoreline Access Maps (pages 36-37). Should a developer propose a project that includes a pathway or coastal accessway, the proposal would be reviewed under a Conditional Use Permit. An applicant would consider the guidance in the LUP, for instance, dedication of coastal access through Venetian Court supported by Policy II-11 (page 33); while a dedication pathway along the west side of Soquel creek would not be supported due to the environmental sensitivity of the area identified in Policy II-18 (pg. 34-35).

[3] An accessory structure that exceed the development standards of Chapter 17.52 requires a Conditional Use Permit.  
 [4] Permitted only when there is one single family dwelling on the parcel.

**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 Historic Alteration Permit pursuant to Chapter 17.84 (Historic Preservation). Development in the coastal zone may require a Coastal Development Permit pursuant to Chapter 17.44 (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	Section 17.16.030.B Section 17.48.040
Building Coverage, Maximum	N/A	40%	
Open Space	N/A	Section 17.030.C.2	
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			Section 17.48.030.B.2- <del>5</del> <sub>6</sub>
Front	<u>Ground floor</u> : 15 ft. <u>Garage</u> : 20 ft. <u>Second story</u> : 20 ft.	<u>Main structure</u> : 15 ft. <u>Garage</u> : 20 ft.	Section 17.16.030.B.2 Section 17.16.030.B. <del>3</del> <sub>5</sub> Garage Setback
Rear	20% of parcel depth; 25 ft. max.	15% of parcel depth	Section 17.16.030.B. <del>4</del> <sub>5</sub>

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RESIDENTIAL ZONING DISTRICTS

	R-1	RM	Additional Standards
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	Section 17.16.030.B.4 & 5 & 6
Street Side, Corner Lots	10 ft.	10 ft.	Section 17.16.030.B.35
Height, Maximum	25 ft.	<u>RM-L</u> : 30 ft. <u>RM-M</u> : 30 ft. <u>RM-H</u> : 35 ft.	Section 17.16.030.B.6 & 7 & 8 Section 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. See Section 17.48.040.B for floor area calculations.

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

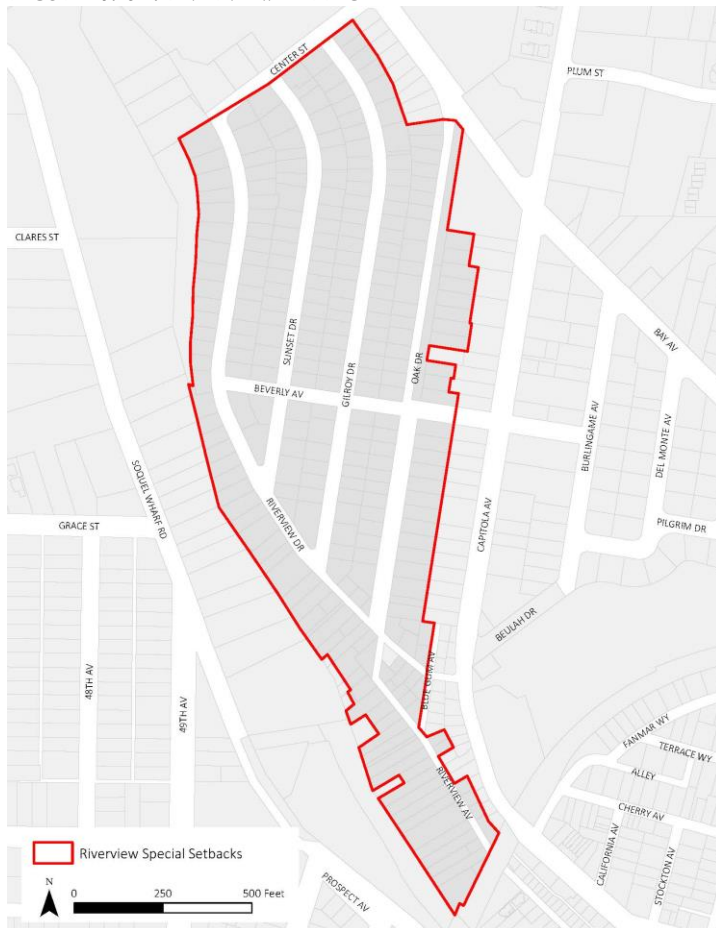
Lot Size	Maximum FAR
2,650 sq. ft. or less	0.58
2,651 to 3,250 sq. ft.	0.57
3,251 to 3,500 sq. ft.	0.56
3,501 to 3,750 sq. ft.	0.55
3,751 to 4,000 sq. ft.	0.54
4,001 to 4,250 sq. ft.	0.53
4,251 to 4,500 sq. ft.	0.52
4,501 to 4,750 sq. ft.	0.51
4,751 to 5,000 sq. ft.	0.50 [1]
5,001 to 6,000 sq. ft.	0.49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

Notes:

[1] Parcels of 4,000 sq. ft. or more with approved accessory 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.

FIGURE 17.16-1: RIVERVIEW TERRACE



3. **Wharf Road Reduced Setback.** For properties on the east side of Wharf Road from 1820 Wharf Road to 1930 Wharf Road, 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.
4. **Cliffwood Heights Side-Yard Setbacks.** For properties in the Cliffwood Heights neighborhood, when an existing, legally established structure is located within the required side-yard setback, the side yard setback for the existing structure is reduced to the existing setback of the built structure, but in no case less than three feet from

the property line. Proposed additions and new development shall comply with the setback standards of Table 17.16-2.

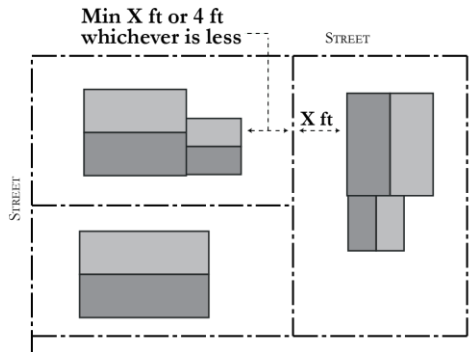
5. **Garage Setbacks.**

- 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).

6. **Corner Lots.**

- a. The minimum rear setback for reverse corner lots shall be the minimum interior side yard of the adjacent property, but no less than 4 feet. See Figure 17.16-2.
- b. On a corner lot, the front line of the lot is ordinarily construed as the least dimension of the parcel facing the street. The Community Development Director has the discretion to determine the location of the front yard based on existing conditions and functions.

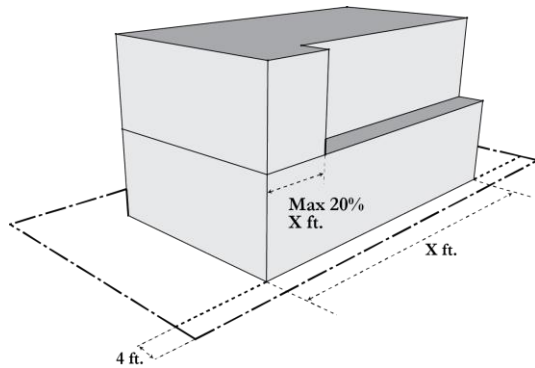
FIGURE 17.16-2: REVERSE CORNER LOT REAR SETBACK



7. **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 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



8. **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 are 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.
    - e. When the plate height of structure does not exceed 22 feet.
  9. **Landscaping.** See Section 17.72.050.A for residential landscape requirements.
  10. **Mini-Bar/Convenience Areas.** A single-family home may contain one mini-bar/convenience area in addition to a kitchen, subject to the following standards:
    - a. Fixtures shall be limited to a small refrigerator, a microwave oven, and a small sink with a drain size less than one and one-half inches.
    - b. No gas line or 220-volt electric service is permitted within the area.
    - c. Only one such area is permitted within a dwelling in addition to the kitchen.
    - d. Internal access to the area shall be maintained within the dwelling.
- 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 and Figure 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:

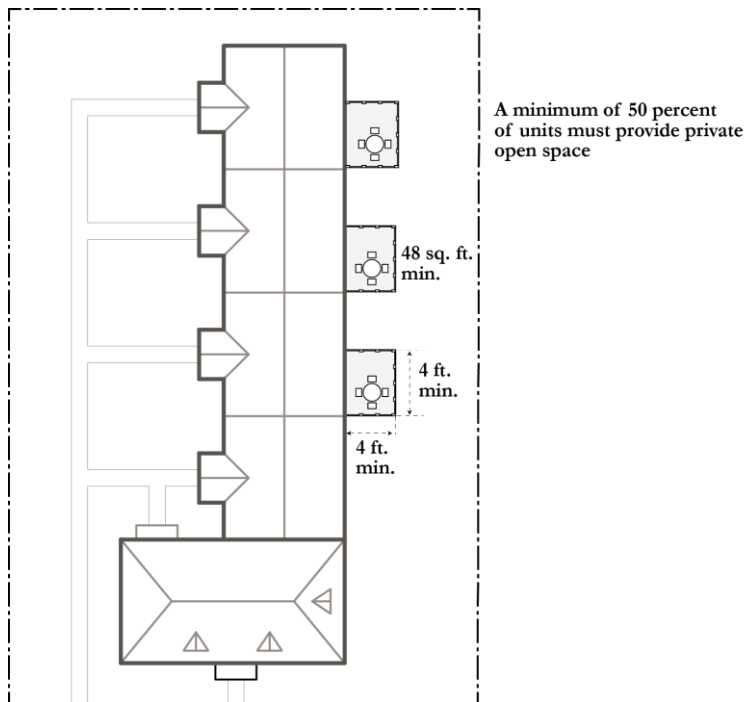
[1] Common open space shall be fully landscaped and accessible to all residents.

[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

**FIGURE 17.16-4: PRIVATE OPEN SPACE**





1. **Landscaping.** See Section 17.72.050.A for residential landscape requirements.

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

**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.

## Chapter 17.20 - MIXED USE ZONING DISTRICTS

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### 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 support 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 shall respect Capitola's history and reflect its unique coastal village character. The diversity of land uses, pedestrian-friendly development, and general level of activity in the mixed use zoning districts shall support 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 shall 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 provides a walkable environment, caters to all ages, and supports 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 district 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 will 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.

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

Key	Zoning District		Additional Regulations
	MU-V	MU-N	
<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>Residential Uses</b>			
			Section 17.20.020.B, C & E
Duplex Homes	-/P [1]	P	
Elderly and Long Term Care	C [2]	C	
Group Housing	C [2]	C	
Multi-Family Dwellings	-/P [1]	C	
Residential Care Facilities, Small and Large	See Section 17.20.020.F		
Residential Care Facilities, Large	C [2]	C	Section 17.96.080
Residential Mixed Use	See Section 17.20.020.D & E	C	
Accessory Dwelling Units	-	A/C	Chapter 17.74
Single-Family Dwellings	-/P [1]	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 [4]	M [5]	
Home Day Care, Large	M	M	Section 17.96.070
Home Day Care, Small	P	P	
Medical Offices and Clinics	-	M [5]	
Parks and Recreational Facilities	C	C	
<a href="#">Public Pathways and Coastal Accessways</a>	C	C	
Public Safety Facilities	C	C	
Schools, Public or Private	-	C	
<b>Commercial Uses</b>			
			Section 17.20.020.E
Alcoholic Beverage Sales	C	C	
Banks and Financial Institutions	C	P/C [3] [5]	
Commercial Entertainment and Recreation	C	C	
Eating and Drinking Places			
Bars and Lounges	C	C	
Restaurants and Cafes	C	C	
Take-Out Food and Beverage	M	M	
Gas and Service Stations	-	-	

**Commented [kh2]:** Public Pathways and Coastal Accessways  
 The CC added Public Pathways and Coastal Accessways to the tables as a Conditional Use Permit. This is consistent with the Land Use Plan (LUP) Chapter II “Public Access Component” (pages 24-29) and within Shoreline Access Maps (pages 36 – 37). Should a developer propose a project that includes a public pathway or coastal accessway, the proposal would be reviewed under a Conditional Use Permit. An application would consider the guidance in the LUP for instance, a future dedication of coastal access through the court would be supported by Policy II-11 (page 33); while a dedication of a pathway along the west side of Soquel creek would not be supported due to the environmental sensitivity of the site as stated in Policy II-18 (pg. 34-35).

Key	Zoning District		
	MU-V	MU-N	Additional Regulations
<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>Lodging</b>			
Bed and Breakfast	C	C	
Hotels and Motels	C	C	
Personal Services	P	P/C [3] [5]	
Professional Offices	P/C [4]	M [5]	
Retail	P	P/C [3] [5]	
Vacation Rental	See Chapter 17.40.030		
<b>Transportation, Communication, and Utility Uses</b>			
Utilities, Major	C	C	
Utilities, Minor	P	P	
Wireless Communications Facilities	See Chapter 17.104		
<b>Other Uses</b>			
Accessory Uses and Structures	See Chapter 17.52		Chapter 17.52
Home Occupations	A	A	Section 17.96.040
Permanent Outdoor Display (Accessory Use)	-	C	Section 17.96.100
Temporary Uses and Structures	See Section 17.96.180		
<b>Urban Agriculture</b>			
Home Gardens	P	P	
Community Gardens	M	M	
Urban Farms	C	C	

Notes:

- [1] Allowed only in the Village Residential (-VR) overlay zone. Exclusively residential uses are not allowed outside of the -VR overlay zone.
- [2] Allowed only on the second or third story of a mixed-use development outside of the -VR overlay zone. Allowed on any story in the -VR overlay zone.
- [3] Larger than 3,000 sq. ft. requires a Conditional Use Permit.
- [4] Second floor uses permitted by-right. Ground floor uses require a Conditional Use Permit. Prohibited third floor and above.
- [5] Conditional Use Permit required for parcels fronting Capitola Road.

**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, Lawn Way, and portions of Wharf Road, 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

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Village Residential (-VR) overlay zone.

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

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.

**E. Third-Story Uses in the MU-V Zoning District.** Permitted land uses within the third-story of an existing or new building in the MU-V zoning district are limited to residential and hotel uses only.

**F. Residential Care Facilities.** Residential care facilities shall be allowed with the permits required for dwellings of the same type within the applicable zoning district. For example, a residential care facility in a detached single-family home requires the same permits and is subject to the same use regulations as a detached single-family home.

**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 Section 17.48.040
Parking and Loading	See Chapter 17.76	
<b>Structure Requirements</b>		
Setbacks		
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	
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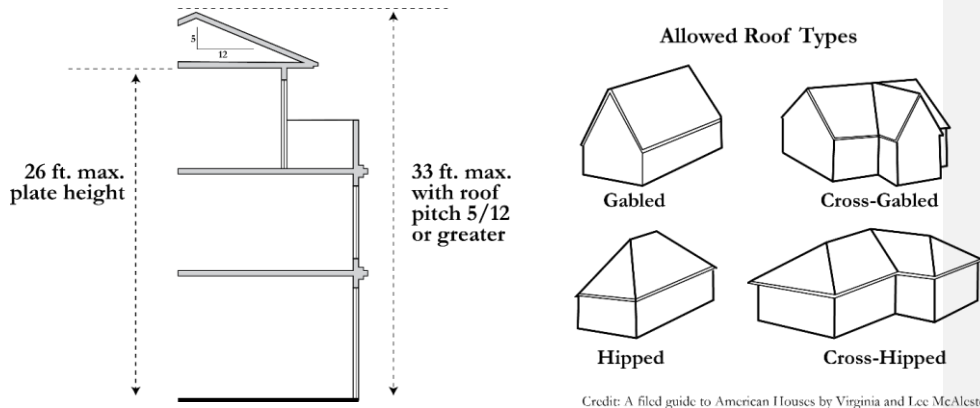
Notes:

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

**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 33 feet for gabled or hipped roof with a minimum 5:12 roof pitch and a maximum plate height of 26 feet. There shall be no breaks in the roof slope for doors and decks. Exterior doors and decks above the 26-foot plate height are prohibited. See Figure 17.20-1.
2. The 33 feet includes the maximum height of projections for non-habitable decorative features and structures identified in Section 17.48.020.B (Height Exceptions).

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



Credit: A field guide to American Houses by Virginia and Lee McAlister

**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 (APNs 035-262-04, 035-262-02, [035-262-11](#), and 035-261-10). These exceptions are intended to facilitate the development of a new hotel in the Capitola Village consistent with the General Plan/[Land Use Plan](#).

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

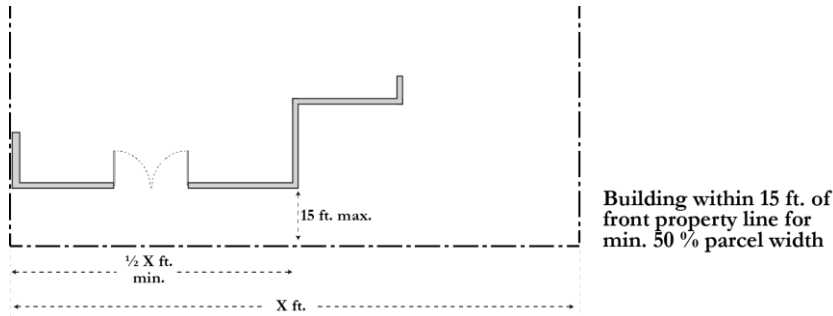
1. Building should be constructed within 15 feet of the front property line for a minimum of 50 percent of the parcel's linear street frontage. See Figure 17.20-7. The Planning Commission may modify or waive this requirement upon finding that:
  - a. Compliance with the build-to width requirement would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

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- c. An alternative site design would result in an enhanced pedestrian experience.

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

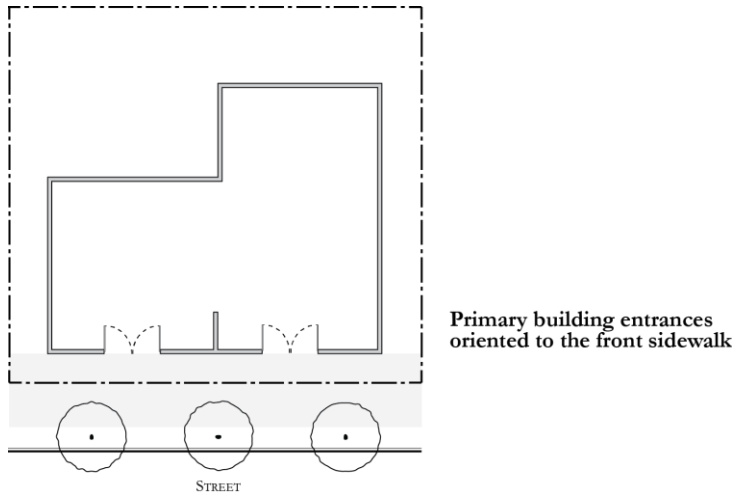


2. Front setback areas shall be pedestrian oriented and contain semi-public amenities such as courtyards or outdoor seating areas.
3. Structures shall be setback a minimum of 10 feet from the property line on the northerly side of the first two hundred fifty feet of Cliff Drive, west of the intersection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

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

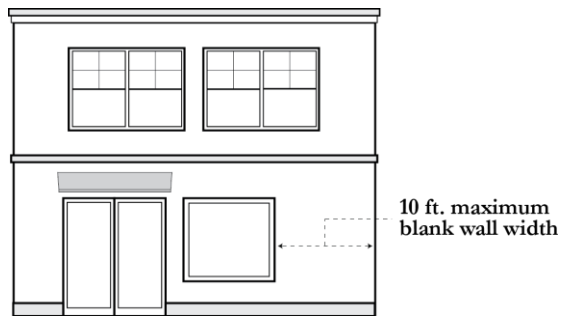
1. **Building Orientation.** Buildings should be oriented towards a public street with the primary entrance to the site or building directly accessible from an adjacent sidewalk. See Figure 17.20-2.

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
  - 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 differentiated storefront design every 25 feet.

FIGURE 17.20-4: STOREFRONT WIDTH



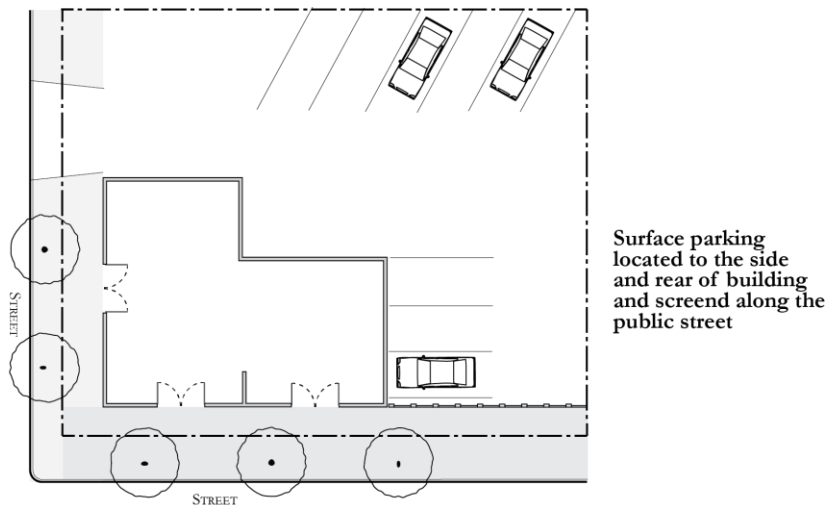
- 4. **Ground Floor Building Transparency.**
  - a. The ground floor street-facing building walls of non-residential uses shall provide transparent windows or doors with views into the building for a minimum of 65 percent of the building frontage located between 2½ and 7 feet above the sidewalk. See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

FIGURE 17.20-5: STOREFRONT TRANSPARENCY



- 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 or maximum allowed pursuant to line of sight requirements in Section 17.96.050.
  - 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**



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6. **Driveways and Curb Cuts.**

- a. The maximum width of a new driveway crossing a public sidewalk may not exceed 40 percent of the parcel width or 20 feet, whichever is less. The Community Development Director may approve an exception to this standard in the case of shared or joint use of driveways and parking lots.
- 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. Considerations for determination include separation between curb cuts, displaced parking, and sight lines.

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.

8. **Garbage and Recycling.** Facilities for garbage and recycling shall be screened from public right-of-way and either designed into the architecture of the primary building or enclosed in an accessory structure located to the side and/or rear of the primary building.

9. **Landscaping.** See Section 17.72.050.B.

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

- A. General.** Table 17.20-3 identifies development standards that apply in the Mixed Use Neighborhood (MU-N) zoning district.

**TABLE 17.20-3: DEVELOPMENT STANDARDS IN THE MIXED USE NEIGHBORHOOD ZONING DISTRICT**

	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	Section 17.48.040
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 [3] [4] <u>Max:</u> 25 ft.	Section 17.20.040.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 [3] <u>Max:</u> 25 ft.	
Height, Maximum	27 ft.	Section 17.20.040.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.**

- 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 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

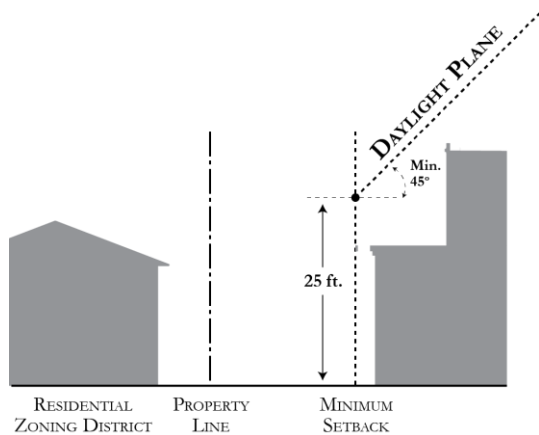
17.20

MIXED USE ZONING DISTRICTS

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.

**F. Driveways and Curb Cuts.**

1. The maximum width of new driveways crossing a public sidewalk may not exceed 40 percent of the parcel width or 20 feet, whichever is less. The Community Development Director may approve exceptions to these standards in the case of shared or joint use of driveways and parking lots.
2. 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. Considerations for determination include adequate separation between curb cuts, displaced parking, and sight lines.

G. Landscaping. See Section 17.72.050.B.

H. Capitola Road. The following standards apply to new primary buildings constructed in the MU-N zoning district fronting the north side of Capitola Road between 41<sup>st</sup> Avenue and 45<sup>th</sup> Avenue as shown in Figure 17.20-9. These standards do not apply to alterations or expansions to existing buildings.

1. Buildings shall feature a gabled or hipped roof with a minimum 5:12 roof pitch.
2. Buildings shall be setback from the curb or street edge in a manner that allows for a minimum 10-foot sidewalk along the property frontage.

FIGURE 17.20-9: CAPITOLA ROAD MU-N SUBJECT TO SPECIAL STANDARDS



Commented [kh3]: Figure has been updated to include between 44<sup>th</sup> and 45<sup>th</sup> Avenues

## Chapter 17.24 - COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

**Commented [kh1]:**  
Coastal Commission staff edits in RED  
Capitola Staff edits in PURPLE

### 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 shall be compatible with adjacent neighborhoods and contribute to Capitola's unique coastal village character. Interspersed residential and office uses in the C-C zoning district shall 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 will maintain 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 will be restricted to protect the long-term economic vitality of the corridor. Incremental redevelopment of underutilized properties in the C-R zoning district will 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 shall continue to accommodate 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.

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

Key	Zoning District			Additional Requirements
	C-C	C-R	I	
<b>Key</b>				
<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>Residential Uses</b>				
Single-Family Dwellings	-	-	-	
Multi-Family Dwellings	C	C [9]	-	
Residential Mixed Use	C	C [7]	-	Section 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	Section 17.96.030
Government Offices	See 17.24.020.C		C	
Medical Offices and Clinics	See 17.24.020.C		-	
Public paths and coastal accessways	C	C	C	
Public Safety Facilities	C	C	C	
<b>Commercial Uses</b>				
Alcoholic Beverage Sales	C	C	C	
Banks	P [2]	P [2]	-	
Financial Institutions	P [2]	P [2]	-	Section 17.24.020.C
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	C	
Mobile Food Vendors	-	A [6]/C	A [6]/C	
Restaurants and Cafes	M [2]	M [2]	C	
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	-	

**Commented [kh2]:** Public Pathways and Coastal Access: The CC added Public Pathways and Coastal Accessways to the tables as a Conditional Use Permit. This is consistent with the Land Use Plan (LUP) Chapter II "Public Access Component" (pages 24-29) and within Shoreline Access Maps (pages 36 – 37). If a developer propose a project that includes a public pathway or accessway, the proposal would be reviewed under a Conditional Use Permit. An application would consider the guidance in the LUP. For instance, a future dedication of coastal access through Veneta would be supported by Policy II-11 (page 33); while a dedicated pathway along the west side of Soquel creek would not be supported due to the environmental sensitivity of the site as identified in Policy II-18 (pg. 34-35).



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	Section 17.96.140
Retail	P	P	-	
Vehicle Repair	C	C	P	
Vehicle Sales and Rental	C [5]	C [5]	-	
Vehicle Sales Display Room [8]	P	P	-	
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
Permanent Outdoor Display	C	C	C	Section 17.96.100
Temporary Uses	See 17.76.180			
<b>Urban Agriculture</b>				
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 including residential properties outside the City limits.
- [5] Majority of vehicles for sale must be new.
- [6] 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 and are allowed with an Administrative Permit in accordance with Municipal Code Chapter 9.36. Mobile food vendors in one location more than two times per year require a Conditional Use Permit.
- [7] Residential uses are prohibited on the first story.
- [8] Maximum 5,000 square feet.
- [9] Allowed only as a part of a mixed-use project integrated with commercial structures located on the same development site.

**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 Historic Alteration Permit pursuant to Chapter 17.84 (Historic Preservation). Development in the coastal zone may require a Coastal Development Permit pursuant to Chapter 17.32 (Coastal Overlay Zone) independent of and in addition to any other required permit or approval.

**C. Office Uses in the C-C and C-R Zoning Districts.**

1. **New Office Uses.** In the C-C and C-R zoning districts, permits required for new office uses and conversions of non-office space to office use are shown in Table 17.24-2. Offices include professional, medical, financial institutions and governmental offices.
2. **Existing Office Uses.** Within office building utilized exclusively for office uses as of [effective date of Zoning Ordinance], office uses may continue to occupy ground floor tenant spaces. Within such office building, a new tenant is not subject to the permit requirements in Table 17.24-2 until such time that the building is redeveloped or all office space in the ground floor level is converted to a non-office use.

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

Key P Permitted Use A Administrative Permit required M Minor Use Permit required C Conditional Use Permit required - Use not allowed	C-C Zoning District	C-R Zoning District
<b>Location and Size of Office Use</b>		
Ground floor, less than 5,000 sq. ft.	P	-
Ground floor, 5,000 sq. ft. or more	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	-

**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**

	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. <del>C</del> <del>B</del>		0 ft.	
Rear	0 ft. unless adjacent to a residential zoning district (see 17.24.030. <del>E</del> <del>D</del> )			
Interior Side	0 ft. unless adjacent to a residential zoning district (see 17.24.030. <del>E</del> <del>D</del> )			
Street Side	See 17.24.030. <del>C</del> <del>B</del>		0 ft.	
Height, Maximum	40ft.	40 ft.	30 ft.	17.24.030. <del>C</del> & <del>D</del> & <del>E</del> 17.88
Landscaped Open Space, Minimum	5%		5%	Table 17.72-1
Parking and Loading	See 17.76			

**B. CC Zoning District Fronting Capitola Road.** The following requirements apply to C-C parcels fronting the south side of Capitola Road between 41<sup>st</sup> Avenue and 45<sup>th</sup> Avenue as shown in Figure 17.24-1

1. **Maximum Height:** 35 feet.
2. **Minimum Rear Setback:** 40 feet.
3. **Enhanced Application Review.** A proposed project with a height greater than two stories shall comply with the following enhanced application review procedures.
  - a. **Conceptual Review.**
    - (1) Prior to consideration of a formal application, the Planning Commission and City Council shall provide conceptual review of a proposed project in accordance with Chapter 17.114 (Conceptual review).

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



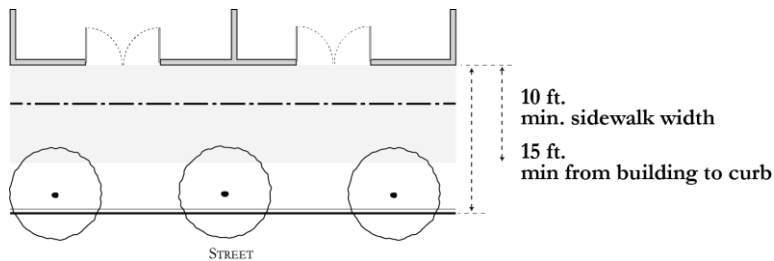
- (2) Before Planning Commission and City Council review, the applicant shall host at least one community workshop to solicit community input on preliminary project plans.
  - (3) When reviewed by the Planning Commission and City Council, the applicant shall demonstrate how the project design addresses public input received at the community workshop, as appropriate.
- b. **City Council Action.** Following conceptual review, the Planning Commission shall serve as the recommending body and the City Council shall serve as the review authority and take final action on the application.
  - c. **Findings.** To approve the application, the City Council shall make all of the following findings in addition to findings for the required permits:
    - (1) The project satisfies applicable Design Review criteria in 17.120.070 (Design Review Criteria).
    - (2) On-site parking, points of ingress/egress, and internal vehicle accessways are located and designed to minimize parking and traffic impacts on neighboring residential areas to the greatest extent possible.
    - (3) The project incorporates rear yard setbacks and upper story stepbacks as needed to maintain adequate light and air for abutting residential uses.
    - (4) The height and intensity of development is compatible with the scale and character of neighboring residential areas.

- (5) The project incorporates design features to support a safe and welcoming pedestrian environment. Potential features may include, but are not limited to, enhanced sidewalks along the property frontage, internal pedestrian walkways, outdoor public gathering places, unique landscaping treatments, and active ground-floor uses fronting the street.

**C. 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 17.24-2.

**FIGURE 17.24-2: FRONT AND STREET SIDE SETBACKS IN THE C-R AND C-C ZONING DISTRICTS**



**D. Increased Floor Area and Height in C-C and C-R Zoning Districts.** 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 17.24-3 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.

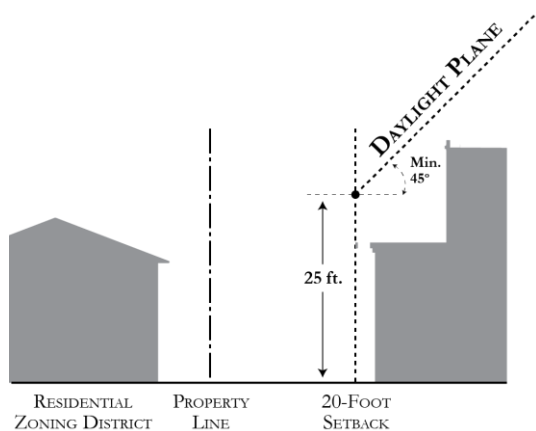
**E. Residential Transition Standards.** Where a commercial or industrial zoning district abuts a residential zoning district, the following standards apply.

1. **Setbacks.** The minimum setback from the residential property line shall be 15 feet for interior side yards and 20 feet for rear yards. For lots less than 100 feet wide, the Planning Commission may allow a reduced side yard setback upon finding that potential impacts to adjacent residential properties have been adequately minimized through enhanced building and landscape design.
2. **Daylight Plane.** No structure shall extend above or beyond a daylight plane having a height of ~~25 feet~~ 25 feet at the setback from the residential property line and

extending into the parcel at an angle of 45 degrees. See Figure 17.24-3.

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 17.24-3: 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.
- F. **Capitola Mall Redevelopment.** While the Capitola Mall site has been zoned Regional Commercial (C-R) as part of the Zoning Code Update, it is expected that major redevelopment of the mall property may require a Rezone, Planned Development, Specific Plan, Development Agreement, or similar process to tailor appropriate development standards for the redevelopment project. Where an application submitted pursuant to this section includes fewer than all parcels within the Mall property, the applicant shall demonstrate that the development type and pattern and site design will be compatible and not unreasonably interfere with future redevelopment of the remaining parcels. For the purposes of this section, the mall property is defined as the area bound by 41st Avenue, Clares Street, and Capitola Road.
- G. **Landscaping.** See Section 17.72.050.B for Non-Residential Landscape Requirements.

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

- A. **Purpose and Applicability.** This section establishes design standards for 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. Increased setbacks are permitted if they enhance pedestrian experience and add visual interest.
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 storefront widths 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. See Figure 17.24-4. Windows or doors area shall be transparent 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

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COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

pedestrian level.

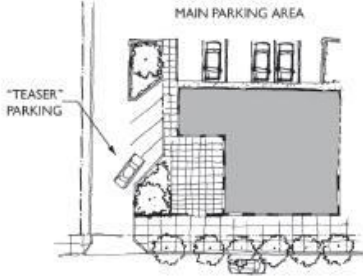
FIGURE 17.24-4: STOREFRONT TRANSPARENCY



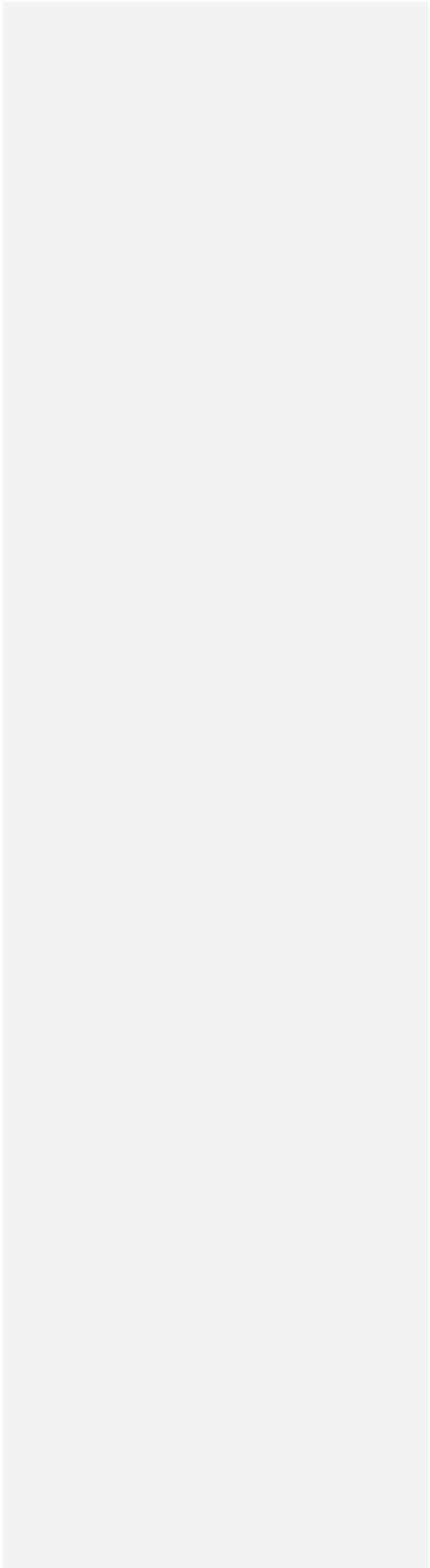
7. **Retail Depth.** Ground floor commercial space shall have a depth of at least 45 feet or two-thirds of the parcel depth, whichever is less. Where possible, 60-foot depths are encouraged to accommodate a wider range of tenants, especially food tenants. The Planning Commission may grant an exception 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. See Figure 17.24-5
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.



FIGURE 17.24-5: RESIDENTIAL MIXED USE – TEASER PARKING



Small amounts of "teaser" parking can act as a visual cue to direct drivers to additional parking out of view.



## Chapter 17.28 - VISITOR SERVING OVERLAY ZONES

### Sections:

- 17.28.010 Purpose of the Visitor Serving Overlay Zone
- 17.28.020 Land Use Regulations
- 17.28.030 Development Standards

### 17.28.010 Purpose of the Visitor Serving Overlay Zone

- A. General.** The purpose of the Visitor Serving (-VS) overlay zone is to provide the visiting public with a range of opportunities to enjoy Capitola's coastal location. The -VS overlay zone accommodates 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 overlay zone implements policies to maintain and enhance visitor serving uses in Capitola consistent with the General Plan and Local Coastal Program (LCP).
- B. 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 – New Brighton (VS-NB).** Applies to New Brighton State Beach.
  - 5-6. **Visitor Serving – General (VS-G).** Applies to all other parcels with a Visitor Serving subzone overlay designation

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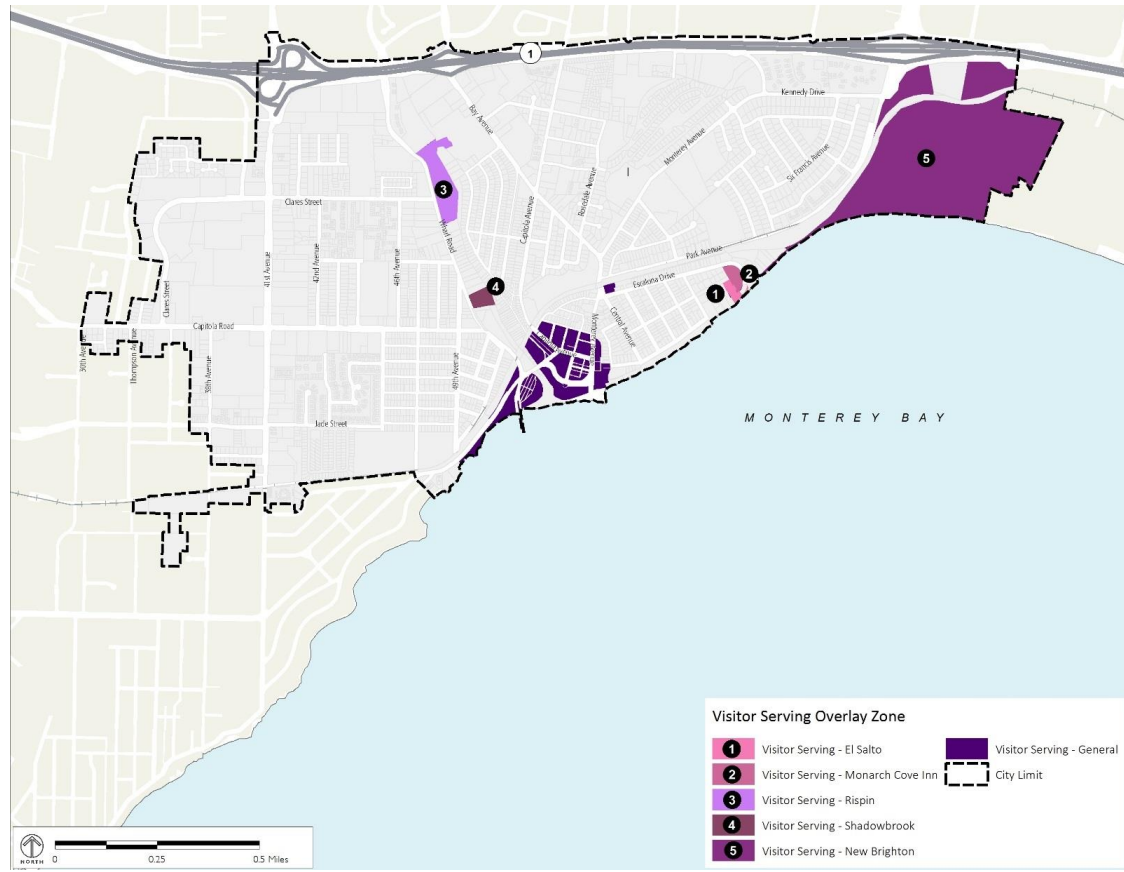
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Capitola Staff edits are in PURPLE

17.28

VISITOR SERVING OVERLAY ZONE

FIGURE 17.28-1: VISITOR-SERVING DISTRICTS



**17.28.020 Land Use Regulations**

**A. Permitted Land Uses.** Table 17.28-1 identifies land uses permitted in the VS overlay subzones.

**TABLE 17.28-1: PERMITTED LAND USES IN THE VISITOR SERVING OVERLAY ZONE**

Key P Permitted Use M Minor Use Permit required C Conditional Use Permit required - Use not allowed	VS Subzones						Additional Regulations
	VS-G	VS-R	VS-SB	VS-MC	VS-NB	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][12]	=	C [3]	
<b>Public and Quasi-Public Uses</b>							
Community Assembly	C	C	-	-	C	-	
Cultural Institutions	C	C	-	-	C	-	
Day Care Centers	C	-	-	-	=	-	
Habitat Restoration and Habitat Interpretive facilities	C	C	C	C	C	-	
Parks and Recreational Facilities	C	C	-	-	C	-	
Public Parking Lots	C	C	-	-	C	-	
Public Paths and Coastal Accessways	C	C	C	C	C	C	
Public Safety Facilities	C	-	-	-	C	-	
Public Wharfs	C	-	-	-	=	-	
Schools, Public or Private	-	-	-	-	=	-	
<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	C	
Campgrounds [6]	C	-	-	-	C	-	
Recreational Vehicle Parks	C	-	-	-	C	-	
<b>Transportation, Communication, and Utility Uses</b>							

Key	VS Subzones						Additional Regulations
	VS-G	VS-R	VS-SB	VS-MC	VS-NB	VS-ES	
P Permitted Use							
M Minor Use Permit required							
C Conditional Use Permit required							
- Use not allowed							
Utilities, Major	C	C	C	C	C	C	
Utilities, Minor	P	P	P	P	P	P	
Wireless Communications Facilities	See Chapter 17.104						
<b>Other Uses</b>							
Access Roadways	C	C	C	C	C	C	
Accessory Structures and Uses, New	C [7]	C	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	-	C	-	
Offices Accessory to Visitor Serving Use	C	C	C	C	C	-	
Parking Areas to Serve the Primary Use	C	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]	C	-	
Weddings	C	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.
- [12] Allowed only if ancillary to visitor accommodations use.

**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

**Commented [kh2]:**  
DISCUSSION 1: Staff recommends not accepting this revision. Monarch Cove is a bed and breakfast. The owners would retire and no longer have visitor serving accommodations on site. Visitor accommodations should be an option but not a requirement consistent with the requirements of the El Salto property next

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.

17.28.030 Development Standards

A. General. Table 17.28-2 identifies development standards that apply in the VS overlay zone outside of the Mixed Use Village (MU-V) zoning district

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

	VS Overlay Zone	Additional Standards
Parcel Area, Minimum	5,000 sq. ft	
Impervious Surface, Maximum	VS-R: 25% VS-SB: 30% 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.

Commented [kh3]: Staff suggest not accepting this Coastal Commission edit. The City does not have control of development standards within the State Park

B. Setbacks. The following setback requirements apply in the VS overlay zone.

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).
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 overlay zone outside of the MU-V zoning district when all of the following findings can be made:

1. The proposed development and design is compatible with existing land uses in surrounding areas, 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 of the shoreline, as identified in Capitola's Local Coastal Program, are not blocked by the proposed development.

5. If a proposed development is located in the coastal zone, it may require a Coastal Development Permit (CDP) as specified in Chapter 17.44 (Coastal Overlay Zone). Approval of a CDP requires conformance with the CDP findings for approval as specified in 17.44.130 (Findings for Approval).

**D. Landscaping.** See Table 17.72-2 in Chapter 17.72 (Landscaping) for minimum required landscaping requirements for Visitor Serving Properties.

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

- 1. All exterior lighting shall be minimized, unobtrusive, down-directed and shielded using the best available dark skies technology, harmonious with the local area, and constructed or located so that only the area intended is illuminated and off-site glare is fully controlled- and that light spill, sky glow and glare impacts are minimized.
- ~~2.~~ Lighting of natural areas (such as creeks, riparian areas, the beach, etc.) shall be prohibited past the minimum amount that might be necessary for public safety purposes, except when temporarily permitted in conjunction with a temporary event.
- ~~3.~~ 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.

**Commented [kh4]:** Reflects Policy III-5 of Local Coastal Program which states, "Permitted development shall not detract from public views to and along Capitola's Shoreline." The Local Coastal Program includes Visual Resources and Special Communities Map III identifying major public views on Page 49.

## 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 ~~and visitors~~. 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 the P/OS zoning district are permitted with a Conditional Use Permit as long as the park, recreation, and open space purposes are met by the overall development.
- C. Visitor Accommodations in New Brighton State Beach.** Visitor accommodations and campground uses are permitted in the New Brighton 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 Community Development Director 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 ~~and woodlands~~.

#### Commented [kh1]:

Coastal Commission staff edits in RED

Capitola Staff edits in BLUE



3. No new ~~permanent~~ structures are permitted on the open, sandy beach area of Capitola except for appropriate public facilities (e.g. the flume and jetties), required shoreline protective structures, and structures required for public health and safety (e.g., lifeguard stands, ~~approved beach erosion control structures~~.) if otherwise consistent with the Local Coastal Program.

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

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>CF</b>	<b>P/OS</b>	
<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]	
<u>Public paths and coastal accessways</u>	<u>P</u>	<u>P</u>	
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 17.96.180		
<b>Urban Agriculture</b>			
Community Gardens	M [1]	M [1]	
Urban Farms	C [1]	C [1]	

Notes:

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

**Commented [kh2]:** Public Pathways and Coastal Accessways – The CC added Public Pathways and Coastal Accessways to the land use tables as a Conditional Use Permit. This is consistent with the City’s Land Use Plan Chapter II “Public Access Component”. The LUP identifies existing public access through a descriptive narrative (pages 24-29) and within Shoreline Access Maps (pages 36-37). Should a developer propose a project that includes a pathway or coastal accessway, the proposal would be reviewed under a Conditional Use Permit. An applicant would consider the guidance in the LUP, for instance, dedication of coastal access through Venetian Court supported by Policy II-11 (page 33); while a dedication pathway along the west side of Soquel creek would not be supported due to the environmental sensitivity of the area identified in Policy II-18 (pg. 34-35).

**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 CF 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 Development Permit (if in the coastal zone) process.

## Chapter 17.36 - PLANNED DEVELOPMENT ZONING DISTRICT

**Commented [kh1]:**  
Coastal Commission edits in RED  
Capitola Staff edits in BLUE

### 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

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. Planned developments are prohibited in the Single-Family Residential zoning district.

### 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 ~~(or the Local Coastal Program in the coastal zone)~~ for the applicable land use designation.

**Commented [kh2]:** Staff recommends not accept coastal commission edit. Density is established in the Plan.

- 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, Zoning Map amendment, and LCP Amendment [to the Implementation Plan Zoning Map](#) 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.
- C. Coastal Development Permit.** A proposed development that is located in the Coastal Zone may require a Coastal Development Permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zone) and the findings for approval of a CDP as specified in 17.44.130 (Findings for Approval).

#### 17.36.060 Conceptual Review

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) ~~and an LCP Amendment to the Implementation Plan Zoning Map~~ if any part of the proposed PD zoning district is in the coastal zone. 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.

**D. Application Materials.** It is the responsibility of the applicant to provide evidence in support of the findings required by Paragraph G (Findings) below. 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 substantial public benefits as defined in Paragraph H below.
3. **Site Plan.** Site plan depicting the existing topography, on-site structures and natural features, mature trees, and other significant vegetation and drainage patterns. The site plan shall show the proposed PD zoning district boundaries and all properties within 500 feet of the site boundary. The site plan shall be to scale and based on a stamped survey prepared by a registered civil engineer or licensed land surveyor.
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. If located in the Coastal Zone and subject to a Coastal Development Permit, the proposed development will protect and enhance coastal resources must conform with the findings for approval of a CDP as specified in 17.44.130 (Findings for Approval).

~~7.8.~~ Findings required for the concurrent approval of a Zoning Map Amendment can be made.

**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, and the Local Coastal Program if in the Coastal Zone. 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 and surrounding areas.
4. Green building and sustainable development features that substantially exceed the city’s

green building award status.

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 and/or diversity of jobs available to Capitola residents. Types of jobs may include jobs that improve environmental quality or reduce energy or resource consumption ("green jobs), high-tech sector jobs, and jobs in industries focusing on the generation and utilization of intellectual property ("creative jobs").
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, open space, and/or 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, community benefits 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.

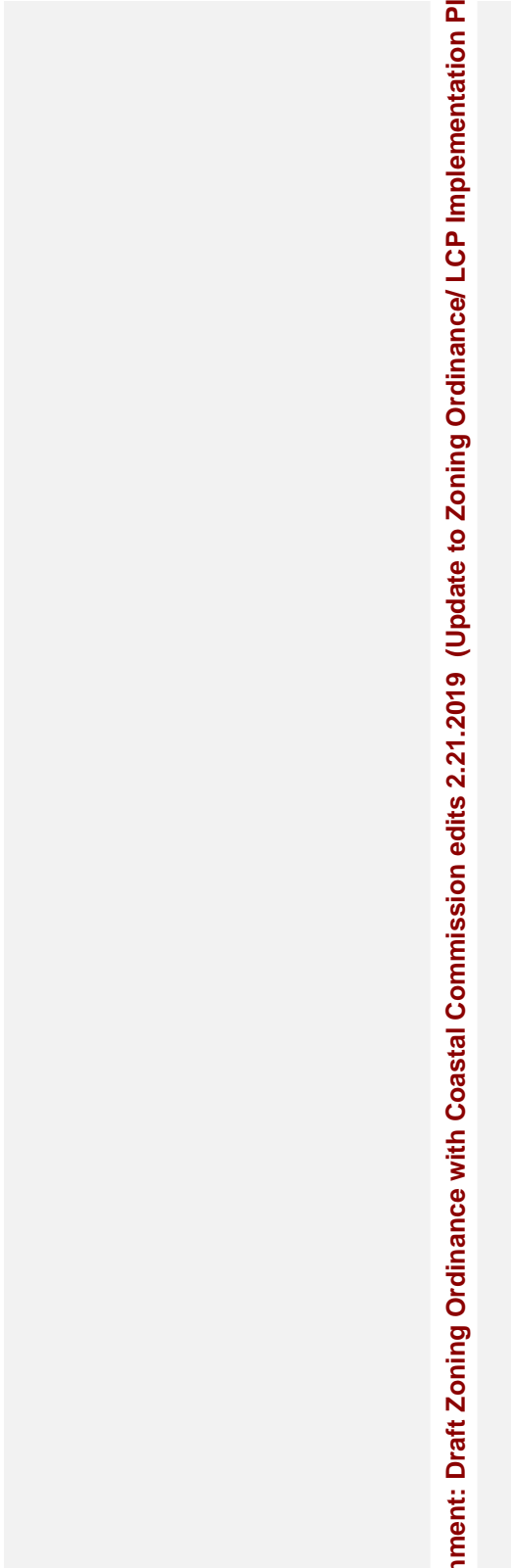
**K. Effect of Development Plan.** All future development and land uses within a PD zoning district shall comply with the approved Development Plan.

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



PLANNED DEVELOPMENT ZONING DISTRICT

17.36



36-7

Attachment: Draft Zoning Ordinance with Coastal Commission edits 2.21.2019 (Update to Zoning Ordinance/ LCP Implementation Plan)

## Chapter 17.40 - RESIDENTIAL OVERLAY ZONES

Commented [kh1]: Coastal Commission edits are in **RF**

### 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 within the multi-family residential zone where the affordable housing projects are determined to be feasible and are consistent with the General Plan and the Local Coastal Program.
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 be applied to parcels located in a multi-family residential or community commercial (C-C) 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.

3. A proposed affordable housing development that is located in the coastal zone may require a Coastal Development Permit (CDP) as specified by Chapter 17.44 and the findings for approval of a CDP as specified in 17.44.130. The City Council may take action on the Coastal Development 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 17.44 (Coastal Overlay Zone).~~

#### 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. Low-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

**Commented [kh2]:** Staff recommends not accepting the proposed new language. It is repetitive of section E.3. above

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.
    - d. **Building Coverage.** The City shall determine the maximum building coverage for the proposed project through the Design Permit process.
  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.

#### 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.
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, mailboxes, 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 55 years or the natural life of the unit, whichever is greater, 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 or the natural life of the unit, whichever is greater.
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 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):

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 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 (-VR) Overlay Zone

- A. Purpose.** The -VR overlay zone identifies locations within residential areas where the short-term rental of dwelling units is permitted.
- B. Applicability.** Locations where the -VR overlay zone applies ~~is~~are shown on the Zoning Map.
- C. Land Use Regulations.** Permitted uses in the -VR overlay zone are the same as in the base zoning district, except that vacation rental uses are permitted with an Administrative 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 ~~-VR~~-VR overlay zone.
  2. 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.



3. Permit holders must submit monthly to the City a completed transient occupancy tax report and payment of all tax owing.
4. 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.
5. 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.
6. A maximum of one sign per structure, not to exceed 12 inches by 12 inches in size, is permitted to advertise the vacation rental.
7. Each unit must post the Vacation Rental Permit in a visible location within the unit. The Vacation Rental Permit will include a permit number, the development and operations standards of this section (17.40.030.E), and space to write the contact information for the responsible party.
8. If the unit is advertised on the internet, the first line of the posting must include the Vacation Rental Permit number for City reference.
9. 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 17.156.110 (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.
10. All vacation rental units shall have smoke detectors and carbon monoxide detectors.
11. Accessory dwelling units may not be used for vacation rentals.

#### 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).

RESIDENTIAL OVERLAY ZONES

17.40

- C. **Development Standards.** Development standards in the -VR overlay zone are the same as the Mixed Use Village (MU-V) zoning district.

40-9

## 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 [Development](#) Permit Requirements
- 17.44.080 Coastal [Development](#) Permit Exemptions
- 17.44.090 De Minimus Waiver of Coastal [Development](#) Permit
- 17.44.100 Challenges to City [Coastal Development Permit](#) 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 [Coastal Development](#) Permit Issuance
- 17.44.170 Emergency [Coastal Development](#) Permits
- 17.44.180 Coastal [Development](#) Permit [Amendments](#)[Violations](#)

### 17.44.010 Purpose

A. ~~This~~The purpose of this chapter establishes requirements ~~is to establish review and permit procedures~~ for the Coastal (~~CZ~~) overlay zone which applies to all areas within the City of Capitola coastal zone. ~~The CZ overlay zone implements the City's Local Coastal Program (LCP) in a manner consistent with the requirements implementation of the California Coastal Act and all associated State regulations. This chapter contains requirements for Coastal Permits Capitola's Local Coastal Program, and to ensure that all private and public development projects in within the City's coastal zone (as depicted by the (CZ) coastal overlay zone are) is consistent with the City's certified Local Coastal Program Land Use Plan and Local Coastal Implementation Program (LCIP), which together constitute the City's certified Local Coastal Program (LCP) and:~~

1. ~~To achieve the basic State goals of maximizing public access to the coast and public recreational opportunities, as set forth in the California Coastal Act and codified in Sections 30000 through 30900 of the California Public Resources Code. Section 30001.5(c) states that public access both to and along the shoreline shall be maximized consistent with sound resource conservation principles and constitutionally protected rights of private property owners; and~~
2. ~~To implement the public access and recreational policies of Chapter 3 of the Coastal Act (Sections 30210- 30224).~~

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Capitola Staff edits are in **PURPLE**

Style Definition: Title: Level 1

~~A.B. In achieving these purposes, this section chapter shall be given the broadest interpretation possible so as to protect, restore and enhance coastal resources, including that public access to the navigable waters shall be provided and protected consistent with the goals, objectives and policies of the California Coastal Act and Article X, Section 4, of the California Constitution.~~

**17.44.020 Local Coastal Program Components**

The City of Capitola LCP consists of the Land Use Plan (LUP) and Implementation Plan (IP) as described below.

A. **Land Use Plan.** The LCP Land Use Plan (LUP) generally consists of ~~the~~ policy descriptive text and policies as well as the adopted land use, resource, constraint, and shoreline access maps, graphics, and charts. ~~The City's LUP (originally certified LUP~~ in June 1981) is divided into six 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.

B. **Implementation Plan.** The Implementation Plan (IP) (first certified in January 1990), consists of the following implementing ordinances of the City's Municipal Code:

1. Zoning Code (Title 17) chapters and Municipal Code Chapters as identified in Section 17.04.040 (Relationship to the Local Coastal Program) as well as the zoning districts and maps.
- ~~2. Chapter 9.40 (Signs on Public Property or Rights of Way)~~
- ~~2.3. Chapter 10.36 (Stopping, Standing, and Parking)~~
- ~~3.4. Chapter 12.12 (Community Tree and Forest Management)~~
- ~~4.5. Chapter 12.44 (Limiting Boats on Capitola Beaches During Evening Hours)~~
- ~~5.6. Chapter 15.28 (Excavation and Grading)~~
- ~~6.7. Chapter 16.68 (Condominium and Community Apartment Conversions)~~
8. Title 16 (Subdivisions)

**Commented [kh2]:** Staff recommends keeping the reference to 17.04.040 but removing the repetitive lar 2 – 8.

**17.44.030 Definitions (see also Chapter 17.160 - Glossary)**

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 on a Coastal Development Permit that is 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 CDP.

**B. Coastal Bluff.**

1. ~~A high bank/landform that includes a scarp or bold headland with a broad, precipitous, sometimes rounded cliff face overlooking coastal water. A bluff may consist of a steep cliff face below~~ face of rock adjacent to the bay or ocean and meeting one+ of the following ~~two~~ parameters:

a. The toe is now or was historically (generally within the last 200 years) subject to marine erosion.

b. The toe of which lies within an area otherwise identified in Public Resources Code Sections 30603(a)(1) or (a more sloping)(2).

~~2.~~ Bluff line or edge shall be defined as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff above line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a step-like feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge. The termini of the bluff line, or edge along the seaward face of the bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations.

C. **Coastal-Dependent Development or Use.** Any development or use which requires a site on, or adjacent to, the sea to be able to function at all.

D. **Coastal-Related Development.** Any use that is dependent on a coastal-dependent development or use

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

F. ~~Coastal Resources.~~ **Coastal Hazards.** Include, but are not limited to, episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, coastal flooding, liquefaction, sea level rise, and the interaction of same.

~~C.G.~~ **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 ~~and~~ paleontological resources.

~~D.H.~~ **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;
7. 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.

~~E. **Environmentally Sensitive Area.** 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.~~

~~I. **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. A "major energy facility" means any of the previously listed facilities that costs more than \$275,882 as of 2017 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.~~

~~J. **Environmentally Sensitive Habitat Areas.** Environmentally sensitive habitat areas (ESHA) are any areas 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. ESHA includes wetlands, coastal streams and riparian vegetation, and terrestrial ESHA, including habitats of plant and animal species listed under the Federal ~~or California~~ Endangered Species Act. In addition, the following areas are categorically ESHA as identified in Capitola's LCP:~~

**Commented [kh3]:**

**Commented [kh4R3]:** Staff suggest removing reference lists other than the Federal Endangered Species Act.

1. ~~4.~~ [Soquel Creek, Lagoon, and Riparian Corridor](#)
2. ~~2.~~ [Noble Gulch Riparian Corridor](#)
3. ~~3.~~ [Tannery Gulch Riparian Corridor](#)
4. ~~4.~~ [Monarch Butterfly Habitat – Rispin-Soquel Creek and Escalona Gulch](#)

~~F.K.~~ **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.

~~G.L.~~ **Local Coastal Program (LCP).** The City's Land Use Plan and Implementation Plan ([including land use and zoning maps](#)) certified by the Coastal Commission as meeting the requirements of the California Coastal Act of 1976.

~~H.~~ **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. 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.~~

~~F.M.~~ **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 ~~\$400,000~~[275,882 as of 2017](#), 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.

~~F.N.~~ **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 ~~non-estuarine~~ non-estuarine rivers, streams, tributaries, creeks and flood control and drainage channels.

~~K.O.~~ **Shoreline Protective Device.** "Shoreline protective device" means any ~~device, such as structure (including but not limited to~~ a seawall, revetment, riprap, bulkhead, deep pier/caisson ~~piers/caissons, bluff retention device~~ retaining walls, groins, etc., built for the purpose of serving a.) designed as protection against coastal-dependent use, hazards or protecting an existing structure or public beach ~~resulting in danger from erosion impacts to shoreline processes.~~

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

~~M.O.~~ **Structure.** Any improvement permanently attached to the ground, including, but ~~As used in this chapter, "structure" includes, but is~~ not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line and electrical power transmission and distribution line.

~~N.R.~~ **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.

**17.44.040 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.

**17.44.050 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 Development Permit.

**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. ~~All standards (including with respect to height, setbacks, density, coverage, etc.) shall be interpreted as maximums (or minimums as applicable) that shall be reduced (or increased as applicable) to protect and enhance coastal resources and meet LCP objectives to the maximum extent feasible depending on the facts presented. Protection of coastal resources shall be a priority in all City actions and decisions for development within the -CZ overlay zone, and such development must conform to all applicable LCP policies related to hazards, water and marine resources, scenic resources, biological resources and environmentally sensitive habitat areas, cultural resources, and public access and recreation.~~

**Commented [kh5]:** Staff recommends not accepting the commission change. This is implied in the findings but not r to overstate here.



#### 17.44.070 Coastal Development Permit Requirements

- A. **Permit Required.** ~~All~~ Notwithstanding any other exemptions for other permits or authorizations, all activities that constitute development, as defined in 17.44.020030.HF, within the -CZ overlay zone requires a Coastal Development Permit except as specified in Section 17.44.080 (Coastal Development Permit Exemptions).
- B. **Review Authority.**
- ~~1. The Planning Commission shall take action on all Coastal Permit applications that require other discretionary approval by the City.~~
  1. The Community Development Director shall take action on all Coastal Development Permit applications for projects that are not appealable to the Coastal Commission and do not require other discretionary approval by the Planning Commission or City Council.
  2. ~~The Community Development Director shall, in a properly noticed public hearing, take action on all -Coastal Development~~ Permit applications for projects that are appealable to the Coastal Commission and do not require ~~no~~ other discretionary approval by the Planning Commission or City Council.
  3. ~~The City Council may~~ Planning Commission shall, in a properly-noticed public hearing, take action on all Coastal Development Permit applications that are appealable and/or that require other discretionary approval by the City.
  - ~~3.4. The Planning Commission or the City Council shall, in a properly-noticed public hearing, take action on Coastal Development~~ Permit applications for public works projects that require no other discretionary permit approvals from the City other than funding approval.
  - ~~4.5. Development already~~ authorized by a Coastal Commission-issued Coastal Development Permit, Amendment, or Waiver remains under the jurisdiction of the Coastal Commission for the purposes of condition compliance, amendment and revocation. Any additional development proposed on a parcel with a Coastal Commission-~~issued Coastal Permit authorization~~ shall be reviewed by the City pursuant to an application for a new Coastal Permit CDP, provided that the Coastal Commission determines that the development is not contrary to any terms or conditions of the Commission-~~issued permit authorization or would not be more appropriately processed through a Commission authorization.~~
- C. **Additional Permits.** The review of a Coastal Development Permit application shall be processed concurrently with any other discretionary permit applications required by the City. The City may not grant any other discretionary ~~approval~~ approvals for a proposed project that ~~conflicts~~ conflict with this chapter. ~~Discretionary~~ Other discretionary approvals become effective only after a Coastal Permit CDP is approved and becomes effective as required by this chapter.
- D. **Legal Development and Permitting Processes.** Development that was legally

~~occurred~~ established prior to the effective date of Proposition 20 (i.e., February 1, 1973) for property within 1,000 yards of the mean high tide or the Coastal Act of 1976 (i.e., January 1, 1977) for all coastal zone property, whichever is applicable, is considered lawfully established development. Improvements, repair, modification, or additions subject to such existing that does not require a Coastal Development Permit in order to continue as it legally existed prior to those dates. Any additional development since those dates (including improvements, repair, modification, and/or additions) requires a Coastal Permit CDP 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~~ was not legally established (i.e. with a Coastal Development Permit) after the effective date of Proposition 20 (i.e., February 1, 1973) for property within 1,000 yards of the mean high tide, or the Coastal Act of 1976 and that did not receive a Coastal Permit or was not otherwise authorized under the Coastal Act, is (i.e., January 1, 1977) for all coastal zone property, whichever is applicable, constitutes "unpermitted development". In addition, development undertaken inconsistent with the terms and conditions of an approved CDP (or an approved waiver or amendment) is also not lawfully established or authorized development. No improvements, repair, modification, or additions to such existing development (i.e., it constitutes unpermitted development). Both categories of unpermitted development may be subject to enforcement action by the City of Capitola and/or the Coastal Commission. If development is proposed on a site with unpermitted development, then such application 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 it resolves all permitting and proposed development is coastal resource issues associated with the unpermitted development, including through removal or retention of all or part of the unpermitted development if it can be found consistent with the policies and standards of the City's LCP, and the public access and recreation policies of the Coastal Act if applicable. If the unpermitted development cannot be found consistent, the unpermitted development must be abated and any affected areas restored to at least the condition before the unpermitted development was undertaken if not better.

#### 17.44.080 Coastal Development Permit Exemptions

The following projects are exempt from the requirement to obtain a Coastal ~~Permit~~ Development Permit unless any one of the criteria listed in subsections A (1 through 6), B (1 through 8), and C (1 through 4), or F (1 through 4) in Sections D through G are met, in which case a CDP is required.

- A. Improvements to Existing Single-Family Residences.** In accordance with PRC Section 30610(a) and 14 CCR Section 13250, ~~improvements to where there is~~ an existing single-family residence, including residential structure, the following shall be considered as part of that structure: 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:~~ Improvements to existing single-family residences do not require a Coastal Development Permit except for the following classes of development, which require a CDP because they involve a risk of adverse environmental effects:

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 significant scenic resources areas as designated within the Capitola Land Use Plan by the Coastal Commission, 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 which the Coastal Commission has previously declared by resolution, after public hearing, as having a critically short water supply as declared by resolution that must be maintained for the protection of the Coastal Commission, coastal resources or public recreational use, ~~the~~ construction of any specified major water-using development not essential to residential use ~~such as including, but not limited to,~~ swimming pools; or the construction or extension of landscape irrigation systems.
6. Any improvement to a single-family residence where the Coastal Development Permit issued for the original structure by the Coastal Commission or City indicated that any future improvements would require a ~~Coastal Permit~~ CDP.

- B. Improvements to Other Existing Structures.** In accordance with PRC Section 30610(b) and 14 CCR Section 13253, ~~improvements to where there is~~ an existing structure, other than a single-family residence or public works facility, ~~including landscaping, and the following shall be considered part of the structure: a~~ All fixtures and other structures directly attached to the structure. ~~This exemption does; landscaping on the lot.~~ Improvements to other existing structures do not include require a Coastal Development Permit except for the following classes of development, which require a CDP because they involve a risk of adverse environmental effect, adversely affect public access, or involve a change in use:
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~~ the certified Land Use Plan; 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 significant scenic resources areas as designated in the certified Land Use Plan, 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; or
    - 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 of more than 10 percent.~~
  5. In areas ~~which the Coastal Commission has previously declared by resolution, after public hearing, as~~ having a critically short water supply ~~as declared by resolution of the Coastal Commission that must be maintained for the protection of coastal recreation or public recreational use, the~~ construction of any specified major water-using development ~~such as including, but not limited to,~~ swimming pools; or the construction or extension of any landscape irrigation ~~systems~~ system.
  6. Any improvement to a structure where the Coastal Development Permit issued for the original structure by the Coastal Commission or City indicated that any future improvements would require a Coastal Permit ~~CDP.~~

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), 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.~~~~

~~D.C. Repair and Maintenance Activities.~~

1. 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:
  - a. There is no excavation or disposal of fill outside the existing roadway prism; and
  - b. There is no addition to and no enlargement or expansion of the existing public road.
2. 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.
3. Repair, maintenance, replacement, and minor alterations of existing public water, sewer, natural gas, electrical, telephone, television, and flood control infrastructure.
4. ~~In accordance with PRC Section 30610(d) and 14 CCR §13252, No Coastal Development Permit shall be required for repair and 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, except that (in accordance with PRC Section 30610(d) and 14 CCR Section 13252) the following extraordinary methods of repair or maintenance shall require a Coastal Development Permit because they involve a risk of substantial adverse environmental impact:~~

- a. Any method of repair or maintenance of a seawall revetment, bluff retaining wall, breakwater, groin, culvert, outfall, or similar shoreline work that involves:
    - (1) Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;
    - (2) 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;
    - (3) The replacement of ~~twenty~~20 percent or more of the materials of an existing structure with materials of a different kind; or
    - (4) 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~~20 feet of coastal waters or streams.
  - b. 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:
    - (1) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials;  
~~or~~
    - (2) The presence, whether temporary or permanent, of mechanized equipment or construction materials.
  - c. 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 Development Permit.
  - d. The provisions of this section shall not be applicable to those activities specifically described in the document entitled "Repair, Maintenance and Utility Hookups," adopted by the Coastal Commission on September 5, 1978 unless a proposed activity will have a risk of substantial adverse impact on public access, an environmentally sensitive habitat area, wetlands, or public views to the ocean.
5. **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:
- a. There is no excavation or disposal of fill outside the existing roadway prism; and
  - b. There is no addition to and no enlargement or expansion of the existing public road.

6. **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.
7. **Public Utilities.** Repair, maintenance, replacement, and minor alterations of existing public water, sewer, natural gas, electrical, telephone, television, and flood control infrastructure.

**F.D. Replacement of Destroyed Structures.** ~~The~~No Coastal Development Permit shall be required for the replacement of any structure, other than a public works facility, destroyed by a disaster. that meets the following criteria: 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.

**F.E. Conversion of Existing Multi-Unit Residential Structures.** ~~The~~No Coastal Development Permit shall be required for 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~~CDP~~ 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 ~~be~~ considered a time-share project, estate, or use for purposes of this paragraph.

**G.F. Temporary Events.** ~~Temporary~~No Coastal Development Permit is required for temporary events as ~~defined~~ described in this subsection 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 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 cumulatively considered 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; and
- c. The event has not previously required a Coastal Development Permit to address and monitor associated impacts to coastal resources.

H.G. Emergency Work. Immediate emergency work necessary to protect life abate a sudden, unexpected occurrence that demands immediate action to prevent or mitigate loss or damage to life, health property, or immediate emergency repairs to essential 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 services may be undertaken without a regular Coastal Development Permit. However, such work must be authorized by the Governor an Emergency Coastal Development Permit and a follow-up regular CDP, pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code. 17.44.170 (Emergency Coastal Development Permits).

#### 17.44.090 De ~~Minimis~~ Minimis Waiver of Coastal Development Permit

The Community Development Director may waive the requirement for a Coastal Development Permit through a De Minimis ~~Coastal Permit~~ CDP 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 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 CDP ~~Waiver of Coastal Permit~~ and opportunities for public comment shall be provided as required by Section 17.44.120 (Public Notice and Hearing), including provision of notice to the Coastal Commission.
- E. **Executive Director Determination.** The Community Development Director shall provide a notice of determination to issue a De Minimis CDP Waiver to the Executive Director of the Coastal Commission no later than 10 working days prior to the ~~required waiver being reported at a City~~ public hearing; (see subsection F below). If the Executive



Director notifies the [Community Development Director](#) that a waiver should not be issued, the applicant shall be required to obtain a Coastal [Development Permit](#) if the applicant wishes to proceed with the development.

- F. **Review and Concurrence.** The [Community Development Director](#)'s determination to issue a De Minimis ~~Waiver~~[CDP waiver](#) shall be subject to review and concurrence by the ~~Community Development Director~~[decision makers \(i.e. Planning Commission or City Council, as applicable\)](#). The [Community Development Director](#) shall not issue a De Minimis [CDP Waiver](#) until the public comment period, including at a minimum through and including the required [reporting of the waiver at a 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~~[At such public hearing](#), the public shall have the opportunity to testify and otherwise participate in a hearing on the De Minimis [CDP Waiver](#). If two or more decision makers ~~so request at this hearing~~[object to the waiver](#), the De Minimis [CDP Waiver](#) shall not be issued and, instead, an application for a Coastal [Development Permit](#) shall be required and processed in accordance with the provisions of this chapter. Otherwise, the [De Minimis CDP Waiver](#) shall be deemed approved, effective, and issued the day of the public hearing. In addition to the noticing requirements above, within seven calendar days of effective date of a De Minimis [CDP Waiver of Coastal Permit](#), the [Community Development Director](#) shall ~~notify~~[send a Notice of Final Action \(via first class mail\) describing the issuance and effectiveness of the De Minimis CDP waiver to](#) 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.~~
- G. **Waiver Expiration.** A De ~~Minimis~~[Minimis](#) 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, [either a new De Minimis Waiver or a regular Coastal Development Permit](#) shall be required for the development.

#### 17.44.100 Challenges to City [Coastal Development Permit](#) Determinations

##### A. General.

1. The determination of whether a development is ~~nonappealable~~[exempt, non-appealable](#), or appealable for purposes of notice, hearing, and appeals procedures shall be made by the [Community Development Director](#) at the time the Coastal [Development Permit](#) application 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](#), [or the Executive Director of the Coastal Commission](#) has a question as to the appropriate designation for ~~the~~[proposed](#) development, the following procedures shall

establish whether ~~that~~ development is ~~nonappealable~~exempt, non-appealable, or appealable:

1. The Community Development Director shall make ~~it~~his or her a determination as to what type of development is being proposed and shall inform the applicant and the Coastal Commission's Executive Director of the notice and hearing requirements for that particular development (i.e., exempt, appealable, or ~~nonappealable~~non-appealable).
2. If the determination of the local government is challenged by the applicant, the Coastal Commission's Executive Director, or an interested person, or if the Community Development Director wishes to have a Coastal Commission determination as to the appropriate designation, the Community Development Director shall notify the Coastal Commission ~~by telephone~~ of the dispute/question and shall request an Executive Director's opinion.<sup>3</sup>
3. The Executive Director shall, within ~~two~~ten 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~~exempt, non-appealable, or appealable.<sup>3</sup>
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 Coastal Commission ~~shall~~will hold a hearing for purposes of determining the appropriate designation for the ~~area. The Commission shall schedule proposed development, if so requested by the hearing on the determination for the next Commission meeting following the applicant, interested person, or Community Development Department request.~~Director.

#### 17.44.110 **Application Submittal**

- A. **Submittal Requirements.** ~~Coastal permit applications shall be filed and reviewed in compliance with Chapter 17.112 (Development Permit Application and Review). The application submittals shall include all 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 all necessary and requested evidence in support of the to allow for the reviewing authority to make a decision regarding whether the proposed development is consistent with the LCP, including with respect to the findings required by Section 17.44.130 (Findings for Approval). The CDP application shall include, at a minimum:~~

1. ~~Application for a Project plans and supporting materials sufficient to determine whether the project complies with all relevant policies of the Local Coastal Permit Program, including a clear depiction of all existing conditions and development on the site, and all proposed development;~~

**Commented [kh6]:** Staff suggest rejecting all the request modifications in this section. Application submittals are in C 17.112 and vary depending on the type of application. All historical applications is kept in the City records and can be pulled necessary. Applicant's generally do not have these files and a City to produce them when necessary.

2. Documentation of the applicant's legal interest in all the property upon which development is proposed to be performed and legal ability to undertake the proposed development, including properties that may be traversed and/or affected by construction.
  3. Documentation of any prior CDPs or other authorizations on the property, including any restrictions from permit conditions.
  4. Documentation of any deed restrictions, easements, and any other encumbrances affecting potential allowable development and use on the property;
  5. To the extent not covered by subsections (3) and (4) above, all other restrictions that apply to the property, including copies of the legal documents and site plans noting where such restrictions apply;
  6. A description of any unpermitted development on the site, including any violations of existing CDP terms and conditions, and provisions so that all permitting and coastal resource issues associated with the unpermitted development can be resolved (see also Sections 17.44.070(E) and 17.44.180);
  7. A dated signature by or on behalf of each applicant, attesting to the truth, completeness and accuracy of the contents of the application and, if the signatory of the application is not the applicant, written evidence that the signatory is authorized to act as the applicant's representative and to bind the applicant in all matters concerning the application; and
  8. Any additional information deemed by the Community Development Director to be required for specific categories of development or for development proposed for specific geographic areas or in relation to the specific issues raised by the application.
- B. Concurrent with other permits. The application for a CDP shall be made concurrently with application for any other non-CDP permits or approvals required by the Zoning CodeCity.
- 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 17.44.080.~~

#### 17.44.120 **Public Notice and Hearing**

- A. Public Hearing Requirements. All actions on Coastal Development Permit applications requiring Planning Commission **Review**. ~~The Planning Commission or City Council approval shall review and act on require a Coastal Permit application at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings). However, processing at levels other than,~~

**Commented [kh7]:** Staff suggest not accepting the coastal commission modifications in this section and keep all notice hearing requirements in 17.148. Chapter 17.148 will be part of LCP-IP in the future. Repeating public notice and hearing requirements is unnecessary.

### B. Posting and Noticing.

- ~~1. CDP applications shall be posted at the Planning Commission shall apply in the following cases:~~
- ~~2. **City Council Review.** The proposed development does not require any other discretionary permit approvals to be reviewed and acted upon by the Planning Commission, in which case the Coastal Permit application will be reviewed and acted on by the City Council; or~~
- ~~1. **Minor Development.** The City may waive the public hearing requirement for appealable development site in at least one location that qualifies as "minor development". Such development shall require no other discretionary approval by the City. A is conspicuously visible to the general public at the time of application submittal.~~
- ~~3. Notice of the required public hearing may be waived if the project has no potential for adverse effects on coastal resources or public access shall be provided at least 10 days prior to the shoreline, is consistent with the certified LCP, and if the following apply:~~
- ~~4. 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;~~
- ~~5.2. No request for a public hearing is received within fifteen working days from the date hearing on the proposed project by mailing notice was mailed out; and to:~~
  - ~~a. The owner(s) and owner's agent of all properties for which development is proposed, the applicant, and any applicant representatives;~~
  - ~~b. Each local agency expected to provide essential facilities or services to the project;~~
  - ~~c. Any person who has filed a request for notice discloses that the failure to request a public hearing triggers (e.g., for the site or for the particular development with the Community Development Director;~~
  - ~~d. All owners and all occupants of parcels of real property located within 100 feet (not including roads) of the perimeter of the real property on which the loss of appeal power development is proposed, but at a minimum all owners and all occupants of real property adjacent to the property on which the matter being considered development is proposed;~~
  - ~~e. All agencies for administrative which an approval for the proposed development may be required (e.g., USFWS, CDFW, RWQCB, etc.), including the State Lands Commission and the Monterey Bay National Marine Sanctuary when an application for a Coastal Development Permit is submitted to the City on property that is potentially subject to the public trust;~~

f. All known interested parties that have submitted a request in writing to the Community Development Director to receive notice on a specific property; and  
g. The Coastal Commission.

3. The Community Development Director may also require additional means of notice that is determined necessary to provide adequate public notice of the application for the proposed project.

**C. Content of notice.** The required notice may be combined with other required project permit notice(s), shall be mailed by first class mail and shall include the following information:

1. A statement that the project is within the ~~C~~oastal ~~Z~~zone, and that the project decision will include a determination on a Coastal Development Permit;

2. The date of filing of the application;

3. The name of the applicants and the applicants' agents;

4. The number assigned to the application;

5. A description of the proposed project and its location;

6. A determination of whether the project is appealable to the Coastal Commission and why or why not;

7. The date, time and place of the hearing and/or decision on the application, and the phone number, email address, and street address of the Community Development Department where an interested person could call or visit to obtain additional information or to input on the project;

8. A statement that the proposed project is determined to be exempt from the California Environmental Quality Act (CEQA), or that a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report has been prepared for the project. The hearing notice shall state that the hearing body will consider approval of the CEQA determination or document prepared for the proposed project; and-

9. A brief description of the procedures for public comment and decision on the application, including listing what review authority is to decide on the CDP application, as well as the procedure for appealing any action taken; and

**D. Re-noticing required.** If a decision on a CDP is continued by the review authority to a date or time not specific, the item shall be re-noticed in the same manner and within the same time limits established by this Section. If a decision on a Coastal Development Permit

is continued to a specific date and time within 30-90 days of the first hearing, then no re-noticing is required.

#### 17.44.130 Findings for Approval

- A. Conformance with LCP Required. ~~To approve a~~ Coastal Development Permit, ~~the review authority shall make all be granted only upon finding that the proposed project is consistent with the certified Local Coastal Program. As applicable to the proposed project, the review authority shall consider whether the project: adoption of the following specific written factual findings, as applicable, supporting the conclusion that the proposed development conforms to the certified Local Coastal Program such as:~~
1. The project is consistent with the General LCP Land Use Plan, the LUP, and the Local Coastal LCP Implementation Program.
  2. The project maintains or enhances public views ~~between the sea and the first public roadway parallel to the sea.~~
  3. The project protects/maintains or enhances vegetation, natural habitats and natural resources ~~consistent with LCP.~~
  4. ~~The~~ The project maintains or enhances low-cost public recreational access, including to the beach and ocean.
  5. The project maintains or enhances opportunities for visitors.
  6. The project maintains or enhances coastal resources.
  - 4.7. The project, including its design, location, size, and operating characteristics of the proposed development, is consistent with any/all applicable design plans and/or area plans incorporated into the LCP.
  5. ~~The project maintains public access to the coast along any coastline as set forth in the LCP.~~
  6. ~~The project supports the LCP goal of providing visitor-serving needs as appropriate.~~
  7. ~~The project is consistent with the LCP goal of encouraging appropriate coastal development uses.~~
  8. ~~The proposed and uses, including coastal priority development protects and where feasible enhances coastal resources and uses (i.e., visitor-serving development and public access and recreation).~~

B. **Basis for Decision.** The findings shall explain the basis for the conclusions and decisions of the City and shall be supported by substantial evidence in the record.

#### 17.44.140 Notice of Final Action

The City's action on a Coastal Development Permit shall become final when all local rights of appeal have been exhausted per Section 17.44.~~130~~150.A (Local Appeals). Within seven calendar days of a final decision on a Coastal Permit~~CDP~~ 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 to be noticed.~~ The notice shall contain the City's approved staff report, plans, adopted findings, conditions of approval, indication of whether the project, at a minimum the following:

A. **Cover Sheet/Memo.** The cover sheet/memo shall be dated and shall clearly identify the following information:

1. All project applicants and project representatives, their address(es), and other contact information.
2. Project description and location.
3. All local appeal periods and disposition of any local appeals filed.
4. Whether the City's decision is appealable to the Coastal Commission ~~and~~, the reasons for why it is or is not, and procedures for appeal to the Coastal Commission. ~~The City's decision on a~~
5. A list of all additional supporting materials provided to the Coastal Commission (see Subsection B below).
6. All recipients of the notice.

B. **Additional Supporting Materials to the Coastal Permit application shall be deemed Commission.** The additional supporting materials shall include at a minimum the following:

1. The final ~~when all local rights of appeal have been exhausted as defined~~ adopted findings and final adopted conditions.
2. The final adopted staff report.
3. The approved project plans.
4. All other substantive documents cited and/or relied upon in ~~Section 17.44.150 (Appeals);~~ the decision including CEQA documents, technical reports (e.g.: geologic, geotechnical, biological, etc.), correspondence, etc.

#### 17.44.150 Appeals

A. **Local Appeals.** Community Development Director decisions on Coastal Development Permits may be appealed to the Planning Commission and Planning Commission decisions may be appealed to the City Council as ~~described in Chapter 17.152 (Appeals and Calls for Review)~~ follows:

1. Community Development Director Decisions. Any decision of the Community Development Director may be appealed to the Planning Commission within 10 calendar days of the Community Development Director's decision.
2. Planning Commission Decisions. Any decision of the Planning Commission may be appealed to the City Council within 10 calendar days of the Planning Commission's decision.

**B. Appeals to the Coastal Commission.**

1. In accordance with PRC Section 30603, any final approval decision by the City on a Coastal Development Permit in the geographic areas defined in ~~subsections~~ subsections 3(a-e)-(b), below, or any final approval or denial decision by the City on a ~~Coastal Permit~~ CDP 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.

~~e. Projects in a sensitive coastal resource area as defined in the LCP.~~

~~c.~~ 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 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 pursuant to Section 17.44.150.A (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 Development 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 including any fees associated with accompanying permits (e.g.: a Design Permit, a Conditional Use Permit, etc.).
6. Grounds for appeal of an approved or denied Coastal Development Permit are limited to the following:
- a. ~~The~~For approval, that the development does not conform to the standards set forth in the certified ~~local coastal program or~~ Local Coastal Program, or the development does not conform to the public access policies ~~set forth by~~ of the ~~Local Coastal Plan~~ 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~~ Local Coastal Program and the public access policies ~~set forth in~~ of the ~~Local Coastal Plan~~ Act.

#### 17.44.160 Permit Issuance

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

1. ~~In areas outside~~For City actions on Coastal Development Permits that are not appealable to the Coastal Commission ~~appeal area,~~ a Coastal ~~Permits~~Development Permit shall become effective seven working days after the City's final decision.
2. ~~In areas within~~For City actions on Coastal Development Permits that are appealable to the Coastal Commission ~~appeal area,~~ a Coastal ~~Permits~~Development Permit CDP shall become effective after ten working days of Coastal Commission receipt of a complete notice of final action if no appeal has been filed. The ten ~~working~~-day appeal period shall start the day after the Coastal Commission receives adequate notice of the City's 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 17.156.080.C (Extension of Time).

~~C. Revocation of Permits.~~ Coastal permits may be revoked as provided for in Section 17.156.110 (Permit Revocation)

##### B. Expiration of Permits and Extensions.

1. ~~-A Coastal Development Permit not exercised within two years shall expire and become void, unless the permittee applies for an extension of the expiration deadline prior to the expiration of the permit.~~
2. ~~-Such An extension request shall may only be granted for good cause, and only if there are no changed circumstances that may affect the consistency of the development with the LCP (and the Coastal Act, if applicable). -In such cases where an extension is not granted, the CDP shall be considered expired and the applicant shall be required to apply for a new CDP to undertake any such proposed development.~~
3. ~~-Any extension request shall be in writing by the applicant or authorized agent prior to expiration of the two-year period (and if received after the CDP expiration deadline, shall not be considered). Such extensions shall be processed as CDP amendments for purpose of noticed per the requirements of 17.44.120(A) and (B).~~
4. ~~-De Minimis CDP Waivers may not be extended beyond the two-year authorization period.~~

**C. CDP Amendment.**

1. ~~-Provided the CDP has been exercised prior to expiration, or has not yet expired, an applicant may request a CDP amendment by filing an application to amend the CDP pursuant to the requirements of this chapter that apply to new CDP applications, including, but not limited to, public notice and hearing requirements.~~
2. ~~-Any approved CDP amendment must be found consistent with all applicable Local Coastal Program requirements and the Coastal Act if applicable.~~
3. ~~-Any CDP amendment shall be processed as appealable to the Coastal Commission if the base CDP was also processed as appealable, or if the development that is the subject of the amendment makes the amended project appealable to the Coastal Commission.~~

**D. Revocation of Permits.** ~~Where one or more of the terms and conditions of a CDP have not been, or are not being, complied with, or when a CDP was granted on the basis of false material information, the original review authority (Community Development Director, -Planning Commission or City Council) may revoke or modify the CDP following a public hearing. Notice of such public hearing shall be the same as would be required for a new CDP application.~~

**CDP Application Resubmittals.** For a period of twelve months following the denial or revocation of a Coastal Development Permit, the City shall not accept ~~any~~ CDP application for the same or substantially similar ~~permit~~project for the same site, unless for good cause the denial or revocation ~~was made without prejudice, and so stated in the record~~action includes an explicit waiver of this provision.

