

# City of Capitola Planning Commission Meeting Agenda

Thursday, February 03, 2022 – 7:00 PM

City of Capitola

City Council Chambers

420 Capitola Avenue, Capitola, CA 95010

**Chairperson:** Peter Wilk

**Commissioners:** Courtney Christiansen, Ed Newman, Mick Routh, Susan Westman



*Please review the Notice of Remote Access for instructions on participating in the meeting remotely. The Notice of Remote Access is at the end of the agenda.*

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

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

## 1. Roll Call and Pledge of Allegiance

Commissioners Mick Routh, Courtney Christiansen, Ed Newman, Susan Westman, Peter Wilk

## 2. New Business

## 3. Oral Communications

### A. Additions and Deletions to the Agenda

### B. Public Comments

*Please review the Notice of Remote Access for instructions. Short communications from the public concerning matters not on the Agenda. All speakers are requested to print their name on the sign-in sheet located at the podium so that their name may be accurately recorded in the Minutes. Members of the public may speak for up to three minutes, unless otherwise specified by the Chair. Individuals may not speak more than once during Oral Communications. All speakers must address the entire legislative body and will not be permitted to engage in dialogue.*

### C. Commission Comments

### D. Staff Comments

## 4. Approval of Minutes

[A.](#) Approve December 2, 2021, Regular Planning Commission Meeting Minutes

## 5. Consent Calendar

*All matters listed under "Consent Calendar" are considered by the Planning Commission to be routine and will be enacted by one motion in the form listed below. There will be no separate discussion on these items prior to the time the Planning Commission votes on the*

*action unless members of the public or the Planning Commission request specific items to be discussed for separate review. Items pulled for separate discussion will be considered in the order listed on the Agenda.*

## 6. Public Hearings

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

### **A. 1820 41ST Avenue, Suite A**

**Permit Number: #21-0429**

**APN: 034-131-24**

Conditional Use Permit Amendment to allow extended hours of delivery sales for alcohol and non-alcohol retail goods from an existing Retail Alcohol Establishment (BevMo) located in the C-R (Regional Commercial) zoning district.

This project is not in the Coastal Zone.

Environmental Determination: Categorical Exemption 15301

Property Owner: Chaboya Ranch

Representative: Philip Olson - BevMo, Filed: 10.11.21

### **B. Citywide Ordinance Applicable to Single-Family Zone**

**Ordinance #: 1049**

**APN: Applicable to all parcels in Single-Family Zone**

Project description: Amendments to the Capitola Municipal Code, Adding Section 17.75 Two-Unit Developments to Title 17, Part 3 (Zoning, Citywide Standards), Adding Section 16.78 Urban Lot Splits to Title 16 (Subdivisions), Amending Section 17.74 Accessory Dwelling Units, and Amending Section 16.08 Definitions for the implementation of Government Code Sections 66411.7 and 65852.21 Related to Urban Lot Splits and Two-Unit Developments.

Environmental Determination: Implement of Government Code sections 65852.21 and 66411.7, are not considered a project under CEQA.

Property: Ordinance applies in the R-1 (Single-Family) zoning district

Representative: Katie Herlihy, Community Development Director

## 7. Director's Report

## 8. Commission Communications

## 9. Adjournment

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### **Notice of Remote Access**

In accordance with California Senate Bill 361, the Planning Commission meeting is not physically open to the public and in-person attendance cannot be accommodated.

#### **Watch:**

- Online: <https://www.cityofcapitola.org/meetings> or <https://www.youtube.com/channel/UCJgSsB5qqoS7CcD8lq9Yw1g/videos>
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#### **Join Zoom by Computer or by Phone:**

Click this Meeting link:

<https://us02web.zoom.us/j/84445938125?pwd=bDZqdVQ3ejY5bHhxbm1ITINtVFBwUT09>

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Meeting ID: **844 4593 8125**

Meeting Passcode: **954946**

**To participate remotely and make public comment:**

**- Send email:**

- As always, send additional materials to the Planning Commission via [planningcommission@ci.capitola.ca.us](mailto:planningcommission@ci.capitola.ca.us) by 5 p.m. the Wednesday before the meeting and they will be distributed to agenda recipients.
- During the meeting, send comments via email to [publiccomment@ci.capitola.ca.us](mailto:publiccomment@ci.capitola.ca.us)
- Identify the item you wish to comment on in your email's subject line.
- Emailed comments will be accepted during the Public Comments meeting item and for General Government / Public Hearing items.
- Emailed comments on each General Government/ Public Hearing item will be accepted after the start of the meeting until the Chairman announces that public comment for that item is closed.
- Emailed comments should be a maximum of 450 words, which corresponds to approximately 3 minutes of speaking time.
- Each emailed comment will be read aloud for up to three minutes and/or displayed on a screen.
- Emails received by [publiccomment@ci.capitola.ca.us](mailto:publiccomment@ci.capitola.ca.us) outside of the comment period outlined above will not be included in the record.

