



## STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT

DATE: FEBRUARY 16, 2017

SUBJECT: **Zoning Code Update All Properties within Capitola**

Continuation of Comprehensive Update to the City of Capitola Zoning Code (Municipal Code Chapter 17).

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 Cattan, Senior Planner, City of Capitola

**BACKGROUND:** On January 9, 2017, an updated draft zoning code and zoning map was published which incorporates all edits received from the Planning Commission and City Council during 2016. The Planning Commission edits that were accepted by the City Council have been incorporated into the draft zoning code in black. The City Council recommended revisions are shown in red. The draft code also includes revisions made by City staff to improve clarity and non-policy revisions requested by Coastal Commission staff. Staff revisions are shown in blue. The draft code, zoning map, and previous staff reports with attachments are available online at: <http://www.cityofcapitola.org/communitydevelopment/page/zoning-code-update>. Hardcopies of the draft code are available to the public at City Hall and the Capitola Library.

**DISCUSSION:** Staff compiled the *Remaining Zoning Code Issues* report that highlights nine remaining zoning code issues that must be addressed prior to adoption (Attachment 1). The first item, the Zoning Map and Vacation Rental (VR) Overlay boundary, was discussed at the February 2, 2017 meeting. The Planning Commission will begin discussion on Issue #2 during the February 16, 2017 meeting. For each issue, the report identifies the relevant section of code, page number, overview of the issues, Planning Commission recommendation, City Council recommendation, and (when applicable) a recommendation by staff.

The *Remaining Zoning Code Issues* report includes the following issues for discussion:

2. Height exceptions in the Mixed Use Village
3. Zone height exceptions and Citywide height exceptions
4. Land-Use Changes in the Regional Commercial District
5. Office uses in the regional commercial zoning district
6. Pending review of coastal commission edits
7.
  - a. Allowed projections and encroachments into setbacks
  - b. Setbacks for accessory structures and accessory dwelling units

8. Accessory dwelling units
9. Non-conforming structures

Any items not discussed during the February 16<sup>th</sup> meeting will be continued to March 2, 2017 meeting.

**Next Steps:** The current draft zoning code will remain available for public review and comment until a final draft is prepared and released for public review. In accordance with City Council direction, the final draft code will be available for a 60-day public review and comment period prior to initiation of adoption hearings.

**CEQA:** An Addendum to the General Plan Update Environmental Impact Report (EIR) has been prepared and will be included in the packet during final recommendation to City Council.

**RECOMMENDATION:** Accept the staff presentation, provide direction on the draft zoning map, associated resource maps, and vacation rental overlay, and continue the public hearing to March 2, 2017 meeting.

**ATTACHMENTS:**

1. Remaining Zoning Code Issues
2. Staff Revisions to Draft Zoning Code

Prepared By: Katie Herlihy  
Senior Planner

## Remaining Zoning Code Issues

For January 9, 2017 Draft



On January 9, 2017, Capitola published an updated draft zoning map and draft zoning code that incorporated all Planning Commission and City Council recommendations made in 2016. Staff identified 9 remaining issues for discussion that are summarized within this document.

# Remaining Zoning Code Issues | 2017

## Topic 1: Zoning Map and TRO Boundary

**Overview:** The zoning map has been updated to be consistent with the General Plan Land Use Map, reflect existing land uses, and to correct errors within the existing map. Zoning Districts have been updated to match those in the new zoning code. New changes that took place during the Planning Commission and City Council review of the draft map include:

- The Visitor Server zone is now solely an overlay zone with the base zone removed. The map in figure 17.28-1 has been updated to reflect this change. Each property in the VS overlay has a base zone (CC, R-1, etc.) with a green hatch for the VS overlay.
- The TRO boundary was expanded along Capitola Avenue to Riverview Avenue. Additional requests were made by a member of the public to include properties along Capitola Avenue to Bay Avenue and to consider the property at 502 Beulah Drive. **Discussion Requested.**

Staff has identified the proposed modifications to the zoning map in the table below. **Staff is requesting direction on the draft zoning map.**

### Zoning Map Changes from Existing Zoning Map to Draft October 6, 2016 Zoning Map

	Location	Existing Zoning	New Zoning	Comments
1	Entire Map	Automatic Review		Removed AR
2	Capitola Road between 41 <sup>st</sup> and Wharf	Community Residential (CR)	Mixed Use Neighborhood (MU-N)	Removed CR, CN, and PO zones.
3		Neighborhood Commercial (CN) & Professional Office (PO)	Community Commercial (CC)	
4	41 <sup>st</sup> Avenue north of Capitola Road, Clares Street and Autoplaza Drive	Community Commercial (CC)	Regional Commercial (C-R)	General Plan implementation
5	3945 Melton Street	Single-Family (R-1)	Community Commercial (CC)	Informed owner. Supports change
6	519 Capitola Avenue	Single-Family (R-1)	MU-N	Informed owner. Supports change
7	822 Kennedy Drive parcel behind church	P/OS	Single-Family (R-1)	Developed within CUP
8	4800 and 4820 Opal Cliff	Single-Family (R-1)	RM-M	Annexed in 1963 as multi family.
9	3865, 3883, 3895 Brommer Street	Community Commercial (CC)	RM-M	Request from residents to be rezoned.
10	Parcels behind 2078 Wharf Road (Riverview of Capitola Condos)	AR/RM-LM	P/OS	Open Space behind condos.
11	Rispin on Wharf Road	AR/VS/R	VS/P/OS	Previously approved PD never developed.

