



STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT

DATE: MARCH 2, 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 3). The first item, the Zoning Map and Vacation Rental (VR) Overlay boundary, was discussed at the February 2, 2017 meeting. During the special meeting on February 16th, the Planning Commission reviewed all the remaining issues except Issue 8: Accessory Dwelling Units. The Planning Commission requested that staff return with an overview of the state legislation that has necessitated changes to the accessory dwelling unit regulations.

Chapter 17.74 establishes standards for the design, permitting, parking, and placement of accessory dwelling units consistent with the State of California Government Code Section 65852.2 as amended within SB 1069 and AB 2299. The chapter has been modified extensively since the original 2016 draft to comply with recent State legislation. Major changes due to state legislation include:

1. New Terminology. Accessory Dwelling Unit replaces Secondary Dwelling Units. There are new categories of ADUs including Attached Accessory Dwelling Units, Detached Accessory Dwelling Units, and Internal Accessory Dwelling Units.
2. Reductions and waivers in parking requirements.
 - a. A property with an internal accessory dwelling unit is not required to provide any additional parking for the unit beyond what is required for the primary residence.
 - b. Attached and Detached Accessory Structures. One space is required. This requirement may be waived for the following cases:
 - i. Located within ¼ mile of bus transit with service interval of 15 minutes of less during peak commute periods. (Not applicable in Capitola with current bus frequency)
 - ii. Located in Historic District (Applicable along Riverview)
 - iii. When off-street parking permits are required but not offered to occupants of ADU. (Not applicable in Capitola. Each unit receives a parking pass)
 - iv. When there is a car share vehicle pick-up /drop-off location within one block of the accessory dwelling unit.
 - c. Off-street parking may be provided as tandem parking on an existing driveway and may be located within minimum required setback areas from property lines.
3. Prohibition on a local agency (city or county) which provides water and sewer to require new utility connections for ADUs that are contained within an existing residence or accessory structure. This regulation would apply to properties within the Santa Cruz Water District but not Soquel Creek Water District.
4. A local agency may require a new or separate utility connection directly between an attached or detached accessory dwelling unit in which the connection fee or capacity charge shall be proportionate to the burden of the proposed accessory dwelling unit.
5. Prohibits requirement of fire sprinklers if they are not required for the primary structure. The Capitola Building Official is currently in contact with the State Fire Marshall to find out how this standard applies to an older primary structure that did not require sprinklers when built, but would require sprinklers under the current regulations.
6. Requires ADU regulations to apply in all single-family and multifamily zones. The draft code specifies that within the multi-family residential (RM) and Neighborhood Mixed Use (MU-N) an ADU is allowed if lot is occupied by one single-family dwelling. An ADU could be built in conjunction with an existing multi-family dwelling.
7. Increased size standards. The increased floor area of the ADU cannot exceed 50% of the existing living area, up to a maximum of 1,200 square feet. Capitola's current maximum size for ADUs ranges from 500 to 800 square feet depending on lot size. There is no change to the maximum floor area ratio of .60 for the combined maximum floor area of the primary residence and ADU. The draft code allows ADUs to increase to the state maximum of 1,200. The City can adopt maximum size standards that are more restrictive than SB 1069 provided these standards are not "designed or applied in a manner that burdens the development of ADUs and maximize the potential for ADU development."

Examples of other cities' size limits in recent ADU updates:

Palo Alto: Maximum 450 sq. ft.

Berkeley: Max 700 sq ft.

Campbell and Fremont: Max 500-1,200 sq. ft. depending on lot size.

Three options for maximum size:

1. 1,200 sq. ft. or 50 percent of primary structure (SB 1069)
2. Capitola's existing standard (500-800 sq. ft. depending on lot size)
3. Modifying existing standard to allow up to 1,200 on very large lots (as in Campbell and Fremont)

Staff will request direction on the options during the public hearing.

8. No setback can be required for an existing garage that is converted to an ADU.

The state also passed AB 2406 which create an additional housing option of junior accessory dwelling units (JADU). Adoption of a JADU ordinance is not required by the state. A JADU could be built within the proposed ADU ordinance. Some unique characteristics of JADUs are:

1. May not exceed 500 square feet in size;
2. Must be completely contained within the space of the existing residential structure;
3. May share a bathroom with the primary structure;
4. Must have an efficiency kitchen;
5. The City cannot require additional parking; and
6. Utility providers cannot require water or sewer connection fees.

A JADU is an internal unit and would not be required to provide parking. JADUs are required to be accessed directly through an exterior doorway and interior doorway. JADUs provide flexibility for the homeowner to rent or utilize the space as circumstances change. The statute does not differentiate between public or private utilities, simply stating "No agency should require a sewer (water) fee". Soquel Creek Water District could not require an additional meter as currently practiced for ADUs. JADUs do count towards regional housing need allocation (RHNA) as a housing unit within the census definitions.