#### 17.44.170 Emergency Coastal Development Permits

- A. **Purpose.** Emergency Coastal Development 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 CDP approval. To be eligible for an Emergency permit CDP, 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 Coastal Development Permit CDP shall be made to the City ~~by letter~~ in writing 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 CDP.
- 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.
  6. All available technical reports and project plans.
- 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. The Community Development Director may request, at the applicant's expense, verification by a qualified professional the nature of the emergency and the range of potential solutions to the emergency (including identifying how the proposed solutions meet the criteria for granting the emergency Coastal Development Permit). The Community Development Director shall consult with the Coastal Commission as time allows in determining whether to issue an Emergency CDP.
- E. **Public Notice.** ~~If time allows, the~~ The Community Development Director shall provide public notice, including notice to the Coastal Commission, as soon as reasonably possible, 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 Coastal Development Permit CDP upon making all of the following findings:
1. An emergency exists and requires action more quickly than permitted by the

procedures for ordinary ~~permits~~ Coastal Development 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~~will be consistent with the requirements of the certified LCP.
5. The proposed work is the minimum amount of temporary development necessary to abate the emergency in the least environmentally damaging manner.

G. **Conditions.** The Community Development Director may attach reasonable terms and conditions to the granting of an ~~E~~emergency ~~permit~~CDP, including an expiration date and the necessity for a regular ~~permit~~Coastal Development Permit application by a specified date. At a minimum, all ~~E~~emergency CDPs shall include the following conditions:

1. The ~~E~~emergency CDP shall be voided if the approved activity is not undertaken within 30 days of issuance of the ~~E~~emergency CDP.
2. The ~~E~~emergency CDP shall expire 60 days following its issuance. Any work completed outside of this time period requires a regular CDP approval unless an extension is granted by the City for good cause.
3. The emergency development authorized by the ~~E~~emergency CDP is only temporary, and can only be allowed to remain provided a regular CDP is obtained to recognize it. Absent a regular CDP, the emergency development shall be removed and the affected area restored to pre-emergency conditions or better within 6 months of ~~E~~emergency CDP issuance.
4. Within 30 days of completion of construction authorized by the ~~E~~emergency CDP, site plans and cross sections shall be submitted to the Community Development Director clearly identifying all development completed under the ~~E~~emergency CDP (comparing any previous condition to both the emergency condition and to the post-work condition), along with a narrative description of all emergency development activities undertaken pursuant to the emergency authorization. Photos showing the project site before the emergency (if available), during emergency project construction activities, and after the work authorized by the ~~E~~emergency CDP is complete shall also be provided to the Community Development Director.

H. **Limitations.**

1. The emergency work authorized under approval of an ~~E~~emergency ~~permit~~CDP shall be limited to activities necessary to protect the endangered structure or essential public ~~structure~~infrastructure.

2. The ~~E~~emergency ~~approval~~CDP shall be voided if the approved ~~activity e~~Emergency CDP is not exercised within ~~45~~30 days of issuance of the emergency permit.
  3. The ~~approval~~EEmergency CDP shall expire 60 days after issuance. Any work completed outside of these time periods requires a regular Coastal Development Permit approval unless an extension is granted by the City for good cause.
- I. **Application for Regular Coastal Development Permit.** Upon the issuance of an ~~E~~emergency ~~permit~~CDP, the applicant shall submit a completed Coastal PermitCDP application and any required technical reports within a time specified by the Community Development Director, but not to exceed 30 days. All emergency development approved pursuant to this section is considered temporary and must be removed and the area restored if an application for to recognize the development is not submitted within 6 months of the date of the emergency CDP issuance, unless the Community Development Director authorizes an extension of time for good cause.
- J. **Reporting of Emergency Permits.** The Community Development Director shall ~~report emergency permits to~~inform (within five working days) the Executive Director of the Coastal Commission ~~and that an emergency CDP has been issued, and shall report the~~ Emergency ECDP to the City Council and Planning Commission at the first scheduled meeting after the Eemergency CDP has been issued.

17.44.180 ~~17.44.180~~ — Coastal Development Permit Amendments(CDP) Violations

- 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.~~
- ~~C.~~A. **Enforcement of Violations.**
1. The City will actively investigate and enforce any development activity that occurs within the coastal zone without a Coastal Development Permit pursuant to the requirements of this LCP. The City will work to resolve any alleged violations of this LCP in a timely manner, including through the use of appropriate enforcement actions.
  2. In addition to all other available remedies, the City may seek to enforce the provisions of the LCP and the Coastal Act pursuant to the provisions of Public Resources Code sections 30800-30822.
  3. If the City does not act to resolve such violations in a timely manner, the Coastal Commission retains the authority to enforce the requirements of this LCP through its own enforcement actions pursuant to Coastal Act Sections 30809 and 30810.

- B. Civil Liability. Any person who performs or undertakes development in violation of the LCP or inconsistent with any coastal development permit previously issued may, in addition to any other penalties, be civilly liable in accordance with the provisions of Public Resources Code section 30820.
- C. Legal Lot Required. Development may only be undertaken on a legally-established lot.
- D. Removal of Existing Violations. No Coastal Development Permit application (including CDPs, CDP exclusions and exemptions, and De Minimis CDP waivers) shall be approved unless all unpermitted development on the property that is functionally related to the proposed development is proposed to be removed (and the area restored) or retained consistent with the requirements of the certified LCP.

# PART 3

## Citywide Standards

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## Chapter 17.48 - HEIGHT, SETBACKS, AND FLOOR AREA

### Sections:

- 17.48.010 Purpose
- 17.48.020 Height Measurement and Exceptions
- 17.48.030 Setback Measurement and Exceptions
- 17.48.040 Floor Area and Floor Area Ratio

### 17.48.010 Purpose

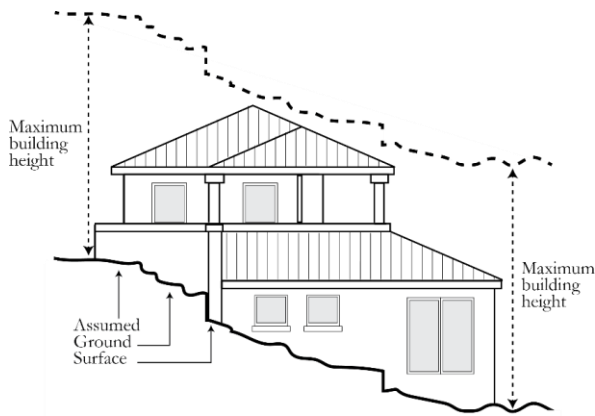
This chapter establishes rules for the measurement of height, setbacks, and floor area, and permitted exceptions to height and setback requirements.

### 17.48.020 Height Measurement and Exceptions

#### A. Measurement of Height.

1. The height of a building is measured as the vertical distance from the assumed ground surface to the highest point of the building.
2. Assumed ground surface means a line on the exterior wall of a building that connects the points where the perimeter of the wall meets the finished grade. See Figure 17.48-1.
3. If grading or fill on a property within five years of an application increases the height of the assumed ground surface, height shall be measured using an estimation of the assumed ground surface as it existed prior to the grading or fill.

FIGURE 17.48-1: MEASUREMENT OF MAXIMUM PERMITTED BUILDING HEIGHT



48-1

**Commented [kh1]:**  
Coastal Commission edits in RED  
Capitola Staff edits in and BLUE

**B. Height Exceptions.** Buildings may exceed the maximum permitted height in the applicable zoning district as shown in Table 17.48-1. These exceptions may not be combined with any other height exceptions, including but not limited to allowances for additional height in the MU-V zone or for historic structures. ~~A proposed development that is located in the Coastal Zone may require a Coastal Development Permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zone) and the findings for approval of a CDP as specified in 17.44.130 (Findings for Approval).~~

**Commented [kh2]:** Staff does not recommend accepting change. It is out of context.

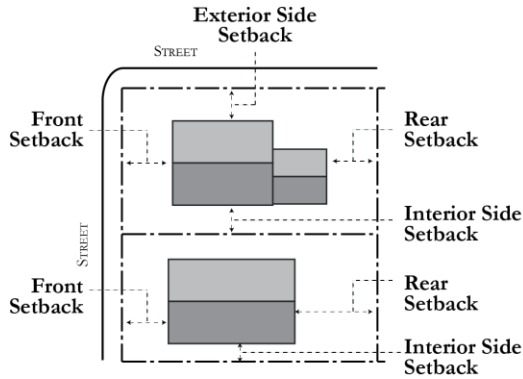
**TABLE 17.48-1: ALLOWED PROJECTIONS ABOVE HEIGHT LIMITS**

Structures Allowed Above Height Limit	Maximum Coverage	Maximum Projection Above Height Limit
Non-habitable decorative features including spires, belfries, cupolas, domes and other similar architectural elements	10% of roof area	3 ft. in the R-1 zoning district; 6 ft. elsewhere
Skylights	20% of roof area	1 ft.
Chimneys not over 6 feet in width	10% of roof area	3 ft. in R-1 zoning district; 6 ft. elsewhere
Flagpoles not over 8 inches in diameter	N/A	3 ft. in R-1 zoning district; 6 ft. elsewhere
Photovoltaic panels and thermal recovery systems	No restriction; subject to California building code	4 ft.
Building mounted telecommunications facilities	See Chapter 17.104	

**17.48.030 Setback Measurement and Exceptions**

**A. Setback Measurement.** Setbacks shall be measured as the distance between the property line and the nearest point of the structure along a line at a right angle to the property line. See Figure 17.48-2.

**FIGURE 17.48-2: SETBACK MEASUREMENT**



- B. Note: See specific zoning district for required minimum setback. The Department Director has the authority to determine the lot configuration based on existing conditions and function of the lot.
- C. **Projections over Property Lines.** Structures may not extend beyond a property line or into the public right-of-way, except when allowed with an Encroachment Permit.
- D. **Projections into Required Setback.** Features of the primary structure on a lot may project into required setback areas as shown in Table 17.48-2, subject to the requirements of the Building Code. See Chapter 17.52 (Accessory Structures and Uses) for setback requirements that apply to accessory structures. New projections into setbacks associated with specific coastal resource issues (e.g., ESHA setbacks, coastal hazard setbacks, etc.) shall be limited to the exceptions of section 17.64.030.F (Setback Exceptions on Developed Lots). not allowed.

TABLE 17.48-2: ALLOWED PROJECTIONS INTO REQUIRED SETBACKS

	Maximum Projection into Setback				Minimum Distances from Property Lines
	Front	Rear	Interior Side	Exterior Side	
<b>Roof Projections</b>					
Cornices, eaves, canopies, and similar roof projections	4 ft.	4 ft.	2 ft.	2 ft.	All: 3 ft.
<b>Building Wall Projections</b>					
Bay windows, balconies, sills, fireplaces, chimneys, and similar wall projections [1]	2 ft.	2 ft.	2 ft.	2 ft.	All: 3 ft.
<b>Entry Features</b>					
Stairways and fire escapes or similar features	Not allowed	4 ft.	No max	Not allowed	Front: Not allowed Exterior Side: Not allowed Interior Side: 3 ft. Rear: 5 ft.
At grade flatwork such as concrete paving and patios	No max	No max	No max	No max	All: No min

	Maximum Projection into Setback				Minimum Distances from Property Lines
	Front	Rear	Interior Side	Exterior Side	
Landing places, patios, and decks 18 inches or less above grade	No max	No max	No max	No max	<u>Front and Exterior Side:</u> 5 ft. <u>Interior Side and Rear:</u> 3 ft.
Open and unenclosed entry porches and decks 19 to 30 inches above grade	4 ft.	6 ft.	½ of required setback	4 ft.	<u>Front:</u> 10 ft. <u>Exterior Side and Rear:</u> 5 ft. <u>Interior Side:</u> 3 ft.
Covered entry porch and decks 19 to 30 inches above grade including roof and roof overhang	5 ft.	Not Applicable	Not Applicable	4 ft.	<u>Front:</u> 10 ft. <u>Exterior side:</u> 5 ft. <u>Interior Side and Rear:</u> Not applicable
Wheelchair ramps and similar features for the disabled	No max	No max	No max	No max	<u>All:</u> No min

Notes:

[1] Projecting bay window may not exceed 60 percent of the width of the wall in which it is located.

**E. Allowed Encroachments in Setback Areas.** The following accessory structures and site improvements may project into required setback areas as shown in Table 17.48-3, subject to the requirements of the Building Code. New encroachments into setbacks associated with specific coastal resource issues (e.g., ESHA setbacks, coastal hazard setbacks, etc.) ~~shall not be allowed~~ are limited to the exceptions of Section 17.64.030.F (Setback Exceptions on Developed Lots).

**TABLE 17.48-2: ALLOWED ENCROACHMENTS INTO REQUIRED SETBACKS**

	Maximum Projection into Setback				Minimum Distances from Property Lines
	Front	Rear	Interior Side	Exterior Side	
<b>Decorative Site Features</b>					
Trellis structure up to 10 ft. in height open on all sides; Arbors with a minimum of two open sides utilized over a walkway	No max	No max	No max	No max	<u>All:</u> No min
Trellis structure up to 10 ft. in height open on at least three sides, and the walls of the structure are at least 50 percent transparent	Not Allowed	No max	No max	Not Allowed	<u>Rear and Interior Side:</u> No min <u>Front and Exterior Side:</u> Not allowed
Planter boxes and masonry planters with a maximum height of 42 inches	No max	No max	No max	No max	<u>All:</u> No min
Decorative ornamental features up to a maximum height of 6 ft. which does not enclose the perimeter of the property	No max	No max	No max	No max	<u>All:</u> No min
<b>Entertainment Features</b>					
Hot Tubs	Not allowed	No max	Not allowed	Not allowed	<u>Rear:</u> 2 ft. <u>All Other:</u> Not allowed

	Maximum Projection into Setback				Minimum Distances from Property Lines
	Front	Rear	Interior Side	Exterior Side	
Pools	Not allowed	No max	Not allowed	Not allowed	Rear: 5 ft. All Other: Not allowed
Fire pits up to 30 inches in height	No max	No max	No max	No max	All: 5 ft.
Outdoor kitchens. The kitchen may include gas, electric and plumbing, except electric service may not be 220 volts and drain size may not exceed that allowed for a mini bar. Includes pizza ovens.	Not allowed	No max	Not allowed	Not allowed	Rear: 5 ft.
<b>Other Structures and Equipment</b>					
Children's play equipment, movable dog house, and similar moveable objects	No max	No max	No max	No max	All: No min
Rain harvest tanks that do not exceed 8 ft. in height	Not allowed	No max	No max	No max	Front: Not allowed All Other: No min
Screened mechanical equipment including hot water heaters and	Not allowed	No max	No max	Not Allowed	Rear and Interior Side: 3 ft. Front and Exterior Side: Not allowed

~~F. Encroachments in the Public Right-of-Way. Encroachment of private development into the public right-of-way may be allowed, but only when such encroachments are authorized by the Public Works Director or Planning Commission. Encroachments in the public right-of-way in the coastal zone may require via a Coastal Development Permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zone) and the findings for approval of a CDP as specified in 17.44.130 (Findings for Approval), with the additional findings that the encroachment does not restrict lateral and vertical public coastal access, does not obstruct public coastal views, and does not impact ESHA, as identified in the Local Coastal Program. In addition, to the extent the encroachment is allowed, annual fees shall be charged with revenues dedicated to public coastal access improvements, and all encroachments shall be revocable, removed if the area is needed to provide for the continuance of public coastal access.~~

**Commented [kh3]:** Discussion 2. Encroachments are in Chapter 12.56.060 which is not part of the LCP. City Commission has advised not to reference sections out of the LCP. Leaving the reference out will

**Commented [kh4]:** Capitola staff, including Public Works Director, do not recommend requiring an annual fee for encroachments. If the application was for a significant encroachment such as a dining area on public land, the City has the ability to charge a fee without writing this into the zoning code.

**17.48.040 Floor Area and Floor Area Ratio**

- A. Floor Area Defined.** Floor area means the sum of the horizontal areas of all floors of an enclosed structure, measured from the outside perimeter of the exterior walls.
- B. Floor Area Calculation.**
  - 1. Floor area includes all interior area below a roof and within:
    - a. The outer surface of the exterior walls; or
    - b. The centerlines of party walls separating buildings or portions thereof; or

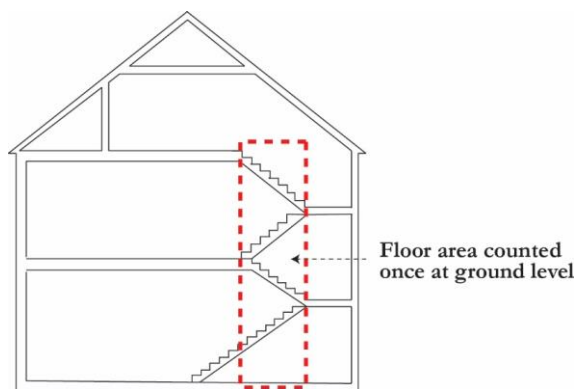


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HEIGHT, SETBACKS, AND FLOOR AREA

- c. All area within the roof line of a carport.
2. Floor area includes the entire area in all enclosed structures without deduction for features such as interior walls or storage areas.
3. In the case of a multi-story building with a covered or enclosed stairways, stairwells or elevator shafts, the horizontal area of such features are counted only once at the floor level of their greatest area of horizontal extent. See Figure 17.48-3.

**FIGURE 17.48-3: FAR MEASUREMENT FOR STAIRWAYS**



4. Interior area of a building with a floor-to-ceiling height of greater than 16 feet are counted twice in the floor area calculation.
5. The following features are included in the floor area calculation:
  - a. All upper floor area greater than 4 feet in height, measured between the bottom of the upper floor and the top of the ceiling.
  - b. All accessory structures other than a single building 120 square feet or less, 10 feet or less in height, and without plumbing fixtures.
  - c. Carports.
6. For all uses, the following features are excluded from the floor area calculation:
  - a. Covered or uncovered decks; and patios.
  - b. Trellises, porte-cocheres not more than 10 feet in height, and similar outdoor space which are open on at least three sides, not including carports.
  - c. Bay windows, chimneys, and other similar wall projections.
  - d. Up to 250 square feet of an enclosed garage on a lot 3,000 square feet or less.
  - e. Underground parking garages not visible from a public street.

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- f. Basements when all walls are below grade and not visible. Basements are included in calculations of required on-site parking to serve the use.
- 7. For non-residential uses, the following features are excluded from the floor area calculation:
  - a. Outdoor improvements such as patios, decks, courtyards, outdoor dining areas, and other areas used by customers and employees. These features are included in calculations of required on-site parking to serve the use.
  - b. Arcades, porticoes, and similar open areas that are located at or near street level and are accessible to the general public but are not designed or used as sales, display, storage, service, or production areas.
  - c. Quasi-public seating areas located in a privately owned shopping center which is open to all of the patrons of all of the businesses of the shopping center and which consists of a seating area or similar area where there are tables, chairs, benches or landscaping or other similar amenities.

**C. Floor Area Ratio.**

- 1. Floor area ratio (FAR) is calculated by dividing the total floor area of all buildings on a site as defined in Section B (Floor Area Calculation) above by the net parcel area.
- 2. Net parcel area excludes: a) any recorded easements to allow others to use the surface of the property for access to an adjacent property or other similar use, and b) any area under the high water mark that extends into a waterway.

## Chapter 17.52 - ACCESSORY STRUCTURES AND USES

### Sections:

- 17.52.010 Purpose and Applicability
- 17.52.020 Accessory Structures
- 17.52.030 Accessory Uses

### 17.52.010 Purpose and Applicability

This chapter establishes requirements for accessory structures and uses in residential and non-residential zoning districts. These requirements do not apply to accessory dwelling units, including two-story accessory dwelling units above a detached garage, which are addressed in Chapter 17.74 (Secondary Dwelling Units).

### 17.52.020 Accessory Structures

**A. All Accessory Structures.** The following requirements apply to accessory structures in all zoning districts.

1. Accessory structures shall be clearly incidental and subordinate to the primary structure on the same lot.
2. Accessory structures may not be located on a separate lot from the primary use to which it is incidental and subordinate.
3. A Minor Design Permit is required for garages, sheds and other enclosed buildings with one or more of the following characteristics: an enclosed area of over 120 square feet, a height of over 10 feet, or plumbing fixtures per Section 17.120.030.A.
4. Accessory structures attached to a primary structure are considered a part of the primary structure and shall comply with all standards applicable to the primary structure.
5. Accessory structures may not be designed or used as a bedroom, sleeping area, and/or kitchen, except for accessory dwelling units consistent with Section 17.74 (Accessory Dwelling Units) and outdoor kitchens.

~~6. In the cCoastal Zzone, aAccessory structures shall be sited and designed so that they do not extend into setbacks associated with coastal resource issues (e.g., ESHA setbacks, and coastal hazard setbacks, etc.). A proposed accessory structure that is located in the cCoastal Zzone may require a Coastal Development Permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zone) and the findings for approval of a CDP as specified in 17.44.130 (Findings for Approval).~~

**B. Accessory Structures in Residential Zoning Districts.**

1. **Development Standards.** Accessory structures in residential zoning districts shall comply with the development standards in Table 17.52-1 and in Figure 17.52-1.

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ACCESSORY STRUCTURES AND USES

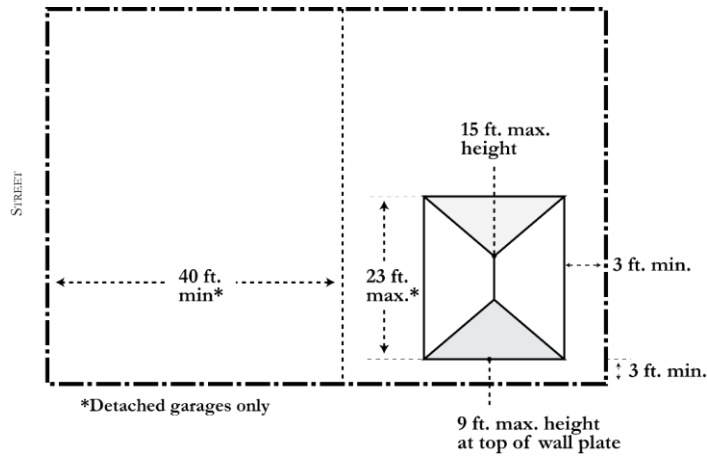
**TABLE 17.52-1: ACCESSORY STRUCTURE STANDARDS IN RESIDENTIAL ZONING DISTRICTS**

	Single-Family Residential Zoning Districts	Multi-Family Residential Zoning Districts	Additional Standards
Height, Maximum			
Structure	15 ft. [1]	15 ft.	Section 17.52.020.B.2
Top of Wall Plate	9 ft.	9 ft.	
Width, Maximum	23 ft. for detached garages; None for other accessory structures	None	
Setbacks, Minimum			Section 17.52.020.B.3
Front	40 ft. for detached garages; Same as primary structure for other accessory structures	Same as primary structure	
Interior Side	3 ft.	3 ft.	
Street Side	Same as primary structure	3 ft.	
Rear	3 ft.	3 ft.	

Note:

[1] Accessory structures less than 8 feet from a rear or interior side property line may not exceed 12 feet in height.

FIGURE 17.52-1: DETACHED GARAGE STANDARDS IN RESIDENTIAL ZONING DISTRICTS



**Height Exception.** The Planning Commission may approve an exception to allow additional height of an accessory structure if necessary to match the architectural style of the existing primary structure.

2. **Setback Exceptions.** One accessory structure permanently attached to the ground is allowed ~~by right~~ in required side and rear setback areas if the structure is less than 10 feet in height, has 120 square feet or less of enclosed area, and has no plumbing. One additional accessory structure is allowed in required side and rear setback areas with an Administrative Permit.
3. **Driveway Standards.** The placement of detached garages shall allow for the design and location of driveways consistent with Chapter 17.76 (Parking and Loading).
4. **Nonconforming Garages.** An existing detached garage in a residential single-family zoning district that does not comply with development standards in Table 17.52-1 is legal nonconforming and may be repaired, renovated, or replaced provided that the nonconformity is not increased or exacerbated.

**C. Accessory Structures in Non-Residential Zones.** Accessory structures in non-residential zoning districts are subject to the same development standards (e.g., height and setbacks) as primary structures in the applicable zoning district. Accessory structures should be located to the side or rear of buildings and screened from public view.

#### 17.52.030 Accessory Uses

**A. Residential Accessory Uses.** The following requirements apply to accessory uses in residential zoning district.

1. Accessory uses shall be located on the same parcel as a residence and shall be clearly incidental and subordinate to the residence.
2. Accessory uses shall not change the character of the residential use. Examples of permitted accessory uses include home occupations and personal property sales (i.e., garage or yard sales).

**B. Non-Residential Accessory Uses.** The following requirements apply to accessory uses in non-residential zoning districts.

1. Accessory uses shall be a part of and clearly incidental and subordinate to the primary use to which it relates.
2. Accessory uses shall be located on the same parcel as the primary use to which it is incidental and subordinate, within the structure.
3. Accessory uses shall be customarily associated with the primary use to which it is incidental and subordinate. Examples of common non-residential accessory uses include ATMs, vending machines, newsstands, and personal service establishments (e.g., child day care, food services) intended to serve employees or customers and that are not visible from public streets.

ACCESSORY STRUCTURES AND USES

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- 4. All exterior vending machines require a Conditional Use Permit.
- 5. Accessory uses may not necessitate an increase in required number of parking spaces.

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## Chapter 17.56 - ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES

### Sections:

- 17.56.010 Purpose and Intent
- 17.56.020 Archaeological/Paleontological Survey Report
- 17.56.030 Environmental Assessment Requirement
- 17.56.040 Development Standards

#### 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 feasible site planning and design features necessary to avoid or mitigate impacts to archaeological and paleontological resources.

#### 17.56.020 Archaeological/Paleontological Survey Report

**A. When Required.** An archaeological/paleontological survey report is required for any development located within:

1. ~~An Archaeological/Paleontological Sensitivity Areas as shown in the Capitola Resource Map (Local Coastal Program, Map I-1);~~
2. ~~750 feet of Property within~~ a known archaeological or paleontological resource; ~~or~~
3. Property located within 100 feet of a bluff edge; or
- 3.4. An area with a probability of containing archaeological/paleontological resources, as determined through the ~~city planner’s~~ City’s onsite investigation or other available information.

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

#### C. Mitigation Plan

1. Where construction on, or construction impacts to, an archaeological or paleontological site cannot be avoided, as verified in the archaeological/paleontological 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.

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2. ~~The~~For archaeological resources, the mitigation plan shall include preservation measures in accordance with the guidelines of the State Office of Historic Preservation and/or the State of California Native American Heritage Commission.
3. ~~The~~For archaeological resources, the consulting archaeologist shall file both the ~~archeological~~archaeological 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.
4. For paleontological resources, a consulting paleontologist shall file a paleontological resource report and mitigation plan with the City to minimize on paleontological resources. The mitigation may include re-siting or redesigning the project, excavation, or coving the resources.

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

**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/~~paleontologist~~ 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.

~~F.~~**F. Report Standards.** The ~~archeological~~archaeological/~~paleontological~~ survey report, mitigation plan, and final report shall be prepared according to the ~~most professional~~ report standards ~~of (e.g. 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.

**G. Waiver of Report Requirement.** The requirement to prepare an archaeological/~~paleontological~~ survey report may be waived by the Community Development Director if a previous report was prepared for the site by a qualified archaeologist/~~paleontologist~~, as included on the City's list of archaeological/~~paleontological~~ consultants or as a member of the Society of Professional Archaeologists, and accepted by the City, 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.

#### 17.56.030 Grading Monitoring Requirement

The Community Development Director may require grading monitoring by a qualified archaeologist and/or paleontologist for any project which involves grading into native soils within an area identified as having a moderate to high potential to support archaeological or paleontological resources. ~~Archaeological and paleontological monitors shall be commissioned by the City and paid for by the project applicant.~~

#### 17.56.040 Unexpected Discovery of Archaeological or Paleontological Resources

If archaeological and/or paleontological resources are discovered during grading of construction activities, all work must immediately cease and the project applicant or their designated representatives must immediately contact Community Development Department staff to initiate a resource evaluation by a qualified archaeologist and/or paleontologist, as appropriate. Work shall not resume until the qualified archaeologist and/or paleontologist determines that no significant resources are present or until appropriate avoidance and/or mitigation measures have been implemented to the satisfaction of the Community Development Director.

#### 17.56.050 Environmental Assessment Requirement

All development proposed on parcels with known archaeological and/or paleontological resources, as identified through the survey report, shall be subject to environmental assessment under the California Environmental Quality Act (CEQA) Guidelines. If human remains are discovered during construction, the project shall comply with all applicable State and Federal laws, including California Health and Safety Code Section 7050.5 and CEQA Guidelines Section 15064.5(e).

#### 17.56.060 Development Standards

**A. Design and Location.** Development proposed within areas identified in Section 17.56.020.A (When Required) shall be designed and located so as to avoid development on or impacts to the site to the extent feasible. Alternative siting or location, reduction of

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ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES

project size, and other techniques shall be required where that technique will result in reduced impact to or non-disturbance of the archaeological/paleontological site.

**B. Mitigation Measures.** Development proposed within areas identified in Section 17.56.020.A (When Required) shall be subject to the mitigation measures of the archaeological/paleontological survey report as conditions of approval, to be completed prior to the issuance of building or grading permits.

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## 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, public access or views 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. Improvements located in the public right-of-way may require Public Works Department approval of an Encroachment Permit. See Municipal Code Section 12.56.060(A).
- E. Coastal Development Permit.** A proposed development that is located in the Coastal Zone may require a Coastal Development Permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zone) and the findings for approval of a CDP as specified in 17.44.130 (Findings for Approval).

### 17.60.020 Measurement of Fence and Wall Height

- 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.

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FENCES AND WALLS

- 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.

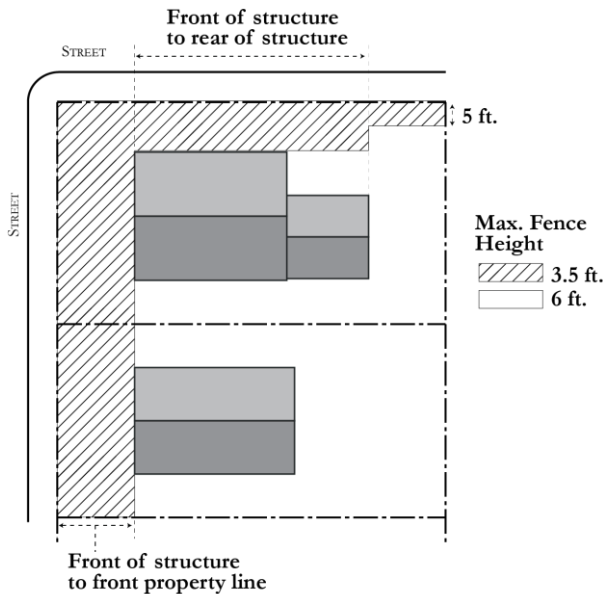
**TABLE 17.60-1: FENCE AND WALL HEIGHT**

Location	Maximum Height
Area within front setback 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. [1]	3 ½ ft.
All other locations	6 ft.

Note:

[1] See Section 17.96.050 (Intersection Sight Distance) for addition corner lot fence requirements.

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



- B. Intersection Sight Distance.** Fences on corner parcels and adjacent to driveways shall comply with maximum height requirements as specified in Section 17.96.050 (Intersection Sight Distances) to maintain a clear view for motor vehicle drivers.
- 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.
- 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. Fences Along Arterials and Collectors.** The Community Development Director may require additional transparency or reduced heights for fences along arterial and collector streets to maintain public views and/or enhance community design.
- F. Noise Walls.** The Planning Commission may allow walls along arterial and collector streets to exceed maximum permitted heights as shown in Table 17.60-1 when necessary to mitigate noise impacts on residents.
- G. Coastal Access and Public Views to the Coast.** Fences ~~may~~ and/or walls shall not prevent or obstruct public access to the coast or shoreline. Fences ~~and/or walls~~ also ~~may~~ shall not block, or obscure public views to the coast, or otherwise adversely impact significant public views of the shoreline, as identified within the LCP Land Use Plan.

Commented [kh2]: Discussion 3. The Land Use Plan of coastal access points and views that may not be adversely

**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. In all cases, such fences shall not adversely impact significant public views of the coastline, as identified within the LCP Land Use Plan.

**17.60.050 Materials**

- 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

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FENCES AND WALLS

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 within ten feet of a residential zoning district shall be screened with a fence or wall as required by Subsection 17.76.060.I (Screening). The Planning Commission or City Council may require a fence or wall beyond the maximum height.

**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 17.64 - ENVIRONMENTALLY SENSITIVE HABITAT AREAS

### Sections:

- 17.64.010 Purpose
- 17.64.020 Applicability
- 17.64.030 General Standards
- 17.64.040 Soquel Creek and Lagoon
- 17.64.050 Monarch Butterfly Habitat – Rispin-Soquel Creek and Escalona Gulch  
Monarch Butterfly Habitat Areas

#### 17.64.010 Purpose

This chapter establishes standards to protect and preserve environmentally sensitive habitat areas in Capitola consistent with Capitola’s General Plan, Local Coastal Program (LCP), and the requirements of the Coastal Act.

#### 17.64.020 Applicability

This chapter applies to the following environmentally sensitive habitat areas. Environmentally sensitive habitat areas (ESHA) are any areas 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. ESHA includes wetlands, coastal streams and riparian vegetation, and terrestrial ESHA, including habitats of plant and animal species listed under the Federal or California Endangered Species Act. ~~In addition, the following areas are~~The ESHA map identifies properties in the general location of sensitive habitats. The precise location of sensitive habitats within a site shall be identified in the biological study as required within Subsection 17.64.030.G (Biological Study). ~~In addition, the following areas are categorically~~ ESHA as identified in Capitola’s LCP:

- A. Soquel Creek, Lagoon, and Riparian Corridor
- B. Noble Gulch Riparian Corridor
- C. Tannery Gulch Riparian Corridor
- D. Monarch Butterfly Habitat – Rispin-Soquel Creek and Escalona Gulch

#### 17.64.030 General Standards

The following standards apply to all environmentally sensitive habitat areas:

- A. ~~Allowable Development within Sensitive Habitat Area.~~ The only allowed development within the sensitive habitat areas as identified in the biological study required in Subsection 17.64.030.G (Biological Study) shall be those uses dependent on the resource (e.g., low-intensity public access and recreation, nature study, restoration). ~~And~~ The only new uses allowed in wetlands and streams/riparian areas shall be those specified in Coastal Act Sections 30233 and 30236, respectively.

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**A.B. Impact Prevention.** ~~Development~~Allowable development within an environmentally sensitive habitat area shall be sited and designed to prevent impacts which would significantly degrade the area.

**B.C. Long-Term Protection.** ~~Development~~Allowable development shall be sited, designed, and maintained to achieve the long-term protection of the environmentally sensitive habitat areas.

**C.D. Prohibited Areas for Development.** ~~Notwithstanding subsections A and B, above, and with~~With the exception of restoration and resource protection and enhancement activities, no new development may encroach into the waters of Soquel Creek or Lagoon, be sited within the root zone of riparian or butterfly host trees, or require the removal of trees in a Monarch butterfly habitat area which provide roosting habitat or wind protection.

**D.E. Minimum Setbacks.**

1. Development may not encroach into required minimum setbacks from environmentally sensitive habitat areas as shown in Table 17.64-1 (Required Setbacks from Environmentally Sensitive Habitat Areas), except as allowed in subparagraph (2) below. The setbacks listed below are minimums and may be increased depending on the findings of the biological study required in 17.64.030(E), below.

**TABLE 17.64-1: REQUIRED SETBACKS FROM ENVIRONMENTALLY SENSITIVE HABITAT AREAS**

Environmentally Sensitive Habitat Area	Minimum Setback
Soquel Creek and Lagoon	35 ft. from the western shoreline of Soquel Creek Lagoon [1]
Soquel Creek Riparian Corridor	<u>35 feet</u> from the outer edge of riparian vegetation. <del>On</del> the heavily developed east side of the lagoon and creek (from Stockton Avenue to Center Street) the setback requirement shall be measured from the bank of Soquel Creek. In no case may the setback be located on the west side of the pedestrian path.
Noble Gulch Riparian Corridor	35 feet from the outer edge of riparian vegetation
Tannery Gulch Riparian Corridor	50 feet from the outer edge of riparian vegetation
<u>Other ESHA</u>	<u>A setback sufficient to ensure the protection of ESHA habitat values as identified in the biological study as required within Subsection 17.64.030.G (Biological Study).</u>

Notes:

[1] Does not apply to public facilities outside the coastal zone. Within the coastal zone, applies to public facilities unless otherwise specified in Section 30233 of the Coastal Act.

2. To allow for a minimum level of development on a physically constrained lot, the City may allow a reduction to the required minimum setback provided that a

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biological study determines that the reduced setback does not have a significant adverse effect on the ~~natural area~~ ESHA and its habitat value.

**E.F. Setback Exceptions on Developed Lots**

1. The City may grant an exception to the minimum setbacks in Section ~~D.E~~ (Minimum Setbacks) for the following projects on developed lots:

~~a.~~ An addition or modifications to an existing single-family home, or an accessory structure, that does not extend ~~further into~~ closer to the environmentally sensitive habitat area ~~setback~~.

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~~b.a.~~ An accessory structure that complies, and provided the addition or modification or accessory structure is compatible with all applicable standards in Chapter 17.52 (Accessory Structures), and will not significantly degrade, the ESHA and/or its habitat values.

2. A developed lot means a lot that is developed or utilized to its ultimate potential use according to the applicable zoning district. For example, an R-1 lot that contains a single-family home or a permitted public/quasi-public use is considered developed. A residential or commercial lot that is vacant or used periodically for temporary uses (e.g., seasonal holiday sales) is not considered developed.

3. The City may grant an exception with the approval of an Administrative Permit, or a Coastal Development Permit for sites located within the coastal zone, upon finding that the project is:

~~a.~~ Sited and designed to prevent impacts which would significantly degrade environmentally sensitive habitat areas; ~~and~~

~~a.b.~~ Consistent with the recommendation of the ~~b~~ Biological ~~S~~study prepared for the proposed development; and

~~b.c.~~ Is compatible with the continuance of habitat and recreation activities within environmentally sensitive habitat areas.

4. The City may attach conditions to the Administrative Permit or Coastal Development Permit to ensure compliance with all City policies and regulations pertaining to the protection of environmentally sensitive habitat areas.

5. City approval of an exception ~~shall~~ may not necessarily require the applicant to prepare a biological study.

Commented [kh4]: Do not recommend accepting this c... The findings must be made under section F.1.a that the prop... not degrade the ESHA or the habitat. Unnecessary to requir... biological study.

**F.G. Biological Study.** For any proposed development located on a parcel within the ESHA ~~areas identified above~~ or a property within 50 feet of ESHA, the City shall contract with a qualified biologist at the applicant's expense to prepare a biological study. Biological studies shall at a minimum include the following:

Commented [kh5]: Do not recommend accepting this c... Properties on the west side of Wharf Road or the east side of... Avenue will be required to produce a biological study, which... unnecessary.

1. Field surveys to determine the presence and location of any sensitive habitats and sensitive plant and animal species; and

2. A biological report which includes vegetation maps, a list of all observed native plant and animal species, an evaluation of other sensitive species which were not observed but have the potential to occur on the site, an impact analysis, and recommendations for avoiding, minimizing, or mitigating impacts. The biological report shall identify appropriate building and other setbacks, appropriate use, restoration, and development standards within setbacks, wetland buffers, landscape recommendations, and mitigation monitoring and reporting requirements as appropriate.

**G.H. Waiver of Biological Study.** The City may waive the requirement of a biological study on a developed lot if a project is proposed in a previously developed area of the lot and the project will not degrade, the ESHA and/or its habitat values.

**Commented [kh6]:** DISCUSSION 6: Suggest address home on Riverview Drive or Wharf Road were proposed small addition to the street side of the home where a driveway exists, it would seem overreaching to require biological study.

**H.I. Conservation Easements and/or Deed Restrictions.** If necessary and appropriate to protect natural areas and ESHA, the City shall require a permanent conservation easement or deed restriction over any portion of the property containing environmentally sensitive habitat areas and their required setbacks.

**I.J. Erosion Control and Water Quality.**

1. All development shall conform to erosion control and water quality requirements consistent with federal, state, and local regulations. Within riparian areas, allowed grading shall be minimized within the riparian setback area. Grading shall not be permitted to damage the roots of riparian trees or trees within butterfly habitat areas. Grading shall only take place during the dry season.
2. During construction, erosion control measures shall be implemented, including limiting removal of vegetation, minimizing exposure of bare soils, replanting disturbed soils with suitable native species, controlling runoff, and preventing sedimentation from entering drainages. All areas outside the immediate construction areas shall not be disturbed. The City shall require measures for temporary drainage retention during construction, including mulching, erosion control seeding, and other measures as needed to prevent any sediment from reaching sensitive habitat areas.

**J.K. Removal of Native Riparian Trees.** Removal of native riparian trees within riparian corridors is prohibited unless it is determined by the Community Development Director, on the basis of an arborist report, that such removal is in the public interest by reason of good forestry practice, disease of the tree, or safety considerations.

**K.L. Dead Trees in Riparian Corridors.** Snags, or standing dead trees, shall not be removed from riparian corridors unless in imminent danger of falling-, where same would lead to a public safety issue. Removal shall be consistent with all applicable provisions of Capitola Municipal Code Chapter 12.12 (Community Tree and Forest Management). Any removed tree shall be replaced with a healthy young tree of an appropriate native riparian species or appropriate habitat for Monarch butterflies.

**L.M. Landscaping Plan.** A landscaping plan shall be prepared for proposed developments that identifies the location and extent of any proposed modification to existing vegetation and the locations, kinds, and extent of new landscaping. The emphasis of such plans shall be on the maintenance and enhancement of native species, the removal of existing invasive species, and the enhancement of natural habitat. New invasive plant or tree species are prohibited, with the exception of species which positively contribute to Monarch butterfly habitat.

**M.N. Wood-Burning Fireplaces.** Wood-burning fireplaces shall be prohibited in structures built on ~~sites~~ where Monarch butterflies may be disturbed due to chimney smoke. The City discourages wood-burning fireplaces for residential uses in all other areas of Capitola.

#### 17.64.040 Soquel Creek, Lagoon, and Riparian Corridor

The following standards apply in the Soquel Creek, Lagoon, and Riparian Corridor in addition to the standards in Section 17.64.030 (General Standards):

- A. No New Development.** No new development is permitted within the riparian corridor along Soquel Creek and Lagoon, except for restoration and resource protection and enhancement activities, and, outside the coastal zone only, ~~and~~ public facilities.
- B. Division of Land.** New divisions of land may be approved only if each new parcel contains adequate area outside the riparian or stream bank setback to accommodate new development.

#### 17.64.050 Monarch Butterfly Habitat – Rispin-Soquel Creek and Escalona Gulch

The following standard applies to both the Rispin - Soquel Creek and the Escalona Gulch Monarch Butterfly Habitat Areas in addition to the standards in Section 17.64.030 (General Standards):

- A. Permitted Construction Periods.** Construction for otherwise allowable development within or on properties contiguous to the designated butterfly groves shall be prohibited during fall and winter months when the Monarch butterflies are present. Removal or modification of trees (including pruning) within the groves shall not be permitted during these periods except when determined by the Community Development Director, on the basis of an arborist report, to be an emergency necessary to protect human life or property.
- B. Tree Protection.**
  1. Development shall be sited and designed to avoid removal of large trees. New development located immediately adjacent to large trees shall be evaluated by an arborist to ensure that the development will not negatively impact the tree in the future.

2. Trees removed for construction shall be replaced based on a written tree replanting program developed in consultation with a qualified Monarch butterfly expert. The trees shall be sited in strategic locations as identified by the replanting program.
  3. Barrier fencing shall be installed around large trees, especially cluster trees, for protection during construction.
- C. Structure Height.** The City shall limit structure heights as needed to prevent shading of cluster sites.
- D. Construction Involving Heavy Equipment.** No construction involving heavy equipment that may bump into the cluster trees or produce heavy plumes of exhaust smoke is permitted during the months in which the Monarch butterflies are in residence (October 1st to March 1st).

## Chapter 17.72 LANDSCAPING

Commented [kh1]: NOTE: Coastal Edits are in red  
Capitola Staff edits are in blue

### 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

**A. Multi-Family Residential 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~~Single Family Residential 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~~ application. Submittal of a Landscape Plan for the entire site in accordance with Section 17.72.040 (Landscape Plans) is not required.

**C. Coastal Development Permit.** ~~A proposed development that is located in the Coastal Zone may require a Coastal Development Permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zone) and the findings for approval of a CDP as specified in 17.44.130 (Findings for Approval).~~

#### 17.72.030 Water Efficient Landscape Design and Installation Ordinance

In addition to the requirements of this chapter, all applicable development in Capitola shall also comply with the applicable water provider's (i.e., the City of Santa Cruz Water

Department or Soquel Creek Water District) Landscape Water Use Efficiency Ordinance. If conflicts occur between the applicable water provider's Landscape Water Use Efficiency 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/Coastal Development 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 all existing trees shall also include tree diameter measured 48 inches above existing grade and outer limit of tree canopy and a label identifying if the tree will remain or be removed.
  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

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design character of the landscaped area or alter a feature of the landscaped area specifically required by the Planning Commission.

72-3

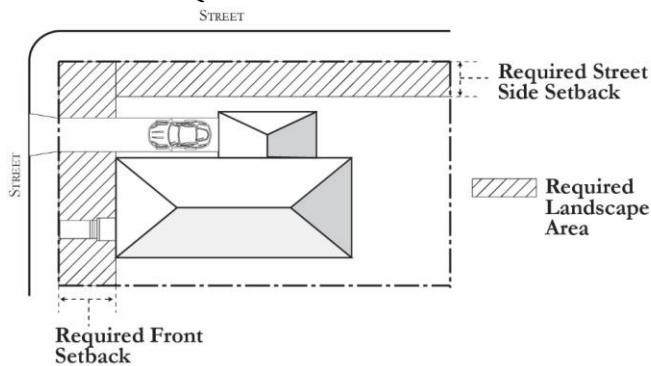


### 17.72.050 Required Landscape Areas

#### 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 with related natural features, such as rock, stone, or mulch; and may include patios, courtyards, and outdoor dining areas. Artificial grass may be used within required landscaping areas. Decorative hardscape featuring pervious materials is permitted within required landscaping areas when combined with natural vegetation.

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



#### B. Non-Residential Zoning Districts.

1. 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.
2. The minimum landscaped area on a site is shown in Table 17.72-1.
3. In the MU-V and MU-N zoning districts, up to 75 percent of the minimum landscaped area may be occupied by outdoor dining areas, courtyards, and other similar quasi-public areas with Planning Commission approval. Hardscape areas counting towards landscaping requirements must contain above-ground planters and other similar features that incorporate greenery and plantings into the space design. In all other zoning districts these areas may not count toward landscaping requirements.

**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, I	5%
P/OS, PD, VA	As determined by the permit approval process

**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. ~~**Plant Selection along Blufftop, Beach, or ESHA.** Native plants adapted to the local climate shall be required within 50 feet of the blufftop edge, the beach, or ESHA. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be so identified from time to time by the State of California, and no No plant species listed as a "noxious weed" by the State of California or the U.S. Federal Government, is allowed. See ESHA (Chapter 17.64 (Environmentally Sensitive Habitat Areas)) for habitat requirements.~~
3. ~~**Storm Water Management.** The landscape plan shall incorporate stormwater management controls in compliance with the Regional State Water Resources Control Board, Municipal Code Chapter 13.16 (Storm Water Pollution Prevention and Protection).~~
- 2.4. ~~**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.

**Commented [kh2]:** Staff recommends not accepting this reference. The applicant can refer to the requirements of ES

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- c. Turf shall not be used on berms, slopes, or median islands where runoff is a problem.

~~3-5.~~ **Slopes.** Turf and high-water-use plants shall not be planted on berms and slopes greater than 25 percent.

~~4-6.~~ **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).

~~5-7.~~ **Water Features.** Decorative water features (e.g., fountains, ponds, waterfalls) must be approved by the Planning Commission and shall have recirculating water systems. Automatic fill valves are not recommended for use within water features

~~6-8.~~ **Watering Times.** Watering shall be limited to between eight p.m. and ten a.m.

~~7-9.~~ **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.

**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 standard of the applicable water provider.
2. Separate landscape water meters for landscape areas exceeding 10,000 square feet for single-family residential uses and 5,000 square feet for all other uses.
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. Bubblers should not exceed a flow rate of 1.5 gallons per minute.
9. State-approved back flow prevention devices shall be installed on all irrigation systems

**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 replaced in accordance with the City's Tree Ordinance, Municipal Code/[Local Coastal Program](#) 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 – ACCESSORY DWELLING UNITS

### Sections:

- 17.74.010 Purpose
- 17.74.020 Definitions
- 17.74.030 Required Permits
- 17.74.040 Permitted Location
- 17.74.050 Standards for All Accessory Dwelling Units
- 17.74.060 Standards for Attached and Detached Accessory Dwelling Units
- 17.74.070 Findings
- 17.74.080 Deed Restrictions
- 17.74.090 Incentives

### 17.74.010 Purpose

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

### 17.74.020 Definitions

Terms used in this chapter are defined as follows:

- A. Accessory Dwelling Unit.** “Accessory dwelling unit” means a self-contained living unit located on the same parcel as a primary single-family residence with exterior access to the accessory dwelling unit provided independent from the primary single-family residence.
- B. Attached Accessory Dwelling Unit.** “Attached accessory dwelling unit” means an accessory dwelling unit that:
  1. Shares at least one common wall with the primary single-family residence;
  2. Is not fully contained within the existing space of the primary single-family residence or an accessory structure; and
  3. Provides exterior access independent from the primary single-family residence.
- C. Detached Accessory Dwelling Unit.** “Detached accessory dwelling unit” means an accessory dwelling unit that does not share a common wall with the primary single-family residence.
- D. Internal Accessory Dwelling Unit.**
  1. “Internal accessory dwelling unit” means an accessory dwelling unit that:
    - a. Is fully contained within the existing space of the primary single-family residence or an accessory structure; and

**Commented [kh1]:** This chapter was modified substantially to comply with state code. The yellow highlights are edits made by Coastal Commission staff. All other edits are by Capitola staff and attorney. The applicable sections of state law are listed in the table to the right.

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ACCESSORY DWELLING UNITS

- b. Provides exterior access independent from the primary single-family residence.
- 2. The term internal accessory dwelling unit includes junior accessory dwelling units as defined in Government Code Section 65852.22.

**E. Two-story Attached Accessory Dwelling Unit.** “Two-story attached accessory dwelling unit” means an attached accessory dwelling unit that is configured as either two stories of living space attached to the primary single-family residence or located on the second story above the ground floor of the primary single-family residence.

**F. Two-story Detached Accessory Dwelling Unit.** “Two-story detached accessory dwelling unit” means a detached accessory dwelling unit that is configured as either two stories of living space as part of a single accessory dwelling unit or second story living space above a ground floor garage or other accessory structure.

**17.74.030 Required Permits**

**A. Internal Accessory Dwelling Units.**

- 1. **Administrative Permit.** An internal accessory dwelling unit is allowed with an Administrative Permit if:
  - a. The proposed unit complies with Section 17.74.040 (Standards for All Accessory Dwelling Units); and
  - b. The proposed unit is contained within an existing primary single-family residence or accessory structure that complies with the minimum side and rear setback requirements of the applicable zoning district.

~~2. **Design Permit and Conditional Use Permit.** The Planning Commission may allow an internal accessory dwelling unit located within an existing primary single-family residence or accessory structure that does not comply with the minimum side and rear setback requirements of the applicable zoning district with the approval of a Design Permit and Conditional Use Permit.~~

**B. Attached and Detached Accessory Dwelling Units.**

- 1. **Administrative Permit.** Attached and detached accessory dwelling units consistent with Section 17.74.040 (Standards for All Accessory Dwelling Units) and Section 17.74.050 (Standards for Attached and Detached Accessory Dwelling Units) are allowed with an Administrative Permit.

~~2. **Design Permit and Conditional Use Permit.**~~

- ~~a. The Planning Commission may approve an attached or detached accessory dwelling units that deviates from the standards in Subsections C (Unit Size) through J (Open Space and Landscaping) of Section 17.74.050 (Standards – Attached and Detached Accessory Dwelling Units) with the approval of a Design Permit and a Conditional Use Permit.~~

**Commented [kh2]: Staff: Moved to 17.74.06 only allow through PC approval of a devia**

**State: 65852.2.** (a)(4) An existing ordinance governing the creation of an accessory dwelling by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall not be subject to the approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary process provisions, or requirements for those units, except otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless the agency adopts an ordinance that complies with this section.

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**STATE: 65852.2.** (a)(4)  
SEE REFERENE ABOVE FOR FULL LANGUAGE

b. ~~All two-story attached and detached accessory dwelling units require Planning Commission approval of a Design Permit and Conditional Use Permit.~~

~~C. Conditional Use Permit Findings. To approve a Conditional Use Permit for an accessory dwelling unit, the Planning Commission must make all of the findings in Section 17.74.050 (Findings).~~

~~C. Time Limit to Act. The City shall complete its review of an accessory dwelling unit application requiring an Administrative Permit and approve or deny the application within 120 days after receiving an application.~~

**D. Coastal Development Permit.**

1. A proposed development that is located in the Coastal Zone may require a Coastal Development Permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zoning) and the findings for approval of a CDP as specified in 17.44.130 (Findings for Approval).

2. Nothing in this section shall be construed to supersede or in any way alter or lessen the effect of application of the California Coastal Act of 1976 (Division 20) (commencing with Section 30000) of the Public Resources Code, except that a public hearing for a Coastal Development Permit application for an accessory dwelling unit shall not be required.

**17.74.040 Standards for All Accessory Dwelling Units**

The following standards apply to all types of accessory dwelling units, including attached, detached, and internal accessory dwelling units.

**A. Compliance with Zoning District Standards.** An accessory dwelling unit shall comply with all requirements of the applicable zoning district except as modified in this chapter.

**B. One Primary Residence on Parcel.** An accessory dwelling unit is permitted only when not more than one primary single-family dwelling is present on a parcel or when a single-family dwelling is constructed concurrently with the accessory dwelling unit.

**C. Occupancy.** The property owner must occupy either the primary or accessory dwelling. The Planning Commission may grant an exception to this requirement in the case of unique hardship with the approval of a Conditional Use Permit.

**D. Maximum Number per Parcel.** Only one accessory dwelling unit is allowed on a single parcel.

**E. Permitted Location.**

1. **Internal Accessory Dwelling Units.** Internal accessory dwelling units are permitted only in the R-1, RM, and MU-N zoning districts on lots of 4,000 square feet or more occupied by one single-family dwelling.

**Commented [kh4]:** Staff: Moved to 17.74.060 to only allow the PC approval of a deviation.

**STATE: 65852.2.** (a)(4)

SEE REFERENE ABOVE FOR FULL LANGUAGE

**Commented [kh5]:** Staff: This requirements require must allow an internal ADU within an existing single-family home regardless of development standards other than described. This means lot size is not a factor.

65852.2(e) Notwithstanding subdivisions (a) to (d) inclusive, a local agency shall ministerially approve an application for a building permit to create within a zoning zone for single-family use one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, including, but not limited to, a studio, pool house, or other similar structure, and independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. A city may require owner occupancy for either the primary residence or the accessory dwelling unit created through this provision.

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ACCESSORY DWELLING UNITS

2. **Attached and Detached Accessory Dwelling Units.** Attached and detached accessory dwelling units are permitted on lot ~~of 5,000 square feet or more~~ occupied by one single-family dwelling only 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.

**Commented [kh6]:** This belongs in next section under Minimum Lot Size

**F. Minimum Lot Size.**

**1. Internal Accessory Dwelling Units.**

- a. ~~An internal accessory dwelling unit in the Multi-Family Residential (R-1) or the Neighborhood Mixed Use (MU-N) is permitted only on parcels 4,000 square feet or greater.~~
- ~~a-b. An internal accessory dwelling unit in the Single-Family Residential (R-1) zoning district is not subject to a minimum lot size. is permitted only on parcels 4,000 square feet or greater.~~

2. **Attached and Detached Accessory Dwelling Units.** An attached or detached accessory dwelling unit is permitted only on parcels 5,000 square feet or greater.

**G. Unit Size.** The maximum permitted floor area for an accessory dwelling unit is as shown in Table 17.74-2:

**TABLE 17.74-2: MAXIMUM ACCESSORY DWELLING UNIT SIZE**

Lot Size	Maximum Accessory Dwelling Unit Size
<del>Under 4,000 sq. ft.</del>	<del>Not Permitted</del>
<del>4,000 – Up to 4,999 sq. ft.</del>	500 sq. ft. (Internal ADU only) <sup>1</sup>
5,000 – 7,500 sq. ft.	500 sq. ft. <sup>1</sup>
7,501 – 9,999 sq. ft.	640 sq. ft. <sup>1</sup>
10,000 – 11,999 sq. ft.	800 sq. ft. <sup>1</sup>
12,000 sq. ft. or more	1,000 sq. ft. <sup>1</sup>

<sup>1</sup> ~~For an Internal ADU, the maximum accessory dwelling unit size is either the amount listed or up to 50 percent of the existing primary dwelling floor area, whichever is less.~~

**H. Maximum Floor Area Ratio.** The combined floor area ratio (FAR) of a lot with a primary residence and an accessory dwelling unit shall not exceed 0.60.

**I. Parking.**

1. **Internal Accessory Dwelling Units.** Off-street parking in addition to any off-street parking required for the primary residence is not required for an internal accessory



dwelling unit. The floor area of the internal accessory dwelling unit shall not be included in the parking calculation for the primary residence.

2. Attached and Detached Accessory Dwelling Units.

- a. Except as provided in Paragraph (c) below, one off-street parking space shall be provided for an attached or detached accessory dwelling unit in addition to any off-street parking required for the primary residence.
- b. Required off-street parking may be provided as tandem parking on an existing driveway and may be located within minimum required setback areas from front, side, and rear property lines on the parcel in accordance with Section 17.76.040.B (Parking in Front and Exterior Side Setback Areas).
- c. No off-street parking is required for an attached or detached accessory dwelling unit in the following cases:
  - (1) The accessory dwelling unit is located within one-half mile of public transit, a bus transit stop with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.
  - (2) The accessory dwelling unit is located within a National Register Historic District or other historic district officially designated by the City Council.
  - (3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
  - (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
  - (5) When there is a car share vehicle pick-up/drop-off location within one block of the accessory dwelling unit.

3. Conversion of existing Garage, Carport, or Covered Parking Structure

- a. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the required off-street parking spaces for the existing single-family home shall be provided on-site based on the floor area of the existing structure(s) on the parcel. The required parking space(s) may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.
- b. The accessory dwelling unit within the converted garage does not require onsite parking as described in subdivision (c) above.

- J. Utility Connections. Utility connection requirements shall be subject to state law and the serving utility district
- K. Fire Sprinklers. The City shall not require accessory dwelling units to provide fire sprinklers if they would not be required for the primary residence under the current Fire Code.

Commented [kh7]: Staff: The new regulation modify the previous exceptions and add # prohibits the city from requiring parking for ADU that is part of the proposed or existing primary residence or accessory structure. only time the City could require parking is new detached ADU.

65852.2(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards on an accessory dwelling unit in any of the following instances:

- (1) The accessory dwelling unit is located within one-half mile of public transit.
- (2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
- (3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
- (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- (5) When there is a car share vehicle located within one block of the accessory dwelling unit.

Commented [kh8]: Staff: The city has the ability to require the parking that is displaced in garage conversion. The city does not have ability to require additional parking for the ADU within the accessory structure (garage conversion).

65852.2.a.1D(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, and the local agency requires that those off-street parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

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**L. Vacation Rentals Prohibited.** Accessory dwelling units may not be used for vacation rentals.

**17.74.050 Standards for Attached and Detached Accessory Dwelling Units**

The following standards apply to attached and detached accessory dwelling units.

**A. Height and Setback Standards.** Height and setbacks standards for attached and detached accessory dwelling units are shown in Table 17.74-3.

~~Height and setbacks standards for attached and detached accessory dwelling units are shown in Table 17.74-3.~~

- ~~The Planning Commission may allow a detached accessory 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 Design Permit and a Conditional Use Permit.~~

**TABLE 17.74-3: ACCESSORY DWELLING UNIT SETBACK AND HEIGHT STANDARDS**

	Type of Accessory Dwelling Unit	
	Detached	Attached
<b>Setbacks, Minimum [2]</b>		
Interior Side	5 ft.	Same as required for primary residence
Exterior Side	Same as required for primary residence	
Rear	<del>One story unit: 8 ft. [3] Two story unit: 10 ft. [3]</del>	
Front	Same as required for primary residence	
<b>Height, Maximum</b>		
One story	<del>One story unit: 15 ft. [1] Two story unit: 22 ft.</del>	Height of primary residence or maximum permitted in zoning district, whichever is less

Notes:

- Maximum height of 12 feet when accessory dwelling unit is 10 feet or less from property line.
- No setback is required for an existing garage that is converted to an accessory dwelling unit.
- Minimum 5-foot side and rear setback for accessory dwelling units constructed above a garage.

**B. Internal Accessory Dwelling Unit Setbacks.** The only setback requirement for an internal ADU is that side and rear setbacks be sufficient for fire safety.

**Commented [kh9]:** Staff: Moved to 17.74.060 to only allow the PC approval of a deviation.

**65852.2.** (a)(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void as of the effective date of the act adding this paragraph. That agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

**Commented [kh10]:** Staff: Added the new requirement of 5 foot side and rear setback.

**STATE: 65852.2.a.1.D(vii)** No setback shall be required for an existing garage that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

**Commented [kh11]:** Staff: This requirements require must allow an internal ADU within an existing single-family home regardless of development standards other than those described. This means lot size is not a factor.

**65852.2(e)** Notwithstanding subdivisions (a) through (d) inclusive, a local agency shall ministerially approve an application for a building permit to create within a zone for single-family use one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, including, but not limited to, a studio, pool house, or other similar structure, that provides independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. A city or county shall require owner occupancy for either the primary residence or the accessory dwelling unit created through this provision.

**B.C. Incorporation into Primary Residence.** A detached accessory dwelling unit may not be incorporated into the primary residence unless parking and setback standards for the expanded primary residence are satisfied.

**C. Two-Story Accessory Dwelling Units.** All two-story accessory dwelling units require Planning Commission approval of a Design Permit and Conditional Use Permit.

**D. Doors and Windows.**

- 1. The entrance to a detached accessory dwelling unit shall face the interior of the parcel unless the accessory 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.

**E. Orientation.**

- 1. The accessory 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 shall be minimized.
- 2. Parking accessed from an alley shall maintain a 24-foot back-out area, which may include the alley.

**F. Design.** The design of the accessory dwelling unit shall complement 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.

**G. Open Space and Landscaping.** Open space and landscaping shall be provided that is usable for both the accessory dwelling unit and the primary residence. Landscaping shall maintain privacy and provide screening for adjacent properties.

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

**17.74.060 Deviation from Standards set forth in Sections 17.74.040-050 pursuant to Condition Use Permit Approved by Planning Commission; Findings**

The Planning Commission may approve an attached or detached accessory dwelling units that deviates from the standards in Section 17.74.050.A-E, including approval of a two-story attached or detached unit, or a height exception to accommodate a roof design that matches special roof features of the primary residence, with the approval of a Design Permit and a Conditional Use Permit. To approve a Conditional Use Permit for an accessory dwelling unit, the Planning Commission shall find that:

**A.** The exterior design of the accessory dwelling unit is compatible with the existing residence on the lot through architectural use of building forms, height, construction

**Commented [kh12]:** Staff: Moved to 17.74.060 only allow through PC approval of a deviation

**State: 65852.2.** (a)(4) An existing ordinance governing the creation of an accessory dwelling unit adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes **only** ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary process provisions, or requirements for those units, except otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

**Commented [kh13]:** Suggest rejecting this coastal commission edit. Reduces flexibility.

**Commented [kh14]:** Staff: Created 17.74.060 only allow through PC approval of a deviation

**State: 65852.2.** (a)(4) An existing ordinance governing the creation of an accessory dwelling unit adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary process provisions, or requirements for those units, except otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

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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 accessory dwelling unit will not create excessive noise, traffic, or parking congestion.
- D. The accessory dwelling unit has or will have access to adequate water sewer service as determined by the applicable service provider.
- E. Adequate open space and landscaping has been provided that is usable for both the accessory 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 accessory 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 accessory 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 accessory dwelling unit complements 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 Program. If located in the coastal zone and subject to a coastal development permit, the proposed development will not have adverse impacts on coastal resources.
- I. The project would not impair public 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.

#### 17.74.070 Deed Restrictions

- A. Before obtaining a building permit for an accessory 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 accessory dwelling unit may not be sold separately.
  2. The accessory dwelling unit is restricted to the approved size.
  3. The property owner must occupy either the primary residence or the accessory dwelling unit.
- 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 accessory dwelling unit.

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C. The deed restriction shall lapse upon removal of the accessory dwelling unit.

**17.74.080 Incentives**

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

1. The City may waive development fees for accessory dwelling units that will be rented at levels affordable to low or very low income households.
2. Applicants of affordable accessory 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 accessory 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 accessory 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 17.76 - PARKING AND LOADING

### Sections:

- 17.76.010 Purpose
- 17.76.020 Applicability
- 17.76.030 Required Parking Spaces
- 17.76.040 General Requirements
- 17.76.050 On-site Parking Alternatives
- 17.76.060 Parking Design and Development Standards
- 17.76.070 Parking Lot Landscaping
- 17.76.080 Bicycle Parking
- 17.76.090 Visitor-Serving Parking
- 17.76.100 On-site Loading

#### 17.76.010 Purpose

This chapter establishes on-site parking and loading requirements in order to:

- A. Provide a sufficient number of on-site parking spaces for all land uses.
- B. Provide for functional on-site parking areas that are safe for vehicles and pedestrians.
- C. Ensure that parking areas are well-designed and contribute to a high-quality design environment in Capitola.
- D. Allow for flexibility in on-site parking requirements to support a multi-modal transportation system and sustainable development pattern.
- E. Ensure that on-site parking areas do not adversely impact land uses on neighboring properties.

#### 17.76.020 Applicability

This chapter establishes parking requirements for three development scenarios: establishment of new structures and uses, replacement of existing uses, and expansion and enlargement of existing structures and uses.

- A. **New Structures and Uses.** On-site parking and loading as required by this chapter shall be provided anytime a new structure is constructed or a new land use is established.
- B. **Replacing Existing Uses.**
  - 1. Mixed Use Village Zoning District.
    - a. Where an existing residential use is changed to a commercial use in the Mixed Use Village (MU-V) zoning district, parking shall be provided for the full amount required by the new use. No space credit for the previous use may be granted.

**Commented [kh1]:** Coastal Commission edits in RED  
Capitola Staff edits in BLUE

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- b. In all other changes of use in the Mixed Use Village (MU-V) zoning district, additional parking is required to accommodate the incremental intensification of the new use. Additional parking is not required to remedy parking deficiencies existing prior to the change in use.
2. **Other Zoning Districts.** Where an existing use is changed to a new use outside of the Village Mixed Use (MU-V) zoning district, additional parking is required to accommodate the incremental intensification of the new use. Additional parking is not required to remedy parking deficiencies existing prior to the change in use.

**C. Expansions and Enlargements.**

1. **Nonresidential Use.**
- a. Where an existing structure with a nonresidential use is expanded or enlarged, additional parking is required to serve only the expanded or enlarged area, except as allowed by subparagraph b below.
  - b. Within the Mixed Use Village (MU-V) zoning district, an eating and drinking establishment may expand by up to 20 percent of the existing floor area of the business without providing additional parking. Permitted expansions include modification of the internal building layout to enlarge the dining area, additions to the size of the business within an existing building footprint, and new outdoor dining areas.
2. **Residential Use.** For an existing structure with a residential use, the full amount of parking to serve the use is required when the floor area is increased by more than ten percent.

**17.76.030 Required Parking Spaces**

- A. **Mixed Use Village Zoning ~~Districts~~District.** All land uses in the Mixed Use Village (MU-V) zoning ~~districts~~district shall provide the minimum number of on-site parking spaces as specified in Table 17.76-1. Required parking for uses not listed in Table 17.76-1 shall be the same as required for land uses in other zoning districts as shown in Table 17.76-2.

**TABLE 17.76-1: REQUIRED ON-SITE PARKING IN ~~VILLAGE~~ THE MIXED USE VILLAGE ZONING DISTRICT**

Land Uses	Number of Required Parking Spaces
	<del>Village</del> -Mixed Use <del>Village</del> (MU-V)
Retail	1 per 240 sq. ft.
Eating and Drinking Establishments	
Bars and Lounges	1 per 60 sq. ft. of floor area for dining and/or drinking; 1 per 240 sq. ft. for all other floor area
Restaurants and Cafes	1 per 60 sq. ft. of floor area for dining and/or drinking 1 per 240 sq. ft. for all other floor area
Take-Out Food and Beverage	1 per 240 sq. ft.
Personal Services	1 per 240 sq. ft.
Hotels	
With more than 20 guest rooms	As determined by a parking demand study [1]
With 20 or <del>less</del> <u>fewer</u> guest rooms	1 per guest room plus additional spaces as required by the Planning Commission
Notes: [1] The Parking Demand Study shall be paid for by the applicant, contracted by the City, and approved by the Planning Commission. <u>In the coastal zone, in all cases, hotel development shall provide adequate parking and shall not negatively impact existing public parking opportunities.</u>	

**B. Other Zoning Districts.** Land uses in zoning districts other than the ~~mixed use~~Mixed Use Village zoning ~~districts~~district shall provide a minimum number of on-site parking spaces as specified in Table 17.76-2.

**TABLE 17.76-2: REQUIRED ON-SITE PARKING IN OTHER ZONING DISTRICTS**

Land Uses	Number of Required Parking Spaces
<b>Residential Land Uses</b>	
Duplex Homes	2 per unit, 1 covered
Elderly and Long-Term Care	1 per six beds plus 1 per 300 sq. ft. of office and other nonresidential areas
Group Housing (includes single-room occupancy)	1 per unit plus 1 guest space per 6 units
Mobile Home Parks	1 per unit plus 1 per office and 1 guest space per 10 units
Multi-Family Dwellings	2.5 per unit, 1 covered
Residential Care Facilities, Small	0.5 per bed plus 1 per 300 sq. ft. of office and other nonresidential areas

**Commented [kh2]:** Suggest not accepting the second part of this sentence. A new hotel in the Village will remove private parking lot that has been available with a fee to the public.



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Residential Care Facilities, Large	0.5 per bed plus 1 per 300 sq. ft. of office and other nonresidential areas
Accessory Dwelling Units	See Chapter 17.5274 (Accessory Dwelling Units)
Single-Family Dwellings	1,500 sq. ft. or less: 2 per unit 1,501-2,000 sq. ft.: 2 per unit, 1 covered 2,001-2,600 sq. ft.: 3 per unit, 1 covered 2,601 sq. ft. or more: 4 per unit, 1 covered
<b>Public and Quasi-Public Land Uses</b>	
Community Assembly	1 per 3 fixed seats, or 1 per 40 sq. ft. of assembly area for uses without fixed seats
Cultural Institutions	As determined by a parking demand study
Day Care Centers	1 per 400 sq. ft. of floor area used for daycare and 1 per employee
Government Offices	1 per 300 sq. ft.
Home Day Care, Large	1 per <u>each</u> non-resident employee
Home Day Care, Small	None beyond minimum for residential use
Medical Offices and Clinics	1 per 300 sq. ft.
Parks and Recreational Facilities	As determined by a parking demand study
Public Safety Facilities	As determined by a parking demand study
Schools, Public or Private	2 per classroom
<b>Commercial Land Uses</b>	
Banks and Financial Institutions	1 per 300 sq. ft.
Business Services	1 per 300 sq. ft.
Commercial Entertainment and Recreation	1 per 3 fixed seats, or 1 per 40 sq. ft. of assembly area for uses without fixed seats
Eating and Drinking Establishments	
Bars and Lounges	1 per 60 sq. ft. of floor area for dining and/or drinking 1 per 300 sq. ft. for all other floor area
Restaurants and Cafes	1 per 60 sq. ft. of floor area for dining and/or drinking 1 per 300 sq. ft. for all other floor area
Take-Out Food and Beverage	1 per 300 sq. ft. of gross floor area

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Food Preparation	1 per 1,500 sq. ft. of use area plus 1 per 300 sq. ft. of office area
Gas and Service Stations	2 for gas station plus 1 per 100 sq. ft. of retail and as required for vehicle repair
Lodging	
Bed and Breakfast	1 per guest room plus parking required for residential use
Hotel	1 per guest room plus 1 per 300 sq. ft. of office
Maintenance and Repair Services	1 per 600 sq. ft.
Personal Services	1 per 300 sq. ft.
Professional Offices	1 per 300 sq. ft.
Salvage and Wrecking	1 per 500 sq. ft. of building area plus 1 per 0.5 acre of outdoor use area.
Self-Storage	1 per 5,000 sq. ft.
Retail	1 per 300 sq. ft. of customer area
Vehicle Repair	1 per 500 sq. ft. of non-service bay floor area plus 2 per service bay
Vehicle Sales and Rental	1 per 300 sq. ft. for offices plus 1 per 1,000 sq. ft. of display area and requirements for vehicle repair where applicable
Wholesale	1 per 5,000 sq. ft.
<b>Heavy Commercial and Industrial Land Uses</b>	
Construction and Material Yards	1 per 2,500 sq. ft.
Custom Manufacturing	1 per 2,000 sq. ft., plus 1 per 300 sq. ft. of office
Light Manufacturing	1 per 1,500 sq. ft. of use area plus 1 per 300 sq. ft. of office
Warehouse, Distribution, and Storage Facilities	1 per 1,500 sq. ft.
<b>Transportation, Communication, and Utility Uses</b>	
Utilities, Major	As determined by a parking demand study
Utilities, Minor	None
Recycling Collection Facilities	1 per 1,000 sq. ft. of floor area
Wireless Communications Facilities	None

Other Uses	
Accessory Uses	Same as primary use
Home Occupation	None beyond requirement for residence
Quasi-Public Seating Areas	None
Temporary Uses	As determined by review authority
Urban Agriculture	
Home Gardens	None beyond requirement for residence
Community Gardens	None
Urban Farms	As determined by a parking demand study

### C. Calculation of Required Spaces.

1. **Floor Area.** Where a parking requirement is a ratio of parking spaces to floor area, the floor area is assumed to be gross floor area, unless otherwise stated. The floor area of a use shall be calculated as described in Section 17.48.040 (Floor Area and Floor Area Ratio). Floor area for [the area of the required parking space \(i.e. 10 ft. x 20 ft.\) within](#) garages and other parking facilities are not included in the calculation of floor area for the purpose of determining on-site parking requirements.
2. **Employees.** Where a parking requirement is stated as a ratio of parking spaces to employees, the number of employees is based on the largest shift that occurs in a typical week.
3. **Seats.** Where a parking requirement is stated as a ratio of parking spaces to seats, each 24 inches of bench-type seating at maximum seating capacity is counted as one seat.
4. **Fractional Spaces.** In determining the number of required parking, fractions of spaces over one-half shall be rounded up to the next whole number.

**D. Unlisted Uses.** The parking requirement for land uses not listed in Table 17.76-1 and Table 17.76-2 shall be determined by the Community Development Director based on the requirement for the most comparable similar use, the particular characteristics of the proposed use, and any other relevant data regarding parking demand.

**E. Sites with Multiple Uses.** Where more than one land use is conducted on a site, the minimum number of required on-site parking spaces shall be the sum of the number of parking spaces required for each individual use.

**F. Additional Required Parking.** The Planning Commission may require more on-site parking than required by Table 17.76-1 and Table 17.76-2 if the Planning Commission determines that additional parking is needed to serve the proposed use and to minimize adverse impacts on neighboring properties.

**17.76.040 General Requirements**

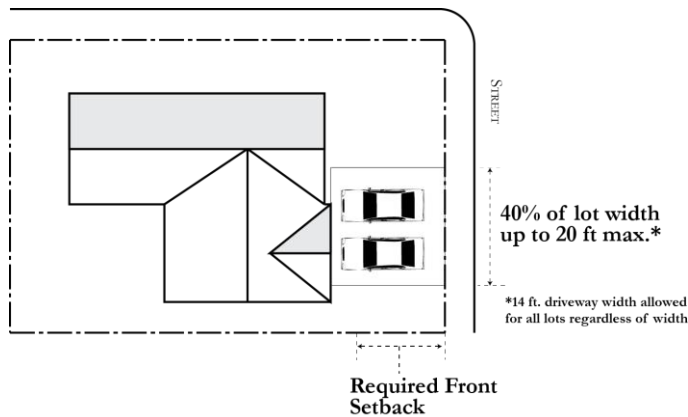
**A. Availability and Use of Spaces.**

1. In all zoning districts, required parking spaces shall be permanently available and maintained to provide parking for the use they are intended to serve.
2. Owners, lessees, tenants, or persons having control of the operation of a use for which parking spaces are required shall not prevent or restrict authorized persons from using these spaces.
3. A Conditional Use Permit is required to designate parking spaces for exclusive use by an individual tenant within an integrated commercial complex.
4. Required parking spaces shall be used exclusively for the temporary parking of vehicles and shall not be used for the sale, lease, display, repair, advertising, or storage of vehicles, trailers, boats, campers, mobile homes, merchandise, or equipment, or for any other use not authorized by the Zoning Code.

**B. Parking in Front and Exterior Side Setback Areas.**

1. **R-1 Zoning District.** In the R-1 zoning district, the width of a parking space in the required front or exterior side setback area may not exceed 40 percent of lot width up to a maximum of 20 feet, except that all lots may have a parking space of up to 14 feet in width regardless of lot width. See Figure 17.76-1. The Planning Commission may allow a larger parking area within the required front and exterior side setback areas with a Design Permit if the larger parking area incorporates design features, such as impervious materials and enhanced landscaping, ~~that~~which minimize visual impacts to the neighborhood.

**FIGURE 17.76-1: PARKING IN FRONT SETBACK AREA IN R-1 ZONING DISTRICT**



## 2. Other Zoning Districts.

- a. In all zoning districts other than the R-1 zoning district, required parking spaces may not be located within required front or exterior side setback areas.
- b. In the Mixed Use Village zoning district, parking may be located adjacent to the street-facing property line in accordance with Section 17.20.030.E.5 (Parking Location and Buffers).
- c. In the Mixed Use Neighborhood zoning district, parking may be located in the front or exterior side setback area if approved by the Planning Commission in accordance with Section 17.20.040.E (Parking Location and Buffers).

## C. Location of Parking.

1. **All Zoning Districts.** Required parking spaces may not be located within any public or private right-of-way unless located in a sidewalk exempt area and if an Encroachment Permit is granted.
2. **R-1 Zoning District.** Required parking spaces in the R-1 zoning district shall be on the same parcel as the use that they serve.
3. **MU-V Zoning District.** Required parking spaces for new non-residential development and intensified uses in the MU-V zoning district shall be provided on sites outside of the Village area. These spaces shall be within walking distance of the use which it serves or at remote sites served by a shuttle system. The Planning Commission may approve exceptions to allow on-site parking in the MU-V district for:
  - a. The Capitola Theater site (~~APN 035-262-04~~) and APNs 035-262-04, 035-262-02, 035-262-11, and 035-261-10) may accommodate limited onsite parking to serve ADA guests and a valet or similar shuttle system; however, offsite parking is strongly encouraged to the maximum extent feasible. For any parking located onsite, driveway cuts shall be minimized and parking areas will not be located on along the interior street frontage of the site-; and
  - ~~a-b.~~ The Mercantile site (APN 035-221-17) if driveway cuts are minimized to the extent possible and parking areas are located on the interior of the site; and
  - ~~b-c.~~ If mandated under Federal Emergency Management Agency regulations and as consistent with the certified Local Coastal Program.
4. **Other Zoning Districts.** In all zoning districts other than the R-1 and MU-V zoning ~~district~~ districts, required parking shall be located on the same lot as the use ~~they are~~ the parking is intended to serve, except as allowed by Section 17.76.050.D below.

- D. **Large Vehicle Storage in the R-1 Zoning District.** In addition to the required on-site parking spaces for a single-family dwelling, one additional on-site parking or storage space may be provided on a parcel in the R-1 zoning district for a recreational vehicle, boat,

camper, or similar vehicle.- This space may not be located in a required front or exterior side setback area and may be utilized only to store a vehicle that does not exceed 13.5 feet in height, 8.5 feet in width, and 25 feet in length. Such parking or storage spaces shall be finished in concrete, asphalt, semi-permeable pavers, or a similar paved surface.

**E. Covered Parking in the R-1 Zoning District.**

1. When required by this chapter, covered parking spaces serving a single-family dwelling shall be provided within an enclosed garage. The Planning Commission may allow required covered parking spaces to be provided within an open carport with a Design Permit if the Planning Commission finds that a garage is practically infeasible or that a carport results in a superior project design.
2. All carports serving a single-family dwelling shall comply with the following design standards:
  - a. Carports shall be designed with high quality materials, compatible with the home. The roofing design, pitch, colors, exterior materials and supporting posts shall be similar to the home. The carport shall appear substantial and decoratively finished in a style matching the home which it serves.
  - b. The slope of a carport roof shall substantially match the roof slope of the home which it serves.
  - c. Pedestrian pathways connecting the carport with the home shall be provided.
3. Garages in the R-1 zoning district may be converted to habitable living space only if the total number of required on-site parking spaces is maintained, including covered spaced for the covered parking space requirement.

**F. Electric Vehicle Charging.**

1. **When Required.** Electric vehicle charging stations shall be provided:
  - a. For new structures or uses required to provide at least 25 parking spaces; and
  - b. Additions or remodels that increase an existing parking lot of 50 for more spaces by 10 percent or more.
2. **Number of Charging Stations.** The number of required charging stations shall be calculated as follows:
  - a. 25-49 parking spaces: 1 charging station.
  - b. 50-100 parking spaces: 2 charging stations, plus one for each additional 50 parking spaces.
  - c. For the purpose of calculating required number of charging stations, parking spaces shall include existing and proposed spaces.
3. **Location and Signage.** Charging stations shall be installed adjacent to standard size parking spaces. Signage shall be installed designating spaces with charging stations for electric vehicles only.

**G. Parking for Persons with Disabilities.**

1. Parking spaces for persons with disabilities shall be provided in compliance with California Code of Regulations Title 24.
2. Parking spaces required for the disabled shall count toward compliance with the number of parking spaces required by Table 17.76-1 and Table 17.76-2.

**H. Curb-side Service.**

1. Curb-side (drive-up) service for retail uses is allowed in all commercial and mixed-use zoning districts.
2. Restaurant curb-side service requires a Conditional Use Permit in the Regional Commercial (C-R) zoning district and is prohibited in all other zoning districts.

**17.76.050 On-site Parking Alternatives****A. Purpose.** This section identifies alternatives to required on-site parking to:

1. Allow for creative parking solutions;
2. Enhance economic vitality in Capitola;
3. Promote walking, biking, and use of transit; and
4. Encourage the efficient use of land resources consistent with the General Plan.

**B. Eligibility.** Alternatives to required on-site parking in this section are available only to uses located outside of the Mixed Use Village zoning district, except for:

1. Valet parking (Subsection F) which is available in all zoning districts, including the Mixed Use Village zoning district; and
2. Fees in-lieu of parking (Subsection I), which is available only to uses in the Mixed Use Village zoning district.

**C. Required Approval.** All reductions in on-site parking described in this section require Planning Commission approval of a Conditional Use Permit.**D. Off-Site Parking.**

1. For multi-family housing and non-residential uses, the Planning Commission may allow off-site parking if the Commission finds that practical difficulties prevent the parking from being located on the same lot it is intended to serve.
2. Off-site parking shall be located within a reasonable distance of the use it is intended to serve, as determined by the Planning Commission.
3. A deed restriction or other legal instrument, approved by the City Attorney, shall be filed with the County Recorder. The covenant record shall require the owner of the property where the on-site parking is located to continue to maintain the parking space so long as the building, structure, or improvement is maintained in Capitola. This covenant shall stipulate that the title and right to use the parcels shall not be

subject to multiple covenant or contract for use without prior written consent of the City.

- E. Shared Parking.** Multiple land uses on a single parcel or development site may use shared parking facilities when operations for the land uses are not normally conducted during the same hours, or when hours of peak use differ. The Planning Commission may allow shared parking subject to the following requirements:
1. A parking demand study prepared by a specialized consultant contracted by the Community Development Director, paid for by the applicant, and approved by the Planning Commission demonstrates that there will be no substantial conflicts between the land uses' principal hours of operation and periods of peak parking demand.
  2. The total number of parking spaces required for the land uses does not exceed the number of parking spaces anticipated at periods of maximum use.
  3. The proposed shared parking facility is located no further than 400 feet from the primary entrance of the land use which it serves.
  4. In the Mixed Use Neighborhood (MU-N) zoning district the reduction for shared parking is no greater than 25 percent of the required on-site parking spaces.
- F. Valet Parking.** The Planning Commission may allow up to 25 percent of the required on-site parking spaces to be off-site valet spaces (except for a hotel on the former Village theatre site (~~APN 0350262~~APNs 035-262-04, 035-262-02, and 035-261-10) for which there is no maximum limit of off-site valet spaces). Valet parking shall comply with the following standards:
1. Valet parking lots must be staffed when business is open by an attendant who is authorized and able to move vehicles.
  2. A valet parking plan shall be reviewed and approved by the Community Development Director in consultation with the Public Works Director.
  3. Valet parking may not interfere with or obstruct vehicle or pedestrian circulation on the site or on any public street or sidewalk.
  4. The use served by valet parking shall provide a designated drop-off and pick-up area. The drop-off and pick-up area may be located adjacent to the building, but it may not be located within a fire lane, impede vehicular and/or pedestrian circulation, or cause queuing in the right-of-way or drive aisle.
- G. Low Demand.** The number of required on-site parking spaces may be reduced if the Planning Commission finds that the land use will not utilize the required number of spaces due to the nature of the specific use. This finding shall be supported by the results of a parking demand study approved by the Community Development Director in consultation with the Public Works Director.
- H. Transportation Demand Management Plan.** The Planning Commission may reduce



the number of required on-site parking spaces for employers that adopt and implement a Transportation Demand Management (TDM) Plan subject to the following requirements and limitations:

1. A TDM Plan reduction is available only to employers with 25 or more employees.
2. Required on-site parking spaces may be reduced by no more than 15 percent.
3. The TDM Plan shall be approved by the Community Development Director in consultation with the Public Works Director.
4. The TDM Plan shall identify specific measures that will measurably reduce the demand for on-site parking spaces. Acceptable measures must ensure a reduced demand for parking spaces (e.g., an employee operated shuttle program). Measures that only encourage the use of public transit, ridesharing, biking, or walking will not be accepted.
5. The employer shall appoint a program coordinator to oversee transportation demand management activities.
6. The program coordinator must provide a report annually to the Planning Commission that details the implementation strategies and effectiveness of the TDM Plan.
7. The Planning Commission may revoke the TDM Plan at any time and require additional parking spaces on site upon finding that that the Plan has not been implemented as required or that the Plan has not produced the reduction the demand for on-site parking spaces as originally intended.