# Remaining Zoning Code Issues | 2017

12	620 El Salto	VS	R-1 with VS Overlay	Monarch Cove Inn
13	720 El Salto	VS/R-1	Single-Family (R-1)	Removed VS overlay
14	709 Escalona Drive	VS/R-1	Single-Family (R-1)	Removed VS overlay
15	1465 38 <sup>th</sup> Avenue extending to Capitola Road nad 3720 Capitola Road to 38 <sup>th</sup> Avenue	Neighborhood Commercial (CN)	Community Commercial (CC)	General Plan Implementation
16	720 Hill Street – hotel	Multi-family Medium Density (RM-M)	Community Commercial (CC) with AH overlay	Identified as AH site in housing element
17	502 Beulah	Mobile Home (MH)	Single-Family (R-1)	General Plan Implementation
18	405 and 407 Capitola Avenue and 410 Riverview	Neighborhood Commercial (CN)	Community Facility (CF)	Fire Station
19	1911 42 <sup>nd</sup> Avenue	Multi-family Medium Density (RM-M)	Planned Development (PD)	Pearson Ct. Established PD
20	Two parcels in the park at the end of Riverview Drive	Public Facilities (PF)	Public Open Space (P/OS)	Open Space
21	719 Capitola Ave – just north of Bay	Multi-Family Medium Density (RM-M)	Mixed Use Neighborhood (MU-N)	Existing Commercial Donut Station
22	500 Plum Street	Professional Office (PO)	Mixed Use Neighborhood (MU-N)	Removed PO zone.
23	City Owned Parcel behind 401 Monterey Avenue (Noble Gulch Park)	Multi-family Low Density (RM-LM)	Public Open Space (P/OS)	Open Space
24	401 Monterey Avenue	Multi-family Low Density (RM-LM)	Single Family (R-1)	Existing Single-Family home. Lot size does not meet minimum site area per dwelling for more than one unit.
25	3640 Capitola Road	Public Facilities (PF)	Community Commercial (CC)	Privately owned utility.
26	250 Monterey (Inn at Depot Hill)	Visitor Serving (VS)	Single-Family (R-1) V/S overlay	All VS is overlay

**Topic 2: Height Exceptions in the Mixed Use Village (MU-V)****Section 17.20.030:** Height Exceptions in the Mixed Use Village.

Page: 20-5

MU-V zone height: 27 Feet

**Overview:** City Council recommended changes to the height exception to allow up to 30 feet with a maximum plate height of 26 feet and no habitable space above the plate line. The ongoing monitoring of interior habitable space would be challenging to enforce. During the City Council discussions, the understood purpose for prohibiting habitable space was to prevent breaks within the roof slope with habitable space design features, such as dormers.

Staff recommends combining Height Exceptions 1 & 3 to identify one height exception limit (30 or 33 ft), require a minimum 5:12 roof pitch to qualify for a height exception, and replace prohibition of habitable space with a prohibition on breaks in the roof slope. **Staff is requesting direction on height exceptions in the central village.**

**Planning Commission Recommendation:**

- B. ~~MU-V~~ Height Exceptions.** The following exceptions are permitted to the maximum permitted height in the MU-V zoning district as shown in Table 17.20-2:
1. Up to 30 feet for habitable space with a roof pitch of at least 5/12. See Figure 17.20-1.
  2. Projections for non-habitable decorative features and structures as allowed by Section 17.48.030.C

**City Council Recommendation:**

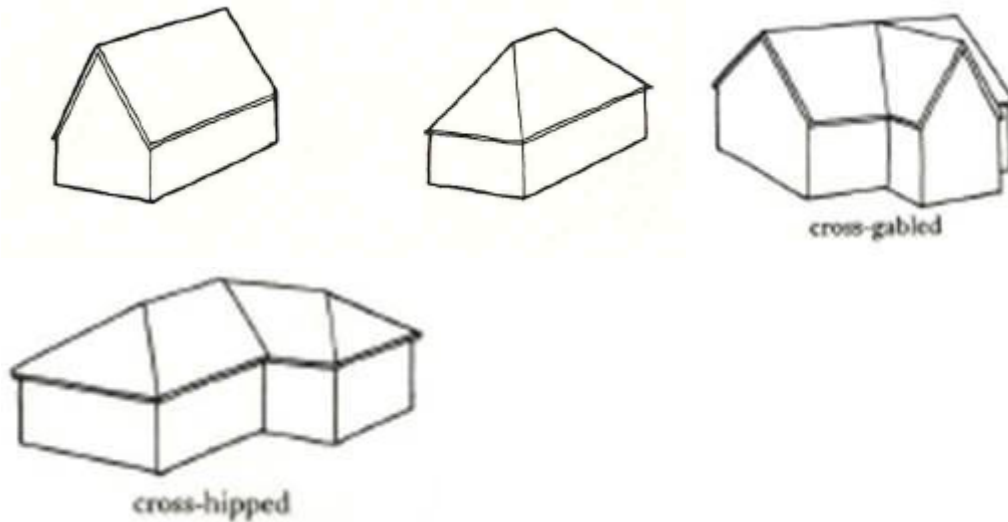
- B. Height Exceptions.** The following exceptions are permitted to the maximum permitted height in the MU-V zoning district as shown in Table 17.20-2:
1. Up to 30 feet for a structure with a minimum 5:12 roof pitch. See Figure 17.20-1.  
~~Up to 30 feet for habitable space with a roof pitch of at least 5/12. See Figure 17.20-1.~~
  2. Projections for non-habitable decorative features and structures as allowed by Section 17.48.030.C.  
~~Projections for non-habitable decorative features and structures as allowed by Section 17.48.030.C~~
  - ~~2-3.~~ Up to 33 feet for pitched roof with a maximum plate height of 26 feet and no habitable space above the plate line.

**Staff Recommended Amendment:**

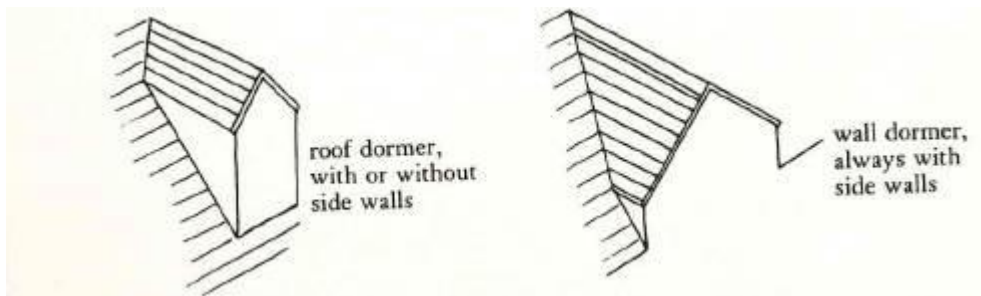
Height Exceptions: The following exceptions are permitted to the maximum permitted height in the MU-V zoning district as shown in Table 17.20-2:

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 slopes for dormers, windows, doors, and decks.”
2. Projections for non-habitable decorative features and structures as allowed by Section 17.48.020.C.