**- Zoom Meeting (Via Computer or Phone):**

**If using computer:** Use participant option to “raise hand” during the public comment period for the item you wish to speak on. Once unmuted, you will have up to 3 minutes to speak

**If called in over the phone:** Press \*6 on your phone to “raise your hand” when the Chairman calls for public comment. It will be your turn to speak when the Chairman unmutes you. You will hear an announcement that you have been unmuted. The timer will then be set to 3 minutes.

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

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

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

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

**Agenda Materials Distributed after Distribution of the Agenda Packet:** Materials that are a public record under Government Code § 54957.5(A) and that relate to an agenda item of a regular meeting of the Planning Commission that are distributed to a majority of all the members of the Planning Commission more than 72 hours prior to that meeting shall be available for public inspection at City Hall located at 420 Capitola Avenue, Capitola, during normal business hours.

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

**Televised Meetings:** Planning Commission meetings are cablecast "Live" on Charter Communications Cable TV Channel 8 and are recorded to be replayed on the following Monday and Friday at 1:00 p.m. on Charter Channel 71 and Comcast Channel 25. Meetings can also be viewed from the City's website: [www.cityofcapitola.org](http://www.cityofcapitola.org).



**DRAFT MINUTES  
CAPITOLA PLANNING COMMISSION MEETING  
THURSDAY, DECEMBER 2, 2021  
7 P.M. – CAPITOLA CITY COUNCIL CHAMBERS**

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

Commissioners Christiansen, Newman, Westman, Wilk, and Chair Routh were present remotely.

**2. ORAL COMMUNICATIONS**

**A. Additions and Deletions to Agenda**

1. Item 4.b – one public comment email

**B. Public Comments – none**

**C. Commission Comments – none**

**D. Staff Comments**

Director Herlihy thanked Community Development Intern Olivia Beers, who has accepted a job in San Diego and will complete her time with the City of Capitola at the end of the year.

Director Herlihy also announced that the City Council had approved the first reading of the outdoor dining ordinance in a special meeting held on December 1, 2021.

**3. APPROVAL OF MINUTES**

**A. Planning Commission - Regular Meeting - Oct 7, 2021, 7:00 PM**

<b>RESULT:</b>	<b>ACCEPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Susan Westman, Commissioner
<b>SECONDER:</b>	Peter Wilk, Commissioner
<b>AYES:</b>	Newman, Westman, Wilk, Routh, Christiansen

**B. Planning Commission - Regular Meeting - Nov 4, 2021, 7:00 PM**

<b>RESULT:</b>	<b>ACCEPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Peter Wilk, Commissioner
<b>SECONDER:</b>	Courtney Christiansen
<b>AYES:</b>	Newman, Westman, Wilk, Routh, Christiansen

**4. CONSENT CALENDAR**

<b>RESULT:</b>	<b>ITEMS 4.A, 4.B, AND 4.C APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Susan Westman, Commissioner
<b>SECONDER:</b>	Peter Wilk, Commissioner
<b>AYES:</b>	Newman, Westman, Wilk, Routh, Christiansen

**A. Consider the 2022 Meeting Schedule for the Planning Commission and Development Review Committee**

Consider the 2022 Meeting Schedule for the Planning Commission and Development Review Committee

MOTION: Approve the meeting schedule.