#### I. Fees in Lieu of Parking

1. Within the MU-V zoning district, on-site parking requirements for hotel uses may be satisfied by payment of an in-lieu parking fee established by the City Council ~~in an amount equal to the cost~~ to provide an equivalent number of parking spaces in a municipal parking lot. Such payment must be made before issuance of a building permit or a certificate of occupancy. Requests to participate in an in-lieu parking program must be approved by the City Council. A proposed hotel may require a Coastal Development Permit as specified by Chapter 17.44 (Coastal Overlay Zones) if any part of the site is located in the Coastal Zone. A parking plan shall be reviewed within an CDP, to ensure the development will not have adverse impacts on coastal resources.
2. Fee revenue must be used to provide public parking in the vicinity of the use. In establishing parking districts, the City Council may set limitations on the number of spaces or the maximum percentage of parking spaces required for which an in-lieu fee may be tendered.

- J. Transit Center Credit.** Provided a regional transit center is located within the ~~Capitol~~Capitola Mall property, the Planning Commission may reduce the number of required parking spaces by up to 10 percent for residential mixed-use projects in the

**Commented [kh3]:** Do not recommend accepting this. The City Council can decide how to quantify the cost at the review.

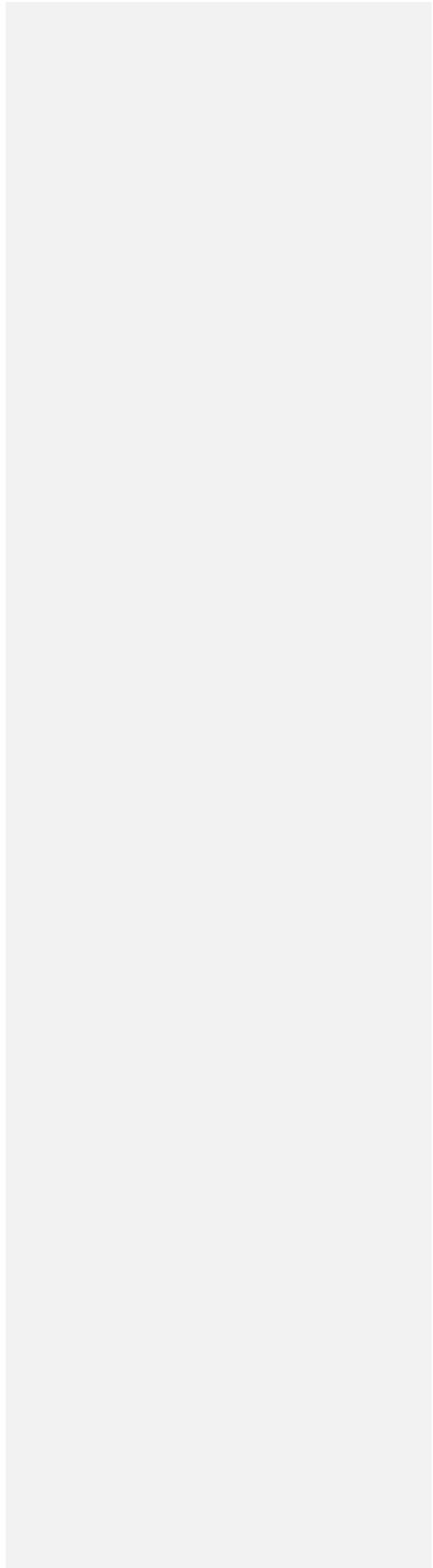
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Capitola Mall property bounded by Clare’s Street, Capitola Road, and 41<sup>st</sup> Avenue.

**17.76.060 Parking Design and Development Standards**

**A. Minimum Parking Space Dimensions.** Minimum dimensions of parking spaces shall be as shown in Table 17.76.3.



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**TABLE 17.76-3: MINIMUM PARKING SPACE DIMENSIONS**

Type of Space	Minimum Space Dimensions
Spaces Serving Single-Family Dwellings	
Uncovered and covered (garage) spaces	10 ft. by 20 ft. [1]
In sidewalk exempt areas	10 ft. by 18 ft.
Spaces Serving Multi-Family and Non-Residential Uses	
Standard Spaces	9 ft. by 18 ft.
Compact Spaces	8 ft. by 16 ft.
Tandem Spaces [2]	9 ft. by 18 ft.

Notes:

[1] The dimensions of parking spaces in an enclosed garage shall be measured from the interior garage walls.

[2] See Section 17.76.060.E.3 (Tandem Parking Spaces)

- B. Compact Spaces.** A maximum of 30 percent of required on-site parking spaces serving multi-family and non-residential uses may be compact spaces. All parking spaces for compact cars shall be clearly marked with the word “Compact” either on the wheel stop or curb, or on the pavement at the opening of the space.
- C. Parking Lot Dimensions.** The dimensions of parking spaces, maneuvering aisles, and access ways within a parking lot shall conform to the City’s official parking space standard specifications maintained by the Public Works Director and as shown in Figure 17.76-2 and Table 17.76-4.

FIGURE 17.76-2: STANDARD PARKING LOT DIMENSIONS

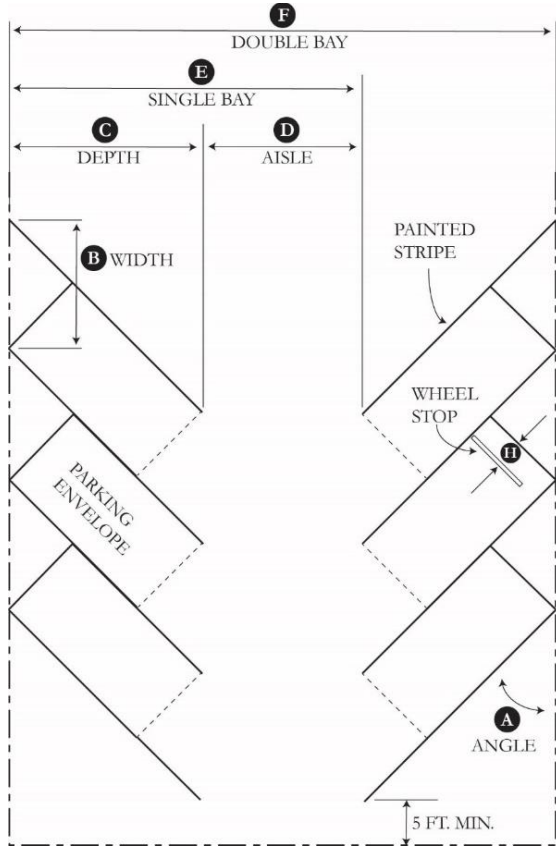


TABLE 17.76-4: STANDARD PARKING LOT DIMENSIONS

A Parking Angle	B Width		C Depth		D Aisle			E Single Bay			F Double Bay		
	Compact	Standard	Compact	Standard	Compact	Residential	Commercial	Compact	Residential	Commercial	Compact	Residential	Commercial
90	7'-6"	8'-6"	15'-0"	18'-0"	20'-0"	22'-0"	25'-0"	35'-0"	40'-0"	43'-0"	50'-0"	58'-0"	61'-0"
85	7'-7"	8'-6"	15'-7"	18'-8"	19'-0"	21'-0"	24'-0"	34'-7"	39'-8"	42'-8"	50'-2"	58'-4"	61'-0"
80	7'-8"	8'-7"	16'-1"	19'-2"	18'-0"	20'-0"	23'-0"	34'-1"	39'-2"	42'-4"	50'-2"	58'-4"	p
75	7'-9"	8'-10"	16'-5"	19'-7"	17'-0"	19'-0"	22'-0"	33'-5"	38'-7"	41'-7"	49'-10"	58'-2"	61'-0"
70	8'-0"	9'-0"	16'-9"	19'-10"	16'-0"	18'-0"	21'-0"	32'-9"	37'-10"	40'-10"	49'-6"	57'-8"	66'-8"
65	8'-4"	9'-4"	16'-10"	19'-11"	15'-0"	17'-0"	20'-0"	31'-10"	36'-11"	39'-11"	48'-8"	56'-10"	59'-10"
60	8'-8"	9'-10"	16'-9"	19'-10"	14'-0"	16'-0"	19'-0"	30'-9"	35'-10"	38'-10"	47'-6"	55'-8"	58'-8"
55	9'-1"	10'-4"	16'-7"	19'-7"	13'-0"	15'-0"	18'-0"	29'-7"	34'-7"	37'-7"	46'-2"	54'-2"	57'-2"
50	9'-10"	11'-1"	16'-4"	19'-2"	12'-0"	14'-0"	17'-0"	28'-4"	33'-2"	36'-2"	44'-8"	52'-4"	55'-4"
45	10'-7"	12'-0"	15'-11"	18'-8"	11'-0"	13'-0"	16'-0"	25'-5"	30'-0"	33'-0"	42'-10"	50'-4"	53'-4"
40	11'-8"	13'-2"	15'-15"	18'-0"	10'-0"	12'-0"	15'-0"	24'-8"	28'-2"	31'-2"	40'-10"	48'-0"	51'-0"
35	13'-1"	14'-10"	14'-8"	17'-2"	10'-0"	11'-0"	14'-0"	24'-0"	26'-2"	29'-2"	39'-4"	45'-4"	48'-4"
30	15'-3"	17'-0"	14'-0"	16'-2"	10'-0"	10'-0"	13'-0"	35'-0"	40'-0"	43'-0"	38'-0"	42'-4"	45'-4"

**D. Surfacing.**

1. All parking spaces, maneuvering aisles, and access ways shall be paved with asphalt, concrete, or other all-weather surface.
2. Permeable paving materials, such as porous concrete/asphalt, open-jointed pavers, and turf grids, are a preferred surface material, subject to approval by the Public Works Director.

**E. Tandem Parking Spaces.** Tandem parking spaces are permitted for all residential land uses, provided that they comply with the following standards:

1. Parking spaces in a tandem configuration shall be reserved for and assigned to a single dwelling unit.
2. For single-family dwellings, tandem parking is permitted for up to two uncovered spaces in front of a garage, with a maximum of three tandem spaces, including the covered space in a single garage. Tandem parking spaces of three spaces or more require Planning Commission approval.
3. The minimum size of an uncovered tandem parking space may be reduced to 9 feet by 18 feet.
4. All required guest parking shall be provided as single, non-tandem parking spaces.
5. Tandem parking spaces shall not block the use of the driveway to access other parking spaces located within the parking area.
6. Tandem parking spaces shall be used to accommodate passenger vehicles only.

**F. Parking Lifts.** Required parking may be provided using elevator-like mechanical parking systems (“lifts”) provided the lifts are located within an enclosed structure or otherwise screened from public view. Parking lifts shall be maintained and operable through the life of the project.**G. Lighting.**

1. A parking area with six or more parking spaces shall include outdoor lighting that provides adequate illumination for public safety over the entire parking area.
2. Outdoor lighting as required above shall be provided during nighttime business hours.
3. All parking space area lighting shall be energy efficient and directed away from residential properties to minimize light trespass.
4. All fixtures shall be hooded and downward facing so the lighting source is not directly visible from the public right-of-way or adjoining properties.
5. All fixtures shall meet the International Dark Sky Association's (IDA) requirements for reducing waste of ambient light (“dark sky compliant”).

**H. Pedestrian Access.**

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1. Parking lots with more than 30 parking spaces shall include a pedestrian walkway in compliance with ADA requirements.
  2. The design of the pedestrian walkway shall be clearly visible and distinguished from parking and circulation areas through striping, contrasting paving material, or other similar method as approved by the Community Development Director.
- I. Screening.** Parking lots of six spaces or more shall comply with the following screening standards.
1. **Location.** Screening shall be provided along the perimeter of parking lots fronting a street or abutting a residential zoning district.
  2. **Height.**
    - a. Screening adjacent to streets shall have a minimum height of 3 feet.
    - b. For parking lots within 10 feet of a residential zoning district, screening shall have a minimum height of 6 feet, with additional height allowed with Planning Commission approval.
  3. **Materials – General.** Required screening may consist of one or more of the following materials: (see Section 17.76.070 (Parking Lot Landscaping) for landscaping screening requirements):
    - a. Low-profile walls constructed of brick, stone, stucco or other durable material
    - b. Evergreen plants that form an opaque screen.
    - c. An open fence combined with landscaping to form an opaque screen.
    - d. A berm landscaped with ground cover, shrubs, or trees.
  4. **Materials – Adjacent Residential.** Parking lots within 10 feet of a residential zoning district shall be screened by a masonry wall.
- J. Drainage.** A drainage plan for all parking lots shall be approved by the Public Works Director.
- K. Adjustments to Parking Design and Development Standards.** The Planning Commission may allow adjustments to parking design and development standards in this section through the approval of a Minor Modification as described in Chapter 17.136 (Minor Modifications).

#### 17.76.070 Parking Lot Landscaping

- A. General Standards.** All landscaping within parking lots shall comply with the requirements of Chapter 17.72 (Landscaping) in addition to the standards within this section.
- B. Landscaping Defined.** Except as otherwise specified in this section, landscaping and landscaped areas shall consist of plant materials, including any combination of trees, shrubs, and ground cover.

- C. Interior Landscaping.** All areas within a parking lot not utilized for parking spaces or access/circulation shall be landscaped. For parking lots with more than 15 spaces, the minimum amount of interior landscaping is specified in Table 17.76-5. Interior landscaping is defined as any landscaped area surrounded on at least two sides by parking spaces or drive aisles, and excluding areas around the perimeter of the parcel or development site.

**TABLE 17.76-5: MINIMUM REQUIRED PARKING LOT LANDSCAPING**

Number of Required Parking Spaces	Percent of Surface Parking Area to be Landscaped
16 to 30	10%
31 to 60	15%
Over 60	20%

**D. Shade Trees.**

1. One shade tree shall be provided for every five parking spaces in a parking lot.
2. Shade trees shall be a minimum 24-inch box in size and shall provide a minimum 30-foot canopy at maturity.
3. Shade trees shall be of a type that can reach maturity within 15 years of planting and shall be selected from a City-recommended list of canopy tree species.
4. Shade trees shall be arranged in a parking lot to provide maximum shade coverage (based on a 30-foot canopy) on August 21. The arrangement should approximate nearly 50 percent shade coverage.
5. The Planning Commission may grant an exception to the required tree plantings if the 50% shade coverage exists within the parking lot.

**E. Concrete Curbs.**

1. All landscape areas shall be separated from parking spaces, drive aisles and driveways by a continuous, raised concrete curb. Raised concrete curbs shall be a minimum of 4 inches high by 4 inches deep.
2. The City may approve alternatives to raised concrete curbs as needed to comply with any mandatory stormwater drainage standards.

- F. Parking Space Landscaping.** A maximum of 2 feet at the front end of a parking space may be landscaped with low shrubs or ground cover in which a vehicle could extend over in lieu of paving surface. This landscaping may not count toward minimum required parking lot landscaped area.

- G. Timing.** Landscaping shall be installed prior to the City's authorization to occupy any



buildings served by the parking area, or prior to the final inspection for the parking lot.

- H. Green Parking Exemptions.** Parking lots that incorporate solar panels, bioswales, and other similar green features into the parking lot design are eligible for reduced parking lot landscaping requirements with Planning Commission approval of a Design Permit.
- I. Exceptions.** The Planning Commission may grant an exception to the parking lot landscaping requirements in this section with the approval of a Design Permit upon finding that:
  1. Full compliance with the requirement is infeasible or undesirable;
  2. The project complies with the requirement to the greatest extent possible; and
  3. The project incorporates other features to compensate for the exception and create a high quality design environment.

**17.76.080 Bicycle Parking**

- A. Applicability.** All new multi-family developments of 5 units or more and commercial uses served by parking lots of 10 spaces or more shall provide bicycle parking as specified in this section.
- B. Types of Bicycle Parking.**
  1. **Short-Term Bicycle Parking.** Short-term bicycle parking provides shoppers, customers, messengers and other visitors who generally park for two hours or less a convenient and readily accessible place to park bicycles.
  2. **Long-Term Parking.** Long-term bicycle parking provides employees, residents, visitors and others who generally stay at a site for several hours **or more** a secure and weather-protected place to park bicycles. Long-term parking may be located in publicly accessible areas or in garages or other limited access areas for exclusive use by tenants or residents.
- C. Bicycle Parking Spaces Required.** Short-term and long-term bicycle parking spaces shall be provided as specified in Table 17.76-6.

**TABLE 17.76-6 REQUIRED BICYCLE PARKING SPACES**

Land Use	Required Bicycle Parking Spaces	
	Short-Term Spaces	Long-Term Spaces
Multi-Family Dwellings and Group Housing	10% of required automobile spaces; minimum of 4 spaces	1 per unit
Non-Residential Uses	10% of required automobile spaces	1 per 20 required automobile spaces for uses 10,000 sq. ft. or greater

- D. Short-Term Bicycle Parking Standards.** Short-term bicycle parking shall be located within 100 feet of the primary entrance of the structure or use it is intended to serve.
- E. Long-Term Bicycle Parking Standards.** ~~Following~~The following standards apply to long-term bicycle parking:
1. **Location.** Long-term bicycle parking shall be located within 750 feet of the use that it is intended to serve.
  2. **Security.** Long-term bicycle parking spaces shall be secured. Spaces are considered secured if they are:
    - a. In a locked room or area enclosed by a fence with a locked gate;
    - b. Within view or within 100 feet of an attendant or security guard;
    - c. In an area that is monitored by a security camera; or
    - d. Visible from employee work areas.
- F. Parking Space Dimensions.**
1. Minimum dimensions of 2 feet by 6 feet shall be provided for each bicycle parking space.
  2. An aisle of at least 5 feet shall be provided behind all bicycle parking to allow room for maneuvering.
  3. 2 feet of clearance shall be provided between bicycle parking spaces and adjacent walls, polls, landscaping, pedestrian paths, and other similar features.
  4. 4 feet of clearance shall be provided between bicycle parking spaces and adjacent automobile parking spaces and drive aisles.
- G. Rack Design.** Bicycle racks must be capable of locking both the wheels and the frame of the bicycle and of supporting bicycles in a fixed position. The Planning Commission may allow creative approaches to rack design (e.g., vertical wall-mounted bicycle racks) if physical site constraints render compliance with bicycle parking design standards impractical or undesirable.
- H. Cover.** If bicycle parking spaces are covered, the ~~cover~~covers shall be permanent and designed to protect ~~the bicycle~~bicycles from rainfall.

#### 17.76.090 Visitor Serving Parking

- A. Shuttle Program Parking.** Parking for the free summer beach shuttle program shall be provided in a remote lot or lots, such as those located on Bay Avenue, ~~Capitola Beach,~~ and the Village public parking lots. The free shuttle shall operate, at a minimum, on weekends and holidays between Memorial Day weekend and Labor Day weekend.
- B. Public Parking in the Coastal Zone.**
1. Public parking existing as of [date of Zoning Ordinance adoption] in the following

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locations in the CF zoning district shall be maintained for public parking:

- a. The Upper City Hall parking lot;
  - b. The Cliff Drive overlook parking; and
  - c. The Cliff Drive Southern Pacific railroad right-of-way parking unless Cliff Drive must be relocated due to cliff erosion.
2. Substantial changes in public parking facilities in the coastal zone require a Local Coastal Program (LCP) amendment.
3. Expansion of any existing legally established residential parking programs and/or new residential parking programs are highly discouraged in the Coastal Zone; require an amendment to Coastal Development Permit 3-87-42 and consistency with the LCP Land Use Plan.
4. When considering a Coastal Development Permit application for any development that could reduce or degrade public parking opportunities near beach access points, shoreline trails, or parklands, including any changes in parking fees, timing and availability, the City shall evaluate the potential impact on public coastal access, and ensure existing levels of public access are at least maintained and if possible enhanced, including by providing alternative access opportunities such as bicycle lanes and bicycle parking, pedestrian trails, and relocated vehicular parking spaces, so as to fully mitigate any potential negative impacts and to maximize access opportunities.

**Commented [kh4]:** DISCUSSION 8: The LCP Land Use has a policy for residential parking programs in Policy I-1(C) 12. This should be updated to reflect the policy.

**17.76.100 On-site Loading**

- A. Applicability.** All retail, hotel, warehousing, manufacturing, and similar uses that involve the frequent receipt or delivery of materials or merchandise shall provide on-site loading spaces consistent with the requirements of this section.
- B. Number of Loading Spaces.** The minimum number of required loading spaces shall be as specified in Table 17.76-7.

**TABLE 17.76-7: REQUIRED LOADING SPACES**

Floor Area	Required Loading Spaces
Less than 10,000 sq. ft.	None
10,000 to 30,000 sq. ft.	1
Greater than 30,000 sq. ft.	2 plus 1 per each additional 20,000 sq. ft.

**C. Location.**

1. Required loading spaces shall be located on the same lot as the use they are intended to serve.
2. No loading space shall be located closer than 50 feet to a residential zoning district, unless the loading space is wholly enclosed within a building or screened by a solid wall not less than 8 feet in height.

**D. Dimensions.**

1. Each loading space shall have minimum dimensions of 10 feet wide, 25 feet long, and 14 feet in vertical clearance.
2. Deviations from the minimum dimensions standards may be approved by the Community Development Director if the spatial needs are less than the minimum required due to the truck size and type that will be utilized in the operation of a specific business.

**E. Design and Configuration.**

1. Loading spaces shall be configured to ensure that loading and unloading takes place on-site and not within adjacent public rights-of way.
2. Sufficient maneuvering area shall be provided for loading spaces so that vehicles may enter and exit an abutting street in a forward direction.
3. Loading spaces and their associated maneuvering areas shall not encroach into required employee or visitor parking areas or other on-site areas required for vehicle circulation.
4. Loading spaces shall be striped and clearly identified as for loading purposes only.

SIGNS

17.80

## Chapter 17.80 - SIGNS

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Capitola Staff edits in BLUE

### Sections:

- 17.80.010 Purpose and Applicability
- 17.80.020 Definitions
- 17.80.030 Permit Requirements
- 17.80.040 Rules of Measurement
- 17.80.050 Signs Allowed Without Permits
- 17.80.060 Prohibited Signs
- 17.80.070 General Sign Standards
- 17.80.080 Standards for Specific Types of Signs
- 17.80.090 Design Standards
- 17.80.100 Residential Signs
- 17.80.110 Temporary Signs
- 17.80.120 Adjustment to Sign Standards
- 17.80.130 Master Sign Program
- 17.80.140 Nonconforming Signs
- 17.80.150 Violations and Enforcement

### 17.80.010 Purpose and Applicability

- A. Purpose.** This chapter establishes standards relating to the permitted type, size, height, placement, number, and design of signs. The intent of these standards is to:
1. Support economically viable businesses serving city residents, workers, and visitors.
  2. Allow for signage that identifies businesses in a fair and equitable manner.
  3. Protect and enhance the aesthetic qualities of the city.
  4. Minimize hazards to motorists and pedestrians resulting from excessive, confusing, and distracting signs.
  5. Allow for a simple and streamlined sign permitting process.
- B. Applicability.** This chapter applies to all signs in Capitola, except for City-installed signs and signs required by a governmental agency to carry out its responsibility to protect the public health, safety, and general welfare.

### 17.80.020 Definitions

The following definitions apply to this chapter:

- A. Awning Sign.** A sign incorporated into, attached, or painted on an awning.

- B. Awning Face Sign.** A sign located on the sloping plane face of an awning.
- C. Awning Valance Sign.** A sign located on the valance of an awning perpendicular to the ground.
- D. Center Identification Sign.** A sign identifying the name of a shopping center and that does not include the name of any business within the center. A shopping center is a commercial building or group of buildings operated as a unit on a single parcel, sharing common parking areas or commonly owned adjacent parcels.
- E. Construction Site Sign.** An on-premise sign for an approved construction project that publicizes the future building and occupants as well as the architects, engineers and construction organizations involved in the project.
- F. Directory Sign.** An on-premise sign which shows the direction to or location of a customer entrance to a business.
- G. Flags.** Fabric, textile, or material with colors and/or patterns which display a symbol of a nation, state, company, or idea.
- H. Monument Sign.** An independent, freestanding structure supported on the ground as opposed to being supported on the building.
- I. Projecting Sign.** Any sign permanently attached to a building or wall such that the sign face or faces are perpendicular to the building or wall.
- J. Roof Sign.** Any sign that is mounted on a roof or a parapet, of a building.
- K. Sidewalk Sign.** Movable or permanent business identification signs placed in or attached to a public sidewalk.
- L. Sign.** Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise or announce the purpose of a business or entity, or to communicate information of any kind to the public.
- M. Sign Area.** See Section 17.80.040.A (Calculation of Sign Area).
- N. Sign Copy.** The area of a sign occupied by letters, numbers, graphics, or other content intended to inform, direct, or otherwise transmit information.
- O. Sign Face.** The area of a sign where sign copy is placed.
- P. Wall Sign.** A sign which is attached to or painted on the exterior wall of a structure with the display surface of the sign approximately parallel to the building wall.
- Q. Window Sign.** A sign posted, painted, placed, or affixed in or on a window exposed to public view or within one foot and parallel to a window exposed to public view.

#### 17.80.030 Permit Requirements

- A. Administrative Sign Permits.** An Administrative Sign Permit (Chapter 17.132) is required to install, construct, or enlarge a sign, except for:

1. Signs exempt from the permit requirements of this chapter as specified in Section 17.80.050 (Signs Allowed without Permits).
  2. Signs requiring a Sign Permit as identified in Section B below.
- B. Sign Permits.** Planning Commission approval of a Sign Permit (Chapter 17.132) is required for the following types of signs and approvals:
1. New signs in the Mixed Use Village (MU-V) zoning district.
  2. Exterior neon signs.
  3. Monument signs for more than four tenants.
  4. Auto dealership signs in the C-R zoning district (Section 17.80.080.A) that are not otherwise allowed with an Administrative Sign Permit.
  5. Adjustments to sign standards in low visibility areas in commercial zoning districts (17.80.120.E).
  6. Signs that do not conform with permitted sign types and standards in Section 17.80.080 (Standards for Specific Types of Signs)
  7. Master sign programs (Section 17.80.130).

**C. City-Installed Signs.** City-installed signs in all zoning districts do not require a permit, unless the proposed sign is located in the Coastal Zone and requires a Coastal Development Permit as specified by Chapter 17.44 (Coastal Overlay Zone).

**D. Other Government-Installed Signs.** Governmental agency-installed signs to carry out its responsibility to protect the public health, safety, and general welfare in all zoning districts do not require a permit, unless the proposed sign is located in the Coastal Zone and requires a Coastal Development permit as specified by Chapter 17.44 (Coastal Overlay Zone).

**E. Signs in the Coastal Zone.**

1. If a proposed sign is located in the Coastal Zone, it may require a Coastal Development Permit (CDP) as specified in Chapter 17.44 (Coastal Overlay Zone). Approval of a CDP requires conformance with the CDP findings for approval as specified in 17.44.130 (Findings for Approval).
2. Notwithstanding all applicable standards in this Chapter, any sign that could reduce public coastal access, including signs limiting public parking or restricting use of existing lateral and/or vertical accessways, requires a coastal development permit.
3. Signs on public or private property but affecting public property that are not placed there by the public entity having the possessory interest in such property are prohibited, as specified in Subsection 17.80.060.U.

**Commented [kh2]:** Discussion 9: Staff recommends that this modification not be accepted. This was intentionally put in as a waiver for the City to be able to put up street signs and directional signs without requiring a permit.

**Commented [kh3]:** Discussion 9: Staff recommends that this modification not be accepted. Health, safety, and general welfare signs should not require a permit, but they do have to comply with the applicable sign regulations.

**Commented [kh4]:** Staff recommends that this modification not be accepted. This is stated as prohibited under 17.80.060.U. Not necessary to repeat.

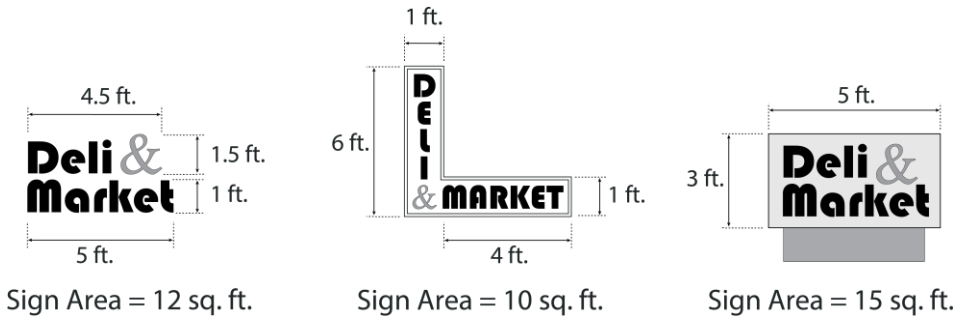
**Commented [kh5R4]:**

**17.80.040 Rules of Measurement**

**A. Calculation of Sign Area.**

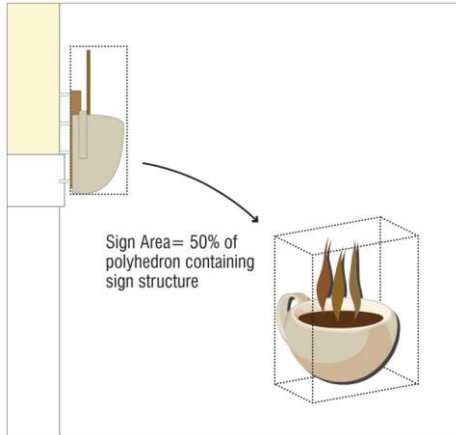
1. Sign area is measured as the area of all sign copy, framing, or other display enclosed within a continuous perimeter forming a single geometric shape with no more than six sides. See Figure 17-80-1.

FIGURE 17-80-1: MEASUREMENT OF SIGN AREA



2. Supporting framework or bracing that is clearly incidental to the display itself shall not be calculated as sign area.
3. The area of a double-faced (back-to-back) sign shall be calculated as a single sign face if the distance between each sign face does not exceed 18 inches and the two faces are parallel with each other
4. The area of spherical, free-form, sculptural or other non-planar signs are measured as 50 percent of the sum of the area enclosed within the four vertical sides of the smallest four-sided polyhedron that will encompass the sign structure. See Figure 17.80-2.

FIGURE 17.80-2: NON-PLANER SIGN AREA





- B. Monument Sign Height Measurement.** The height of a monument or other freestanding sign is measured as the vertical distance from the sidewalk or top of curb nearest the base of the sign to the top of the highest element of the sign.

#### 17.80.050 Signs Allowed Without Permits

- A. Types of Signs.** The following signs are allowed without a planning permit and shall not be counted towards the allowable sign area or number of signs on a parcel:
1. On-site directional signs which do not include commercial messages or images, not to exceed 3 feet in height and 6 square feet in area.
  2. Informational signs which do not include commercial messages or images, displayed for the safety and convenience of the public, providing information such as “restrooms,” “danger,” “impaired clearance,” “no smoking,” “parking in rear,” “coastal access.” and other signs of a similar nature.
  3. Flags bearing noncommercial messages or graphic symbols.
  4. One commemorative plaque identifying a building name, date of construction, or similar information that is cut into, carved, or made of stone, concrete, metal, or other similar permanent material.
  5. One bulletin board on a parcel occupied by a noncommercial place of public assembly, with a maximum area of 12 square feet.
  6. Political signs during an election period located outside of a public street, path, or right-of-way. Political signs may not exceed 32 square feet per unit.
  7. Signs within a building, or on the premises of a building, that are not visible from the public right-of-way and are intended for interior viewing only.
  8. Murals on the exterior of a building that do not advertise a product, business, or service.
  9. Official or legal notices required by a court order or governmental agency.
  10. Signs installed by a governmental agency within the public right-of-way, including signs advertising local nonprofit, civic, or fraternal organizations.
  11. Signs, postings, or notices required by a governmental agency to carry out its responsibility to protect the public health, safety, and general welfare.
  12. Restaurant menu signs attached to a building, with a maximum area of 3 square feet.
  13. Real estate listings posted in the window of a real estate office, with a maximum area of 25 percent of the total window area.
  14. Residential signs not requiring a building permit as specified in Section 17.80.100 (Residential Signs).
  15. Temporary signs consistent with Section 17.80.110 (Temporary Signs).
  16. Vacation rental signs up to 12 inches by 12 inches.

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17. Garage sale signs limited to the day of the garage sale.

- B. Building Permit Review.** Planning staff shall review all proposed signs listed in Section A (above) that require a Building Permit to verify compliance with all applicable standards.
- C. Changes to Sign Face.** Changes to a sign face that do not structurally alter or enlarge a legally-established sign and utilize similar materials shall not require a planning permit.
- D. Routine Maintenance.** The painting, cleaning, repair, and normal maintenance of a legally-established sign shall not require a planning permit.
- E. ~~Coastal Zone.~~** ~~If a proposed sign is located in the Coastal Zone it may require a Coastal Development Permit (CDP) as specified in Chapter 17.44 (Coastal Overlay Zone). Approval of a CDP requires compliance with the CDP findings as specified in 17.44 (Findings for Approval).~~

**Commented [kh6]:** Staff recommends not accepting proposed change. The regulations are appropriately s under 17.80.030.E for when a coastal permit is require

#### 17.80.060 Prohibited Signs

The following signs are prohibited:

- A.** Signs or sign structures which have become a public nuisance or hazard due to inadequate maintenance, dilapidation, or abandonment.
- B.** Portable signs placed on the ground other than sidewalk signs permitted in the MU-V zoning district consistent with Section 17.80.080.K (Sidewalk Signs).
- C.** Roof signs.
- D.** Signs emitting odors, gases, or fluids.
- E.** Signs that feature a flag, pennant, whirligig, or any device which is designed to wave, flutter, rotate or display other movement under the influence of wind, excluding flags and insignia of any government.
- F.** Digital display and electronic readerboard signs which allow the image on a sign to be changed by electronic control methods, except for digital gas and service station signs consistent with Section 17.80.080.H (Gas and Service Station Signs) and parking garage signs consistent with Section 17.80.080.I (Parking Garage Signs).
- G.** Animated signs, with the exception of clocks and barber poles.
- H.** Signs that emit sound.
- I.** Signs which simulate in size, color, lettering, or design a traffic control sign or signal.
- J.** Signs which flash, blink, change color, or change intensity.
- K.** Beacons.
- L.** Signs mounted or attached to a vehicle parked for the purpose of calling attention to or advertising a business establishment.

- M. Signs that have been abandoned, or whose advertised use has ceased to function for a period of 90 days or more.
- N. Signs adversely affecting traffic control or safety.
- O. Signs containing obscene matter.
- P. Signs with exposed raceways.
- Q. Signs attached to trees.
- R. Signs erected or maintained with horizontal or vertical clearance from overhead utilities less than required by State agencies.
- S. Signs erected for the dominant purpose of being seen by travelers on a freeway, except for auto dealership signs as allowed by Section 17.80.080.A (Auto Dealership Signs).
- T. Inflatable signs and balloons greater than fifteen inches in diameter, except for temporary auto dealership signs.
- U. Signs on public property or on private property but affecting public property (e.g., ‘tenant parking only’ type of signs affecting the public right-of-way) not placed there by the public entity having the possessory interest in such property.
- V. All other signs not specifically permitted by or exempted from the requirements of this chapter.

**17.80.070 General Sign Standards**

- A. **Maximum Permitted Sign Area.** Table 17.80-1 identifies the maximum cumulative/total sign area permitted on a property in each zoning district. Each business may have a mix of the sign types allowed by Section 17.80.080 (Standards for Specific Sign Types) provided the area of all signs on the property does not exceed the maximum established in Table 17.80-1.

**TABLE 17.80-1: SIGN AREA STANDARDS**

Zoning District	Area per Linear Foot of Building Frontage
MU-V, MU -N	0.5 sq. ft. per linear foot 36 sq. ft. max
MU-N, C-R, C-C, I	1 sq. ft. per linear foot 50 sq. ft. max
VS, CF, P/OS [1]	As determined through Sign Permit
PD	As determined through the Development Plan

Notes:

Sign requirements in the Visitor Serving overlay zone shall be as required by the base zoning district.

- B. **Maintenance.** Signs, including all supports, braces, and anchors, shall be maintained in a state of good repair at all times. Damage to signs, including cracked sign faces, frayed or weathered fabric, and broken lighting, shall be repaired promptly.

**C. Building Surface Repair.** When an existing sign is replaced or modified, any newly exposed portions of a building surface on which the sign is displayed shall be repaired and repainted to restore a uniform appearance to the surface. Compliance with this requirement includes the removal of any excess conduit and supports, and the patching or filling of any exposed holes.

**D. Illumination.**

1. Non-residential signs may be internally or externally illuminated except where specifically prohibited. Internal illumination is permitted only when the portion of the sign that appears illuminated is primarily the sign lettering, registered trademark, or logo. Internally illuminated boxes are prohibited, except that the copy of an existing internally illuminated box sign may be replaced with a change of business.
2. The light source for externally illuminated signs shall be positioned so that light does not shine directly on adjoining properties or cause glare for motorists or pedestrians.
3. Exposed bulbs are not permitted.
4. Internal illumination is prohibited in the Mixed-Use Village (MU-V).

**E. Materials and Design.**

1. Except for interior window signs, all permanent signs shall be constructed of wood, metal, plastic, glass, or similar durable and weatherproof material.
2. The design of signs, including its shape, features, materials, colors, and textures, shall be compatible with the design character of the development or use it identifies and will not have an adverse effect on the character and integrity of the surrounding area.

**F. Location and Placement.**

1. All signs shall be located on the same parcel as the business or use that it serves, except as otherwise allowed by this chapter.
2. Signs shall not obstruct the ingress to, or egress from, a door, window, fire escape, or other required accessway.
3. Signs shall not interfere with visibility at an intersection, public right-of-way, driveway, or other point of ingress/egress. The City may require sign setbacks greater than specified in this chapter as needed to maintain adequate visibility for motorists and pedestrians. See Section 17.96.050 (Intersection Sign Distance).

**G. Signs in the Public Right-of-Way.**

1. No sign shall be permitted in the public right-of-way, except for:
  - a. Signs installed or required by a governmental agency.
  - b. Signs advertising local nonprofit, civic, or fraternal organizations with City Engineer approval.

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- c. Awning, canopy-, marquee, projecting, or suspended signs attached to a building wall subject to the requirements in Section 17.80.080 (Standards for Specific Types of Signs).
  - d. Sidewalk signs in the Village Mixed Use (MU-V) zoning district consistent with Section 17.80.080.G (Sidewalk Signs).
  - e. Shared auto dealership signs consistent with Section 17.80.080.A (Auto Dealership Signs).
2. Any sign illegally installed or placed on public property shall be subject to removal and disposal as specified in Section 17.80.150 (Violations and Enforcement). The City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of the sign.
  3. Signs in the public right-of-way may require City approval of an Encroachment Permit.

#### **17.80.080 Standards for Specific Types of Signs**

Signs consistent with the standards in this section are allowed with an Administrative Permit unless Planning Commission approval of a Sign Permit is specifically required. Signs that deviate from the standards in this section may be allowed with Planning Commission approval of a Sign Permit in accordance with Section 17.80.120 (Adjustment to Sign Standards).

##### **A. Auto Dealership Signs.**

1. In addition to signs allowed with an Administrative Sign Permit (17.080.030.A), the Planning Commission may allow special auto dealership signage in the C-R zoning district with approval of a Sign Permit subject to the following standards:
  - a. Location: On or adjacent to an auto dealership land use.
  - b. Placement: 10 feet minimum setback from property line abutting the public right-of-way.
  - c. Maximum Height: At or below roof line.
  - d. The Planning Commission shall review the Sign Permit application if the total combined sign area on the site exceeds 100 square feet.
  - e. The Planning Commission may allow one shared sign used by multiple auto dealerships at the entry of Auto Plaza Drive which extends into or above the public right-of-way.

The Planning Commission may allow temporary auto dealership signage, such as signage on light poles and flags and pennants, that deviate from temporary sign standards in 17.80.110 (Temporary Signs) with the approval of a Sign Permit.

##### **B. Awning Signs.**

1. Standards for awning signs in each zoning district are as shown in Table 17.80-2.

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2. Awning signs shall be located on the awning above a display window or the entrance to the business it serves.
3. An awning sign that projects over any public walkway or walk area shall have an overhead clearance of at least 8 feet.

**TABLE 17.80-2: AWNING SIGN STANDARDS**

Zoning District	Awning Face Sign		Awning Valance Sign		
	Maximum Area	Maximum Number	Maximum Area	Maximum Letter Height	Maximum Number
MU-V, MU-N	Sign Permit Required (Chapter 17.132)		75 percent of valance	Two-thirds of valance height	1 sign per awning located on either the awning face or the awning valance
C-R, C-C	30 percent of awning face	1 sign per awning located on either the awning face or the awning valance			
I	20 percent of awning face				

Note: In the Visitor Serving (VS), Community Facility (CF) and Parks and Open Space (P/OS) zoning districts, standards for awning signs shall be established by the Planning Commission through a Sign Permit. In the Planned Development (PD) zoning district, standards for awning signs shall be established by the City Council in the Development Plan.

**C. Monument Signs.**

1. Standards for monument signs in each zoning district are as shown in Table 17.80-3.

**TABLE 17.80-3: MONUMENT SIGN STANDARDS**

Zoning District	Maximum Area	Maximum Height	Maximum Number
MU-V	12 sq. ft.	4 ft.	1 per property
MU-N	16 sq. ft.		
C-R	60 sq. ft.	8 ft.	1 per building frontage
C-C	35 sq. ft.		
I			4 ft.

**Note:** In the Visitor Serving (VS), Community Facility (CF) and Parks and Open Space (P/OS) zoning districts, standards for monument signs shall be established by the Planning Commission through a Sign Permit. In the Planned Development (PD) zoning district, standards for monument signs shall be established by the City Council in the Development Plan.

2. Monument signs shall be placed on the property of the business associated with the sign.
3. Where two monument signs are allowed on a corner parcel, each sign be placed at least 200 feet from the intersection corner.
4. A monument sign for up to four tenants may be approved with an Administrative Sign Permit. Monument signs listing more than four tenants require Planning Commission approval of a Sign Permit.
5. The area surrounding the base of a monument sign shall be landscaped consistent with Chapter 17.72 (Landscaping).
6. Monument signs shall be placed at least 5 feet away from any public or private driveway.
7. Monument signs shall be placed at least 5 feet behind sidewalk or property line, whichever is greater.
8. The height of a monument sign is measured as the vertical distance from the sidewalk or top of curb nearest the base of the sign to the top of the highest element of the sign.
9. Monument signs are not allowed in conjunction with wall signs on a property with three or fewer businesses.

#### **D. Center Identification Signs.**

1. Standards for center identification signs in each zoning district are as shown in Table 17.80-4.
2. Center identification signs shall identify the name of the center but may not include the name of any business or businesses within the center.

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3. No more than one freestanding sign is permitted per center street frontage. If a monument sign is located along the center frontage, an additional center identification sign is not permitted.

**TABLE 17.80-4: CENTER IDENTIFICATION SIGN STANDARDS**

Zoning District	Maximum Area	Maximum Height	Maximum Number
MU-V and MU-N	Not permitted		
C-R	60 sq. ft.	5 ft.	1 per shopping center
C-C	35 sq. ft.		
I	Not permitted		

Note: In the Planned Development (PD) zoning district, standards for center identification signs shall be established by the City Council in the Development Plan.

**E. Directory Signs.**

1. Standards for directory signs in each zoning district are as shown in Table 17.80-5.
2. Directory signs may not be legible from adjacent public rights-of-way.
3. Directory signs shall identify the names of the occupant of the building or complex.

**TABLE 17.80-5: DIRECTORY SIGN STANDARDS**

Zoning District	Maximum Area	Maximum Height
MU-V	12 sq. ft.	4 ft.
MU-N	16 sq. ft.	
C-R	30 sq. ft.	5 ft.
C-C	25 sq. ft.	
I	25 sq. ft.	4 ft.

Note: In the Visitor Serving (VS), Community Facility (CF) and Parks and Open Space (P/OS) zoning districts, standards for directory signs shall be established by the Planning Commission through a Sign Permit. In the Planned Development (PD) zoning district, standards for directory signs shall be established by the City Council in the Development Plan.



**F. Wall Signs.**

1. Standards for wall signs in each zoning district are as shown in Table 17.80-6.
2. Wall signs shall be attached parallel to the exterior wall of the business associated with the sign and may not extend above the top of building wall.
3. Wall signs may be in cabinets, on wood, or on similar material attached to the wall or painted directly on the wall.
4. Any portion of a wall sign that projects over any public walkway or walk area shall have an overhead clearance of at least 8 feet.
5. Wall signs are not allowed in conjunction with a monument sign on a property with three or fewer businesses.
6. On a corner lot, one wall sign is allowed per street frontage.

**TABLE 17.80-6: WALL SIGN STANDARDS**

Zoning District [1]	Maximum Area	Maximum Projection from Wall	Maximum Number
MU-V	0.5 sq. ft. per linear foot of shopfront, not to exceed 36 sq. ft. max	4 in.	1 per shopfront
MU-N	1.0 sq. ft. per linear foot of shopfront, not to exceed 36 ft.		
C-R, C-C, I [2]		12 in.	1 per shopfront

**Note:**

[1] In the Visitor Serving (VS), Community Facility (CF) and Parks and Open Space (P/OS) zoning districts, standards for wall signs shall be established by the Planning Commission through a Sign Permit. In the Planned Development (PD) zoning district, standards for wall signs shall be established by the City Council in the Development Plan.

[2] Wall signs are not allowed in conjunction with a monument sign in the Industrial (I) zoning district.

**G. Projecting Signs.**

1. Standards for projecting signs in each zoning district are as shown in Table 17.80-7.
2. Projecting signs shall be attached to the ground floor exterior wall of the business associated with the sign and may not extend above the top of the second story finished floor.
3. Projecting signs shall maintain a minimum 2-foot horizontal clearance from a driveway or street curb.
4. An encroachment permit must be obtained for all signs projecting over a public right-of-way.

5. A projecting sign that projects over any public walkway or walk area shall have an overhead clearance of at least 8 feet.

**TABLE 17.80-7: PROJECTING SIGN STANDARDS**

Zoning District	Maximum Area	Maximum Projection from Wall	Maximum Number
MU-V, MU-N	4 sq. ft.	4 ft.	1 per business entryway or storefront
C-R, C-C, I	8 sq. ft.	4 ft.	1 per business entryway or storefront

Note:

In the Visitor Serving (VS), Community Facility (CF) and Parks and Open Space (P/OS) zoning districts, standards for projecting signs shall be established by the Planning Commission through a Sign Permit. In the Planned Development (PD) zoning district, standards for projecting signs shall be established by the City Council in the Development Plan.

**H. Gas and Service Station Signs.** In addition to signs allowed with an Administrative Sign Permit (Section 17.080.030.A), the Planning Commission may allow special gas and service station signs that comply with the following standards .

1. A maximum of two signs, not exceeding 4 square feet, shall be allowed on each pump island to denote either full service or self-service.
2. No other signs will be allowed to be attached to pumps or islands other than required by State law. (See Business & Professions Code Section 13530.)
3. A six-foot-high monument sign which displays prices charged, credit cards accepted or special services rendered shall be allowed on each street frontage.
4. Digital changeable copy signs for gasoline pricing is permitted.
5. Two additional signs up to a maximum of 1 square foot are permitted to advertise ancillary services such as ATMs and propane. Such signs must be attached to another sign or structure and may not be a portable freestanding sign.

**I. Parking Garage Signs.** A maximum of one digital display signs not exceeding four square feet on each street frontage is permitted to show the number of available parking spaces.

**J. Window Signs.**

1. Standards for window signs in each zoning district are as shown in Table 17.80-8.
2. Window signs may be attached only to the inside of a ground floor window of the business associated with the sign.
3. Interior signs within one foot of a window and publicly visible from outside of the building shall be included in the calculation of sign area for the property.

TABLE 17.80-8: WINDOW SIGN STANDARDS

Zoning District	Maximum Area
MU-V, MU-N	25 percent of window
C-R, C-C, I	30 percent of window

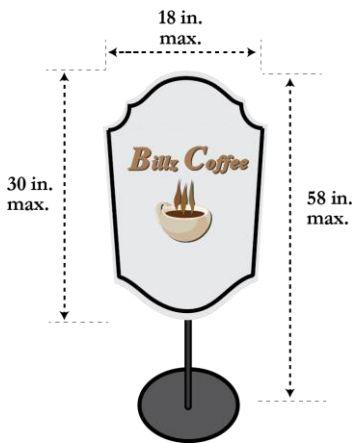
Note:

[1] In the Visitor Serving (VS), Community Facility (CF) and Parks and Open Space (P/OS) zoning districts, standards for window signs shall be established by the Planning Commission through a Sign Permit. In the Planned Development (PD) zoning district, standards for window signs shall be established by the City Council in the Development Plan.

**K. Sidewalk Signs.**

1. **Where Allowed.** Sidewalk signs are permitted only in the MU-V zoning district consistent with the requirements of this section.
2. **Permits Required.**
  - a. Sidewalk signs consistent with this section and the approved BIA design as illustrated in Figure 17-80-3 can be issued an over the counter sign permit by the Community Development Director.
  - b. All sidewalk signs shall obtain an encroachment permit. The encroachment permit will identify the location and method used to drill a hole in the sidewalk and/or the location of a sign on a base.
  - c. The owner of any business desiring to place a sidewalk sign on the City right-of-way shall provide an executed City hold harmless waiver and proof of liability insurance to the satisfaction of the City Attorney in the amount of one million dollars prior to placing the sign within said right-of-way.

FIGURE 17-80-3: SIDEWALK SIGN STANDARDS AND DESIGN CONCEPTS



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3. **Dimensions.** Sidewalk signs shall comply with the dimension standards in Table 17.80-9.

TABLE 17.80-9: SIDEWALK SIGNS STANDARDS

Zoning District	Sign Face			Entire Sign
	Maximum Area	Maximum Width	Maximum Height	Maximum Height [1]
MU-V	3.75 sq. ft.	18 in.	32 in.	58 in.
All Other Zoning Districts	Not permitted			

Note:

[1] Measured from sidewalk to top of sign

4. **Number of Signs.**
- Only one two-sided sidewalk sign per business establishment is permitted.
  - Multi-tenant developments are permitted one sidewalk sign per each common exterior public business entrance.
5. **Materials and Design.**
- Sidewalk signs shall be attached to metal poles. Poles may be either drilled into the sidewalk or inserted into a moveable base. Moveable bases shall be constructed of metal, form a circle with a diameter of no more than 18 inches, and must be approved as part of the sign permit.
  - Lights, banners, flags or similar objects shall not be placed on or adjacent to sidewalk signs.
  - Signs faces be constructed of solid wood, metal or similar durable and weatherproof material.
  - No sidewalk sign may contain lights of any kind.
6. **Sidewalk Clearance.**
- The sidewalk in front of the business must be at least 78 inches in width.
  - Sidewalk signs shall not interfere with pedestrian ingress or egress as required by the building code or obstruct vehicular traffic sight distance requirements. A 48-inch level clear path of travel on concrete or similar material must be maintained where the sign is located.
7. **Separation from Other Sidewalk Signs.** Sidewalk signs shall be spaced a minimum of 30 linear feet from all other permitted sidewalk signs.

8. **Display During Open Hours.** Sidewalk signs may be used only during the hours when the business is open to the public. At all other times the sign and base must be stored within the business premises.
9. **Advertising Multiple Businesses.** Individual signs may advertise more than one business.
10. **Other Business Signage.**
  - a. No other temporary advertising signs (Section 17.80.110) may be used at the same time as the sidewalk sign is in use.
  - b. All other signs on the property must be in conformance with the City's sign regulations prior to a sidewalk sign permit being issued.

#### 17.80.090 Design Standards

- A. **Design Standards for Mixed Use Zoning Districts.** The following design standards apply to all signs in the MU-V and MU-N zoning districts.
  1. Signs shall preserve, complement, or enhance the architectural composition and features of the building to which it is attached. Signs may not cover or obscure significant architectural details of the building to which it is attached.
  2. Signs shall be coordinated with the overall façade composition, including ornamental details and other signs on the building to which it is attached.
  3. Signs shall be mounted to fit within existing architectural features. The shape of the sign shall be used to reinforce the relationship of moldings and transoms seen along the street.
  4. Signs shall be located and designed so that they are legible when viewed from the sidewalk. Sign letter styles and sizes shall be designed for legibility from the sidewalk, not the street.
  5. To the extent possible, sign attachment parts shall be reused in their original location (holes in the façade or fixing positions) to protect the original building materials.
  6. Internally illuminated signs are prohibited in the MU-V and MU-N zoning districts.
  7. Wiring conduit for sign lighting shall be carefully routed to avoid damage to architectural details and to be concealed from view as much as possible.
  8. Sign materials and colors shall be compatible with the period and style of building to which it is attached. Sign panels shall avoid the extensive use of primary color or significant areas of white or cream.
  9. Letters and logos shall be raised, routed into the sign face, or designed to give the sign variety and depth.
  10. The sign will not have a significant adverse effect on the character and integrity of the surrounding area.
- B. **Design Standards for Commercial Zoning Districts.** The following design standards apply to all signs in the C-C and C-R zoning districts.

1. Sign design shall conform to and be in harmony with the architectural character of the building.
  2. Signs shall be symmetrically located within a defined architectural space.
  3. Internally illuminated signs are permitted only when the portion of the sign that appears illuminated is primarily the sign lettering, registered trademark, or logo. Large panel internally illuminated signs are prohibited.
  4. The design of monument and other freestanding signs relate to the architecture of the building or development they serve. Exterior materials, finishes and colors shall be the same or similar to those of the building or structures on site.
  5. Letters and logos shall be raised, routed into the sign face, or designed to give the sign variety and depth.
- C. Design Standards for Industrial Zoning District.** Signs within the Industrial (I) zoning district shall be constructed of metal or other materials consistent with the light industrial character of the zoning district.

#### 17.80.100 Residential Signs – Multi-Unit Properties

Multi-unit properties may display one or more master signs subject to the following requirements:

- A. A master sign program (17.80.130) has been approved for the multi-unit property.
- B. Maximum allowable sign area: 20 square feet per property.
- C. A master sign for a multi-unit property requires an Administrative Sign Permit.

#### 17.80.110 Temporary Signs

- A. **Permitted Temporary Signs.** Table 17.80-10 (Temporary Sign Standards) identifies temporary signs permitted either by-right or with the approval of an Administrative Sign Permit. The Planning Commission may allow other types of temporary signs or temporary signs that do not comply with the standards in Table 17.80-1 with approval of a Sign Permit.

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**TABLE 17.80-10 TEMPORARY SIGN STANDARDS**

Sign Type	Permit Required	Use Restriction	Maximum Number	Maximum Area/ Size	Maximum Duration
Auto Dealership Signs - Flags - Pennants - Balloons	None	Auto dealerships on Auto Plaza Drive only	No maximum	0.5 sq. ft. per linear business frontage; 30 sq. ft. max; 1/3 of window max	Year-round; must be maintained in good condition
Commercial Banner Signs	Administrative Sign Permit	Non-residential uses only	1 per 500 ft. of linear <a href="#">site building</a> frontage; 2 sign maximum	30 sq. ft.	30 continuous calendar days; no more than 60 days each calendar year
Construction Site Signs - Residential	Administrative Sign Permit	Residential uses only	1 per 500 ft. of linear <a href="#">site building</a> frontage; 2 sign maximum	Height: 5 ft. Area: 12 sq. ft.	From issuance of building permit to certificate of occupancy
Construction Site Signs - Non-Residential	Administrative Sign Permit	Commercial and industrial uses only	1 per 500 ft. of linear <a href="#">site building</a> frontage; 2 sign maximum	Height: 8 ft.; 4 ft. in MU-V Area: 40 sq. ft.; 12 sq. ft. in MU-V	From issuance of building permit to certificate of occupancy
For Sale, Lease, and Rent Signs, Non-Residential	None	Commercial and industrial uses only	1 per property	Height: 8 ft. Area: 40 sq. ft.	1 year; Director may approve extension
For Sale, Lease, and Rent Signs, Residential	None	Residential uses only	1 per property	Height: 4 ft. Area: 6 sq. ft.	180 days; Director may approve extension
Open House or model home	None	None	1 per property and 1 on other property with owner consent	Height: 4 ft. Area: 6 ft.	Limited to day of open house.
Special Event	None	Special events open to the public (e.g., open studio)	1 per property and 1 on other property with owner consent	Height: 4 ft. Area: 6 ft.	Limited to day of special event house.
Residential Subdivision	Administrative Sign Permit	Residential subdivisions and condominiums located in the city	1 per subdivision	Height: 10 ft. Area: 40 sq. ft.	180 days or upon the sale of the last unit, whichever comes first

**17.80.120 Adjustment to Sign Standards**

This section establishes procedures to allow the Planning Commission to approve signs that deviate from certain standards to provide reasonable flexibility in the administration of the sign ordinance.

- A. Permit Required.** Adjustments to sign standards allowed by this section requires Planning Commission approval of a Sign Permit.
- B. Permitted Adjustments.** The Planning Commission may allow adjustment to the following sign standards:
  1. The type of sign allowed in non-residential zoning districts (e.g., awning signs, monument signs).
  2. Requirements for temporary signs.
  3. The maximum permitted sign area up to a 25 percent increase.
  4. The maximum permitted sign height up to 25 percent increase.
- C. Excluded Adjustments.** The Planning Commission may not use the sign standards adjustment process to approve deviations to the following sign standards:
  1. Prohibited Signs (Section 17.80.060).
  2. All general Sign Standards (Section 17.80.070) except maximum permitted sign area (17.80.70.A).
  3. Maximum number of signs allowed per property.
  4. Residential signs (Section 17.80.100).
- D. Findings.** The Planning Commission may approve an adjustment to sign standards as allowed by this section if the following findings can be made in addition to findings required to approve Sign Permit applications:
  1. The sign will be compatible with adjacent structures and uses and is consistent with the character of the neighborhood or district where it is located.
  2. The sign will not adversely impact neighboring properties or the community at large.
  3. The adjustment is necessary due to unique characteristics of the subject property, structure, or use.
  4. The sign will be consistent with the purpose of the zoning district, the General Plan, Local Coastal Program, and any adopted area or neighborhood plan.
  5. The adjustment will not establish an undesirable precedent.
- E. Low Visibility Commercial Properties.**
  1. In addition to adjustments allowed by subsection A through D above, the Planning Commission may allow additional adjustments to sign standards for low visibility properties



in the C-R and C-C zoning districts. A low visibility property means a property where signage consistent with applicable standards would not be easily visible from the street or sidewalk due to the width of street frontage, parcel depth or configuration, placement of buildings on the property, topography, vegetation, or other physical characteristic of the property.

2. Adjustments to sign standards for low visibility properties require Planning Commission approval of a Sign Permit.
3. Adjustments are allowed to required sign types, height, size, placement, and number. Adjustments may not allow for prohibited signs or monument signs.
4. The Planning Commission may approve additional or variations to any type of signage upon making the following findings:
  - a. The special signage, as designed and conditioned, is necessary and appropriate for the subject commercial site, in order to allow the site and the businesses located within it to be competitive with other businesses of a similar nature located elsewhere, and/or to be competitive with industry standards governing sale of the merchandise offered at the site.
  - b. The special signage, as designed and conditioned, will not have a significant adverse effect on the character and integrity of the surrounding area.

#### 17.80.130 Master Sign Program

- A. Purpose.** The purpose of the Master Sign Program is to provide a coordinated approach to signage for multi-family development and multi-tenant commercial developments.
- B. Applicability.** A Master Sign Program is required for multi-family uses with more than one permanent sign proposed, and any non-residential development with four or more tenants.
- C. Permit Required.** A Master Sign Program requires Planning Commission approval of a Sign Permit.
- D. Applications.** Applications shall be filed with the Planning Department on the appropriate City forms, together with all the necessary fees, deposits, exhibits, maps, and other information required by the Department to clearly and accurately describe the proposed Master Sign Program.
- E. Master Sign Program Contents.** All Master Sign Programs shall identify the materials, color, size, type, placement and general design of signs located on a project or property.
- F. Design Standards.**
  1. Master Sign Programs shall feature a unified and coordinated approach to the materials, size, type, placement and general design of signs proposed for a project or property. Master Sign Programs may allow for variety in the design of individual signs.

2. A Master Sign Program may deviate from standards contained in this chapter relating to permitted sign height, number of signs, sign area, and type of sign. A Master Sign Program may not allow a prohibited signs as identified in Section 17.80.060 (Prohibited Signs).

**G. Effect of Master Sign Program.**

1. All subsequent signs proposed for a development or property subject to an approved Master Sign Program shall comply with the standards and specifications included in the Master Sign Program.
2. Signs consistent with an approved Master Sign Program are allowed with an Administrative Sign Permit.
3. Approval of a Master Sign Program shall supersede the regulations of this chapter. Any aspect of the proposed signs not addressed by the Master Sign Program shall be in compliance with this chapter.

**17.80.140 Nonconforming Signs**

This section applies to all legally-established signs that do not conform to current requirements in this chapter.

**A. Continuation.**

1. Except as required by paragraph 2 below, a nonconforming sign may continue its use as a sign if it was legally established in compliance with all applicable regulations in effect at the time it was established. It is the applicant's responsibility to demonstrate that the sign was legally established.
2. At time of review of a Design Permit application for a property with a non-conforming sign on the site, the Planning Commission shall review the existing non-conforming sign in conjunction with the Design Permit. The Planning Commission may allow the continuation of the nonconforming sign only upon finding the sign is compatible with the design character and scale of the surrounding area and does not adversely impact the public health, safety, or general welfare.

**B. Allowed Changes.**

1. Changes to sign copy/face and repainting of legal nonconforming signs is permitted as long as there is no alteration to the physical structure or support elements of the sign.
2. A legal-nonconforming sign that sustains less than 50-percent damage to its structure may be repaired to its original pre-damaged condition, provided that such repair is completed within 180 days after the date of the damage.

**C. Required Compliance.** A legal nonconforming sign shall be removed or brought into compliance with this chapter in the following situations:

1. The use advertised by the sign has ceased to function for a period of 90 days or more.

2. The sign has sustained at least 50-percent damage to its structure.
3. The sign is located on a remodeled building façade.
4. The sign is relocated to a different lot or building.

#### 17.80.150 Violations and Enforcement

- A. Illegal Signs.** It is unlawful for any person to install, place, construct, repair, maintain, alter or move a sign in a manner that does not comply with the requirements of this chapter.
- B. Removal of Illegal Signs.**
1. The City may immediately remove or cause the removal of any sign that places the public in immediate peril or that is located within the public right-of-way.
  2. For illegal signs that do not place the public in immediate peril and are located on private property, the City shall serve the business owner or person responsible for the sign a written certified notice that:
    - a. Describes the physical characteristics of the subject sign.
    - b. Explains the nature of the violation.
    - c. States that the sign shall be removed or brought into compliance with this article within a specified number of days after the notice is received.
    - d. States that the City will remove the sign if the business owner or person responsible for sign does not correct the violation within the specified number of days after the notice is received.
    - e. States that the City may destroy the illegal sign if it is not retrieved within 20 days of removal by the City.
    - f. States that the business owner or person responsible for all costs associated with the removal, storage, and destruction of the sign.
  3. If an illegal sign is not removed or brought into compliance within the specified number of days after a notice is received, the City may issue a citation to the business owner or person responsible for the sign as provided in Municipal Code Title 4 (General Municipal Code Enforcement) and may remove or cause the removal of the sign.
  4. Any accessory structures, foundations, or mounting materials which are unsightly or a danger to the public health, safety, and welfare shall be removed at the time of the sign removal.
  5. A sign removed by the City shall be stored for a minimum of 20 days. If the sign is not retrieved by the business owner or person responsible for the sign within this 20-day period, the City may destroy the sign.

## Chapter 17.84 - HISTORIC PRESERVATION

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Capitola Staff edits in BLUE

### Sections:

- 17.84.010 Purpose
- 17.84.020 Types of Historic Resources
- 17.84.030 Architectural Historian
- 17.84.040 Adding or Removing Designated Historic Resource Status
- 17.84.050 Maintenance of Potential Historic Resource List
- 17.84.060 Criteria for Designating Historic Resources
- 17.84.070 Historic Alteration Permit
- 17.84.080 Demolition of Historic Resources
- 17.84.090 Historic Preservation Incentives

#### 17.84.010 Purpose

This chapter establishes procedures for the classification of historic resources and requirements for alterations to these resources. These provisions are intended to preserve and enhance Capitola's historic character while maintaining the ability of property owners to reasonably improve and modify historic homes and structures in Capitola.

#### 17.84.020 Types of Historic Resources

The Zoning Code establishes two types of historic resources: Designated Historic Resources and Potential Historic Resources identified in the City's list of potential historic resources. The City intends for both types of historic resources to be comprised primarily of structures from the pre-World War II era of Capitola's history.

##### A. Designated Historic Resources. Designated Historic Resources include the following:

1. Resources listed on the National Register of Historic Places or determined by the State Historical Resources Commission to be eligible for listing on the National Register of Historic Places.
2. Resources listed on the California Register of Historical Resources or determined by the State Historical Resources Commission to be eligible for listing on the California Register of Historical Resources.
3. A contributing structure within a National Register Historic District (Venetian Court, Six Sisters, Lawn Way, and Old Riverview Districts).
4. Other resources officially designated by the City Council as a Designated Historic Resource based on the criteria in Section 17.84.060 (Criteria for Designating Historic Resources).

##### B. Potential Historic Resource. A Potential Historic ~~Resources~~Resource is a site, structure, or feature that has previously been identified by the City as potentially historic and is included on a list of potentially historic resources as maintained by the Community

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Development Department consistent with Section 17.84.050 (Maintenance of Potential Historic Resource List). The purpose of the list of Potential Historic Resources is to maintain an inventory of properties that are potentially historic for use by City staff when reviewing development project applications.

#### 17.84.030 Architectural Historian

##### A. General.

1. The City of Capitola shall utilize the services of an Architectural Historian as specified in this chapter to assist with the review of development project applications and to advise on other matters associated with historic preservation in the City of Capitola.
2. The Architectural Historian must be certified by the State of California as a historic preservation professional and must be familiar with the history and architecture of the City of Capitola.
3. When the services of the Architectural Historian are needed to assist with a development project application, all costs associated with the Architectural Historian's services shall be paid for by the applicant.

##### B. Role. The Architectural Historian shall assist the City in the administration and enforcement of this chapter. Specific duties may include:

1. Reviewing applications to add or remove Designated Historic Resource status in accordance with Section 17.84.040 (Adding or Removing Designated Historic Resource Status).
2. Recommending to the Community Development Director additions or removal of structures from the City's list of Potential Historic Resources in accordance with Section 17.84.050 (Maintenance of Potential Historic Resource List).
3. Completing DPR523 forms or equivalent documentation to record the historic significance of historic resources.
4. Reviewing Historic Alteration Permit applications, Design Permit applications, and other applications involving a modification or potential impact to a historic resource.
5. Advising the City on other matters related to historic preservation in the City of Capitola.

#### 17.84.040 Adding or Removing Designated Historic Resource Status

**A. Initiation.** The City Council, Planning Commission, or property owner may request ~~designating to designate~~ a property as a Designated Historic Resource or ~~removing remove~~ such ~~classification designation~~ from a property.

**B. Application Contents.** An application by a property owner shall be on a form designated by the Community Development Department and shall include the following information:

84-2

1. **Photographs – Subject Property & Context.**
    - a. Photographs of each exterior elevation of all buildings and structures on the site, including retaining walls and fences.
    - b. Photographs of exterior details (façade materials, porches, columns, cornices, window trim, wall materials, and fence materials).
    - c. Historic photographs of original structure if available.
  2. **Physical Condition – Written and Graphic.** A detailed written description on the physical condition of the structure with supporting photographs.
  3. **Property History.** A description of the history of the property, if known.
  4. **Requests to Remove Classification.** A property owner may request to remove the Designated Historic Resource status by submitting to the Community Development Department a written request accompanied by a description with photograph documentation explaining the property's lack of historic significance of the property.
  5. **Additional Information.** Any additional information requested by the Community Development Director necessary to process and evaluate the application.
- C. Application Review.** The Community Development Director shall review applications for adequacy and completeness under the requirements of this section. The application shall be reviewed by the City's Architectural Historian to assess whether the property exhibits characteristics for classification as a Designated Historic Resource described in Section 17.84.060 (Criteria for Designating Historic Resources). If the property exhibits characteristics for classification, the Architectural Historian will complete a DPR523 or equivalent for the City's records. A staff report with a recommendation on the approval, approval with conditions, or denial of the application based upon the evaluation of the proposed historic resource classification, shall be prepared by the Community Development Department for Planning Commission consideration.
- D. Planning Commission Recommendation.** The Planning Commission shall review a Designated Historic Resource application at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings) and provide a recommendation to approve, conditionally approve, or deny the application.
- E. City Council Action.** The City Council shall approve, conditionally approve, or deny the application by resolution. The action of the City Council is final.
- F. Effect of Classification.** The classification of a Designated Historic Resource shall run with the land and be binding to subsequent owners of the property. Upon classification, the City shall add the structure to the City's Designated Historic Resource list.

**17.84.050 Maintenance of Potential Historic Resource List**

- A. Authority to Maintain.** The Community Development Director shall be responsible for maintaining the list of Potential Historic Resources. The Director may add or remove structures from the list based on input from an Architectural Historian.
- B. Additions to List.** Any structure added to the Potential Historic Resource list shall meet one or more of the criteria in Section 17.84.060.B (Potential Historic Resource). The property owner shall be notified in writing of a decision to add a property to the list. Decisions of the Community Development Director to add a property to the list may be appealed to the Planning Commission.
- C. Removal of Listed Structures.** A property owner may request the removal of a property from the Historic Structure List by submitting to the Community Development Department a written request accompanied by a description with photograph documentation explaining the property's lack of historic significance of the property. Decisions of the Community Development Director to maintain a structure on the list despite a request for its removal by the property owner may be appealed to the Planning Commission.

**17.84.060 Criteria for Designating Historic Resources**

- A. Designated Historic Resources.** Designated Historic Resources represent particularly noteworthy community resources that exemplify the City's unique historic identity, primarily from the pre-World War II era of Capitola's history. Designated Historic Resources possess iconic landmark status that contribute to Capitola's unique sense of place due to physical characteristics of the resource visible from a public place. The City Council may classify a property as a Designated Historic Resource if it meets any of the following criteria:
1. It exemplifies or reflects special elements of the City's cultural, social, economic, political, aesthetic, engineering, architectural or natural history.
  2. It embodies distinctive characteristics of a style, type, period or method of construction, or is a valuable example of the uses of indigenous materials or craftsmanship.
  3. It is an example of a type of building once common in Capitola but now rare.
  4. It contributes to the significance of an historic area, being a geographically definable area possessing a concentration of historic or scenic properties or thematically related groupings of properties which contribute to each other and are united aesthetically by plan or physical development.
- B. Potential Historic Resource.** Based on a recommendation from the City's Architectural Historian, the Community Development Director may add a structure to the Potential Historic Resource list if it meets any of the above criteria for classifying a Designated Historic Resource or any of the following criteria:

1. It has a unique location or singular physical characteristic or is a view or vista representing an established and familiar visual feature of a neighborhood, district, or the city.
2. It embodies elements of architectural design, detail, materials or craftsmanship that represent a significant structural or architectural achievement or innovation.
3. It is similar to other distinctive properties, sites, areas or objects based on an historic, cultural or architectural motif.
4. It is one of the few remaining examples in the City, region, State or nation possessing distinguishing characteristics of an architectural or historic type or specimen.

#### 17.84.070 Historic Alteration Permit

- A. Purpose.** A historic alteration permit is an approval required to alter the exterior of a historic resource.
- B. Requirement for Designated Historic Resources.** A historic alteration permit is required for any exterior alteration to a Designated Historic Resource as defined in Section 17.84.020 (Types of Historic Resources).
- C. Requirement for Potential Historic Resource.**
1. **When Permit is Required.** A historic alteration permit is required for an alteration to a Potential Historic Resource if:
    - a. The project requires a discretionary approval (e.g., Design Permit~~); Coastal Development Permit-ete.~~); and
    - b. The Community Development Director determines that the project may result in a significant adverse impact of a historic resource as defined in the California Environmental Quality Act (CEQA) Guidelines Section 15064.5. A structure found not to be historically significant through a historic evaluation does not require a historic alteration permit.
  2. **Historic Resource Assessment and Consultation.** A proposed alteration to a Designated Historic Resource or a Potential Historic Resource that requires a discretionary permit will be reviewed by the City's Architectural Historian to assess if the project may result in a significant adverse impact of a historic resource. The Community Development Director shall use this assessment to determine if the findings of approval for the historic alteration permit can be made. Review by the City's Architectural Historian is not required for in-kind repairs in accordance with subsection E (Exception for Preservation and in-Kind Rehabilitation) below.
- D. Alteration Defined.** As used in this chapter, "alteration" means any exterior change or modification to a structure, cutting or removal of trees and other natural features, disturbance of archeological sites or areas, and the placement or removal of any accessory structures affecting the exterior visual qualities of the property. Painting is not considered



an alteration unless painted features are designated as significant or characteristic of a historic resource.

- E. Exception for Preservation and In-Kind Rehabilitation.** A historic alteration permit is not required for preservation or rehabilitation due to damage to windows, doors, trim, or other similar building elements. The rehabilitation shall be in-kind, matching the original design in size, detail, materials, and function. To qualify for this exception, the applicant must provide evidence of original design and details of the in-kind replacement.
- F. Review Authority.** The Planning Commission shall take action on all applications for a historic alteration permit.
- G. Application Requirements.** Applications for a historic alteration permit 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 together with all required application fees.
- H. Public Notice and Hearing.** The Planning Commission shall consider applications for a historic alteration permit at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).
- I. Findings for Approval.** The Planning Commission may approve a historic alteration permit only if all of the following findings can be made:
1. The historic character of a property is retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize the property is avoided.
  2. Distinctive materials, features, finishes, and construction techniques or examples of fine craftsmanship that characterize a property are preserved.
  3. Any new additions complement the historic character of the existing structure. New building components and materials for the addition are similar in scale and size to those of the existing structure.
  4. Deteriorated historic features are repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature matches the old in design, color, texture, and, where possible, materials.
  5. Archeological resources are protected and preserved in place. If such resources must be disturbed, mitigation measures are undertaken.
  6. The proposed project is consistent with the General Plan, the Local Coastal Program including the required geologic hazards setback, any applicable Specific Plan, the Zoning Code, and the California Environmental Quality Act (CEQA).
  7. If a proposed development is located in the Coastal Zone and requires a Coastal Development Permit (CDP) as specified in Chapter 17.44 (Coastal Overlay zone), approval of a CDP requires compliance listed in 17.84.070.I and the CDP findings as specified in 17.44.060 (Findings for Approval).

**Commented [kh2]:** Staff recommends not accepting the highlighted change. A non-conforming historic resource located in the geologic hazards setback area should have the same allowances as other structures.

- J. Conditions of Approval.** The Planning Commission may attach conditions of approval to a historic alteration permit 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.
- K. Appeals.** Decisions on historic alteration permit may be appealed as described in Chapter 17.152 (Appeals).

#### 17.84.080 Demolition of Historic Resources

- A. Permit Required.** The demolition of a historic resource requires approval of a Historic Resource Demolition Permit.
- B. Review Authority.**
1. The Planning Commission takes action on Historic Resource Demolition Permit applications to demolish a Potential Historic Resource.
  2. The Planning Commission recommends and the City Council takes action on Historic Resource Demolition Permits applications to demolish a Designated Historic Resource.
- C. Application Submittal and Review.** Applications for a Historic Resource Demolition Permit 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 together with all required application fees to the satisfaction of the CDD or Planning Commission. The City may require third-party review of these materials at the applicant's expense. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.84.070.1080.F (Findings for Approval).
- D. Planning Commission Recommendation.** For Historic Resource Demolition Permit applications to demolish a Designated Historic Resource, the Planning Commission shall provide a recommendation to the City Council on a Historic Resource Demolition Permit at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings). The Planning Commission shall base its recommendation on the findings specified in Paragraph F (Findings for approval) below.
- E. Public Notice and Hearing.** The review authority shall review and act on a Historic Resource Demolition Permit at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).
- F. Findings for Approval.** To approve a Historic Resource Demolition Permit, ~~(and associated Coastal Development Permit if in the coastal zone),~~ the review authority shall make one or more of the following findings:
1. The structure must be demolished because it presents an imminent hazard to public health and safety as determined by a licensed structural engineer, including imminent geological hazards along a bluff top.

**Commented [kh3]:** Staff recommends not accepting this modifications. Unnecessary request. There is not a requirement for a demolition permit within the coastal zone. The proposed project is consistent with sound preservation practices and therefore consistent with the LCP Land Use Plan and General Plan.

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2. The structure proposed for demolition is not structurally sound despite evidence of the applicant's efforts to rehabilitate and properly maintain the structure.
3. The rehabilitation or reuse of the structure is economically infeasible. Economic infeasibility shall be demonstrated by preparing actual project costs and by comparing the estimated market value of the property in its current condition, after rehabilitation and after demolition.
4. No feasible alternative use of the structure exists that can earn a reasonable economic return.
5. If located in the Coastal Zone and subject to a Coastal Development Permit, the proposed development demolition will not have adverse impacts on coastal resources.

**G. Limitations on Findings of Economic Hardship.** The review authority may not approve a Historic Resource Demolition Permit if an economic hardship was caused by any of the following:

1. Willful or negligent acts by the applicant.
2. Purchasing the property for substantially more than market value.
3. Failure to perform normal maintenance and repairs.
4. Failure to diligently solicit and retain tenants.
5. Failure to prescribe a rental amount which is reasonable for the current market.
6. Failure to provide normal tenant improvements.

**H. Post-Decision Procedures.** Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) shall apply to Historic Resource Demolition Permit.

#### 17.84.090 Historic Preservation Incentives

- A. Mills Act Agreement.** Upon request of the owner of a Designated Historic Resource, the City Council may elect to enter into a Mills Act Agreement with the owner. See Government Code Section 50280 et seq. The Mills Act Agreement shall run with the land and be binding upon subsequent owners of the Designated Historic Resource. If the City Council elects to enter into a Mills Act Agreement, the City shall file the Mills Act Agreement for recording with the County Recorder.
- B. California Historical Building Code.** The California Historical Building Code (Title 24, Part 8) shall apply to all Designated Historic Resources to facilitate the preservation and continuing use of the building while providing reasonable safety for the building's occupants and access for persons with disabilities.
- C. Grant or Loan Priority.** The City shall give the highest priority to Designated Historic Resources when distributing grants or loans whose purpose is historic preservation.

- D. Permitting Fees.** The City Council shall waive application and review fees for Planning permits required for development projects that preserve, retain, and rehabilitate a historic structure. Planning permit fees shall be waived only for significant rehabilitations of noteworthy historic structures, not for remodels or additions to older homes that would not substantially advance the City's historic preservation goals. Required third-party reviews shall be paid for by the applicant.
- E. Modifications to Development Standards.** The City Council may approve modifications to development standards in the applicable zoning district, such as parking and setbacks, if the modification is necessary to allow for the preservation, rehabilitation, or restoration of a historic resource, and if coastal resources are protected. Modifications associated with specific coastal resource standards (e.g., ESHA setbacks, geologic hazard setbacks, etc.) shall not be allowed.

## Chapter 17.88 - INCENTIVES FOR COMMUNITY BENEFITS

### Sections:

- 17.88.010 Purpose
- 17.88.020 Incentives Restricted to Added Benefits
- 17.88.030 Eligibility
- 17.88.040 Allowable Benefits
- 17.88.050 Available Incentives
- 17.88.060 Relationship to State Density Bonus Law
- 17.88.070 Application Submittal and Review
- 17.88.080 Findings
- 17.88.090 Post-Decision Procedures

#### 17.88.010 Purpose

This chapter establishes incentives for applicants to locate and design development projects in a manner that provides substantial benefits to the community. These incentives 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 and to encourage the development of a new hotel in the Village as called for by the General Plan ~~and the Local Coastal Program (LCP).~~

#### 17.88.020 Incentives Restricted to Added Benefits

The City may grant incentives only when the community benefits or amenities offered are not otherwise required by the Zoning Code or any other provision of local, state, or federal law. Community benefits or amenities must significantly advance General Plan ~~and/or LCP~~ goals and/or incorporate a project feature that substantially exceeds the City's minimum requirements.

#### 17.88.030 Eligibility

A. **Eligibility for Incentive.** The City may grant incentives for the following projects:

1. Projects in the Regional Commercial (C-R) and Community Commercial (C-C) zoning districts that:
  - a. Front 41<sup>st</sup> Avenue; or
  - b. Front Capitola Road between Clares Street and 42<sup>nd</sup> Avenue, or
  - c. Are located on the Capitola Mall site.
2. A hotel on the former Capitola Theater site (APN 035-262-04, 035-262-02, 035-~~262-11, 035-261-10~~) in the Mixed Use Village zoning district.

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- B. Setback Required – 41<sup>st</sup> Avenue.** Structures on properties fronting the east side of 41<sup>st</sup> Avenue must be set back a minimum of 100 feet from the property line abutting a residential property.

#### 17.88.040 Allowable Benefits

- A. All Eligible Projects.** The City may grant incentives to all eligible projects as identified in Section 17.88.030 (Eligibility) that provide one or more of the following community benefits. 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.

1. **Public Open Space.** Public plazas, courtyards, and other public gathering places that provide opportunities for people to informally meet and gather. Open space must be accessible to the general public at all times. Provision must be made for ongoing operation and maintenance in perpetuity. 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.
2. **Public Infrastructure.** 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 agency.
3. **Pedestrian and Bicycle Facilities.** New or improved pedestrian and bicycle pathways that enhance the property and connectivity to the surrounding neighborhood.
4. **Low-Cost Visitor Serving Amenities.** New or improved low-cost visitor-serving recreation opportunities or accommodations- within the Central Village area.
- 4-5. **Transportation Options.** Increased transportation options for residents and visitors to walk, bike, and take public transit to destinations and reduce greenhouse gas emissions.
- 5-6. **Historic Resources.** Preservation, restoration, or rehabilitation of a historic resource.
- 6-7. **Public Parking.** ~~Public~~A public parking structure that provides parking spaces in excess of the required number of parking spaces for use by the surrounding commercial district. Excess parking provided as part of a Village hotel may not be located on the hotel site and must be located outside of the Mixed Use Village zoning district.
- 7-8. **Green Building.** Green building and sustainable development features that exceed the City's green building award status.
- 8-9. **Public Art.** Public art that exceeds the City's minimum public art requirement and is placed in a prominent and publicly accessible location.

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9.10 **Other Community Benefits.** Other community benefits not listed above, such as entertainment destinations, as proposed by the applicant that are significant and substantially beyond normal requirements.

**B. 41<sup>st</sup> Avenue/Capitola Road Projects.** In addition to the community benefits in Subsection A above, the City may grant incentives to eligible projects fronting 41<sup>st</sup> Avenue or Capitola Road between Clares Street and 42<sup>nd</sup> Avenue or on the Capitola Mall site that provide one or more of the following community benefits:

1. **Capitola Mall Block Pattern.** Subdivision of the existing Capitola Mall property into smaller blocks with new intersecting interior streets. May include the extension of 40<sup>th</sup> Avenue south into the Mall property to form a new pedestrian-friendly private interior street.
2. **Surface Parking Lot Redevelopment.** Redevelopment of existing surface parking lots fronting 41<sup>st</sup> Avenue and Capitola Road while introducing new sidewalk-oriented commercial buildings that place commercial uses along the street frontage.
3. **Transit Center.** Substantial infrastructure improvements to the transit center on the Capitola Mall property that are integrated with a possible future shuttle system in Capitola. The transit center may be moved to an alternative location consistent with the operational requirements of Santa Cruz Metro.
4. **Affordable Housing.** Affordable housing that meets the income restrictions applicable in the Affordable Housing (-AH) overlay zone.

**17.88.050 Available Incentives**

**A. 41<sup>st</sup> Avenue/Capitola Road Projects.** The City may grant the following incentives to an eligible project fronting 41<sup>st</sup> Avenue, Capitola Road between Clares Street and 42<sup>nd</sup> Avenue, or on the Capitola Mall site:

1. An increase in the maximum permitted floor area ratio (FAR) to 2.0.
2. An increase in the maximum permitted building height to 50 feet.

**B. Village Hotel.** The City may grant the following incentives to a proposed hotel on the former Capitola Theater site (APN 035-262-04, 035-262-02, 035-262-11, 035-261-10):

1. An increase in the maximum permitted floor area ratio (FAR) to 3.0.
2. An increase to the maximum permitted building height provided that:
  - a. The maximum height of the hotel (including all rooftop architectural elements such as chimneys, cupolas, etc., and all mechanical appurtenances such as elevator shafts, HVAC units, etc.) remains at least 10 feet below the top elevation of the bluff behind the hotel; and

**Commented [kh2]:** DISCUSSION 10: This change reflect what is drafted in our General Plan. General F states: Policy LU-7.5 The maximum height of the ho should remain below the elevation of the bluff behind. bluff behind the hotel should remain legible as a gree with existing mature trees maintained on site.

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INCENTIVES FOR COMMUNITY BENEFITS

- b. The bluff behind the hotel remains visible from Cliff Drive, and the Capitola wharf as a green edge above the visible top of the hotel with existing mature trees maintained on site.

#### 17.88.060 Relationship to State Density Bonus Law

The incentives allowed by this section are in addition to any development incentive required by Section 65915 of the California Government Code.

#### 17.88.070 Application Submittal and Review

- A. **Request Submittal.** A request for an incentive in exchange for benefits shall be submitted concurrently with an application for the discretionary permits required for the project by the Zoning Code. Applications shall be accompanied by the following information:
  - 1. A description of the proposed amenities and how they will benefit the community.
  - 2. All information needed by the City Council to make the required findings described in Section 17.88.080 (Finding) below, including a pro forma analysis demonstrating that the benefit of the proposed amenities to the community is commensurate with the economic value of the requested incentives.
- B. **Conceptual Review.** Prior to City action on a request for an incentive, the request shall be considered by the Planning Commission and City Council through the Conceptual Review process as described in Chapter 17.114 (Conceptual Review). Conceptual Review provides the applicant with non-binding input from the City Council and Planning Commission as to whether the request for incentives is worthy of consideration.
- C. **~~Theatre~~Theater Site Story Poles.** Prior to City action on a proposed hotel on the former Capitola Theater site the applicant shall install poles and flagging on the site to demonstrate the height and mass of the proposed project.
- D. **Planning Commission Recommendation.** Following Conceptual Review, the Planning Commission shall provide a recommendation to the City Council on the proposed project and requested incentives at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).
- E. **City Council Action.** After receiving the Planning Commission's recommendation, the City Council shall review and act on the requested incentives at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings). The City Council shall also review and act on other permits required for the project requesting incentives.



**17.88.080 Findings**

**A. All Eligible Projects.** The City Council may approve the requested incentives for all eligible projects only if all of the following findings can be made in addition to the findings required for any other discretionary permit required by the Zoning Code:

1. The proposed amenities will provide a substantial benefit to the community and advance the goals of the General Plan.
2. There are adequate public services and infrastructure to accommodate the increased development potential provided by the incentive.
3. The public benefit exceeds the minimum requirements of the zoning code or any other provisions of local, state, or federal law.
4. The project minimizes adverse impacts to neighboring properties to the greatest extent possible.