Allowable pitched roof designs:



Prohibited within roof slope:



**Topic 3: Zone Height Exceptions and City Wide Height Exceptions**

**Mixed Use Village Height Exceptions**

Section: 17.20.030

Page: 20-5

**City-Wide Height Exceptions**

Section: 17.48.020.B

Page: 48-2

**Overview:** As discussed in topic 1, there are height exceptions for specific scenarios within the Mixed Use Village. There are also City-wide height exceptions identified in Table 17.48-1 on page 48-2. During the discussion on mixed use village height exceptions, it was not discussed whether or not the city wide exceptions were intended to be in addition to the exceptions to zone height. Staff added a clarifying statement to 17.48.020.B to specify that the city-wide exceptions may not be combined with increased height allowance allowed within specific zoning districts as specified in Part 2. **Staff is requesting feedback on the edit to ensure the edit reflects the intent of the Planning Commission.**

**B. Height Exceptions.** Buildings may exceed the maximum permitted height in the applicable zoning district as shown in Table 17.48-1. These exceptions are measured from the maximum permitted zoning district height. They are not measured from the increased height allowed within specific zoning districts as specified in Part 2 (Zoning Districts and Overlay Zones).

**Note:** Height exceptions in Table 17.48-1 below add detail to height exceptions in Section 17.81.070 of the existing Zoning Code.

**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 <del>and thermal recovery systems</del>	No restriction	4 ft.
<del>Wind energy systems</del>	<del>No restriction</del>	<del>40 ft.</del>
Building mounted telecommunications facilities	See Chapter 17.104	



# Remaining Zoning Code Issues | 2017

## Topic 4: Land-Use Changes in the Regional Commercial District

**Section:** 17.24.020

**Page:** 24-2

**Overview:** The City Council requested three significant changes be made to this table. First, the City Council requested that single-family dwellings be added to identify that they are prohibited. Second, the Council directed staff to prohibit multi-family dwellings in the regional commercial zone. Lastly, within a residential mixed use development in the regional commercial zone, the Council prohibited residential uses on the first story. The last two changes significant changes that will require all residential development to have commercial on the first story within the regional commercial zoning district. **Staff is requesting feedback on the change to ensure the draft code reflects direction requested.**

**Planning Commission Recommendation:**

Key	Zoning District			Additional Requirements
	C-C	C-R	I	
P Permitted Use				
A Administrative Permit required				
M Minor Use Permit required				
C Conditional Use Permit required				
- Use not allowed				
<b>Residential Uses</b>				
Multi-Family Dwellings	C	C [5]	-	
Residential Mixed Use	C	C	-	17.24.040+40

[5] Permitted only on a mixed use site with the residential use secondary to the primary commercial uses on the site. Residential uses on the site are limited to less than 50 percent of the floor area of buildings on the site. Residential uses shall be located and designed to maintain a primarily commercial character and function on the site.

**City Council Recommendation:**

<b>Residential Uses</b>				
<u>Single-Family Dwellings</u>	=	=	=	
Multi-Family Dwellings	C	<del>C [5]</del>	-	
Residential Mixed Use	C	<u>C [7]</u>	-	Section 17.24.040

[7] Residential uses are prohibited on the first story.

Attachment: Remaining Zoning Code Issues (1734 : Zoning Code Update)

**Topic 5: Office Uses in the Regional Commercial Zoning District**

**Table:** 17.24-2

**Page:** 24-4

**Overview:** City Council directed staff to prohibit all Office Uses in the ground floor of the Regional Commercial zoning district (C-R). This is a major change that will make numerous existing office uses located in established office buildings legal, non-conforming. As written, a vacant office space within an office building would be subject to Section 17.92.060: Non-conforming Use of Structures. A change in ownership, tenancy, or management of a nonconforming use shall not affect its legal nonconforming status. If the office use is vacant (discontinued) for 90 consecutive days, the use shall not be reestablished and may be replaced only by a conforming use. After 90 days, the vacant space could not be leased with a new office use. Staff recommends that office uses in existing office buildings (utilized exclusively for office space) be allowed to continue until such time that the office building is redeveloped or removed. **Staff request discussion to confirm the City should prohibit all first-floor office spaces on the ground floor in the C-R zoning district.**

**Planning Commission Recommendation:**

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

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

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

Attachment: Remaining Zoning Code Issues (1734 : Zoning Code Update)

**City Council Recommendation:**

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

<u>Key</u>		
<u>P Permitted Use</u>		
<u>A Administrative Permit required</u>		
<u>M Minor Use Permit required</u>		
<u>C Conditional Use Permit required</u>		
<u>- Use not allowed</u>		
<b>Location and Size of Office Use</b>	<b>C-C Zoning District</b>	<b>C-R Zoning District</b>
Conversion of a retail use to an office use	N/A	€
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	€P

**Staff Recommendation**

Staff recommends adding a note to the table that office uses in existing office buildings (used exclusively for office space) be allowed to continue until such time that the office building is redeveloped or removed.

**Topic 6: Pending Review of Coastal Commission edits**

**Overview:** The California Coastal Commission staff reviewed the original Draft Zoning Code and provided preliminary feedback. The feedback ranges from minor edits to larger policy issues. During the initial draft zoning code review in 2016, the Planning Commission did not make a recommendation on the Coastal Overlay chapter to the City Council. Within the 2017 draft zoning code, City staff inserted Coastal Commission edits which do not fundamentally affect policy or which are minor in nature into the draft code. These changes are shown in blue throughout the code. The majority of the Coastal Commission suggested revisions were Chapter 17.44. Staff presented these edits to the City Council on October 13, 2016. The Council directed staff to return to the Planning Commission for a recommendation on the changes. **Staff requests direction on the Coastal Commission edits.**

Attachment: Remaining Zoning Code Issues (1734 : Zoning Code Update)

# Remaining Zoning Code Issues | 2017

## Topic 7: Allowed Projections and Encroachments into Setbacks

**Section:** 17.48.030 C and D

**Page:** 48-2 to 48-4

**Overview:** The draft code includes a variety of setbacks for different projections and encroachments into the setback areas. Staff recommends slight modifications to setbacks to create consistency based on the possible impacts to neighbors. The following tables groups similar features and structures that have similar effects. The draft code standards are in black. **All staff recommended changes are in red.**

**Architectural Design Elements** (bay windows, front porch) that are encouraged with minimal setback.

	Encroachment 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>WALL PROJECTIONS</b>					
Bay windows, balconies, sills, fireplaces, chimneys, and similar wall projections	2 ft	2 ft	2 ft	2 ft	All: 3 ft
<b>ENTRIES</b>					
Stairways and fire escapes or similar features	<del>4 ft</del> Not allowed	<del>6 ft</del> 4 ft	<del>½ of required setback</del> No max	<del>4 ft</del> Not allowed	Front: Not allowed Interior side: 3 ft Exterior side: Not allowed Rear: 5 ft
At grade flatwork such as concrete paving and patios	No max	No max	No max	No max	All sides: No minimum
Landing Places, Patios, and Decks 18 inches or less above grade	No max	No max	No max	No max	Front and Exterior Side: 5 ft Interior Side and Rear: 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	Front: 10 ft Exterior side: 5 ft Interior Side: 3 ft Rear: 5 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	Front: 10 ft Exterior side: 5 ft Interior Side and Rear: Not Applicable
Wheelchair ramps and similar features for the disabled	No max	No max	No max	No max	No minimum