A JADU ordinance is not proposed within the Zoning Code update because a JADU could be built as an Internal ADU. Staff suggest adding the following sentence to the Internal Accessory Dwelling Unit definition: "The term Internal Accessory Dwelling Unit includes Junior Accessory Dwelling Units as defined in Government Code Section 65852.22." Staff also suggests adding a definition for a JADU that specifies that a JADU is limited to an efficiency kitchen, a maximum of 500 square feet, and may have a shared bath.

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 Accessory Dwelling Unit ordinance, and recommend that the City Council review the draft then initiate a 60 day public review.

ATTACHMENTS:

1. Chapter 17.74 Accessory Dwelling Units
2. ADU Memo CA
3. Remaining Zoning Code Issues

Prepared By: Katie Herlihy

Senior Planner

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



Note: This chapter has been significantly revised to comply with changes to state law adopted by the California Legislature in 2016 concerning local regulation of accessory dwelling units (SB 1069 and AB 2406). Revisions to Capitola's existing accessory dwelling unit regulations required by state law include reducing parking requirements, allowing by right accessory dwelling units contained within the existing space of a home, establishing time limits for the City to act on applications, limiting utility connection requirements, increasing maximum size, and reducing setback requirements.

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.** “Internal accessory dwelling unit” means an accessory dwelling unit that:
1. Is fully contained within the existing space of the primary single-family residence or an accessory structure; and
 2. Provides exterior access independent from the primary single-family residence.
- 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.

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.
 - 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).
- D. 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.

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 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. 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.
 - 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 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) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - (4) When there is a car share vehicle pick-up/drop-off location within one block of the accessory dwelling unit.

F. Utility Connections.

1. **General.** An accessory dwelling unit shall not be considered a new residential use for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.
2. **Internal Accessory Dwelling Units.** The City shall not require an applicant to install a new or separate utility connection directly between an internal accessory dwelling unit and the utility or impose a related connection fee or capacity charge.
3. **Attached and Detached Accessory Dwelling Units.**
 - a. The City may require a new or separate utility connection directly between an attached or detached accessory dwelling unit and the utility.
 - b. Consistent with Government Code Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.
4. **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.

17.74.050 Standards for Attached and Detached Accessory Dwelling Units

The following standards apply to attached and detached accessory dwelling units.

- A. **Permitted Location.** Attached and detached accessory dwelling units are permitted only in:
 1. The Single-Family Residential (R-1) zoning district; and

- 2. The Multi-Family Residential (RM) and Neighborhood Mixed Use (MU-N) zoning districts on lot of 5,000 square feet or more occupied by one single-family dwelling.
- B. Minimum Lot Size.** An attached or detached accessory dwelling unit is permitted only on parcels 5,000 square feet or greater.
- C. Unit Size.** The maximum permitted floor area for an attached or detached accessory dwelling unit is as follows:
 - 1. Attached accessory dwelling units: 50 percent of the primary dwelling floor area, not to exceed 1,200 square feet.
 - 2. Detached accessory dwelling units: 1,200 square feet.
- D. Maximum Floor Area Ratio.** The combined floor area ratio (FAR) of a lot with a primary residence and an attached or detached accessory dwelling unit shall not exceed 0.60.
- E. Height and Setback Standards.**
 - 1. Height and setbacks standards for attached and detached accessory dwelling units are shown in Table 17.74-2.
 - 2. 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 17.74-2: ACCESSORY DWELLING UNIT SETBACK AND HEIGHT STANDARDS

	Type of Accessory Dwelling Unit	
	Detached	Attached
Setbacks, Minimum [2]		
Interior Side	5 ft.	Same as required for primary residence
Exterior Side	Same as required for primary residence	
Rear	<u>One story unit:</u> 8 ft. [3] <u>Two story unit:</u> 10 ft. [3]	
Front	Same as required for primary residence	
Height, Maximum		
One story	<u>One story unit:</u> 15 ft. [1] <u>Two story unit:</u> 22 ft.	Height of primary residence or maximum permitted in zoning district, whichever is less

Attachment: Chapter 17.74 Accessory Dwelling Units (1780 : Zoning Code Update)

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.

F. Two-Story Accessory Dwelling Units. All two-story accessory dwelling units require Planning Commission approval of a Design Permit and Conditional Use Permit.

G. 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.

H. 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.

I. 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.

J. 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 maintain privacy and provide screening for adjacent properties.

K. Mobile Units. Vehicles and trailers of any kind, with or without wheels, are prohibited as accessory dwelling units.

17.74.060 Findings

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 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.
- 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.
- 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.
- 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.



Courtesy of Karen Chapple, UC Berkeley

Attachment: ADU Memo CA (1780 : Zoning Code Update)

California Department of Housing and Community Development
Where Foundations Begin

Accessory Dwelling Unit Memorandum

December 2016



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Understanding Accessory Dwelling Units and Their Importance



Courtesy of Karen Chapple, UC Berkeley

California's housing production is not keeping pace with demand. In the last decade less than half of the needed housing was built. This lack of housing is impacting affordability with average housing costs in California exceeding the rest of the nation. As affordability becomes more problematic, people drive longer distances between a home that is affordable and where they work, or double up to share space, both of which reduces quality of life and produces negative environmental impacts.