5. If in the Coastal Zone and subject to a Coastal Development Permit, the project enhances coastal resources.

**B. Village Hotel.** In addition to the findings in Subsection A above, the City Council may approve the requested incentives for a proposed hotel on the former Capitola Theater site only if the following findings can be made:

1. The design of the hotel respects the scale and character of neighboring structures and enhances Capitola's unique sense of place.
2. The hotel will contribute to the economic vitality of the Village and support an active, attractive, and engaging pedestrian environment.
3. The hotel design minimizes impacts to public views of the beach and Village from vantage points outside of the Village, and in particular as seen from the top of the bluff behind the hotel, and does not adversely impact significant public views of the coastline as identified in the LCP Land Use Plan.
4. Parking for the hotel is provided in a way that minimizes vehicle traffic in the Village ~~and~~ strengthens the Village as a pedestrian-oriented destination, and protects and enhances public parking options.

**17.88.090 Post-Decision Procedures**

Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) shall apply to decisions on incentives for community benefits.

## Chapter 17.96 - SUPPLEMENTAL STANDARDS

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Capitola staff edits in BLUE

### Sections:

- 17.96.010 Purpose
- 17.96.020 Animal Keeping
- 17.96.030 Emergency Shelters
- 17.96.040 Home Occupations
- 17.96.050 Intersection Sight Distance
- 17.96.060 Large Commercial Land Uses
- 17.96.070 Large Home Day Care
- 17.96.080 Large Residential Care Facilities
- 17.96.090 Offshore Oil Development Support Facilities
- 17.96.100 Permanent Outdoor Displays
- 17.96.110 Outdoor Lighting
- 17.96.120 Placement of Underground Utilities
- 17.96.130 Recycling Collection Facilities
- 17.96.140 Self-Storage Facilities
- 17.96.150 Solar Energy Systems
- 17.96.160 Soquel Creek Pathway
- 17.96.170 Temporary Sidewalk Dining
- 17.96.180 Temporary Uses and Structures

### 17.96.010 Purpose

This chapter establishes supplemental standards for land uses, activities, and development that apply in all zoning districts.

### 17.96.020 Animal Keeping

**A. General Standards.** The following standards apply to the keeping of all animals in Capitola.

1. **Public Health and Safety.** It shall be unlawful and shall constitute a nuisance to keep any animal that poses a threat to public health or safety.
2. **Animal Noise.** In addition to those in Municipal Code Chapter 9.12 (Noises), no animal may disturb neighbors with its noise between sunset and one-half hour after sunrise.
3. **Sanitation.** It shall be unlawful and shall constitute a nuisance for any person to keep animals in an unsanitary manner or produce obnoxious odors. All debris, refuse, manure, urine, food waste, or other animal byproduct shall be removed from all the premises every day or more often as necessary.

4. **Property Confinement.** Animals other than household pets, where allowed, shall be confined to the property within a fenced yard.

**B. Household Pets.**

1. **Compliance with General Standards.** The keeping of dogs, cats, domesticated birds, rabbits, rodents, reptiles and amphibians, potbelly pigs less than 150 pounds, and other household pets is permitted provided they comply with Paragraph A above.
2. **Maximum Number.** A maximum of four of each type of household pet with a maximum of eight pets total is permitted in a single dwelling unit.

**C. Chickens.**

1. **Permitted Location.** Keeping of chickens is permitted only on properties of 5,000 square feet or more occupied by a single-family dwelling.
2. **Prohibitions on Roosters.** Only hens are permitted pursuant to this chapter. Roosters are prohibited.
3. **Number of Chickens.** A maximum of four chickens are permitted on a single property.
4. **Enclosure Requirement.** Chickens shall be kept in a coop which is sufficient to contain chickens. When outside of a coop, chickens shall be confined to the property within a fenced yard.
5. **Location of Coops.**
  - a. Chicken coops must be located behind the primary structure on the lot.
  - b. Chicken coops may not be located within a required front and side setback area or closer than 20 feet to dwelling units on adjacent properties.

**D. Honeybees.**

1. **Permitted Location.** Keeping of beehives is permitted only on properties occupied by a single-family dwelling.
2. **Minimum Lot Size and Number of Hives.** A maximum of one beehive is permitted on properties of at least 5,000 square feet.
3. **Location of Beehives.** Beehives shall be located behind the primary structure on the property. Beehives shall not be located closer than 20 feet to dwellings on adjacent properties or 5 feet from a property line.

**E. Prohibited Animals.** Keeping the following animals is prohibited:

1. Roosters, fowl other than chickens and ducks, goats, pigs other than potbelly pigs, and other livestock.

2. Wild animals as defined in Section 2118 of the California Fish and Game Code, except when authorized by the State Department of Fish and Game under Fish and Game Code Section 2150 et seq.

#### 17.96.030 Emergency Shelters

Emergency shelters will comply with the following standards:

- A. Lighting.** Adequate external lighting shall be provided for security purposes. The lighting shall be stationary, directed away from adjacent properties and public rights-of-way, and of an intensity compatible with the neighborhood.
- B. Physical Characteristics.** Emergency shelters shall comply with applicable State and local housing, building, and fire code requirements.
- C. Security.** Facilities shall have on-site security during hours of operation. Parking and outdoor facilities shall be designed to provide security for residents, visitors and employees.
- D. Laundry Facilities.** Facilities shall provide laundry facilities or services adequate for the number of residents.
- E. Common Facilities.** Facilities shall contain amenities appropriate to the population to be served to include the following:
  1. Central cooking and dining room.
  2. Recreation room.
  3. Counseling services.
  4. Child care facilities.
  5. Other support services.
- F. Outdoor Activity.** For the purpose of noise abatement, organized outdoor activities may only be conducted between the hours of eight a.m. and ten p.m.
- G. Refuse.** Emergency shelters shall provide a refuse storage area that is in accordance with city requirements for accessory refuse structures. The storage area shall accommodate a standard-sized trash bin adequate for use on the parcel, or other enclosures as approved by the Community Development Director. The refuse enclosure shall be accessible to refuse collection vehicles.
- H. Emergency Shelter Provider.** The agency or organization operating the emergency shelter shall comply with the following requirements:
  1. Temporary shelter shall be available to residents for no more than six months.
  2. Staff and services shall be provided to assist residents to obtain permanent shelter and income.

3. The provider shall have a written management plan including, as applicable, provisions for staff training, good neighbor policies, security, transportation, client supervision, food services, screening of residents to insure compatibility with services provided at the facility, and for training, counseling, and treatment programs for residents. Such plan shall be submitted to and approved by the planning, inspections, and permitting department prior to operation of the emergency shelter. The plan shall include a floor plan that demonstrated compliance with the physical standards. The operator of each emergency shelter shall annually submit the management plan to the planning, inspections and permitting department with updated information for review and approval. The City Council may establish a fee by resolution, to cover the administrative cost of review of the required management plan.
- I. **Limited Terms of Stay.** The maximum term of staying at an emergency shelter is six months in a consecutive twelve-month period.
  - J. **Transportation Plan.** A transportation plan is required.
  - K. **Parking.** The emergency shelter shall provide on-site parking at a rate of one space per staff member plus one space per six occupants allowed at the maximum capacity.
  - L. **Bicycle Parking.** The shelter shall provide secure bicycle parking at a rate of one space per occupant.
  - M. **Development Standards.** An emergency shelter must comply with all development standards in the Industrial (I) zoning district.

#### 17.96.040 Home Occupations

- A. **Required Permit.** An Administrative Permit is required to establish or operate a home occupation.
- B. **Standards.** All home occupations shall comply with the following standards:
  1. **Size.** Home occupations may not occupy more than 25 percent of the floor area of the dwelling unit or 400 square feet, whichever is less.
  2. **Sales and Displays.** Products may not be sold onsite directly to customers within a home occupation. Home occupations may not establish window displays of products to attract customers.
  3. **Advertising.** No newspaper, radio, or television service shall be used to advertise the location of business; however, contact information, including phone numbers and email address, are allowed on advertisements.
  4. **Signs.** One single, non-illuminated, wall-mounted outdoor sign of not more than 1 square foot in area is permitted.
  5. **Vehicle Traffic.** A home occupation may not generate vehicle traffic greater than normally associated with a residential use. No excessive pedestrian, automobile, or truck traffic introduced to the neighborhood as a result of the home occupation.

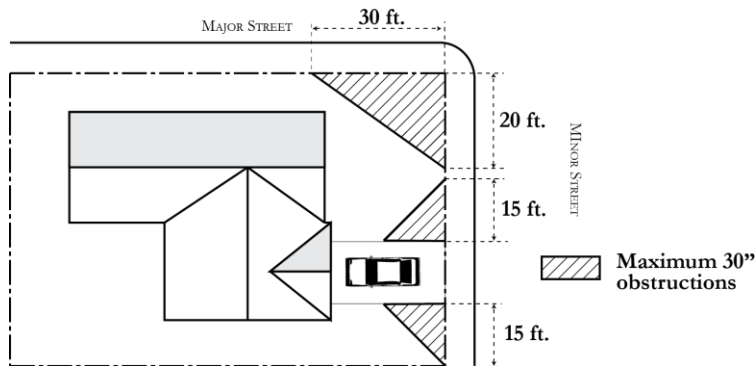
6. **Deliveries.** Deliveries and pick-ups for home occupations may not interfere with vehicle circulation, and shall occur only between 8:00 a.m. and 8:00 p.m., Monday through Saturday.
  7. **Mechanical Equipment.** Mechanical equipment that is not normally associated with a residential use is prohibited.
  8. **Performance Standards.** Home occupations shall not generate dust, odors, noise, vibration, or electrical interference or fluctuation that is perceptible beyond the property line.
  9. **Hazardous Materials Prohibited.** The storage of flammable, combustible, or explosive materials is prohibited.
  10. **Employees.** Employees of a home occupation shall be limited to the persons residing in the dwelling unit.
  11. **On-Site Client Contact.** No more than one client/customer at the property at one time. Customer or client visits are limited to three per day, or six per day for personal instruction services (e.g., musical instruction or training, art lessons, academic tutoring)
  12. **Outdoor Storage Prohibited.** Goods, equipment, and materials associated with a home occupation shall be stored within an enclosed structure or in a manner that is not visible from the property line.
- C. Permit Revocation.** An Administrative Permit for a home occupation that violates any of the standards in Paragraph B (Standards) above may be revoked consistent with Section 17.156.110 (Permit Revocation).

#### 17.96.050 Intersection Sight Distance

- A. Vision Triangle Required.** In zoning districts which require a front and street side setback for primary structures, all corner parcels shall provide and maintain a clear vision triangle at the intersection of the streets' right-of-way and adjacent to driveways for the purpose of traffic safety.
- B. Vision Triangle Defined.**
  1. **Intersections.** The intersection vision triangle shall be the area formed by measuring 30 feet along the major street front property line and 20 feet along the minor street property line from the point of intersection, and diagonally connecting the ends of the two lines. See Figure 17.96-1.
  2. **Driveways.** The driveway vision triangle is the area formed by measuring 15 feet along the driveway and the street from the point of intersection, and diagonally connecting the ends of the two lines. See Figure 17.96-1.
- C. Maintenance of Sight Lines.**

1. No structure, vehicle, object, or landscaping over 30 inches in height may be placed within a vision triangle, except as allowed by subsection 2 below.
2. Trees pruned at least 8 feet above the established grade of the curb so as to provide clear view by motor vehicle drivers are permitted within a vision triangle.

FIGURE 17-96-1: VISION TRIANGLES



#### 17.96.060 Large Commercial Land Uses

**A. Purpose and Applicability.** This section establishes special findings that the Planning Commission must make to approve a Conditional Use Permit for commercial land uses with more than 12,000 square feet of floor area within one or more buildings. This requirement applies to all proposed new commercial land uses except for:

1. Uses already specifically approved in an applicable Master Conditional Use Permit pursuant to Section 17.124.100 (Master Use Permit); and
2. Uses within a shopping center or mall with a floor area of 300,000 square feet or more.

**B. Findings.** To approve a Conditional Use Permit for a commercial land use with 12,000 square feet or more of floor area, the Planning Commission shall make the following findings in addition to the findings in Section 17.124.070 (Findings for Approvals):

1. Vehicle traffic and parking demand created by the proposed use will not have substantial adverse impacts on properties within the vicinity of the subject property.
2. The structure occupied with the proposed use is compatible with the scale and character of existing structures in the surrounding area.
3. The proposed use is compatible with existing land uses in the surrounding area.
4. The size of the proposed use is similar to the average size of similar uses located in the surrounding area.

5. The use will support the surrounding local economy and attract visitors to the commercial area.

**C. Purpose of Findings.** The purpose of additional findings for large commercial uses is to enable the Planning Commission to ensure that all new uses and development are consistent with the General Plan and compatible with the character of existing neighborhoods and districts. These findings are not intended to involve the City in the normal competition that arises between similar businesses in Capitola.

#### 17.96.070 Large Home Day Care

As allowed by Health and Safety Code Sections 1597.465 et seq., the City shall approve a large home day care if it complies with the following standards.

- A. Care Provider Occupancy.** The single-family home in which the large home day care is located shall be the principal residence of the care provider. The day care use shall be clearly residential in character and shall be accessory to the use of the property as a residence.
- B. License.** The care provider shall obtain and maintain a license from the State of California Department of Social Services.
- C. Separation.** A large home day care facility within a residential zoning district may not be located within 500 feet of another large home day care.
- D. Yard Requirement.** A large home day care shall either be located within the R-1 zoning district with outdoor play space or shall have 75 square feet of outdoor activity space for each child. A large home day care outside the R-1 shall have an outdoor area owned or leased by the applicant and cannot be shared with other property owners unless permission is granted by the joint owners. The City may waive this space requirement if the applicant can demonstrate that there is a public park or other public open area that is in close proximity to the large home day care.
- E. Screening.** A fence or wall shall be located on all property lines or around all outdoor activity areas. The fence or wall shall comply with all applicable standards in Chapter 17.60 (Fences and Walls).
- F. Noise.** Outdoor activities may not occur before 7:00 a.m. or after 8:00 p.m. when the site is located within or adjacent to a residential zoning district.
- G. Parking.** Off-street parking shall be provided as required by Chapter 17.76 (Parking and Loading).
- H. Garage.** The garage shall be utilized for the parking of the property owner's vehicles. Use of the garage for the day care home function, such as for a play area, is not allowed.
- I. Safety Compliance.** The applicant is required to have the home inspected and submit a letter of compliance from the following:



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1. **City Building Division.** The homes shall be inspected and brought into compliance with the building codes relative to the proposed use.
  2. **Fire Marshal.** The home shall be inspected and brought into compliance with the California Health and Safety code and Fire code relative to the proposed use.
- J. Pick-Up and Drop-Off Plan.** The Community Development Director shall approve a plan for the pick-up and drop-off of children. The plan shall demonstrate that adequate parking and loading areas are available to minimize congestion and conflict on public streets. The plan shall include an agreement for each parent or client to sign that includes, at a minimum:
1. A scheduled time for pick-up and drop-off with allowances for emergencies; and
  2. Prohibitions of double-parking, blocking driveways of neighboring properties, or using driveways of neighboring properties to turn around.

#### 17.96.080 Large Residential Care Facilities

Large residential care facilities shall comply with the following standards:

- A. Separation.** A large residential care facility in a residential zoning district shall not be located within 500 feet of another large residential care facility.
- B. Screening and Landscaping.** A wall or fence shall be provided for purposes of screening and securing outdoor recreational areas in compliance with Chapter 17.60 (Fences and Walls).
- C. License.** The care provider shall obtain and maintain a license from the State of California Department of Social Services. Large residential care facilities shall be operated according to all applicable State and local regulations.
- D. Safety Compliance.** The applicant is required to have the facility inspected and submit a letter of compliance from the following:
  1. **City Building Department.** The facility shall be inspected and brought into compliance with the building codes relative to the proposed use.
  2. **Fire Marshal.** The facility shall be inspected and brought into compliance with the California Health and Safety code and Fire code relative to the proposed use.

#### 17.96.090 Offshore Oil Development Support Facilities

- A. Prohibition.** There shall be no construction, reconstruction, operation, or maintenance of any commercial or industrial offshore oil development support facility within the City of Capitola.
- B. Facilities and Activities Included in Prohibition.** Prohibited facilities and activities include, but are not limited to:

1. Oil or gas storage facilities, pipe and drilling materials, or equipment repair or storage facilities, which operates directly in support of any offshore oil or gas exploration, development, drilling, pumping or production.
2. Construction, reconstruction, or operation of facilities to process any oil or natural gas taken or removed from any offshore oil or gas drilling or pumping operations.

#### 17.96.100 Permanent Outdoor Displays

- A. Permitted Displays.** A single permanent outdoor display of retail goods that complies with this section is permitted as an accessory use to a primary commercial use in the mixed use, commercial, and industrial zoning districts, except in the MU-V zoning district, where permanent outdoor displays are prohibited.
- B. Permits Required.** Permanent outdoor displays require Planning Commission approval of a Conditional Use Permit.
- C. Standards.**
1. **Height.** Displayed items shall not exceed 6 feet in height.
  2. **Size.** Display areas are limited to 6 feet wide or 10 percent of the width of the front building elevation. A display area may extend a maximum of 3 feet from the front building wall.
  3. **Goods Permitted.** Displayed items shall be of the same type that are lawfully displayed and sold inside the building occupied by the primary commercial use. Only the business or entity occupying the building may sell merchandise in an outdoor display area.
  4. **Hours.** Items shall be displayed only during the operating hours of the primary commercial use. Items shall be removed from display and moved into a permanently enclosed structure upon close of business.
  5. **Screening.** If outdoor display areas are proposed as part of a project subject to discretionary review (e.g., Conditional Use or Design Permit) and approval by the City, the review authority may require that display areas be screened from view from neighboring properties with a solid wall, fence, or landscaped berm.
  6. **Vending Machines.** Vending machines are not permitted as part of an outdoor display. Vending machines are considered an accessory use requiring Planning Commission approval of a Conditional Use Permit.
  7. **Design Standards.**
    - a. Outdoor displays shall be designed to enhance the shopping environment. The outdoor display shall be designed to complement the architecture of the building and public realm.

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- b. Outdoor displays shall be self-supporting, stable, and constructed to withstand wind or contact. The display shall not be permanently affixed to any object, structure or the ground including utility poles, light poles, and trees.
- c. Outdoor displays may not contain any information which would routinely be placed on a business sign located on the building such as the name or type of business, hours of business operation, business logo, brand name information, etc. The outdoor display may include a sign which indicates the price of the display items or simply indicates a "sale" on the items limited in size to 4 square inches.
- d. Outdoor displays shall be continuously maintained in a state of order, security, safety and repair. The display surface shall be kept clean, neatly painted, and free of rust, corrosion, protruding tacks, nails and/or wires.

**8. Location.**

- a. All outdoor display areas shall be located on the same parcel as the primary commercial use.
- b. Outdoor display areas may not be placed within any permanent landscaped area, required parking space, or loading area.
- c. No items may be displayed within the public right-of-way, including public sidewalks.
- d. Outdoor display areas may not be placed in a location that would cause a safety hazard, obstruct the entrance to a building, encroach upon driveways, or otherwise create hazards for pedestrian or vehicle traffic.

**D. Exceptions to Standards.** The Planning Commission may grant exceptions to the standards in Paragraph C above with a Conditional Use Permit upon finding that the exception is necessary and that the outdoor display with the exception will comply with the basic intent of the standards.

**17.96.110 Outdoor Lighting**

**A. Purpose.** This section establishes standards for outdoor lighting to minimize light pollution, maintain enjoyment of the night sky, and reduce light impacts on adjacent properties.

**B. Applicability.** The standards in this section apply to all outdoor lighting in Capitola except for:

- 1. Lighting installed and maintained by the City of Capitola or other public agency;
- 2. Athletic field lights used within a school campus or public or private park;
- 3. Temporary construction and emergency lighting; and
- 4. Seasonal lighting displays related to cultural or religious celebrations.

**C. Maximum Height.** Lighting standards shall not exceed the maximum heights specified in the Table 17.76-1.

**TABLE 17.96-1 MAXIMUM LIGHT STANDARD HEIGHT**

Zoning District	Maximum Height
Residential Zoning Districts	16 ft.
Mixed Use and Commercial Zoning Districts	16 ft. within 100 ft. of any street frontage or residential property line; 20 ft. in any other location
Industrial Zoning Districts	16 ft. within 100 ft. of any street frontage or residential property line; 25 ft. in any other location
Community Facility and Parks/Open Space Zoning Districts	25 ft., or as necessary for safety and security

- D. Prohibited Lighting.** The following types of exterior lighting are prohibited:
1. Exposed bulbs and/or lenses;
  2. Mercury vapor lights; and
  3. Searchlights, laser lights, or any other lighting that flashes, blinks, alternates, or moves.
- E. Fixture Types.** All lighting fixtures shall be shielded so the lighting source is not directly visible from the public right-of-way or adjoining properties. All fixtures shall meet the International Dark Sky Association’s (IDA) requirements for reducing waste of ambient light (“dark sky compliant”).
- F. Light Trespass.** Lights shall be placed to direct downward and deflect light away from adjacent lots and public streets, and to prevent adverse interference with the normal operation or enjoyment of surrounding properties.
1. Direct or sky-reflected glare from floodlights shall not be directed into any other parcel or street, ~~or onto any beach.~~
  2. No light or activity may cast light exceeding one foot-candle onto a public street, with the illumination level measured at the centerline of the street.
  3. No light or activity may cast light exceeding one-half foot-candle onto a residentially zoned parcel or any parcel containing residential uses.
- G. Required Documentation.** Prior to issuance of building permits, project applicants shall submit to the City photometric data from lighting manufacturers demonstrating compliance with the requirements of this section.
- H. Coastal Development Permit.** ~~In the Coastal Zone, and notwithstanding the other provisions of 17.96.110 this section, all lighting in the Coastal Zone shall be sited and~~

designed to limit lighting to the minimum necessary to provide for adequate public safety. All lighting shall be sited and designed so that it limits the amount of light or glare visible from public viewing areas (including but not limited to the beach and other such natural areas) to the maximum extent feasible (including through uses of lowest luminosity possible, directing lighting downward, directing lighting away from natural areas, etc.). In addition, exterior lighting adjacent to habitat areas shall be wildlife-friendly and shall use lamps that minimize the blue end of the spectrum. All lighting that requires a CDPs shall also be subject to a CDP finding that such lighting does not adversely impact significant public views.

#### 17.96.120 Placement of Underground Utilities

New construction or additions that increase existing floor area by 25 percent or more shall place existing overhead utility lines underground to the nearest utility pole.

#### 17.96.130 Recycling Collection Facilities

All recycling collection facilities where permitted shall comply with the standards in this section.

- A. **Accessory Use.** Recycling collection facilities may be established only as an accessory use in conjunction with an existing commercial or industrial use which complies with the Zoning Code and the Capitola Building and Fire Codes.
- B. **Permit Required.** Where allowed by Part 2 (Zoning Districts and Overlays), a recycling collection facility requires Planning Commission approval of a Conditional Use Permit.
- C. **Attendant Required.** Facilities may accept materials for recycling only when an attendant is present on site.
- D. **Maximum Size.** Recycling collection facilities may occupy no more than 5,000 square feet of area on a property.
- E. **Parking Areas.**
  - 1. Recycling collection facilities shall provide parking for removal of the materials and for customers depositing the materials.
  - 2. Occupation of parking spaces by the facility and by the attendant may not reduce available parking spaces below the minimum number required for the primary host use, unless a study shows that existing parking capacity is not already fully utilized during the time the recycling facility will be on the site.
- F. **Accepted Items.** Recycling collection facilities may accept only glass, metal or plastic containers, papers and reusable items. Used motor oil may be accepted with a permit from the Santa Cruz County Environmental Health Department and the Hazardous Wastes Commission.

- G. Power-driven Processing Equipment.** Except for reverse vending machines, recycling collection facilities may not use power-driven processing equipment.
- H. Location.**
1. Mobile vending facilities shall be located in a designated area without eliminating the required parking or landscaping;
  2. Facilities shall be at least 100 feet from any property zoned or occupied for residential use, unless there is a recognized service corridor and acoustical shielding between the containers and the residential use.
- I. Maintenance.** The site shall be maintained free of litter and any other undesirable materials. Mobile facilities, at which trucks or containers are removed at the end of each collection day, shall be swept at the end of each collection day.
- J. Noise.** Facilities shall not exceed noise levels of 60 dBA as measured from the property line of a residentially zoned property or a residential use. Facilities shall not exceed noise levels of 70 dBA measured from all other property lines.
- K. Hours of Operation.** Facilities shall operate only between the hours of nine a.m. and seven p.m.
- L. Facility Information and Display.**
1. Containers shall be clearly marked to identify the type of materials which may be deposited.
  2. The facility shall be clearly marked to identify the name and telephone number of the facility operator and the hours of operation, and display a notice stating that no material shall be left outside the recycling enclosure or containers.
- M. Signs.** Signs may be provided as follows:
1. Recycling facilities may have identification signs with a maximum of 10 square feet, in addition to informational signs required by subsection J above.
- N. Landscaping.** The facility shall comply with all landscaping standards required by Chapter 17.72 (Landscaping) and other City ordinance.

#### 17.96.140 Self-Storage Facilities

- A. Purpose and Applicability.** This section establishes special findings for the Planning Commission to approve self-storage facilities in the Community Commercial (C-C). These findings are intended to ensure that new self-storage facility will not adversely impact the economic vitality of Capitola's commercial districts.
- B. Required Findings.** In addition to the findings in Chapter 17.124 (Use Permits), the Planning Commission must make the following findings to approve a self-storage facility in the Community Commercial (C-C) zoning districts:

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1. The location of the proposed self-storage facility is not conducive/better suited as self-storage rather than traditional retail due to limited access to or poor visibility from the street.
2. The proposed self-storage facility would be compatible with existing land uses in the surrounding area.
3. Streets and other means of egress are adequate to serve the proposed self-storage facility.

#### 17.96.150 Solar Energy Systems

##### A. Required Permits.

1. **Rooftop Systems.** Rooftop solar energy systems and solar water heaters are permitted by-right in all zoning districts. No permit or approval is required other than a building permit and fire department review.
2. **Other Systems.** Solar energy systems that are not located on the rooftop of a primary structure require a Conditional Use Permit.

**B. Height Exceptions.** Rooftop solar energy systems may project up to 4 feet above the maximum permitted structure height in the applicable zoning district. This exception is applicable to the solar energy system only, not the structure on which it is located.

**C. Mixed Use Village Zoning District.** Rooftop solar facilities in the Mixed Use Village zoning district shall be located and design to minimize visibility from a street or other public place to the greatest extent possible.

**D. Building Permit Review and Approval.** Building permit applications for rooftop solar energy systems shall be reviewed and approved in compliance with Municipal Code Chapter 15.10 (Expedited Solar Permitting Ordinance).

**E. Coastal Development Permit.** ~~A proposed solar energy system may require a Coastal Development Permit as specified by Chapter 17.44 (Coastal Overlay Zone) if any part of the site is located in the coastal zone and the proposed development shall conform with the coastal development permit CDP findings for approval as specified in 17.44.130 (Findings for Approval).~~

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#### 17.96.160 Soquel Creek **Riverview Pedestrian** Pathway

The following standards apply to the Soquel Creek Riverview Pedestrian Pathway, which extends from the Stockton Avenue Bridge along the eastern side of Soquel Creek, under the Railroad Trestle, to 427 Riverview Avenue, where it follows a drainage easement to Riverview Avenue. As used in this section, “pathway” means the ~~undeveloped~~ area within which the pedestrian walking surface (comprised of brick, decomposed granite and other surface materials) ~~and any related public amenities are~~ located.

- A. The pathway shall be maintained at a minimum of either the existing pathway width shown in the March 2005 survey maintained by the City of Capitola, or 4 feet, whichever is greater.
- B. The pathway shall have ~~an~~ a minimum overhead clearance of 8 feet.
- C. ~~Primary structures~~ Structures east of the pathway shall be setback a minimum of 5 feet from the edge of the pathway.
- D. ~~New development~~ Development, including decks, fencing, landscaping and other improvements ~~may~~ shall not encroach into the pathway.
- E. Property owners shall trim and maintain landscaping so that it does not encroach into the pathway.
- F. Permeable surface variations (i.e., brick, decomposed granite and other surfaces) are permitted.
- G. Deck handrails may not exceed 42 inches in height. The space between the deck and the handrails may not be filled in to create a solid appearance.
- H. ~~Adequate signage shall be a provided allowed indicating that the pathway is open to the public.~~

#### 17.96.170 Temporary ~~Sidewalk~~ Outdoor Dining

This section establishes requirements for temporary outdoor dining areas located on a public sidewalk or other area within the public right-of-way.

- A. **Required Permits.** Temporary ~~outdoor sidewalk~~ dining within the public right-of-way requires an Administrative Permit and an Encroachment Permit. Temporary outdoor sidewalk dining may require a Coastal Development Permit as specified by Chapter 17.44 (Coastal Overlay Zone) if any part of the site is located in the Coastal Zone and the proposed development shall conform with the CDP findings for approval as specified in 17.44.130 (Findings for Approval).
- B. **Permitted Zoning Districts.** Temporary ~~outdoor~~ dining within the public right of way is allowed in the Commercial Community (C-C), Commercial Regional (C-R), and Mixed Use, Neighborhood (MU-N) zoning districts. Temporary outdoor dining within the public right of way is not permitted in the Mixed Use Village (MU-V) zoning district.
- C. **Standards.** Temporary sidewalk dining shall comply with the following standards.
  1. **Location.** Outside dining is permitted on the public sidewalk:
    - a. When incidental to and part of a restaurant; and
    - b. Along the restaurant's frontage.
  2. **Number of Dining Areas.** An indoor restaurant may operate only one outside dining area confined to a single location.

**Commented [kh2]:** This section was intended to be temporary outdoor dining, not sidewalk dining. All references to sidewalk dining have been modified to outdoor dining.



3. **Safe Passage.**

- a. Temporary sidewalk dining is permitted only where the sidewalk is wide enough to adequately accommodate both the usual pedestrian traffic in the area and the operation of the outside dining area.
- b. The sidewalk immediately adjacent to the restaurant shall have adequate space to accommodate tables and chairs and shall provide adequate safe passage along the sidewalk for pedestrian and wheelchair users of the sidewalk. Safe and adequate passage of at least 4 feet in width shall be provided along the sidewalk and from the curb to the sidewalk. No tables or chairs or any other objects shall be placed or allowed to remain on any sidewalk that inhibit such passage.

4. **Furniture and Signage Location.**

- a. Tables and chairs in a sidewalk dining area shall be set back at least 2 feet from any curb and from any sidewalk or street barrier, including a bollard, and at least 8 feet from a bus stop.
- b. All outdoor dining furniture, including tables, chairs, umbrellas, and planters, shall be movable.
- c. All temporary improvements to separate the outdoor dining area from the sidewalk, such as a railing, shall relate to the architectural design of the primary restaurant structure in color, materials, and scale.
- d. Umbrellas shall be secured with a minimum base of not less than 60 pounds.
- e. All signs are subject to Chapter 17.80.

5. **Food and Beverages.** The service of alcoholic beverages within the sidewalk dining area requires a Conditional Use Permit, and shall comply with the following requirements:

- a. The outside dining area shall be situated immediately adjacent to and abutting the indoor restaurant which provides it with food and beverage service.
- b. The outside dining area shall be clearly separate and delineated from the areas of the sidewalk which remains open to pedestrian traffic.
- c. One or more signs shall be posted during hours of operation stating that alcohol is prohibited outside of the dining area.
- d. The outside dining area shall receive all licenses required for on-site consumption of alcoholic beverages from State authorities.

6. **Trash and Maintenance.**

- a. Storage of trash is prohibited within or adjacent to the sidewalk dining area. All trash and litter shall be removed as it accumulates or otherwise becomes a public nuisance.

- b. The sidewalk dining area, including the sidewalk surface and furniture, shall be maintained in a clean and safe condition.
- 7. **Hours of Operation.** Sidewalk dining may occur between 7 a.m. and 10 p.m. seven days a week. Tables, chairs, ~~and all~~ other outdoor dining furniture, and all other structures and materials associated with the outdoor dining area shall be removed from the sidewalk and stored indoors at night and when the sidewalk dining area is not in operation.

#### 17.96.180 Temporary Uses and Structures

- A. Purpose.** This section establishes requirements for the establishment and operation of temporary uses and structures. These requirements allow for temporary uses and structures in Capitola while limiting impacts on neighboring properties and the general public.
- B. Temporary Uses Allowed By Right.** The following temporary uses are permitted by right. No permits or approvals from the Community Development Department are required.
  - 1. **Garage Sales.** Garage sales for individual residences limited to three, one- to two-day events per calendar year. One block or neighborhood sale per calendar year is allowed in addition to individual sales.
  - 2. **Storage Containers.** Storage containers delivered to a home, loaded at the residence, and delivered to another location, for a maximum of two weeks on private property. Storage containers on a residential property for more than two weeks may be approved by the Planning Commission with a Conditional Use Permit.
  - 3. **Outdoor Fund Raising Events.** Outdoor fund raising events on commercial sites when sponsored by a non-profit organization directly engaged in civic or charitable efforts. Outdoor fund raising events are limited to two days each month for each sponsoring organization.
  - 4. **On-Site Construction Yards.** Temporary construction yards and office trailers that are located on-site, less than 1 acre in size, and established in conjunction with an approved project. The construction yard and trailer shall be immediately removed within 10 days of completion of the construction project or expiration of the building permit.
- C. Temporary Uses Requiring a Permit.** An Administrative Permit is required for the following temporary uses.
  - 1. **Seasonal Sales.** Seasonal sales (e.g., Christmas trees, pumpkins) for a maximum of 45 calendar days, no more than four times per year on a single property. Seasonal sales are prohibited on residentially zoned property.
  - 2. **Temporary Outdoor Displays of Merchandise and Parking Lot Sales.** Temporary outdoor displays of merchandise and parking lot sales on private property

for a maximum of three days no more than two times per year on a single property. Following the completion of the temporary display, all signs, stands, poles, electrical wiring, or any other fixtures, appurtenances or equipment associated with the display shall be removed from the premises.

3. **Farmer's Markets.** Farmer's markets for a maximum of one day per week in a non-residential zoning district. Farmer's markets for more than one day per week in a non-residential are permitted with a Conditional Use Permit. Farmer's markets in a residential zoning district are permitted with a Conditional Use Permit.
4. **Off-Site Construction Yards.** Construction yards located off-site in conjunction with an approved project. The construction yard shall be immediately removed within 10 days of completion of the construction project or expiration of the building permit.
5. **Employee Trailers.** Trailer or commercial modular units used as a work site for employees of a business displaced during construction, for a maximum of 12 months. The Community Development Director may grant up to two 12-month extensions for ongoing construction activity requiring more than 12 months to complete.
6. **Mobile Food Vendors.** Mobile food vendors in one location four times or less per year in accordance with Municipal Code Chapter 9.36. Mobile food vendors in one location more than four times per year require a Conditional Use Permit.
7. **Real Estate Offices.** Real estate offices used exclusively for the sale of homes or other real estate units located within an approved multi-unit development project for a maximum of three years or within 30 days when the last home is sold, whichever comes first.
8. **Other Similar Activities.** Similar temporary activities determined by the Community Development Director to be compatible with the applicable zoning district and surrounding uses.

**D. Temporary, Publicly Attended Activities/Events.** Temporary, publicly attended activities such as festivals, outdoor entertainment, and other similar events may be permitted pursuant to Municipal Code Chapter 9.36 (Temporary, Publicly Attended Activities). [If in the coastal zone, see SubSection 17.44.080.4H \(Temporary Events\) to determine if a Temporary Event requires a Coastal Development Permit.](#)

**E. Conditions of Approval.** Upon the approval of a permit for a temporary use, the City may attach the following conditions when necessary in connection with the temporary use:

1. Hours of operation.
2. Maintenance of accessibility for the disabled.
3. Protection of fire lanes and access.
4. Preservation of adequate on-site circulation.

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5. Preservation of adequate on-site parking or a parking management plan to temporarily park off-site.
6. Cleanup of the location or premises.
7. Use of lights or lighting or other means of illumination.
8. Operation of any loudspeaker or sound amplification in order to prevent the creation of any nuisance or annoyance to the occupants of or commercial visitors to adjacent buildings or premises.

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## Chapter 17.100 - MOBILE HOME PARK CONVERSIONS

### Sections:

- 17.100.010 Purpose and Intent
- 17.100.020 Applicability
- 17.100.030 Definitions
- 17.100.040 Relocation Impact Report
- 17.100.050 Notice to Prospective Occupants of Pending Change in Park Status
- 17.100.060 Exemptions from Relocation Assistance Obligations
- 17.100.070 Application for Change of Use – Public Hearing – Findings
- 17.100.080 Measures to Prevent Avoidance of Relocation Assistance Obligations
- 17.100.090 Compliance with Relocation Assistance
- 17.100.100 Modification and Revocation of Approved Closure or Conversion
- 17.100.110 Expiration and Extension of Approval
- 17.100.120 Preemption
- 17.100.130 Severability

### 17.100.010 Purpose and Intent

This chapter establishes standards for the closure of a mobile home park and addresses the impact of such closures upon the ability of displaced residents to find adequate housing in another mobile home park. Mobile home parks are an important source of affordable housing within Capitola. The purpose of this chapter is to provide financial compensation and relocation assistance to displaced residents and provide mobile home park owners with protection from unreasonable relocation costs, in compliance with Government Code Sections 65863.7 and 66427.4. Nothing in this chapter shall be construed to mean that the City supports any change of use of any mobile home park.

### 17.100.020 Applicability

This chapter applies to the closure of any mobile home park or the conversion of a mobile home park to a different use.

### 17.100.030 Definitions

As used in this chapter, the following words and phrases shall have the following meanings:

- A. “Applicant” means a person or entity who has filed an application for change of use of a mobile home park.
- B. “Change of use” includes all activities specified in Section 798.10 of the California Civil Code and amendments to the General Plan or any applicable specific plan, rezoning of property, land use permits, such as a Conditional Use Permit or a Variance, Tentative

Parcel or Tentative Tract Maps, and building permits when the effect of the change will be to decrease the number of spaces available for mobile home habitation.

- C. “Change without new use” refers to what Civil Code Section 798.56(g)(2) describes as a “change of use [requiring] no local governmental permit” [other than approval of the RIR].
- D. “Comparable housing” means housing which, on balance, is comparable in floor area, number of bedrooms, and amenities, proximity to public transportation, shopping, schools, employment opportunities and medical services and other relevant factors to the mobile home to which comparison is being made.
- E. “Comparable mobile home park” means a mobile home park substantially equal in terms of park condition, amenities and other relevant factors, including, but not limited to, proximity to public transportation, shopping, medical services, employment opportunities and schools.
- F. “Director” means the Community Development Director.
- G. “Eligible mobile home resident” or “eligible resident” means a mobile home resident whose mobile home was located in a mobile home park on the date of an application for change of use. Eligible resident includes the spouse, parents, children and grandchildren of the eligible resident when those persons resided in the mobile home on the date of the application.
- H. “Legal owner” means any person or entity having an ownership interest in a mobile home other than the registered owner, such as a lender or mortgagor.
- I. “Mobile home” has the meaning set forth in Section 798.3 of the California Civil Code.
- J. “Mobile home owner” means the registered owner or registered owners of a mobile home, regardless of the number of such owners or the form of such ownership.
- K. “Mobile home park” or “park” has the meaning set forth in Section 798.4 of the California Civil Code.
- L. “Mobile home park owner” or “park owner” means the person, persons or entity that owns a mobile home park and includes any person authorized by the park owner to seek approval of an application for change of use or respond to a rent review petition filed pursuant to this chapter.
- M. “Mobile home owner” means a mobile home owner who resides in the mobile home he or she owns. Unless the context indicates otherwise, it includes the mobile home owner’s spouse, parents, children and grandchildren who reside in the mobile home.
- N. “Mobile home tenant” or “tenant” is a person who occupies a mobile home within a mobile home park pursuant to a bona fide lease or rental agreement and who, during his or her tenancy, was not the owner of that mobile home.
- O. “Handicapped mobile home resident” means a mobile home resident with any medically determinable physical or mental impairment as demonstrated by a finding of a state or

federal agency or a medical certificate, or who requires special care facilities in the mobile home or special care equipment, such as, but not limited to, a wheelchair.

- P.** “Low income” means an income of eighty percent or less of current median income as established annually by the United States Department of Housing and Urban Development (“HUD”) for the statistical area in which Capitola is located, as adjusted for household size.

#### **17.100.040 Relocation Impact Report**

- A. Submittal to Director.** Prior to a change of use of a mobile home park, a Relocation Impact Report (RIR) complying with the requirements of this chapter must be filed with the Director. It is the park owner’s responsibility to comply with the notice requirements of subsections g(1) and (2) of Civil Code Section 798.56. Because the Civil Code Section 798.56(g)(2) notice cannot be given until after the approval of both the project and the sufficiency of the (RIR), the park owner is encouraged to consult with staff (especially if any waiver of Municipal Code Section 17.100.030 requirements will be requested) early in the process about the contents of the RIR.
- B. Required Information.** The RIR shall be prepared by an independent agent acceptable to the City at the applicant’s expense and shall include the following information unless the Director determines the information is not necessary:
1. A detailed description of the proposed or change of use, or change without new use.
  2. A timetable for conversion of the mobile home park.
  3. A legal description of the mobile home park.
  4. The number of spaces in the park, length of occupancy by the current occupant of each space and current rental rate for each space.
  5. The date of manufacture and size of each mobile home.
  6. Appraisals addressing relevant issues identified by the Director. A qualified appraiser shall be selected by the City and the cost of the appraisals shall be borne by the applicant. The appraisals shall identify those mobile homes which cannot be moved due to type, age or other considerations. Appraisal information shall be provided on the effect upon the homeowner’s investment in the mobile home, such as the change in value of effected mobile homes that would result from the proposed change of use.
  7. The results of questionnaires to all homeowners/occupants regarding the following: whether the occupant owns or rents, whether this is the only residence, occupants’ ages, whether the occupants have disabilities that would be aggravated by the moving process, the purchase date and price paid by the mobile home owner, the costs incurred by the mobile home owner in improving the home, and the amount and relevant terms of any remaining mortgage. Answering such questionnaire shall be voluntary.

8. The name and mailing address of each eligible resident, mobile home tenant, mobile home resident, resident mobile home owner and legal owner of a mobile home in the park.
  9. The purchase price of condominiums similar in size to the mobile homes within a reasonable distance, and the rental rates and moving costs involved in moving to an apartment or other rental unit within a reasonable distance including, but not limited to, fees charged by moving companies and any requirement for payment of the first and last month's rent and security deposits.
  10. A list of comparable mobile home parks within a 20 mile radius and a list of comparable mobile home parks within a radius of 25 to 50 miles of the applicant's mobile home park. For each comparable park, the list should, if possible, state the criteria of that park for accepting relocated mobile homes, rental rates and the name, address and telephone number of the park representative having authority to accept relocated homes, including any written commitments from mobile home park owners willing to accept displaced mobile homes. The purpose of this requirement is to provide information necessary to create appropriate relocation compensation. It is not meant to suggest that the City, in any sense, favors tenants relocating out of any mobile home park in Capitola.
  11. Estimates from two moving companies as to the minimum and per mile cost of moving each mobile home, including tear-down and set-up of mobile homes and moving of improvements such as porches, carports, patios and other moveable amenities installed by the residents. Said moving companies shall be approved by the director prior to inclusion in the final RIR.
  12. Proposed measures to mitigate the adverse impacts of the conversion upon the mobile home park residents.
  13. Identification of a relocation specialist to assist residents in finding relocation spaces and alternate housing. The specialist shall be selected by the applicant, subject to the City's approval, and shall be paid for by the applicant.
- C. Filing of Relocation Impact Report.** The City shall not consider an RIR to be filed, within the meaning of Government Code Section 65863.7, until the applicant has submitted to the Community Development Department both a draft RIR which applicant believes meets the requirements of Municipal Code Section 17.100.030, and a written statement that such draft RIR has been filed pursuant to Government Code Section 65863.7.
- D. Refusal to Review Relocation Impact Report.** If the City Attorney determines that the proposed conversion or closure of the mobile home park would be illegal, the Community Development Director shall not process the RIR unless a court of competent jurisdiction rules that the proposed use would be legal.



**17.100.050 Notice to Prospective Occupants of Pending Change in Park Status**

After an application for change of use of a mobile home park (or for City approval of a RIR) has been filed with the Director, the applicant shall give notice to all known prospective mobile home purchasers and tenants that the application for change of use has been filed. Notice shall be given in addition to notices required by Civil Code Section 798.56 (g) (1) and in all cases shall be given prior to execution of any new rental agreement. The park owner shall obtain a signed acknowledgment of receipt of such notice from each prospective purchaser or tenant and file it with the Director. If the prospective purchaser or tenant refuses to sign, a dependable record of delivery of notice shall be maintained by the park owner.

**17.100.060 Exemptions from Relocation Assistance Obligations**

- A. Exemption Available.** Any person who files an application for change of use may file an application for total or partial exemption from the obligation to provide relocation assistance.
- B. Notice of Application.** Notice of an application for exemption shall be given pursuant to Section 17.100.070.B and C. Notices shall contain the information in provided in the exemption application.
- C. Basis for Application.**
1. **Total Exemption.** An application for total exemption may be made on one of two grounds:
    - a. The imposition of any relocation obligations would eliminate substantially all reasonable use or economic value of the property for alternate uses; or
    - b. The park is exempt from the requirement of relocation assistance under state law governing changes of use of mobile home parks.
  2. **Partial Exemption.** An application for partial may be made on one of two grounds:
    - a. The imposition of particular relocation obligations would eliminate substantially all reasonable use or economic value of the property for alternate uses; or
    - b. The obligation would exceed limitations imposed by Government Code Section 65863.7(e). The application shall specify the particular relocation obligations which would cause this result.
- D. Application Contents.**
1. An application for exemption made pursuant to subsections (1)(a) and (2)(a) above shall contain, at a minimum, an estimate of the value of the subject property by a qualified real estate appraiser if the park were permitted to be developed for the use proposed in the application for change of use, or other use consistent with applicable zoning, and an estimate of the value of such park by such appraiser if use of the property as a mobile home park is continued.

2. An application for exemption pursuant to subsection (1)(b) and (2)(b) above shall specify the provisions of state law providing the claimed exemption and documentation demonstrating entitlement to such exemption.

**E. Notice of Approval.** If the City grants an exemption after the applicant provides notice consistent with Civil Code Section 798.56(g)(2) notice, renoticing will be required.

#### 17.100.070 Application for Change of Use – Public Hearing – Findings

- A. City Review of RIR.** Upon the filing of an RIR, the Director shall examine the RIR and advise the applicant in writing within 30 days whether it is complete. When an application and RIR have been accepted as complete, the Director shall set a time, date and place for a hearing before the Planning Commission not later than 60 days after the date of acceptance. Because certain required information in an RIR (e.g., appraisals, tenant data) cannot be obtained until after filing an application for change of use, the initial application for change of use and RIR shall contain all pertinent available information to start the process of obtaining the information required for a complete application and RIR.
- B. Owner and Resident Notice.** Not less than 30 days prior to the scheduled public hearing before the Planning Commission, the park owner shall deliver to the each mobile home owner and resident within the park a copy of the approved RIR and the notice of the date, time and place of the public hearing on the application. Notice shall be delivered by certified mail or personal delivery.
- C. Verification of Notice Requirements.** Not less than 15 days prior to the scheduled public hearing before the Planning Commission on the RIR, the park owner shall file with the Director a verification of noticing required by this chapter and Government Code Section 65863.7. The form and manner of such verification shall be approved by the City Attorney.
- D. Planning Commission Recommendation.**
1. **Public Hearing.** The Planning Commission shall hold a public hearing on the application for a change of use and the RIR within 95 days of the date the application and RIR were accepted as complete. The Planning Commission shall provide a recommendation to the City Council on the approval of the change of use and RIR and may recommend measures to mitigate adverse impacts on residents impacted by the change of use.
  2. **Mitigation Measures.** Measures to mitigate adverse impacts on residents shall not exceed reasonable cost and may include, but are not limited to, the following:
    - a. Payment of the cost of physically moving the mobile home to a new site, including tear-down and setup of mobile homes, including, but not limited to, movable improvements such as patios, carports and porches.

- b. Payment of a lump sum based on consideration of any increase in security deposit at the new mobile home park which the resident or tenant lacks the ability to pay.
- c. Payment of a lump sum based on consideration of any differential between rental rates at the closing mobile home park and the new mobile home park during the first year of the new tenancy.
- d. For those mobile home residents who move to apartments or other rental housing alternatives, payment of a lump sum based on consideration of any differential in the rental rate between the closing park and the comparable housing, requirements for payment of security deposits and cleaning fees. Mobile home households may be compensated based on the number of bedrooms in the mobile home so that a one bedroom mobile home may be compensated based on a one bedroom apartment, a two bedroom mobile home based on a two bedroom apartment, etc.
- e. Provision of a replacement space within a reasonable distance of the closing mobile home park.
- f. For residents whose mobile home cannot be relocated to a comparable park within a 50-mile radius of the closing mobile home park, payment of a lump sum based upon consideration of the value of the mobile home, including resident improvements (e.g., landscaping, porches, carports), any increase in mortgage obligations of the resident on the mobile home, and the costs of purchasing a mobile home on-site in a comparable park or acquiring other comparable replacement housing.
- g. The park owner shall make the monetary payments contemplated in this subsection a reasonable period of time (to be set by the City Council) in advance of the actual relocation of a resident or homeowner. The resident or homeowner shall not be under a legal obligation to relocate by the method used to measure mitigation costs.

#### E. City Council Decision.

1. **Hearing and Decision.** The City Council shall hold a noticed public hearing on an application for a change of use within 45 days of the Planning Commission's recommendation. The City Council shall take action on the application within 80 days of the Planning Commission's recommendation.
2. **Mitigation Measures.** The City Council may impose reasonable measures not exceeding the reasonable costs of relocation to mitigate the adverse impacts of the change of use on eligible mobile home residents pursuant to Paragraphs D and G of this section.
3. **StatueStatute of Limitations.** The decision of the City Council is final. Pursuant to Code of Civil Procedure 1094.6, the statute of limitations for bringing a judicial challenge to any decision concerning a change of use of mobile home park is 90 days.

Notice of the City's decision to the applicant, park owner and affected residents shall include notice that the 90 day statute of limitations in 1094.6 applies.

- F. Extension of Time Periods.** Time periods in this section may be extended as necessary to comply with the California Environmental Quality Act (CEQA) or the California Coastal Act.
- G. Cost of Mitigation Measures.** Notwithstanding any other provision in this section, the cost of mitigation measures shall comply with Government Code Section 65863.7 which states that "the steps taken to mitigate shall not exceed the reasonable costs of relocation."

#### 17.100.080 Measures to Prevent Avoidance of Relocation Assistance Obligations

- A. Notice.** If any change of use or RIR approval application is withdrawn or denied, those previously given notices or announcements shall be so informed in writing by the mobile home park owner.
- B. No Waiver of Rights.** No prospective mobile home resident or existing mobile home resident may be required to sign a waiver, or a lease or rental agreement which includes a waiver, of their rights under this chapter. Any waiver of rights under this chapter by such a mobile home resident shall be deemed invalid unless the resident or prospective resident and the park owner obtain the prior approval of the waiver from the Director, who may grant such approval only upon a finding that the waiver is voluntary and was made after being fully informed of the terms of this chapter.

#### 17.100.090 Compliance with Relocation Assistance

- A. Acceptance of Mitigation Measures.**
  1. The applicant shall execute and record a certificate, and file proof with the Director, accepting the mitigation measures imposed on the approval of a closure or conversion within 90 days of the final City Council action approving the change of use. The applicant shall give the six- or twelve-month notice of the termination of tenancy and closure of the park required by Civil Code Section 798.56(g) within 120 days of that action.
  2. An approval of a change of use shall automatically become null and void if the certificate accepting the conditions is not filed and executed within 90 days of the date of the approval of the change of use and the notice of termination of tenancy has not been given within 120 days of that resolution.
- B. Timing of Mitigation.** All mitigation measures imposed on the approval of a change of use shall be fully performed for each resident prior to that resident's required vacation of the mobile home park, unless otherwise provided in the mitigation measure. No eligible resident shall be required to vacate a mobile home space unless the applicant is in full compliance with all mitigation measures pertaining to the resident, and has otherwise fulfilled the notice requirements of the California Mobile Home Residency Law relating to termination of tenancy.

- C. Issuance of Building Permits.** The City may not issue any building permit for the development within a converted or closed mobile home park until the City has adopted a resolution approving the change of use and the mobile home park owner has fully complied with the relocation assistance required by that resolution.

#### **17.100.100 Modification and Revocation of Approved Closure or Conversion**

##### **A. Modification.**

1. After a change of use has been approved and after the applicant has executed and recorded a certificate of acceptance of the conditions of any approval, the City may consider modification of the mitigation measures imposed upon the filing of a written application by the applicant. The City may approve modifications on the grounds that there has been a change in circumstances or that new information which could not reasonably have been known or considered at the time of the hearings on the application has become available. Examples of such new information or changed circumstances include, but are not limited to, revised plans by the applicant and a change in the availability of relocation spaces. Modifications may not be approved when it would unreasonably prejudice the ability of the residents to relocate to comparable spaces or comparable alternate housing.
2. Any application for modification shall be subject to the notice and hearing procedures set forth in Sections 17.100.070 (Application for Change of Use – Public Hearing – Findings). The decision in connection with a modification request shall take place as with the initial approval.

##### **B. Revocation.**

1. The City Council may initiate revocation proceedings on the grounds that the mobile home park owner or applicant has violated this chapter or the terms of the approval of the change of use. Action to initiate revocation proceedings shall specify the grounds for revocation and shall set a hearing before the City Council to consider the revocation not sooner than 45 and not later than 60 days after the action to initiate proceedings.
2. Notice of revocation proceeding shall be sent to the mobile home park owner by certified mail or personal delivery together with notice that any response from the owner must be filed at least 20 days prior to the date set for the revocation hearing.
3. The City Council shall render its findings and decision concerning revocation within 90 days after initiating revocation proceedings.

#### **17.100.110 Expiration and Extension of Approval**

- A. Expiration.** Approval of a change of use shall become null and void if the notice of termination of tenancy has not been given within the time provided in Section 17.100.090 (Compliance with Relocation Assistance) and relocation pursuant to the conditions of approval has not occurred within twelve months of the effective date of the approval of

the change of use, unless otherwise extended as provided in Paragraph B below, or unless otherwise provided in the resolution approving it.

**B. Extensions.**

1. The City Council may approve an extension to the date of giving notice and/or to the approval of the change of use. Applications for an extension shall be submitted in writing by the mobile home park owner to the Community Development Department. Applications must be submitted on or before the date to give the notice of termination or the expiration of the approval of the change of use.
2. The City Council may deny the request upon finding that the mobile home park owner has unreasonably delayed implementation of the mitigation measures or that further delay will result in prejudice or further adverse impacts upon eligible residents remaining in the mobile home park. Approval of an extension may be conditioned on reasonable measures designed to mitigate the adverse impacts resulting from the delay. The application for extension shall be subject to the notice and hearing procedures set forth in Section 17.100.100.B (Revocation).

**17.100.120 Preemption**

In the event the provisions of this chapter conflict with any code, ordinance or regulation of the City, the provisions of this chapter shall govern. In the event any provisions of this chapter conflict with a provision of state law, this chapter shall be interpreted and applied in conformity with state law.

**17.100.130 Severability**

If any part or provision of this chapter, or the application of such to any person or circumstance is held invalid, the remainder of the chapter, including the application of such part or provision to other persons or circumstances, shall not be effected and shall continue in full force and effect. To this end the provisions of this chapter are severable.

## Chapter 17.104 – WIRELESS COMMUNICATIONS FACILITIES

### Sections:

- 17.104.010 Purpose and Intent
- 17.104.020 Definitions
- 17.104.030 Applicability and Exemptions
- 17.104.040 Permit Requirements
- 17.104.050 Standard Conditions of Approval
- 17.104.060 Preferred Siting and Location
- 17.104.070 Development Standards
- 17.104.080 Operation and Maintenance Requirements
- 17.104.090 Temporary Wireless Communications Facilities
- 17.104.100 Limited Exemption from Standards
- 17.104.110 Severability

### 17.104.010 Purpose and Intent

- A. Purpose.** This chapter establishes requirements for the development, siting, collocation, installation, modification, relocation, and operation of wireless communications facilities consistent with applicable state and federal laws. These requirements aim to protect public health, safety, and welfare while balancing the benefits of robust wireless services with the unique community character, aesthetics, and local values of the City of Capitola.
- B. Intent.** This chapter does not intend to, and shall not be interpreted or applied to:
1. Prohibit or effectively prohibit personal wireless services;
  2. Unreasonably discriminate among wireless communications providers of functionally equivalent personal wireless services;
  3. Regulate the installation, operation, collocation, modification, or removal of wireless facilities on the basis of the environmental effects of radio frequency (RF) emissions to the extent that such emissions comply with all applicable Federal Communications Commission (FCC) regulations;
  4. Prohibit or effectively prohibit any collocation or modification that the City may not deny under state or federal law; or
  5. Preempt any applicable state or federal law.

### 17.104.020 Definitions

- A. Terms Defined.** Terms used in this chapter are defined as follows:
1. “Amateur radio facilities” are antennas and related equipment for the purpose of self-training, intercommunication, or technical investigations carried out by an amateur radio operator who operates without commercial interest, and who holds a

written authorization from the Federal Communications Commission to operate an amateur radio facility.

2. “Antenna” means a device or system of wires, poles, rods, dishes, discs, or similar devices used to transmit and/or receive radio or electromagnetic waves.
3. “Applicable FCC decisions” means the same as defined by California Government Code Section 65964.1(d)(1), as may be amended, which defines that term as “In re Petition for Declaratory Ruling, 24 FCC Rcd. 13994 (2009) and In the Matter of Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, Report and Order, 29 FCC Rcd. 12865 (2014).”
4. “Array” means one or more antennas mounted at approximately the same level above ground on tower or base station.
5. “Base station” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(1), as may be amended, which defines that term as follows:
  - a. A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in 47 C.F.R. Section 1.40001(b)(9) or any equipment associated with a tower.
  - b. “Base station” includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
  - c. “Base station” includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).
  - d. “Base station” includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under 47 C.F.R. Section 1.40001, supports or houses equipment described in paragraphs (b)(1)(i) through (ii) of 47 C.F.R. Section 1.40001 that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
  - e. “Base station” excludes any structure that, at the time the relevant application is filed with the State or local government under 47 C.F.R. Section 1.40001, does not support or house equipment described in paragraphs (b)(1)(i)-(ii) of 47 C.F.R. Section 1.40001.
6. “Collocation” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(2), as may be amended, which defines that term as “[t]he mounting or installation of transmission equipment on an eligible support structure for the



purpose of transmitting and/or receiving radio frequency signals for communications purposes.” As an illustration and not a limitation, the FCC’s definition effectively means “to add” new equipment to an existing facility and does not necessarily refer to more than one wireless facility installed at a single site.

7. “Eligible facilities request” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(3), as may be amended, which defines that term as “[a]ny request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) Collocation of new transmission equipment; (ii) Removal of transmission equipment; or (iii) Replacement of transmission equipment.”
8. “Eligible support structure” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(4), as may be amended, which defines that term as “[a]ny tower or base station as defined in [47 C.F.R. Section 1.40001], provided that it is existing at the time the relevant application is filed with the State or local government under [47 C.F.R. Section 1.40001].”
9. “Existing” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(5), as may be amended, which provides that “[a] constructed tower or base station is existing for purposes of the [FCC rules implementing Section 6409 of the Spectrum Act] if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.”
10. “FCC” means the Federal Communications Commission or its successor agency.
11. “Personal wireless services” has the same meaning as provided in 47 U.S.C. Section 332(c)(7)(C)(i), as may be amended, which defines the term as “commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.”
12. “Section 6409(a)” means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. Section 1455(a), as may be amended.
13. “Service provider” means a wireless communications provider, company or organization, or the agent of a company or organization that provides wireless communications services.
14. “Significant gap” is a gap in the service provider’s own wireless telecommunications facilities, as defined in federal case law interpretations of the Federal Telecommunications Act of 1996.
15. “Site” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(6), as may be amended, which provides that “[f]or towers other than towers in the public

rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.”

16. “Stealth facility” is any facility designed to blend into the surrounding environment, and is visually unobtrusive. Examples of stealth facilities may include architecturally screened roof-mounted antennas, facade mounted antennas painted and treated as architectural elements to blend with the existing building, or elements designed to appear as vegetation or trees. Also referred to as concealed communications facilities.
17. “Substantial change” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(7), as may be amended, which defines that term differently based on the particular facility type and location. For clarity, the definition in this chapter organizes and paraphrases the FCC’s criteria and thresholds for a substantial change according to the facility type and location. The definition of substantial change contained in this section shall be interpreted and applied so as to be consistent with 47 C.F.R. Section 1.40001(b)(7) (as may be amended) and the applicable FCC decisions, rules and orders and court rulings relating to the same. In the event of any conflict between the definition of substantial change contained in this section and the definition contained in 47 C.F.R. Section 1.40001(b)(7) (as may be amended), 47 C.F.R. Section 1.40001(b)(7) (as may be amended) shall govern and control.
  - a. For towers outside the public right-of-way, a substantial change occurs when:
    - (1) The proposed collocation or modification increases the overall height more than 10 percent or the height of one additional antenna array not to exceed 20 feet (whichever is greater); or
    - (2) The proposed collocation or modification involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance (whichever is greater); or
    - (3) The proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four cabinets; or
    - (4) The proposed collocation or modification involves excavation outside the current boundaries of the leased or owned property surrounding the wireless tower, including any access or utility easements currently related to the site.
  - b. For towers in the public right-of-way and for all base stations, a substantial change occurs when:
    - (1) The proposed collocation or modification increases the overall height more than 10 percent or 10 feet (whichever is greater); or

- (2) The proposed collocation or modification involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than 6 feet; or
  - (3) the proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four 4cabinets; or
  - (4) The proposed collocation or modification involves the installation of any new equipment cabinets on the ground when there are no pre-existing ground cabinets associated with the structure; or
  - (5) The proposed collocation or modification involves the installation of any ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure; or
  - (6) The proposed collocation or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.
- c. In addition, for all towers and base stations wherever located, a substantial change occurs when:
- (1) The proposed collocation or modification would defeat the existing concealment elements of the support structure as determined by the Community Development Director; or
  - (2) The proposed collocation or modification violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval related to height, width, equipment cabinets, or excavation that is inconsistent with the thresholds for a substantial change described in this section.
- d. Interpretation of Thresholds.
- (1) The thresholds for a substantial change described above are disjunctive. The failure to meet any one or more of the applicable thresholds means that a substantial change would occur.
  - (2) The thresholds for height increases are cumulative limits. For sites with horizontally separated deployments, the cumulative limit is measured from the originally-permitted support structure without regard to any increases in size due to wireless equipment not included in the original design. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012—the date that Congress passed Section 6409(a).
18. “Temporary wireless communications facility” means a wireless communications facility located on a parcel of land and consisting of a vehicle-mounted facility, a building mounted antenna, or a similar facility, and associated equipment, that is used

to provide temporary coverage for a large-scale event or an emergency, or to provide temporary replacement coverage due to the removal of an existing permitted, permanent wireless communications facility necessitated by the demolition or major alteration of a nearby property.

19. "Tower" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(9), as may be amended, which defines that term as "[a]ny structure built for the sole or primary purpose of supporting any [FCC]-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site." Examples include, but are not limited to, monopoles, mono-trees, and lattice towers.
  20. "Transmission equipment" means the same as defined by the FCC in 47 C.F.R. Section 140001(b)(8), as may be amended, which defines that term as "[e]quipment that facilitates transmission for any [FCC]-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul."
  21. "Wireless" means any FCC-licensed or authorized wireless communications service transmitted over frequencies in the electromagnetic spectrum.
  22. "Wireless communications facility" is a facility that sends and/or receives radio frequency signals, AM/FM, microwave, and/or electromagnetic waves for the purpose of providing voice, data, images or other information, including, but not limited to, cellular and/or digital telephone service, personal communications services, and paging services. Wireless communications facilities include antennas and all other types of equipment for the transmission or receipt of such signals; towers or similar structures built to support such equipment; equipment cabinets, base stations, and other accessory development; and screening and concealment elements. (Also referred to as "facility").
  23. "Wireless communications provider" is any company or organization that provides or who represents a company or organization that provides wireless communications services. (Also referred to as "service provider").
  24. "Zoning Code" means the City of Capitola Zoning Code.
- B. Terms Not Defined.** Terms not defined in this section shall be interpreted to give this chapter its most reasonable meaning and application, consistent with applicable state and federal law.

**17.104.030 Applicability and Exemptions**

- A. Applicability.** This chapter applies to all new facilities and all modifications to existing facilities proposed after the effective date of this chapter unless exempted by Subsection B (Exemptions) below.
- B. Exemptions.** This chapter does not apply to:
  1. Amateur radio facilities;
  2. Direct-to-home satellite dishes, TV antennas, wireless cable antennas, and other OTARD antennas covered by the Over-the-Air Reception Devices rule in 47 Code of Federal Regulations (C.F.R.) Section 1.4000 et seq.;
  3. Non-commercial wireless communications facilities owned and operated by a public agency, including but not limited to the City of Capitola; and
  4. All antennas and wireless facilities identified by the FCC or the California Public Utilities Commission (CPUC) as exempt from local regulations.

**17.104.040 Permit Requirements**

- A. Required Permits.** Wireless communications facilities are grouped into four tiers, each with its own permit requirement as shown in Table 17.104-1.

**TABLE 17.104-1: WIRELESS COMMUNICATIONS FACILITY TIERS AND REQUIRED PERMITS\***

	Types of Facilities	Permit Required
<b>Tier 1</b>	Modifications to an existing facility that qualify as an “eligible facility request” as defined in Section 17.104.020.A.7	Section 6409(a) Permit
<b>Tier 2</b>	<p>Building- and facade-mounted facilities in the C-C, C-R, or I zoning district when the proposed facility (1) is a stealth facility, (2) does not generate noise in excess of the City’s noise regulations and (3) does not exceed the applicable height limit in the applicable zoning district.</p> <p>Pole-mounted facilities in the public right-of-way consistent with Section 17.104.070.D when the facility is either (1) incorporated into a steel pole with all antennas, equipment, and cabling entirely concealed from view, or (2) mounted to a wood pole with all equipment other than antennas located substantially underground and pole-mounted equipment, where necessary, extends no more than 2 feet horizontally and 5 feet vertically from the pole.</p> <p>A collocation that is not a Tier 1 Facility.</p> <p>A modification to an eligible support structure that is not a Tier 1 Facility.</p>	Administrative Permit
<b>Tier 3</b>	Building- and facade-mounted facilities in the C-C, C-R, or I zoning district that are not Tier 2 Facilities.	Minor Use Permit

	Types of Facilities	Permit Required
	Building- and facade-mounted facilities in the MU-V, MU-N, VA, or CF zoning district.  Pole-mounted facilities in the public right-of-way consistent with Section 17.104.070.D that are not Tier 2 Facilities.	
<b>Tier 4</b>	New towers in any zoning district  Any facility in the R-1, RM, or MH zoning district [1]  Any facility within a public park or open space  Any facility that is not a Tier 1, 2, or 3 Facility	Conditional Use Permit

Notes:

[1] Except pole-mounted facilities located in a public right-of-way that qualify as either a Tier 2 or 3 Facility.

\* Any wireless communications facility located in the City's coastal zone may also require a Coastal Development Permit per Zoning Code Chapter 17.46 (CZ Coastal Zone Combining District), in which case the public notice and hearing requirements (and required findings) set forth in Chapter 17.46 will also apply.

**B. Review Authority.**

- Tier 1 and Tier 2 Facilities.** The Community Development Director shall review and take action on all Section 6409(a) Permit applications for Tier 1 facilities and Administrative Permit applications for Tier 2 facilities.
- Tier 3 Facilities.** The Community Development Director shall review and take action on Minor Use Permit applications for Tier 3 facilities. If a member of the public requests a public hearing in accordance with Subsection G.3 (Tier 3 Facilities (Minor Use Permit)) below, the Community Development Director may refer the application to the Planning Commission for review and final decision.
- Tier 4 Facilities.** The Planning Commission shall review and take action on Conditional Use Permit applications for Tier 4 facilities.

**C. Conflicting Provisions.** Conditional Use Permits required for a wireless communications facility shall be processed in compliance with Chapter 17.124 (Use Permits) and with this chapter. In the event of any conflict between this chapter and Chapter 17.124 (Use Permits), this chapter shall govern and control.

**D. Coastal Zone.** A Coastal Development Permit may also be required for any wireless communications facility located (or proposed to be located) in the City's coastal zone. Coastal Development Permits required for wireless communications facilities shall be processed in conformance with chapter 17.4644 (~~CZ Coastal Zone Combining District~~ Coastal Overlay Zone, as may be amended) and with this chapter. In the event of any conflict between this chapter and Chapter 17.4644 (as may be amended), Chapter 17.2644 shall govern and control, to the extent consistent with applicable federal law (including, but not limited to, the Telecommunications Act of 1996, Section 6409(a), and

applicable FCC decisions, rules and orders) and not preempted by applicable state or federal law.

**E. Other Permits.** A permit issued under this chapter is not in lieu of any other permit required under the Municipal Code (including, but not limited to, coastal development permits, encroachment permits, building permits, etc.), except as specifically provided in this chapter. In addition to any Section 6409(a) permit, administrative use permit, minor use permit, or conditional use permit that may be required under this chapter, the applicant must obtain all other required permits and/or approvals from other City departments, and/or state or federal agencies. **Pre-Application Conference.** The City encourages prospective applicants to request a pre-application conference with the Community Development Department in accordance with Section 17.112.020.A (Pre-application Conference) before completing and filing a permit application.

**F. Permit Application and Review.**

1. **Application Required.** All permits granted under this chapter shall require an application filed in compliance with this chapter and Chapter 17.112 (Permit Application and Review).
2. **Application Contents.** All applications shall include the following:
  - a. The applicable application fee(s) established by the City. Fees required to process permit applications are identified in the Planning Fee Schedule approved by the City Council.
  - b. A fully completed and executed application using an official City application form.
  - c. The application must state what approval is being sought (i.e., Conditional Use Permit, Minor Use Permit, Administrative Permit, or Section 6409(a) Permit). If the applicant believes the application is for a Section 6409(a) Permit, the applicant must provide a detailed explanation as to why the applicant believes that the application qualifies as an eligible facilities request subject to a Section 6409(a) Permit.
  - d. A completed and signed application checklist available from the City, including all the information, materials, and fees specified in the City's application checklist for proposed wireless communications facilities.
  - e. If the proposed facility is to be located on a City-owned building or structure, the application must be signed by an authorized representative of the City.
  - f. For Section 6409(a) Permits and Administrative Permits involving a collocation or modification to an eligible support structure, the application must be accompanied by all prior approvals for the existing facility (including but not limited to all conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment), as well as all permit applications with required application materials for each

separate permit required by the City for the proposed facility, including but not limited to a building permit and an encroachment permit (if applicable).

- g. All other materials and information required by the Community Development Director as publicly stated in the application checklist(s).

### 3. **Application Review.**

- a. The Community Development Department shall review applications in accordance with Chapter 17.112 (Permit Application and Review). In the event of any conflict between this chapter and Chapter 17.112 (Permit Application and Review), this chapter shall govern and control.
- b. The application processing time for applications subject to this chapter shall be in conformance with the time periods and procedures established by applicable FCC decisions, adjusted for any tolling due to incomplete application notices or mutually agreed upon extensions of time.

## **G. Public Notice and Hearing.**

1. **All Facilities.** Public notice of pending decision or hearing for all facilities shall contain the following:
  - a. A description of the proposed facility, collocation, or modification.
  - b. The location of the subject property.
  - c. Required permits and approvals.
  - d. How the public can obtain additional information on the proposed project.
2. **Tier 1 Facilities (Section 6409(a) Permit) and Tier 2 Facilities (Administrative Permit).**
  - a. City approval or denial of a Tier 1 or Tier 2 facility is a ministerial action which does not require a public hearing.
  - b. The applicant shall post notice of pending action on a Tier 1 or Tier 2 facility application on the subject property at least ten (10) calendar days prior to the City taking action on the application.
  - c. In addition to the information identified in Subsection F.1 (All Facilities) above, the notice of a pending action for Tier 1 facilities shall contain the following statement: "Federal law may require approval of this application. Further, Federal Communications Commission Regulations may deem this application granted by the operation of law unless the City timely approves or denies the application, or the City and applicant reach a mutual tolling agreement."
3. **Tier 3 Facilities (Minor Use Permit).**
  - a. A public hearing for a Tier 3 facility is required only if the Community Development Director receives a written request for a public hearing from the public.



- b. The City shall mail public notice of a pending action on a Tier 3 facility to the owners of the real property located within a radius of 100 feet from the exterior boundaries of the subject property at least ten (10) calendar days prior to the City taking action on the application.
  - c. In addition to the information identified in Subsection G.1 (All Facilities) above, the notice of a pending action shall contain a statement that the City is considering the application and that the Community Development Director will hold a public hearing for the application only upon receiving by a specified date written request for a hearing.
  - d. If the City receives a request for a public hearing by the specified date, the Community Development Director shall hold a noticed public hearing on the application or refer the application to the Planning Commission for review and final decision. Public notice of the requested public hearing will be mailed to the owners of real property located within a radius of 100 feet from the exterior boundaries of the subject property.
  - e. If no written request for a public hearing is received by the specified date, the Community Development Director shall act on the application without a public hearing.
4. **Tier 4 Facilities (Conditional Use Permit).**
- a. The Planning Commission shall review and take action on Tier 4 facility applications at a noticed public hearing in conformance with this chapter and Chapter 17.124 (Use Permits), as may be amended from time to time.
  - b. At least ten (10) calendar days prior to the scheduled hearing date, the City shall provide public notice of the hearing by:
    - (1) Mailing public notice of the hearing to the following recipients:
      - a) The owners of the subject property or the owner's authorized agent and the applicant;
      - b) The owners of the real property located within a radius of 600 feet from the exterior boundaries of the subject property;
      - c) Each local agency expected to provide essential facilities or services to the subject property;
      - d) Any person who has filed a written request for notice with the Community Development Department; and
      - e) Any other person, whose property, in the judgment of the Community Development Department, might be affected by the proposed project; and
    - (2) Posting a printed notice at the project site.

- c. If the number of property owners to whom notice would be mailed in compliance with Subsection 4.b.1 above is more than 1,000, the Community Development Department may choose to provide notice by placing a display advertisement of at least one-eight page in one or more local newspapers of general circulation at least ten (10) calendar days prior to the scheduled hearing date.
- d. In addition to the types of notice required above, the Community Development Department may provide additional notice as determined necessary or desirable.
- e. The validity of the hearing shall not be affected by the failure of any resident, property owner, or community member to receive a mailed notice.
- f. In addition to the information identified in Subsection G.1 (All Facilities) above, the notice of a public hearing shall identify the date, location, and time of the hearing.

**H. Applicant Notifications for Deemed Granted Remedies.** Under state and/or federal law, the City's failure to act on a wireless communications facility permit application within a reasonable period of time in accordance with the time periods and procedures established by applicable FCC decisions, accounting for tolling, may result in the permit being deemed granted by operation of law. To the extent federal or state law provides a "deemed granted" remedy for wireless communications facility applications not timely acted upon by the City, no such application shall be deemed granted unless and until the applicant satisfies the following requirements:

1. For all Tier 2, Tier 3 and Tier 4 Facility applications:
  - a. Completes all public noticing required pursuant to Section 17.104.040.G (Public Notice and Hearings) and California Government Code Section 65091 to the Community Development Director's satisfaction.
  - b. No more than 30 days before the date by which the City must take final action on the application (as determined in accordance with the time periods and procedures established by applicable FCC decisions and accounting for tolling), the applicant must provide the following written notice to the City and other specified recipients as follows:
    - (1) For Tier 2 Facilities, the written notice shall be delivered to the City and posted on the subject property.
    - (2) For Tier 3 Facilities, the written notice shall be delivered to the City and mailed to the owners of the subject property (or the owner's authorized agent), and the owners of the real property located within a radius of 100 feet from the exterior boundaries of the subject property and any person who has filed a written request for notice with the Community Development Department.

- (3) For Tier 4 Facilities, the written notice shall be delivered to the City and mailed to the owners of the subject property (or the owner's authorized agent), the owners of the real property located within a radius of 600 feet from the exterior boundaries of the subject property, each local agency expected to provide essential facilities or services to the subject property, any person who has filed a written request for notice with the Community Development Department, and any other person identified by the Community Development Department as a person whose property might be affected by the proposed project.
  - (4) The notice shall be delivered to the City in person or by certified United States mail.
  - (5) The notice must state that the applicant has submitted an application to the City, describe the location and general characteristics of the proposed facility, and include the following statement: "Pursuant to California Government Code Section 65964.1, state law may deem the application approved in 30 days unless the City approves or denies the application, or the City and applicant reach a mutual tolling agreement."
2. For all facility applications:
- a. Submits a complete application package consistent with the application procedures specified in this chapter and applicable federal and state laws and regulations.
  - b. Following the date by which the City must take final action on the application (as determined in accordance with the time periods and procedures established by applicable FCC decisions and accounting for tolling), the applicant must provide notice to the City that the application is deemed granted by operation of law.

#### **I. Basis for Approval – Tier 1 Facilities.**

1. This subsection shall be interpreted and applied so as to be consistent with the Telecommunications Act of 1996, Section 6409(a), and the applicable FCC and court decisions and determinations relating to the same. In the event that a court of competent jurisdiction invalidates all or any portion of Section 6409(a) or a FCC rule or regulation that interprets Section 6409(a), such that federal law would not mandate approval for any eligible facilities request, then all proposed modifications to existing facilities subject to this section must be approved by an Administrative Permit, Minor Use Permit, or Conditional Use Permit, as applicable, and subject to the discretion of the Community Development Director.
2. The Community Development Director shall approve a Section 6409(a) Permit for a Tier 1 facility upon finding that the proposed facility qualifies as an eligible facilities request and does not cause a substantial change as defined in Section 17.104.020 (Definitions).

3. In addition to any other alternative recourse permitted under federal law, the Community Development Director may deny a Section 6409(a) Permit upon finding that the proposed facility:
    - a. Defeats the effect of existing concealment elements of the support structure;
    - b. Violates any legally enforceable standard or permit condition related to compliance with generally applicable building, structural, electrical and/or safety codes;
    - c. Violates any legally enforceable standard or permit condition reasonably related to public health and/or safety; or
    - d. Otherwise does not qualify for mandatory approval under Section 6409(a) for any lawful reason.
- J. Basis for Approval – Tier 2 Facilities.** To approve an Administrative Permit for a Tier 2 facility, the Community Development Director must find that the proposed facility complies with the requirements of this chapter and all other applicable requirements of the Zoning Code.
- K. Basis for Approval – Tier 3 and 4 Facilities.** To approve a Minor Use Permit or Conditional Use Permit for a proposed Tier 3 or Tier 4 facility, the review authority must make all of the following findings:
1. The facility is consistent with the requirements of this chapter.
  2. All the findings required for the Minor Use Permit or Conditional Use Permit as specified in Chapter 17.124 (Use Permits) can be made for the proposed facility.
- L. Appeals.**
1. **Tier 1 Facilities:** Community Development Director decisions on a Section 6409(a) Permit are final and may not be appealed.
  2. **Tier 2 and 3 Facilities.** Community Development Director decisions on an Administrative Permit for a Tier 2 Facility and a Minor Use Permit for a Tier 3 Facility may be appealed to the Planning Commission in accordance with Chapter 18.112 (Appeals). Planning Commission decisions on such an appeal may be appealed to the City Council.
  3. **Tier 4 Facilities.** Planning Commission decisions on a Conditional Use Permit for a Tier 4 facility may be appealed to the City Council in accordance with Chapter 18.112 (Appeals).
- M. Permit Revocation.**
1. **Basis for Revocation.** The City may revoke a permit for a wireless communications facility for noncompliance with any enforceable permit, permit condition, or law applicable to the facility.

## 2. Revocation Procedures.

- a. When the Community Development Director finds reason to believe that grounds for permit revocation exist, the Director shall send written notice to the permit holder that states the nature of the violation or non-compliance and a means to correct the violation or non-compliance. The permit holder shall have a reasonable time from the date of the notice (not to exceed 60 calendar days from the date of the notice or a lesser period if warranted by a public emergency) to correct the violation or cure the noncompliance, or show that the violation has not occurred or the facility is in full compliance.
- b. If after receipt of the notice and opportunity to cure described in Section 17.104.040.M.2.a above, the permit holder does not correct the violation or cure the noncompliance (or demonstrate full compliance), the Community Development Director may schedule a public hearing before the Planning Commission at which the Planning Commission may modify or revoke the permit.
- c. For permits issued by the Community Development Director, the Community Development Director may revoke the permit without such public hearing. The Community Development Director decision to revoke may be appealed to the Planning Commission.
- d. The Planning Commission may revoke the permit upon making one or more of the following findings:
  - (1) The permit holder has not complied with any enforceable permit, permit condition, or law applicable to the facility.
  - (2) The wireless communications provider has failed to comply with the conditions of approval imposed.
  - (3) The permit holder and/or wireless communications provider has failed to submit evidence that the wireless communications facility complies with the current FCC radio frequency standards.
  - (4) The wireless communications facility fails to comply with the requirements of this chapter.
- e. The Planning Commission's decision may be appealed to the City Council in accordance with Chapter 18.112 (Appeals).
- f. Upon revocation, the City may take any legally permissible action or combination of actions necessary to protect public health, safety and welfare.

## N. Cessation of Operations

1. **Notice to City.** Wireless communications providers shall provide the City with a notice of intent to vacate a site a minimum of 30 days prior to the vacation.

2. **New Permit Required.** A new permit shall be required if a site is to be used again for the same purpose as permitted under the original permit if a consecutive period of six months have lapsed since cessation of operations.
3. **Removal of Equipment.** The service provider or property owner shall remove all obsolete and/or unused facilities and associated equipment from the site within 180 days of the earlier of:
  - a. Termination of the lease with the property owner; or
  - b. Cessation of operations.

#### O. Abandonment

1. To promote the public health, safety and welfare, the Community Development Director may declare a facility abandoned or discontinued when:
  - a. The permit holder or service provider abandoned or discontinued the use of a facility for a continuous period of 90 days; or
  - b. The permit holder or service provider fails to respond within 30 days to a written notice from the Community Development Director that states the basis for the Community Development Director's belief that the facility has been abandoned or discontinued for a continuous period of 90 days; or
  - c. The permit expires and the permit holder or service provider has failed to file a timely application for renewal.
2. After the Community Development Director declares a facility abandoned or discontinued, the permit holder or service provider shall have 60 days from the date of the declaration (or longer time as the Community Development Director may approve in writing as reasonably necessary) to:
  - a. Reactivate the use of the abandoned or discontinued facility subject to the provisions of this chapter and all conditions of approval; or
  - b. Remove the facility and all improvements installed in connection with the facility (unless directed otherwise by the Community Development Director), and restore the site to its original pre-construction condition in compliance with all applicable codes and consistent with the previously-existing surrounding area.
3. If the permit holder and/or service provider fail to act as required in Section 17.104.040.O.2 within the prescribed time period, the following shall apply:
  - a. City may but is not obligated to remove the abandoned facility, restore the site to its original pre-construction condition, and repair any and all damages that occurred in connection with such removal and restoration work.
  - b. The City may but is not obligated to store the removed facility or any part thereof, and may use, sell or otherwise dispose of it in any manner the City deems appropriate.

- c. The last-known permit holder (or its successor-in-interest), the service provider (or its successor-in-interest), and, if on private property, the real property owner shall be jointly liable for all costs and expenses incurred by the City in connection with its removal, restoration, repair and storage, and shall promptly reimburse the City upon receipt of a written demand, including, without limitation, any interest on the balance owing at the maximum lawful rate.
  - d. The City may but is not obligated to use any financial security required in connection with the granting of the facility permit to recover its costs and interest.
  - e. Until the costs are paid in full, a lien shall be placed on the facility, all related personal property in connection with the facility and, if applicable, the real private property on which the facility was located for the full amount of all costs for removal, restoration, repair and storage (plus applicable interest). The City Clerk shall cause the lien to be recorded with the County of Santa Cruz Recorder's Office. Within 60 days after the lien amount is fully satisfied including costs and interest, the City Clerk shall cause the lien to be released with the County of Santa Cruz Recorder's Office.
4. If a permit holder, service provider, and/or private property owner fails to comply with any provisions of this Section 17.104.040.O (Abandonment), the City may elect to treat the facility as a nuisance to be abated as provided in Municipal Code Title 4 (General Municipal Code Enforcement).

**P. Relocation for Facilities in the Right-of-Way.**

- 1. The Public Works Director may require a permit holder to relocate and/or remove a facility in the public right-of-way as the City deems necessary to:
  - a. Change, maintain, repair, protect, operate, improve, use, and/or reconfigure the right-of-way for other public projects; or
  - b. Take any actions necessary to protect the public health, safety and welfare.
- 2. The Public Works Director shall provide the permit holder with adequate written notice identifying a specified date by which the facility must be relocated and/or removed.
- 3. The relocation and/or removal of the facility shall be at the permit holder's sole cost and expense and in accordance with the standards in this chapter applicable to the facility.

**Q. Transfer of Ownership.**

- 1. **Notice.** Any wireless communications provider that is buying, leasing, or is considering a transfer of ownership of a previously approved facility shall submit a letter of notification of intent to the Community Development Director a minimum of 30 days prior to the transfer.

2. **Responsibilities.** In the event that the original permit holder sells its interest in a wireless communications facility, the succeeding carrier shall assume all facility responsibilities and liabilities and shall be held responsible for maintaining consistency with all permit requirements and conditions of approval.
3. **Contact Information.** A new contact name for the facility shall be provided by the succeeding provider to the Community Development Department within 30 days of transfer of interest of the facility.

#### 17.104.050 Standard Conditions of Approval

All wireless communications facilities approved through a City permit or deemed granted by operation of law shall comply with the following standard conditions of approval. Standard conditions of approval shall apply in addition to other conditions of approval attached to the project by the review authority in compliance with the Zoning Code and as allowed by state and federal law.

- A. **All Facilities.** The following standard conditions of approval apply to all facilities and shall be included in all Administrative Permits, Minor Use Permits, and Conditional Use Permits:
  1. **Compliance with Chapter.** The facility shall comply with the requirements of this chapter, including but not limited to requirements in Section 17.104.070 (Development Standards) and Section 17.104.080 (Operation and Maintenance Requirements).
  2. **Compliance with Applicable Laws.** The permit holder and service provider shall at all times comply with all applicable provisions of the Zoning Code, any permit issued under the Zoning Code, and all other applicable federal, state and local laws, rules and regulations. Failure by the City to enforce compliance with applicable laws shall not relieve any applicant of its obligations under the Municipal Code (including, but not limited to, the Zoning Code), any permit issued under the Zoning Code, or any other applicable laws, rules, and regulations.
  3. **Compliance with Approved Plans.** The facility shall be built in compliance with the approved plans on file with the Community Development Department.
  4. **Approval Term.** The validly issued Administrative Permit, Minor Use Permit, or Conditional Use Permit for the wireless communications facility shall be valid for an initial maximum term of ten years, except when California Government Code Section 65964(b), as may be amended, authorizes the City to issue a permit with a shorter term. The approval may be administratively extended by the Community Development Director from the initial approval date for a subsequent five years and may be extended by the Director every five years thereafter upon verification that the facility continues to comply with this chapter and conditions of approval under which the facility was originally approved. Costs associated with the review process shall be borne by the service provider, permit holder, and/or property owner.