Attachment: Remaining Zoning Code Issues (1734 : Zoning Code Update)

# Remaining Zoning Code Issues | 2017

**Decorative Features** such as a trellis and planter boxes are encouraged with minimal setbacks from property lines. Specificity has been added to trellis structures to ensure that trellis structures in the front yard will not be enclosed to ensure a trellis cannot be utilized as a fence feature well above the fence height allowance of 42 inches. The draft code standards are in black. **All staff recommended changes are in red.**

	Encroachment into Setback				Minimum Distances from Property Lines
	Front	Rear	Interior Side	Exterior Side	
<b>DECORATIVE FEATURES</b>					
Trellis Structure up to 10 ft in height that is <b>open on all sides and arbors with a minimum of 2 open sides utilized over a walkway.</b>	No max	No max	No max	No Max	No Minimum Staff Note: Limit trellises in the front yard to no walls. Could be utilized as high fence.
Trellis Structure up to 10 ft in height that is open on at least three sides, and the walls of the structure are 50 percent transparent.	<del>No Max</del> Not Allowed	No max	No max	<del>No Max</del> Not Allowed	Rear and Interior Side: No Minimum  Front and Exterior Side: Not allowed.
Planter boxes and masonry planters with a maximum height of 42 inches.	No max	No max	No max	No Max	No Minimum
Landscape features, <b>such as water fountain or statue</b> , up to a maximum height of 6 ft that does not enclose the perimeter of the property.	No max	No max	No max	No max	All sides: 5 foot minimum

Attachment: Remaining Zoning Code Issues (1734 : Zoning Code Update)

## Remaining Zoning Code Issues | 2017

**Entertainment Features** are typically social and should not be located right on a property line due to possible impacts of noise. They also are not normally allowed within a front setback or side yard setbacks. The draft code standards are in black. **All staff recommended changes are in red.**

	Encroachment into Setback				Minimum Distances from Property Lines
	Front	Rear	Interior Side	Exterior Side	
<b>ENTERTAINMENT FEATURES:</b>					
Hot Tubs	Not allowed	No max	Not allowed	Not allowed	Rear: <del>2</del> 5 ft All other: Not allowed
Pools	Not allowed	No max	Not allowed	Not allowed	Rear: 5 ft minimum All other: Not allowed
Fire pits up to 30 inches in height	No max	No max	No max	No Max	All Sides: 5 ft minimum
Outdoor kitchens. The kitchen may include gas, electric and plumbing, except electric connections must be less than 200 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 Yard: <del>2</del> 5 ft minimum All other sides: Not allowed

**Structures and Equipment** not permanently attached to the ground are allowed within setback areas. Rain harvest tanks are encouraged and therefore allowed within side and rear yard setbacks. Mechanical equipment may have noise and visual impacts to a neighbor; therefore, are prohibited from the front and exterior side yard and have required setbacks within the interior side yard and rear yard. The draft code standards are in black. **All staff recommended changes are in red.**

	Encroachment into Setback				Minimum Distances from Property Lines
	Front	Rear	Interior Side	Exterior Side	
<b>OTHER STRUCTURES AND EQUIPMENT</b>					
Children's play equipment, movable dog house, movable trach enclosures, and similar moveable objects	No max	No max	No max	No max	All sides: No minimum
Rain harvest tanks that do not exceed 8 ft in height	Not allowed	No max	No max	No max	Front Yard: Not Allowed. All sides: No minimum
Screened mechanical equipment including hot water heaters and HVAC units.	<del>No max</del> Not Allowed	No max	No max	<del>No Max</del> Not Allowed	<del>No minimum</del> Rear and Interior Side Yard: 3 ft

Attachment: Remaining Zoning Code Issues (1734 : Zoning Code Update)

# Remaining Zoning Code Issues | 2017

## Topic 7b: Setbacks for Accessory Structures and Accessory Dwelling Units

**Section:** 17.52.020

**Page:** 52- 2

**Section:** 17.74.050 and 060

**Page:** 74 - 5

**Overview:** The zoning code allows accessory structures and accessory dwelling units in setback areas. The setbacks in the draft code are consistent between the two allowed structures, requiring increased setbacks as the accessory structure increases in height. **Staff is not requesting direction on this item. Staff included this item anticipating that questions would arise relative to the setback discussion in Topic 7.**

	Encroachment into Setback				Minimum Distances from Property Lines
	Front	Rear	Interior Side	Exterior Side	
<b>ACCESSORY STRUCTURES &amp; DETACHED GARAGE 17.52</b>					
Accessory structure less than 8 ft. in height, 80 sf or less, no plumbing	Same as primary	No max	No max	No max	All Sides: No minimum
Accessory Structures 8 to 15 ft. in height in SF zone	Same as primary structure	No max	No max	<del>No max</del> Same as primary structure	Front: Same as primary structure Interior and Exterior Sides: 3 ft. Rear: 3 ft.
Detached Garage	None	No max	No max	No max	Front: 40 ft Interior and Exterior Sides: 3 ft. Rear: 3 ft.
Accessory Structure in MF Residential	None	No max	No max	No max	Front: Same as primary Structure Interior and Exterior Side: 3 ft. Rear: 3 ft.

Attachment: Remaining Zoning Code Issues (1734 : Zoning Code Update)

# Remaining Zoning Code Issues | 2017

	Encroachment into Setback				Minimum Distances from Property Lines [2]
	Front	Rear	Interior Side	Exterior Side	
<b>Accessory Dwelling Units</b>					
Detached Accessory Dwelling Units – One Story (15 ft. Height or less)[1]	None	No Max	No Max	None	Front: Same as required for primary residence Interior Side: 5 ft Exterior Side: Same as required for primary residence Rear: 8 ft
Detached Accessory Dwelling Units (15-22 ft. height)	None	No Max	No Max	None	Front: Same as required for primary residence Interior Side: 5 ft Exterior Side: Same as required for primary residence Rear: 10 ft
Attached Accessory Dwelling Units	Same as primary residence	Same as primary residence	Same as primary residence	Same as primary residence	Front, Rear, Exterior Side and Interior Side: Same as primary residence  Above garage: 5 ft [3]

**Notes:**

- [1] Maximum height of 12 feet when accessory dwelling unit is 10 feet or less from property line.  
 [2] No setback is required for an existing garage that is converted to an accessory dwelling unit.  
 [3] Minimum 5-foot setback for accessory dwelling units constructed above a garage.