Beyond traditional market-rate construction and government subsidized production and preservation there are alternative housing models and emerging trends that can contribute to addressing home supply and affordability in California.

One such example gaining popularity are Accessory Dwelling Units (ADUs) (also referred to as second units, in-law units, or granny flats).

What is an ADU

An ADU is a secondary dwelling unit with complete independent living facilities for one or more persons and generally takes three forms:

- *Detached*: The unit is separated from the primary structure
- *Attached*: The unit is attached to the primary structure
- *Repurposed Existing Space*: Space (e.g., master bedroom) within the primary residence is converted into an independent living unit
- *Junior Accessory Dwelling Units*: Similar to repurposed space with various streamlining measures

ADUs offer benefits that address common development barriers such as affordability and environmental quality. ADUs are an affordable type of home to construct in California because they do not require paying for land, major new infrastructure, structured parking, or elevators. ADUs are built with cost-effective one- or two-story wood frame construction, which is significantly less costly than homes in new multifamily infill buildings. ADUs can provide as much living space as the new apartments and condominiums being built in new infill buildings and serve very well for couples, small families, friends, young people, and seniors.

ADUs are a different form of housing that can help California meet its diverse housing needs. Young professionals and students desire to live in areas close to jobs, amenities, and schools. The problem with high-opportunity areas is that space is limited. There is a shortage of affordable units and the units that are available can be out of reach for many people. To address the needs of individuals or small families seeking living quarters in high opportunity areas, homeowners can construct an ADU on their lot or convert an underutilized part of their home like a garage

into a junior ADU. This flexibility benefits not just people renting the space, but the homeowner as well, who can receive an extra monthly rent income.

ADUs give homeowners the flexibility to share independent living areas with family members and others, allowing seniors to age in place as they require more care and helping extended families to be near one another while maintaining privacy.

Relaxed regulations and the cost to build an ADU make it a very feasible affordable housing option. A UC Berkeley study noted that one unit of affordable housing in the Bay Area costs about \$500,000 to develop whereas an ADU can range anywhere up to \$200,000 on the expensive end in high housing cost areas.

ADUs are a critical form of infill-development that can be affordable and offer important housing choices within existing neighborhoods. ADUs are a powerful type of housing unit because they allow for different uses, and serve different populations ranging from students and young professionals to young families, people with disabilities and senior citizens. By design, ADUs are more affordable and can provide additional income to homeowners. Local governments can encourage the development of ADUs and improve access to jobs, education and services for many Californians.

Summary of Recent Changes to ADU Laws



Courtesy of Karen Chapple, UC Berkeley

The California legislature found and declared that, among other things, allowing accessory dwelling units (ADUs) in single family and multifamily zones provides additional rental housing and are an essential component in addressing housing needs in California. Over the years, ADU law has been revised to improve its effectiveness such as recent changes in 2003 to require ministerial approval. In 2017, changes to ADU laws will further reduce barriers, better streamline approval and expand capacity to accommodate the development of ADUs.

ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing options for family members, friends, students, the elderly, in-home health care providers, the disabled, and others. Further, ADUs offer an opportunity to maximize and integrate housing choices within existing neighborhoods.

Within this context, the Department has prepared this guidance to assist local governments in encouraging the development of ADUs. Please see Attachment 1 for the complete statutory changes. The following is a brief summary of the changes for each bill.

SB 1069 (Wieckowski)

S.B. 1069 (Chapter 720, Statutes of 2016) made several changes to address barriers to the development of ADUs and expanded capacity for their development. The following is a brief summary of provisions that go into effect January 1, 2017.

Parking

SB 1069 reduces parking requirements to one space per bedroom or unit. The legislation authorizes off street parking to be tandem or in setback areas unless specific findings such as fire and life safety conditions are made. SB 1069 also prohibits parking requirements if the ADU meets any of the following:

- Is within a half mile from public transit.
- Is within an architecturally and historically significant historic district.
- Is part of an existing primary residence or an existing accessory structure.
- Is in an area where on-street parking permits are required, but not offered to the occupant of the ADU.
- Is located within one block of a car share area.

Attachment: ADU Memo CA (1780 : Zoning Code Update)

Fees

SB 1069 provides that ADUs shall not be considered new residential uses for the purpose of calculating utility connection fees or capacity charges, including water and sewer service. The bill prohibits a local agency from requiring an ADU applicant to install a new or separate utility connection or impose a related connection fee or capacity charge for ADUs that are contained within an existing residence or accessory structure. For attached and detached ADUs, this fee or charge must be proportionate to the burden of the unit on the water or sewer system and may not exceed the reasonable cost of providing the service.

Fire Requirements

SB 1069 provides that fire sprinklers shall not be required in an accessory unit if they are not required in the primary residence.

ADUs within Existing Space

Local governments must ministerially approve an application to create within a single family residential zone one ADU per single family lot if the unit is:

- contained within an existing residence or accessory structure.
- has independent exterior access from the existing residence.
- has side and rear setbacks that are sufficient for fire safety.

These provisions apply within all single family residential zones and ADUs within existing space must be allowed in all of these zones. No additional parking or other development standards can be applied except for building code requirements.