5. **Inspections; Emergencies.** The City or its designee may enter onto the facility area to inspect the facility upon reasonable notice to the permit holder. The permit holder and service provider shall cooperate with all inspections. The City reserves the right to enter or direct its designee the facility and support, repair, disable, or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property.
6. **Contact Information for Responsible Parties.** The permit holder and service provider shall at all times maintain accurate contact information for all parties responsible for the facility, which shall include a phone number, street mailing address, and email address for at least one person. All such contact information for responsible parties shall be provided to the Community Development Director upon request.
7. **Graffiti Removal.** All graffiti on facilities must be removed at the sole expense of the permit holder within 48 hours after notification from the City.
8. **FCC (including, but not limited to, RF Exposure) Compliance.** All facilities must comply with all standards and regulations (including, but not limited to, those relating to RF exposure) of the FCC and any other state or federal government agency with the authority to regulate such facilities. The City may require submission on an ongoing basis of documentation evidencing that the facility and any collocated facilities complies with applicable RF exposure standards and exposure limits and affirmations, under penalty of perjury, that the subject facilities are FCC compliant and will not cause members of the general public to be exposed to RF levels that exceed the maximum permissible exposure (MPE) levels deemed safe by the FCC.
9. **Implementation and Monitoring Costs.** The permit holder and service provider (or their respective successors) shall be responsible for the payment of all reasonable costs associated with the monitoring of the conditions of approval, including, without limitation, costs incurred by the Community Development Department, the Public Works Department, the City Manager's Department, the office of the City Attorney and/or any other appropriate City department or agency. The Community Development Department shall collect costs on behalf of the City
10. **Indemnities.** The permit holder, service provider, and, if applicable, the non-government owner of the private property upon which the facility, tower and/or base station is installed (or is to be installed) shall defend (with counsel satisfactory to the City), indemnify and hold harmless the City of Capitola, its officers, officials, directors, agents, representatives, and employees (i) from and against any and all damages, liabilities, injuries, losses, costs and expenses and from and against any and all claims, demands, lawsuits, judgments, writs of mandamus and other actions or proceedings brought against the City or its officers, officials, directors, agents, representatives, or employees to challenge, attack, seek to modify, set aside, void or annul the City's approval of the permit, and (ii) from and against any and all damages, liabilities, injuries, losses, costs and expenses and any and all claims, demands,

lawsuits, judgments, or causes of action and other actions or proceedings of any kind or form, whether for personal injury, death or property damage, arising out of, in connection with or relating to the acts, omissions, negligence, or performance of the permit holder, the service provider, and/or, if applicable, the private property owner, or any of each one's agents, representatives, employees, officers, directors, licensees, contractors, subcontractors or independent contractors. It is expressly agreed that the City shall have the right to approve (which approval shall not be unreasonably withheld) the legal counsel providing the City's defense, and the property owner, service provider, and/or permit holder (as applicable) shall reimburse City for any and all costs and expenses incurred by the City in the course of the defense.

**B. Tier 1 Facilities.** In addition to the applicable conditions in Subsection A (All Facilities), all Tier 1 facilities shall comply with and all Section 6409(a) Permits shall include the following standard conditions of approval:

1. **No Permit Term Extension.** The City's grant or grant by operation of law of a Section 6409(a) Permit constitutes a federally-mandated modification to the underlying permit or approval for the subject tower or base station. The City's grant or grant by operation of law of a Section 6409(a) Permit will not extend the permit term for any Conditional Use Permit, Minor Use Permit, Administrative Permit or other underlying regulatory approval and its term shall be coterminous with the underlying permit or other regulatory approval for the subject tower or base station. If requested in writing by the applicant at the time of application submittal, the permit term for the underlying Conditional Use Permit, Minor Use Permit, Administrative Permit or other underlying regulatory approval may be administratively extended by the Community Development Director (at his/her discretion) from the initial approval date upon verification that the facility continues to comply with this chapter and conditions of approval under which the facility was originally approved.
2. **No Waiver of Standing.** The approval of a Section 6409(a) Permit (either by express approval or grant by operation of law) does not waive, and shall not be construed to waive, any standing by the City to challenge Section 6409(a), any FCC rules that interpret Section 6409(a), or any eligible facilities request.

#### 17.104.060 Preferred Siting and Location

The following siting and location preferences apply to all proposed new facilities and substantial changes to existing facilities. The Community Development Director may require the applicant to submit an alternative sites analysis and evidence to demonstrate that a proposed facility could not be feasibly installed in a preferred site or location.

- A. Preferred Siting.** To the extent feasible, all proposed facilities should be sited according to the following preferences, ordered from most preferred to least preferred:
1. Sites on a City owned or controlled parcel (excluding public parks and/or open spaces); then

2. Collocations on eligible support structures in the public right-of-way; then
3. Collocations on eligible support structures outside of the public right-of-way; then
4. New base stations in the public right-of-way; then
5. New base stations outside of the public right-of-way; then
6. New towers in the public right-of-way, then
7. New towers outside the public right-of-way.

**B. Discouraged Siting – Utility Poles in Planned Utility Undergrounding Project Areas.** The City discourages the placement of new facilities on utility poles within the public right-of-way in areas where there is a planned utility undergrounding project. In such cases, new facilities should be placed on utility poles within the planned utility undergrounding project area only if an alternative placement is infeasible or undesirable based on the standards and/or criteria contained in this chapter. If a utility undergrounding project is initiated, the City may require the removal of any facilities on utility poles in the public right-of-way in accordance with Section 17.104.040.P (Relocation for Facilities in the Right-of-Way).

**C. Preferred Locations – General.** All applicants should, to the extent feasible, locate proposed facilities in non-residential zoning districts.

**D. Preferred Locations – Non-Residential Zoning Districts.** To the extent feasible, all proposed facilities in non-residential zoning districts should be located according to the following preferences, ordered from most preferred to least preferred:

1. Parcels in the industrial (I) zoning district; then
2. Parcels in the commercial (C-R, and C-C) zoning districts; then
3. Parcels in all other non-residential zoning districts.

**E. Preferred Locations – Residential Zoning Districts.** If a facility is proposed in a residential (R-1, RM, MH) zoning district, all facilities should be located according to the following preferences, ordered from most preferred to least preferred:

1. Parcels that contain approved non-residential uses and do not contain residential uses; then
2. Parcels that contain approved non-residential uses and also contain residential uses; then
3. All other parcels.

**F. Coastal Zone Siting.** In addition to the preferred and discouraged siting considerations described in subsections A through E above, new wireless communications facilities in the coastal zone shall avoid being sited between the sea and the first road paralleling the sea, within 100 feet of Soquel Creek, within New Brighton State Beach, or within any environmentally sensitive habitat area to the extent feasible and consistent with federal and state law.

- G. Additional Alternative Sites Analysis.** If an applicant proposes to locate a new facility or substantial change to an existing facility on a parcel that contains a single-family or multi-family residence, or a site located in the City's coastal zone on the seaward side of the first through public road parallel to the sea, the applicant shall provide an additional alternative sites analysis that at a minimum shall include a meaningful comparative analysis of all the alternative sites in the more preferred locations that the applicant considered and states the underlying factual basis for concluding why each alternative in a more preferred location was (i) technically infeasible, (ii) not potentially available and/or (iii) more intrusive.

#### 17.104.070 Development Standards

- A. General Design Standards.** All new facilities and substantial changes to existing facilities shall conform to the following design standards:

1. **Concealment.** To the maximum extent feasible, all facilities shall incorporate concealment measures and/or techniques appropriate for the proposed location and design. All ground-mounted equipment on private property shall be completely concealed to the maximum extent feasible according to the following preferences, ordered from most preferred to least preferred:
  - a. Within an existing structure including, but not limited to, an interior equipment room, mechanical penthouse or dumpster corral; then
  - b. Within a new structure designed to integrate with or mimic the adjacent existing structure; then
  - c. Within an underground equipment vault if no other feasible above-ground design that complies with subsections (a) or (b) exists.
2. **Underground Equipment.** To the extent feasible, power and telecommunication lines servicing wireless communications facilities must be placed underground. Additional expense to install and maintain such lines underground does not exempt an applicant from this requirement, except where the applicant demonstrates by clear and convincing evidence that this requirement will effectively prohibit the provision of personal wireless services.
3. **Height.**
  - a. All facilities may not exceed the height limit in the applicable zoning district except as allowed in subsections (b) or (c) below.
  - b. The review authority may approve a height exception up to 8 feet above the height limit when a proposed facility is:
    - (1) Mounted on the rooftop of an existing building;
    - (2) Completely concealed; and
    - (3) Architecturally integrated into the underlying building; and

- (4) If located (or proposed to be located) in the City's coastal zone, does not impact public views to and along the ocean and scenic coastal areas.
  - c. The review authority may approve a height exception for towers or utility poles when:
    - (1) The proposed facility is no taller than the minimum necessary to meet service objectives;
    - (2) The height exception is necessary to address a significant gap in the applicant's existing service coverage;
    - (3) The applicant has demonstrated to the satisfaction of the Planning Commission through a detailed alternatives analysis, that there are no viable, technically feasible, and environmentally (e.g., visually) equivalent or superior potential alternatives (i.e., sites, facility types, siting techniques, and/or designs) that comply with the height standard and meet service objectives ; and
    - (4) The proposed facility complies with design standards and preferences in Section B (Tower-Mounted Facilities) below to the maximum extent feasible.
- 4. **Setbacks.** All facilities shall comply with all setback requirements in the applicable zoning district.
- 5. **Collocation.** Facilities shall be designed, installed, and maintained to accommodate future collocated facilities to the extent feasible.
- 6. **Landscaping.** Landscaping shall be installed and maintained as necessary to conceal or screen the facility from public view. All landscaping shall be installed, irrigated, and maintained consistent with Chapter 17.72 (Landscaping) for the life of the permit.
- 7. **Lights.** Security lighting shall be down-shielded and controlled to minimize glare or light levels directed at adjacent properties.
- 8. **Noise.** All transmission equipment and other equipment (including but not limited to air conditioners, generators, and sump pumps) associated with the facility must not emit sound that exceeds the applicable limit established in Municipal Code Chapter 8.28 (Noise).
- 9. **Public Right-of-Way.**
  - a. Facilities located within or extending over the public right-of-way require City approval of an encroachment permit.
  - b. To conceal the non-antenna equipment, applicants shall install all non-antenna equipment underground to the extent feasible and appropriate for the proposed location. Additional expense to install and maintain equipment underground does not exempt an applicant from these requirements, except where the

applicant demonstrates by clear and convincing evidence that the requirement will effectively prohibit the provision of personal wireless services.

- c. Applicants must install ground-mounted equipment so that it does not obstruct pedestrian or vehicular traffic or incommode the public use of the right-of-way.

10. **Signage.**

- a. A facility may not display any signage or advertisements unless expressly allowed by the City in a written approval, recommended under FCC regulations, or required by law or permit condition.
  - b. Every facility shall at all times display signage that accurately identifies the facility owner and provides the facility owner's unique site number, and also provides a local or toll-free telephone number to contact the facility owner's operations center.
11. **Advertising.** No advertising signage or identifying logos shall be displayed on wireless communications facilities, except for small identification plates used for emergency notification or hazardous or toxic materials warning, unless expressly allowed by the City in a written approval, recommended under FCC regulations, or required by law or permit condition.
12. **Historic Features.** A facility which modifies the exterior of a historic feature as defined in Chapter 17.84.020 (Types of Historic Resources) shall comply with the requirements of Chapter 17.84 (Historic Preservation).
13. **Coastal Zone Considerations.** Facilities in any portion of the City's coastal zone shall be consistent with applicable policies of the City's Local Coastal Program (LCP) and the California Coastal Act. To the extent technically feasible and legally permissible, all facilities located in the City's coastal zone must be designed, installed, mounted, and maintained so that no portion of a facility extends onto or impedes access to a publicly used beach.

**B. Tower-Mounted Facilities.**

- 1. **General Design Preferences.** To the extent feasible and appropriate for the proposed location, all new towers should be designed according to the following preferences, ordered from most preferred to least preferred:
  - a. Faux architectural features (examples include, but are not limited to, bell towers, clock towers, lighthouses, obelisks and water tanks); then
  - b. Faux trees; then
  - c. Monopoles that do not conceal the antennas within a concealment device.
- 2. **Tower-mounted Equipment.** All tower-mounted equipment shall be mounted as close to the vertical support structure as possible to reduce its visual profile. Applicants should mount non-antenna, tower-mounted equipment (including, but

not limited to, remote radio units/heads, surge suppressors, and utility demarcation boxes) directly behind the antennas to the maximum extent feasible.

3. **Ground-mounted Equipment.** Ground-mounted equipment shall be concealed with opaque fences or other opaque enclosures. The City may require additional design and/or landscape features to blend the equipment or enclosure into the surrounding environment.
4. **Concealment Standards for Faux Trees.** All faux tree facilities shall comply with the following standards:
  - a. The canopy shall completely envelop all tower-mounted equipment and extend beyond the tower-mounted equipment at least 18 inches.
  - b. The canopy shall be naturally tapered to mimic the particular tree species.
  - c. All tower-mounted equipment, including antennas, equipment cabinets, cables, mounts and brackets, shall be painted flat natural colors to mimic the particular tree species.
  - d. All antennas and other tower-mounted equipment cabinets shall be covered with broadleaf or pine needle “socks” to blend in with the faux foliage.
  - e. The entire vertical structure shall be covered with permanently-affixed three-dimensional faux bark cladding to mimic the particular tree species.

#### C. Building and Facade Mounted Facilities.

1. **General Design Preferences.** To the extent feasible and appropriate for the proposed location, all new building and facade mounted facilities should be designed according to the following preferences, ordered from most preferred to least preferred:
  - a. Completely concealed and architecturally integrated facade or rooftop mounted base stations which are not visible from any publicly accessible areas at ground level (examples include, but are not limited to, antennas behind existing parapet walls or facades replaced with RF-transparent material and finished to mimic the replaced materials); then
  - b. Completely concealed new structures or appurtenances designed to mimic the support structure’s original architecture and proportions (examples include, but are not limited to, cupolas, steeples, and chimneys); then
  - c. Facade-mounted facilities incorporated into “pop-out” screen boxes designed to be architecturally consistent with the original support structure.
2. **Ground-mounted Equipment.** Outdoor ground-mounted equipment associated with base stations must be avoided whenever feasible. In locations visible or accessible to the public, outdoor ground-mounted equipment shall be concealed with opaque fences or landscape features that mimic the adjacent structures (including, but not limited to, dumpster corrals and other accessory structures).

#### D. Pole-Mounted Facilities in the Public Right-of-Way.

1. **All Facilities.** All facilities mounted to steel light poles and wood utility poles in the public right-of-way shall comply with the following design standards:
  - a. Antennas, brackets, and cabling shall all be painted a single color that matches the pole color.
  - b. Unnecessary equipment manufacturer decals shall be removed or painted over.
  - c. The facility shall not alter vehicular circulation or parking within the public right-of-way or impede vehicular or pedestrian access or visibility along the public right-of-way.
  - d. All pole-mounted transmission equipment (including, but not limited to, antennas) shall be installed as close to the pole as technically and legally feasible to minimize impacts to the visual profile.
  - e. Colors and materials for facilities shall be chosen to minimize visibility. All visible exterior surfaces shall be constructed with non-reflective materials and painted and/or textured to match the support pole. All conduits, conduit attachments, cables, wires and other connectors must be concealed from public view to the maximum extent feasible.
  - f. An applicant may request an exemption from one or more standards in this Section 17.104.070.D (Pole-Mounted Facilities in the Public Right-of-Way) on the basis that such exemption is necessary to comply with Public Utilities Commission General Order 95. The applicant bears the burden to demonstrate why such exemption should be granted.
2. **Steel Pole Facilities.** Facilities mounted to a steel light pole in the public right-of-way shall comply with the following design standards:
  - a. All equipment and cabling shall be located in the pole and concealed from view.
  - b. Antennas shall be located on the top of the pole as a vertical extension of the pole. Antennas and equipment may not be mounted onto the side of the pole.
  - c. To the extent technically feasible, antennas shall be contained within a maximum 14-inch wide enclosure on the top of the pole.
3. **Wood Pole Facilities.** Facilities mounted to a wood utility pole in the public right-of-way shall comply with the following design standards:
  - a. Equipment enclosures shall be as narrow as feasible with a vertical orientation to minimize its visibility when attached to the pole. The equipment mounting base plates may be no wider than the pole.
  - b. Side-mounted equipment may extend no more than five feet horizontally from the side of the pole.
  - c. Equipment shall be stacked close together on the same side of the pole.



- d. A line drop (no electric meter enclosure) shall be used if allowed by the utility company.
  - e. Shrouds, risers, or conduit shall be used to reduce the appearance of cluttered or tangled cabling.
  - f. Side-mounted antennas shall be attached to the pole using an arm with flanges/channels that reduces the visibility of cabling and passive RF gear.
  - g. To the extent technically feasible, top-mounted antennas may be no wider than the width of the pole top.
4. **Undergrounding of Cabling between Pole Mounted Facilities in the Coastal Zone.** For new pole mounted facilities located in the City's coastal zone, any proposed cable between such facilities shall be placed underground to the extent feasible.

#### 17.104.080 Operation and Maintenance Requirements

All wireless communications facilities approved through a City permit or deemed granted by operation of law shall comply with the following operation and maintenance requirements.

- A. **General Compliance.** All facilities shall comply with all applicable goals, objectives and policies of the General Plan/Local Coastal Program, area plans, zoning regulations and development standards; the California Coastal Act; and the California Environmental Quality Act (CEQA).
- B. **Access Control.** All facilities shall be designed to be resistant to and minimize opportunities for unauthorized access, climbing, vandalism, graffiti, and other conditions that would result in hazardous conditions, visual blight, or attractive nuisances. The Community Development Director may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of their location and/or accessibility, antenna facilities have the potential to become an attractive nuisance.
- C. **Noise.** All facilities shall be constructed and operated in such a manner as to minimize the amount of noise impacts to adjacent uses and activities. At any time, noise attenuation measures may be required by the Community Development Director when deemed necessary. Facilities shall comply with all applicable noise standards in the General Plan and Municipal Code. Testing and maintenance activities of wireless communications facilities which generate audible noise shall occur between the hours of eight a.m. and five p.m., weekdays (Monday through Friday, non-holiday) excluding emergency repairs, unless allowed at other times by the Community Development Director.
- D. **General Maintenance.** The site and the facility, including but not limited to all landscaping, fencing, transmission equipment, antennas, towers, equipment, cabinets, structures, accessory structures, signs, and concealment and/or stealth features and standards shall be maintained in a state of good repair, in a neat and clean manner, and in accordance with all approved permits and conditions of approval. Damage to the site

and the facility shall be repaired promptly. This shall include keeping all wireless communications facilities graffiti free and maintaining security fences in good condition.

- E. Change in Federal or State Regulations.** All facilities shall meet the current standards and regulations of the FCC, the California Public Utilities Commission, and any other agency of the federal or state government with the authority to regulate wireless communications providers. If such standards and/or regulations are changed, the wireless communications provider shall bring its facilities into compliance with such revised standards and regulations within 90 days of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal or state agency. Failure to bring wireless communications facility into compliance with revised standards and regulations shall constitute grounds for the immediate removal of the facility at the wireless communications provider's expense.
- F. Service after Natural Disaster.** All wireless communications facilities providing service to the government or general public shall be designed to survive a natural disaster without interruption in operation.

**17.104.090 Temporary Wireless Communications Facilities.**

- A.** A temporary wireless communications facility, such as a "cell-on-wheels" (COW), may be used to replace wireless communications facility services during the relocation or rebuilding process of an existing facility, during festivals or other temporary events and activities that otherwise require a permit under this chapter, and during public emergencies.
- B.** A temporary wireless communications facility shall be processed as an administrative use permit under a proposed or existing permit when used during the relocation or rebuilding process of an existing wireless communications facility, or when used for a festival or other temporary event or activity.
- C.** A temporary wireless communications facility to protect public health, safety or welfare during an emergency shall be processed as a Tier 2 Administrative Permit. The applicant shall submit an application for a temporary emergency use permit before installation of such temporary wireless communications facility.
- D.** The Community Development Director may approve a temporary wireless communications facility for no more than ninety (90) days.
- E.** A temporary wireless facility may be approved for a period of up to one year if the following requirements are met:
  - 1. The Planning Commission determines that the temporary wireless communications facility shall be sited and constructed so as to:
    - a. Avoid proximity to residential dwellings to the maximum extent feasible;
    - b. Be no taller than needed;

Attachment: Draft Zoning Ordinance with Coastal Commission edits 2.21.2019 (Update to Zoning Ordinance/ LCP Implementation Plan)

- c. Be screened to the maximum extent feasible; and
  - d. Be erected for no longer than reasonably required, based on the specific circumstances.
- 2. Permits and/or authorizations in excess of ninety (90) days for temporary wireless communications facilities shall be subject to the notice and review procedures required by Section 17.104.040.G (Public Notice and Hearing).
- F. The property owner and service provider of the temporary wireless communications facility installed pursuant to this Section 17.104.090 (Temporary Wireless Communications Facilities) shall immediately remove such facility from the site at the end of the specified term or the conclusion of the relocation or rebuilding process, temporary event, or emergency, whichever occurs first. The property owner and service provider of the temporary wireless communications facility shall be jointly and severally liable for timely removal of such temporary facility. The City may (but is not obligated to) remove any temporary wireless communications facility installed pursuant to this Section 17.140.090 (Temporary Wireless Communications Facilities) at the owner and provider's cost immediately at the end of the specified term or conclusion of the relocation or rebuilding process, temporary event, or emergency, whichever occurs first.

#### 17.104.100 Limited Exemption from Standards

- A. **Request for Exemption.** An applicant may request an exemption from one or more requirements in this chapter on the basis that a permit denial would effectively prohibit personal wireless services in Capitola.
- B. **Basis for Approval.** For the City to approve such an exemption, the applicant must demonstrate with clear and convincing evidence all of the following:
  - 1. A significant gap in the applicant's service coverage exists;
  - 2. All alternative sites identified in the application review process are either technically infeasible or not potentially available; and
  - 3. Permit denial would effectively prohibit personal wireless services in Capitola.
- C. **Applicant Must Demonstrate Basis for Approval.** The applicant always bears the burden to demonstrate why an exemption should be granted.

#### 17.104.110 Severability

If any section or portion of this chapter is found to be invalid by a court of competent jurisdiction, such finding shall not affect the validity of the remainder of the chapter, which shall continue in full force and effect.

# PART 4

## Permits and Administration

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**Chapter 17.108 - Administrative Responsibility.....108-1**

- 17.108.010 Purpose
- 17.108.020 Planning Agency
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- 17.112.020 Application Preparation and Filing
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- 17.114.020 When Required/Eligibility
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- 17.114.040 Application Submittal Requirements
- 17.114.050 Application Review
- 17.114.060 Environmental Review
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- 17.156.090 Resubmittals
- 17.156.100 Permits to Run with the Land
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## Chapter 17.108 - ADMINISTRATIVE RESPONSIBILITY

**Sections:**

- 17.108.010 Purpose
- 17.108.020 Planning Agency
- 17.108.030 Review and Decision-Making Authority
- 17.108.040 Design Review Process

**17.108.010 Purpose**

This chapter describes the authority and responsibilities of the City Council, Planning Commission, and the Community Development Director in the administration of the Zoning Code.

**17.108.020 Planning Agency**

The City Council, Planning Commission, and Community Development Director function as the Planning Agency and as the Advisory Agency in compliance with Government Code Section 65100.

**17.108.030 Review and Decision-Making Authority**

Table 17.108-1 shows the review and decision-making authority of the City Council, Planning Commission, and Community Development Director in the administration of the Zoning Code.

**TABLE 17.108-1: REVIEW AND DECISION-MAKING AUTHORITY**

Type of Action	Role of Authority [1]		
	Community Development Director	Planning Commission	City Council
<b>Legislative Actions</b>			
Development Agreements	Recommend	Recommend	Decision
General Plan/ <u>Coastal Land Use Plan</u> Amendments	Recommend	Recommend	Decision
Zoning Code/ <u>Municipal Code Chapter 17</u> Amendments	Recommend	Recommend	Decision
<b>Permits</b>			
Administrative Permits	Decision	Appeal	Appeal
Administrative Sign Permits	Decision	Appeal	Appeal
Sign Permits	Recommend	Decision	Appeal
Design Permits	Recommend	Decision	Appeal
Minor Design Permits	Decision	Appeal	Appeal

Attachment: Draft Zoning Ordinance with Coastal Commission edits 2.21.2019 (Update to Zoning Ordinance/ LCP Implementation Plan)



Type of Action	Role of Authority [1]		
	Community Development Director	Planning Commission	City Council
Coastal <u>Development</u> Permits	See 17.44.06070(B) (Coastal <u>Development</u> Permit Requirements)		
Conditional Use Permits	Recommend	Decision	Appeal
Historic Resource Demolition Permits [2]	Recommend	Recommend/Decision	Decision/Appeal
Master Use Permits	Recommend	Decision	Appeal
Minor Use Permits	Decision	Appeal	Appeal
Tenant Use Permits	Decision	Appeal	Appeal
<b>Other Approvals and Actions</b>			
Conceptual Review	See 17.114 (Conceptual Review)		
Historic Alteration Permit	Recommend	Decision	Appeal
Minor Modifications	Recommend	Decision	Appeal
Preliminary and Final Development Plans (PD)	Recommend	Recommend	Decision
Reasonable Accommodations	Decision	Appeal	Appeal
Variances	Recommend	Decision	Appeal

Notes:

[1] “Recommend” means that the review authority makes a recommendation to a higher decision-making body; “Decision” means that the review authority makes the final decision on the matter; “Appeal” means that the review authority shall consider and decide appeals of decisions of an earlier decision-making body, in compliance with Chapter 17.152 (Appeals).

[2] The Planning Commission is the decision-making authority on Historic Resource Demolition Permits applications for Potential Historic Resources. The City Council is the decision authority on Historic Resource Demolition Permits applications for Designated Historic Resources.

**17.108.040 Design Review Process**

**A. Purpose.**

1. The Design Review process allows for City staff and City-contracted design professionals to provide preliminary recommendations to the applicant on Design Permit applications prior to Planning Commission review.
2. Through the Design Review process, City staff and City-contracted design professionals shall work with applicants to produce the best possible project design consistent with City policies and regulations prior to a hearing before the Planning Commission. The Design Review process does not result in a Design Permit approval or a specific recommendation to the Planning Commission for approval or denial of a Design Permit application.

**B. Participating Staff and Consultants**

1. City staff involved in the Design Review process include City staff representing the Planning, Public Works, and Building Departments.

Attachment: Draft Zoning Ordinance with Coastal Commission edits 2.21.2019 (Update to Zoning Ordinance/ LCP Implementation Plan)

2. A City-contracted landscape architect, architect, and architectural historian may also participate in the Design Review process for significant and/or sensitive projects as determined by the Community Development Director. A City-contracted architect shall participate in the Design Review process for all new proposed multi-family and non-residential construction projects.

## Chapter 17.112 - PERMIT APPLICATION AND REVIEW

**Commented [kh1]:** Coastal Commission staff edits in B  
Capitola Staff edits in RED

### Sections:

- 17.112.010 Purpose
- 17.112.020 Application Preparation and Filing
- 17.112.030 Application Fees
- 17.112.040 Application Review
- 17.112.050 Multiple Permit Applications
- 17.112.060 Project Evaluation and Staff Reports
- 17.112.070 Environmental Review
- 17.112.080 Applications Deemed Withdrawn

#### 17.112.010 Purpose

This chapter establishes procedures for the preparation, filing, and processing of permits required by the Zoning Code. The term “permit” when used in this chapter refers to any action, permit, or approval listed in Table 17.108-1 (Review and Decision-Making Authority).

#### 17.112.020 Application Preparation and Filing

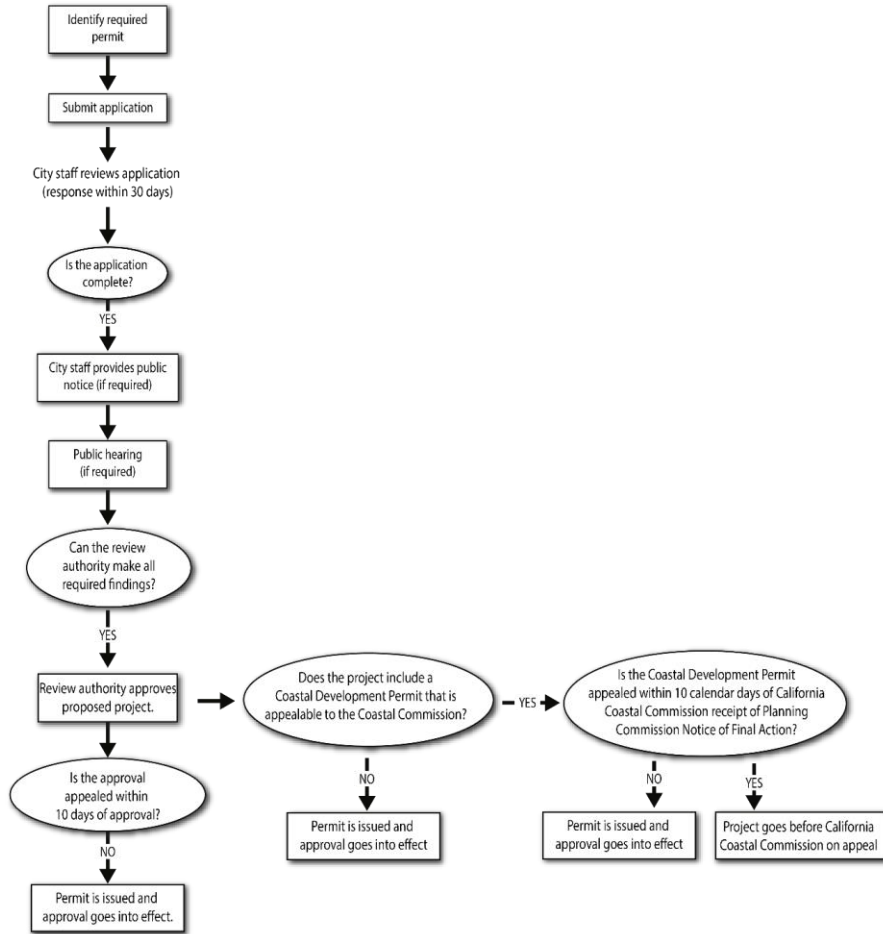
##### A. Pre-Application Conference.

1. The City encourages prospective applicants to request a pre-application conference with the Community Development Department before completing and filing a permit application.
2. The purpose of this conference is to:
  - a. Inform the applicant of City requirements as they apply to the proposed project;
  - b. Inform the applicant of the City’s review process;
  - c. Identify information and materials the City will require with the application, and any necessary technical studies and information relating to the environmental review of the project; and
  - d. Provide guidance to the applicant of possible project alternatives or modifications.
3. The pre-application conference and any information provided to prospective applicants by City staff shall not be construed as a recommendation for approval or denial of an application.

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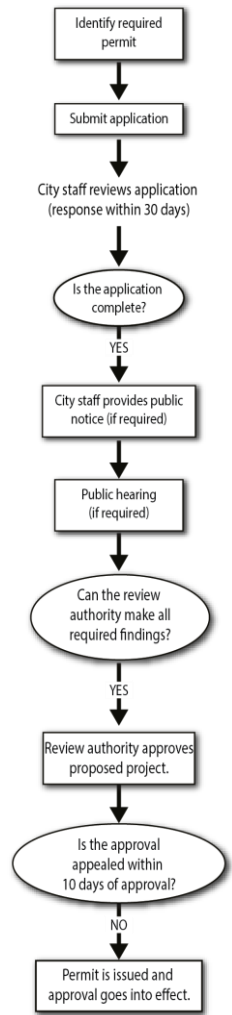
PERMIT APPLICATION AND REVIEW

Figure 17.112-1: Typical Permit Review and Approval Process



Commented [SC2]: This figure should include "is the p appealable to the Coastal Commission?," if yes, then "has the approved project been appealed to the CCC?" If "no," then p issued and goes into effect. If "yes" – then applicant needs to through CCC appeal process.

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1. Does the project include a Coastal Development Permit that is appealable to the Coastal Commission?

If No: Permit is issued and approval goes into effect.

If yes, is the Coastal Development Permit appealed within 10 calendar days of California Coastal Commission receipt of Planning Commission Notice of Final Action?

If no:

Permit is issued and approval goes into effect

If yes, project goes before California Coastal Commission on appeal.

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PERMIT APPLICATION AND REVIEW

4. Failure by City staff to identify all permit requirements shall not constitute a waiver of those requirements.

**B. Application Contents.**

1. All permit applications shall be filed with the Community Development Department on an official City application form.
2. Applications shall be filed with all required fees, information, and materials as specified by the Community Development Department.

**C. Eligibility for Filing.**

1. An application may only be filed by the property owner or the property owner's authorized agent.
2. The application shall be signed by the property owner or the property owner's authorized agent if written authorization from the owner is filed concurrently with the application.

**17.112.030 Application Fees**

**A. Fee Schedule.** Fees required to process permit applications are identified in the Planning Fee Schedule approved by the City Council.

**B. Requirement of Payment.**

1. The City may deem an application complete and begin processing the application only after all required fees have been paid.
2. Failure to pay any required supplemental application fees is a basis for denial or revocation of a permit application.

**C. Refunds and Withdrawals.**

1. Application fees cover City costs for public hearings, mailings, staff and consultant time, and the other activities involved in processing applications. Consequently, the City will not refund fees for a denied application.
2. In the case of an application withdrawal, the Community Development Director may authorize a partial refund of a deposit account based upon the pro-rated costs to date and the status of the application at the time of withdrawal.
3. Flat fees submitted in conjunction with a permit application are non-refundable.

**17.112.040 Application Review**

**A. Review for Completeness.**

1. **Initial Review.** The Community Development Department shall review each application for completeness and accuracy before it is accepted as being complete and officially filed.

2. **Basis for Determination.** The Community Development Department's determination of completeness shall be based on the City's list of required application contents and any additional written instructions provided to the applicant in a pre-application conference and during the initial application review period.
3. **Notification of Applicant.** Within 30 calendar days of application [filing/submitting](#), the Community Development Department shall inform the applicant in writing that the application is complete and has been accepted for processing, or that the application is incomplete and that additional information is required.
4. **Appeal of Determination.** When the Community Development Department has determined that an application is incomplete, and the applicant believes that the application is complete or that the information requested by the Community Development Department is not required, the applicant may appeal the Community Development Department's determination in compliance with Chapter 17.152 (Appeals).
5. **Submittal of Additional Information.**
  - a. When the Community Development Department determines that an application is incomplete, the time used by the applicant to submit the required additional information is not considered part of the time within which the determination of completeness for resubmitted materials shall occur.
  - b. Additional required information shall be submitted in writing.
  - c. The Community Development Department's review of information resubmitted by the applicant shall be in compliance with subsection 'a' above, along with another 30-day period of review for completeness.
6. **Environmental Information.** After the Community Development Department has accepted an application as complete, the Department may require the applicant to submit additional information for the environmental review of the project in compliance with the California Environmental Quality Act (CEQA).

#### 17.112.050 Multiple Permit Applications

- A. **Concurrent Filing.** An applicant for a development project that requires the filing of more than one application (e.g., Zoning Map Amendment and a Conditional Use Permit) shall file all related applications concurrently unless the concurrent filing requirements are waived by the Community Development Director.
- B. **Concurrent Processing.** The Community Development Department shall process multiple applications for the same project concurrently. Projects requiring multiple permit applications shall be reviewed and acted upon by the highest review authority designated by the Zoning Code for any of the applications (e.g., a project requiring a Zoning Map Amendment and a Conditional Use Permit shall have both applications decided by the City Council, instead of the Planning Commission acting on the

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PERMIT APPLICATION AND REVIEW

Conditional Use Permit). The Planning Commission shall provide a recommendation to the City Council on permits and approvals ordinarily acted upon by the Planning Commission.

#### 17.112.060 Project Evaluation and Staff Reports

- A. **Staff Evaluation.** The Community Development Department shall review all permit applications to determine if they comply with the Zoning Code, the General Plan, [the Local Coastal Program](#), and other applicable City policies and regulations.
- B. **Staff Report.** For all permit applications requiring review by the Planning Commission or City Council, the Community Development Department shall prepare a staff report describing the proposed project and including, where appropriate, a recommendation to approve, approve with conditions, or deny the application.
- C. **Report Distribution.** Staff reports shall be furnished to the applicant at the same time as they are provided to the review authority before action on the application.

#### 17.112.070 Environmental Review

- A. **CEQA Review.** After acceptance of a complete application, the Community Development Department shall review the project in compliance with the California Environmental Quality Act (CEQA) to determine whether:
  1. The proposed project is exempt from the requirements of CEQA;
  2. The proposed project is not a project as defined by CEQA;
  3. A Negative Declaration may be issued;
  4. A Mitigated Negative Declaration may be issued; or
  5. An Environmental Impact Report (EIR) is required.
- B. **Compliance with CEQA.** These determinations and, where required, the preparation of appropriate environmental documents shall be in compliance with CEQA and any adopted City CEQA guidelines.
- C. **Special Studies Required.** Special studies, paid for in advance by the applicant, may be required to supplement the City's CEQA compliance review.

#### 17.112.080 Applications Deemed Withdrawn

- A. **Response Required.** If an applicant does not pay required supplemental fees or provide information requested in writing by the Community Development Department within nine months following the date of the letter, the application shall expire and be deemed withdrawn without any further action by the City.
- B. **Resubmittal.** After the expiration of an application, future City consideration shall require the submittal of a new complete application and associated filing fees.



## Chapter 17.114 - CONCEPTUAL REVIEW

### Sections:

- 17.114.010 Purpose
- 17.114.020 When Required/Eligibility
- 17.114.030 Review Authority
- 17.114.040 Application Submittal Requirements
- 17.114.050 Application Review
- 17.114.060 Environmental Review
- 17.114.070 Permit Streamlining Act
- 17.114.080 Noticed Public Meeting
- 17.114.090 Non-Binding Input

### 17.114.010 Purpose

This chapter describes the process for Conceptual Review of a proposed project. Conceptual Review allows an applicant to receive preliminary non-binding input from the Planning Commission and/or City Council on a proposed project prior to City action on a formal permit application.

### 17.114.020 When Required/Eligibility

- A. Planned Development Projects.** Conceptual Review is required for proposed Planned Development projects in accordance with Chapter 17.36 (Planned Development Zoning District).
- B. Other Projects.** Conceptual Review is not required for projects other than a Planned Development project, but may be requested by an applicant. Conceptual Review is intended for complex or controversial projects that would benefit from preliminary input prior to City action on a permit application. An applicant may also request conceptual review to receive input on policy interpretations and sensitive community issues that would benefit from early input from the Planning Commission.

### 17.114.030 Review Authority

- A. Planned Development Projects.** Both the Planning Commission and the City Council shall provide input on a Conceptual Review application for a Planned Development project.
- B. Other Projects.**
  1. For a project other than a Planned Development project that requires Planning Commission approval, the Planning Commission shall provide input on the Conceptual Review application.

2. For projects other than a Planned Development project that requires both Planning Commission and City Council approval, the Planning Commission shall provide input on the Conceptual Review application; the City Council may also provide input on the application upon the applicant's request.

#### **17.114.040 Application Submittal Requirements**

##### **A. All Projects.**

1. An applicant requesting Conceptual Review shall file an application with the Community Development Department on an official City application form.
2. Applications shall be filed with all required fees, information, and materials as specified by the Community Development Department. Application fees for Conceptual Review are subject to the requirements specified in Section 17.112.030 (Application Fees).

##### **B. Planned Development Projects.** In addition to application materials required by paragraph 1 above, Conceptual Review applications for Planned Development projects shall also include the following:

1. A statement describing the proposed project and how it complies with the findings required for the approval of a Planned Development project in Section 17.36.080.G (Findings).
2. Project plans, diagrams, and graphics as needed to illustrate the overall development concept, including proposed land uses, buildings, circulation, open space, and any other significant elements in the project.

#### **17.114.050 Application Review**

##### **A. Completeness Review.** The Community Development Department shall review each Conceptual Review application for completeness and accuracy. The Department may request additional information if necessary for consideration of the Planning Commission and/or City Council.

##### **B. Staff Report.** The Community Development Department shall prepare a staff report describing the proposed project and including, where appropriate, an analysis of project compliance with applicable City policies and regulations. Staff reports shall be furnished to the applicant at the same time as they are provided to the review authority before consideration of the application.

#### **17.114.060 Environmental Review**

Conceptual Review applications are not defined as a project pursuant to the California Environmental Quality Act (CEQA) and as such are not subject to environmental review process as required by CEQA.

### 17.114.070 Permit Streamlining Act

Conceptual Review applications are not subject to the requirements of the California Permit Streamlining Act (Act). An application that receives Conceptual Review shall not be considered complete pursuant to the requirements of the Act unless and until the Director has received an application for approval of a development project, reviewed it, and determined it to be complete under Chapter 17.112 (Permit Application and Review).

### 17.114.080 Noticed Public Meeting

- A. Noticed Public Meeting Required.** The Planning Commission or City Council (“review authority”) shall consider a Conceptual Review application at a public meeting noticed in accordance with Section 17.148.020 (Notice of Hearing).
- B. Information Received.** At the meeting the review authority shall receive information from staff and the applicant and receive public comment on the proposed project.
- C. Preliminary Input.** The review authority shall provide the applicant with preliminary input on the proposed project, including the project compliance with applicable City policies and regulations.
- D. Input on Planned Development Projects.** For Planned Development projects, the review authority shall provide preliminary input on project compliance with findings required for the approval of a Planned Development project in Section 17.36.080.G (Findings).

### 17.114.090 Non-Binding Input

Review authority input on the Conceptual Review application shall not be construed as a recommendation for City approval or denial of the project. Any recommendation that results from Conceptual Review is advisory only and shall not be binding on either the applicant or the City.

## Chapter 17.116 - ADMINISTRATIVE PERMITS

### Sections:

- 17.116.010 Purpose
- 17.116.020 When Required
- 17.116.030 Review Authority
- 17.116.040 Application Submittal, Review, and Action
- 17.116.050 Public Notice and Hearing
- 17.116.060 Conditions of Approval
- 17.116.070 Appeals and Post-Decision Procedures

### 17.116.010 Purpose

This chapter identifies the process to obtain an Administrative Permit. An Administrative Permit is required for uses permitted by-right yet subject to specific Zoning Code standards. An Administrative Permit is a ministerial procedure for the City to verify that a proposed use complies with all applicable standards and to ensure that the applicant understands and accepts these standards.

### 17.116.020 When Required

Uses that require an Administrative Permit are specified in the land use regulation tables for each zoning district found in Part 2 (Zoning Districts and Overlay Zones).

### 17.116.030 Review Authority

The Community Development Director takes action on all Administrative Permit applications.

### 17.116.040 Application Submittal, Review, and Action

- A. An application for an Administrative Permit shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review).
- B. Community Development Department staff shall review the application to verify compliance with the Zoning Code. If the project complies with the Zoning Code, the Community Development Director shall approve the application.

### 17.116.050 Public Notice and Hearing

No public notice or hearing is required for an Administrative Permit.

### 17.116.060 Conditions of Approval

No conditions of approval may be attached to the approval of an Administrative Permit.

**17.116.070 Appeals and Post-Decision Procedures**

- A.** Community Development Director decisions on Administrative Permits may be appealed to the Planning Commission as described in Chapter 17.152 (Appeals).
- B.** Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) shall apply to Administrative Permits.

## Chapter 17.12 - ZONING DISTRICTS AND MAP

**Sections:**

- 17.12.010 Purpose
- 17.12.020 Zoning Districts
- 17.12.030 Zoning Map

**17.12.010 Purpose**

This chapter identifies the zoning districts that apply to land within the Capitola city limits and establishes the official Capitola Zoning Map.

**17.12.020 Zoning Districts**

**A. Base Zoning Districts.** Capitola is divided into zoning districts that implement the General Plan/~~Land Use Plan~~ Land Use Map as shown in Table 17.12-1.

**TABLE 17.12-1: BASE ZONING DISTRICTS**

Zoning District Symbol	Name of Zoning District	General Plan/ <del>Land Use Plan</del> Land Use Designation
<b>Residential Zoning Districts</b>		
R-1	Residential Single-Family	Single-Family Residential (R-SF)
RM-L	Residential Multi-Family, Low Density	Multi-Family Residential (R-MF)
RM-M	Residential Multi-Family, Medium Density	
RM-H	Residential Multi-Family, High Density	
MH	Mobile Home Park	Mobile Home Park (MH)
<b>Mixed-Use Zoning Districts</b>		
MU-V	Mixed Use, Village	Village Mixed-Use (MU-V)
MU-N	Mixed Use, Neighborhood	Neighborhood Mixed-Use (MU-N)
<b>Commercial and Industrial Zoning Districts</b>		
C-C	Commercial, Community	Community Commercial (C-C)
C-R	Commercial, Regional	Regional Commercial (C-R)
I	Industrial	Industrial (I)

**Commented [kh1]:**  
Coastal Commission edits are in RED

**Commented [kh2]:** The Land Use Plan includes the General Plan's Land Use Map. To list the Land Use Plan here is incorrect as the General Plan includes the Land Use Designations.  
  
Staff recommends not accepting the CC modification.

17.12

ZONING DISTRICTS AND MAP

Zoning District Symbol	Name of Zoning District	General Plan/ <del>Land Use Plan</del> Land Use Designation
<b>Other Zoning Districts</b>		
CF	Community Facility	Public/Quasi-Public Facility (P/QP)
P/OS	Parks and Open Space	Parks and Open Space (P/OS)
PD	Planned Development	N/A

**B. Overlay Zones.** The Zoning Code and Zoning Map include the overlay zones shown in Table 17.12-2. Overlay zones impose additional regulations on properties beyond what is required by the underlying base zoning district.

**TABLE 17.12-2: OVERLAY ZONES**

Overlay Zone Symbol	Name of Overlay Zone
-AH	Affordable Housing
-VRU	Vacation Rental Use
-VR	Village Residential
-VS	Visitor Serving
-CZ	Coastal Zone

**17.12.030 Zoning Map**

- A. Adoption.** The City Council hereby adopts the Capitola Zoning Map (“Zoning Map”), which establishes the boundaries of all base zoning districts and overlay zones provided for in the Zoning Map.
- B. Incorporation by Reference.** The Zoning Map, including all legends, symbols, notations, references, and other information shown on the map, is incorporated by reference and made a part of the Zoning Code.
- C. Location.** The Zoning Map is kept, maintained, and updated electronically by the Community Development Department, and is available for viewing by the public at the Department.

## Chapter 17.120 - DESIGN PERMITS

### Sections:

- 17.120.010 Purpose
- 17.120.020 Types of Design Permits
- 17.120.030 When Required
- 17.120.040 Application Submittal and Review
- 17.120.050 Design Review Process
- 17.120.060 Public Notice and Hearing
- 17.120.070 Design Review Criteria
- 17.120.080 Findings for Approval
- 17.120.090 Conditions of Approval
- 17.120.100 Appeals and Post-Decision Procedures

### 17.120.010 Purpose

This chapter establishes the process to obtain a Design Permit. A Design Permit is a discretionary action that enables the City to ensure that proposed development exhibits high quality design that enhances Capitola's unique identity and sense of place. The Design Permit process is also intended to ensure that new development and uses are compatible with their surroundings and minimize negative impacts on neighboring properties.

### 17.120.020 Types of Design Permits

The Zoning Code establishes two types of Design Permits: Design Permits reviewed and approved by the Planning Commission and Minor Design Permits reviewed and approved by the Community Development Director.

### 17.120.030 When Required

- A. Types of Projects.** The types of projects that require a Design Permit, and the type of Design Permit for each project, are listed in Table 17.120-1. If a type of development project or activity is not specifically listed in Table 17.120-1, a Design Permit is not required.

**TABLE 17.120-1: PROJECTS REQUIRING DESIGN PERMITS**

Type of Project	Type of Permit
<b>Single-Family Residential Projects</b>	
Ground floor additions to existing single-family homes where the addition is visible from a public street and does not exceed 15 ft. in height, except for exempt additions (Section 17.120.030.B)	Minor Design Permit
Accessory structures greater than 10 ft. in height and/or 120 sq. ft. to 300 sq. ft.	Minor Design Permit
Accessory structures greater than 300 sq. ft.	Design Permit



Type of Project	Type of Permit
Upper floor decks and balconies on the side or rear of a home that are not adjacent to public open space	Design Permit
Upper floor additions to an existing single-family homes	Design Permit
New single-family homes	Design Permit
<b>Multi-Family Residential Projects</b>	
Ground-floor additions less than 15% of total floor area of an existing multi-family structure	Minor Design Permit
Upper floor decks and balconies on the side or rear of a structure that are not adjacent to public open space	Design Permit
Accessory structures including garbage and recycling enclosures	Minor Design Permit
Ground-floor additions 15% of total floor area or more to an existing multi-family structure	Design Permit
Upper floor additions to an existing multi-family structure	Design Permit
New multi-family residential structures	Design Permit
<b>Non-Residential Projects (Including Mixed-Use)</b>	
Exterior modifications to an existing structure that do not increase the floor area of the structure	Minor Design Permit
Accessory structures 120 sq. ft. to 300 sq. ft. including garbage and recycling enclosures	Minor Design Permit
Accessory structures greater than 300 sq. ft. including garbage and recycling enclosures	Design Permit
Additions less than 15% of the floor area of an existing non-residential structure where the addition is not visible from the primary street frontage	Minor Design Permit
Additions 15% or more of the floor area of an existing non-residential structure where the addition is visible from the primary street frontage	Design Permit
Additions to an existing non-residential structure of 3,000 sq. ft. or more	Design Permit
New non-residential structures	Design Permit

**B. Single-Family Exemptions.** The following additions to a single-family dwelling are exempt from the Design Permit requirement:

1. Ground-floor single-story additions up to 400 square feet at the rear of the home.
2. Enclosure of an existing recessed entrance up to 25 square feet.
3. Enclosure of an existing open porch up to 50 square feet.
4. Installation of bay windows.
5. A single accessory structures that does not exceed 120 square feet in floor area and 10 feet in height with no connection to water or sewer.
6. Minor exterior modification or replacement of materials on an existing structure including siding, windows, doors, and roof.

7. Other similar minor additions to a single-family dwelling as determined by the Community Development Director.
8. Upper floor decks and balconies immediately adjacent to a street or public open space.

#### 17.120.040 Application Submittal and Review

- A. General.** An application for a Design Permit shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review). The application shall include the information required by the Community Development Department with all required application fees. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.120.080 (Findings for Approval).
- B. Streetscape Illustration.** For all proposed new buildings, the applicant shall submit streetscape illustrations that includes neighboring structures within 100 feet of the side property lines.
- C. Enhanced Visualization.** The City may require enhanced project visualization materials (e.g., 3-D renderings, photo-simulations, physical models, expanded streetscape diagrams, viewpoint analysis, [story poles](#)) when any of the following apply:
1. The project is proposed within a prominent or highly visible development site as determined by the Community Development Director.
  2. The project would be located within or adjacent to vista points or visually-sensitive areas as identified in the General Plan.
  3. The applicant is requesting a Variance for height.
  4. Substantial changes to the exterior of an existing structure.
  5. The Community Development Director determines that enhanced visualization is necessary to determine if the findings for approval can be made for the proposed project.
- ~~5-6.~~ [Story poles shall only be required upon request of the Planning Commission.](#)
- D. Review by Architectural Historian.** Proposed projects that involve an exterior alteration to a Designated Historic Resource or a Potential Historic Resource as defined in Section 17.84.020 (Types of Historic Resources) shall be reviewed by an Architectural Historian and may require a Historic Alteration Permit as provided in Section 17.84.070 (Historic Alteration Permit).

#### 17.120.050 Design Review Process

- A. Review Required.** All Design Permit applications shall be reviewed by City staff and City-contracted design professionals as specified in Section 17.108.040 prior to review and action on the application by the Planning Commission.

- B. Purpose of Review.** The purpose of the Design Review process is to provide recommendations to the applicant on the design of the project based on Design Review criteria in Section 17.120.070. Applicants are encouraged to consider comments from the Design Review process and modify the project design as needed prior to Planning Commission consideration of the application.

#### 17.120.060 Public Notice and Hearing

- A. Design Permits.** The Planning Commission shall review and act on a Design Permit application at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).
- B. Minor Design Permits.** Public notice of a pending action on a Minor Design Permit application shall be provided in compliance with Chapter 17.148 (Public Notice and Hearings). The Community Development Director shall hold a public hearing for a Minor Design Permit application only upon receiving a written request for a public hearing as provided in Section 17.148.030 (Notice of Pending Action).

#### 17.120.070 Design Review Criteria

When considering Design Permit applications, the City shall evaluate applications to ensure that they satisfy the following criteria, comply with the development standards of the zoning district, conform to policies of the General Plan, the Local Coastal Program, and any applicable specific plan, and are consistent with any other policies or guidelines the City Council may adopt for this purpose. To obtain Design Permit approval, projects must satisfy these criteria to the extent they apply.

- A. Community Character.** The overall project design including site plan, height, massing, architectural style, materials, and landscaping contribute to Capitola's unique coastal village character and distinctive sense of place.
- B. Neighborhood Compatibility.** The project is designed to respect and complement adjacent properties. The project height, massing, and intensity is compatible with the scale of nearby buildings. The project design incorporates measures to minimize traffic, parking, noise, and odor impacts on nearby residential properties.
- C. Historic Character.** Renovations and additions respect and preserve existing historic structure. New structures and additions to non-historic structures reflect and complement the historic character of nearby properties and the community at large.
- D. Sustainability.** The project supports natural resource protection and environmental sustainability through features such as on-site renewable energy generation, passive solar design, enhanced energy efficiency, water conservation measures, and other green building techniques.
- E. Pedestrian Environment.** The primary entrances are oriented towards and visible from the street to support an active public realm and an inviting pedestrian environment.

- F. Privacy.** The orientation and location of buildings, entrances, windows, doors, decks, and other building features minimizes privacy impacts on adjacent properties and provides adequate privacy for project occupants.
- G. Safety.** The project promotes public safety and minimizes opportunities for crime through design features such as property access controls (e.g., placement of entrances, fences), increased visibility and features that promote a sense of ownership of outdoor space.
- H. Massing and Scale.** The massing and scale of buildings complement and respect neighboring structures and correspond to the scale of the human form. Large volumes are divided into small components through varying wall planes, heights, and setbacks. Building placement and massing avoids impacts to public views and solar access.
- I. Architectural Style.** Buildings feature an architectural style that is compatible with the surrounding built and natural environment, is an authentic implementation of appropriate established architectural styles, and reflects Capitola's unique coastal village character.
- J. Articulation and Visual Interest.** Building facades are well articulated to add visual interest, distinctiveness, and human scale. Building elements such as roofs, doors, windows, and porches are part of an integrated design and relate to the human scale. Architectural details such as trim, eaves, window boxes, and brackets contribute to the visual interest of the building.
- K. Materials.** Building facades include a mix of natural, high-quality, and durable materials that are appropriate to the architectural style, enhance building articulation, and are compatible with surrounding development.
- L. Parking and Access.** Parking areas are located and designed to minimize visual impacts and maintain Capitola's distinctive neighborhoods and pedestrian-friendly environment. Safe and convenient connections are provided for pedestrians and bicyclists.
- M. Landscaping.** Landscaping is an integral part of the overall project design, is appropriate to the site and structures, and enhances the surrounding area.
- N. Drainage.** The site plan is designed to maximize efficiency of on-site drainage with runoff directed towards permeable surface areas and engineered retention.
- O. Open Space and Public Places.** Single-family dwellings feature inviting front yards that enhance Capitola's distinctive neighborhoods. Multi-family residential projects include public and private open space that is attractive, accessible, and functional. Non-residential development provides semi-public outdoor spaces, such as plazas and courtyards, which help support pedestrian activity within an active and engaging public realm.
- P. Signs.** The number, location, size, and design of signs complement the project design and are compatible with the surrounding context.

- Q. Lighting.** Exterior lighting is an integral part of the project design with light fixtures designed, located, and positioned to minimize illumination of the sky and adjacent properties.
- R. Accessory Structures.** The design of detached garages, sheds, fences, walls, and other accessory structures relate to the primary structure and are compatible with adjacent properties.
- S. Mechanical Equipment, Trash Receptacles, and Utilities.** Mechanical equipment, trash receptacles, and utilities are contained within architectural enclosures or fencing, sited in unobtrusive locations, and/or screened by landscaping.

#### **17.120.080 Findings for Approval**

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

- A.** The proposed project is consistent with the General Plan, Local Coastal Program, and any applicable specific plan, area plan, or other design policies and regulations adopted by the City Council.
- B.** The proposed project complies with all applicable provisions of the Zoning Code and Municipal Code.
- C.** The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).
- D.** The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.
- E.** The proposed project complies with all applicable Design Review criteria in Section 17.120.070 (Design Review Criteria)
- F.** For projects in residential neighborhoods, the proposed project maintains the character, scale, and development pattern of the neighborhood.

#### **17.120.090 Conditions of Approval**

The Planning Commission or Community Development Director may attach conditions of approval to a Design Permit 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.

#### **17.120.100 Appeals and Post-Decision Procedures**

- A.** Planning Commission decisions on Design Permits may be appealed to the City Council as described in Chapter 17.152 (Appeals).
- B.** Community Development Director decisions on Minor Design Permits may be appealed to the Planning Commission as described in Chapter 17.152 (Appeals).

- C. Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) apply to Design Permits.

## Chapter 17.124 - USE PERMITS

### Sections:

- 17.124.010 Purpose
- 17.124.020 When Required
- 17.124.030 Review Authority
- 17.124.040 Application Submittal and Review
- 17.124.050 Public Notice and Hearing
- 17.124.060 Considerations
- 17.124.070 Findings for Approval
- 17.124.080 Conditions of Approval
- 17.124.090 Appeals and Post-Decision Procedures
- 17.124.100 Master Use and Tenant Use Permits

### 17.124.010 Purpose

This chapter describes the process to obtain Use Permits, which include Conditional Use Permits, Minor Use Permits, Master Use Permits, and Tenant Use Permits. A Use Permit is required for land uses that are generally appropriate within a zoning district, but potentially undesirable on a particular parcel or in large numbers. A Use Permit is a discretionary action that enables the City to ensure that a proposed use is consistent with the General Plan and Local Coastal Program Land Use Plan and will not create negative impacts to adjacent properties or the general public.

### 17.124.020 When Required

- A. Land uses that require a Conditional Use Permit or a Minor Use Permit are shown in the land use regulation tables for each zoning district found in Part 2 (Zoning Districts and Overlay Zones).
- B. Land uses eligible for a Master Use Permit or a Tenant Use Permit are described in Section 17.124.100 (Master Use and Tenant Use Permits).

### 17.124.030 Review Authority

- A. The Planning Commission takes action on Conditional Use Permit and Master Use Permit applications.
- B. The Community Development Director takes action on Minor Use Permit and Tenant Use Permit applications.
- C. The Community Development Director may refer any Minor Use Permit and Tenant Use Permit application to the Planning Commission for review and final decision.

#### **17.124.040 Application Submittal and Review**

Use Permit 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, together with all required application fees. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.124.070 (Findings for Approval).

#### **17.124.050 Public Notice and Hearing**

- A.** The Planning Commission shall review and act on a Conditional Use Permit or a Master Use Permit application at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).
- B.** Public notice of a pending action on a Minor Use Permit application shall be provided in compliance with Chapter 17.148 (Public Notice and Hearings). The Community Development Director shall hold a public hearing for a Minor Use Permit application only upon receiving a written request for a public hearing as provided in Section 17.148.030 (Notice of Pending Action).
- C.** No public hearing is required for a Tenant Use Permit.

#### **17.124.060 Considerations**

When evaluating a Conditional Use Permit, Minor Use Permit, or Master Use Permit application, the review authority shall consider the following characteristic of the proposed use:

- A.** Operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).
- B.** Availability of adequate public services and infrastructure.
- C.** Potential impacts to the natural environment.
- D.** Physical suitability of the subject site for the proposed use in terms of design, location, operating characteristics, shape, size, topography.

#### **17.124.070 Findings for Approval**

To approve a Conditional Use Permit, Minor Use Permit, or Master Use Permit, the review authority shall make all of the following findings:

- A.** The proposed use is allowed in the applicable zoning district.
- B.** The proposed use is consistent with the General Plan, Local Coastal Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.
- C.** The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and planned land uses in the vicinity of the property.



- D. The proposed use will not be detrimental to the public health, safety, and welfare.
- E. The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.

#### 17.124.080 Conditions of Approval

The Planning Commission or Community Development Director may attach conditions of approval to a use permit 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.

#### 17.124.090 Appeals and Post-Decision Procedures

- A. Planning Commission decisions on Conditional Use Permits may be appealed to the City Council as described in Chapter 17.152 (Appeals).
- B. Community Development Director decisions on Minor Use Permits or Tenant Use Permits may be appealed to the Planning Commission as described in Chapter 17.152 (Appeals).
- C. Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) apply to Use Permits.

#### 17.124.100 Master Use and Tenant Use Permits

- A. **Purpose.** A Master Use Permit is a type of Conditional Use Permit that identifies permitted land uses within a commercial property occupied by multiple tenants. Tenant Use Permits are issued by the Community Development Director for individual tenants that comply with a Master Use Permit.
- B. **Master Use Permit Eligibility.** To be eligible for a Master Use Permit, a property must:
  1. Contain more than 10,000 square feet of floor area on a single parcel or on multiple adjoining parcels under one ownership;
  2. Conform to all applicable parking and landscaping requirements; and
  3. Contain leasable space for two or more tenants.
- C. **Permitting Process and Restrictions.** The process to review and approve a Master Use Permit is the same as for a Conditional Use Permit, except as follows:
  1. When approving a Master Use Permit, the Planning Commission shall specify the uses allowed on the property. Allowed uses are limited to uses permitted or conditionally permitted in the applicable zoning district.
  2. The Planning Commission may establish a maximum size for an individual tenant and/or use.
  3. A change of tenant larger than 12,000 square feet in a property with a Master Use Permit requires Planning Commission approval of an amendment to the existing

Master Use Permit. A change in tenant larger than 12,000 square feet may not be approved with a Tenant Use Permit.

4. The Planning Commission may deny a Master Use Permit upon finding that particular circumstances of the property, including an existing or proposed use, require a standard Conditional Use Permit process to protect the public health, safety, and welfare.

**D. Tenant Use Permits.**

1. A land use proposed within a property subject to a Master Use Permit may be established with a Tenant Use Permit, except for tenants 12,000 square or more as described in paragraph 3 above.
2. Tenant Use Permits are approved by the Community Development Director. The Director shall approve a Tenant Use Permit if the proposed use is consistent with the conditions of the Master Use Permit and the requirements of this section.

- E. Tenant Notification.** Prior to leasing space on a property with a Master Use Permit, the permit holder shall inform the prospective tenant of the conditions of approval attached to the Master Use Permit and the requirements of this section.

## Chapter 17.128 - VARIANCES

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Coastal Commission edits are in RED  
Capitola Staff edits are in BLUE

### Sections:

- 17.128.010 Purpose
- 17.128.020 When Allowed
- 17.128.030 Review Authority
- 17.128.040 Application Submittal and Review
- 17.128.050 Public Notice and Hearing
- 17.128.060 Findings for Approval
- 17.128.070 Conditions of Approval
- 17.128.080 Precedent
- 17.128.090 Appeals and Post-Decision Procedures

### 17.128.010 Purpose

This chapter identifies the process to obtain a Variance. A Variance is a discretionary permit that allows for deviation from ~~physical~~ development standards in the Zoning Code. The City may grant a Variance only when the strict application of development standards creates a unique hardship due to unusual circumstances associated with the property.

### 17.128.020 When Allowed

- A. Allowable Variances.** The City may grant a Variance to allow for deviation from any physical development standard that applies to the subject property. Examples of physical development standards include height, setbacks, open space, floor area ratio (FAR), and off-street parking requirements.
- B. Variances Not Allowed.** A Variance may not be granted to:
1. Permit a use other than a use permitted in the zoning district ~~as~~ specified in Part ~~2~~ (Zoning Districts and Overlay Zones).
  2. Reduce the minimum lot size for single-family dwellings or minimum site area per dwelling unit requirements for multi-family developments.
  3. Reduce the protection of an environmentally sensitive habitat area except as specifically provided in Chapter 17.64 (Environmentally Sensitive Habitat Areas).
  4. ~~Reduce a geologic setback as provided in Chapter 17.68 (Geologic Hazards).~~
  - 4.5. Allow deviation from a requirement of the General Plan ~~or Local Coastal Program~~ Land Use Plan.

### 17.128.030 Review Authority

The Planning Commission takes action on all Variance applications.

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VARIANCES

**17.128.040 Application Submittal and Review**

An application for a Variance shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review) ~~and, in the coastal zone, in compliance with Chapter 17.44 (Coastal Overlay Zone) as part of the Coastal Development Permit application.~~ The application shall include the information and materials required by the Community Development Department for Variance applications, together with all required application fees. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.128.060 (Findings for Approval).

**17.128.050 Public Notice and Hearing**

The Planning Commission shall review and act on a Variance application at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings) ~~and, in the coastal zone, in compliance with the noticing and hearing requirements of Chapter 17.44 (Coastal Overlay Zone).~~

**Commented [kh2]:** Staff recommends that the Planning Commission not accept this revision due to our previous recommendation in 17.44 to maintain all notice and hearing requirements in Chapter 17.44 to keep it simple for applicant

**17.128.060 Findings for Approval**

To approve a Variance application, the Planning Commission shall make all of the following findings:

- A. There are unique circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, that do not generally apply to other properties in the vicinity or in the same zone as the subject property.
- B. The strict application of the Zoning Code requirements would deprive the subject property of privileges enjoyed by other property in the vicinity or in the same zone as the subject property.
- C. The Variance is necessary to preserve a substantial property right possessed by other property in the vicinity or in the same zone as the subject property.
- D. The Variance will not be materially detrimental to the public health, safety, or welfare, or be injurious to the property or improvements in the vicinity or in the same zone as the subject property.
- E. The Variance does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity or in the same zone as the subject property.

F. The Variance will not have adverse impacts on coastal resources.

**17.128.070 Conditions of Approval**

The Planning Commission may attach conditions of approval to a Variance 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.

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VARIANCES

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**17.128.080 Precedent**

The approval of a Variance shall not set the precedent for the granting of any future Variance. Each application shall be considered only on its individual merits.

**17.128.090 Appeals and Post-Decision Procedures**

- A. Planning Commission decisions on Variances may be appealed to the City Council as described in Chapter 17.152 (Appeals) ~~and, in the coastal zone, as described in Chapter 17.44 (Coastal Overlay Zone).~~
- B. Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) shall apply to Variances ~~and, in the coastal zone, as described in Chapter 17.44 (Coastal Overlay Zone).~~

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## Chapter 17.132 - SIGN PERMITS

### Sections:

- 17.132.010 Purpose
- 17.132.020 Types of Sign Permits
- 17.132.030 When Required
- 17.132.040 Review Authority
- 17.132.050 Application Submittal and Review
- 17.132.060 Public Notice and Hearing
- 17.132.070 Findings for Approval
- 17.132.080 Conditions of Approval
- 17.132.090 Post-Decision Procedures

### 17.132.010 Purpose

This chapter establishes the process for obtaining a Sign Permit. A Sign Permit is a discretionary action that enables the City to ensure that a proposed sign is consistent with all General Plan and Local Coastal Program Land Use Plan goals and policies and will not create negative impacts to adjacent properties or the general public.

### 17.132.020 Types of Sign Permits

The Zoning Code establishes two types of Sign Permits: Sign Permits reviewed and approved by the Planning Commission and Administrative Sign Permits reviewed and approved by the Community Development Director.

### 17.132.030 When Required

A Sign Permit is required for types of signs identified in Chapter 17.80.030 (Permit Requirements).

### 17.132.040 Review Authority

- A. The Planning Commission takes action on all Sign Permit applications.
- B. The Community Development Direction takes action on all Administrative Sign Permit applications.

### 17.132.050 Application Submittal and Review

An application for a Sign Permit 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 together with all required application fees. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.132.060 (Findings for Approval).

**17.132.060 Public Notice and Hearing**

- A. The Planning Commission shall review and act on a Sign Permit at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).
- B. No public hearing is required for an Administrative Sign Permit.

**17.132.070 Findings for Approval**

The reviewing authority may approve a Sign Permit if all of the following findings can be made:

- A. The proposed signs are consistent with the General Plan, Local Coastal Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.
- B. The proposed signs comply with all applicable standards in Chapter 17.80 (Signs).
- C. The proposed sign will not adversely impact the public health, safety, or general welfare.
- D. The number, size, placement, design, and material of the proposed signs are compatible with the architectural design of buildings on the site.
- E. The proposed signs are restrained in character and no larger than necessary for adequate identification.

**17.132.080 Conditions of Approval**

The review authority may attach conditions of approval to a Sign Permit 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.

**17.132.090 Post-Decision Procedures**

- A. Planning Commission decisions on Sign Permits may be appealed to the City Council as described in Chapter 17.152 (Appeals).
- B. Community Development Director decisions on Administrative Sign Permits may be appealed to the Planning Commission as described in Chapter 17.152 (Appeals).
- C. Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) apply to Sign Permits.

## Chapter 17.136 - MINOR MODIFICATIONS

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### Sections:

- 17.136.010 Purpose
- 17.136.020 When Allowed
- 17.136.030 Review Authority
- 17.136.040 Application Submittal and Review
- 17.136.050 Public Notice and Hearing
- 17.136.060 Findings for Approval
- 17.136.070 Conditions of Approval
- 17.136.080 Appeals and Post-Decision Procedures

### 17.136.010 Purpose

This chapter establishes the process to obtain a Minor Modification. A Minor Modification allows for small deviations from development standards to accommodate projects which meet the needs of property owners, are consistent with the purpose of the Zoning Code and General Plan [and Local Coastal Program Land Use Plan](#), and do not negatively impact neighboring properties or the community at large.

### 17.136.020 When Allowed

- A. **Permitted Modifications.** The Planning Commission may approve a Minor Modification to allow for a maximum 10 percent deviation from a physical development standard that applies to the subject property. Types of physical development standards eligible for a Minor Modification include:
1. Dimensional standards and setbacks for parking spaces, driveways, garages, parking lots, and loading areas; and
  2. Minimum and maximum setbacks from property lines;
  3. Other similar dimensional standards as determined by the Community Development Director.
- B. **Excluded Modifications.** The City may not approve Minor Modifications for:
1. Minimum required on-site open space and landscaping;
  2. Maximum height of buildings, fences, walls, and other structures;
  3. Lot area, width, or depth;
  4. Minimum number of off-street parking spaces;
  5. Maximum residential density; or
  6. Maximum floor area ratio (FAR).



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MINOR MODIFICATIONS

7. Setbacks from ESHA or geologic hazards.

**17.136.030 Review Authority**

The Planning Commission takes action on Minor Modifications applications.

**17.136.040 Application Submittal and Review**

An application for a Minor Modification shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review) ~~or, in the coastal zone, Chapter 17.44 (Coastal Overlay Zone) with a Coastal Development Permit.~~ The application shall include the information and materials required by the Community Development Department for Minor Modification applications, together with all required application fees. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.136.060 (Findings for Approval).

**17.136.050 Public Notice and Hearing**

The Planning Commission shall review and act on a Minor Modification application at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).

**17.136.060 Findings for Approval**

To approve a Minor Modification application, the Planning Commission shall make all of the following findings:

- A. The modification will be compatible with adjacent structures and uses and is consistent with the character of the neighborhood or district where it is located.
- B. The modification will not adversely impact neighboring properties or the community at large.
- C. The modification is necessary due to unique characteristics of the subject property, structure, or use.
- D. The modification will be consistent with the purpose of the zoning district, the General Plan, Local Coastal Program, and any adopted area or neighborhood plan.
- E. The modification is consistent with the General Plan, Local Coastal Program, and any applicable specific plan or area plan adopted by the City Council.
- F. The modification will not establish a precedent.

G. The modification will not adversely impact coastal resources.

MINOR MODIFICATIONS

17.136

**17.136.070 Conditions of Approval**

The Planning Commission may attach conditions of approval to a Minor Modification 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.

**17.136.080 Appeals and Post-Decision Procedures**

- A. Planning Commission decisions on Minor Modifications may be appealed to the City Council as described in Chapter 17.152 (Appeals) ~~or, in the coastal zone, 17.44 with a coastal development permit.~~
- B. Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) apply to Minor Modifications ~~or, in the coastal zone, 17.44 with a coastal development permit.~~

**Commented [kh2]:** Staff suggests not accepting the two modifications on A and B. Chapter 17.152 has a reference for appeals in the Coastal Zone. Unnecessary to place here as well.

## Chapter 17.140 - REASONABLE ACCOMMODATIONS

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Capitol Staff edits are in BLUE

### Sections:

- 17.140.010 Purpose
- 17.140.020 When Allowed
- 17.140.030 Review Authority
- 17.140.040 Public Notice of Process Availability
- 17.140.050 Application Requirements
- 17.140.060 Review Procedure
- 17.140.070 Criteria for Decision
- 17.140.080 Conditions of Approval
- 17.140.090 Appeals and Post-Decision Procedures

#### 17.140.010 Purpose

This chapter establishes a procedure for requesting reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act. A reasonable accommodation is typically an adjustment to physical design standards to accommodate the placement of wheelchair ramps or other exterior modifications to a dwelling in response to the needs of a ~~disabled~~ resident.

#### 17.140.020 When Allowed

- A. Eligible Applicants.** A request for reasonable accommodation may be made by any person with a disability, their representative, or any entity, when the application of the Zoning Code or other land use regulations, policy, or practice acts as a barrier to fair housing opportunities.
- B. Definition.** A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having this type of impairment, or anyone who has a record of this type of impairment.
- C. Eligible Request.** A request for reasonable accommodation may include a modification or exception to the rules, standards, and practices for the siting, development, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.

#### 17.140.030 Review Authority

- A. Community Development Director.** The Community Development Director shall take action on reasonable accommodation applications if the application is not filed for concurrent review with an application for discretionary review by the Planning Commission or City Council.

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REASONABLE ACCOMMODATIONS

- B. Other Review Authority.** If a reasonable accommodation application is submitted concurrently with a permit application reviewed by the Planning Commission or City Council, the reasonable accommodation application shall be reviewed by the Planning Commission or City Council.
- C. Referral to Planning Commission.** The Community Development Director may refer any reasonable accommodation application to the Planning Commission for review and final decision.

#### 17.140.040 Public Notice of Process Availability

Notice of the availability of the reasonable accommodation process shall be publicly displayed at City Hall. Forms for requesting reasonable accommodation shall be available to the public at the Community Development Department at City Hall.

#### 17.140.050 Application Requirements

- A. Application.** A request for reasonable accommodation shall be submitted on an application form provided by the Community Development Department along with any fees required by the Planning Fee Schedule.
- B. Review with Other Land Use Applications.** If the project for which the request for reasonable accommodation is being made also requires some other discretionary approval (e.g., Conditional Use Permit, Design Review, [Coastal Development Permit](#)), then the applicant shall file the reasonable accommodation application materials together for concurrent review with the application for discretionary approval.
- C. Application Timing.** A request for reasonable accommodation may be filed at any time that the accommodation is necessary to ensure equal access to housing. A reasonable accommodation does not affect an individual's obligation to comply with other applicable regulations not at issue in the requested accommodation.
- D. Application Assistance.** If an individual needs assistance in making the request for reasonable accommodation, the City will provide assistance to ensure that the process is accessible to the individual.

#### 17.140.060 Review Procedure

- A. Director Review.**
1. The Community Development Director shall make a written determination within 45 days and either grant, grant with modifications, or deny a request for reasonable accommodation.
  2. If necessary to reach a determination on the request for reasonable accommodation, the Community Development Director may request further information from the applicant consistent with fair housing laws. In the event that a request for additional

information is made, the forty-five-day period to issue a decision is stayed until the applicant submits the requested information.

- B. Other Review Authority.** The determination on whether to grant or deny the request for reasonable accommodation submitted concurrently with a discretionary permit application shall be made by the Planning Commission or City Council in compliance with the review procedure for the discretionary review.

**17.140.070 Criteria for Decision**

The review authority shall make a written decision and either approve, approve with modifications, or deny a request for reasonable accommodation based on consideration of all of the following factors:

- A.** Whether the housing which is the subject of the request will be used by an individual defined as disabled under the Americans with Disabilities Act.
- B.** Whether the request for reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Americans with Disabilities Act.
- C.** Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the City.
- D.** Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a City program or law, including but not limited to land use and zoning.
- E.** Potential impacts on surrounding uses.
- F.** Physical attributes of the property and structures.
- G.** Other reasonable accommodations that may provide an equivalent level of benefit.

**17.140.080 Conditions of Approval**

In approving a request for reasonable accommodation, the review authority may impose conditions of approval to ensure that the reasonable accommodation will comply with the criteria required by Section 17.140.070 (Criteria for Decision), ~~or, in the coastal zone, Chapter 17.44 (Coastal Overlay Zone with a Coastal Development Permit)~~

**Commented [kh2]:** Staff recommends that the Planning Commission not accept this Coastal Commission edit. It is not appropriate.

**17.140.090 Appeals and Post-Decision Procedures**

- A. Appeals.** Reasonable accommodation decisions may be appealed consistent with Chapter 17.152 (Appeals), ~~or, in the coastal zone, 17.44 with a coastal development permit.~~ If an applicant needs assistance in filing an appeal on an adverse decision, the City will provide assistance to ensure that the appeals process is accessible.

**Commented [kh3]:** Staff recommends that the Planning Commission not accept this Coastal Commission edit. Chapter 17.44 references the coastal zone appeals. We do not need to add language in every section.

- B. Other Post-Decision Procedures.** Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) apply to reasonable accommodation decisions: ~~or, in the coastal zone, 17.44 with a coastal development permit.~~

**Commented [kh4]:** Same as previous.

# Chapter 17.144 - ZONING CODE AMENDMENTS AND LOCAL COASTAL PROGRAM AMENDMENTS

**Sections:**

- 17.144.010 Purpose
- 17.144.020 Initiation
- 17.144.030 Application
- 17.144.040 Planning Commission Hearing and Action
- 17.144.050 City Council Hearing and Action
- 17.144.060 Findings for Approval
- 17.144.070 Effective Dates
- 17.144.080 Local Coastal Program Amendments

**17.144.010 Purpose**

This chapter establishes procedures for amending the Zoning Code and Zoning Map. All amendments to the Zoning Code shall be processed as set forth in Government Code Section 65853 et seq. and as specified in this chapter.

**17.144.020 Initiation**

**A. Zoning Map Amendment.** A request for an amendment to the Zoning Map may be initiated by:

1. The City Council;
2. The Planning Commission;
3. The Community Development Director; or
4. One or more owners of the property for which the amendment is sought.

**B. Zoning Code Text Amendment.** A request for an amendment to the text of the Zoning Code may be initiated by the following:

1. The City Council;
2. The Planning Commission;
3. The Community Development Director; or
4. Any resident, property owner, or business owner in the city.

**17.144.030 Application**

An application for a Zoning Code Amendment 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, together with all required application fees. For amendments submitted by a resident, property owner,

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agrees to add it to the LCP, update 17.04.040.

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ZONING CODE AMENDMENTS

or business owner, it is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.144.060 (Findings for Approval).

#### 17.144.040 Planning Commission Hearing and Action

- A. **Public Notice and Hearing.** The Planning Commission shall review and act on a proposed Zoning Map Amendment and Zoning Code Amendment at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).
- B. **Recommendation of Approval.** The Planning Commission may recommend to the City Council the approval or conditional approval of the proposed Zoning Map Amendment or Zoning Code Amendment, based upon the findings specified in Section 17.144.060 (Findings for Approval). The Planning Commission shall forward a written recommendation, and the reasons for the recommendation, to the City Council within 90 days after the date the hearing was closed to the public. A recommendation for approval shall be made by a majority vote of the total membership of the Planning Commission.
- C. **Denial.** The Planning Commission may deny the proposed Zoning Code Amendment based upon the findings specified in Section 17.144.060 (Findings for Approval). For a Zoning Map Amendment, if the action of the Planning Commission is to recommend denial, the City Council is not required to take further action on the proposed amendment unless an interested party requests a hearing in writing with the City Clerk within ten days after the Planning Commission recommendation is filed with the City Council.

#### 17.144.050 City Council Hearing and Action

- A. **General.** After receipt of the Planning Commission's recommendation to approve a proposed Zoning Code Amendment or Zoning Map Amendment, the City Council shall hold a public hearing on the proposal in compliance with Chapter 17.148 (Public Notice and Hearings).
- B. **Approval or Denial.** The City Council may approve, conditionally approve, or deny the proposed Zoning Code Amendment or Zoning Map Amendment based upon the findings specified in Section 17.144.060 (Findings for Approval).
- C. **Finality of Action.** The action by the City Council shall be made by a majority vote of the total membership of the City Council and shall be final and conclusive except for amendments within the coastal ~~appeal~~-zone, in which case the City ~~Council's decision may be appealed~~ shall submit the Zoning Code Amendment or the Zoning Map Amendment to the Coastal Commission ~~for certification (see Section 17.144.080 (Local Coastal Program Amendments) below).~~
- D. **Referral to Planning Commission.** If the City Council proposes to adopt a substantial modification to the Zoning Code Amendment not previously considered by the Planning Commission, the proposed modification shall be first referred to the Planning Commission for its recommendation.

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**E. Failure to Report.** The failure of the Planning Commission to report back to the City Council within 40 days after the reference, or within the time set by the City Council, shall be deemed a recommendation of approval.

#### 17.144.060 Findings for Approval

The City Council may approve a Zoning Code Amendment or Zoning Map Amendment only if all of the following findings are made:

##### A. Findings for all Zoning Code and Zoning Map Amendments.

1. The proposed amendment is consistent with the General Plan and any applicable specific plan as provided by Government Code Section 65860.
2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

**B. Additional Finding for Zoning Code Text Amendments.** The proposed amendment is internally consistent with other applicable provisions of the Zoning Code.

**C. Additional Finding for Zoning Map Amendments.** The affected site is physically suitable in terms of design, location, shape, size, and other characteristics to ensure that the permitted land uses and development will comply with the Zoning Code and General Plan and contribute to the health, safety, and welfare of the property, surrounding properties, and the community at large.

#### 17.144.070 Effective Dates

A Zoning Code Amendment or Zoning Map Amendment becomes effective 30 days following the adoption of the ordinance by the City Council ~~unless the Zoning Code Amendment affects a component of the certified Local Coastal Program Implementation Plan or if a Zoning Map Amendment affects property in the coastal zone (see Section 17.44.080 (Local Coastal Program Amendments) below).~~

#### 17.44.080 Local Coastal Program Amendments

Upon adoption by the City Council of amendments to the Local Coastal Program (LCP) Land Use Plan (LUP) and/or the LCP Implementation Plan (IP), the City shall submit the amendments to the Coastal Commission for certification.

**A. Adopted Resolution.** All LCP Amendment submittals must include a City Council Resolution that:

1. Is signed and dated by an authorized member of the City Council;
2. Indicates that the LCP Amendment is intended to be carried out in a manner fully consistent with the Coastal Act;



3. Indicates whether the proposed LCP Amendment will take effect automatically upon final Coastal Commission certification or will require formal City Council review/adoption after final Coastal Commission certification.

**B. Copy of the Proposed LCP Amendment.** The submittal shall include a copy of the relevant document (LUP/community plan/ordinance) in strikethrough and underline format. If the LCP Amendment proposes a change to an approved map, the submittal must include a graphic depiction of how the map is being changed.

**C. Local Government Staff Report.** The submittal shall include copies of the local government staff reports, as these are necessary to demonstrate consistency of the LCP Amendment with Chapter 3 of the Coastal Act (for LUP amendments) or to demonstrate conformity with and adequacy to carry out the certified Land Use Plan (for IP amendments).

1. The staff report should include a discussion of the LCP Amendments relationship and effect on other section of the LCP.

2. For LUP Amendments:

i. The staff report should include an analysis of how the amendment is consistent with the Chapter 3 policies of the Coastal Act.

ii. The staff report should also indicate what zoning measures or implementation actions will be used to carry out the LUP amendment.

3. For IP (zoning/municipal code) amendments, the staff report should include an analysis of how the amendment is in conformity with and adequate to carry out the certified LUP.

4. In addition, if the affected area or application of an ordinance would involve land situated between the ocean and first public through road, or overall intensity of development, the local government staff report should address any potential effects that the proposed amendment will have on public access.

**D. Supplementary Information/Environmental Review Documents.** In addition to the City's staff reports, the submittal should include any supplementary analysis or information prepared or relied on (e.g. vulnerability assessments, hazard mitigation plans, biological studies, traffic analyses, geotechnical reports, etc.) and a copy of any environmental document.

**E. Local Hearing Dates and Notices.**

1. The submittal must include a listing of the local hearing dates and copies of all local hearing notices.

2. These materials must document that:

i. The LCP Amendment was properly noticed (i.e. the notices must indicate the item involves an LCP amendment and is not effective until or and unless approved by the Coastal Commission);

- ii. The notices of availability were mailed and public review drafts were available at least six weeks prior to the City's final action date, and;
- iii. The City's hearing notices to all interested parties and public agencies were distributed no less than ten working days before the hearing and that the hearing was also noticed by general publication.

**F. Copies of Speaker Slips, Written Comments and Adopted Minutes.** The submittal must include copies of all speaker slips, all written correspondence received, and the Planning Commission/City Council minutes for the item. The copies should be accompanied by a separate list of each speaker or written correspondence received, and their contact information.

**G. Mailing/Noticing List.** The submittal must include a copy of the mailing/noticing list used by the City. Notices for local LCP Amendment hearings must be sent to: 1) anyone who requests it; 2) each contiguous local government; 3) any local government, special district or port district that could be affected by the LCP Amendment; 4) local libraries and media; 5) and any regional or federal agencies that may have an interest in or be affected by the LCP Amendment.

## Chapter 17.148 - PUBLIC NOTICE AND HEARINGS

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### Sections:

- 17.148.010 Purpose
- 17.148.020 Notice of Hearing
- 17.148.030 Notice of Pending Action for Minor Use Permits and Administrative Design Permits
- 17.148.040 Notice for Wireless Communication Facility Applications
- 17.148.050 Scheduling of Hearing
- 17.148.060 Hearing Procedure
- 17.148.070 Recommendations
- 17.148.080 Decision and Notice

#### 17.148.010 Purpose

This chapter establishes procedures for public notices and hearings required by the Zoning Code.

#### 17.148.020 Notice of Hearing

When the Zoning Code requires a noticed public hearing, the City shall provide notice of the hearing as required by this section and by the California Government Code.

**A. Content of Notice.** Notice of a public hearing shall include all of the following information, as applicable.

1. **Hearing Information.** The date, time, and place of the hearing; the name of the hearing body; and the phone number, email address, and street address of the Community Development Department where an interested person could call or visit to obtain additional information.
2. **Project Information.** The name of the applicant, the City's file number assigned to the application, a general explanation of the matter to be considered, a general description of the location of the subject property, and any recommendation from a prior hearing body.
3. **Statement on Environmental Document.** A statement that the proposed project is determined to be exempt from the California Environmental Quality Act (CEQA), or that a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report has been prepared for the project. The hearing notice shall state that the hearing body will consider approval of the CEQA determination or document prepared for the proposed project.
4. **Zoning Map Amendments (Rezoning).** Public notices posted onsite for proposed Zoning Map Amendments (rezoning) shall consist of the words "Notice of Proposed Change of Zone" printed in plain type with letters not less than 1½ inches in height.

**B. Method of Notice Distribution.** Notice of a public hearing required by the Zoning Code shall be given at least ten calendar days before the hearing date in compliance with Sections 1 through 5 below and as summarized in Table 17.148-1.