**Topic 8: Accessory Dwelling Units (previously Secondary Dwelling Units)****Chapter:** 17.74**Page:** 74-1 through 74-9

**Overview:** This chapter establishes standards for the location and construction of accessory dwelling units consistent with the State of California Government Code Section 65852.2 as amended within AB2299. The chapter has been modified extensively since the original 2016 draft to comply with recent State legislation. Major changes include new terminology, new definitions, new standards for attached, detached, and internal accessory dwelling units, new parking allowances and waivers, and increased minimum size of 1,200 square feet.



**Topic 9: Non-Conforming Structures****Section:** 17.92.080**Page:** 92-6

**Overview:** The City Council requested that staff edit Table 17.92 to clarify the new thresholds. Staff updated the description of the thresholds and added examples for each. **Staff request discussion on the updated table.**

**Planning Commission Recommendation:****TABLE 17.92-1: ALLOWED MODIFICATIONS TO NONCONFORMING STRUCTURES**

Project Affecting a Nonconforming Structure	Permit Required [1]
Nonstructural repairs, maintenance, and interior alterations	None
Structural repairs, modifications, and additions that do not alter or affect the nonconforming aspect of the structure	None
Structural repairs, modifications, and additions that alter or affect the nonconforming aspect of the structure	<del>Conditional Use</del> Design Permit
Structural repairs, modifications, and additions that increase or exacerbate the nonconforming aspect of the structure	Variance
Replication of a single-family dwelling per 17.92.070.D	<del>Conditional Use</del> Design Permit
Recreation of an involuntarily damaged or destroyed structure	None

Notes:

[1] The proposed project may require permits and approvals for other reasons not related to its nonconforming status. For example, additions or enlargements to a single-family dwelling often requires a Design Permit.

# Remaining Zoning Code Issues | 2017

## City Council Recommendation:

**TABLE 17.92-1: ALLOWED MODIFICATIONS TO NONCONFORMING STRUCTURES**

Project Affecting a Nonconforming Structure	Example	Permit Required [1]
<del>Interior Nonstructural</del> repairs, maintenance, and <del>interior</del> -alterations	<a href="#">Interior renovations to a room within a portion of a building located within a required setback area</a>	None
<del>Exterior Structural</del> repairs, modifications, and additions that do not alter or affect the nonconforming aspect of the structure	<a href="#">Adding floor area to a home with an existing roof that exceeds the maximum building height where the addition complies with the maximum building height and all other applicable standards</a>	None
<del>Exterior Structural</del> repairs <del>and</del> modifications <del>and</del> additions that alter or affect the <del>nonconforming</del> aspect of the structure <a href="#">[2]</a>	<a href="#">Rebuilding an existing building wall within a required setback area with no increase in floor area</a>	Design Permit
<del>Exterior Structural</del> repairs, modifications, and additions that increase or exacerbate the nonconforming aspect of the structure	<a href="#">Adding floor area to a portion of an existing room within a required setback area</a>	<a href="#">Design Permit and Variance</a>
<del>Replication Reconstruction</del> of a single-family dwelling per <del>17.92.070.D</del>	<a href="#">See 17.92.080.C</a>	Design Permit
Recreation of an involuntarily damaged or destroyed structure	<a href="#">Rebuilding a home destroyed by a fire to match the destroyed home</a>	None

Notes:

[1] The proposed project may require permits and approvals for other reasons not related to its nonconforming status. For example, additions or enlargements to a single-family dwelling often requires a Design Permit.

[2] ~~Repairs and replacement of exterior finishes such as roofs and exterior siding are allowed without a Design Permit.~~

## Staff Revisions to Draft Zoning Code (January 9, 2017)

The 2017 Draft Zoning Code includes all staff edits in blue. The majority are minor edits to grammar, spelling, and references. The following list includes edits made by staff that are quantitative and/or qualitative in nature that should be brought to Planning Commission and City Council’s attention but do not required additional direction, unless requested.

1. Table 17.24-1. Page 24-3.

Change: Added Vehicle Sales Display Room with a note that a Vehicle Sales Display Room may not exceed 5,000 square feet in size.

<u>Vehicle Sales Display Room [8]</u>	<u>P</u>	<u>P</u>	<u>=</u>	
<u>[8] Maximum 5,000 square feet.</u>				

2. Section: 17.24.030.D.4. Page 24-6.

Change: Added exception to increased setback standards for narrow lots.

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.

3. Section: 17.48.040.B.6 Page: 48-5

Change: The draft code combined deck requirements with trellis requirements including the provision that they be open on three sides. The enclosure of three sides should not have been applied to decks and patios. Staff split the exceptions to separate the decks and patio standards from the trellis and porte-cocheres to avoid confusion.

6. For all uses, the following features are excluded from the floor area calculation:

- a. ~~Covered or uncovered decks, patios, trellises, and similar outdoor spaces which are open on at least three sides, not including carports.~~
- b. Covered or uncovered decks; and patios.
- c. 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.

4. Chapter: 17.52 Page: 52-2

Change: The building official reviewed the maximum width of a detached garage (21-feet) and suggested that the width should be increased by two feet to accommodate a two car garage

# Staff Revisions to Draft Zoning Code | 2017

with ample structural supports on both ends. Interior parking spaces are required to be ten feet wide, twenty-foot wide for two spaces.

**TABLE 17.52-1: ACCESSORY STRUCTURE STANDARDS IN RESIDENTIAL ZONING DISTRICTS**

	Single-Family Residential Zoning Districts	Multi-Family Residential Zoning Districts	Additional Standards
<b>Height, Maximum</b>			
Structure	15 ft. [1]	15 ft.	Section 17.52.020.B.2
Top of Wall Plate	9 ft.	9 ft.	
<b>Width, Maximum</b>	<del>23</del> 4 ft. for detached garages; None for other accessory structures	None	

- 5. Section 17.56.030 and 040 Page 56-3

Change: Added grading monitoring requirements for unexpected discovery of archaeological or paleontological resources.

**17.56.030 Grading Monitoring Requirement**

The Community Development Director may require grading monitoring by a qualified archaeologist 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 or paleontological resources are discovered during grading or 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 or paleontologist, as appropriate. Work shall not resume until the qualified archaeologist 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.

- 6. Section 17.60.030 Page 60-2

Change: Added note to see 17.96.050 Intersection sight distance for fences on corner lots.