No Total Prohibition

SB 1069 prohibits a local government from adopting an ordinance that precludes ADUs.

AB 2299 (Bloom)

Generally, AB 2299 (Chapter 735, Statutes of 2016) requires a local government (beginning January 1, 2017) to ministerially approve ADUs if the unit complies with certain parking requirements, the maximum allowable size of an attached ADU, and setback requirements, as follows:

- The unit is not intended for sale separate from the primary residence and may be rented.
- The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.
- The unit is either attached to an existing dwelling or located within the living area of the existing dwelling or detached and on the same lot.
- The increased floor area of the unit does not exceed 50% of the existing living area, with a maximum increase in floor area of 1,200 square feet.
- The total area of floorspace for a detached accessory dwelling unit does not exceed 1,200 square feet.
- No passageway can be required.
- No setback can be required from an existing garage that is converted to an ADU.

- Compliance with local building code requirements.
- Approval by the local health officer where private sewage disposal system is being used.

Impact on Existing Accessory Dwelling Unit Ordinances

AB 2299 provides that any existing ADU ordinance that does not meet the bill's requirements is null and void upon the date the bill becomes effective. In such cases, a jurisdiction must approve accessory dwelling units based on Government Code Section 65852.2 until the jurisdiction adopts a compliant ordinance.

AB 2406 (Thurmond)

AB 2406 (Chapter 755, Statutes of 2016) creates more flexibility for housing options by authorizing local governments to permit junior accessory dwelling units (JADU) through an ordinance. The bill defines JADUs to be a unit that cannot exceed 500 square feet and must be completely contained within the space of an existing residential structure. In addition, the bill requires specified components for a local JADU ordinance. Adoption of a JADU ordinance is optional.

Required Components

The ordinance authorized by AB 2406 must include the following requirements:

- Limit to one JADU per residential lot zoned for single-family residences with a single-family residence already built on the lot.
- The single-family residence in which the JADU is created or JADU must be occupied by the owner of the residence.
- The owner must record a deed restriction stating that the JADU cannot be sold separately from the single-family residence and restricting the JADU to the size limitations and other requirements of the JADU ordinance.
- The JADU must be located entirely within the existing structure of the single-family residence and JADU have its own separate entrance.
- The JADU must include an efficiency kitchen which includes a sink, cooking appliance, counter surface, and storage cabinets that meet minimum building code standards. No gas or 220V circuits are allowed.
- The JADU may share a bath with the primary residence or have its own bath.

Prohibited Components

This bill prohibits a local JADU ordinance from requiring:

- Additional parking as a condition to grant a permit.
- Applying additional water, sewer and power connection fees. No connections are needed as these utilities have already been accounted for in the original permit for the home.

Fire Safety Requirements

AB 2406 clarifies that a JADU is to be considered part of the single-family residence for the purposes of fire and life protections ordinances and regulations, such as sprinklers and smoke detectors. The bill also requires life and protection ordinances that affect single-family residences to be applied uniformly to all single-family residences, regardless of the presence of a JADU.

JADUs and the RHNA

As part of the housing element portion of their general plan, local governments are required to identify sites with appropriate zoning that will accommodate projected housing needs in their regional housing need allocation (RHNA) and report on their progress pursuant to Government Code Section 65400. To credit a JADU toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit which is fairly flexible. Local government count units as part of reporting to DOF. JADUs meet these definitions and this bill would allow cities and counties to earn credit toward meeting their RHNA allocations by permitting residents to create less costly accessory units. See additional discussion under JADU frequently asked questions.

Frequently Asked Questions: Accessory Dwelling Units

Should an Ordinance Encourage the Development of ADUs?

Yes, ADU law and recent changes intend to address barriers, streamline approval and expand potential capacity for ADUs recognizing their unique importance in addressing California's housing needs. The preparation, adoption, amendment and implementation of local ADU ordinances must be carried out consistent with Government Code Section 65852.150:

(a) The Legislature finds and declares all of the following:

- (1) Accessory dwelling units are a valuable form of housing in California.*
 - (2) Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods.*
 - (3) Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security.*
 - (4) Allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock in California.*
 - (5) California faces a severe housing crisis.*
 - (6) The state is falling far short of meeting current and future housing demand with serious consequences for the state's economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners.*
 - (7) Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.*
 - (8) Accessory dwelling units are, therefore, an essential component of California's housing supply.*
- (b) It is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.*



Courtesy of Karen Chapple, UC Berkeley

Are Existing Ordinances Null and Void?

Yes, any local ordinance adopted prior to January 1, 2017 that is not in compliance with the changes to ADU law will be null and void. Until an ordinance is adopted, local governments must apply "state standards" (See Attachment 4 for State Standards checklist). In the absence of a local ordinance complying with ADU law, local review must be limited to "state standards" and cannot include additional requirements such as those in an existing ordinance.

Are Local Governments Required to Adopt an Ordinance?