**TABLE 17.148-1: METHOD OF NOTICE DISTRIBUTION**

Type of Permit or Approval Hearing	Mailed notice	Printed notice posted at site	Notice published in newspaper
Conceptual Review Design Permit & Appeal Major Revocable Encroachment Permit & Appeal Minor Modification & Appeal Minor Design Permit Appeal Minor Use Permit Appeal Removal of Structure from Designated Historic Structure List Sign Permit & Appeal Historic Alteration Permit Historic Resource Demolition Permit Tenant Use Permit Appeal	Yes 300-foot radius for adjacent property owners	Yes	No
Development Agreement <del>General Plan/Coastal Land Use Plan Amendment</del> <del>Zoning Code and Map Amendment</del> Variance & Appeal Conditional Use Permit & Appeal Master Use Permit, Amendment, & Appeal Condominium Conversion & Appeal Subdivision & Appeal Development Plans (PD Zones)	Yes 300-foot radius for adjacent property owners	Yes	Yes
Zoning Code and Map Amendment General Plan Amendment Coastal Land Use Plan Amendment	Determined by type of proposed amendment. See California Government Code.	Determined by type of proposed amendment. See California Government Code.	Yes
Coastal Development Permit & Appeal	Yes 100-foot radius for adjacent property owners	Yes	Yes

Notice of Administrative Review for Minor Design Permit and Minor Use Permit	Yes 100-foot radius	Yes	No
Wireless Communication Facility Permits and Approvals	See Chapter 17.104 (Wireless Communication Facilities)		

1. **Newspaper Publication.** Where required by Table 17.148-1, notice shall be published in at least one newspaper of general circulation at least ten calendar days before the hearing.
2. **Mailing.** Where required by Table 17.148-1, notice shall be mailed at least ten calendar days before the scheduled hearing to the following recipients:
  - a. **Project Site Owners and the Applicant.** The owners of the subject property or the owner's authorized agent, and the applicant.
  - b. **Adjacent Property Owners.** For all hearings before the Planning Commission and appeals thereof with the exception of solely Coastal Development Permits, the owners of the real property located within a radius of 300 feet from the exterior boundaries of the subject property.
  - c. **California Coastal Commission.** For applications including a Coastal Development Permit, a notice shall be mailed to the California Coastal Commission Central Coast office.
  - d. **Local Agencies.** Each local agency expected to provide roads, schools, sewerage, streets, water, or other essential facilities or services to the subject property, whose ability to provide those facilities and services may be significantly affected.
  - e. **Persons Requesting Notice.** Any person who has filed a written request for notice with the Community Development Department.
  - f. **Blind, Aged, and Disabled Communities.** Whenever a hearing is held regarding a permit for a drive-through facility, or modification of an existing drive-through facility permit, notice procedures shall incorporate the blind, aged, and disabled communities in order to facilitate their participation.
  - g. **Other Persons.** Any other person whose property, in the judgment of the Community Development Department, might be affected by the proposed project.
3. **Alternative to Mailing.** If the number of property owners to whom notice would be mailed in compliance with Subsection 2 above is more than 1,000, the Community Development Department may choose to provide notice by placing a display advertisement of at least one-eighth page in one or more local newspapers of general circulation at least ten days prior to the hearing.

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PUBLIC NOTICE AND HEARINGS

4. **Posting.** A printed notice shall be posted at the project site at least ten calendar days prior to the hearing.
5. **Additional Notice.** In addition to the types of notice required above, the Community Development Department may provide additional notice as determined necessary or desirable.
6. **Failure to Receive Notice.** The validity of the hearing shall not be affected by the failure of any resident, property owner, or community member to receive a mailed notice.

**17.148.030 Notice of Pending Action for Minor Use Permits and Minor Design Permits**

- A. For Minor Use Permit and Administrative Design Review applications, public notice of a pending action shall be mailed to the owners of the real property located within a radius of 100 feet from the exterior boundaries of the subject property at least ten calendar days prior to the City taking action on the application.
- B. In addition to information required by Section 17.148.020.A, the notice of a pending action shall state that the City is considering the application and that the Community Development Director will hold a public hearing for the application only if a member of the public submits to the City a written request for a hearing within ten calendar days of the notice being sent.
- C. If the City receives a request for a public hearing within ten calendar days of the notice being sent, the Community Development Director shall hold a noticed public hearing on the application consistent with this chapter. Public notice of the requested public hearing will be mailed to the owners of real property located within a radius of 100 feet from the exterior boundaries of the subject property.
- D. If no request for a public hearing is received by the specified date, the Community Development Director shall act on the application without a public hearing.

**17.148.040 Notice for Wireless Communication Facility Applications**

Public notice for wireless communication facility applications shall be given in accordance with Section 17.104.040 (Public Notice and Hearing).

**17.148.050 Scheduling of Hearing**

After the completion of any environmental document required by the California Environmental Quality Act (CEQA), and a Community Development Department staff report, a matter requiring a public hearing shall be scheduled on the next available agenda reserved for public hearings, but no sooner than any minimum time period established by State law.

**17.148.060 Hearing Procedure**

- A. General.** Hearings shall be conducted in a manner consistent with the procedures adopted or endorsed by the hearing body and consistent with the open meeting requirements of the Ralph M. Brown Act.
- B. Time and Place of Hearing.** A hearing shall be held at the date, time, and place for which notice was given, unless the required quorum of hearing body members is not present.
- C. Continued Hearing.** Any hearing may be continued without further public notice, provided that the chair of the hearing body announces the date, time, and place to which the hearing will be continued before the adjournment or recess of the hearing.
- D. Motion of Intent.** The hearing body may announce a tentative decision, and defer action on a final decision until appropriate findings and conditions of approval have been prepared.

**17.148.070 Recommendations**

After a public hearing resulting in a recommendation to another hearing body, the recommendation shall be forwarded to the other hearing body. A copy of the staff report to other hearing body with the recommendation shall be provided to applicant.

**17.148.080 Decision and Notice**

- A. Date of Action.** The hearing body shall take action on the matter being considered following the close of the public hearing. The hearing body shall also take action on projects within the following timeframe as required by the California Environment Quality Act (CEQA):
1. Within 60 days of the date a Negative Declaration or Mitigated Negative Declaration has been adopted for project approval, the City shall take action on the accompanying discretionary project.
  2. Within 180 days from the date the decision-making authority certifies a final Environmental Impact Report (EIR), the City shall take action on the accompanying discretionary project.
- B. Decision.**
1. The hearing body may announce and record its decision on the matter being considered at the conclusion of a scheduled hearing, or make a motion of intent and continue the matter to a later meeting agenda.
  2. At the conclusion of a hearing conducted by the Community Development Director, the Community Development Director may choose to refer the matter to the Planning Commission for review and final decision. Referral to the Planning

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Commission may be chosen in cases of unusual public sensitivity, controversy, or complexity relating to the requested approval.

**C. Notice of Decision.**

1. If the review authority denies a permit, notice shall be mailed to the applicant and property owner the next day and shall include procedures for appeal, if applicable.
2. Following a final decision granting a permit and conclusion of the appeal period as described in Section 17.152, the Community Development Department shall provide notice of the final action to the applicant and to any person who specifically requested notice of the final action.
  - a. Notice of an approved final action shall contain applicable findings, conditions of approval, reporting and monitoring requirements, and the expiration date of the permit.
  - b. Notice of final actions that include a Coastal Development Permit that may be appealed to the California Coastal Commission will include notice that they are subject to an additional ten-working-day appeal period.

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## Chapter 17.152 - APPEALS

### Sections:

- 17.152.010 Purpose
- 17.152.020 Appeal Subjects and Jurisdiction
- 17.152.030 Filing and Processing of Appeals
- 17.152.040 Judicial Review

### 17.152.010 Purpose

This chapter establishes procedures for the appeal and call for review of actions and decisions made by the Planning Commission and the Community Development Director. This chapter supplements general procedures for appeals to the City Council in Municipal Code Chapter 2.52 (Appeals to the City Council). In the case of any conflict between this chapter and Chapter 2.52, this chapter governs.

### 17.152.020 Appeal Subjects and Jurisdiction

- A. Community Development Director Decisions.** Any decision of the Community Development Director may be appealed to the Planning Commission.
- B. Planning Commission Decisions.** Any decision of the Planning Commission may be appealed to the City Council.
- C. Coastal Development Permits.** Appeal procedures for Coastal Development Permits shall be as specified in Chapter 17.44.~~440~~150 (Appeals).

### 17.152.030 Filing and Processing of Appeals

- A. Eligibility.** Any person may submit an appeal of a decision by the Community Development Director and the Planning Commission.
- B. Timing of Appeal.** An appeal shall be filed within ten calendar days following the date the decision was rendered, unless a longer appeal period is specified as part of the project approval. In the event the completion of the appeal period falls on a weekend or holiday, the decision shall become effective after 5:00 pm on the first business day following the completion of the appeal period.
- C. Form of Appeal.**
  1. An appeal shall be submitted in writing on an official City application form together with all required application fees.
  2. The appeal application shall state the pertinent facts and the basis for the appeal.
  3. The whole decision or part of the decision may be appealed. If an appellant chooses, an appeal may be taken solely from any finding, action, or condition.

**D. Effect of Appeal.** Once an appeal is filed, any action on the associated project is suspended until the appeal is processed and a final decision is rendered by the review authority.

**E. Report and Scheduling of Hearing.**

1. When an appeal has been filed, the Community Development Department shall prepare a report on the matter, including all of the application materials in question, and schedule the matter for a public hearing by the appropriate review authority within 90 days of receiving the appeal.
2. Notice of the hearing shall be provided and the hearing shall be conducted in compliance with Chapter 17.148 (Public Notice and Hearings).
3. Any interested person may appear and be heard regarding the appeal.
4. All appeals on a single project shall be considered together at the same hearing.

**F. Hearing and Decision.**

1. During the appeal hearing, the review authority may take action on any aspect of the appealed project (de novo review). The review authority shall make its own decision supported by findings.
2. The review authority's decision may:
  - a. Affirm, affirm in part, or reverse the action that is the subject of the appeal;
  - b. Adopt additional conditions of approval that address the matter appealed; or
  - c. Remand the appeal for further review, recommendation, or action to the previous review authority.
3. The review authority's action shall be based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the appeal and verify the compliance of the subject of the appeal with the Zoning Code.
4. A matter being heard on appeal may be continued for good cause (e.g. additional California Environmental Quality Act (CEQA) review is required).
5. If the hearing body is unable to reach a decision on the matter appealed, the appeal and the decision of the previous review authority shall remain in effect.

**G. Effective Date of Appeal Decision.**

1. **City Council's Decision.** A decision of the City Council on an appeal is final and shall be effective on the date the decision is rendered.
2. **Other Decisions.** A decision of the Planning Commission is final and effective after 5:00 p.m. on the tenth calendar day following the date the decision is rendered, when no appeal to the decision or call for review has been filed in compliance with this chapter. In the event the completion of the appeal period falls on a weekend or

holiday, the decision shall become effective after 5:00 pm on the first business day following the completion of the appeal period.

#### **17.152.040 Judicial Review**

No person may seek judicial review of a City decision on a permit or other matter in compliance with the Zoning Code until all appeals to the Planning Commission and City Council have been first exhausted in compliance with this chapter.

## Chapter 17.156 - POST-DECISION PROCEDURES

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### Sections:

- 17.156.010 Purpose
- 17.156.020 Issuance of Permits
- 17.156.030 City Council Decisions
- 17.156.040 Effective Date of Decision
- 17.156.050 Conformance to Approved Plans
- 17.156.060 Performance Guarantees
- 17.156.070 Changes to an Approved Project
- 17.156.080 Time Limits and Extensions
- 17.156.090 Resubmittals
- 17.156.100 Permits to Run with the Land
- 17.156.110 Permit Revocation

#### 17.156.010 Purpose

This chapter establishes procedures and requirements that apply following a City decision on a permit required by the Zoning Code.

#### 17.156.020 Issuance of Permits

Permits shall not be issued until the effective date, provided that no appeal of the review authority's decision has been filed in compliance with Chapter 17.152 (Appeals).

#### 17.156.030 City Council Decisions

All decisions of the City Council on appeals, legislative actions, and other matters are final and conclusive except for decisions which may be appealed to the Coastal Commission.

#### 17.156.040 Effective Date of Decision

##### A. City Council Decisions.

1. A decision of the City Council on a project outside of the Coastal Zone is final and shall be effective on the date the decision is rendered.
2. A decision of the City Council on a project within the Coastal Zone that is not appealable to the Coastal Commission is final and shall be effective on the date the Coastal Commission ~~has received~~ receives a Notice of Final Action consistent with Section 17.44.130 (Notice of Final Action).
3. A decision of the City Council on a project within the Coastal Zone that is appealable to the Coastal Commission is final and shall be effective after 5:00 p.m. on the tenth working day following the ~~date~~ Coastal Commission's receipt of the decision ~~is~~.

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~~rendered~~ Notice of Final Action when no appeal ~~to~~of the decision has been filed with the Coastal Commission in compliance with Chapter 17.44.440150 (Appeals).

- B. Other Decisions.** The decision of the Community Development Director or Planning Commission is final and effective after 5:00 p.m. on the tenth day following the date the decision is rendered, when no appeal ~~to~~of the decision has been filed in compliance with Chapter 17.152 (Appeals).

#### 17.156.050 Conformance to Approved Plans

- A. Compliance.** All work performed under an approved permit shall be in compliance with the approved drawings and plans and any conditions of approval imposed by the review authority.
- B. Changes.** Changes to an approved project shall be submitted and processed in compliance with Section 17.156.070 (Changes to an Approved Project).

#### 17.156.060 Performance Guarantees

- A. Security Required.** The Community Development Director may require an applicant to provide adequate security to guarantee the proper completion of any approved work or compliance with any conditions of approval.
- B. Form of Security.** The security shall be in the form of cash, a certified or cashier's check, or a performance bond executed by the applicant and a corporate surety authorized to do business in California and approved by the City.
- C. Amount of Security.** The Community Development Director shall determine the amount of the security necessary up to 150 percent of project cost to ensure proper completion of the approved work or compliance with any conditions of approval.
- D. Duration of Security.** The security shall remain in effect until all work has been completed and conditions fulfilled to the satisfaction of the Community Development Director or until a specified warranty period has elapsed.
- E. Release of Security.** The security deposit shall be released upon completion of the approved work or compliance with any conditions of approval.
- F. Failure to Comply.**
1. Upon failure to complete any work or comply with conditions, the City may complete the work or fulfill the condition, and may collect from the applicant or surety all costs incurred, including administrative, engineering, legal, and inspection costs.
  2. Any unused portion of the security shall be refunded to the funding source.

**17.156.070 Changes to an Approved Project**

An approved project shall be established only as approved by the review authority, except when changes to the project are approved in compliance with this section.

- A. Request for a Change.** An applicant shall request desired changes in writing, and shall submit appropriate supporting materials and an explanation for the request.
- B. Notice and Hearing.** If the original approval required a noticed public hearing, a noticed public hearing is required for the requested change, except as allowed by Subsection C (Minor Changes).
- C. Minor Changes.** The Community Development Director may authorize minor changes to an approved project if the changes comply with all of the following criteria:
1. The requested changes are consistent with the Zoning Code.
  2. The requested changes are consistent with the spirit and intent of the original approval.
  3. The requested changes do not involve a feature of the project that was a basis for findings in a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report for the project.
  4. The requested changes do not involve a feature of the project that was a basis for conditions of approval for the project.
  5. The requested changes do not involve a feature of the project that was a specific consideration by the review authority in granting the approval.
  6. The requested changes do not involve any expansion, intensification, or increase in size of the land use or structure.
  7. The requested changes comply with the criteria above and involve a minor change to the project design that maintains the essential elements of the project as originally approved. Minor changes to a project design include but are not limited to modifications to:
    - a. The location, size, or design of a surface parking area if consistent with Chapter 17.76 (Parking and Loading).
    - b. The location or design of an accessory structure 120 square feet and 10 feet in height or less.
    - c. The size, placement, or number of doors and windows provided the changes affect fewer than 25 percent of the structure's doors and windows and no new privacy impacts would be created.
    - d. Materials affecting less than 25 percent of the building facade provided the changes maintain the approved architectural style of the structure.
    - e. Fences and walls if consistent with Chapter 17.60 (Fences and Walls).

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- f. Landscaping if consistent with Chapter 17.72 (Landscaping).
- g. Exterior lighting if consistent with Chapter 17.96 (Supplemental Standards).
- h. Roof forms and materials provided there is no increase in structure height.
- i. Facade articulation such as porch columns, shutters, tile work, and other architectural details. Modifications that fundamentally alter the architectural style of a structure are not considered a minor change.
- j. The number, location, and size of decks and patios provide no new noise or privacy impacts would be created.
- k. The number, size, type, and location of skylights.
- l. Other similar minor changes to project design as determined by the Community Development Director.

#### 17.156.080 Time Limits and Extensions

##### A. Expiration of Permit.

- 1. A permit not exercised within two years shall expire and become void, except where an extension of time is approved as allowed by Subsection C (Extension of Time) below.
- 2. A permit shall expire and become void if the permitted land use is abandoned or discontinued for one year or longer.

##### B. Exercised Defined. A permit or approval shall be considered exercised when:

- 1. A building permit is issued and construction has commenced;
- 2. A certificate of occupancy is issued; or
- 3. The land use is established.

##### C. Extension of Time. The Community Development Director may approve extensions to a permit in the following manner:

- 1. Extensions to a permit may be approved by the review authority which originally approved the permit.
- 2. In instances where the Community Development Director was the approval authority, the Community Development Director may choose to refer any action to extend a permit to the Planning Commission for review and final decision.
- 3. The review authority may approve up to two two-year extensions (four years total) to a permit. The review authority may also approve an extension up to the expiration date of a valid tentative map as allowed by the Subdivision Map Act for projects involving a subdivision of land if such an extension is necessary to prevent a substantial hardship for the project applicant.

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4. The applicant shall submit to the Community Development Department a written request for an extension of time no later than ten days before the expiration of the permit.
5. The review authority may extend the permit if the applicant has proceeded in good faith and has exercised due diligence in efforts to exercise the permit in a timely manner.
6. The burden of proof is on the applicant to demonstrate that the permit should be extended.

#### 17.156.090 Resubmittals

- A. Resubmittals Prohibited.** For a period of twelve months following the denial or revocation of a 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.
- B. Determination.** The Community Development Director shall determine whether the new application is for a permit which is the same or substantially similar to the previously denied or revoked permit.
- C. Appeal.** The determination of the Community Development Director may be appealed to the Planning Commission, in compliance with Chapter 17.112 (Permit Application and Review).

#### 17.156.100 Permits to Run with the Land

Permits issued in compliance with the Zoning Code remain valid upon change of ownership of the site, structure, or land use that was the subject of the permit application.

#### 17.156.110 Permit Revocation

Any discretionary permit may be revoked as provided for in this section.

- A. Review Authority.**
  1. A permit may be revoked by the review authority which originally approved the permit.
  2. In instances where the Community Development Director was the approval authority, the Community Development Director may choose to refer any action to revoke a permit to the Planning Commission for review and final decision.
- B. Property Owner Notification.** Prior to initiating proceedings to revoke a permit, the Community Development Director shall notify the property owner of the permit violations, identify necessary corrections, and establish a reasonable period within which the property owner shall correct the violations. If the property owner has not corrected



the violation within the specified period of time, the City may proceed with the process to revoke the permit.

- C. Public Notice and Hearing.** Public notice and hearing for any action to revoke a permit shall be provided in compliance with Chapter 17.148 (Public Notice and Hearings).
- D. Findings.** The review authority may revoke a permit only if one or more of the following findings can be made:
1. The applicant or property owner has altered the circumstances under which the permit was granted to a degree that one or more of the findings required to grant the original permit can no longer be made.
  2. Permit issuance was based on misrepresentation by the applicant, either through the omission of a material statement in the application, or in public hearing testimony.
  3. One or more conditions of approval have been violated, or have not been complied with or fulfilled.
  4. The use or structure for which the permit was granted no longer exists or has been discontinued for a continuous period of at least twelve months.
  5. The applicant or property owner has failed or refused to allow inspections for compliance.
  6. Improvements authorized by the permit are in violation of the Zoning Code or any law, ordinance, regulation, or statute.
  7. The use or structure is being operated or maintained in a manner which constitutes a nuisance.
- E. Effect of Revocation.** The revocation of a permit shall have the effect of terminating the approval and denying the privileges granted by the permit.
- F. Appeals.** A decision on a permit revocation may be appealed in accordance with Chapter 17.152 (Appeals).

# PART 5

## Glossary

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Chapter 17.160 - Glossary..... 160-1

## Chapter 17.160 - GLOSSARY

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Capitola Staff edits in PURPLE

### Sections:

- 17.160.010 Purpose
- 17.160.020 Definitions

#### 17.160.010 Purpose

This chapter provides definitions of terms and phrases used in the Zoning Code that are technical or specialized, or which may not reflect common usage. If any of the definitions in this chapter conflict with others in the Municipal Code, these definitions shall control for only the provisions of this Zoning Code. If a word is not defined in this chapter or in other chapters of the Zoning Code, the Community Development Director shall determine the appropriate definition.

#### 17.160.020 Definitions

##### A. "A" Terms.

1. **Abutting.** "Abutting" or "adjoining" means having a common boundary, except that parcels having no common boundary other than a common corner shall not be considered abutting.
2. **Accessory Dwelling Unit.** "Accessory dwelling unit" means a self-contained living unit, either attached to or detached from, and in addition to, the primary residential unit on a single parcel.
  - a. "Accessory dwelling unit, attached," means an accessory dwelling unit that shares at least one common wall with the primary residential unit.
  - b. "Accessory dwelling unit, detached," means a secondary dwelling unit that does not share a common wall with the primary residential unit.
- ~~2-3.~~ **Accessory Structure.** "Accessory structure" means a structure that is incidental and subordinate to a primary structure or use located on the same parcel.
- ~~3-4.~~ **Accessory Use.** "Accessory use" means a land use which is incidental and subordinate to a primary land use located on the same parcel.
- ~~4-5.~~ **Addition.** "Addition" means any development or construction activity that expands the footprint or increases the habitable floor area of a building.
- ~~5-6.~~ **Adjacent.** "Adjacent" means directly abutting, having a boundary or property line(s) in common or bordering directly, or contiguous to.
- ~~6-7.~~ **Alcoholic Beverage Sales.** "Alcoholic beverage sales" means the sale of alcoholic beverages for on-site consumption at a restaurant, bar, nightclub or other establishment, or the retail sale of alcoholic beverages for off-site consumption.

~~7.8.~~ **Alteration.** See “Modification.”

~~8.9.~~ **Applicant.** “Applicant” means any person, firm, partnership, association, joint venture, corporation, or an entity or combination of entities which seeks City permits and approvals.

~~9.10.~~ **Assumed Ground Surface.** “Assumed ground surface” means a line on each elevation of an exterior wall or vertical surface which connects those points where the perimeter of the structure meets the finished grade.

~~10.11.~~ **Average Slope.** “Average slope” means the average slope of a parcel calculated using the formula:  $S = 100(I)(L)/A$ , where:

- a. S = Average slope (in percent);
- b. I = Contour interval (in feet);
- c. L = Total length of all contour lines on the parcel (in feet); and
- d. A = Area of subject parcel (in square feet).

**B. “B” Terms.**

1. **Balcony.** “Balcony” means a platform that projects from the wall of a building thirty inches or more above grade that is accessible from the building’s interior, is not accessible from the ground and is not enclosed by walls on more than two sides.”
2. **Banks.** “Banks” means a commercial establishment providing retail banking services. Includes only establishments serving walk-in customers or clients, including banks, savings and loan institutions, check-cashing services, and credit unions.
3. **Base Zoning District.** “Base zoning district” means the primary zoning, as distinguished from an overlay zone, that applies to a parcel of land as shown on the Zoning Map.
4. **Basement.** “Basement” means that portion of a building between floor and ceiling, which is partly or all below grade, and where more than the vertical distance from grade to ceiling is below the average ground contact level of the exterior walls of the building.
5. **Bay Window.** “Bay Window” means a window or series of windows serving as an important element of the building’s architecture; forming an alcove in a room and projecting outward from the wall in a rectangular, polygonal, or curved form.
6. **Block.** “Block” means the property abutting on one side of a street and lying between the two nearest intersecting streets.”
7. **Bluff or Cliff.** “Bluff” or “cliff” means the scarp or steep face of rock, decomposed rocks, sediment or soil resulting from erosion, faulting, folding or excavation of land mass and exceeding ten feet in height, and includes what are commonly known as “cliffs.” See also the definition of “Coastal Bluff” in Section 17.44.030.

8. **Building.** “Building” means any structure used or intended for supporting or sheltering any use or occupancy.
9. **Building Coverage.** “Building coverage” means the land area covered by all buildings and accessory structures on a parcel.
10. **Building Face.** “Building face” means and includes the general outer surface of a main exterior wall of a building. For example, a building with a rectangular plan has four main exterior walls and four building faces.
11. **Building Height.** “Building height” means the vertical distance measured from the assumed ground surface of the building to the highest point of the roof, ridge, or parapet wall.
12. **Business Services.** “Business Services” means an establishment that provides services to other businesses on a fee or contract basis. Includes computer rental and repair, catering, printing and duplicating services, outdoor advertising services, package delivery services, equipment rental and leasing, and other similar land uses.
13. **By-Right.** “By-right” means permitted without any form of discretionary approval.

**C. “C” Terms.**

1. **California Environmental Quality Act (CEQA).** California Environmental Quality Act (CEQA) means California State law (Public Resources Code Section 2100 et seq.) requiring government agencies to consider the environmental consequences of their actions before taking action on a proposed project.
2. **Capitola Village.** “Capitola Village” means the central core of Capitola generally bounded by the Monterey Bay shoreline to the south, the railroad trestle to the north and west, and Cliff Avenue and Depot Hill to the east.
3. **Caretaker Quarters.** “Caretaker quarters” means a residence that is accessory to a nonresidential primary use of the site, where needed for security, or 24-hour care or supervision.
4. **Carport.** “Carport” means an accessory building to a residential structure, open on two, three or four sides and attached to, or detached from, a dwelling and established for the loading or unloading of passengers or the storage of an automobile.
5. **Coastal Zone.** “Coastal zone” means the area of land and water extending from the state’s outer seaward limit of jurisdiction inland to the boundary as shown in Capitola’s Local Coastal Program (LCP) as certified by the California Coastal Commission.
6. **Colleges and Trade Schools.** “Colleges and trade schools” means institutions of higher education providing curricula of a general, religious or professional nature, typically granting recognized degrees. Includes junior colleges, business and computer schools, management training, vocational education, and technical and trade schools.

7. **Community Assembly.** “Community assembly” means a facility that provides space for public or private meetings or gatherings. Includes places of worship, community centers, meeting space for clubs and other membership organizations, social halls, union halls, banquet centers, and other similar facilities.
8. **Community Benefit.** “Community benefit” means a public amenity offered by a project applicant that advances General Plan goals but is not required by the Zoning Code or any other provision of local, State, or federal law.
9. **Commercial Entertainment and Recreation.** “Commercial entertainment and recreation” means an establishment that provides entertainment or recreation activities or services for a fee or admission charge. Includes bowling alleys, electronic game arcades, billiard halls, pool halls, sports clubs, commercial gymnasiums, dancehalls, and movie theatres.
10. **Community Development Director.** “Community Development Director” means the Community Development Director of the City of Capitola or his or her designee.
11. **Construction and Material Yards.** “Construction and material yards” means storage of construction materials or equipment on a site other than a construction site. Includes public utility buildings and service yards used by a governmental agency.
12. **Cultural Institution.** “Cultural institution” means a public or nonprofit institution that engages in cultural, scientific, and/or educational enrichment. Includes libraries, museums, performing art centers, aquariums, environmental education centers, non-profit art centers and galleries, botanical gardens, and other similar uses.
13. **Curb-side Service.** “Curb-side service” or “drive-up service” means service provided by a commercial establishment while a customer remains waiting within a vehicle.
14. **Custom Manufacturing.** See “Manufacturing, Custom.”

#### D. “D” Terms

1. **Dark Sky Compliant.** “Dark sky compliant” means a lighting fixture that meets the International Dark Sky Association's (IDA) requirements for reducing waste of ambient light.
2. **Day Care Center.** “Day care center” means a facility that provides non-medical care and supervision of minors for periods of less than 24 hours. Includes nursery schools, day nurseries, child care centers, infant day care centers, cooperative day care centers, and similar uses.
3. **Daylight Plane.** “Daylight plane” means the imaginary line beginning at a height of 20 feet at the setback from a property line and extending into the parcel at an angle of 45 degrees.

4. **Deck.** “Deck” means an outdoor a platform, either freestanding or attached to a building, ~~that~~which is supported by pillars or posts.
5. **Demolition, Substantial.** “Substantial demolition” means the removal or replacement of either 50 percent or more of the lineal footage of existing interior and exterior walls or 50 percent or more of the area of existing floor, ceilings, and roof structures.
6. **Density.** “Density” means the number of dwelling units per acre of land, excluding street rights-of-way, public easements, public open space, land under water, and certified wetlands and floodplains.
7. **Design Review.** “Design Review” means that process for the City to review and act on a Design Permit application.
8. **Designated Historic Resource.** See Section 17.84.020.A (Designated Historic Resources).
9. **Development.** “Development” means any human-caused change to land that requires a permit or approval from the City. See Section 17.44.030 for the definition of “Development” that applies in the coastal zone.
10. **Development Standards.** “Development standards” means regulations in the Zoning Code that limit the size, bulk, or placement of structures or other improvements and modifications to a site.
11. **Discretionary Approval.** “Discretionary approval” means an action by the City by which individual judgment is used as a basis to approve or deny a proposed project.
12. **Drive-Through Facility.** “Drive-Through Facility” means a facility where a customer is permitted or encouraged, either by the design of physical facilities or by the service procedures offered, to be served while remaining seated within a vehicle. Includes drive-through restaurants, coffee shops, pharmacies, banks, automatic car washes, drive-up windows, and other similar land uses and services.
13. **Duplex Home.** “Duplex home” means a residential structure that contains two dwelling units, each with its own entrance. Each unit within a duplex home provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
14. **Dwelling Unit.** “Dwelling unit” means a building or a portion of a building containing one or more habitable rooms used or designed for occupancy by one family for living and sleeping purposes, including kitchen and bath facilities.

**E. “E” Terms.**

1. **Eating and Drinking Establishments.** “Eating and drinking establishments” means businesses primarily engaged in serving prepared food and/or beverages for consumption on or off the premises.

- a. “Bars and Lounges” means a business devoted to serving alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages. Includes cocktail lounges, nightclubs, taverns, and other similar uses.
  - b. “Restaurants and Cafes” means a business establishment serving food and beverages to customers where the food and beverages may be consumed on the premises or carried out and where more than 160 square feet of public area is open to customers. Includes full service restaurants, fast-food restaurants, coffee shops, cafes, and other similar eating and drinking establishments.
  - c. “Take-Out Food and Beverage” means establishments where food and beverages may be consumed on the premises, taken out, or delivered, but where the area open to customers is limited to no more than 160 square feet. Includes take-out restaurants, take-out sandwich shops, limited service pizza parlors and delivery shops, and snack bars. Also includes catering businesses or bakeries that have a storefront retail component.
2. **Elderly and Long-Term Care.** “Elderly and Long Term Care” means establishments that provide twenty-four-hour medical, convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves, and is licensed as a skilled nursing facility by the State of California, including but not limited to rest homes and convalescent hospitals, but not residential care, hospitals, or clinics
  3. **Emergency Shelter.** Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person, as defined in Section 50801 of the California Health and Safety Code.

#### F. “F” Terms

1. **Farmers’ Market.** “Farmers’ market” means a market held in an open area or in a structure where groups of individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, locally produced arts and crafts items but excludes second-hand goods. Food and beverages dispensed from booths located on site is permitted as an accessory use.
2. **Financial Institution.** “Financial institution” means a professional office conducting businesses within the financial industry. Excludes commercial establishments providing retail banking services to walk-in customers or clients (see “banks”).
3. **Fence.** “Fence” means a structure connected by boards, masonry, rails, panels, or other similar permanent building material for the purpose of enclosing space or separating parcels of land. This definition includes gates but excludes hedges and other living plants.



4. **Floor Area.** “Floor area” means the sum of the horizontal areas of all floors of an enclosed structure, measured from the outside perimeter of the exterior walls as described in Section 17.48.040 (Floor Area and Floor Area Ratio).
5. **Floor Area Ratio.** “Floor area ratio” means the gross floor area of all of the buildings on the parcel divided by the net parcel area.
6. **Food Preparation.** “Food Preparation” means ~~a~~ businesses preparing and/or packaging food for off-site consumption, excluding those of an industrial character in terms of processes employed, waste produced, water used, and traffic generation. Includes catering kitchens, and small-scale specialty food production.
7. **Frontage.** “Frontage” means that portion of all property abutting a street.

#### G. “G” Terms

1. **Garage.** “Garage” means an enclosed structure or a part of a building designed or used for the storage of automobiles and other motor vehicles.
2. **Garage Sale.** “Garage Sale” means a temporary sale for the purpose of selling, trading or otherwise disposing of household furnishings, personal goods or other tangible properties of a resident of the premises on which the sale is conducted.
3. **Gas and Service Stations.** “Gas and service stations” means a retail business establishment supplying gasoline and oil and minor accessories for automobiles. Included in this definition are incidental food and beverage and car wash facilities.
4. **Group Housing.** “Group housing” means shared living quarters without separate kitchen or bathroom facilities for each room or unit, offered for rent for permanent or semi-transient residents on a weekly or longer basis. Includes rooming and boarding houses, single-room occupancy housing, dormitories, and other types of organizational housing, and extended stay hotels intended for long-term occupancy (30 days or more). Excludes hotels, motels, bread and breakfasts, and residential care facilities.
5. **Geological Hazard.** “Geological hazard” means a threat to life, property or public safety caused by geological or hydrological processes such as faulting and secondary seismic effects, including but not limited to: liquefaction, landsliding, erosion, flooding, tsunami or storm wave inundation.
6. **Government Offices.** “Government offices” means a place of employment occupied by governmental agencies and their employees. Includes offices for administrative, clerical, and public contact functions but excludes corporation yards, equipment service centers, and similar facilities that primarily provide maintenance and repair services and storage facilities for vehicles and equipment
7. **Grading.** “Grading” means ~~Anyany~~ and all activities involving earthwork, including placement or fill and/or excavation.

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8. **Ground Floor.** “Ground floor” means the first floor of a building other than a cellar or basement that is closest to finished grade.

#### H. “H” Terms

1. **Habitable Space.** “Habitable space” means an area within a building that is conditioned (heated or cooled) with a finished floor and a ceiling height of at least 7 feet 6 inches. Excludes unfinished attics, cellars, crawl spaces, and other similar utility areas.
2. **Height.** See “building height.” For structures other than buildings, “height” means the vertical distance from grade to the highest point of the structure directly above.
3. **Home Day Care.** “Home day care” means a facility providing daytime supervision and care for adults, children, or elderly located in the provider’s own home.
  - a. “Home day care facilities, large” means a day care home facility supervising 9 to 14 persons.
  - b. “Home day care facilities, small” means a day care home facility supervising 8 persons for less.
4. **Historic Resource.** “Historic Resource” means either a Designated Historic Resource or a Potential Historic Resource as defined in Section 17.84.020 (Types of Historic Resources).
5. **Historic Alteration Permit.** “Historic alteration permit” means the City permit required to alter the exterior of a historic resource in accordance with Section 17.84.060 (Historic Alteration Permit).
6. **Home Occupation.** “Home occupation” means the conduct of a business within a dwelling unit or residential site, with the business activity being subordinate to the residential use of the property.

#### I. “P” Terms.”

1. **Impervious Surface.** “Impervious surface” means any surface that does not permit the passage of water. Impervious surfaces include buildings, parking areas, and all paved surfaces.

#### J. “J” Terms. None.

#### K. “K” Terms”

1. **Kitchen.** “Kitchen” means any room or part of a room used or intended or designed to be used for cooking or the preparation of food for a single dwelling unit, and distinct from a “mini-bar/convenience area” which is intended as a supplemental food preparation area within a single-family home.

#### L. “L” Terms.

1. **Land Use.** An activity conducted on a site or in a structure, or the purpose for which a site or structure is designed, arranged, occupied, or maintained. The meaning of the term “use” is identical to “land use.”
2. **Landscaping.** “Landscaping” means the planting and maintenance of living plant material, including the installation, use, and maintenance of any irrigation system for the plant material, as well as nonliving landscape material (such as rocks, pebbles, sand, mulch, walls, fences, or decorative paving materials).
3. **Liquor Store.** “Liquor store” means a business selling alcoholic beverages for off-site consumption with the sale of alcoholic beverages constituting its primary source of revenue.
4. **Local Coastal Program (LCP).** “Local Coastal Program” means the City’s Land Use Plan and Implementation Plan which includes portions of municipal code, portions of the Zoning Code, Zoning Map (as more specifically identified in Chapter 17.44 (Coastal Overlay) and actions certified by the Coastal Commission as meeting the requirements of the California Coastal Act of 1976.
5. **Light Manufacturing.** See “Manufacturing, Light.”
6. **Lodging.** “Lodging” means an establishment providing overnight accommodations to transient patrons for payment for periods of less than 30 consecutive days.
  - a. “Bed and breakfast” means a residential structure that is in residential use with one or more bedrooms rented for overnight lodging and where meals may be provided.
  - b. “Hotel” means an establishment providing overnight lodging to transient patrons. Hotels and motels may provide additional services, such as conference and meeting rooms, restaurants, bars, or recreation facilities available to guests or to the general public. Includes motor lodges, motels, extended-stay hotels, and tourist courts, but does not include group housing or bed and breakfast establishments, which are separately defined and regulated.
7. **Lot.** See “Parcel.”

**M. “M” Terms.**

1. **Maintenance and Repair Services.** “Maintenance and repair services” means businesses which provide construction, maintenance and repair services off-site, but which store equipment and materials or perform fabrication or similar work on-site. Includes off-site plumbing shops, general contractors, contractor’s storage yards, appliance repair, janitorial services, electricians, pest control, heating and air conditioning, roofing, painting, landscaping, septic tank service, and other similar uses.
2. **Manufacturing, Custom.** “Manufacturing, custom” means establishments primarily engaged in on-site production of goods by hand manufacturing or artistic endeavor, which involves only the use of hand tools or small mechanical equipment

and the incidental direct sale to consumers of only those goods produced on site. Typical uses include ceramic studios, candle making shops, woodworking, and custom jewelry manufacturers.

3. **Manufacturing, Light.** “Manufacturing, Light” means the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing and custom manufacturing.
4. **Material Change.** “Material change” means any significant alteration, by private or public action, in the external appearance or surface of an improvement, landscape or vista. This shall not include ordinary maintenance which does not require a permit.
5. **Ministerial Action.** “Ministerial action” means a City decision on a planning permit which involves only the use of fixed standards or objective measurements and does not require the exercise of discretion.
6. **Mini-Bar/Convenience Area.** “Mini-bar/convenience area” means a supplemental food preparation area within a single-family home subject to the standards in Section 17.16.030.B.9 (Mini-Bar/Convenience Areas).
7. **Medical Offices and Clinics.** “Medical offices and clinics” means a facility where medical, mental, dental, or other personal health services are provided on an outpatient basis using specialized equipment. Includes offices for physicians, dentists, and optometrists, diagnostic centers, blood banks and plaza centers, and emergency medical clinics offered exclusively on an out-patient basis. Hospitals are excluded from this definition.
8. **Mixed Use.** “Mixed use” means two or more different land uses located in one structure or on one parcel or development sites.
9. **Mobile Food Vendors.** “Mobile Food Vendors” means businesses selling food or drinks from temporary and semi-permanent structures or mobile equipment such as food trucks or pushcarts.
10. **Mobile Home Park.** See Section 17.100.030 (Definitions) of Chapter 17.100 (Mobile Home Park Conversions).
11. **Modification.** “Modification” means any construction or physical change in the internal arrangement of rooms or the supporting members of a structure, or a change in the external appearance of any structure, not including painting.
12. **Multi-Family Dwelling.** Multi-family dwelling” means a building that contains three or more dwelling units, with each unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**N. “N” Terms.**

1. **Nonconforming Parcel.** “Nonconforming parcel” means a parcel that was lawfully established but that no longer conforms with the parcel size or dimension standards of the zoning district in which it is located.
2. **Nonconforming Structure.** “Nonconforming structure” means a structure which does not meet the current development standards for the district in which the structure is located. Development standards include, but are not limited to setbacks, height or lot coverage regulations of the zoning district, but do not include standards contained in the Uniform Codes, such as the Building Code.
3. **Nonconforming Use.** “Nonconforming use” means a use that lawfully occupied a building or land at the time the use was established, but that no longer conforms with the use regulations of the zoning district in which it is located.

**O. “O” Terms.**

1. **Open Space, Private.** “Open space, private” means open areas for outdoor living and recreation that are adjacent and directly accessible to a single dwelling unit, reserved for the exclusive use of residents of the dwelling unit and their guests.
2. **Open Space, Common.** “Open space, common” means areas for outdoor living and recreation that are intended for the use of residents and guests of more than one dwelling unit.
3. **Overlay Zone.** “Overlay zone” means an additional zoning district as shown on the Zoning Map that prescribes special regulations to a parcel in combination with the base zoning district.

**P. “P” Terms.**

1. **Parcel.** “Parcel” means ~~a lot, tract, or an~~ area of land whose boundaries have been established by a legal instrument such as a deed or map recorded with the County of Santa Cruz, and which is recognized as a separate legal entity for purposes of transfer of title, except public easements or rights-of-way. ~~The meaning of “lot” is identical to “parcel.” A legal lot may consist of multiple parcels.~~
2. **Parcel Area, Gross.** “Gross parcel area” means the total horizontal area included within the parcel lines of the parcel, including one-half the width of any alley or portion thereof abutting a parcel line.
3. **Parcel Area, Net.** “Net parcel area” means the gross parcel area excluding: a) any recorded easements to allow others to use the surface of the property for necessary access to an adjacent property or other similar use such as a shared driveway or public access agreement (excludes utility easements), and b) any area under the high water mark that extends into a waterway.
4. **Parcel, Corner.** “Corner parcel” means a parcel situated at the junction of two or more intersecting streets, with a parcel line bordering on each of the two or more streets.

5. **Parcel Depth.** “Parcel depth” means the average distance from the front parcel line to the rear parcel line, measured in the general direction of the side parcel lines.
6. **Parcel Line.** “Parcel line” means the lines bounding a parcel.
7. **Parcel Line, Front.** “Front parcel line” means that dimension of a parcel or portion of a parcel, abutting on a street except the side of a corner parcel. On a corner parcel the narrowest street frontage is considered the front parcel line. The Community Development Director may designate the front parcel line for irregularly shaped parcels with unusual development patterns.
8. **Parcel Line, Rear.** “Rear-parcel line” means ordinarily, the line of a parcel which is generally opposite the front parcel line of said parcel. The Community Development Director may designate the rear parcel line for irregularly shaped parcels with unusual development patterns.
9. **Parcel Line, Interior Side.** “Interior side parcel line” means any boundary line not a front line or a rear line shared with another parcel.
10. **Parcel Line, Exterior Side.** “Exterior side parcel line” means any boundary line not a front line or a rear line adjacent to a street.
11. **Parcel, Reversed Corner.** “Reversed corner parcel” means a corner parcel, the side street line of which is substantially a continuation of the front line of the parcel upon which it rears.
12. **Parcel Width.** “Parcel width” means the average distance between the side parcel lines, measured at right angles to the parcel depth.
13. **Parking Lot.** “Parking lot” means an open area of land, a yard or other open space on a parcel other than a street or alley, used for or designed for temporary parking for more than four automobiles and available for public use, whether free, for compensation, or as an accommodation for clients or customers.
14. **Parking Space.** “Parking space” means land or space privately owned, covered or uncovered, laid out for, surfaced, and used or designed to be used for temporary parking or storage of standard motor vehicles.
15. **Parks and Recreational Facilities.** “Parks and recreational facilities” means non-commercial public facilities that provide open space and/or recreational opportunities. Includes parks, community gardens, community centers, passive and active open space, wildlife preserves, playing fields, tennis courts, swimming pools, gymnasiums, and other similar facilities.
16. **Personal Services.** “Personal services” means an establishment that provides services to individuals and that may provide accessory retail sales of products related to the services provided. Includes barber shops and beauty salons, nail salons, dry cleaning establishments, self-service laundromats, tailors, tanning salons, State-licensed massage therapists, fitness studios, yoga studios, dance studios, pet grooming services, veterinary clinics, and other similar land uses. Also includes

establishments that primarily offer specialized programs classes in personal growth and development such as music, martial arts, vocal, fitness and dancing instruction. This does not include professional office that offer classes in addition to the professional office spaces.

17. **Planning Permit.** “Planning permit” means any permit or approval required by the Zoning Code authorizing an applicant to undertake certain land use activities.
18. **Potential Historic Resource.** See Section 17.84.020.B (Potential Historic Resources).
19. **Primary Use.** “Primary use” means the main purpose for which a site is developed and occupied, including the activities that are conducted on the site a majority of the hours during which activities occur.
20. **Primary Structure.** “Primary structure” means a structure that accommodates the primary use of the site.
21. **Professional Office.** “Professional office” means a place of employment occupied by businesses providing professional, executive, management, or administrative services. Includes offices for accountants, architects, advertising agencies, insurance agents, attorneys, commercial art and design services, non-retail financial institutions, real estate agents, news services, photographers, engineers, employment agencies, real-estate agents, and other similar professions. Also includes research and development facilities that engagesengage in research, testing, and development of commercial products or services in technology-intensive fields.
22. **Public Safety Facility.** “Public safety facility” means a facility operated by a governmental agency for the purpose of protecting public safety. Includes fire stations and other fire-fighting facilities, police stations, public ambulance dispatch facilities, and other similar land uses.

**Q. “Q” Terms.** None.

**R. “R” Terms.**

1. **Recreational Vehicle (RV).** “Recreational vehicle” means a motor home, travel trailer, truck camper, or camping trailer, with or without motive power, originally designed for human habitation for recreational, emergency, or other occupancy, which meets all of the following criteria:
  - a. Contains less than 320 square feet of internal living room area, excluding built-in equipment, including wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms;
  - b. Contains 400 square feet or less of gross area measured at maximum horizontal projections;
  - c. Is built on a single chassis; and

- d. Is either self-propelled, truck-mounted, or permanently towable on the highways without a towing permit.
2. **Recycling Collection Facility.** A center for the acceptance by donation, redemption, or purchase, of recyclable materials from the public.
  3. **Remodel.** “Remodel” means a change or alteration in a building that does not increase the building’s net square footage.
  4. **Residential Care Facility.** “Residential care facility” means a state-licensed residential facility providing social and personal care for residents. Includes children’s homes, homes for the elderly, orphanages, self-help group homes, and transitional housing for the homeless. Excludes facilities where medical care is a core service provided to residents, such as nursing and convalescent homes.
    - a. “Residential care facility, large” means a residential care facility for 7 or more persons.
    - b. “Residential care facility, small” means a residential care facility for 6 or fewer persons.
  5. **Residential Mixed Use.** “Residential mixed use” means one or more structures on a single parcel that contains both dwelling units and non-residential uses such as retail, restaurants, offices, or other commercial uses. Different land uses may be within a single structure (vertical mixed use) or in separate structures on a single parcel (horizontal mixed use).
  6. **Retail.** “Retail” means stores and shops selling merchandise to the general public. Includes drug stores, general merchandise stores, convenience shops, pet stores, department stores, and other similar retail establishments.
  7. **Review Authority.** “Review authority” means the City official or City body that is responsible, under the provisions of the Zoning Code, for approving or denying a permit application or other request for official City approval.
- S. **“S” Terms.**
1. **Salvage and Wrecking.** “Salvage and wrecking” means storage and dismantling of vehicles and equipment for sale of parts, as well as their collection, storage, exchange or sale of goods including, but not limited to, any used building materials, used containers or steel drums, used tires, and similar or related articles or property.
  2. **Schools, Public or Private.** “Schools, Public or Private” means public or private facilities for education, including elementary, junior high, and high schools, providing instruction and study required in public schools by the California Education Code.
  - ~~3. **Secondary Dwelling Unit.** “Secondary dwelling unit” means a self-contained living unit, either attached to or detached from, and in addition to, the primary residential unit on a single parcel.~~



- ~~a. “Secondary dwelling unit, attached,” means a secondary dwelling unit that shares at least one common wall with the primary residential unit.~~
- ~~b. “Secondary dwelling unit, detached,” means a secondary dwelling unit that does not share a common wall with the primary residential unit.~~

~~4.3. Setback.~~ “Setback” means the minimum allowable distance from a given point or line of reference such as a property line to the nearest vertical wall or other element of a building or structure as defined in this chapter, ~~or from a natural feature such as a bluff edge or an environmentally sensitive habitat area.~~ Setbacks ~~for buildings or structures~~ shall be measured at right angles from the nearest property line establishing a setback area line parallel to that parcel line. Where a property line is located within a street, the setback shall be measured from the edge of the right-of-way containing the street.

~~5.4. Sign.~~ See Chapter 17.80 (Signs).

~~6.5. Single-Family Dwelling.~~ “Single-family dwelling” means a residential structure designed for occupancy by one household. A single-family ~~homedwelling~~ provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

~~7.6. Site.~~ “Site” means a parcel or adjoining parcels that are under single ownership or single control, and that are considered a unit for the purposes of development or other use.

~~8.7. Site Area.~~ “Site area” means the total area included within the boundaries of a site.

~~9.8. Self-Storage.~~ “Self-storage” means a structure or group of structures with controlled access that contains individual and compartmentalized stalls or lockers for storage of customers’ goods.

~~10.9. Split Zoning.~~ “Split zoning” means a parcel on which two or more zoning districts apply due to zoning district boundaries crossing or otherwise not following the parcel boundaries.

~~11.10. Story.~~ “Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under-floor space is more than 6 feet above grade as defined in this chapter for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined in this chapter at any point, such basement, cellar or unused under-floor space shall be considered as a story.

~~12.11. Story, Half.~~ “Half story” means a partial story under a gable, hip or gambrel roof, the wall plates of which are at least two opposite exterior walls and which are not more than four feet above the floor plate of the second floor, and may include shed or dormer projections from those walls. Dormers may constitute not more than

one-third of the length of the wall upon which they are located, whether as a single unit or multiple dormers.

~~13~~12. **Street.** “Street” means a public way more than 20 feet in width which affords a primary or principal means of access to abutting property. “Streets” includes private roads and highways.

~~14~~13. **Structural Alterations.** “Structural alterations” means any change in the supporting members of a building, such as bearing walls, columns, beams, girders, floor, ceiling or roof joists and roof rafters, or change in roof exterior lines which would prolong the life of the supporting members of a building.

~~15~~14. **Structure.** “Structure” means anything constructed or erected that requires attachment to the ground, or attachment to something located on the ground. Pipelines, poles, wires, and similar installations erected or installed by public utility districts or companies are not included in the definition of “structure.” In the coastal zone, “structure” includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

#### T. “T” Terms.

1. **Tandem Parking.** “Tandem parking” means an arrangement of parking spaces such that one or more spaces must be driven across in order to access another space or spaces.
2. **Temporary Structure.** “Temporary structure” means a structure that is erected for a limited period of time, typically no longer than 180 days, and that does not permanently alter the character or physical facilities of a property.
3. **Temporary Use.** “Temporary use” means a short-term activity that may or may not meet the normal development or use standards of the applicable zone, but that occurs for a limited period of time, typically less than 12 months and does not permanently alter the character or physical facilities of a property.
4. **Trellis.** “Trellis” means a structure made from an open framework or lattice of interwoven or intersecting pieces of wood, bamboo or metal made to support and display climbing plants.

#### U. “U” Terms.

1. **Upper Floor.** “Upper floor” means any story of a building above the ground floor.
2. **Urban Agriculture.** “Urban agriculture” means activities involving the raising, cultivation, processing, marketing, and distribution of food in urban areas.
  - a. “Home garden” means the property of a single-family or multifamily residence used for the cultivation of fruits, vegetables, plants, flowers, or herbs by the residents of the property, guests of the property owner, or a gardening business hired by the property owner.

- b. “Community garden” means privately or publicly owned land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by multiple users. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained or used by group members.
  - c. “Urban farm” means privately or publicly owned land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by an individual, organization, or business with the primary purpose of growing food for sale.
3. **Use.** See “Land Use.”
  4. **Utilities, Major.** “Utilities, major” means generating plants, electric substations, solid waste collection, including transfer stations and materials recovery facilities, solid waste treatment and disposal, water or wastewater treatment plants, and similar facilities of public agencies or public utilities
  5. **Utilities, Minor.** “Utilities, Minor” means infrastructure facilities that are necessary to serve development within the immediate vicinity such as electrical distribution lines and underground water and sewer lines.

#### V. “V” Terms.

1. **Vacation Rental.** “Vacation rental” means the occupancy for hire of ~~real~~residential property or a portion thereof for a period of less than 30 consecutive calendar days. See Section 17.40.030 (Vacation Rental Overlay Zone). “For hire,” for purposes of this section, does not include:
  - a. The owner or long-term lessee of the property, without consideration, allowing family or friends to use the property;
  - b. An arrangement whereby the owner or long-term lessee of the property agrees to a short-term trade with another property owner or long-term lessee whereby the sole consideration is each concurrently using the other’s property.
2. **Valet Parking Service.** “Valet parking service” means a parking service provided to accommodate patrons of one or more businesses that is accessory and incidental to the business and by which an attendant on behalf of the business takes temporary custody of a patron’s motor vehicle and moves, parks, stores or retrieves the vehicle for the patron’s convenience.
3. **Vehicle Repair.** Vehicle repair means an establishment for the repair, alteration, restoration, or finishing of any vehicle, including body repair, collision repair, painting, tire and battery sales and installation, motor rebuilding, tire recapping and retreading, and towing. Repair shops that are incidental to a vehicle sales or rental establishment on the same site are excluded from this definition.
4. **Vehicle Sales and Rental.** “Vehicle sales and rental” means an establishment for the retail sales or rental of new or used vehicles. Includes the sale of vehicle parts and vehicle repair, provided that these activities are incidental to the sale of vehicles.

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GLOSSARY

- 5. **Vehicle Sales Display Room.** “Vehicle sales display room” means an establishment for the retail sales of new vehicles conducted entirely within an enclosed building. Outdoor storage and display of vehicles are not permitted.

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**W. “W” Terms.**

1. **Wall.** “Wall” means a permanent upright linear structure made of stone, concrete, masonry, or other similar material.
2. **Warehousing and Distribution.** “Warehousing and distribution” means an establishment used primarily for the storage and/or distributing goods to retailers, contractors, commercial purchasers or other wholesalers, or to the branch or local offices of a company or organization. Includes vehicle storage, moving services, general delivery services, refrigerated locker storage facilities, and other similar land uses.
3. **Wholesaling.** “Wholesaling” means indoor storage and sale of goods to other firms for resale. Wholesalers are primarily engaged in business-to-business sales, but may sell to individual consumers through mail or Internet orders. Wholesalers normally operate from a warehouse or office having little or no display of merchandise, and are not designed to solicit walk-in traffic.
4. **Wireless Communication Facilities.** ~~See Chapter 17.114 “Wireless Communications Facility” means a facility that transmits or receives electromagnetic signals for the purpose of transmitting voice or data communications. See Chapter 17.114. (Wireless Communication Facilities).~~

**X. “X” Terms.** None.

**Y. “Y” Terms.**

1. **Yard.** “Yard” means an open space, other than a court, on the same parcel with a building, unoccupied and unobstructed from the ground upward, except for such encroachments allowed by the Zoning Code.
2. **Yard, Front.** “Front yard” means a yard extending across the full width of the parcel, the depth of which is the minimum horizontal distance between the front line of the parcel and the nearest line of the main building or enclosed or covered porch. On a corner parcel the front line of the parcel is ordinarily construed as the least dimension of the parcel fronting on a street.
3. **Yard, Rear.** “Rear yard” means a yard extending across the full width of the parcel, and measured between the rear line of the main building or enclosed or covered porch nearest the rear line of the parcel; the depth of the required rear yard shall be measured horizontally.
4. **Yard, Side.** “Side yard” means a yard on each side of the main building extending from the front yard to the rear yard, the width of each yard being measured between the side line of the parcel and the nearest part of the main building or enclosed or covered porch.
5. ~~**Wireless Communications Facility.** “Wireless Communications Facility” means a facility that transmits or receives electromagnetic signals for the purpose of transmitting voice or data communications.~~

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Land Use Plan  
City of Capitola  
Local Coastal Program

Certified by the California Coastal Commission  
June, 1981  
December, 1981

Revised and Updated to Include Amendments  
October, 2001  
January 2005 (CAP-MAJ-2-04)

Attachment: LCP Land Use Plan (Update to Zoning Ordinance/ LCP Implementation Plan)

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LAND USE PLAN MAP IN POCKET OF BACK COVER



## INTRODUCTION

In the general election of November 1972, the people of the State of California approved a ballot initiative known as Proposition 20 which established the California Coastal Commission and six regional commissions. These were temporary commissions, which, through the permit authority, were to manage the coastal zone as a resource of statewide interest. Concurrently, the commissions were to prepare a comprehensive Coastal Plan “to preserve, protect, and where possible, to restore, the resources of the Coastal zone for the enjoyment of the current and succeeding generations”. The Coastal Plan, completed on schedule in late 1975, served as the basis for permanent California Coastal legislation.

In 1976 the state legislature passed the California Coastal Act of 1976, to implement those recommendations found appropriate in the Coastal Plan. A key factor in the law was that most of the authority vested in the Commission by the Coastal Act was to be transferred to the local governments through adoption and certification of “Local Coastal Programs.”

The Local Coastal Program (LCP) includes a local government’s land use plans, zoning ordinance, zoning district maps and other implementing actions, which, when taken together, meet the requirements of, and implement the provisions and policies of the Coastal Act. Each LCP will reflect the coastal issues and concerns of the local jurisdiction and must be consistent with the statewide policies of the Coastal Act. Once adopted, the LCP becomes legally binding on the City and provides a permanent program for coastal protection. Adoption transfers permit authority, except in limited cases, to the local government.

When certified, the LCP then becomes binding not only on local public and private development, but also on special districts and state agencies. The basic goals of the Coastal Act, as stated in the Public Resources Code, Section 30001.5, are to:

- a) Protect, maintain and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and manmade resources.
- b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.
- c) Maximize public access to and along the coastal and maximize public recreation opportunities in the coastal zone, consistent with sound resource conservation principles and constitutionally protected rights of private property owners.
- d) Assure priority for coastal-dependent development over other development on the coast.
- e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

The City of Capitola, through an option allowed under Section 30500(a) of the Coastal Act, has chosen to have the Coastal Commission prepare the Land Use portion of the City's Local Coastal Program.

Local Coastal Programs are divided into two major parts – the Land Use Plan and the Implementation Plan. The Coastal Commission has prepared the draft Land Use Plan for the City of Capitola's review and approval. The City of Capitola will prepare the Implementation Plan.

The Land Use Plan is defined by Section 30108-4 of the Coastal Act as the "relevant portions of a local government's general plan, or local coastal element, which are sufficiently detailed to indicate the kinds, location and intensity of land uses, the applicable resource protection and development policies, and where necessary, a listing of implementing actions." The Local Coastal Land Use Plan for the City of Capitola is a comprehensive long-term plan for land use and physical development within the City's coastal zone. The draft plan consists of proposed policies and recommendations for land use designations that are consistent with the provisions of the Coastal Act. In some instances this has involved changes in land use designations from Capitola's current General Plan, and new or revised development guidelines.

The Implementation Phase of the Land Use Plan will be prepared after the Land Use Plan is adopted. The Implementation Plan will include zoning, regulation revision, and other programs needed to carry out the goals, policies and land use designations of the Capitola LCP Land Use Plan.

Both plans will undergo public hearings prior to adoption by the City; the Land Use Plan, and later the Implementation Plan, will then be submitted to the Coastal Commission for "certification" that the Local Coastal Program has met the requirements of the Coastal Act. This stage of the review process includes public hearing before the Regional and State Coastal Commission on the Land Use Plan, and Regional Commission action on the Implementation Plan which becomes final unless it is appealed to the State Commission. Finally, the City Council will "enact" or "ratify" the certified LCP, including any necessary revisions to the General Plan or Zoning Ordinance, and Capitola will receive the authority to issue coastal permits.

The Local Coastal Program will be an important document in determining the future of Capitola's coastal zone. Like any plan, it must remain pertinent and up-to date in order to be effective. The Coastal Act provides for Commission review of each LCP at least every five years, and , in addition, the City may prepare and submit LCP amendments for review by the Coastal Commission on a periodic basis. Amendments must also be certified before becoming effective. Commission regulations currently permit up to three LCP amendments each year.

This Land Use Plan is divided into six different components, each of which focuses on a major group of Coastal Act policies:

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

Each component includes a background section, a listing of applicable Coastal Act policies, a discussion of existing local regulations, the recommended LCP Land Use Plan policies and examples of LCP implementation measures for consideration by the City of Capitola.

The recommended LCP Land Use Plan policies and examples of implementation measures are located at the end of each component on paper with a border for easy identification. The policies in Component I are interspersed throughout the text and are, therefore, individually “boxed.”

## LAND USE PLAN FRAMEWORK POLICIES

A framework for the Land Use Plan is provided by the following general policies:

### POLICY A

The City of Capitola shall adopt the policies of the Coastal Act (State Law – Public Resources Code [PRC] Sections 30200-30264) as the guiding policies of this Land Use Plan. If there is a need for interpretation beyond the policies in each component, the Coastal Act Policies will be used as the basis. (The complete text of the PRC Sections 30200-30264 is included in the Appendices.)

### POLICY B

Where policies in the Land Use Plan overlap or conflict, the policy that is the most protective of coastal resources shall take precedence.

### POLICY C

The Capitola LCP Land Use Plan shall be adopted as an amendment to the Capitola General Plan.

### POLICY D

In reviewing or carrying out projects outside the coastal zone, the City shall consider the effect of such projects or actions on coastal zone resources in order to ensure that the policies of the Capitola LCP Land Use Plan are achieved.

### POLICY E

Prior to the issuance of any permit for development in the coastal zone, the City of Capitola shall prepare necessary findings that the development meets the standards set forth in all applicable Land Use Plan policies.

### POLICY F

The City of Capitola shall maintain a high level of opportunities for public participation throughout the entire Local Coastal Program and Implementation Planning process.

### POLICY G

The Land Use Plan brings the City's General Plan, Zoning Ordinances and other policies for lands within the coastal zone into conformance with the Coastal Act. It should be recognized that the Land Use Plan must be used in concern with other local, state and federal policies and regulations when evaluating any development proposal. If a conflict between policies arises, the adopted Land Use Plan policies shall be the prevailing policy.

## I. LOCATING AND PLANNING NEW OR INTENSIFIED DEVELOPMENT PUBLIC WORKS FACILITIES

### BACKGROUND

The City of Capitola's coastal zone is urbanized and largely developed with a mixture of residential and commercial use. Only a very small number of undeveloped parcels of various sizes remain in the City. Capitola has no large tracts of undeveloped land which would provide for significant growth. In analyzing potential land use for the remaining undeveloped lands, and considering changes in existing uses, Coastal Act policies which establish priority uses must be considered. Coastal Act policies require that there be adequate public services to support development.

This section of the Land Use Plan provides a synopsis of some of the most challenging issues facing the City of Capitola in meeting the policies of the Coastal Act.

### RELEVANT COASTAL ACT POLICIES

The following Coastal Act policies deal directly with the establishment of priority uses and criteria for development:

#### SEC. 30250

- a) New residential, commercial or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it, or, where such areas are not able to accommodate it, in other areas with adequate public services, and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions other than leases for agricultural uses outside existing developed areas, shall be permitted only where 50 per cent of the usable parcels in the area have been developed, and the created parcels would be no smaller than the average size of surrounding parcels.
- b) Where feasible, new hazardous industrial development shall be located away from existing developed areas.
- c) Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

#### SEC. 30251

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to

minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible , to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designed in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

SEC. 30252

The location and amount of new development should maintain and enhance public areas to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses, such as high-rise office building , and by (6) assuring that the recreational needs of the new residents will not overload the nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of on site recreational facilities to serve the new development.

SEC. 30253

New development shall:

- 1) Minimize risks to life and property in areas of high geologic, flood and fire hazard.
- 2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along cliffs and bluffs.
- 3) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development.
- 4) Minimize energy consumption and vehicle miles traveled.
- 5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

SEC. 30254

New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; provided, however, that it is the intent of the legislature that State Highway Route 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.

SEC. 30255

Coastal-dependent developments shall have priority over other developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

EXISTING DEVELOPMENT PATTERNS AND CITY LAND USE POLICIES

The Capitola General Plan (1975) designates types of land uses within the City. While the City recognizes its historical attraction as a visitor destination, the General Plan does not establish any policies which give special priorities to coastal dependent or visitor-serving facilities within the coastal zone. During the past 10 years, there has been a substantial amount of development within the City of Capitola. This development consists mainly of:

- The construction of Capitola Mall and other development along 41<sup>st</sup> Avenue.
- Construction of a new commercial complex on upper Bay Street.
- Infill of single family and multi – family residential uses throughout the city, particularly in the Park Avenue, Kennedy Drive, Clares Street and Rosedale areas.
- Construction of new commercial, residential and mixed uses in Capitola Village, leaving virtually no vacant land.
- Rehabilitation and upgrading of numerous residential and commercial structures in Capitola Village.

- Intensification of uses within Capitola Village, including conversion from residential to commercial uses.

The new regional shopping center in Capitola provides services for the entire county, a significant revenue base for the City of Capitola and needed local employment. The development of the 41<sup>st</sup> Avenue shopping center has also presented problems and challenges; including increased traffic on an important coastal access route and demand for housing in Capitola and the surrounding area resulting from expanded employment opportunities.

The development within Capitola Village has generally improved the vitality of the area as a small scale commercial center and visitor attraction. Since most commercial and residential structures in Capitola Village have either no on-site parking or less than needed under the Zoning Ordinance for the specific use, the pedestrian orientation of the Village has been strengthened by new development. However, automobile congestion has increased at the same time.

The City of Capitola has a typical small city infrastructure of government services and utilities. There is generally adequate capacity, and public facilities to support urban infrastructure needs except for localized and seasonal road capacity problems and Village parking.

## ISSUE DISCUSSION AND RECOMMENDED POLICIES

### VILLAGE CHARACTER

Capitola Village and Beach is a unique visitor destination with a long history as a seaside resort. The Village has a special charm, due to its scale, variety and ambiance. There is a greater demand for parking than there is supply within Capitola Village. A 1981 study by DKS Associates showed that there is a deficit of approximately 360 spaces, based on current parking demand for Village activities.

The Coastal Act requires that “the location and amount of new development should maintain and enhance public access to the Coast by ... (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation.” (Section 30252).

The consensus of City officials and citizens appears to be that increased parking within the Village would destroy Village character and would be too costly. Therefore, Capitola has been seriously utilizing alternative solutions , including remote parking and shuttle , along with parking within walking distance to the Village.

Since there is currently a deficit of parking facilities to service the Village, Beach and Wharf areas, all new or intensified development in these areas should include an equitable contribution to a permanent shuttle bus/remote parking system or adequate



parking. A long-term shuttle bus financing program would appropriately be based on an assessment district or some other comparable measures which require contribution to the shuttle bus/remote parking system or new parking lots.

The long-standing residential and commercial users in the Village should share the responsibility of providing additional parking or shuttle bus services with the new uses.

Policy I-1 It shall be the policy of the City of Capitola to maintain and enhance access to Capitola Beach, Village, and Wharf while maintaining and enhancing the existing character of Capitola Village and the surrounding residential areas. The intensity of new development shall be limited to the availability of parking and other alternative transportation systems, such as a shuttle bus and remote parking. (see Visual Resource and Special Communities & Public Access Components for further discussion.)

Implementation:

- a) Develop a Capitola Village/Beach parking program that will provide 300 to 400 new parking places for Village Beach users.
- b) Require adequate parking for new users, such parking to be provided at sites outside the Village area within walking distance or remote and served by shuttle system; exceptions to permit on-site parking may be made for (1) non-historic structures in residential areas bounding the central commercial district of the Village as shown on Exhibit B attached; (2) for the Capitola Theatre site and the Mercantile site as shown on Exhibit B attached, and providing that site designs shall provide for minimizing driveway cuts and for ground floor street frontage commercial development with parking areas/structures on the interior of the sites; (3) if mandated under Federal Emergency Agency regulations and as consistent with the certified LCP.
- c) Protect adjacent residential neighborhoods from parking intrusions while providing for public access to viewpoints and recreation areas. The residential parking program as approved under CDP 3-87-42 must incorporate the following provisions: (1) a limit of 350 permits at any one time for the Village Parking District; (2) a limit of 50 permits for the Pacific Cove parking lot to be issued to Village Permit holders and Transient Occupancy Permit holders; (3) provision of public parking on a daily basis along Prospect, Grand, and Cliff Avenues, to provide public access to scenic overlooks; (4) residential permit parking within the neighborhood areas shall be in effect only during the hours of operation of the Capitola Beach shuttle system except as provided in Resolutions 2435 and 2436 for the Fanmar and the Burlingame, Grand/Cliff areas; signing shall clearly state this relationship and shall be conspicuously posted; (5) if the shuttle system operation is

suspended, the permit parking program shall be suspended; (6) the ocean side of the Prospect shall have unrestricted parking; (7) a parking monitoring and reporting program designed to document the relationship of shuttle bus operation, residential permit parking program and its impact on public parking supply and to provide mechanisms to protect the public parking supply; (8) changes to the parking program areas or conditions will require an amendment to the LCP.

## RESIDENTIAL DEVELOPMENT

More residential units are required to serve the needs of the residents of the City of Capitola. The Village area provides a place for residential and commercial / recreational activities. Change in land use policy will have to be made in order to ensure this mix continues.

Policy I-2 It shall be the policy of the City of Capitola to encourage mixed commercial/residential development in the Village and to designate certain existing residential areas as exclusively residential.

### Implementation:

- a) The City shall rezone sites identified on the Land Use Map as appropriate for residential use.
- b) The Central Village Zoning District shall be revised to include a CV – R Central Village/Residential District exclusively for residential use.

## ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES:

Archaeological and paleontological resources are located in several different areas of Capitola's coastal zone. Coastal Act Section 30244 affords protection to both archaeological and paleontological resources.

### SECTION 30244:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation shall be required.

An archaeological sensitivity map for Capitola was prepared by the California Archaeological Site Survey, Central Coast Counties Regional Office. This map designates areas of the City where there is a likelihood of prehistoric cultural resources. (See Map I-1) The Map does not distinguish between known sites and potential sites, as past experience has shown that the circulation of maps identifying specific site locations has often led to indiscriminate digging by artifact collectors and vandals. Specific

information on recorded sites is available to the City of Capitola and individual property owners through the California Archaeological Site Survey Regional Office.

The sensitivity map focuses on archaeological and paleontological resources. There are no policies in the Coastal Act which deal directly with the protection of historic structures. In Capitola, historic structures add to the character and visual uniqueness of much of the area. Therefore, historic resources are discussed in the Visual Resources and Special Communities section of the draft Land Use Plan.

Capitola's Coastal Zone also contains an important fossil record dating back long before human occupation. Most of these paleontological resources are found in the Purisima Formation, a geological unit of sandstone and siltstone approximately 3 to 6 million years old. Essentially, the entire coastal bluff area in Capitola is composed at least partially of the Purisima Formation. Therefore, there is a high potential for paleontological resources along all the bluffs in Capitola. A significant number of fossils (including a whale skull) have actually been found in the bluffs below Grand Avenue.

The City of Capitola's historic preservation element contains a statement that archaeological and paleontological resources should be preserved. No specific policies or ordinance have been adopted to articulate this principle. Potential and/or recorded archaeological sites have been assessed in the General Plan Environmental Impact Report (EIR) and in EIRs for specific development proposals. As a part of the coastal permit process, the Coastal Commission has conditioned permits to require protection of the archaeological and paleontological resources. These requirements have included:

- Review of the site by a qualified professional archaeologist or paleontologist to determine its value.
- Resiting or redesigning the project to minimize impact on archaeological or paleontological resources.
- Preparation and implementation of an archaeological mitigation plan which could include excavation or protection of the resource for future study by covering with fill.

**Policy I-3** It shall be the policy of the City of Capitola to provide for the protection, preservation, and proper disposition (where necessary) of archaeological, historical and paleontological resources within Capitola. This policy shall be implemented in cooperation with the landowners, developers, State Historic Preservation Office and the Archaeological Research Center. (See Map I-1)

Implementation:

- a) Develop an ordinance that ensures the protection of archaeological and paleontological resources.

- b) Identify regionally and locally significant historical resources and develop a new historical structure preservation provision of the Zoning Ordinance, or use the existing one.

### CITY PARK FACILITIES

The Coastal Act (Section 30252 [6] ) requires consideration of non-coastal parks to serve new and existing development. Section 30252 [6] states:

The location and amount of new development should maintain and enhance public access to the coast by “[6]...assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of on-site recreational facilities to serve the new development.

In the past, Capitola has had no formal long range acquisition program to purchase proposed park sites designated in the General Plan. In September, 1980, the City Council authorized the initial steps needed to begin acquisition of open space sites. This included funding for limited property appraisals and a listing of vacant parcels with potential for both active and passive open space uses.

The most heavily used public recreation area in the City of Capitola is Capitola Beach; the Beach area, consequently, maintains a high level of use by local residents and tourists. The City of Capitola maintains the Beach and provides volleyball nets and trash receptacles. The Beach and Esplanade area is frequently used for community activities, such as kite flying and sand castle building contests.

Other park lands and improved open space areas within or very near Capitola’s coastal zone include Peery Park; Monterey and Bay Street Park; Wharf Road / Stockton Avenue Park; Jade Street Park and the school yard playgrounds at Capitola Elementary and Intermediate schools. The existing City Parks are all rather small and provide picnicing areas and limited open play spaces. The city has sought a larger park site suitable for active sports like soccer and baseball. A 5.2 acre parcel just outside the coastal zone on the northwest corner of Clares Street and Wharf Road is a possible candidate. Another large vacant site with potential for sports fields is a 4 acre site in the coastal zone on Monterey Avenue adjacent to the Capitola Elementary School. While this site offers good use possibilities, sports fields are already available at the nearby school.

The City is considering neighborhood park use for several small sites scattered throughout Capitola. The proposed land use designations in the Land Use Plan (see map) have been defined to allow future park use on these sites.

- Policy I-4 It shall be the policy of the City of Capitola to provide new park sites to fill the existing City park needs. It is also the policy of the City to ensure

the protection of passive open spaces through proper development design and permit conditions (see Natural Systems, Natural Hazards Components, and Land Use Map for further discussion).

Implementation:

- a) Maintain City Park acquisition program to provide for City Park needs.
- b) Apply for State and Federal grants to provide a parks and open space fund.

WATER SUPPLY

Domestic water supply to the City of Capitola is provided by the City of Santa Cruz Water Department and the Soquel Creek County Water District (see Map I-2 for service area boundaries). Currently, the Santa Cruz City Water Department has an adequate supply to serve development of vacant lands within its Capitola service area.

Soquel Creek County Water District's only source of supply is groundwater from the Aromas Sands and Purisima Formations. There is presently an overdraft condition in the Purisima Formation Groundwater Basin which has been documented by the United States Geological Survey. This overdraft is causing seawater intrusion resulting in groundwater contamination.

The Soquel Creek County Water District is devising methods to deal with the groundwater overdraft and the attendant saltwater intrusion. The District is also exploring a variety of alternatives for new sources of water supply.

The Soquel Creek County Water District covers a broader area than just Capitola: Soquel, Aptos and other unincorporated portions of mid-Santa Cruz County are included in the boundaries. Any policy on water use, or a priority system for phasing of new development adopted by the Soquel Creek County Water District, must be applied equitably Districtwide. The policies of the LCP must nevertheless correlate the amount of development to the water supply available, without damage to coastal resources.

Though the City of Capitola is not itself a water purveyor, the City would have an interest in the development and implementation of any countywide master water plan, due to potential impacts on development and the resources within the City. One of Soquel Creek County Water District's alternatives for increasing its water supply includes a surface water diversion of Soquel Creek – the Glenwood Dam. This dam could have impacts on the riparian vegetation along Soquel Creek and the level of water within the lower reaches of Soquel Creek in Capitola. The Natural Systems section of the draft LUP provides more discussion on this subject. In situations where there is a limited capacity for providing public service (i.e. schools, water, fire protection, roads, sewers, etc.) the Coastal Act establishes a priority for various land use types. Under these provisions,

Coastal dependent and visitor-serving facilities are given highest priority in determining who will be allocated the impacted service.

Section 30254 of the Coastal Act states in part:

.....Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal – dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall no be precluded by other development.

As well, Section 30255 establishes a priority of coastal – dependent developments on or near the shoreline.

SEC. 30255

Coastal –dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal – dependent developments shall not be sited in a wetland. When appropriate, coastal –related developments should be accommodated within reasonable proximity to the coastal –dependent uses they support.

**Policy I-5** It shall be the policy of the City of Capitola to cooperate with other agencies in the County and /or region for master planning , delivery and allocation of available Public Services consistent with the Coastal Act, Sec. 32054 and 32055 (i.e. water, fire, sewer, schools).

Implementation:

- a) The City shall participate in a County – wide watershed task force.
- b) The City shall maintain and review in-lieu school impact fees for new residential development.

SEWAGE TREATMENT

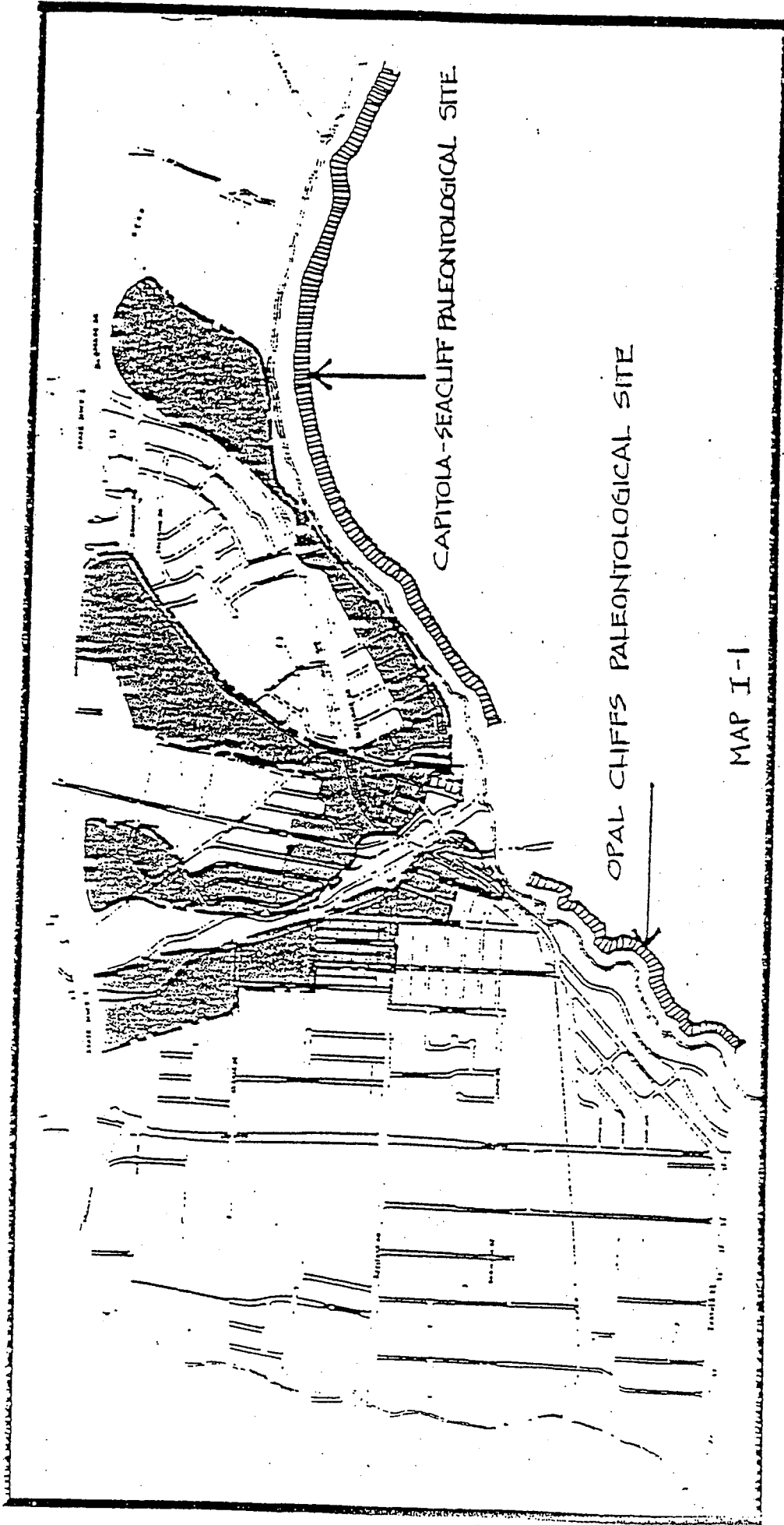
Sewage is collected from the areas between Aptos and Live Oak, including the City of Capitola, and transmitted via pipeline to the City of Santa Cruz's Neary Lagoon treatment plant. Wastewater receives advanced primary treatment and is then discharged into the Pacific Ocean through the near shore discharge up coast from Point Santa Cruz. The Santa Cruz City wastewater treatment plant has a capacity of 21 million gallons per day(MGD). At the present time, approximately 11 MGD of the capacity is being used. The Santa Cruz Sanitation District has a contract with the City of Santa Cruz which guarantees 8 MGD capacity. At this time, approximately 6 MGD is used by the entire Santa Cruz County Sanitation District. There is adequate sewage treatment capacity available to serve all development likely under built out conditions with Capitola's coastal zone.

The ocean outfall which serves the Neary Lagoon treatment plant is presently undersized and does not meet the discharge standards of the California State Ocean Plan. If this project proceeds, sewage disposal capacity will continue to be available in Capitola. If this outfall is not built, the Regional Water Quality Control Board could limit future growth in the entire service area until the condition and capacity of the outfall increases or an alternative to ocean disposal develops.

#### FIRE PROTECTION

The City of Capitola receives fire protection services from the Capitola and Live Oak Fire Protection Districts. The main fire station of the Capitola Fire Protection District is located on Capitola Avenue across from the City Hall complex. The Live Oak Fire Protection District stations are located on 17<sup>th</sup> Avenue and on Thurber Lane near Soquel Avenue. At present there are adequate facilities to serve existing development in Capitola.

The Capitola Fire Protection District owns a parcel of land on Jade Street near 41<sup>st</sup> Avenue and is considering the site for a future new fire station. This parcel of land is a part of site 7 on Housing map V-1 (page 79). The draft Land Use Plan map designates the Jade Street sit for professional office use. The site would also be appropriate under Coastal Act policies for use as a fire station. If the Capitola Fire Protection District decides to construct a fire station on this site, this public facilities project would be permissible within the professional office designation.

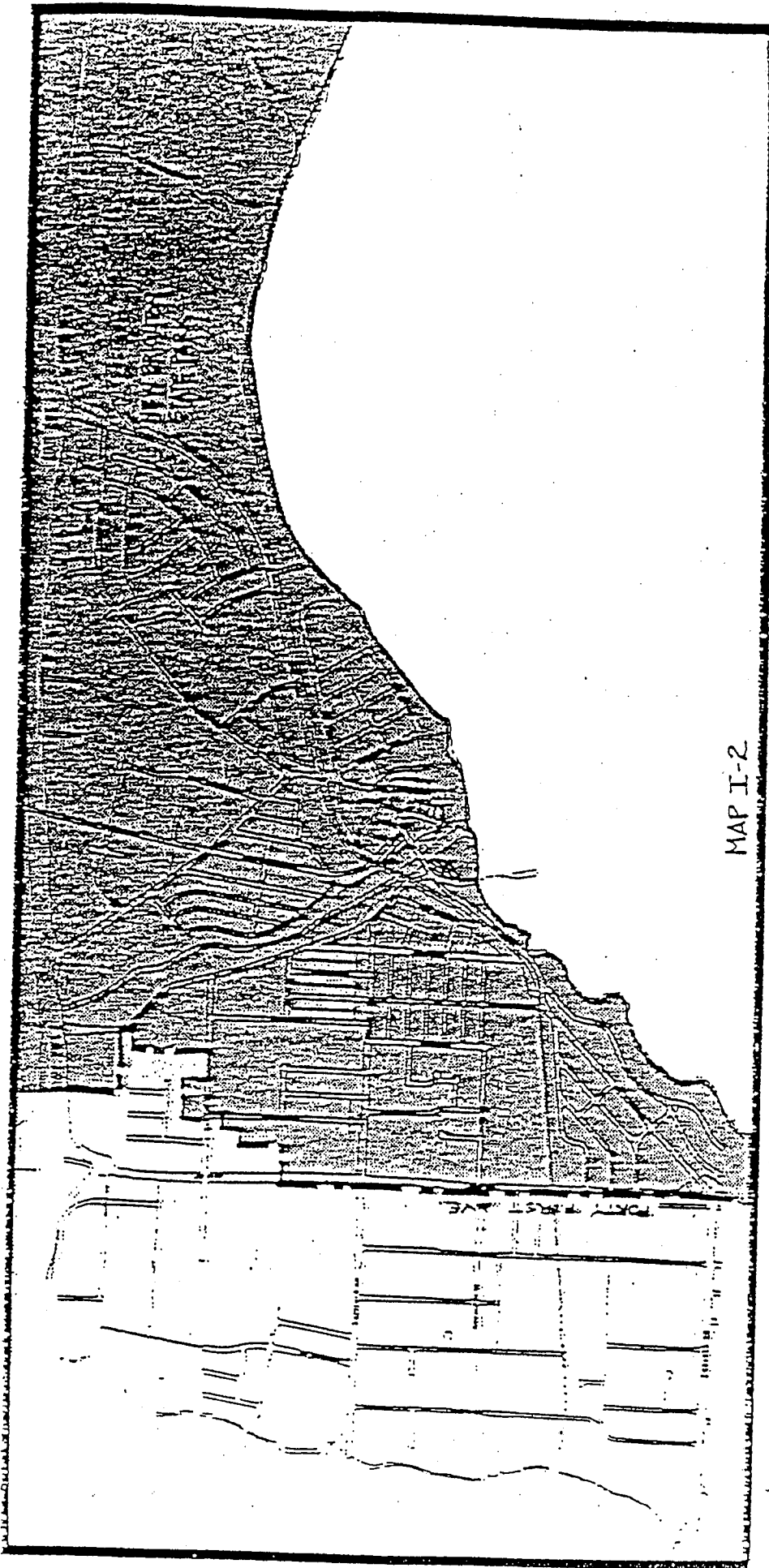


# ARCHAEOLOGICAL/PALEONTOLOGICAL SENSITIVITY AREAS CITY OF CAPITOLA

NOTE: SHADED PORTIONS OF MAP INDICATE AREAS OF ARCHAEOLOGICAL SENSITIVITY

SOURCE: CALIFORNIA ARCHAEOLOGICAL SURVEY & FRANK E. DODD  
Attachment: LCP Land Use Plan (Update to Zoning Ordinance/ LCP Implementation Plan)





MAP I-2

North

0 1750'

1" = 1750'

# WATER SERVICE AREAS

## CITY OF CAPITOLA

- FOQUEL CREEK WATER DISTRICT.....
- CITY OF SANTA CRUZ WATER DEPARTMENT.....

Attachment: LCP Land Use Plan (Update to Zoning Ordinance/ LCP Implementation Plan)

## II. PUBLIC ACCESS COMPONENT

### BACKGROUND

The California Coastal Act of 1976 includes strong policies to assure public access to and along the shoreline. Section 30500(a) of the Act requires that each Local Coastal Program contain a specific public access component to assure that maximum public access to and along the coast and public recreational opportunities are provided.

### RELEVANT COASTAL ACT POLICIES

There are numerous references throughout the Coastal Act to the provision and protection of public access. Section 30001.5 provides the legislative intent on access protection. Section 30001.5 states:

The legislature further finds and declares that the basic goals of the state for the coastal zone are to:

- a) Protect, maintain, and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and manmade resources.
- b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.
- c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.
- d) Assure priority for coastal-dependent and coastal-related development over other development on the coast. (Amended by Cal. Stats. 1979, CH. 1090.)
- e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

The following are the major Coastal Act policies dealing with public access.