**Note:**  
[1] See Section 17.96.050 (Intersection Sight Distance) for addition corner lot fence requirements.

Attachment: Staff Revisions to Draft Zoning Code (1734 : Zoning Code Update)

## Staff Revisions to Draft Zoning Code | 2017

## 7. Section 17.60.030.B Page 60-2

Change: The Planning Commission added an exception for fences or walls used as landscape feature to exceed the fence height limit. Staff deleted this from this section and added it to chapter 17.48.030.D: Allowed Encroachments in Setback Areas an allowance for landscape features up to 6 feet in height.

Deleted 17.60.030.B:

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

Added to 17.48.030.D.10:

10. Landscape features up to a maximum height of 6 feet which does not enclose the perimeter of the property

## 8. Section: 17.76.020.C.1.b Page: 76-2

Change: Expansion of an eating or drinking establishment. This new standard allows eating and drinking establishments to expand slightly within the existing building footprint or outdoor dining without providing additional parking. The Planning Commission and City Council discussions were focused on the Central Village. Staff added the stipulation that this standard only applies within the mixed use village.

**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 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.



## STAFF REPORT

TO: PLANNING COMMISSION  
 FROM: COMMUNITY DEVELOPMENT  
 DATE: FEBRUARY 16, 2017  
 SUBJECT: **231 Esplanade #17-002 035-211-01**

Sidewalk Sign Permit for Margaritaville Restaurant located at 231 Esplanade in the CV (Central Village) Zoning District.

This project is in the Coastal Zone but is exempt from a Coastal Development Permit.

Environmental Determination: Categorical Exemption

Property Owner: Steve Yates

Representative: Sarah Orr, filed: 1/26/15

### **APPLICANT PROPOSAL**

The applicant is proposing a sidewalk sign for Margaritaville located at 231 Esplanade in the CV (Central Village) Zoning District. The shape of proposed sidewalk sign deviates from the BIA master design.

### **DISCUSSION**

Margaritaville is located at the corner of Stockton Avenue and Esplanade. The restaurant has two entrances; one along Esplanade and the other at the corner of Stockton Avenue. Currently, there are wall signs over each entrance, a menu sign at each entrance, and the parrot wall sign along the building frontage. The Planning Commission approved the existing signs on March 5, 2015.

The applicant is seeking approval of a village sidewalk sign. Section 17.57.060.F outlines the 19 standards for a Central Village sidewalk sign (Attachment 2). The proposes sign complies with all regulations except that the shape of the sign is different from the BIA master design, as regulated in standard 9, as follows:

“Sidewalk signs must use the approved Business Improvement Association (BIA) master design approved by the community development director. A copy of the approved sidewalk sign shall be maintained in the Planning Department of the City in Capitola.”

The BIA sign design is 18 inches wide by 32 inches tall. The sign is attached to a metal pole with a round metal base. There is a maximum total height for the sign, pole, and base of 58 inch from grade. The BIA sign face is rectangular in shape with a unique curvilinear design along the top and bottom edge of the sign. The copy of the approved BIA master design is included as Attachment 3.

The Margaritaville sidewalk sign is composed of a stained alder wood sign face, with black vinyl letters identifying the restaurant at the top, and a chalk board framed with alder wood centered on the sign face. The sign complies with all required dimensional standards and is designed with quality materials. The sign does not, however, match the shape of the approved BIA design. The proposed sign is a rectangle that does not include the curved edges of the BIA sign.

A village sidewalk sign is typically approved administratively by the Community Development Director. The regulations are not specific, however, in whether staff has discretion to allow variation in the shape of the sign faces. Accordingly, this application is being processed under zoning code section 17.57.020(C)(3) which requires Planning Commission review of “signs which propose to vary from standard regulations which apply to the type of sign being proposed”.

Standard #9 of the Central Village sidewalk sign standards is unclear if all signs must be an exact replication of the BIA sign or if they may alter in shape as long as height and size requirements are met. The second alternative seems appropriate based on the built environment. The Central Village has a unique aesthetic of quaint scale with a variety of architectural design ranging from traditional historic homes along Lawn Way to modern infill commercial frontages along Capitola Avenue. Signs within the village follow this pattern being petite in size but diverse in design, materials, and colors. Allowing the design of a sidewalk sign face to have a standards height, width, and area to regulate scale yet differ in shape and materials would be in line with the established design trend of the Central Village.

#### **CEQA**

This sign is an accessory structure and is categorically exempt under Section 15311 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations. No adverse environmental impacts were discovered during project review by either the Community Development Department Staff or the Planning Commission.

#### **RECOMMENDATION**

Staff recommends that the Planning Commission **approve** application #17-002, subject to the following conditions and findings:

#### **CONDITIONS OF APPROVAL**

1. The project approval consists of one two-sided sidewalk sign for the Margaritaville Restaurant located at 231 Esplanade. The shape of the sidewalk signs is slightly different from the approved BIA design and therefore requires approval by the Planning Commission. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on February 16, 2017, except as modified through conditions imposed by the Planning Commission during the hearing.
2. The sidewalk sign must be located in the in front of the business where the sidewalk is at least seventy-eight inches in width.
3. The sidewalk sign shall be no larger than eighteen inches in width and no taller than fifty-eight inches measured from the ground.
4. The sign is designed to be attached to a metal pole which will be placed in a moveable stand. The moveable stands cannot be more than eighteen inches wide. Lights, banners, flags or similar objects shall not be placed on or adjacent to sidewalk signs.
5. The applicant shall obtain an encroachment permit from the Public Works Department for the sidewalk sign. The encroachment permit will identify the location of the sign on a base.

6. The sidewalk sign shall not interfere with pedestrian ingress or egress as required by the building code or obstruct vehicular traffic sight distance requirements. A forty-eight inch level clear path of travel on concrete or similar material must be maintained where the sign is located.
7. Sidewalk signs shall be spaced a minimum of thirty linear feet from all other permitted sidewalk signs.
8. The sidewalk sign 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. No other temporary advertising signs may be used at the same time as the sidewalk sign is in use. This includes all banners, flags, window signs covering more than one-third of the window or other temporary signage.
10. All other signs on the property must be in conformance with the city's sign regulations prior to a sidewalk sign permit being issued.
11. Damaged or dilapidated sidewalk signs shall be replaced at the discretion of the community development director.
12. The sidewalk sign may not contain lights of any kind.
13. The owner of the business 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.
14. 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.

### **FINDINGS**

**A. The signage, as designed and conditioned, will maintain the character and aesthetic integrity of the subject property and the surrounding area.**

The sidewalk sign was designed to maintain the character and aesthetic of the Central Village district.