No, a local government **is not required** to adopt an ordinance. ADUs built within a jurisdiction that lacks a local ordinance must comply with state standards (See Attachment 4). Adopting an ordinance can occur through different forms such as a new ordinance, amendment to an existing ordinance, separate section or special regulations within the zoning code or integrated into the zoning code by district. However, the ordinance should be established legislatively through a public process and meeting and not through internal administrative actions such as memos or zoning interpretations.

Can a Local Government Preclude ADUs?

No local government cannot preclude ADUs.

Can a Local Government Apply Development Standards and Designate Areas?

Yes, local governments may apply development standards and may designate where ADUs are permitted (GC Sections 65852.2(a)(1)(A) and (B)). However, ADUs within existing structures must be allowed in all single family residential zones.

For ADUs that require an addition or a new accessory structure, development standards such as parking, height, lot coverage, lot size and maximum unit size can be established with certain limitations. ADUs can be avoided or allowed through an ancillary and separate discretionary process in areas with health and safety risks such as high fire hazard areas. However, standards and allowable areas must not be designed or applied in a manner that burdens the development of ADUs and should maximize the potential for ADU development. Designating areas where ADUs are allowed should be approached primarily on health and safety issues including water, sewer, traffic flow and public safety. Utilizing approaches such as restrictive overlays, limiting ADUs to larger lot sizes, burdensome lot coverage and setbacks and particularly concentration or distance requirements (e.g., no less than 500 feet between ADUs) may unreasonably restrict the ability of the homeowners to create ADUs, contrary to the intent of the Legislature.

Requiring large minimum lot sizes and not allowing smaller lot sizes for ADUs can severely restrict their potential development. For example, large minimum lot sizes for ADUs may constrict capacity throughout most of the community. Minimum lot sizes cannot be applied to ADUs within existing structures and could be considered relative to health and safety concerns such as areas on septic systems. While larger lot sizes might be targeted for various reasons such as ease of compatibility, many tools are available (e.g., maximum unit size, maximum lot coverage, minimum setbacks, architectural and landscape requirements) that allows ADUs to fit well within the built environment.

Can a Local Government Adopt Less Restrictive Requirements?

Yes, ADU law is a minimum requirement and its purpose is to encourage the development of ADUs. Local governments can take a variety of actions beyond the statute that promote ADUs such as reductions in fees, less restrictive parking or unit sizes or amending general plan policies.

Santa Cruz has confronted a shortage of housing for many years, considering its growth in population from incoming students at UC Santa Cruz and its proximity to Silicon Valley. The city promoted the development of ADUs as critical infill-housing opportunity through various strategies such as creating a manual to promote ADUs. The manual showcases prototypes of ADUs and outlines city zoning laws and requirements to make it more convenient for homeowners to get information. The City found that homeowners will take time to develop an ADU only if information is easy to find, the process is simple, and there is sufficient guidance on what options they have in regards to design and planning.

The city set the minimum lot size requirement at 4,500 sq. ft. to develop an ADU in order to encourage more homes to build an ADU. This allowed for a majority of single-family homes in Santa Cruz to develop an ADU. For more information, see <http://www.cityofsantacruz.com/departments/planning-and-community-development/programs/accessory-dwelling-unit-development-program>.

Can Local Governments Establish Minimum and Maximum Unit Sizes?

Yes, a local government may establish minimum and maximum unit sizes (GC Section 65852.2(c)). However, like all development standards (e.g., height, lot coverage, lot size), unit sizes should not burden the development of ADUs. For example, setting a minimum unit size that substantially increases costs or a maximum unit size that unreasonably restricts opportunities would be inconsistent with the intent of the statute. Typical maximum unit sizes range from 800 square feet to 1,200 square feet. Minimum unit size must at least allow for an efficiency unit as defined in Health and Safety Code Section 17958.1.

ADU law requires local government approval if meeting various requirements (GC Section 65852.2(a)(1)(D)), including unit size requirements. Specifically, attached ADUs shall not exceed 50 percent of the existing living area or 1,200 square feet and detached ADUs shall not exceed 1,200 square feet. A local government may choose a maximum unit size less than 1,200 square feet as long as the requirement is not burdensome on the creation of ADUs.

Can ADUs Exceed General Plan and Zoning Densities?

An ADU is an accessory use for the purposes of calculating allowable density under the general plan and zoning. For example, if a zoning district allows one unit per 7,500 square feet, then an ADU would not be counted as an additional unit. Minimum lot sizes must not be doubled (e.g., 15,000 square feet) to account for an ADU. Further, local governments could elect to allow more than one ADU on a lot.

New developments can increase the total number of affordable units in their project plans by integrating ADUs. Aside from increasing the total number of affordable units, integrating ADUs also promotes housing choices within a development. One such example is the Cannery project in Davis, CA. The Cannery project includes 547 residential units with up to 60 integrated ADUs. ADUs within the Cannery blend in with surrounding architecture, maintaining compatibility with neighborhoods and enhancing community character. ADUs are constructed at the same time as the primary single-family unit to ensure the affordable rental unit is available in the housing supply concurrent with the availability of market rate housing.

How Are Fees Charged to ADUs?