#### SEC. 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people, consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

SEC. 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

SEC. 30212

- a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects, except where (1) it is inconsistent with public safety, military security, or the protection of fragile coastal resources; (2) adequate access exists nearby; or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.
- b) For purposes of this section, "new development" does not include:
- 1) Replacement of any structure pursuant to the provisions of subdivision (g) of section 30610.
  - 2) 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 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.
  - 3) Improvements to any structure which do not change the intensity of its use, which do not increase either to floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.
  - 4) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the regional commission or the commission determines that such activity will have an adverse effect on lateral public access along the beach.

As used in this subdivision, "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

- c) Nothing in this division shall restrict public access, nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code

and by Section 4 of Article X of the California Constitution. (Amended by Cal. Stats. 1979, Ch. 919.)

#### SECTION 30212.5

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public or any single area.

#### SECTION 30213

Lower cost visitor and recreational facilities and housing opportunities for persons of low and moderate income shall be protected, encouraged, and where feasible, provided. Developments providing public recreational opportunities are preferred. New housing in the coastal zone shall be developed in conformity with the standards, policies, and goals of local housing elements adopted in accordance with the requirements of subdivision (c) of Section 65302 of the Government Code.

#### SECTION 30214

- a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access, depending on the facts and circumstances in each case; including, but not limited to, the following:
- 1) Topographic and geologic site characteristics.
  - 2) The capacity of the site to sustain use and the level of intensity of use.
  - 3) The appropriateness of limiting public access to the right to pass and repass, depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
  - 4) The need to provide for the management of access areas, so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.
- b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers that equities and that balances the rights of the individual property owner with the public's constitutional rights of access, pursuant to Section 4 of Article X of the California Constitution. Nothing in this section, or any amendment thereto, shall be considered as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

- c) In carrying out the public access policies of this article, the commission, regional commissioners and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs. (Added by Stats. 1979, Ch. 919.)

## DEFINITIONS

Shoreline Access is the provision of the pedestrian access from a public thoroughfare to and along the shoreline.

Lateral Accessway is an area of land providing public access along the water's edge. Lateral accessways should be used for public pass and repass, passive recreational use, or as otherwise found appropriate in a certified LUP. Lateral accessways can be on a beach, where contact with the water's edge is possible, or a bluff where only visual access is possible, or at the rear (water side) of buildings adjacent to the water's edge (i.e. the Esplanade).

Vertical Accessway is an area of land providing a connection between the first public road, trail, or use area nearest the sea and the publicly owned tidelands or established lateral accessway. A vertical accessway should be used for public pass and repass, passive recreational use or as otherwise found appropriate in a certified LUP.

Scenic Overlook is an area of land providing public access along a shorefront bluff or along the coast inland from the shoreline.

Upland Trail is an area of land providing public access along a shorefront bluff or along the coast inland from the shoreline. An upland trail can also provide access from the first public road nearest the sea to a scenic trail or another upland trail paralleling the shoreline. An upland trail should be used for public pass and repass, or as otherwise found appropriate in a certified LUP.

## EXISTING ACCESS AND FUTURE DEMAND IN CAPITOLA

Working Paper Number One for the Capitola LUP entitled Access (issued in June, 1979) includes a description of existing vertical and lateral accessways and scenic vista points in the Capitola Coastal Zone. The Working Paper also includes a detailed survey of the parking situation in Capitola Village as a constraint to access. Additional work on parking and vehicular concerns was done by a transportation consultant and the data from those studies is also available for review.

The land adjacent to Capitola's shoreline is densely developed with residential development along the Cliff Drive and Grand Avenue bluffs, as well as a mixture of residential and commercial uses in Capitola Village adjacent to Capitola Beach. Vertical access to the sea from Cliff Drive and Grand Avenue is virtually impossible due to the

height of the cliff and substantial continuing erosion. Users of the Capitola shoreline typically gain access from the Esplanade, the wharf area, or from New Brighton beach.

Following is a general description of the major lateral and vertical access areas and scenic overlooks.

### CLIFF DRIVE

Two well-used viewpoints are located along Cliff Drive between the western city limit line and the wharf. Both pullouts are unpaved, have garbage cans and are lined with safety railings approximately five feet inland because the cliff was receding and undermining the posts. The western viewpoint is owned by the City and has room for approximately 11 cars. There are no benches, but people sometimes sit on the railing. Through a Coastal Conservancy Grant, the City has recently provided a stairway access to the beach. The city is developing a vista point along Cliff Drive in the turnout above the Hooper Beach stairway.

On the inland side of Cliff Drive, an unpaved area along the Southern Pacific right-of-way is used for public parking (approximately 50 spaces). The City has a formal agreement with Southern Pacific concerning use of this area. People going to Capitola Beach often park here and walk down to the beach. There are no sidewalks or bike paths in the City's narrow road right-of-way; this causes dangerous conflicts between pedestrians and vehicles. The City of Capitola has been given a grant by the Coastal Conservancy (for funding) to develop a paved parking lot on the Southern Pacific Railroad property.

### HOOPER BEACH

This small beach is located west of the wharf. Access at the end of Wharf Road is down a roadway that is occasionally used as a boat ramp. There are 11 public parking spaces at the end of Wharf Road; 9 nearby in front of the Venetian Court and approximately 26 private spaces reserved for guests of the two motels. Pedestrian access is also obtained along the beach from the main beach to the east.

Underlying title to Hooper Beach is owned by Esther H. Hooper. There are no signs indicating that this beach is private and there are no barriers to keep the public out. On the beach itself are located two garbage cans and a City sign; "No dogs on beach – Capitola City Ordinance." These improvements were placed there by the City.

In recent years, the City's maintenance of this beach has included lifeguard service (summer only), raking, litter pick-up and rat abatement in the rocks (principally in the new rip-rap placed below the Cliff Drive houses).

Public beach use is clearly evident. Also, small sailboats are stored on the beach during the summer.

### CAPITOLA WHARF

The Wharf is located on tidelands and submerged public trust lands. In 1935, the State gave the lands in trust to the County of Santa Cruz. In December of 1979, Santa Cruz County conveyed those portions of the tidelands and submerged lands within City limits to the City of Capitola.

Before storms weakened the structure in early 1978, and made it unsafe for public use, the wharf was used for pier fishing, a bait and tackle shop, boat rental and boat launching.

The City of Capitola owns the wharf and received a grant from the Wildlife Conservation Board to partially fund the rehabilitation of the wharf. The wharf restoration project was financed with 75% federal and state funds, plus 25% local funds. Repair work on the wharf structure was completed in 1981.

New buildings on the wharf now house a small restaurant, bait and tackle shop, boat rental concession and wharf maintenance.

The reopening of the wharf has provided free public fishing access. A condition of the financial participation of the Wildlife Conservation Board is that free public access to the facility be maximized.

### VENETIAN COURT

This condominium style subdivision (apparently one of the first in the state) was created in 1924. The units, fronting on Capitola beach, include a paved walkway with a contiguous two foot seawall, following the perimeter boundary of the subdivision at the edge of the beach. Access to the units (which are used as permanent homes, weekend homes, vacation rentals and motel units) and to the beach is gained in three locations:

- at the west side of the complex, a paved walkway comes down from the end of the Wharf Road to the perimeter walkway;
- a paved walkway starting at the sidewalk along Wharf Road and passing down through the middle of the complex with a sign at the beginning of the walkway which reads:
 

“Private Property  
Right to Pass Revocable At Any Time”
- four steps come down from the sidewalk at the west end of the Stockton Avenue bridge and join the perimeter walkway.

### THE ESPLANADE

There are several commercial buildings in the ocean side of the Esplanade. Between the buildings are separate accessways from the Esplanade to the beach:

- between 221 and 215 Esplanade is a breezeway that dead ends at Soquel Creek Lagoon, without steps down to the waterline;
- between 207 and 203 the Esplanade is a breezeway that terminates on Capitola Beach;
- running behind 203 the Esplanade is a narrow deck that was declared open to public use by the courts (Hansen V. Korzyna).

Curb Parking is provided along the Esplanade.

### CAPITOLA BEACH

The City beach receives extensive public use. An aerial survey taken by the County on four afternoons in August of 1976 showed an average of 429 people on the beach in mid-afternoon and a maximum of 520. With an estimated area of 4.4 acres, the average density of beach use was 97.4 people per acre, with a maximum of 118.2. Trash cans and a public restroom at the beach are maintained by the City.

Public parking is located along both sides of the Esplanade and on nearby city streets. A groin marks the eastern end of the beach.

The recently completed Esplanade Park project, a joint project between the Coastal Conservancy, the County of Santa Cruz Sanitation District and the City of Capitola, has provided a landscaped pedestrian area used for viewing and other passive open space activities. The project has consolidated the restrooms and sewage pump station into an architecturally-designed building. Other benefits of the project include:

- providing facilities adjacent to the beach and the sea for persons who find use of the beach itself difficult (i.e. the elderly and handicapped, etc.)
- significantly expanding area of land near the beach available for open space recreational use for residents and visitors.
- providing opportunities for enhancement of a visually degraded area.

### FROM CAPITOLA BEACH TO NEW BRIGHTON BEACH

During low tide, people sometimes pass between Capitola and New Brighton beaches by walking along a narrow sand and rock beach that lies at the base of 90 foot high bluffs. Steep topography restricts access options from above the beach; due to the dangerous situation caused by the eroding cliffs, access is discouraged by the City along the cliff base as well.



## EL SALTO/ESCALONA GULCH

At the turn of the century, access along the top of the cliff was a tree-lined public path known as Lovers' Lane, on the ocean side of Grand Avenue. Lovers' Lane was lost in the 1930s because of cliff erosion.

Escalona Drive (called Railroad Avenue on the 1884 Camp Capitola subdivision map) is paved to the point approximately 500 feet east of Sacramento Avenue. At that point, a chain blocks vehicular access and what is apparently a private dirt road curving south out toward the ocean. The original subdivision map shows Escalona Drive in this area curving around to meet Grand Avenue at the edge of the cliff. The current parcel map shows Grand Avenue ending at Sacramento Avenue – it has been closed between Hollister and Sacramento Avenues because of cliff erosion. These parcel maps show Escalona Drive with an undeveloped right-of-way curving over 400 feet beyond the chain.

A footpath runs from near the chain on Escalona Drive down through Escalona Gulch and up to Grove Lane on the east side of the gulch. The course of the gulch becomes steep near the ocean and there is no access to the water below. A five foot wide pedestrian easement is recorded on the east bank of the gulch, but it does not run as far as the railroad.

A condition of coastal permit No. P-80-11 for a land division on part of the El Salto Resort property, was that an offer of dedication for two easements be made. These easements are to provide a public trail from El Salto Drive (also known as Prospect Street) to the bluff edge for observation of the shoreline. So far, the property owner has chosen not to exercise the permit for the land division and has not recorded the easement offers. If and when these offers are recorded, the city should accept it in order to help realize the goal of a bluff-top trail.

## RAILROAD

The Southern Pacific Railroad right-of-way next to Park Avenue has been used by pedestrians traveling parallel to the coastline. The wide part of the right-of-way is used by many people to view the ocean. The entrance to this potential vista point would be from Grove Lane as it crosses the railroad tracks. Two undeveloped pedestrian paths cross the right-of-way on the way down to New Brighton beach; the western path goes from the parklike area in the wide portion of the right-of-way down steeply to the emergency access road leading to New Brighton beach. The other path goes from Park Avenue opposite Coronado Street down to the New Brighton parking lot. Both paths are heavily used by the local residents, though neither one is recognized as an official access point by State Park representatives. The authorized entrance to the park is almost one-third of a mile to the northeast. During early public workshops on the Capitola LCP, citizens and City officials suggested that these paths should remain open. Later sections of this document include information on possibilities for future uses of the railroad right-of-way and for New Brighton State beach.

## SOQUEL CREEK

The Local Coastal Program Working Paper Number 1 – Access – described the issues and possibilities concerning public access along Soquel Creek. The Capitola General Plan Circulation Element has a policy that Soquel Creek have a pedestrian path from Highway One to the Village Center. In fact, the Soquel Creek corridor has a long history of public trail use. As development has taken place in the corridor, access has been altered, and in some cases, diminished.

Because of the sensitive nature of the riparian corridor and the habitat it provides for various species of resident and migratory birds (including the black crown night herons, which are on the Audobon Society “blue list”) an extension of the path, and especially the use of bridges, should not be required.

The dedications offered by Timmons, Rafaelo and Golino, for access easements should not be accepted by the City. However, the City shall accept and require scenic conservation easements to ensure that the banks of the creek are maintained in their natural conditions.

The City should continue to maintain the existing paths and provide for public access at the city-owned parks along the northerly reaches of the creek. In addition, the city should enhance the public’s abilities to reach upper Soquel Creek from the lagoon, by way of Riverview Drive and Wharf Road.

## NEW BRIGHTON STATE BEACH

New Brighton beach, as part of the state park, has become a large day-use parking area. Facilities for camping accommodate recreational vehicles and tents. Campers arriving by bicycle can stay overnight for a nominal fee. In addition to the previously-mentioned emergency access road, there is a walkway down from the camping area to the beach. People can also enter New Brighton beach on foot from the southeast along the beach from Seacliff and Rio Del Mar. The county’s aerial beach survey in 1976 counted an average of 175 people on this 13.4 acre beach, for an average density of 13.1 people per acre. The maximum counted in four August afternoons was 223, representing a density of 16.6 people per acre. The City would encourage greater usage and access by the public of New Brighton beach.

## EXISTING POLICIES AND REGULATIONS

The Capitola General Plan (January 1975) includes some policies for the provision and protection of public access within Capitola. These include goals for the creation of a cycling and pedestrian path system and the protection and enhancement of scenic overlooks. Some of the general plan goals are beginning to be realized through the completion of the East Cliffs bikeway by Santa Cruz County, and by the requirement of access easements by the City and Coastal Commission. The City is also taking positive steps toward improving coastal access by restoration of the Capitola Wharf, obtaining a

Coastal Conservancy Grant for a stairway from the wharf to the beach, and through operation of the shuttle bus system.

There is no reference or requirement in Capitola's zoning ordinance regarding the provision of access with new or expanded developments. The City has required access easements along Soquel Creek and the shoreline in development permits on a case-by-case basis. While this is a positive step, a certifiable LUP must include a more comprehensive long-term program for providing and protecting coastal access. The following policies set the framework for the access program. The implementation portion of the LCP will include specific regulations requiring access and the City's program for improving trails and overlooks.

The LCP represents the commitment of the City of Capitola to provide continuing protection and enhancement of its coastal resources. It is recommended that certain resource areas in this jurisdiction may require further public attention to ensure their protection and enhancement. Included in this concern are:

- degraded, or less than pristine, wetlands of any size, such as the lagoon at the mouth of Soquel Creek;
- some form of deterioration or development pressures;
- areas which are appropriate for well-adjusted visitor, commercial, and recreational facilities such as the beach area.

POLICIES AND IMPLEMENTATION FOR  
PUBLIC ACCESS COMPONENT – CAPITOLA LCP

GENERAL POLICIES

Policy II-1 It shall be the policy of the City of Capitola to provide safe and adequate pedestrian access to and along the shoreline as designated in the Shoreline Access Plan (see Maps II-1,2, and 3).

Implementation:

- a) Develop ordinance to require dedications to implement the shoreline access plan.
- b) Use available coastal access and open space grant programs for acquisition and development (i.e. Coastal Conservancy and State Parks and Recreation).

Policy II-2 It shall be the policy of the City of Capitola to maintain the existing shuttle bus system so that it serves as an alternative to automobile use and parking within the Village. Furthermore, the City shall continue to seek out and implement other parking alternatives that may become available in the future. The intensity of development within Capitola Village shall be limited to the availability of parking.

Implementation:

- a) Acquire a shuttle bus parking lot.
- b) Develop a financing mechanism for the shuttle bus.
- c) Periodically review parking innovations in other coastal communities for possible use in Capitola.

Policy II-3 It shall be the policy of the City of Capitola to design and implement a sign program for visitor information to specifically facilitate the use of beach access points.

Implementation:

Develop a beach access signage program and a signage program to direct visitors to the Shuttlebus lot, keeping traffic from circling in the Village area when possible.

## SPECIFIC POLICIES

Policy II-4 Provide for a safe pedestrian and bicycle path and/or sidewalk on or along Cliff Drive, and provide improvements including landscaping, benches, etc., and parking turn-out areas to facilitate both pedestrian and auto use.

### Implementation:

- a) Develop a bicycle plan for the Cliff Drive/Village/Park Avenue area and seek Regional Transportation Commission funds for development.
- b) Develop a beautification and access improvement plan for the Cliff Drive Wharf area.

Policy II-5 Obtain agreement from Southern Pacific and improve parking area on inland side of Cliff Drive within Southern Pacific and Cliff Drive rights of-way. This is intended to add to Wharf user parking.

### Implementation:

Acquire necessary easements for long-term usage of Southern Pacific right-of-way for parking and utilize Coastal Conservancy funding for development.

## HOOPER BEACH AREA

Policy II-6 Overnight storage of catamarans and other small craft will not be allowed to conflict with the use of beach area by the general public.

### Implementation:

Establish an ordinance to prohibit overnight storage of catamarans and other small craft on the beach, under the wharf, or in any other area used by the public.

Policy II-7 Maintain, at minimum, the existing rights of the public to use the sandy beach.

### Implementation:

None.

## WHARF AREA

Policy II-8 Complete restoration of the wharf as a free access public fishing pier and develop small, low intensity facilities that provide complementing public

services (i.e. food service facilities, fishing/boating accessory shop, maintenance and repair operations, water taxi service, public restrooms, etc.)

Implementation

Develop concessionaire agreements that specify and limit types of uses on the wharf, consistent with Policy II-8.

- Policy II-9 Provide adequate parking nearby to support the wharf uses (specifically boat launching activities) and establish operational guidelines that minimize conflicts between pedestrians and Wharf traffic.

Implementation:

- a) Acquire necessary easements for long-term usage of Southern Pacific right-of-way for parking and utilize Coastal Conservancy funding for development.
- b) Develop concessionaire agreements that specify and limit types of uses of wharf consistent with Policy II-8.

- Policy II-10 Improve the design of Wharf Road/Cliff Drive intersection to improve traffic circulation (see Exhibit II-1).

Implementation:

Place improvements for intersection within the City's Capital Improvements Program (1981-82).

VENETIAN COURT AREA:

- Policy II-11 Clarify and maintain public access over and along the Venetian Court perimeter walkway adjacent to the public beach.

Implementation:

Maintain the existing public access through and along the Venetian Court.

THE VILLAGE AREA:

- Policy II-12 Develop a scheme for safe bicycle connection between Cliff Drive and Park Avenue and improve bicycle parking facilities.

Implementation:

Develop overall bicycle plan for Cliff Drive-Village-Park Avenue transition utilizing directional signing and seek Regional Transportation Commission funds for development.

CAPITOLA BEACH AREA:

- Policy II-14 Maintain a commitment to all existing access walkways and paths to Capitola Beach.

Implementation:

Develop an inventory of all existing, as well as desired public accessways.

RESTROOM/PUMP STATION PARKING AREA:

- Policy II-15 Maintain the Esplanade public facilities/park area improvements.

BETWEEN CAPITOLA AND NEW BRIGHTON BEACH.

- Policy II-16 Access along beach should not be formalized, and due to safety factors, should be signed to warn of potential hazards from tidal action and cliff erosion.

Implementation:

Provide warning signing at either end of the beach.

- Policy II-17 Designate Park Avenue and the Southern Pacific Railroad right-of-way along the bluff top as the lateral coastal accessway between Capitola Village and New Brighton and develop vista points and connecting pathways in cooperation with Southern Pacific Railroad and State Parks. Evaluate the potential for continuation of the Grand Avenue bluff-top path from Hollister Avenue to Escalona Avenue concurrent with any development proposals for parcels adjacent to this area.

Implementation:

Acquire right-of-way easements from Southern Pacific and seek funding from the Transportation Commission, Coastal Conservancy, and private sources for development of bicycle path, improved pedestrian accessways, and vista points which are not hazardous.

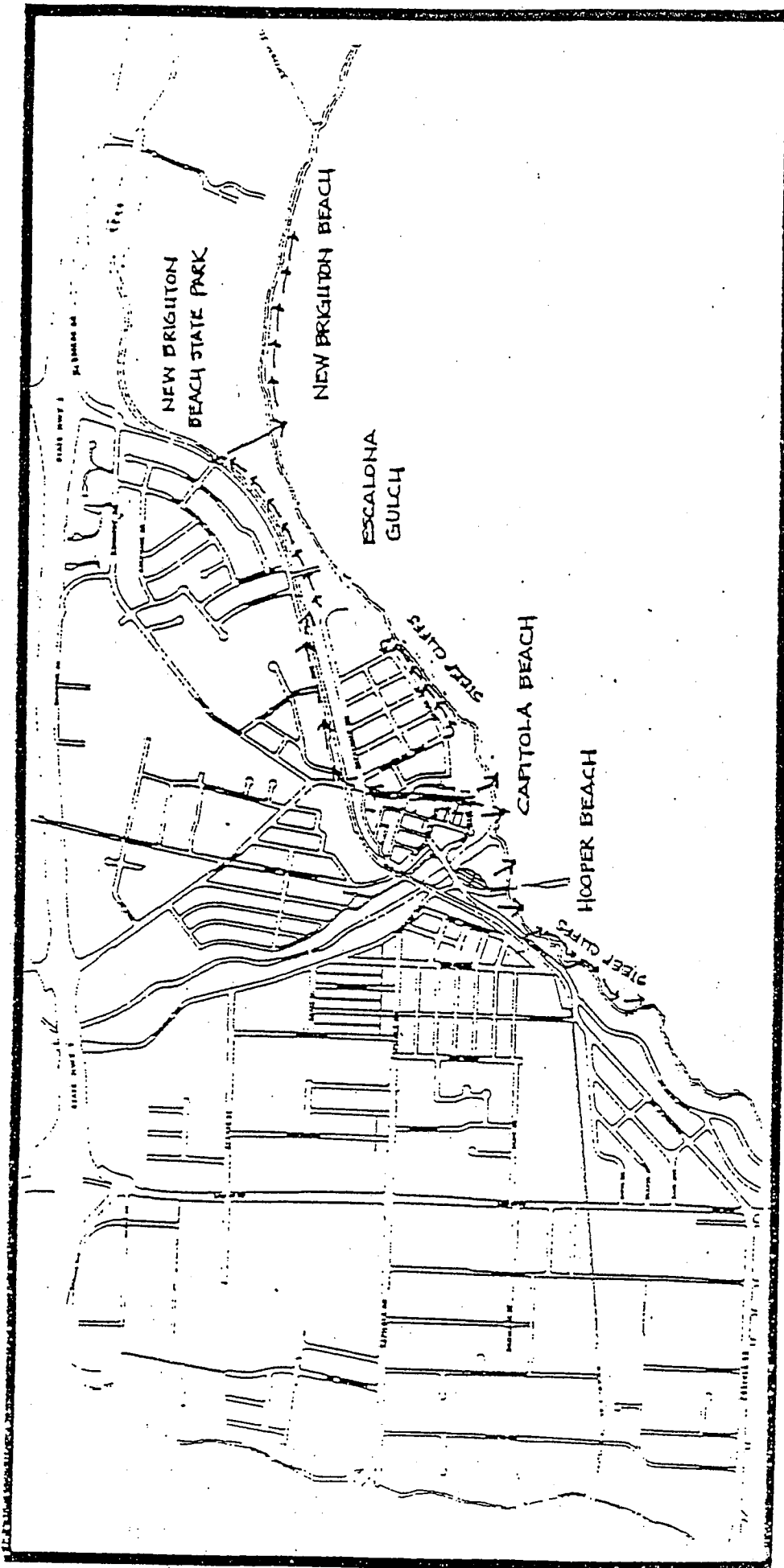
- Policy II-18 Because of environmental sensitivity of the natural ecosystem along the creek, the City will maintain existing pathways and park sites for public

use but will prevent further disruption that might occur because of expansion of path systems along Soquel Creek.

Implementation:

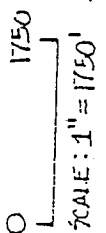
Develop an ordinance that requires scenic conservation easements or land dedications to preserve the open space/habitat qualities of Soquel Creek.

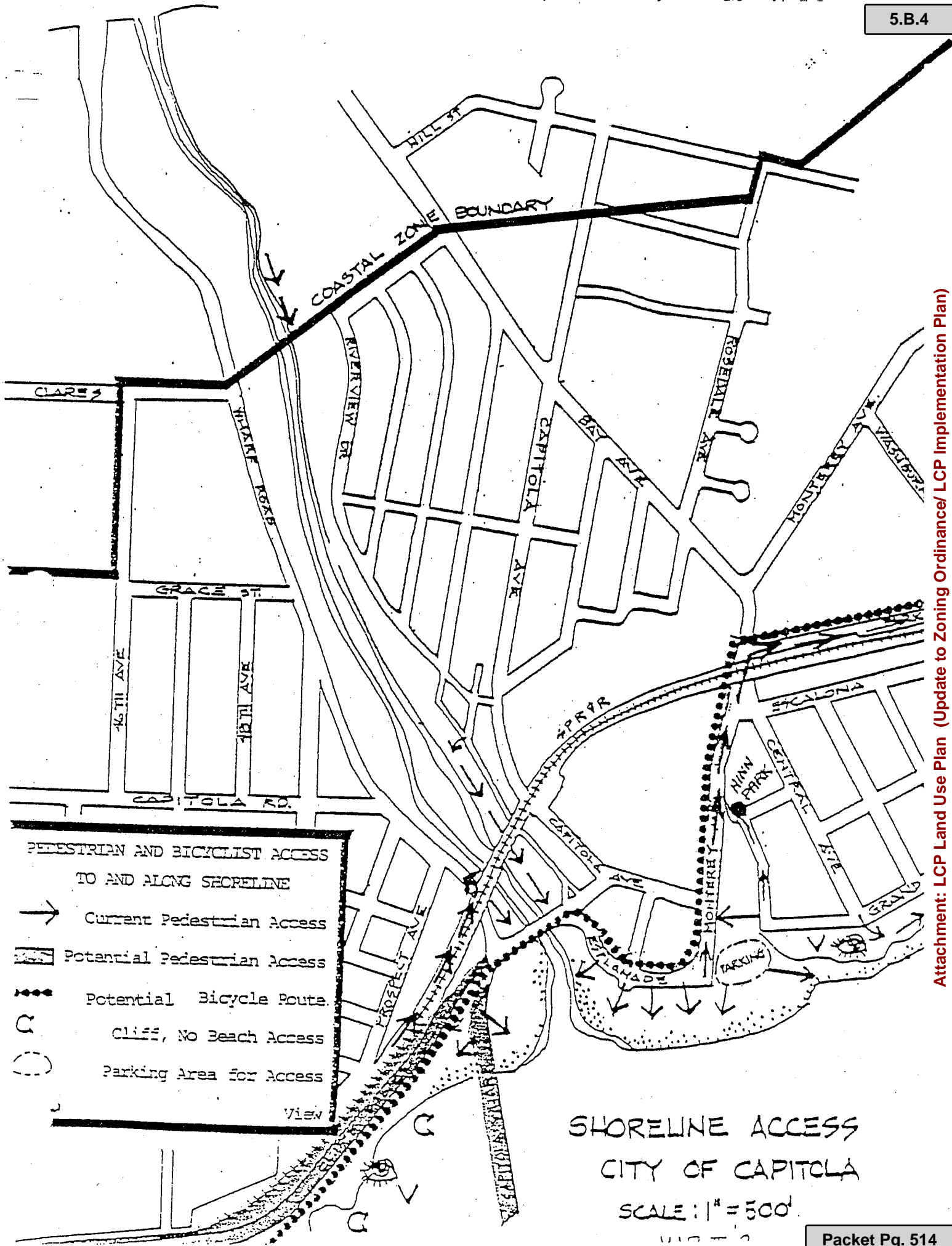




# SHORELINE PEDESTRIAN & BICYCLE ACCESS CITY OF CAPITOLA

SOURCE: CAPITOLA LCP WORKING PAPER #1, MAP # II-1





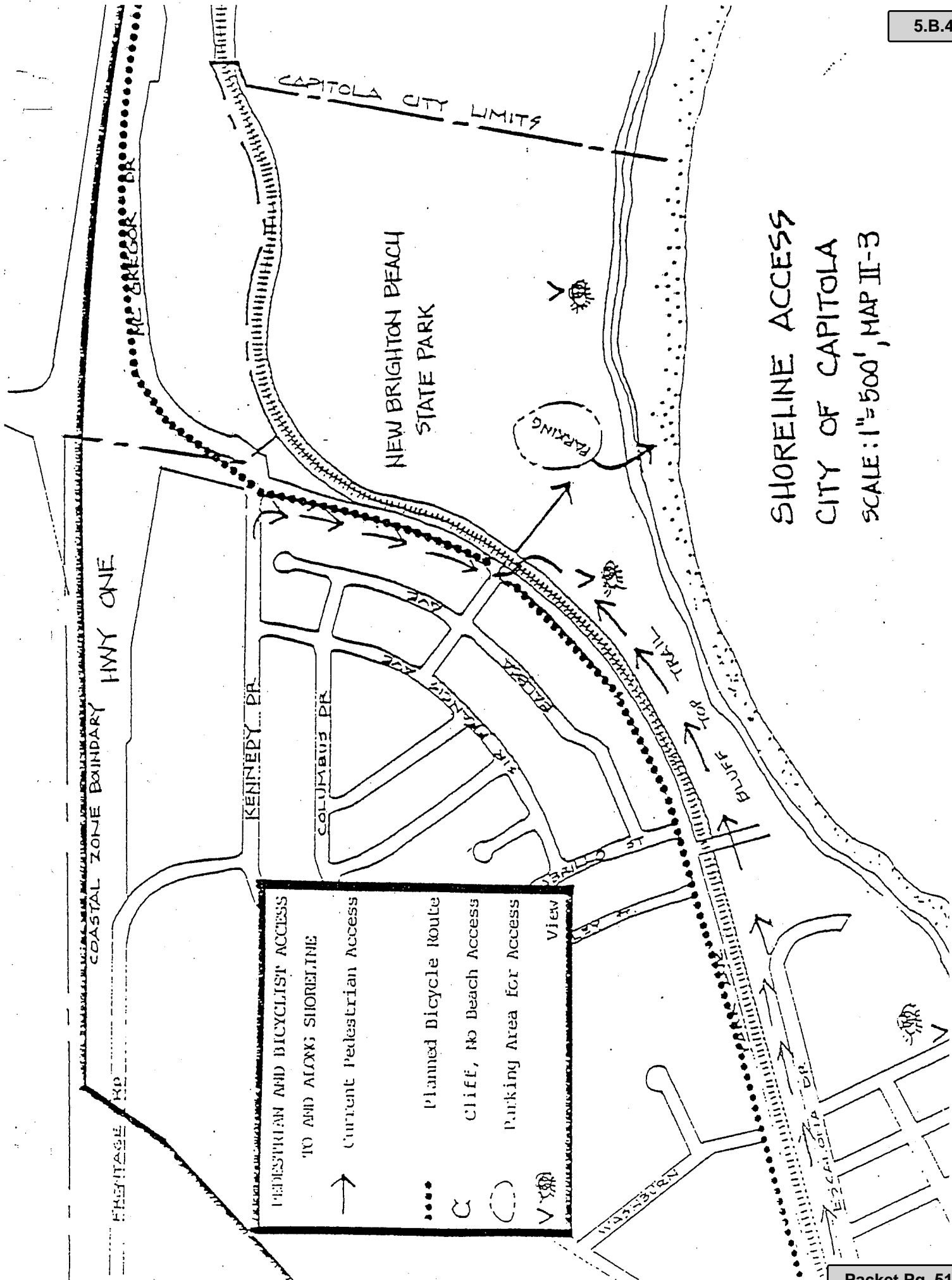
**PEDESTRIAN AND BICYCLIST ACCESS TO AND ALONG SHORELINE**

- Current Pedestrian Access
- ▤ Potential Pedestrian Access
- Potential Bicycle Route
- ⌒ Cliff, No Beach Access
- Parking Area for Access

View

**SHORELINE ACCESS**  
**CITY OF CAPITOLA**  
 SCALE: 1" = 500'

Attachment: LCP Land Use Plan (Update to Zoning Ordinance/ LCP Implementation Plan)



PEDESTRIAN AND BICYCLIST ACCESS  
 TO AND ALONG SHORELINE  
 → Current Pedestrian Access  
 ●●● Planned Bicycle Route  
 C Cliff, No Beach Access  
 ( ) Parking Area for Access  
 V View

SHORELINE ACCESS  
 CITY OF CAPITOLA  
 SCALE: 1" = 500', MAP II-3

### III. VISUAL RESOURCES AND SPECIAL COMMUNITIES COMPONENT

#### BACKGROUND – VILLAGE CHARACTER AND VISUAL RESOURCES

This section of the Land Use Plan addresses the visual resources of Capitola Village and its environs and the role of Capitola Village as a special community serving as a coastal attraction. The section below discusses the visual resources that make Capitola Village a special community.

##### Village Boundaries

The Village is clearly defined by natural elements: the ocean and beach; Soquel Creek with its steep, heavily vegetated west bank; the cliffs and bluffs extending landward from the ocean to form Village edges. These natural boundaries are reinforced by manmade elements: the Southern Pacific railroad tracks and trestle; the houses lining the Prospect and Cliff Avenue bluffs; the row of buildings along the Esplanade. These features help to provide a recognizable visual boundary for Capitola Village. They form a container that physically defines the area.

##### Village Neighborhoods

The Village has identifiable neighborhoods or districts within it, defined by several features. The topography creates divisions, for example, a steep slope defines two different residential neighborhoods north and south of Cherry Street. These divisions are also made by scale and use: on the south side of Cherry Street, houses are small, close together, and abut the street, while on the north side of Cherry, the houses are larger, farther apart, and set back from the street line; Capitola Avenue's commercial activity and the ambiance thus created separates it from the exclusively residential areas nearby.

Architectural styles also help to delineate divisions. A few districts are cohesive in style: the Venetian Court, the Six Sisters and Lawn Way. Most districts, however, include a great variety of architectural styles and buildings of varying materials and colors. These different districts contribute to the special character of Capitola. It is the variety of buildings, old and new, that give the Village a unique character.

##### Historical Perspective

Capitola Village has enjoyed an historical continuity extending from the Camp Capitola days through the present. The Village has gone through a number of periods, each leaving architectural styles that contribute to the Village character. The different styles include the Camp Capitola style (e.g. the BQ building), a few Victorians, 1920's stucco buildings of Mediterranean, Art Deco and Mission style (e.g. Venetian Court, various commercial buildings), 1920's wooden clapboard, board and batten and single one- and two-story cottages (the Six Sisters and Lawn Way houses, numerous beach cottages) as well as more recent buildings of wood, stucco and other materials. The building mix has flat roofs, parapets, and pitched roofs – some hipped, others with gables – and a wide range

of color from white to pastels and muddy colors to bright primaries. This variety allows Capitola to be a place of diversity, where unique buildings and interesting details are to be found.

### Special Features

There are a number of special features in the Village which stand out from the overall fabric. These include architecturally significant structures, the Six Sisters, the Venetian Court, the Camp Capitola Headquarters building. There are also other structures, originally built solely for utility, which have since become landmarks: the wharf, the wooden railroad trestle, the 86 steps up to Cliff Drive, and the Stockton Avenue Bridge with its special luminaries. These public improvements add interest to the Village character.

### Views, Paths, Public Spaces and Passageways

Pedestrian paths run along the Soquel Creek and the bluffs bordering the Village. Narrow passageways, like those between the restaurants on the Esplanade or between the blocks in the Venetian Court, run between buildings. The Village has few public spaces outside the main beach area street and sidewalks and Esplanade; the beach/Esplanade Park area serves as a main focal space of the Village. There are other smaller public green areas, Lawn Way and the small park at Stockton and Wharf Road. These areas are not heavily used but provide visual relief.

Sights from the Village provide visual access to the ocean and other natural features. These “natural views” provide relief from the urban fabric and add to the Village character.

### The Scale and Fabric of Capitola Village

The Village is generally perceived as having a small scale; 30-foot lot frontage is not unusual. Buildings are mostly one- and two-story, a few three-story. They are generally on small parcels, close to their neighbors. The perceived scale is also affected by the articulation of individual building elements. Buildings are further reduced in scale by projections like bay windows and flower boxes, by textured surfaces, by window and window pane size. These small variations in the scale contribute to the visual articulation of the Village’s built environment and encourage the perception of an overall small scale.

Disruptions in this scale tend to threaten the special character of the Village. This happens where commercial buildings are too large and/or are surrounded by parking, where residential buildings are built at a scale discordant with their neighbors, where extensive off-street parking with asphalt paving creates a different scale from textured paved surfaces or lawn areas.

“Fabric” is important to Capitola. Here the term refers to both the overall scale and uses of buildings, streets and open spaces of the Village. Larger scale development may be

woven into the fabric of a village if it has significant civic or public importance, like a city hall or other gathering place. In Capitola only the City Hall or possibly the movie theatre serves those roles and they both have large parking lots which tend to be visually disruptive. The Capitola Mercantile, on the other hand, raises the issue of the large commercial building which seems to occupy, with its parking lots and interior focus, a slice of the fabric disproportionate to its public significance; the scale and differentiation of activities housed therein is appropriate and commendable, the large undifferentiated shell or container represented by the building itself, however, works against the Village's fabric.

Another aspect of this fabric is the special combination of dramatic natural features and unique village urban character. This combination provides a village setting for community celebrations. Neither the setting nor the celebrations should be lost. The results are epitomized by various Village festivals. Other communities have seaside commercial areas, but Capitola has one that is not only adjacent to the beach, but serves Village residents as well as visitors.

In summary, the sense of Capitola as a special community is threatened. The car has a continuing negative impact on the Village where parking demands take up valuable land in the Central Village area, and asphalt surfaces and open carports create a larger scale than is appropriate to the Village. New development should be sensitive to creating a small scale that is necessary for it to be consistent with the Village. Village Design Guidelines can help maintain and enhance the Village character while allowing individual freedom of expression.

#### BACKGROUND – VISUAL RESOURCES OF OTHER AREAS OF CAPITOLA'S COASTAL ZONE

In addition to the Village, there are several areas of Capitola that deserve special attention in regard to protection of views, scenic resources, and natural landforms. One such area is Depot Hill. The Depot Hill neighborhood preserves some of the visual character of old Camp Capitola and Depot. The streets are tree-lined and without curbs, gutters, or sidewalks. Victorian houses occupy many of the lots on the hill, with a concentration along Cliff Avenue overlooking Capitola Village. At the east end of Depot Hill is the El Salto Resort complex. The eastern area of the El Salto property is Escalona Gulch, an undisturbed pine and eucalyptus grove extending from the coastal bluff approx. 800 feet inland to Park Avenue. The Grove provides a waystation for migrating Monarch butterflies. Other important coastal visual resources are bluff-top views to and along the ocean. These views extend along Cliff Drive and Grand Avenue.

#### RELEVANT COASTAL ACT POLICIES

The Coastal Act specifically addresses the issue of maintaining and improving visual resources. Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Particularly important for Capitola Village is Section 30253(5) of the Coastal Act, which states:

New development shall:

- 5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

There are several other groups of Coastal Act policies that are somewhat related to visual resources and community character. These policies deal with access, development patterns, and natural areas, and are discussed in other components of this draft LUP.

#### EXISTING LOCAL POLICIES AND REGULATIONS

The Capitola General Plan has two sections of particular relevance to Capitola Village. The Village Center discussion of the Land Use Section and the Community Design Element both address future development in a very general way. Neither provides for its protection as a special community. Encouraging buildings to be “rustic” and “individual” is not a sufficient set of guidelines for new development or rehabilitation in Capitola Village.

The Zoning Ordinance contains several Articles of particular relevance to the Village. Article 7 addresses the C-V zoning designation and “Development Standards.” Article 19 defines and describes the duties of the Architectural and Site Review Board. These Articles do not adequately provide for the protection of the Village’s unique characteristics. Article 6, relating to residential densities and Article 17 relating to parking requirements, also address issues important to the Village, without sufficient criteria to protect the special character of the Capitola Village community. Residential densities outlined in Article 6 do not accurately reflect existing densities; the parking regulations would allow further encroachment of the cars in the Village, affecting its present character. Article 18, describing the A-R zoning designation, raises procedural questions about the administration of standards to protect the Village.

The General Plan contains several policies that relate to the protection of scenic resources outside of the Village. The Conservation Element calls for public views of Monterey Bay

to be conserved and enhanced, and for trees to be conserved, with a few exceptions. As discussed above, as it relates to the Village area, the Community Design Element is very general and does not specifically address areas such as Depot Hill, which have distinctive characters and deserve protection. It does state that all new development should have architectural and site review. The City adopted an Historic Preservation Element in 1979 that names Depot Hill as one of the “picturesque, long-established neighborhoods” that contributes to the character of the City.

The Capitola Municipal Code has a tree removal section that was strengthened in 1979.

### GENERAL POLICIES

**Policy III-1** It shall be the policy of the City of Capitola to maintain the natural features, visual resources, and unique character of the Capitola Village. This includes maintenance of the particular scale and character of Capitola Village, retaining its special ability to serve both Capitola residents and visitors, protecting its natural features and views, and recognizing its historical continuity extending from the Camp Capitola period through the present. A commitment shall be made to maintaining the level of current activity in the Central Village area and/or intensifying activity and increasing capacity only in ways consistent with the current scale and character of Capitola Village.

#### Implementation:

- a) Develop project review criteria to preserve trees and other vegetation along Cliff Avenue and Prospect Avenue, along Soquel Creek and within the Village.
- b) Develop a special zoning district for the Village. The district shall include design review requirements to protect the unique Village character.

**Policy III-2** It should be recognized that the historical continuity of development in Capitola Village is an evolutionary process that doesn’t stop in the present. New styles of architecture may be as appropriate now as they have proved to be in the past. Capitola will continue to evolve as it has before, but should maintain a consistency of scale and a variety of architectural types to support the goal to preserve the special scale and character of historical Capitola Village.

#### Implementation:

Develop design review guidelines and a development review process for new construction and rehabilitation to ensure that building materials



including siding, roofing, doors and windows are appropriate for the building design and the Village character.

- Policy III-3 No new permanent structures shall be permitted on the open, sandy beach area of Capitola because of their potential impact on visual resources, hazards and public recreation, except for facilities required for public health and safety (lifeguard stands, approved beach erosion control structures).

Implementation:

None.

- Policy III-4 It shall be the policy of the City of Capitola to require the planting of trees in new development and to protect existing trees by allowing removal only in accordance with the City's Tree Ordinance. The City should encourage new developments to be designed to preserve significant vegetation.

Implementation:

Enforce adopted Capitola Tree Ordinance.

- Policy III-5 Permitted development shall not block or detract from public views to and along Capitola's shoreline.

Implementation:

Incorporating policy direction in Planning Commission review of projects along shoreline.

- Policy III-6 It shall be the policy of the City of Capitola to maintain the special character of Depot Hill. New development on Depot Hill shall be permitted only where designed to be compatible with the scale and architectural character of the area.

Implementation:

Require Architectural and Site review for all development in the Depot Hill area.

SPECIFIC POLICIES

General Appearance of Capitola

- Policy III-7 To ensure the maintenance of the special scale and character of Capitola Village development proposals within the Village area shall be subject to

Arch & Site and Planning Commission Review with emphasis placed on the following design particulars:

- a) Building bulk, width, height and roofscape (the overall building envelope and the scale of the pieces within this envelope).
- b) Architectural thematic units including:
  - 1. Window size and scale and frame materials.
  - 2. Color variety.
  - 3. Materials variety.
  - 4. Signage.
  - 5. Scale of articulation.
- c) Street thematic units including:
  - 1. Trees, ground cover and foliage.
  - 2. Street, path and public space lighting.
  - 3. Paving patterns and paving materials.
  - 4. Traffic and parking furniture (directional signs, directional islands, bicycle racks, etc.).
  - 5. Signage.
- d) A continuing program for the removal of utility poles and undergrounding of overhead wires.

Implementation:

Incorporate policy direction in Planning Commission and Arch & Site Review of projects in the Village Area consistent with Policies III-7, III-9 & III-14.

- Policy III-8 Where replacement of structures is permitted, new buildings need not necessarily be copies of older ones, but should be build with scale, materials, and a sensitivity to the spirit of adjacent buildings and the prior structure.

Implementation:

Incorporate policy direction in Planning Commission and Architectural & Site Review of projects in Village area consistent with this policy.

Natural Features

- Policy III-10 The City shall identify architecturally and historically significant structures and provide for their protection. These include special, unique structures in Capitola Village and surrounding bluffs, both private and public.

Implementation:

- a) Complete a survey of architecturally and historically significant structures and those requiring special design review.
- b) Develop special design criteria for the redevelopment and/or restoration of architecturally and historically significant structures to preserve those qualities that are found to be unique.
- c) In the Village area, ground floor or on-site parking shall be limited to those areas designated on Exhibit B or as provided in LCP Policy 1.1.

Public Spaces

Policy III-11 Public spaces and pedestrian paths in Capitola Village should be maintained and improved where necessary. Pedestrian use of these elements should always be of primary importance. Public pathways should be landscaped where appropriate to improve the appearance of the path.

Implementation:

Continue the maintenance and enhancement program for public spaces and pathways.

Scale, Activity and Special Community Character

Policy III-12 Maintenance and emphasis on small individual businesses oriented primarily to the pedestrian, and discourage large scale conglomerations of shops surrounded by off-street parking. Establish a desirable range to the size and scale of the Village commercial facilities including square footage and street frontage. The intensity of development shall be limited to the availability of parking or alternative transportation systems such as a shuttle buss and remote parking. Relate sign and access regulations to pedestrian movement and physical character appropriate to particular areas in the Central Village.

Implementation:

- a) Develop Village/beach parking requirements that require new developments to provide parking.
- b) Prepare a standard aesthetically pleasing design for all access signs in accordance with the policies of the Visual Resource Component (III), and Coastal Guidelines.

- Policy III-13 A high level of business activity should continue to be encouraged in accordance with Capitola Village scale and character. Commercial activity should serve both Capitola residents and visitors: a balance, which currently exists, should be maintained in the Central Village area between coastal visitor-related uses and services and those serving permanent residents, as this balance is critical to the continued unique qualities of the Village.

Implementation:

None.

- Policy III-14 Commercial buildings in areas of particular public interest, because of natural features adjacent to them, shall be required to take advantage of these features and allow the public to do so as well. Mechanical equipment should be kept under cover, because views from the cliffs above are important. Structures along the Esplanade should allow views through from the Esplanade to the ocean, where possible, and recognize that they have a public face on the ocean side that is at least as important as the facade on the street side.

Implementation:

Prepare design guidelines for all new development to implement above policy.

- Policy III-15 Long-term and short-term housing should be maintained and encouraged, consistent with maintaining a balance with permanent resident and visitor's uses of the Village as a special community.

Implementation:

Incorporate policy direction in Planning Commission and Architectural and Site Review of projects in Village area consistent with this policy.

- Policy III-16 Within the architectural style and character of the Village, residential units should be considered as a part of commercial development to maintain and enhance the mixed commercial/residential character of the Village. These requirements should extend along Capitola Road to 45<sup>th</sup> Avenue and Capitola Avenue to Bay Avenue.

Implementation:

- a) Develop the necessary regulations to insure consideration for the inclusion of residential units in all the Village development.

- b) Adopt Commercial/Residential Zone district for Capitola Road.

Visual Aspects of Access and Circulation

Policy III-17 Large open parking lots are visually disruptive and pre-empt valuable land locations from being used for the kind of human activity that translates into Village life. The current public parking supply in the Central Village area should not be increased by covering more land. (New parking areas within the Village shall be limited to the provisions of LUP Policy 1-1.) If peripheral parking areas or other alternatives are to be developed, they should be designed, operated and maintained as a visual resource to the Village.

Implementation:

- a) Develop ordinance that limits development to the provision of additional parking.
- b) Acquire long-term use of land for remote parking lot to serve the shuttle bus system.
- c) Develop a permanent shuttle bus financing system to operate as long as there is a parking shortage. Develop objective criteria for determining the existence of a parking shortage, including shuttle bus ridership use. Provide that the discontinuance of the shuttle system requires prior approval of the Coastal Commission.
- d) The City shall periodically review alternative transportation systems being utilized by other coastal communities for application in Capitola.

Policy III-18 Current traffic circulation patterns in the Village are to be maintained, or revised only to insure public safety. Increased speed of circulation throughout the Central Village area is to be discouraged as a means of keeping the slow pace now part of the Village character.

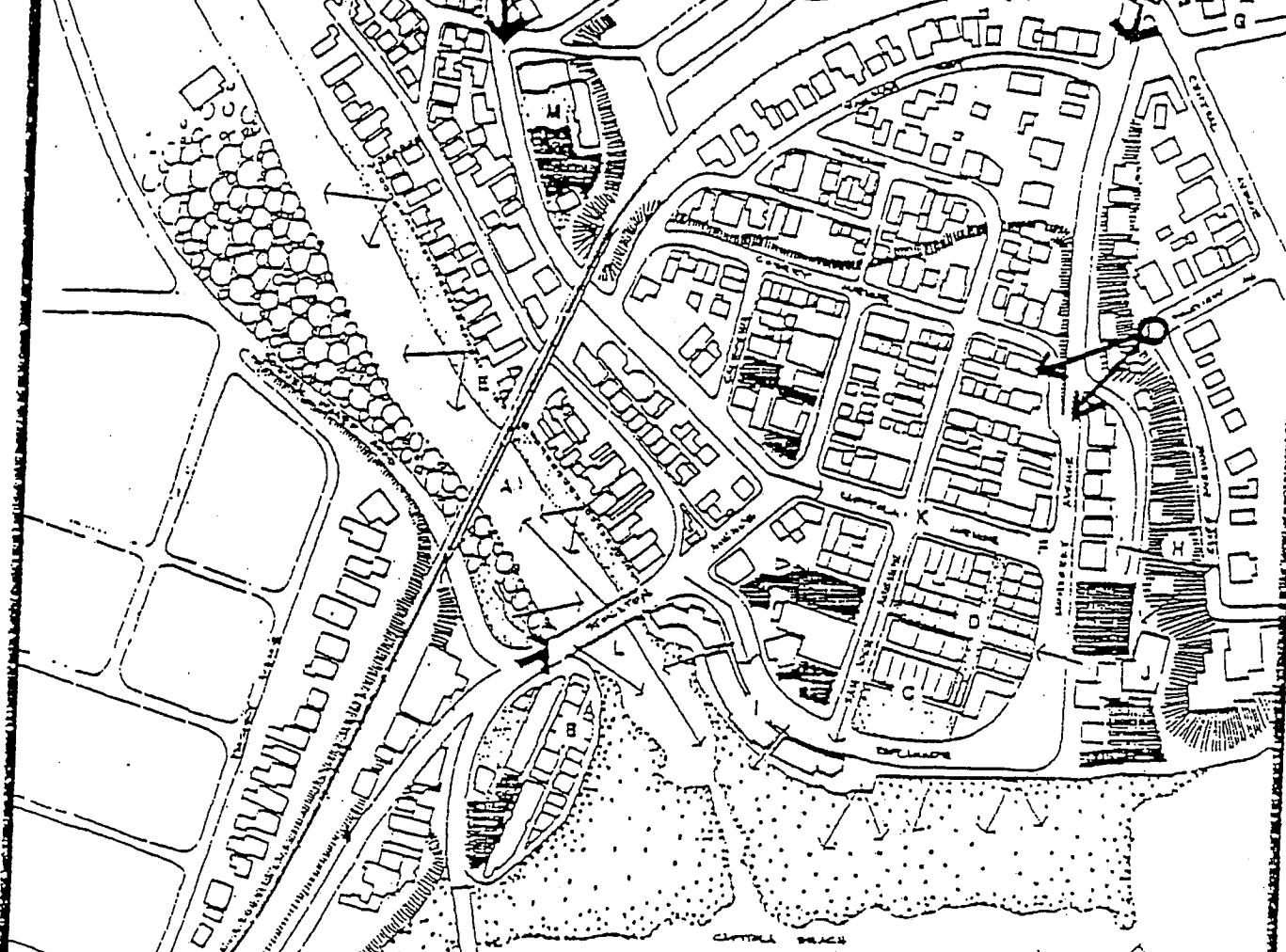
Implementation:

None.

# VISUAL RESOURCES + SPECIAL COMMUNITIES

MAP II-1

## BACKGROUND DIAGRAM



### LEGEND

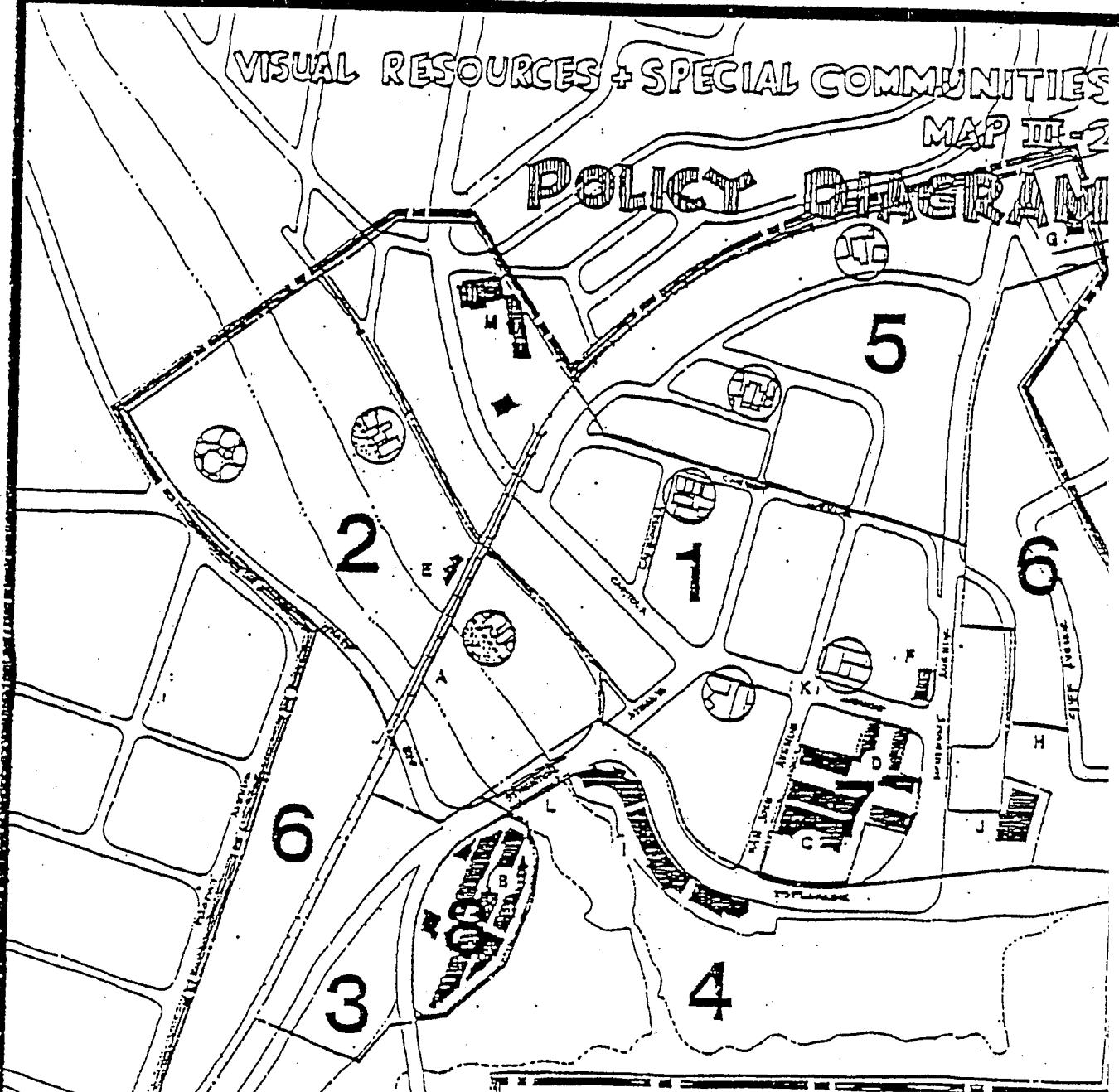
- |                  |                        |
|------------------|------------------------|
| TYPING OFFICE    | CREEPER BEGONIA        |
| STEEP SLOPE      | SPECIAL COMMUNITIES    |
| VILLAGE ALLEYWAY | GROUNDWATER HIGHWAY    |
| BUILDING FLOOR   | PUBLIC SQUARE          |
| OPEN SPACE       | VISUAL BARRIAGE IMPACT |
| LAWN AREA        | COMMUNITY STAGES       |
| OPEN SPACE       | SIGNIFICANT STRUCTURE  |
| WALKWAY          | VILLAGE VIEW           |
| OPEN SPACE       | INTERIOR (EXTERIOR)    |
| VILLAGE PLAZA    |                        |
| PARKING          |                        |

Attachment: LCP Land Use Plan (Update to Zoning Ordinance/ LCP Implementation Plan)

# VISUAL RESOURCES + SPECIAL COMMUNITIES

MAP III-2

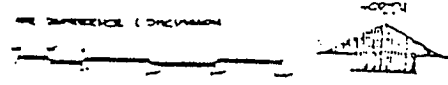
## POLICY DIAGRAM



- A CAMPOTELA HQ
- B CAMPOTELA TOWER
- C CAMPOTELA TRUSTEE
- D CAMPOTELA WHARF
- E CAMPOTELA TRUSTEE
- F CAMPOTELA TRUSTEE
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- W CAMPOTELA TRUSTEE
- X CAMPOTELA TRUSTEE

### LEGEND

- |  |                          |  |                                                |
|--|--------------------------|--|------------------------------------------------|
|  | VILLAGE DISTRICTS        |  | VILLAGE AREA DESIGN STANDARDS & REVIEW         |
|  | 2 LOWER VILLAGE CORRIDOR |  | 3 VILLAGE AREA                                 |
|  | 4 LIVE WAY               |  | 5 VILLAGE AREA                                 |
|  | 6 LIVE WAY               |  | 7 LIVE WAY & 2ND STREET                        |
|  | 8 VILLAGE AREA           |  | 9 VILLAGE AREA                                 |
|  | SPECIAL PRECINCTS        |  | 8 VILLAGE AREA                                 |
|  | 7 LIVE WAY & 2ND STREET  |  | 8 VILLAGE AREA                                 |
|  | 8 VILLAGE AREA           |  | ENVIRONMENTAL FABRIC FORM, CHARACTER & DENSITY |



Attachment: LCP Land Use Plan (Update to Zoning Ordinance/ LCP Implementation Plan)

## IV. RECREATION & VISITOR SERVING FACILITIES

### BACKGROUND

The City of Capitola has a number of natural and manmade resources which have made it an increasingly popular destination point for visitors. These visitors are from Santa Cruz County, many are from the San Francisco Bay Area, and others from more distant parts of the state as well as the nation. The popularity of Capitola for tourism and recreation is not a new phenomenon, however, as the beach, Village, and Depot Hill areas were the sites of a thriving resort in the late 19<sup>th</sup> Century and early 20<sup>th</sup> Century. Now, with the increased commercial importance of the City, the revitalization of the Village, and the restoration of the Wharf, it can be expected that visitor attendance will increase.

### RELEVANT COASTAL ACT POLICIES

The Coastal Act contains several sections that relate to recreation and visitor-serving facilities.

#### SEC. 30212.5

Whenever appropriate and feasible, public facilities, including parking areas or facilities shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

#### SEC. 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Neither the commission nor any regional commission shall either: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate-income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

(Amended by Ch. 1191, Stats. 1979.)

(Amended by Ch. 1087, Stats. 1980.)

(Amended by Ch. 1007, Stats. 1981.)

#### SEC. 30220

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be provided for such uses.



SEC. 30221

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

SEC. 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

SEC. 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

SEC. 30250

(c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

DEMAND FOR SERVICES AND FACILITIES

While specific statistics for visitation to Capitola are not available, figures for Santa Cruz County as compiled by AMBAG in their 1979 report, "The Visitor Sector", are revealing. Over 6.6 million visitors come to the County each year, with about 5 million visiting the beach.

Growth in overall visitation to the County has increased at about 5% per year in recent years. The visitor sector is estimated to provide 25% of the County's service and trade employment and 10% of County employment. For the coastal zone portion of Capitola these percentages could be even higher. Visitors spend about \$88.3 million annually in the County, with \$50 million from day-visitors and \$38 million from overnight-visitors. The average overnight visitor spends \$33 per day while the average day visitor spends about \$7 per day.

Data regarding future demand for recreational and visitor-serving facilities are not available, but all indications are for demand to increase. There are several reasons for this. One is that the population of Santa Cruz County will continue to grow, causing a rising demand by local residents for recreational activities. Another is that because of the rising cost of gasoline, the attractiveness of short-distance trips will grow. Capitola is within ½ to 2 hours of major Bay area population centers. Another factor is that Capitola

will most likely increase in popularity as a visitor destination because of the Wharf restoration and the continued development of the Village. The very long waiting list for berths at the Santa Cruz Small Craft Harbor also contributes to a large demand for the provision of boat launching or storage facilities elsewhere nearby, such as Live Oak and Capitola.

### EXISTING FACILITIES

The Village – Capitola Village is properly termed a popular visitor destination point. With its restaurants, stores and distinctive character, it is a commercial center, it provides food services and is attractive for simple sightseeing. Although some uses such as offices and residences are not visitor-serving, they add to the character of the Village and help make the Village the unique area that it is.

The Beach – Capitola Beach is the most popular and important of the City's recreational assets. Figures presented in the Public Access LCP Working Paper indicate that most visitors to the Village area are primarily interested in the Beach. The City's 1970 investment in a groin to re-establish the beach has proved to be a wise one. The operation of a free beach shuttle system by the City in the summers on 1978-80 has helped insure that the Beach is accessible despite parking problems in the Village area. The City also maintains a public restroom adjacent to the Beach which is an important recreational support facility.

The Wharf – The newly renovated Wharf has a rich history in Capitola. The history of the Wharf and its various uses are outlined in LCP Working Paper #2. Today, with acquisitions of the Wharf by the City and funding help from the State and Federal government, the Wharf is ready once again to be a major visitor-serving facility. Present facilities include a boat hoisting facility, a small restaurant, a fish market, a bait shop, boat storage and rental, and public fishing access.

New Brighton Beach State Park – Partially located within the City limits, this State Park provides hiking trails, overnight camping, and a beach for public use with a fee. This park is extremely popular; the State Department of Parks and Recreation reported use by 286,113 persons in 1976-77. They also report that demand for camping is extremely high with many people turned away (an average of 77 families were turned away every day of August 1976). The Department indicates that if developable land adjacent to the park becomes available for purchase, the Department will consider acquisition of these properties to provide additional camping opportunities. The Department has also proposed that the Area Headquarters office (for the Pajaro Coast – Santa Cruz and North Monterey Counties) be relocated from Aptos to a site in the park in McGregor Drive.

### The Shadowbrook Restaurant

The Shadowbrook Restaurant deserves recognition as a visitor-serving facility. The site of the restaurant represents a unique and historical part of Capitola as a result of its past residential use. The present restaurant operation has opened the site up to the public and

has achieved landmark status in the Capitola coastal zone. Because of its unique location and environment (on Soquel Creek), the site should continue to be visitor-serving.

### Private Lodging Facilities

Capitola's coastal zone has a limited number of motel and hotel rooms. There are four hotel/motels with a total of 61 rooms. By today's standards the rates for most of these rooms are low to moderately high in cost; rates range from \$20 per night to \$75 per night. These facilities report occupancy rates of approximately 40-60% in the winter and 85-100% in the summer (mid-June through mid-September). Three of the four facilities are located in the Village area; the fourth is located on Depot Hill (El Salto Resort). While all of these overnight facilities are small and do not approach the grandeur and renown of the Old Capitola Hotel (which burned in 1929), they make up an important part of the visitor-serving capabilities of the City. Additional facilities are also available at the Capitola Inn (just outside the Coastal Zone at Bay Avenue & Hwy. 1) which is expanding to eventually incorporate about 90 units.

### PROPOSED VISITOR AND RECREATIONAL FACILITIES

Capitola has very little usable, vacant oceanfront land for new visitor-serving and recreational facilities; however, there are several proposed developments which could allow for more intensive use of existing areas or, in limited cases, new areas for visitor-serving activities. Mentioned above were the restoration and development of the Wharf and possible additions to New Brighton State Park. There are several other projects which have received consideration and if built would add considerably to the City's visitor-serving capabilities both qualitatively and quantitatively. Three of these projects involve the Beach area. One is to install moorings in the offshore area around the Wharf. In the past, temporary anchored buoys were rented out from spring to fall. A renewal of this practice would help satisfy some of the large demand for berths that the Central Coast harbors cannot meet. A second proposal for the Beach area is for the City to install a floating dock just offshore for swimmers to utilize. Again, this would be a temporary structure for the better-weather period when tourist use is high. Another Beach area possibility involves the area of the present bathrooms and parking lot. The County Sanitation District, in a project associated with the demolition of the old sewage pump station, proposed to demolish the present restrooms and relocate them on the inland edge of the parking area, adjacent to the existing building. A possible use of the area could be to convert this asphalted parking area to a City park with benches, landscaping and perhaps barbecue stands. Similar beachside parks have been successful in other parts of California and would be unique in this area. An impact to be weighed against its benefits would be the loss of 15 or more parking spaces. This impact could be mitigated with the permanent commitment of the City to a beach shuttle system and more efficient parking and circulation in the Village. A final Beach area project to consider is the restoration of the Bandstand area for private use. This property is privately owned and has recently been approved for use as an outdoor restaurant and bar. If that use does not come about, the City should require provisions for public safety and beach access.

Two other possible projects for increased visitor-serving use involve overnight facilities. One is the restoration and development of the Rispin Mansion (Poor Clares) along Soquel Creek on Wharf Road into a conference center. The other is expansion of the El Salto Resort on Depot Hill. The El Salto has experienced a revival of its once popular resort status, as most of the units are being rented for short terms instead of long-term. With the high demand for overnight accommodations in Capitola, the owner of the El Salto believes an expanded resort is economically feasible; however, in the past years, a number of the lots have been sold to individuals and are no longer part of the existing resort.

A final possible visitor-serving facility is outside the City's boundaries but should be noted because the City is considering annexation of the land. This is the Porter-Sesnon property located just east (downcoast) of New Brighton State Park. Considering Coastal Act requirements and the size and location of the land, this property would be a suitable site for recreation and/or visitor-serving facilities in keeping with environmental resource of the site.

### EXISTING LOCAL POLICIES AND PROGRAMS

The Capitola General Plan does not contain many policies which relate directly to recreation and visitor-serving facilities for other than City residents. A policy in the Land Use Element encourages some visitor-serving uses in the Village, such as hotels, restaurants, and bars. There are many policies concerning the Village which protect and further its character as a pedestrian-oriented visitor-serving center. The Open Space Element recommends an open space designation for the Rispin Mansion property and all beach areas within the City of Capitola. It also includes designation of the area between New Brighton State Park and State Highway 1 as an expansion area for the State Park. This area is outside the present City boundaries but the City is considering annexation.

### Recreation And Visitor-Serving Facilities Component

Policy IV-1 The City shall designate the following areas as visitor-serving and/or recreation uses:

- a) The Capitola Village commercial area (retail, restaurants, lodging, etc.)
- b) All sandy beaches;
- c) The Wharf;
- d) New Brighton State Beach;
- e) The El Salto Resort properties;
- f) The Shadowbrook Restaurant property.

- g) The Rispin parcel.
- h) The vacant lands between New Brighton State Park and McGregor Drive.

Implementation:

Revise Zoning Ordinance to include a visitor serving designation and designate these locations identified in the Land Use Policies consistent with Policy IV-2.

- Policy IV-2 Areas designated as visitor serving and/or recreational shall be reserved for visitor support services or recreational uses. Permissible uses include, but are not limited to hotels, motels, hostels, campgrounds, food and drink service establishments, public facilities, public beaches, public recreation areas or parks, and related rental and retail establishments. Residential uses are also permitted on dual designated "visitor-serving/residential" parcels; specifically, a portion of the El Salto Resort, and in the Village area. Development can be accomplished through private or public means.

Implementation:

- a) Revise Zoning Ordinance to include a Visitor-Serving designation and designate these locations identified in the Land Use Policies consistent with Policy IV-2.
- b) Investigate public and private funding sources for implementation of visitor serving projects; adopt Capital Improvements Program to identify timing and scope of projects.

- Policy IV-3 If the City annexes the following areas, those areas shall be designated as visitor serving and/or recreation uses:

- a) The Porter-Sesnon properties; subject to guidelines enumerated in the City's 1979 General Plan Amendment related to Porter-Sesnon properties.

Implementation:

None.

- Policy IV-4 The City shall develop and acquire active park and passive open-space sites sufficient to meet the recreational needs of the community.

Implementation:

- a) City shall identify areas for park acquisition and development.
- b) Seek available Park-Bonds, State Grants and Federal Matching Programs for acquisition and development of identified sites.

## VI. NATURAL SYSTEMS

## BACKGROUND

Although Capitola is a highly urbanized area, it contains many natural features that serve as habitat areas valuable to wildlife. These natural areas are not as extensive as in other parts of Santa Cruz County's coastal zone, but, because of their urban setting, are important and unique. This component deals with preservation and restoration of Capitola's natural resources, including Monterey Bay, Soquel Creek, groundwater, and unique habitat areas.

## DEFINITIONS

Environmentally sensitive areas are defined in Coastal Act Section 30107.5:

"Environmentally sensitive area" means 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.

The Coastal Act defines wetland in Section 30121:

"Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and includes saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats and fens.

## RELEVANT COASTAL ACT POLICIES

There are many Coastal Act policies that pertain to habitat areas. These are as follows:

### SEC. 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance.

Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

### SEC. 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where

feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

SEC. 30232

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

SEC. 30233

a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

- 1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.
- 2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
- 3) In wetland areas only, entrance channels or new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland; provided, however, that in no event shall the size of the wetland area used for such boating facility, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, be greater than 25 percent of the total wetland area to be restored.
- 4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities.
- 5) Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake or outfall lines.



- 6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.
  - 7) Restoration purposes.
  - 8) Nature study, aquaculture, or similar resource-dependant activities.
- b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable longshore current systems.
- c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California," shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of South San Diego Bay, if otherwise in accordance with this division.

For the purposes of this section, "commercial fishing facilities in Bodega Bay" means that no less than 80 percent of all boating facilities proposed to be developed or improved, where such improvement would create additional berths in Bodega Bay, shall be designed and used for commercial fishing activities.

#### SEC. 30236

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to 1) necessary water supply projects, 2) flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development, or 3) developments where the primary function is the improvement of fish and wildlife habitat.

#### SEC. 30240

- a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.
- b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts

which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

## MONTEREY BAY

Monterey Bay is a complex ecosystem that supports a variety of different habitat types including kelp forests, tidepools, subtidal, intertidal, and deepwater areas. The waters of the Bay are inhabited by a wide range of marine organisms such as fish, invertebrates, kelp, sea birds and marine mammals. Many of these organisms are harvested for recreational and commercial purposes. Monterey Bay has high value due to its scenic, recreational, educational, commercial and biological resources. The City of Capitola has a vital interest in maintaining the water quality and marine resources of Monterey Bay. Water sports (sailing, swimming, surfing, diving, fishing) are attractions that bring revenue to the City from associated sales and services. Therefore, protection and improvement of Bay water quality and habitat populations is an important goal.

Perhaps the most significant resource in Capitola's coastal waters is the area of kelp beds. The kelp beds are a center of marine activity; the habitat for hundreds of species including the endangered sea otter.

Another important habitat associated with Monterey Bay is the waterbird foraging area below Depot Hill. The shoreline between the rock groin of Capitola Beach and the mouth of Tannery Gulch is frequented by numerous shorebirds during low tide. Many other waterbirds, including cormorants, gulls and the endangered California Brown Pelican, commonly forage immediately offshore in the waters adjacent to the kelp beds.

Currently, the water quality of Monterey Bay is being degraded by urban runoff entering the Bay from Soquel Creek and through pipes and culverts located along the cliffs. This non-point source of pollution is likely to increase with greater urbanization unless effective measures are taken to control its adverse impacts. Water quality is further threatened by the potential for oil and gas spillage, which could occur as use of the Wharf increases. A more substantial threat would be present if there is offshore oil drilling in the future.

## EXISTING POLICIES AND REGULATIONS

The Capitola General Plan contains two policies in the Conservation Element that concern Monterey Bay. These are as follows:

- Public views of and public access to the Monterey Bay should be conserved and enhanced for the benefit of the entire community.
- Conserve the balance between existing fish and plant communities in Monterey Bay and public usage.

The Conservation Element also calls for preventing polluted runoff from entering Soquel Creek, a goal that also would protect Monterey Bay water quality.

#### METHODS TO PROTECT AND ENHANCE THE MONTEREY BAY HABITAT

The water quality of the Bay can be improved by directing storm runoff away from Soquel Creek and coastal bluffs. The City should regulate oil and gas use on the Wharf to insure that the nearby kelp beds and Soquel Creek lagoon are not degraded by spills. The construction of an underwater reef by the California Department of Fish and Game will provide an enhancement of the Bay's fishery habitat. Although this reef is outside of Capitola's tidelands grant (1.5 miles offshore of Capitola Beach), it is expected to improve nearby areas by attracting fish and other marine organisms. Future expansion of the reef should be encouraged, possibly into Capitola's jurisdiction, if justifiable from a habitat standpoint.

#### SOQUEL CREEK AND OTHER STREAM AND WETLAND HABITATS

Soquel Creek is one of the more important water and wildlife habitats in Santa Cruz County. It is an invaluable habitat for resident and migratory wildlife due to its extensive riparian corridor. The woodland along the west bank is one of the three best examples of riparian corridors in Santa Cruz County. Other significant riparian corridors in Capitola's coastal zone are Noble Gulch and Tannery Gulch. Although clearing, filling, and invasion by non-native plant species has diminished the size, diversity and wildlife value of Capitola's riparian corridors, these areas still provide valuable cover for birds and mammals, including raccoon and deer.

Soquel Creek's waters are also an important natural resource for the area. Approximately 18 of the stream's 40 miles support an annual steelhead run with resident trout and non-sport species also being common.

Threats to the Soquel Creek habitat are decreased water quality and water quantity. The upper watershed outside the coastal zone has many conditions that adversely affect the coastal zone. These are siltation caused by development, logjams, the many impacts that would result from construction of the proposed Glenwood Dam reservoir on the west branch of the stream, and the effects of a possible smaller water diversion just above the town of Soquel. Adverse impacts on Soquel Creek and Noble Creek, which already has very poor water quality, also result from urban runoff.

The mouth of Soquel Creek is considered to be an important wetland habitat. The creek is dammed up at the river mouth, both naturally and deliberately, during much of the year. Although narrow and shallow, the lagoon is the only significant habitat for migratory non-marine waterbirds within the Capitola city limits. Duck, grebes, gulls, spotted sandpipers and black-crowned night herons are among the birds that can be seen at the lagoon during the winter months.

It should be noted that the City's boundaries include a portion of the drainage area for Moran Lake, an important wetland habitat, which is outside the city limits. The County of Santa Cruz is including Moran Lake in its Local Coastal Program; Capitola should consider the impacts that activities within the City's portion of the Moran Lake watershed have on that wetland.

#### EXISTING POLICIES AND REGULATIONS

The Capitola General Plan Open Space and Conservation Elements have several policies for protection and enhancement of Soquel Creek, its environment, and the other riparian habitats in the City. These policies are as follows:

- All tree cover within the major creekways of the Planning area should be conserved except where selective thinning and pruning will either enhance public views or accommodate public trails.
- The creekways should be preserved in essentially their natural state in order to encourage conservation of existing wildlife.
- No building development should take place within the creekways from top of bank to top of bank; and a minimum of 25-foot setback from top of bank should be provided for development except where accompanying soils and geologic reports indicate that a greater or lesser setback is desirable and feasible.
- Soquel Creek and adjoining tree cover and steep banks, with the existing public paths and passive recreation, should be included in the Open Space system in essentially its natural state.
- Water quality of Soquel Creek shall be improved to meet minimum acceptable state standards.

General Plan implementation measures for these goals are identified as improving the sewer system to prevent overflows in the creeks, redirecting storm drains away from the creeks, preparation of a tree ordinance, and construction of public paths in carefully selected portions of natural areas. The City has accomplished some of these suggested measures including adoption of a tree removal ordinance and repair of some of the sewer lines that have caused trouble. The Zoning Ordinance does not have any regulation regarding drainage or erosion control. The City uses the grading provisions included in the adopted Uniform Building Code. Conditions are placed on development projects on a case-by-case basis when provisions beyond those suggested by the Uniform Building Code are necessary.

## METHODS TO PROTECT AND ENHANCE STREAM/RIPARIAN HABITATS

This discussion is divided into three sections: methods related to water quality, to water quantity, and to riparian corridors.

For both water quality and water quantity, an intergovernmental approach is necessary. Since the Soquel Creek watershed is mostly outside of the city limits, it makes sense for the City to work with Santa Cruz County and the Soquel Creek County Water District to plan for and implement a water resources management plan. The Association of Monterey Bay Area Governments is able to assist in the coordination of such a joint effort. A watershed management plan includes regulation of uses and activities that affect water quality, as well as management of water use, including diversions and their impacts.

### Water Quality

The City can do several things to control the water quality of the lower reaches of Soquel Creek and Noble Gulch. Pollutants generally come from two sources: the streets and the land. Street pollution enters streams as runoff during storms or from overflowing sewer lines. The City currently operates a vacuum sweeper, which removes 95% of sediment and nutrients from urban streets, according to the Association of Monterey Bay Area Governments (AMBAG).

To control siltation of the streams, regulations for grading and construction techniques are needed. This is particularly important along Soquel Creek where areas of vacant buildable land front the stream. In other areas, adherence to the standard Uniform Building Code grading ordinance that the City has adopted is adequate.

### Water Quantity

The most significant impact that could affect water quantity in Soquel Creek and its lagoon would come from the proposed Glenwood Dam and smaller diversion. In planning for these diversions, if they are authorized, maintenance of minimum stream flows necessary to support riparian vegetation and wildlife populations is essential. The steelhead population is of paramount concern. The California Department of Fish and Game will be the agency with major responsibility for designating a minimum stream flow.

### Riparian Corridors

Protection and enhancement of the City's riparian corridors can be accomplished by doing the following things: increasing and/or enforcing building setbacks; maintaining existing public paths in a sensitive manner; restrict future intrusions; controlling removal of native vegetation; removing non-native vegetation. The City's General Plan suggestion of 25-foot setback from the top of the bank should be increased, an action that would also

benefit water quality. In most cases, a 50-foot setback is needed for protection of the stream resources.

### GROUNDWATER RESOURCES

Prevention of the depletion of groundwater supplies is required by Coastal Act Section 30231. Capitola is located within the Soquel-Aptos basin, a 50 square-mile area whose boundaries are roughly Branciforte Creek-San Lorenzo River on the west, the divide separating the Pajaro River basin from the Soquel-Aptos basin (located approximately at La Selva) on the east, the San Andreas Fault on the north, and Monterey Bay on the south.

Water for the portion of Capitola west of 41<sup>st</sup> Avenue is supplied by the City of Santa Cruz, from surface sources north of that City. Most of Capitola, however, is served by the Soquel Creek County Water District, which draws its water exclusively from groundwater supplies. In a 1980 report, the District described its capacity as inadequate to serve the existing population and accommodate expected growth in the area. The District's problems of overdraft and seawater intrusion are highlighted in the Locating and Planning New Development Component, and more detailed data is provided in the Background Information Paper.

### EXISTING POLICIES AND REGULATIONS

Capitola has no adopted policies or regulations that relate to protection or enhancement of groundwater resources.

### METHODS TO PROTECT OR RESTORE GROUNDWATER

While only a small portion of Soquel Creek County Water District's groundwater supplies come from within Capitola's boundaries, the City is a significant user of the District's resources. Therefore, Capitola's water consumption pattern can affect the District's overall ability to continue to deliver water in a safe and efficient manner. The institutional means available to Capitola are discussed in the Locating and Planning New Development Component. The City, working with the water district can also help by assisting in a water conservation program.

A public education program aimed at reducing water use could effect positive changes in a situation of short supply. Wasteful uses of scarce water could be discouraged: driveways and walks can be cleaned with a broom instead of a hose; yards can be planted with drought-resistant shrubs and ground covers rather than water-hungry lawns. Applicants for building permits are required to incorporate water-saving devices into construction plans.

## LOCALLY UNIQUE WILDLIFE HABITATS

Habitats of most locally unique wildlife species – such as black-crowned night heron and red-necked grebes – were discussed in previous sections on riparian and marine habitats. In addition, Capitola contains three riparian and marine habitats. In addition, Capitola contains three eucalyptus groves used as overwintering sites by the Monarch butterfly, Danaus plexippus. The Monarch is an insect known to migrate. Each fall Monarchs from all of North America travel up to 3000 miles to reach overwintering sites along the California coast and in Mexico.

Successful overwintering requires protection from destructive winds and freezing temperatures – protection offered by large trees in the moderate climate of the coastal zone. Monarchs hang in clusters from the drooping limbs of eucalyptus trees. In Capitola these “butterfly groves” are located in secluded portions of Soquel Creek, Escalona Gulch, and New Brighton Gulch. The presence of these populations of Monarchs adds color and character to the winter scene in Capitola.

### Escalona Gulch Monarch Butterfly Grove

Between the Southern Pacific Railroad and the Pacific Ocean, Escalona Gulch is heavily forested with eucalyptus trees and some Monterey pines and cypresses. There is little native vegetation except for poison oak, the understory having been overgrown by non-native vines. This grove would be of limited wildlife value except that it is a permanent overwintering site for Monarchs.

### New Brighton Gulch Monarch Butterfly Grove

Just outside the city limits between New Brighton Road and New Brighton State Park campground is another overwintering site for Monarch butterflies. This grove is partly on State Park property and partly on private residential parcels. Butterfly populations have fluctuated, perhaps due to the removal of some large windward trees sheltering the grove, trimming of lower hanging branches on some of the trees.

### Soquel Creek Monarch Butterfly Grove

Monarch butterflies cluster on the branches of eucalyptus trees east of the intersection of Wharf Road and Clares Street. This grove lies within the Soquel Creek riparian corridor on the steep west side of the creek. Monterey pines, redwood and acacia are interspersed within the grove, which is part of the former Rispin Mansion property, recently purchased by the City of Capitola.

## EXISTING POLICIES AND REGULATIONS

Most of the butterfly habitat is covered by inclusion of the various localities in the General Plan Conservation and Open Space elements. Both Escalona Gulch and Soquel

Creek Monarch butterfly groves lie within areas designated for preservation as open space.

## METHODS TO PROTECT AND ENHANCE THE BUTTERFLY HABITAT

The most obvious way to ensure the continued health of the Monarch butterfly habitats is to ensure the continued health of the trees. The City has a tree removal ordinance that can be used for this purpose. Many trees adjacent to the Monarch butterfly overwintering trees need protection also, for they form a windbreak that shelters the butterflies. Another threat to the habitat is air pollutants. Capitola does not presently have any industries that produce pollutants that would affect the groves.

## NATURAL SYSTEMS COMPONENT POLICIES

### GENERAL POLICIES

Policy VI-1 It shall be the policy of the City of Capitola to take measures within its purview to preserve and improve the quality of the waters of Monterey Bay, to support Marine Habitats, public recreation, and commercial pursuits consistent with sound resource management principles.

#### Implementation:

- a) Cooperate with AMBAG in the development of erosion control regulations for all new development as required by the regional water quality control board.
- b) Seek funding sources – augmenting the County’s flood control program to upgrade existing inadequate facilities, specifically the onsite retention of contaminants.

Policy VI-2 It shall be the policy of the City of Capitola to protect, maintain and, where possible, enhance the environmentally sensitive and locally unique habitats within its coastal zone, including dedication and/or acquisition of scenic conservation easements for protection of the natural environment. All developments approved by the City within or adjacent to these areas must be found to be protective of the long-term maintenances of these habitats.

#### Implementation:

Prepare specific guidelines and regulation for development along Soquel Creek, Noble Gulch, Escalona Gulch and other environmentally sensitive habitats with specific emphasis on Monarch Butterfly habitats.

Policy VI-3 It shall be the policy of the City of Capitola to maintain the maximum



amount of native vegetation along Soquel Creek and other riparian areas, and to strongly support the California Department of Fish and Game in requiring a minimum flow that will support a healthy riparian habitat and permanent fishing resource in Soquel Creek.

Implementation:

The City shall maintain existing water rights to Soquel Creek to ensure adequate flows for safety and recreational purposes and support the Department of Fish and Game pursuant to the stated policy.

SPECIFIC POLICIES

Marine and Stream Quality Water

- Policy VI-4 Parking lot and stream drains, and storm water run-off culverts shall be improved by installing energy dissipators and sand traps or other types of grease/sediment traps in conjunction with new development or intensification of use.

Implementation:

Cooperate with AMBAG and Santa Cruz County Zone V Drainage District in the development and implementation of erosion control and runoff control regulations for all development.

- Policy VI-5 The City shall, as a condition of new development, ensure that run-off does not significantly impact the water quality of Capitola's creeks and wetlands through increased sedimentation, biochemical degradation or thermal pollution.

Implementation:

Cooperate with AMBAG and Santa Cruz County Zone V Drainage District in the development and implementation of erosion control and runoff control regulations for all development.

- Policy VI-6 The City shall enact regulations to control erosion and runoff

Implementation:

Cooperate with AMBAG and Santa Cruz County Zone V Drainage District in the development of erosion control and runoff control regulations for all development.

Policy VI-7 The City should coordinate with Santa Cruz County and AMBAG to investigate and implement sound watershed management methods for the lands within Capitola to:

- a) maintain adequate stream flow for fish, wildlife, and riparian vegetation;
- b) control contaminated urban run-off, and
- c) encourage water conservation.

Implementation:

- a) Cooperate with AMBAG in the development of erosion control and runoff control regulations for all new development as required by the regional Water Quality Control Board.
- b) Seeking funding sources – augmenting the County’s flood control program to upgrade existing inadequate facilities, specifically the onsite retention of contaminants.
- c) Prepare specific guidelines and regulations for development along Soquel Creek, Noble Gulch, Escalona Gulch.
- d) Develop regulations to require the use of water conservation fixtures in all new developments.
- e) Develop ordinances protecting solar access rights, and encourage new and existing developments to utilize solar resources.
- f) Encourage energy-efficient site planning, construction methods, and building materials in new and redevelopment.

Soquel Creek Riparian Corridor and Lagoon

Policy VI-8 The City shall maintain and, as feasible, continue to enhance the habitat values of Soquel Creek through the use of the Automatic Review Zone for the Soquel Creek Riparian Corridor and Lagoon (as designated on Map VI-1). When considering or granting a permit in this area, the City shall give special consideration to the environmental sensitivity of this area, including dedication of scenic conservation easements. In addition, the City shall encourage the use of appropriate native local riparian vegetation.

Implementation:

Prepare specific guidelines and regulations for development along Soquel Creek, Noble Gulch, Escalona Gulch and other environmentally sensitive habitats with specific emphasis on Monarch Butterfly habitats.

## Noble Gulch

Policy VI-9 The City shall maintain the habitat values of Noble Gulch where existing natural riparian corridors exist.

Implementation:

- a) Cooperate with AMBAG in the development of erosion control regulations for all new development as required by the Regional Water Quality Control Board.
- b) Seek funding sources – augmenting the County’s flood control program to upgrade existing inadequate facilities, specifically the onsite retention of contaminants.

## Locally Unique Wildlife Habitats – Monarch Butterfly Groves

Policy VI-10 a) It shall be the policy of the City of Capitola to protect the winter resting sites of the Monarch Butterfly in the eucalyptus groves of Escalona Gulch, New Brighton Gulch, and Soquel Creek as designated on Map VI-2 by requiring detailed analysis of the impacts of development on the habitat.