**B. The signage, as designed and conditioned, reasonable prevent and reduce the sort of visual blight which results when signs are designed without due regard to effect on their surroundings.**

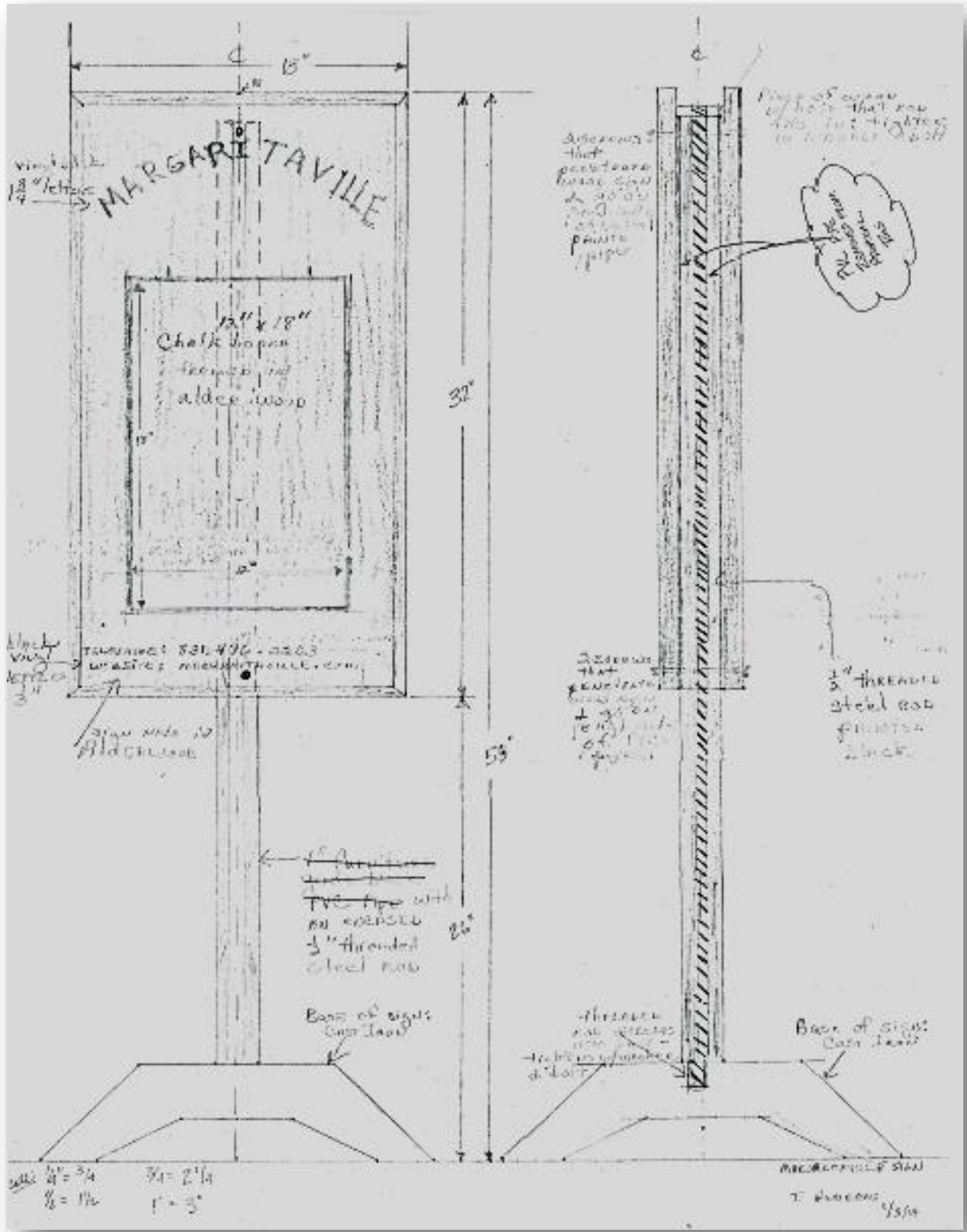
The sidewalk sign complements the Margaritaville restaurant and the Esplanade. The proposed custom sign will have a rectangular sign face built of alder wood. It will be located on the sidewalk and maintain thirty feet of separation from other approved sidewalk signs to avoid visual clutter.