All impact fees, including water, sewer, park and traffic fees must be charged in accordance with the Fee Mitigation Act, which requires fees to be proportional to the actual impact (e.g., significantly less than a single family home).

Fees on ADUs, must proportionately account for impact on services based on the size of the ADU or number of plumbing fixtures. For example, a 700 square foot new ADU with one bathroom that results in less landscaping should be charged much less than a 2,000 square foot home with three bathrooms and an entirely new landscaped parcel which must be irrigated. Fees for ADUs should be significantly less and should account for a lesser impact such as lower sewer or traffic impacts.

What Utility Fee Requirements Apply to ADUs?

Cities and counties cannot consider ADUs as new residential uses when calculating connection fees and capacity charges.

Where ADUs are being created within an existing structure (primary or accessory), the city or county cannot require a new or separate utility connections for the ADU and cannot charge any connection fee or capacity charge.

For other ADUs, a local agency may require separate utility connections between the primary dwelling and the ADU, but any connection fee or capacity charge must be proportionate to the impact of the ADU based on either its size or the number of plumbing fixtures.

What Utility Fee Requirements Apply to Non-City and County Service Districts?

All local agencies must charge impact fees in accordance with the Mitigation Fee Act (commencing with Government Code Section 66000), including in particular Section 66013, which requires the connection fees and capacity charges to be proportionate to the burden posed by the ADU. Special districts and non-city and county service districts must account for the lesser impact related to an ADU and should base fees on unit size or number of plumbing fixtures. Providers should consider a proportionate or sliding scale fee structures that address the smaller size and lesser impact of ADUs (e.g., fees per square foot or fees per fixture). Fee waivers or deferrals could be considered to better promote the development of ADUs.

Do Utility Fee Requirements Apply to ADUs within Existing Space?

No, where ADUs are being created within an existing structure (primary or accessory), new or separate utility connections and fees (connection and capacity) must not be required.

Does “Public Transit” Include within One-half Mile of a Bus Stop and Train Station?

Yes, “public transit” may include a bus stop, train station and paratransit if appropriate for the applicant. “Public transit” includes areas where transit is available and can be considered regardless of tighter headways (e.g., 15 minute intervals). Local governments could consider a broader definition of “public transit” such as distance to a bus route.

Can Parking Be Required Where a Car Share Is Available?

No, ADU law does not allow parking to be required when there is a car share located within a block of the ADU. A car share location includes a designated pick up and drop off location. Local governments can measure a block from a pick up and drop off location and can decide to adopt broader distance requirements such as two to three blocks.

Is Off Street Parking Permitted in Setback Areas or through Tandem Parking?

Yes, ADU law deliberately reduces parking requirements. Local governments may make specific findings that tandem parking and parking in setbacks are infeasible based on specific site, regional topographical or fire and life safety conditions or that tandem parking or parking in setbacks is not permitted anywhere else in the jurisdiction. However, these determinations should be applied in a manner that does not unnecessarily restrict the creation of ADUs.

Local governments must provide reasonable accommodation to persons with disabilities to promote equal access housing and comply with fair housing laws and housing element law. The reasonable accommodation procedure must provide exception to zoning and land use regulations which includes an ADU ordinance. Potential exceptions are not limited and may include development standards such as setbacks and parking requirements and permitted uses that further the housing opportunities of individuals with disabilities.

Is Covered Parking Required?

No, off street parking must be permitted through tandem parking on an existing driveway, unless specific findings are made.

Is Replacement Parking Required When the Parking Area for the Primary Structure Is Used for an ADU?

Yes, but only if the local government requires off-street parking to be replaced in which case flexible arrangements such as tandem, including existing driveways and uncovered parking are allowed. Local governments have an opportunity to be flexible and promote ADUs that are being created on existing parking space and can consider not requiring replacement parking.

Are Setbacks Required When an Existing Garage Is Converted to an ADU?

No, setbacks must not be required when a garage is converted or when existing space (e.g., game room or office) above a garage is converted. Rear and side yard setbacks of no more than five feet are required when new space is added above a garage for an ADU. In this case, the setbacks only apply to the added space above the garage, not the existing garage and the ADU can be constructed wholly or partly above the garage, including extending beyond the garage walls.

Also, when a garage, carport or covered parking structure is demolished or where the parking area ceases to exist so an ADU can be created, the replacement parking must be allowed in any "configuration" on the lot, "...including,

but not limited to, covered spaces, uncovered spaces, or tandem spaces, or....” Configuration can be applied in a flexible manner to not burden the creation of ADUs. For example, spatial configurations like tandem on existing driveways in setback areas or not requiring excessive distances from the street would be appropriate.

Are ADUs Permitted in Existing Residence or Accessory Space?

Yes, ADUs located in single family residential zones and existing space of a single family residence or accessory structure must be approved regardless of zoning standards (Section 65852.2(a)(1)(B)) for ADUs, including locational requirements (Section 65852.2(a)(1)(A)), subject to usual non-appealable ministerial building permit requirements. For example, ADUs in existing space does not necessitate a zoning clearance and must not be limited to certain zones or areas or subject to height, lot size, lot coverage, unit size, architectural review, landscape or parking requirements. Simply, where a single family residence or accessory structure exists in any single family residential zone, so can an ADU. The purpose is to streamline and expand potential for ADUs where impact is minimal and the existing footprint is not being increased.