Implementation:

Prepare specific guidelines and regulations for development along Soquel Creek, Noble Gulch, Escalona Gulch, and other environmentally sensitive habitats with specific emphasis on Monarch Butterfly habitats.

- b) It is the goal of the City to preserve the monarch butterfly overwintering site in the area known as Escalona Gulch. Preservation, based on the information presented in the Environmental Impact Report dated March 1991 prepared for the site, requires that development be limited to 6,000 square feet and does not have a total footprint of more than 4,000 square feet. The building(s) shall be located and designed so that they do not have a significant adverse impact on the Monarch butterfly habitat. The habitat, and area around it necessary to preserve the habitat, shall be placed in a conservation easement at the time of development.

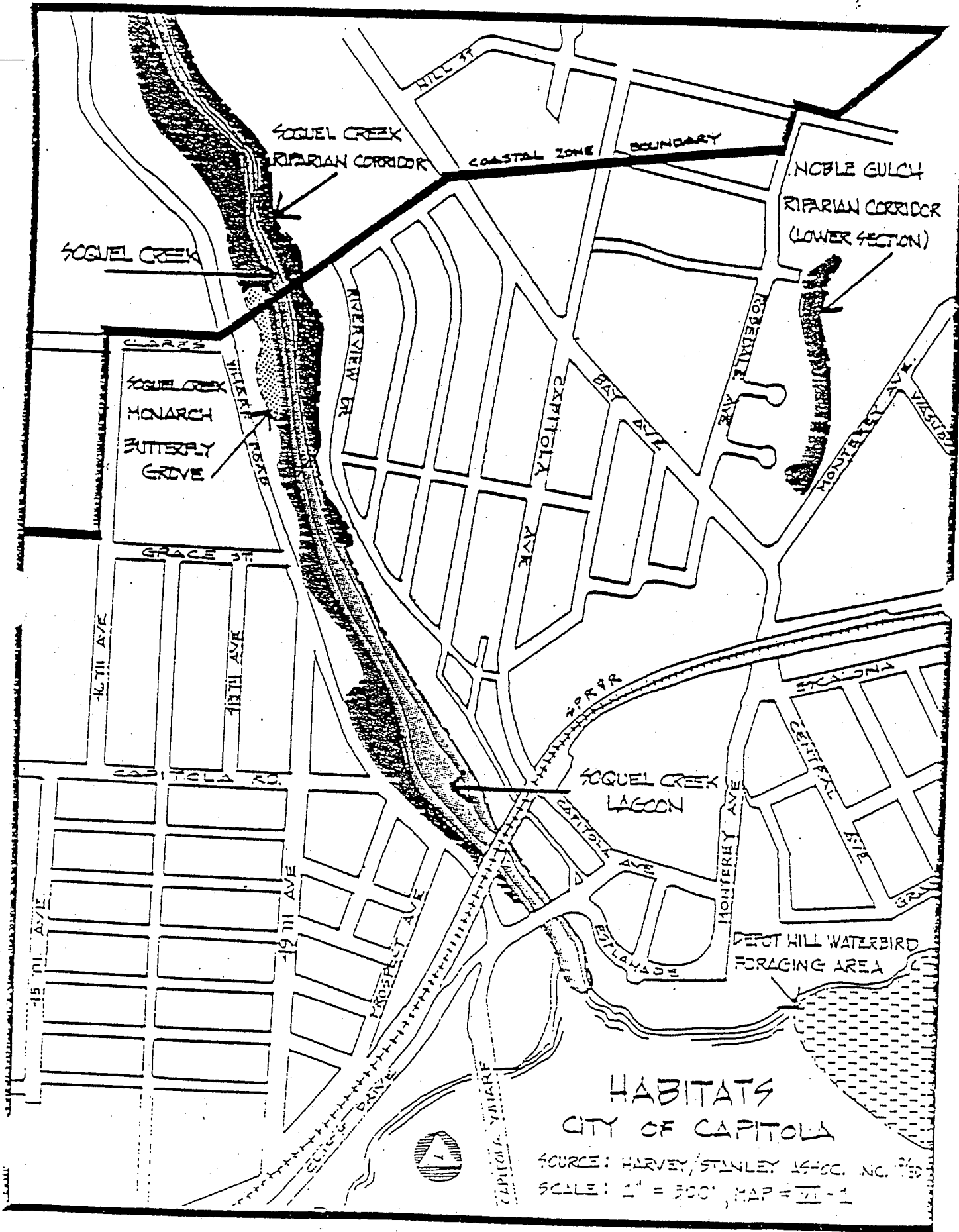
Any significant change in the site conditions, relevant new scientific information, or change in proposal shall be reviewed through a supplemental environmental evaluation and could require an amendment to this policy.

#### Energy and Water Conservation

Policy VI-11 The City shall encourage energy and water conservation by supporting public education programs, and shall require low water use fixtures in new developments, as well as, encouraging energy conservation techniques in site development and construction.

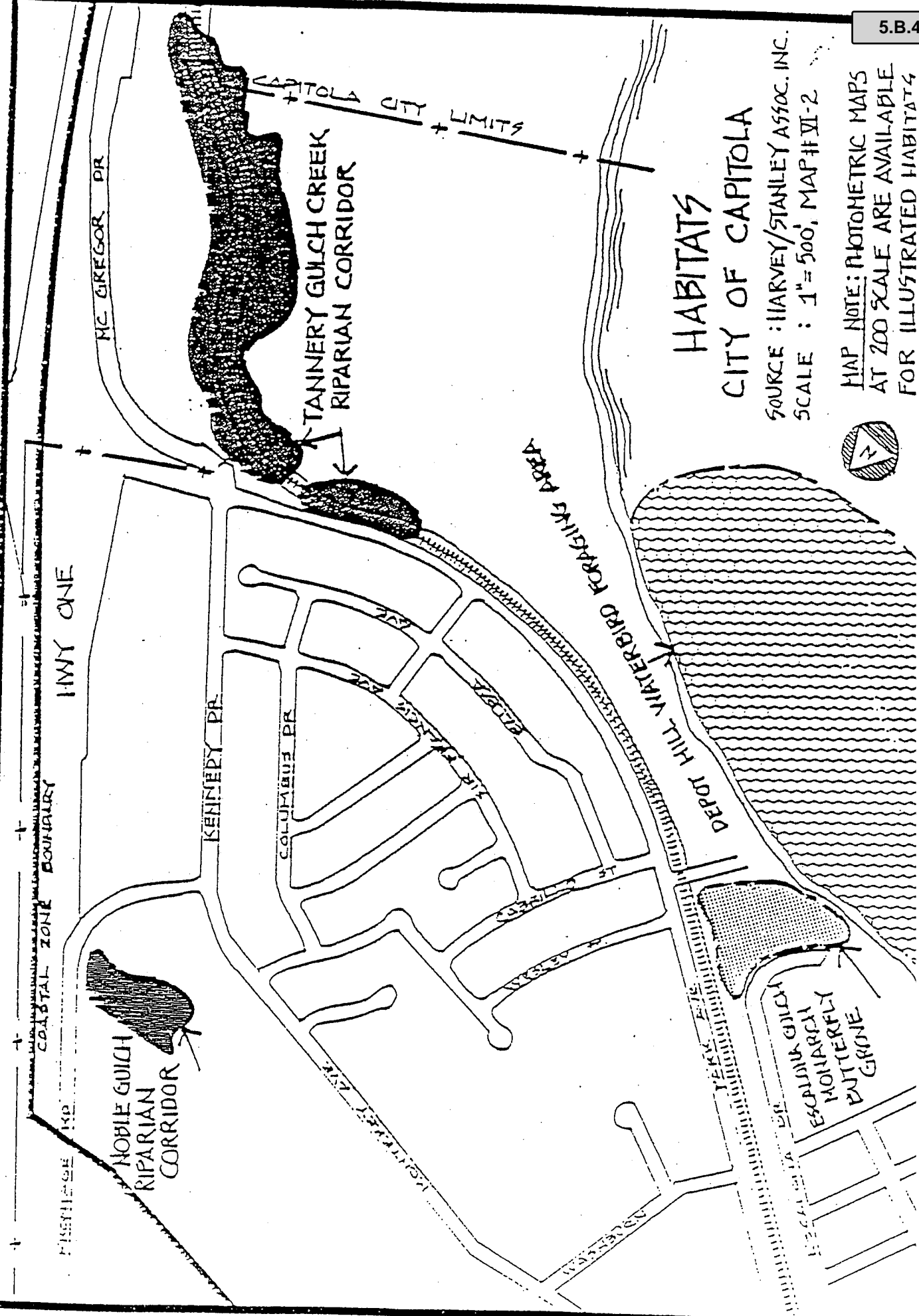
##### Implementation:

- a) Develop regulations to require the use of water conservation fixtures in all new development.
- b) Develop ordinances protecting solar access rights, and encourage new and existing developments to utilize solar resources.
- c) Encourage energy efficient site planning, construction methods, and building material for new and redevelopment.



**HABITATS**  
**CITY OF CAPITOLA**  
 SOURCE: HARVEY, STANLEY 1980C. INC. 1980  
 SCALE: 1" = 500', MAP = VI-1

Attachment: LCP Land Use Plan (Update to Zoning Ordinance/ LCP Implementation Plan)



# HABITATS CITY OF CAPITOLA

SOURCE : HARVEY/STANLEY ASSOC. INC.  
SCALE : 1" = 500', MAP # VI-2

MAP NOTE: PHOTO METRIC MAPS  
AT 200 SCALE ARE AVAILABLE  
FOR ILLUSTRATED HABITATS

## VII. NATURAL HAZARDS

### BACKGROUND

The hazards policy group of the land use plan concerns the following: seismic shaking, liquefaction, tsunamis, landslides, flooding, and bluff and beach erosion. A brief definition of each type of hazard is given along with a summary of the hazards existing in Capitola's coastal zone. For a more detailed discussion of each type of hazard and the remainder of the background information below, see Capitola LCP Working Paper #2 (May 1980; available at Commission or City offices).

### SEISMIC SHAKING

Seismic shaking is caused by movement of the earth's crust in fault zones. Active faults are located offshore from Capitola in Monterey Bay and in the Santa Cruz mountains. While no active faults underlie the City, a high magnitude earthquake along any of the nearby faults would result in intense shaking.

### LIQUEFACTION

Liquefaction occurs in areas underlain by unconsolidated water-saturated sediments. During seismic shaking, these areas acquire liquid-like properties which can result in ground failure and buildings sinking, tilting, or toppling. The hazard areas in the coastal zone are the Village, the Soquel Creek mouth and banks, and Noble Gulch. A map is attached which shows the areas subject to liquefaction.

### TSUNAMIS

Tsunamis or seismic sea waves are large oceanic waves, resulting from submarine volcanic eruptions, seismic events, or landslides. The maximum probable tsunami to hit Capitola's shoreline is estimated to be 20 feet in height. Portions of the Village and mouth of Soquel Creek could be inundated as indicated on the attached map.

### LANDSLIDES

Landslides occur as a result of ground failure in inherently unstable materials, as well as during seismic shaking on steep slopes. Several human-induced factors contribute to slope instability. These activities include removal of vegetation, alteration of slopes by grading and construction, top loading of slopes with structures, and alteration of slope drainage patterns by channeling runoff from impervious surfaces or otherwise blocking natural drainage paths.

There exist in the coastal zone several areas with slopes of 30 percent or greater. These areas are located along Soquel Creek, Noble Gulch, and Escalona Gulch. The Escalona Gulch landsliding potential is compounded by the fact that the area is covered by highly erodible soils.

## FLOODING

The lowlands along Soquel Creek, most of the Village, and the lowlands immediately adjacent to Noble Gulch lie within the 100 year floodplain (i.e. all this area is expected to flood at least once every 100 years). Soquel Creek has flooded several times in the past and will probably flood again. Development within the floodplain increases the severity of floods by obstructing waterflow and supplying debris which can accumulate, causing flood waters to back up and rise.

## BLUFF AND BEACH EROSION

The beaches and bluffs of most of the California coastline are eroding. In the City of Capitola the bluffs are eroding at a moderate to high rate (from 1.5 to 3 feet per year). Both private and public development is presently threatened by bluff retreat. The most important public property immediately endangered is Grand Avenue. Several residential structures are also threatened. Presently the only seawall or protective device to reduce the rate of erosion is the rip-rap placed at the base of the bluff just upcoast of Hooper Beach. Capitola Beach has experienced periodic episodes of erosion and lost sand after the Santa Cruz Small Craft Harbor was completed, apparently because the harbor jetties have interfered with downcoast transport of beach sand. The City had a groin installed in 1970 and imported sand to fully recharge the beach, which has so far successfully kept a fairly wide beach in place. A concrete seawall at the inland boundary of the beach protects the parking lot and Village businesses from wave attack unless the waves are large enough to top the wall, an event which has occurred in recent past winters.

## RELEVANT COASTAL ACT POLICIES

The following Coastal act policies pertain to natural hazards in Capitola's coastal zone:

### SEC. 30253 (1) AND (2)

New development shall:

- 1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- 2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

### SEC. 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.



SEC. 30212

- a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

SEC. 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

SEC. 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

SEC. 30233 (a)

- a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:
- 1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.
  - 2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

- 3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland; provided, however, that in no event shall the size of the wetland area used for such boating facility, including berthing space, turning basins, necessary support service facilities, be greater than 25 percent of the total wetland area to be restored.
- 4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities.
- 5) Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake or outfall lines.
- 6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.
- 7) Restoration purposes.
- 8) Nature study, aquaculture, or similar resource-development activities.

#### SEC. 30235

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fishkills should be phased out or upgraded where feasible.

#### SEC. 30244

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation shall be required.

#### SEC. 30251

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the

character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

## EXISTING POLICIES AND REGULATIONS

### SEISMIC SHAKING & LIQUEFACTION

The City of Capitola has adopted and enforced the Uniform Building Code which stipulates standard construction methods for areas subject to earthquakes. The Seismic Safety Element of the General Plan has a policy which requires that in areas identified in the General Plan EIR as having high to very high seismic shaking hazard, a geologic study shall be done which delineates adequate structural mitigation measures prior to approval of development plans.

### TSUNAMIS

The General Plan states that any development, redevelopment, or major rehabilitation along the beachfront and mouth of Soquel Creek that may be subject to runup shall require a report demonstrating measures of mitigation for potential flooding. The General Plan also requires an adequate setback from bluff edges to reduce the hazard of wave runup. This setback is to be determined in a geologic report which the City is to require for all bluff top developments.

### LANDSLIDES

Although the City's General Plan does not have a specific section on landslides, unstable slopes are treated by the Open Space Element. The Open Space Element prohibits development along riparian areas which are susceptible to landslides.

### FLOODING

The General Plan states that no new development should take place within the 100 year flood plain of Soquel Creek unless federal flood plain standards are met. The zoning ordinance includes a flood plain zoning overlay and flood plain regulations which are applied to the 100-year flood plain as designated by FEMA. The flood plain ordinance does not allow new construction or substantial improvement in the designated flood way and requires that such development in the flood plain be elevated above the flood height for residential construction or flood-proofed for commercial development.

### BLUFF AND BEACH EROSION

The City's General Plan includes the Coastal Commission's interim guideline (of 1974) on bluff top development as a policy in the Seismic Safety Element. However, the

Coastal Commission has revised its bluff top policy to make it more clear and stringent; this indicates a need for the City to possibly update its policy. The Conservation Element has policies on both beach and bluff erosion. It recommends replacement of sand lost from erosion and stabilization measures for Capitola Beach. The Conservation Element also includes a policy that shoreline protection works can be placed after detailed study of the subject area. It also ranks the types of permissible shoreline works as follows:

- 1) Addition of rip-rap at the base of the cliffs;
- 2) Provision of additional rock groins to encourage permanent expansion of beaches if feasible;
- 3) Provision of seawalls as a last resort where other methods are not satisfactory.

### STATE AND FEDERAL REGULATIONS

Several agencies have jurisdiction over areas that are involved in the above hazard types. These are:

- California Coastal Commission – Even after the City’s LCP has been certified and is being implemented, the Coastal Commission will retain permit control over tidelands, submerged lands, and public trust lands (pursuant to Coastal Act Section 30519).
- State Department of Fish and Game – Requires a permit for any activity in Soquel Creek and the immediate banks, and reviews any project proposed for ocean waters.
- State Lands Commission – Requires a permit for any project which is seaward of the Mean High Tide line or which would alter the MHT line, i.e. the State’s boundary.
- State Department of Parks and Recreation – If their property is to be utilized for any project, including as access to another site, the Department’s permission is necessary.
- U.S. Army Corps of Engineers – Requires a permit for any activity which is seaward of the Mean High Tide line or is in any navigable water or wetland.

Natural Hazards Component Policies

### GENERAL POLICIES

Policy VII-1 It shall be the policy of the City of Capitola to adequately plan for natural hazards in new development, reduce risks to life and property, and revise all plans and Zoning Ordinances to be in conformance with all the policies of the Coastal Act relating to hazards and shoreline structures.

Implementation:

- a) Requires geologic/engineering reports in areas of high seismic shaking for structures subject to public use or multi-residential as required by the UBC.
- b) Revise Zoning Ordinance to require geologic reports for all development proposed on coastal bluffs or beaches, including shoreline structures such as seawalls and including provisions of Policy VII-8.

Policy VII-2 All geologic/engineering reports required by the City pursuant to the policies of this component shall be prepared according to the guidelines for practice issued by the California Division of Mines and Geology, specifically CDMG notes Numbers 37 (Guidelines to Geologic/Seismic Reports), 43 (Recommended Guidelines for Determining the Maximum Probably Earthquakes), 44 (Recommended Guidelines for Preparing Engineering Geologic Reports) and interpretive Coastal Commission for Bluff Top Development.

Implementation:

Incorporate policy requirements for all development proposals subject to Policy VII-2.

SPECIFIC POLICIESSeismic Safety Policies

Policy VII-3 The City shall require all new building plans, for public use structures or multi-residential (more than three units), to conform with the Uniform Building Code construction standards.

Implementation:

Requires geologic/engineering reports in areas or high seismic shaking for structures subject to public use or multi-residential as required by the UBC.

Tsunamis

Policy VII-4 Measures to mitigate possible flooding shall be submitted for all new structures that will be occupied by the public located in areas as shown on Map VII-3.

Implementation:

Develop regulations limiting development in coastal flood hazard areas as designated by FEMA.

Landslides

- Policy VII-5 A geologic/engineering report which indicated methods of achieving structural stability and mitigation measures to prevent erosion shall be submitted for any structure which is to be constructed on a slope in excess of 30 percent.

Implementation:

Revise Zoning Ordinance to require geologic/engineering report for structures to be built on slopes in excess of 30 percent.

Flooding

- Policy VII-6 It shall be the policy of the City to adopt a local flood plain ordinance consistent with the Federal Emergency Management Agency (FEMA) requirements for designated 100 year flood plains

Implementation:

Adopt flood plain ordinance.

Beach and Bluff Erosion

- Policy VII-7 Bluff and cliff top development shall be approved only if design and setback provisions are adequate to assure stability and structural integrity for the expected economic lifespan (at least 50 years) of the development and if the development (including storm runoff, foot traffic, grading, and irrigation) will neither create nor contribute significantly to erosion problems or geologic instability of the site or surrounding are. This policy shall be carried out by requiring geologic reports as per Policy VII-8.

Implementation:

Revise Zoning Ordinance to require geologic reports for all development proposed on coastal bluffs or beaches, including shoreline structures such as seawalls and with specific emphasis on provisions outlined in Policy VII-7.

- Policy VII-8 A geologic/engineering report shall be submitted for any bluff top or cliff development proposed within 200 feet of the cliff edge.

The City may designate a lesser area of demonstration in specific areas of known geologic stability (as determined by adequate geologic evaluation and historic evidence) or where adequate protective works already exist. The City may designate a greater area of demonstration or exclude development entirely in areas of known high instability.

The geology report shall be prepared by a registered geologist or professional civil engineer with expertise in soils or foundation engineering or by a certified engineering geologist. The report shall consider and analyze any information required by Policy VII-2.

Implementation:

- a) Revise Zoning ordinance to require geologic reports for all development proposed on coastal bluffs or beaches, including shoreline structures, such as seawalls and including provisions of Policy VII-8.
- b) Develop maps for public information showing areas and parcels requiring the submittal of geologic reports.

Policy VII-9 Shoreline structures such as seawalls, revetments, groins, and breakwaters shall be permitted only to serve coastal dependent uses, to protect existing development (other than accessory structures), or to protect public beaches in danger of erosion, and shall be permitted only if nonstructural solutions (such as artificial beach nourishment and relocating structures) have proved to be infeasible. Such structures shall be designed to eliminate or mitigate adverse impacts on local shoreline sand supply, public access, marine habitats and paleontological resources. It is further the policy of the City of Capitola that no permanent channelization of the mouth of Soquel Creek shall be permitted. The seasonal movement of sand to form the lagoon, maintenance dredging and infill of bulkheads shall not be considered permanent channelization.

Implementation:

Incorporate policy direction in Planning Commission and Architectural and Site Review for projects involving shoreline structures.

Policy VII-10 The City should continue to participate with the State Department of Boating and waterways in studying the bluff erosion problem and possible solutions. The City should participate in any proposed shoreline project only if the project is in conformance with other LCP policies.

Implementation:

- a) Present results of bluff erosion study by the Department of Boating and Waterways to the public for review. Pursue funding for proposed measures, if any, if they appear feasible.
- b) Develop an ordinance to require notification of potential erosion hazards to any new owner, upon sale of properties along Coastal bluffs within Capitola.

Policy VII-11 The City shall construct future drainage projects and improve existing drainage facilities where feasible so that runoff is directed away from the coastal bluffs or if it cannot be, it should be discharged in a place and manner so as not to contribute to erosion of a bluff or beach.

Implementation:

Cooperate with AMBAG in the development of erosion control regulations for all new development as required by the regional Water Quality Control Board with specific emphasis on reducing erosion impacts on coastal bluffs and beaches.

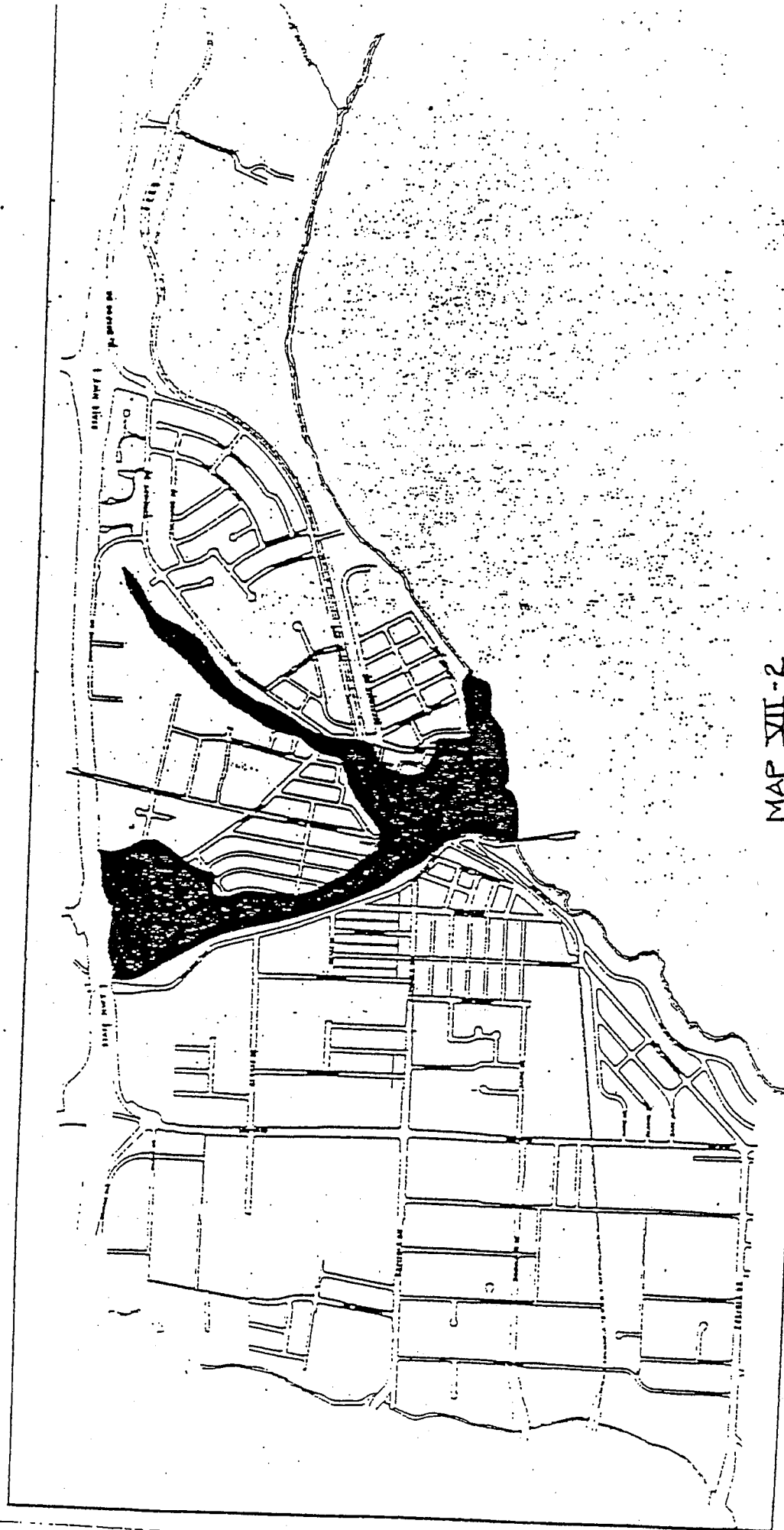


### MAP NOTES

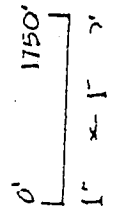
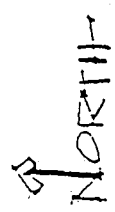
The LCP Land Use Plan Map has been prepared by using the same format as the City of Capitola General Plan Map, in order to make it easier to use. The land use designations in the General Plan are carried over into the Land Use Plan where they are consistent with the Coastal Act of 1976. The maps included in the text should be considered as part of the Land Use Plan Map and provide further interpretation of the Land Use Plan policies. The full-size versions of these reduced maps will be available for review in the City offices.

Also, as in a General Plan Map, this Land Use Plan Map is not meant to be a parcel-by-parcel description of appropriate land uses. Rather, the Map should be used in conjunction with the Policies to guide development of individual parcels. Other map notes follow.

- 1) The Map shows land use designations only for those areas that are both in the Coastal Zone and the City limits.
- 2) The Coastal Zone boundary line is approximate. Official boundary maps are available in the Coastal Commission and the City of Capitola offices.
- 3) As under the current Capitola General Plan, in some cases, the designated land use is not representative of the existing land use. The designated use should direct future permits and planning.
- 4) The location of coastal bluffs that are shown are only approximate. Policies of the Natural Hazards Component should guide land use involving bluffs.
- 5) In areas designated residential, public facilities (e.g. fire station, parks, schools) are permitted uses.
- 6) The V-5 symbol on the map denotes that a site is designated for a visitor-serving use. Visitor-serving uses are defined in the Recreation and Visitor-Serving Component.
- 7) The Mixed Commercial-Residential land use indicates that combined commercial and residential uses are appropriate on a single site. This land use designation is defined in the Housing Component.
- 8) The map has 6 high-density residential uses designated. Two of these sites have been identified in the Housing Component Policies as suitable for low and moderate income housing projects.
- 9) The Village Center area is outlined. Design and Development Guidelines for the Village are included in the Visual Resources and Special Communities Component. Land areas in the Village are designated for Residential or Mixed Commercial-Residential, Visitor-Serving and Public Facilities compatible with land use patterns.

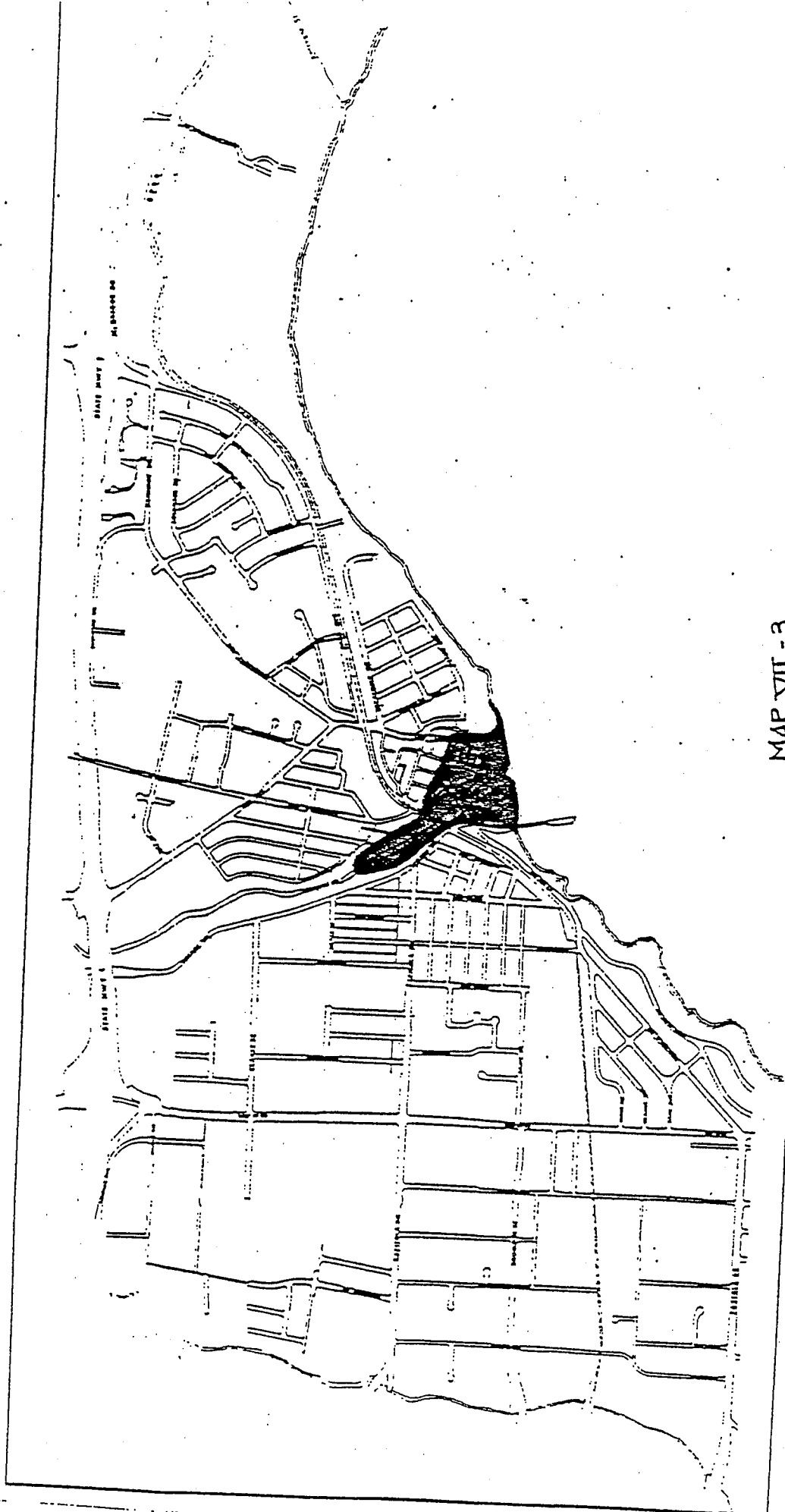


MAP XII-2

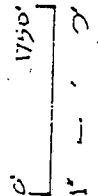
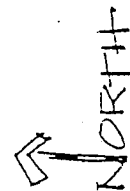


LIQUEFACTION HAZARD AREA MAP  
CITY OF CAPITOLA

SOURCE: ENVIRONMENTAL ASSESSMENT SOX



MAP VII-3



**TSUNAMI INUNDATION BOUNDARY MAP  
CITY OF CAPITOLA**

5.B.4

SSOC

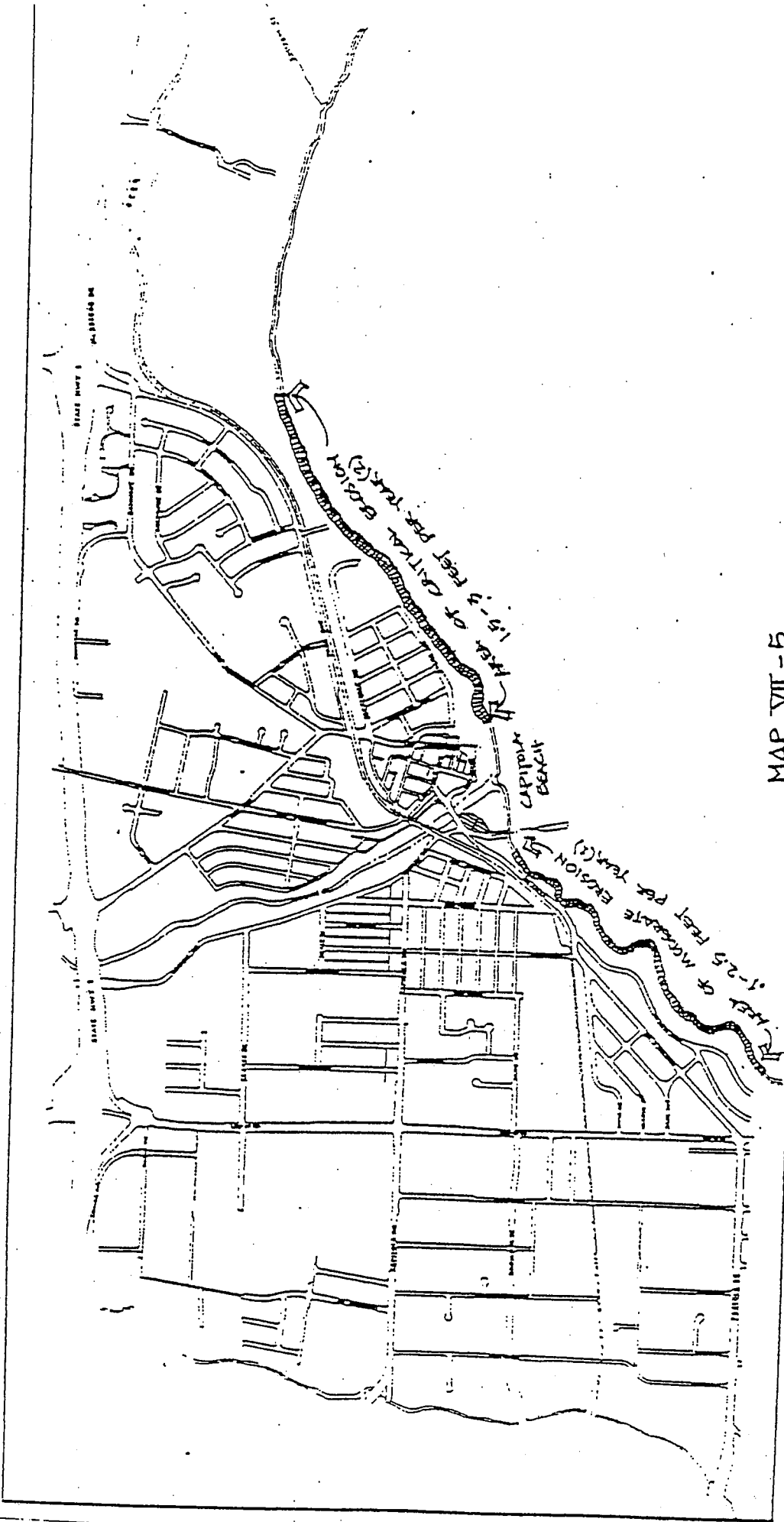
SOURCE: ENVIRONMENTAL ASSESSMENT

Attachment: LCP Land Use Plan (Update to Zoning Ordinance/ LCP Implementation Plan)

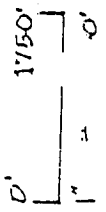
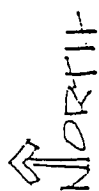


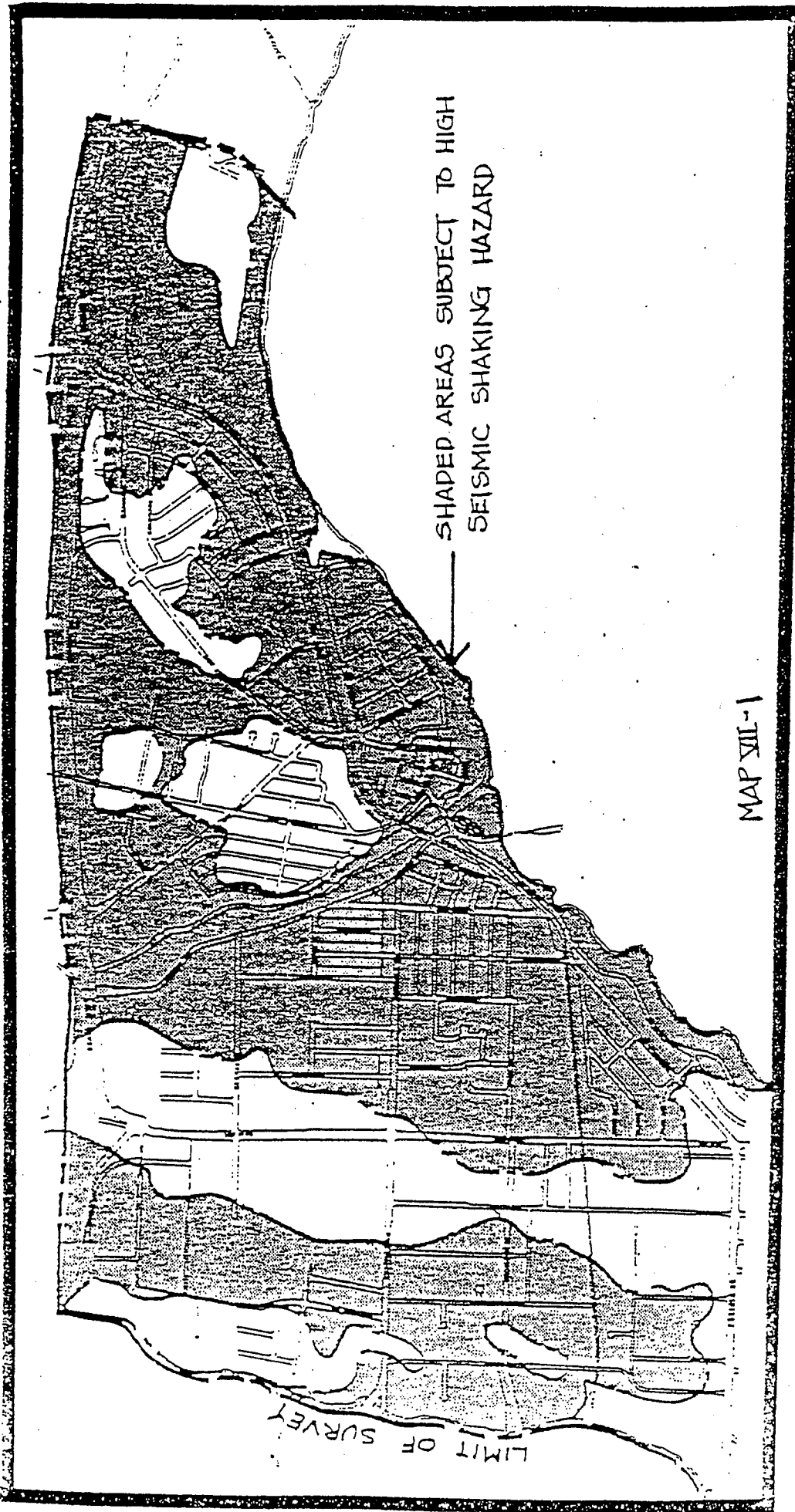
# BLUFF RETREAT MAP CITY OF CAPITOLA

SOURCE: 1- ENVIRONMENTAL IMPACT REPORT ON THE  
GENERAL PLAN, JAN., 1975



MAP VII-5

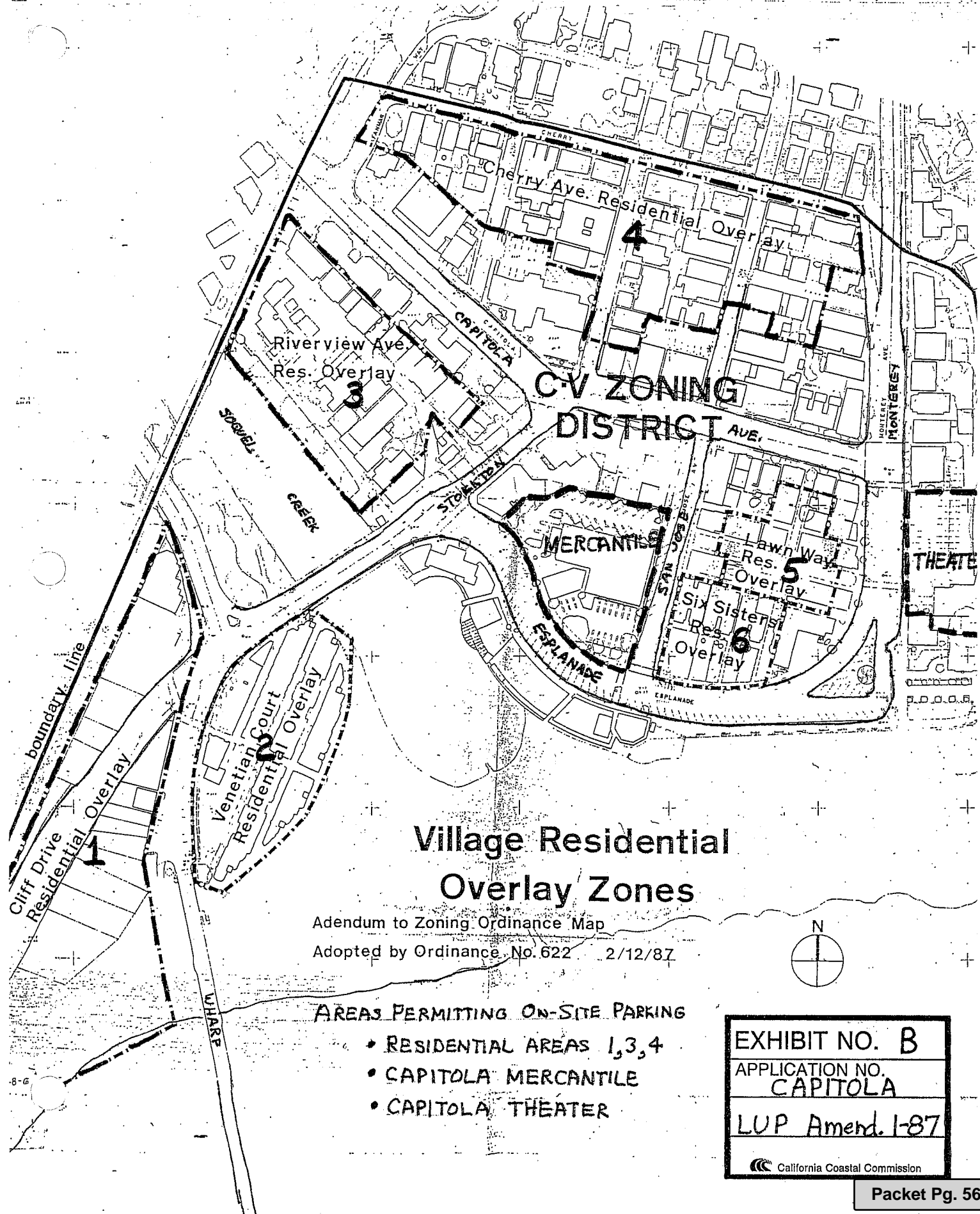




# HIGH SEISMIC SHAKING HAZARD CITY OF CAPITOLA

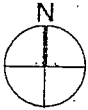
SOURCE: ENVIRONMENTAL ASSOCIATES, 1974

Attachment: LCP Land Use Plan (Update to Zoning Ordinance/ LCP Implementation Plan)



# Village Residential Overlay Zones

Adendum to Zoning Ordinance Map  
 Adopted by Ordinance No. 622 2/12/87



**AREAS PERMITTING ON-SITE PARKING**

- RESIDENTIAL AREAS 1,3,4
- CAPITOLA MERCANTILE
- CAPITOLA THEATER

EXHIBIT NO. B
APPLICATION NO. CAPITOLA
LUP Amend. 1-87

California Coastal Commission

Attachment: LCP Land Use Plan (Update to Zoning Ordinance/ LCP Implementation Plan)



# PARK-ABLE GARAGES FOR CAPITOLA

Peter C Shamshoian

## ABSTRACT

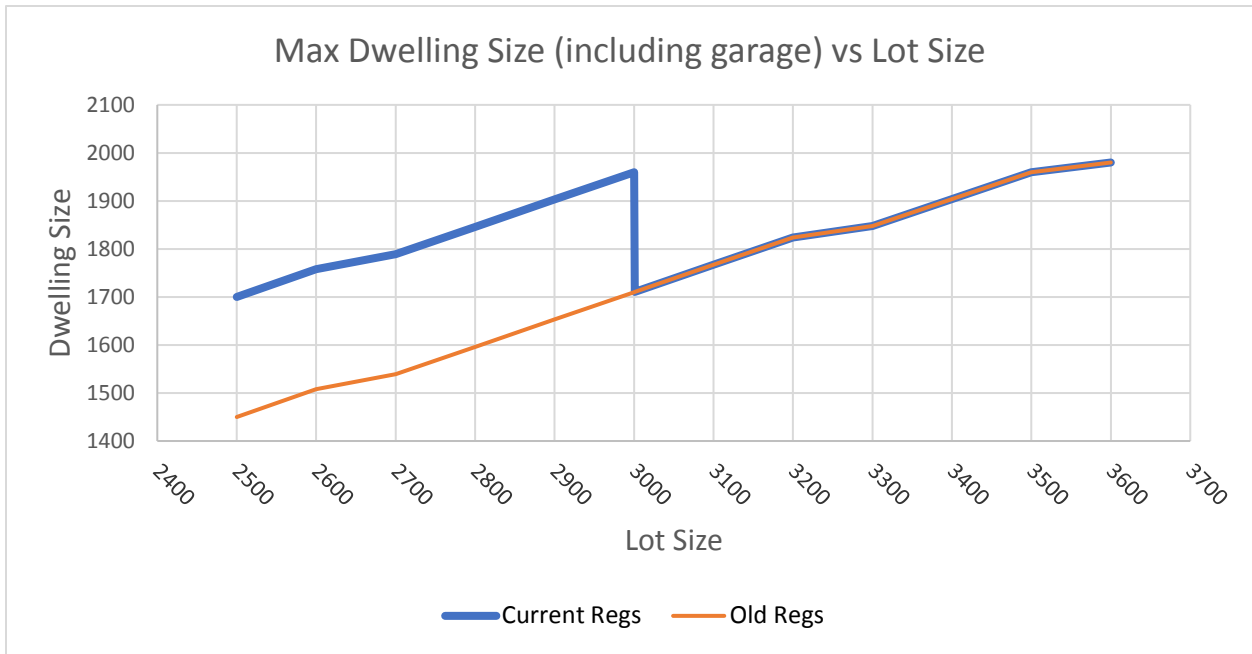
*Capitola has a Parking Problem. It is due to small lots and even smaller garages. The municipal code creates homes with a barely usable 200 square foot garage because anything larger comes directly out of floor area. A 200 square foot garage leaves only enough room for passengers to exit from one side of the vehicle. This leaves no room for bikes, hobbies and work spaces. Most garages are eventually turned to storage leaving resident cars on the streets. I am proposing a solution to allow the image at left. Park-able garage space.*

**Peter C Shamshoian**

Property Owner & Future Resident

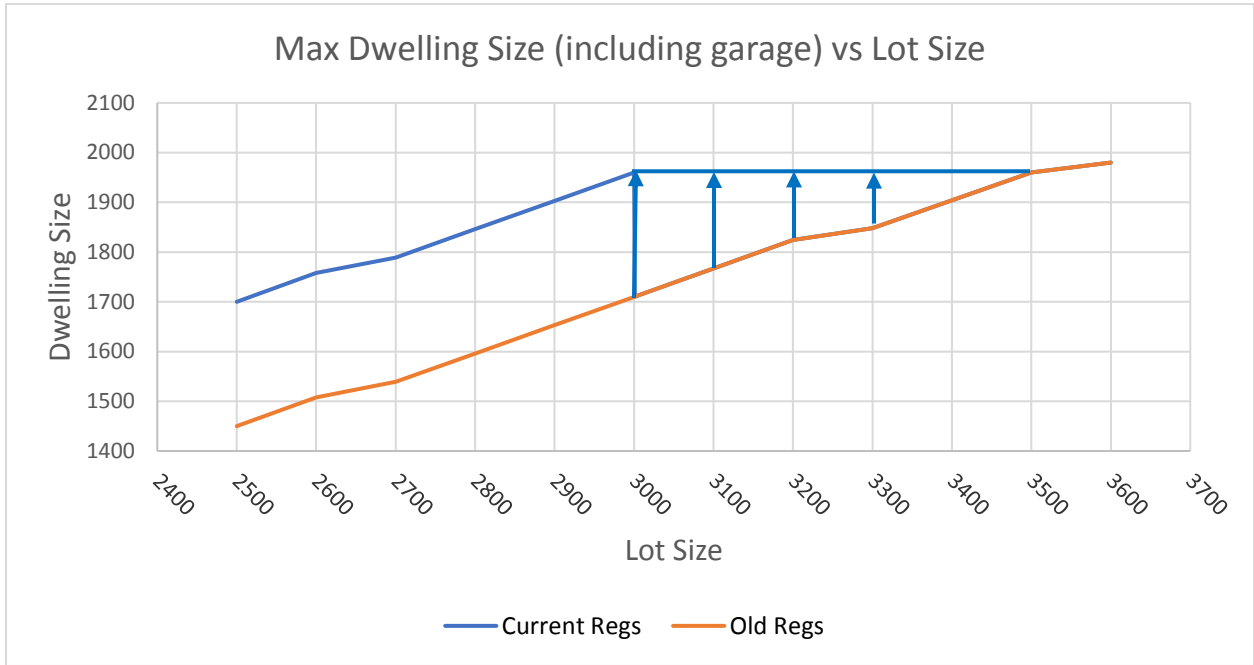


**THE NEW CODE TRIES TO SOLVE OUR PARKING PROBLEM BUT ONLY FOR SUB - 3000 FT<sup>2</sup> LOTS**



- The new code creates usable garage space for small lots by excluding up to 250 ft<sup>2</sup> of garage space from the maximum buildable area for lots less than 3,000 ft<sup>2</sup>.
- While it solves the parking problem, only a minority of homes qualify.
- It also creates a fairness issue allowing smaller lots to hold larger homes than large lots.
- There are better ways to address the issue.

**WE COULD EXTEND THE OPTION TO BUILD TO A 3000 FT<sup>2</sup> LOT FOR THOSE ABOVE THAT LIMIT**



- We could allow anyone with more than a 3000 ft<sup>2</sup> lot to build to the 3000 ft<sup>2</sup> lot criteria gaining the garage exclusion but forfeiting any benefit of a larger parcel.
- This creates parity among lot owners from 3000 ft<sup>2</sup> to 3500 ft<sup>2</sup>.
- This creates usable garages but also larger structures across city lots (3000 to 3500 ft<sup>2</sup>).
- There is however a compromise rooted in the last municipal code.

**THE LAST MUNICIPAL CODE ALLOWED 100 SQUARE FEET OF ANCILLARY SPACE IN DETACHED GARAGES TO BE EXCLUDED FROM THE TOTAL FLOOR AREA RATIO CALCULATION.**

**17.15.100 Floor area ratio.**

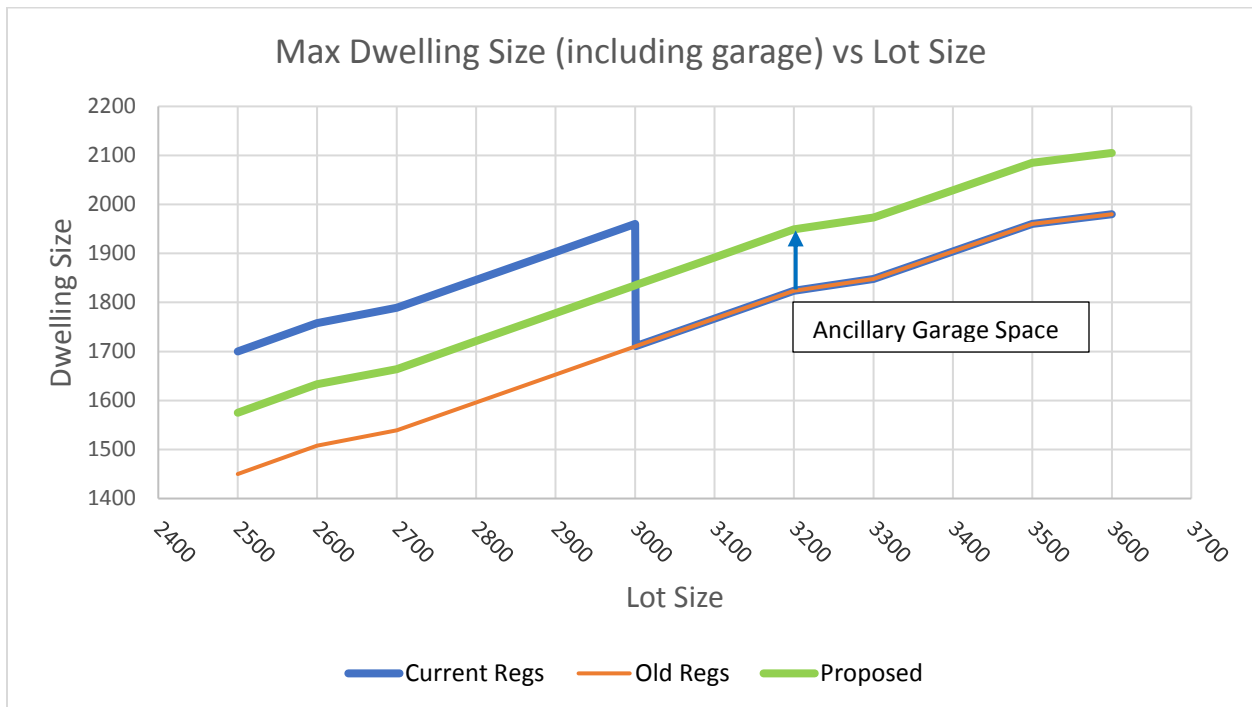
Building size shall be regulated by the relationship of the building to the lot size, a measurement identified as floor area ratio (FAR). Maximum FAR shall be determined as follows...

C. The following shall not be included in the floor area ratio calculation:

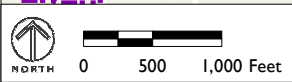
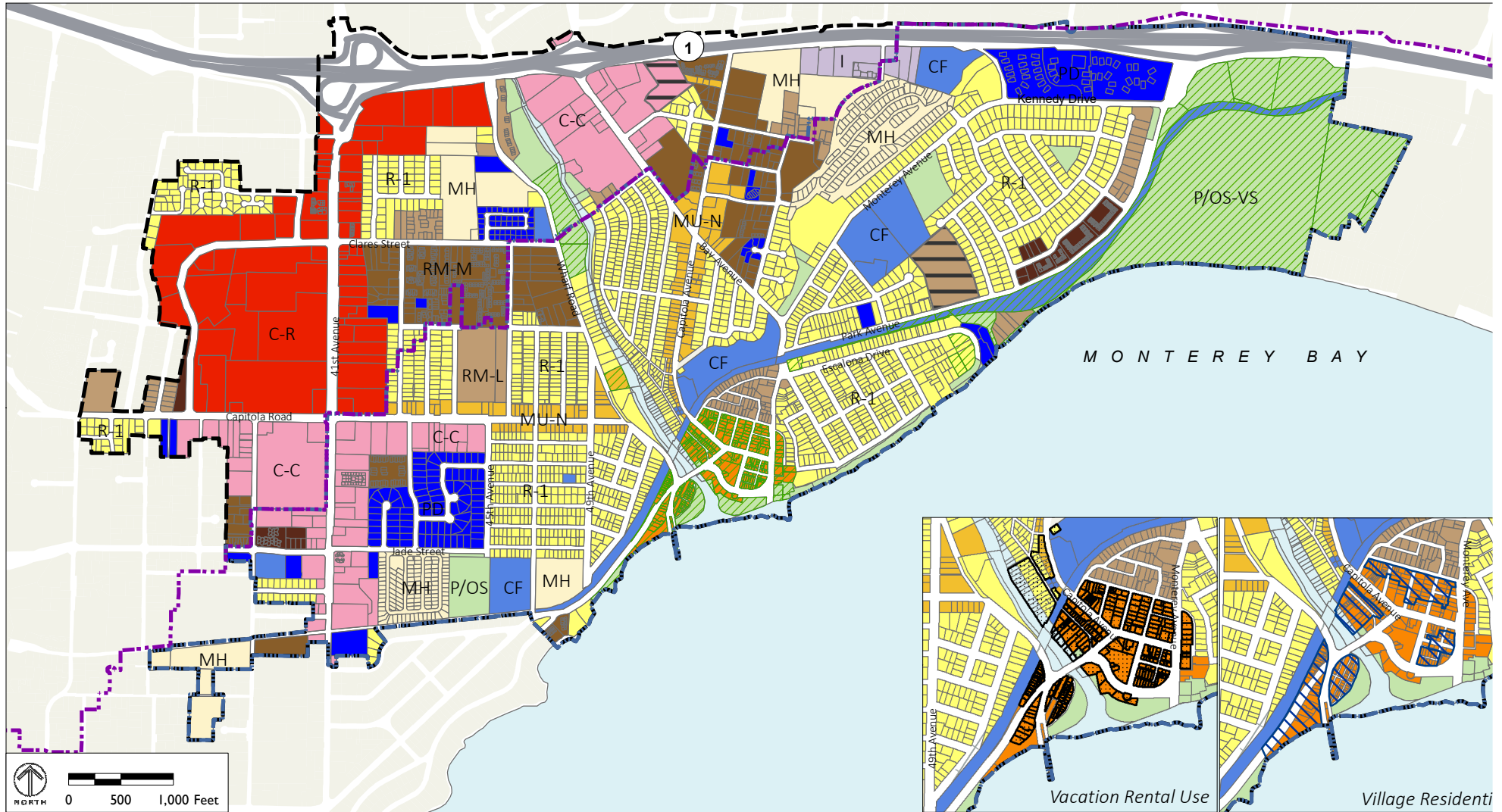
**6. One hundred square feet of ancillary area in a detached garage;**

**PROPOSED SOLUTION (GREEN LINE ON CHART)**

- In addition to the other changes in the new code, use the precedent above, increase it slightly and apply it to both attached and detached garages exempting up to 125 square feet of ancillary space from the total square footage for all lot sizes.
- This creates homes sizes consistent with lot sizes across the spectrum.
- This creates Park-able, usable garages for all Capitola residents.



CITY OF CAPITOL  
ZONING CODE UPDATE



**Residential Zoning Districts**

- R-1 - Single-Family Residential
- RM-L - Multi-Family Residential, Low Density
- RM-M - Multi-Family Residential, Medium Density
- RM-H - Multi-Family Residential, High Density
- MH - Mobile Home Park

**Mixed-Use Zoning Districts**

- MU-V - Mixed Use Village
- MU-N - Mixed Use Neighborhood

**Commercial and Industrial Zoning Districts**

- C-R - Regional Commercial
- C-C - Community Commercial

**Other Zoning Districts**

- I - Industrial
- P/OS - Parks and Open Space
- CF - Community Facility
- PD - Planned Development

**Overlay Zones\***

- AHO - Affordable Housing Overlay
- CZ - Coastal Zone
- VRU - Vacation Rental Use
- VR - Village Residential
- VS - Visitor Serving

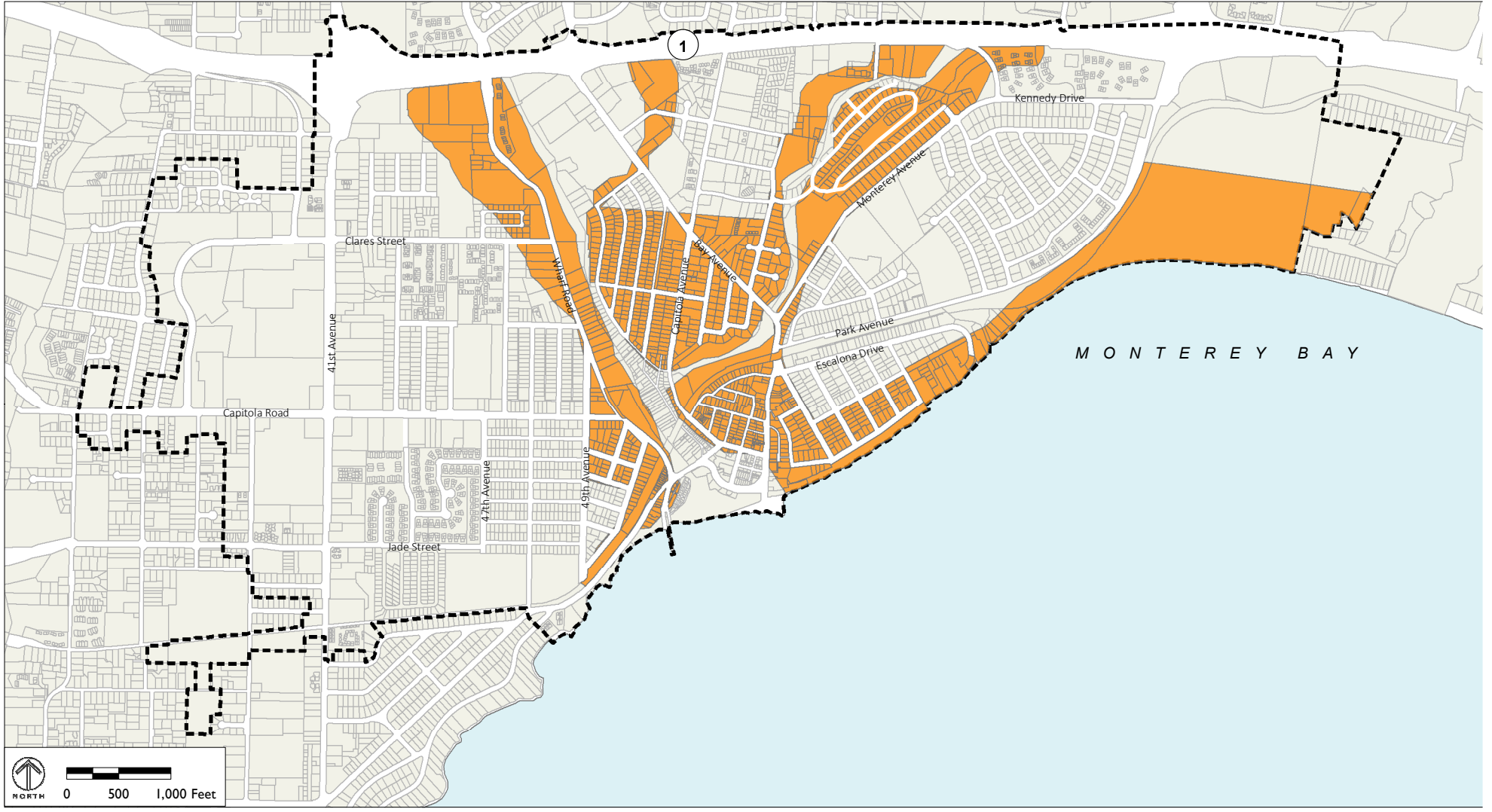
**City Limit**

- Santa Cruz Coastal Zone Boundary

Source: ESRI, 2017; PlaceWorks, 2017

\*See Local Coastal Program Habitats Map for boundaries of Environmentally Sensitive Habitats Area Overlay Zone.

CITY OF CAPITOL  
ZONING CODE UPDATE



- High Sensitivity Prehistoric Resources
- City Limit

Source: ESRI, 2017; PlaceWorks, 2017

Attachment: Archaeological Sensitivity Map (Update to Zoning Ordinance/ LCP Implementation Plan)



**ADDENDUM TO PROGRAM ENVIRONMENTAL IMPACT REPORT  
CITY OF CAPITOLA GENERAL PLAN UPDATE (SCH #2013072002)  
For the  
CITY OF CAPITOLA GENERAL PLAN UPDATE**

**INTRODUCTION**

This addendum has been prepared to document compliance with the California Environmental Quality Act (CEQA) for the City of Capitola's proposed General Plan update. The proposed General Plan update would update Capitola's 2014 General Plan and includes both text and map amendments to further define the goals, policies, and implementation measures in the 2014 General Plan.

This addendum provides an analysis of whether the adoption of the General Plan updates would result in any new or more severe adverse environmental effects which were not previously analyzed in the 2014 General Plan Update Program EIR pursuant to CEQA Guidelines Sections 15162, 15164, and 15168.

**PROJECT DESCRIPTION**

The City of Capitola proposes an update to the Land Use element which includes both text and map amendments to correct tables, figures, and the land use maps to reflect current conditions and clarify implementation measures in the 2014 General Plan. The General Plan was comprehensively updated in 2014.

A summary of the changes included in the proposed General Plan update are outlined below:

1. Adding the Rispin Mansion Park to Table LU-2 Existing Parks. Page LU-9
2. Revising Figure LU-3 Public Facilities and Parks to include Rispin Mansion Park and remove "future park" from the label on McGregor Park. McGregor Park is now an existing park. Page LU-10
3. Improve description of applicable density limits and Floor Area Ratio on Page LU-14 to include the statement "Residential uses in commercial and mixed-use land use designations shall be subject to FAR limitations. General Plan density limits shall not apply to residential uses in commercial or mixed-use land use designations."
4. Update Land Use map on page LU-16 to correct land use designations to reflect current conditions and direction provided during the Zoning Code Update. The change are included in Attachment B, and also include renaming the Single-Family Residential To (R-1); removing the Visitor Accommodations (VA) land use zone and replacing with the Visitor Serving Overlay to be

ADDENDUM TO THE CITY OF CAPITOLA GENERAL PLAN UPDATE EIR – ZONING CODE UPDATE

consistent with the new zoning map and zone classifications; and modifying the colors of the Mixed Use Designations to correctly reflect the key.

- 5. Within the Residential Designations, updating the description of the density designation for multi-family residential “is between 10 and 20 dwelling units per acre depending upon the zoning classification.” Page LU-17
- 6. Remove Visitor Accommodations as a designation. Page LU-19. During the zoning code update, it was determined that best practice is to have Visitor Serving is an overlay zone. Overlay designations (Visitor Serving (-VS) is identified and explained on page LU-21.
- 7. Update Action LU-7.3 to specify the parcel of the hotel floor area ratio that may be developed with a maximum FAR of 3.0 as “A Hotel in the Village at the former Capitola Theater site...” Page LU-33.
- 8. Update Action LU-9.3 to specify that the Capitola Mall property is included in the area that is subject to an increased Floor Area Ratio. Page LU-39

None of the proposed changes would allow increased development potential or change the goals, objectives, and actions listed within the General Plan.

**CEQA ADDENDUM PROCEDURES**

This document has been prepared in accordance with CEQA Guidelines sections 15164 and 15168 to explain the rationale for determining that the proposed Capitola General Plan update would not create any new or substantially more severe significant effects on the environmental that were not analyzed in the 2014 General Plan Update EIR.

In determining whether an Addendum is the appropriate document to analyze modifications to the General Plan EIR, State CEQA Guidelines Section 15164 states:

- (a) The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.*
- (b) An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.*
- (c) An addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration.*
- (d) The decision-making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project.*
- (e) A brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency’s required findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.*

## ADDENDUM TO THE CITY OF CAPITOLA GENERAL PLAN UPDATE EIR – ZONING CODE UPDATE

Since the General Plan EIR has been certified, the environmental impacts of subsequent activities proposed under the General Plan must be examined in light of the impact analysis in the certified EIR to determine if additional CEQA documentation must be prepared. One of the standards that applies is whether, under Public Resources Code Section 21166 and State CEQA Guidelines Sections 15162 and 15163, there are new significant effects or other grounds that require preparation of a subsequent EIR or supplemental EIR in support of further agency action on the project. Under these guidelines, a subsequent or supplemental EIR shall be prepared if any of the following criteria are met:

- (a) *When an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:*
- 1) *Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;*
  - 2) *Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or*
  - 3) *New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:*
    - A. *The project will have one or more significant effects not discussed in the previous EIR or negative declaration;*
    - B. *Significant effects previously examined will be substantially more severe than shown in the previous EIR;*
    - C. *Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or*
    - D. *Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.*

As demonstrated in the environmental analysis contained herein, none of the conditions that had been analyzed in the 2014 General Plan EIR would change with adoption of the proposed General Plan update. Furthermore, no new information of substantial importance meeting the criteria listed in State CEQA Guidelines Section 15162 has been identified.



**PRIOR ENVIRONMENTAL DOCUMENT**

The Capitola City Council adopted the General Plan Update and certified the associated EIR on June 26, 2014. The certified EIR found that adoption of the GPU would have significant, unavoidable effects to air quality, hydrology and water quality, traffic, utilities and service systems, and greenhouse gas emissions. In accordance with CEQA section 15091, the Capitola City Council adopted findings of overriding considerations to certify the EIR.

**ENVIRONMENTAL REVIEW UPDATE CHECKLIST****I. AESTHETICS**

*Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to aesthetic resources including: scenic vistas; scenic resources including, but not limited to, trees, rock outcroppings, or historic buildings.; existing visual character or quality of the site and its surroundings; or day or nighttime views in the area?*

Response: The proposed General Plan update would not result in new or increased severity of significant visual and light/glare impacts beyond what was addressed in the General Plan EIR. The amendments to the General Plan are consistent with the development assumptions under the adopted 2014 General Plan. Housing and commercial uses would be developed in the same locations and within prescribed densities and intensities as contemplated in the 2014 General Plan EIR. All future development projects would be subject to applicable City requirements pertaining to visual resources, as well as to further CEQA analyses of project specific impacts.

**II. AGRICULTURAL AND FORESTRY RESOURCES**

*Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to agricultural resources including: conflict with zoning for or result in rezoning of forest land; result in the loss of forest land or conversion of forest land to non-forest use; convert Important Farmland and/or conflict with existing zoning for agricultural use or Williamson Act contract?*

Response: There are no forest lands, farmlands of state or local importance, or agriculturally zoned properties in the City of Capitola. Consequently, the GP EIR concluded that there would be no significant impacts to agriculture or forestry resources. The proposed General Plan update would not result in any new impacts not previously considered by the GP EIR.

**III. AIR QUALITY**

*Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to air quality including: conflicts with or obstruction of implementation of the Regional Air Quality Strategy (RAQS) or applicable portions of the State Implementation Plan (SIP); violation of any air quality standard or substantial contribution to an existing or projected air quality violation; a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard; exposure of sensitive receptors to substantial pollutant concentrations; or creation of objectionable odors affecting a substantial number of people?*

Response: The General Plan EIR found that implementation of the Plan could result in significant, unavoidable impacts to air quality through an increase in mobile and stationary source emissions and cumulative contributions to regional air quality standards. The proposed General Plan update would not increase any residential densities or commercial intensities nor does it include new allowances which could facilitate development which could result in direct or indirect air quality impacts. Therefore, there are no project changes or any new information of substantial importance which indicate that the proposed General Plan update would exacerbate air quality impacts beyond the analysis and conclusions in the 2014 General Plan EIR.

#### IV. BIOLOGICAL RESOURCES

*Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to biological resources including: adverse effects on any sensitive natural community (including riparian habitat) or species identified as a candidate, sensitive, or special status species in a local or regional plan, policy, or regulation, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service; adverse effects to federally protected wetlands as defined by Section 404 of the Clean Water Act; interference with the movement of any native resident or migratory fish or wildlife species or with wildlife corridors, or impeding the use of native wildlife nursery sites; and/or conflicts with the provisions of any adopted Habitat Conservation Plan, Natural Communities Conservation Plan, or other approved local, regional or state habitat conservation plan, policies or ordinances?*

Response: The General Plan EIR found that implementation of the Plan would not result in any significant impacts to biological resources. The proposed General Plan update does not include any policies or actions which would involve new or altered physical changes to the environment which have the potential to adversely affect biological resources. There have been no changes in the project nor is there any new information of substantial importance to indicate that the proposed General Plan update would result in new or more severe impacts to biological resources.

## V. CULTURAL RESOURCES

*Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to cultural resources including: causing a change in the significance of a historical or archaeological resource as defined in State CEQA Guidelines Section 15064.5; destroying a unique paleontological resource or site or unique geologic feature; and/or disturbing any human remains, including those interred outside of formal cemeteries?*

Response: The General Plan EIR found that implementation of the Plan could result in significant impacts to cultural resources, but that mitigation measures could be applied to reduce the impact to a less than significant level. The proposed General Plan update does not include any residential density or commercial intensity increases which could result in additional housing development above what was evaluated in the General Plan EIR. Therefore, there have been no changes to the project or new information of substantial importance which indicate that the proposed General Plan update could result in new or more severe impacts to cultural resources.

## VI. GEOLOGY AND SOILS

*Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that result in one or more effects from geology and soils including: exposure of people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, seismic-related ground failure, including liquefaction, strong seismic ground shaking, or landslides; result in substantial soil erosion or the loss of topsoil; produce unstable geological conditions that will result in adverse impacts resulting from landslides, lateral spreading, subsidence, liquefaction or collapse; being located on expansive soil creating substantial risks to life or property; and/or having soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?*

Response: The General Plan EIR found that implementation of the Plan would have no potential to result in significant impacts to/from geology and soils. There have been no changes to the project or new information of substantial importance which indicate that the proposed General Plan update could result in new or more severe impacts to/from geology and soils.

## VII. GREENHOUSE GASES

*Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that show the project may generate greenhouse gas*

*emissions, either directly or indirectly, that may have a significant impact on the environment; or would conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emission of greenhouse gases?*

Response: The General Plan EIR found that implementation of the Plan would result in significant, unavoidable impacts to greenhouse gases and climate change. The proposed General Plan update includes the same residential densities and commercial intensities as what was evaluated by the 2018 General Plan EIR, therefore, there have not been any changes to the project or new information of substantial importance which indicate that the proposed General Plan update could result in new or more severe impacts to greenhouse gas emissions.

**VIII. HAZARDS AND HAZARDOUS MATERIALS**

*Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that result in one or more effects from hazards and hazardous materials including: creation of a significant hazard to the public or the environment through the routine transport, storage, use, or disposal of hazardous materials or wastes; creation of a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment; production of hazardous emissions or handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school; location on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 creating a hazard to the public or the environment; location within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport; within the vicinity of a private airstrip resulting in a safety hazard for people residing or working in the project area; impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan; and/or exposure of people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?*

Response: The General Plan EIR found that implementation of the Plan would not result in any significant impacts to/from hazards and hazardous materials. There have been no changes to the project, or new information of substantial importance which indicate that the proposed General Plan update would result in a new or more severe impact to hazards and hazardous materials.

**X. HYDROLOGY AND WATER QUALITY**

*Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to hydrology and water quality*

Attachment: GPU EIR Addendum (Update to Zoning Ordinance/ LCP Implementation Plan)

*including: violation of any waste discharge requirements; an increase in any listed pollutant to an impaired water body listed under section 303(d) of the Clean Water Act ; cause or contribute to an exceedance of applicable surface or groundwater receiving water quality objectives or degradation of beneficial uses; substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level; substantially alter the existing drainage pattern of the site or area in a manner which would result in substantial erosion, siltation or flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems; provide substantial additional sources of polluted runoff; place housing or other structures which would impede or redirect flood flows within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map, including City Floodplain Maps; expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam; and/or inundation by seiche, tsunami, or mudflow?*

Response: The General Plan EIR found that the implementation of the Plan could result in significant unavoidable impacts to groundwater supply, but found no significant impacts to water quality, drainage, erosion, or flooding. The proposed General Plan update would not increase residential densities or commercial intensities which would facilitate new water-dependent development. Therefore, there have been no changes to the project or any new information of substantial importance which indicate that the proposed General Plan update would result in new or more severe impacts to hydrology or water quality.

## **XI. LAND USE AND PLANNING**

*Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to land use and planning including: physically dividing an established community; and/or conflicts with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect?*

Response: The General Plan EIR found that implementation of the Plan would not result in any significant impacts to land use and planning. There have been no changes in the project or information of substantial importance which indicate that the proposed General Plan update would result in any new or more severe impacts to land use and planning.

## **XII. MINERAL RESOURCES**

*Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to mineral resources including: the loss*

*of availability of a known mineral resource that would be of value to the region and the residents of the state; and/or loss of locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?*

Response: There are no mineral resource deposits in the City of Capitola which could be reasonably extracted given existing non-compatible land uses. Accordingly, the General Plan EIR found that implementation of the Plan would not result in any impacts to mineral resources. There have been no changes to the project or new information of substantial importance which indicate that the proposed General Plan update would result in new or more severe impacts to mineral resources.

### **XIII. NOISE**

*Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that result in one or more effects from noise including: exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies; exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels; a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project; a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project; for projects located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, or for projects within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?*

Response: The General Plan EIR found that implementation of the Plan could result in significant impacts from noise resulting from construction of future projects authorized by the Plan. Consequently, the General Plan EIR included mitigation measures to reduce impacts from noise to a less than significant level. However, there have been no changes in the project or new information of substantial importance which indicate that the proposed General Plan update would result in new or more severe impacts to/from noise.

### **XIV. POPULATION AND HOUSING**

*Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that result in one or more effects to population and housing including displacing substantial numbers of existing housing or people, necessitating the construction of replacement housing elsewhere?*

Response: The General Plan EIR found that implementation of the Plan would not result in any significant impacts to population and housing. There have been no changes to the project or information of substantial importance which indicate that the proposed General Plan update would result in any new or more severe impacts to population and housing.

## XV. PUBLIC SERVICES

*Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that result in one or more substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services: fire protection, police protection, schools, parks, or other public facilities?*

Response: The General Plan EIR found that implementation of the Plan would not result in any significant impacts to public services. There have been no changes to the project or information of substantial importance which indicate that the proposed General Plan update would result in any new or more severe impacts to public services.

## XVI. RECREATION

*Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that result in an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated; or that include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?*

Response: The General Plan EIR found that implementation of the Plan would not result in any significant impacts to recreation. There have been no changes to the project or information of substantial importance which indicate that the proposed General Plan update would result in any new or more severe impacts to recreation.

## XVII. TRANSPORTATION/TRAFFIC

*Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause effects to transportation/traffic including: conflict with an*

*applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit; conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways; cause a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks; substantial increase in hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment); inadequate emergency access; and/or a conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?*

Response: The General Plan EIR found that implementation of the Plan could result in significant, unavoidable impacts to transportation. The proposed General Plan update does not include any increased residential densities or commercial intensities which would facilitate new development, which could result in additional traffic. Therefore, there have been no changes to the project or information of substantial importance which indicate that the proposed General Plan update would result in any new or more severe impacts to transportation.

#### **XVIII. UTILITIES AND SERVICE SYSTEMS**

*Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause effects to utilities and service systems including: exceedance of wastewater treatment requirements of the applicable Regional Water Quality Control Board; require or result in the construction of new water or wastewater treatment facilities, new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects; require new or expanded entitlements to water supplies or new water resources to serve the project; result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments; be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs; and/or noncompliance with federal, state, and local statutes and regulations related to solid waste?*

Response: The General Plan EIR found that implementation of the Plan could result in significant unavoidable impacts to utilities and service systems due to the potential for groundwater overdraft. The proposed General Plan update would not increase residential densities or commercial intensities which would facilitate new water-dependent development or the need for new or expanded wastewater treatment facilities or landfills. There have been no changes to the project or information of substantial importance which



indicate that the proposed General Plan update would result in any new or more severe impacts to utilities and service systems.

#### **XIX. MANDATORY FINDINGS OF SIGNIFICANCE:**

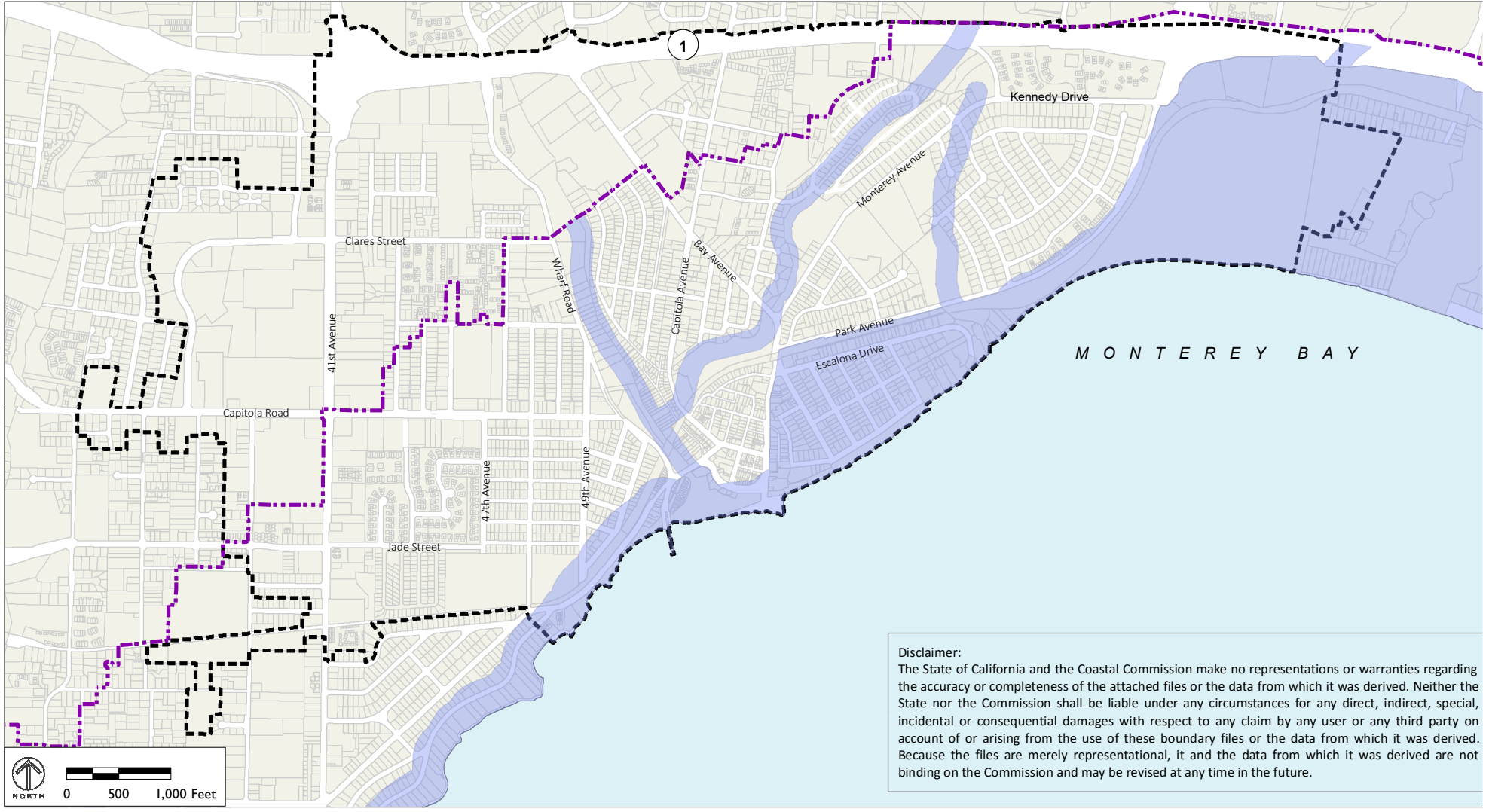
Since the previous EIR was certified or previous ND was adopted, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that result in any mandatory finding of significance listed below?

*Does the project degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?*

*Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?*

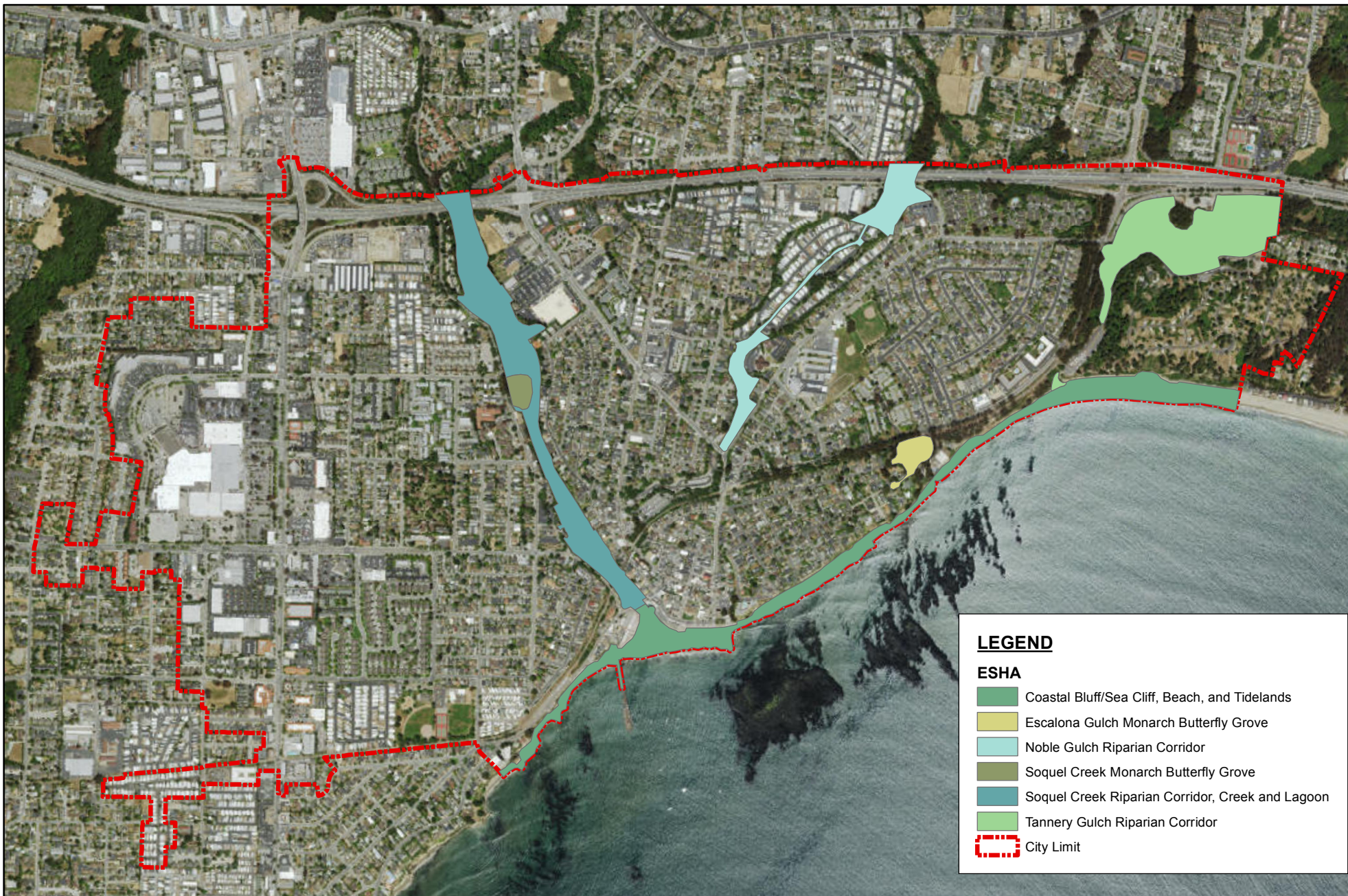
*Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?*

Response: There have been no changes to the project or any new information of substantial importance which indicate that the proposed General Plan update would result in any new or more severe impacts to the quality of the environment, including adverse impacts to habitat for sensitive species, cumulative environmental impacts, or adverse direct or cumulative effects on human beings.



Source: ESRI, 2017; PlaceWorks, 2017

- Santa Cruz Coastal Zone Boundary
- Coastal Zone Appeal Jurisdiction Boundary
- City Limit



Attachment: Capitola ESHA Map (Update to Zoning Ordinance/ LCP Implementation Plan)

Source: ESRI, 2017; Kimley-Horn, 20