### **ATTACHMENTS:**

1. Sidewalk Sign Plans
2. Photo of Sign Face
3. Sidewalk Sign Regulations

Prepared By: Katie Herlihy  
Senior Planner

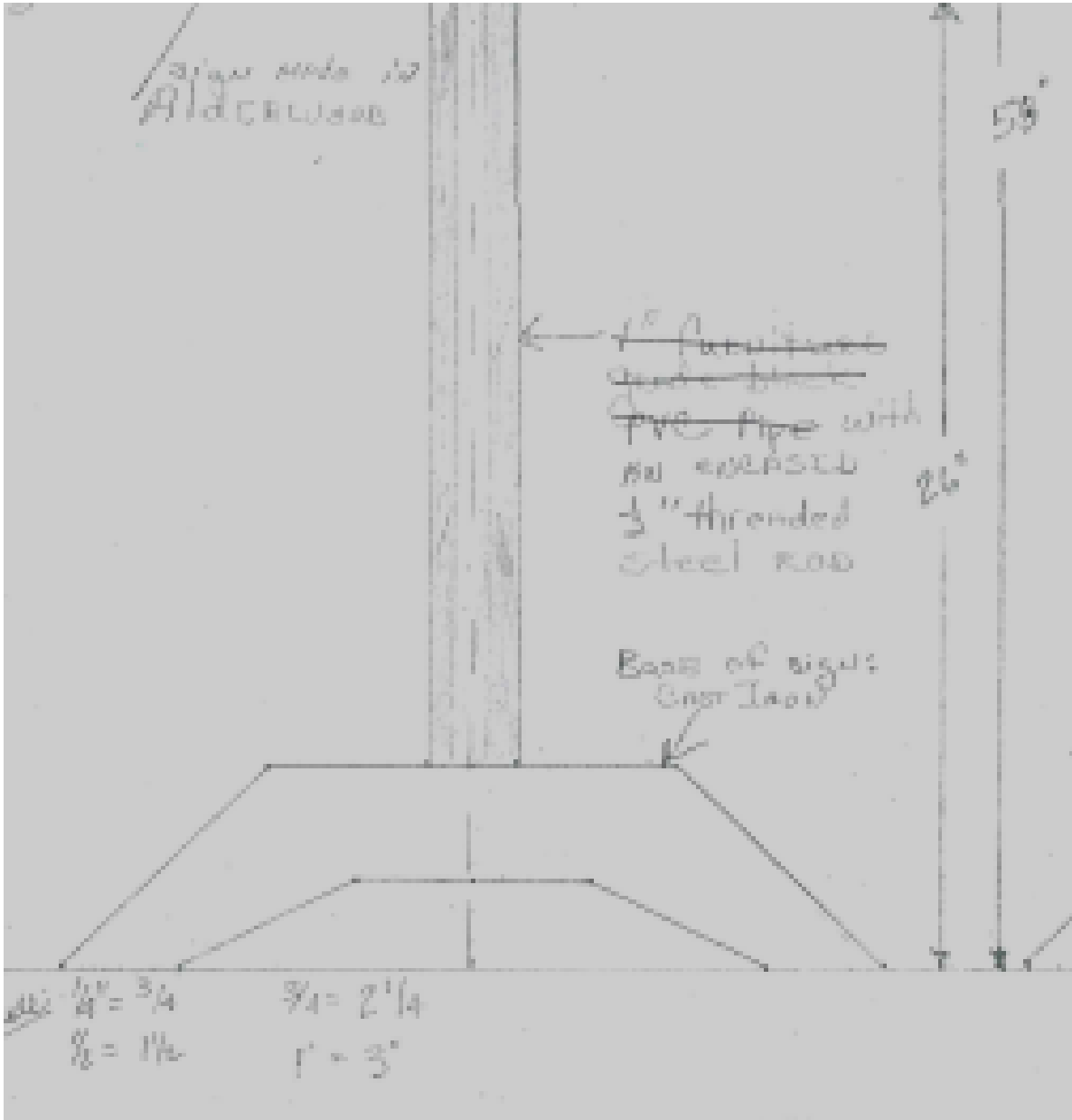




Attachment: Sidewalk Sign Plans (1758 : 231 Esplanade)



Attachment: Sidewalk Sign Plans (1758 : 231 Esplanade)

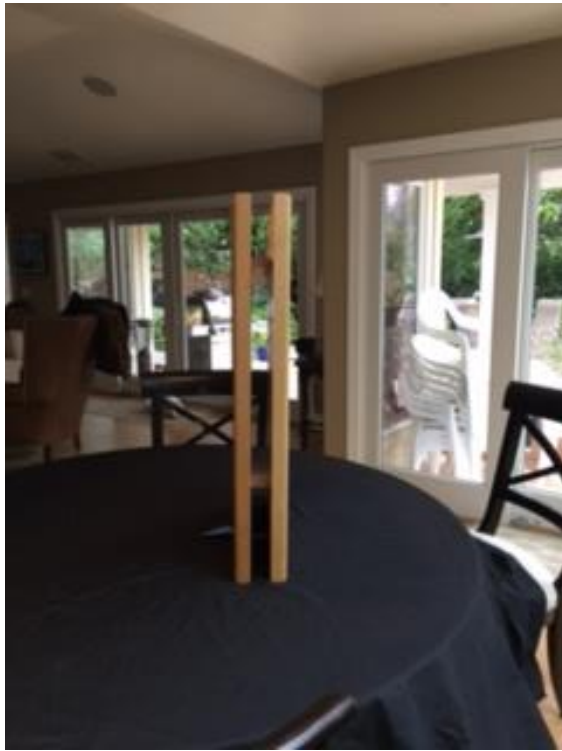


Attachment: Sidewalk Sign Plans (1758 : 231 Esplanade)

Image of Sign Face



Front View



Side View

Attachment: Photo of Sign Face (1758 : 231 Esplanade)

### 17.57.060 Central village signs.

All signs to be erected in the central village zoning district shall comply with the central village design guidelines as specified in the following regulations for signs:

- A. Relate all signs to their surroundings in terms of size, shape, color, texture and lighting so that they are complementary to the overall design of the building and are not in visual competition with other conforming signs in the area. Signs should be an integral part of the building and site design.
- B. Arrange any external spot or flood sign lighting so that the light source is screened from direct view, and so that the light is directed against the sign and does not shine into adjacent property or distract motorists or pedestrians.
- C. Signs for buildings which house more than one business are permitted only when a program for the complex has been approved. Signs need not match but should be compatible with the building and each other.
- D. One menu box with a maximum of three square feet shall be allowed for each restaurant. The board design and materials shall be consistent with the materials and design of the building face.
- E. If banners and flags are placed on a building they must be included and reviewed as part of the sign program.
- F. Sidewalk signs are permitted in the Central Village zoning district subject to the following standards:
  - 1. Only one two-sided sidewalk sign per business establishment is permitted.
  - 2. The sidewalk in front of the business must be at least seventy-eight inches in width.
  - 3. Sidewalk signs consistent with the approved BIA design can be issued an over the counter sign permit by the community development director.
  - 4. Sidewalk signs shall be no larger than eighteen inches in width and no taller than fifty-eight inches measured from the ground.
  - 5. The signs may be placed on poles which will either be placed in a hole drilled into the sidewalk or in moveable stand. The moveable stands cannot be more than eighteen inches wide and will need to be approved as part of the sign permit. Lights, banners, flags or similar objects shall not be placed on or adjacent to sidewalk signs.
  - 6. All sidewalk signs will need to 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.
  - 7. Sidewalk signs shall not interfere with pedestrian ingress or egress as required by the building code or obstruct vehicular traffic sight distance requirements. A forty-eight inch level clear path of travel on concrete or similar material must be maintained where the sign is located.
  - 8. Sidewalk signs shall be spaced a minimum of thirty linear feet from all other permitted sidewalk signs.

9. Sidewalk signs must use the approved Business Improvement Association master design approved by the community development director. A copy of the approved sidewalk sign shall be maintained in the planning department of the city of Capitola.
10. 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.
11. No other temporary advertising signs may be used at the same time as the sidewalk sign is in use. This includes all banners, flags, window signs covering more than one-third of the window or other temporary signage.
12. All other signs on the property receiving a permit for a sidewalk sign must be in conformance with the city's sign regulations prior to a sidewalk sign permit being issued.
13. Damaged or dilapidated sidewalk signs shall be replaced at the discretion of the community development director.
14. No sidewalk sign may contain lights of any kind.
15. No more than thirty sidewalk signs will be allowed in the Central Village zoning district at any time.
16. 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.
17. Multi-tenant developments shall be permitted one sandwich board sign per each common exterior public business entrance.
18. Individual signs may advertise more than one business.
19. Illegal signs or sign stands may be removed by the city of Capitola to insure public safety. (Ord. 973 § 3, 2012; Ord. 785 § 2, 1995)