Zoning requirements are not a basis for denying a ministerial building permit for an ADU, including non-conforming lots or structures. The phrase, “..within the existing space” includes areas within a primary home or within an attached or detached accessory structure such as a garage, a carriage house, a pool house, a rear yard studio and similar enclosed structures.

Are Owner Occupants Required?

No, however, a local government can require an applicant to be an owner occupant. The owner may reside in the primary or accessory structure. Local governments can also require the ADU to not be used for short term rentals (terms lesser than 30 days). Both owner occupant use and prohibition on short term rentals can be required on the same property. Local agencies which impose this requirement should require recordation of a deed restriction regarding owner occupancy to comply with GC Section 27281.5

Are Fire Sprinklers Required for ADUs?

Depends, ADUs shall not be required to provide fire sprinklers if they are not or were not required of the primary residence. However, sprinklers can be required for an ADU if required in the primary structure. For example, if the primary residence has sprinklers as a result of an existing ordinance, then sprinklers could be required in the ADU. Alternative methods for fire protection could be provided.

If the ADU is detached from the main structure or new space above a detached garage, applicants can be encouraged to contact the local fire jurisdiction for information regarding fire sprinklers. Since ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing options for family members, students, the elderly, in-home health care providers, the disabled, and others, the fire departments want to ensure the safety of these populations as well as the safety of those living in the primary structure. Fire Departments can help educate property owners on the benefits of sprinklers, potential resources and how they can be installed cost effectively. For example, insurance rates are typically 5 to 10 percent lower where the unit is sprinklered. Finally, other methods exist to provide additional fire protection. Some options may include additional exits, emergency escape and rescue openings, 1 hour or greater fire-rated assemblies, roofing materials and setbacks from property lines or other structures.

Is Manufactured Housing Permitted as an ADU?

Yes, an ADU is any residential dwelling unit with independent facilities and permanent provisions for living, sleeping, eating, cooking and sanitation. An ADU includes an efficiency unit (Health and Safety Code Section 17958.1) and a manufactured home (Health and Safety Code Section 18007).

Health and Safety Code Section 18007(a) “**Manufactured home,**” for the purposes of this part, means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. “Manufactured home” includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following).

Can an Efficiency Unit Be Smaller than 220 Square Feet?

Yes, an efficiency unit for occupancy by no more than two persons, by statute (Health and Safety Code Section 17958.1), can have a minimum floor area of 150 square feet and can also have partial kitchen or bathroom facilities, as specified by ordinance or can have the same meaning specified in the Uniform Building Code, referenced in the Title 24 of the California Code of Regulations.

The 2015 International Residential Code adopted by reference into the 2016 California Residential Code (CRC) allows residential dwelling units to be built considerably smaller than an Efficiency Dwelling Unit (EDU). Prior to this code change an EDU was required to have a minimum floor area not less than 220 sq. ft unless modified by local ordinance in accordance with the California Health and Safety Code which could allow an EDU to be built no less than 150 sq. ft. For more information, see HCD’s Information Bulletin at <http://www.hcd.ca.gov/codes/manufactured-housing/docs/ib2016-06.pdf> .

Does ADU Law Apply to Charter Cities and Counties?

Yes. ADU law explicitly applies to “local agencies” which are defined as a city, county, or city and county whether general law or chartered (Section 65852.2(i)(2)).

Do ADUs Count toward the Regional Housing Need Allocation?

Yes, local governments may report ADUs as progress toward Regional Housing Need Allocation pursuant to Government Code Section 65400 based on the actual or anticipated affordability. See below frequently asked questions for JADUs for additional discussion.

Must ADU Ordinances Be Submitted to the Department of Housing and Community Development?

Yes, ADU ordinances must be submitted to the State Department of Housing and Community Development within 60 days after adoption, including amendments to existing ordinances. However, upon submittal, the ordinance is not subject to a Department review and findings process similar to housing element law (GC Section 65585)

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 st 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 st 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 th Avenue extending to Capitola Road nad 3720 Capitola Road to 38 th 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 nd 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

Attachment: Remaining Zoning Code Issues (1780 : Zoning Code Update)

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.

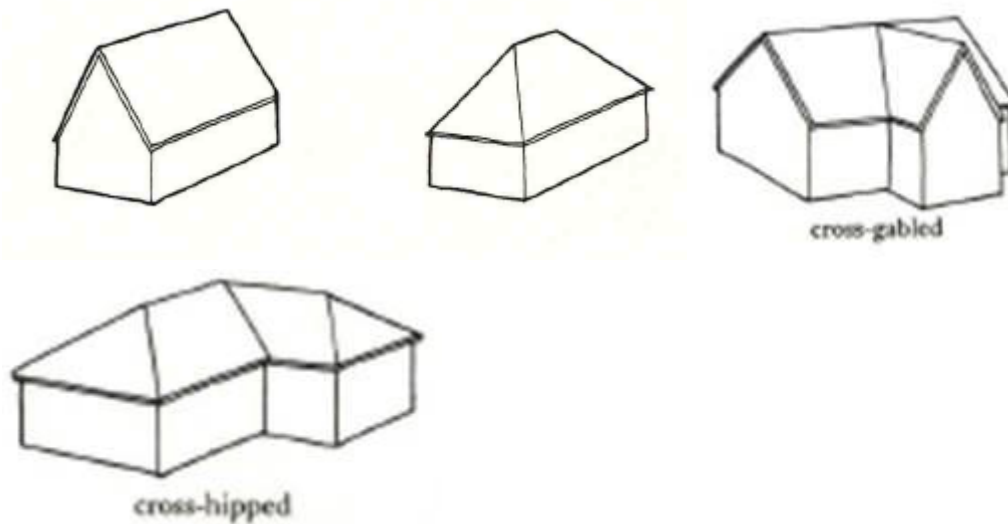
Attachment: Remaining Zoning Code Issues (1780 : Zoning Code Update)

Staff Recommended Amendment:

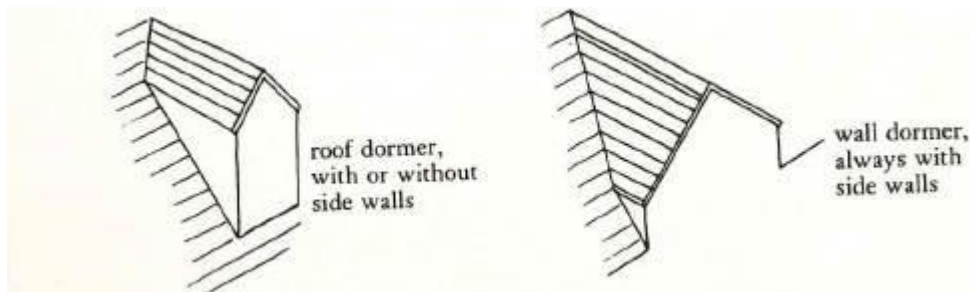
Height Exceptions: The following exceptions are permitted to the maximum permitted height in the MU-V zoning district as shown in Table 17.20-2:

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 and thermal recovery systems	No restriction	4 ft.
Wind energy systems	No restriction	40 ft.
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				
Residential Uses				
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:

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

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

Attachment: Remaining Zoning Code Issues (1780 : 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 (1780 : 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</u> Permitted Use		
<u>A</u> Administrative Permit required		
<u>M</u> Minor Use Permit required		
<u>C</u> Conditional Use Permit required		
<u>-</u> Use not allowed		
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	€
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.**

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	
ROOF PROJECTIONS					
Cornices, eaves, canopies, and similar roof projections	4 ft	4 ft	2 ft	2 ft	All: 3 ft
WALL PROJECTIONS					
Bay windows, balconies, sills, fireplaces, chimneys, and similar wall projections	2 ft	2 ft	2 ft	2 ft	All: 3 ft
ENTRIES					
Stairways and fire escapes or similar features	4 ft Not allowed	6 ft 4 ft	½ of required setback No max	4 ft 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 (1780 : 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	
DECORATIVE FEATURES					
Trellis Structure up to 10 ft in height that is open on all sides and arbors with a minimum of 2 open sides utilized over a walkway.	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.	No Max Not Allowed	No max	No max	No Max 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, such as water fountain or statue , 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 (1780 : 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	
ENTERTAINMENT FEATURES:					
Hot Tubs	Not allowed	No max	Not allowed	Not allowed	Rear: 2 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: 2 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	
OTHER STRUCTURES AND EQUIPMENT					
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.	No max Not Allowed	No max	No max	No Max Not Allowed	No minimum Rear and Interior Side Yard: 3 ft

Attachment: Remaining Zoning Code Issues (1780 : Zoning Code Update)

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	
ACCESSORY STRUCTURES & DETACHED GARAGE 17.52					
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	No max 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 (1780 : Zoning Code Update)

Remaining Zoning Code Issues | 2017

	Encroachment into Setback				Minimum Distances from Property Lines [2]
	Front	Rear	Interior Side	Exterior Side	
Accessory Dwelling Units					
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	Conditional Use 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	Conditional Use 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]
Interior Nonstructural repairs, maintenance, and interior alterations	Interior renovations to a room within a portion of a building located within a required setback area	None
Exterior Structural repairs, modifications, and additions that do not alter or affect the nonconforming aspect of the structure	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	None
Exterior Structural repairs and modifications and additions that alter or affect the nonconforming aspect of the structure [2]	Rebuilding an existing building wall within a required setback area with no increase in floor area	Design Permit
Exterior Structural repairs, modifications, and additions that increase or exacerbate the nonconforming aspect of the structure	Adding floor area to a portion of an existing room within a required setback area	Design Permit and Variance
Replication Reconstruction of a single-family dwelling per 17.92.070.D	See 17.92.080.C	Design Permit
Recreation of an involuntarily damaged or destroyed structure	Rebuilding a home destroyed by a fire to match the destroyed home	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.~~