**B. 109 Sacramento Avenue #21-0406 APN: 036-144-03**

Design Permit to expand an existing second-story deck on an existing single-family residence located within the R-1 (Single-Family Residential) zoning district. This project is in the Coastal Zone but does not require a Coastal Development Permit. Environmental Determination: Categorical Exemption  
Property Owner: Matt and Gretchen DiNapoli  
Representative: Jay Plett, Filed: 09.03.21

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

**CONDITIONS OF APPROVAL:**

1. The project approval consists of the expansion of an existing second-story deck by 135 square-feet. The maximum Floor Area Ratio for the 6,000 square foot property is 49% (2,940 square feet). The total FAR of the project is 31.6% with a total of 1,897 square feet, compliant with the maximum FAR within the zone. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on December 2, 2021, except as modified through conditions imposed by the Planning Commission during the hearing.
2. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans
3. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
4. At time of submittal for building permit review, Public Works Standard Detail SMP STRM shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with the Public Works Standard Detail BMP STRM.
5. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.

6. Prior to issuance of building permit, a landscape plan shall be submitted and approved by the Community Development Department. The landscape plan can be produced by the property owner, landscape professional, or landscape architect. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of any proposed (but not required) irrigation systems.
7. Prior to issuance of building permit, all Planning fees associated with permit #21-0406 shall be paid in full.
8. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel Creek Water District, and Central Fire Protection District, as necessary.
9. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, shall be submitted to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
10. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).
11. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan.
12. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
13. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official. §9.12.010B
14. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a permit amendment for Planning Commission consideration. Failure to remedy a non-compliance in a timely manner may result in permit revocation.
15. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.
16. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the

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

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

#### **DESIGN PERMIT & CEQA FINDINGS:**

- A. The proposed project is consistent with the general plan, local coastal program, and any applicable specific plan, area plan, or other design policies and regulations adopted by the city council.**

Community Development Staff and the Planning Commission have reviewed the project. The proposed second-story deck expansion complies with the development standards of the R-1 zoning district.

- B. The proposed project complies with all applicable provisions of the zoning code and municipal code.**

Community Development Staff and the Planning Commission have reviewed the application for the second-story deck expansion. The project complies with all applicable provisions of the zoning code and municipal code.

- C. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).**

Section 15301 of the CEQA Guidelines categorically exempts minor additions and alterations of existing private structures that will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less. The proposed project includes second-story alterations that do not increase the floor area. No adverse environmental impacts were discovered during project review by Planning Department Staff.

- D. The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.**

Community Development Staff and the Planning Commission have reviewed the project. The proposed second-story deck expansion will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

- E. The proposed project complies with all applicable design review criteria in Section 17.120.070 (Design review criteria).**

The Community Development Staff and the Planning Commission have reviewed the application. The proposed second-story deck expansion complies with all applicable design review criteria in Section 17.120.070. Specifically, the project has taken potential privacy impacts into consideration as specified within Capitola's Design Review Criteria.

- F. The proposed project maintains the character, scale, and development pattern of the neighborhood.**

Community Development Staff and the Planning Commission have all reviewed the application for the second-story deck expansion. The new design of the deck will replace existing wooden balusters with glass panes and will fit in nicely with the existing neighborhood. The project will maintain the character, scale, and development pattern of the neighborhood.



- C. 1820 41st Avenue #A #21-0409 APN: 034-131-24**  
 REQUEST TO CONTINUE Conditional Use Permit Amendment to include delivery sales of alcohol and non-alcohol retail goods from an existing Retail Alcohol Establishment (BevMo) located in the C-R (Regional Commercial) zoning district.  
 This project is not in the Coastal Zone.  
 Environmental Determination: Categorical Exemption  
 Property Owner: Chaboya Ranch  
 Representative: Philip Olson - BevMo, Filed: 10.11.21

MOTION: Approve continuing the item to a future Planning Commission meeting.

## 5. PUBLIC HEARINGS

### A. New State of California Housing Legislation and Community Development Housing Workplan

Update on New State of California Housing Legislation and Community Development Housing Workplan

City Attorney Leila Moshref-Danesh presented on new housing legislation.

Commissioner Wilk and Westman both asked how the legislation could affect the Capitola Mall project.

Commissioner Newman asked about the applicability of Senate Bill 9 for smaller Cities and less urbanized Counties in California.

Commissioner Westman asked how the City might require developers of the mall to address parking concerns. Director Herlihy responded that if the project falls under SB9, the City cannot require discretionary traffic analysis. The Director also clarified that the Bill will not apply to home additions or to any project in the Regional Commercial Zone (where the Mall is located).

In response to a question from Commissioner Routh, Director Herlihy confirmed that the City may choose, but is not required to utilize Senate Bill 10.

<b>RESULT:</b>	<b>RECEIVED REPORT, NO ACTION TAKEN</b>
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### B. Prototype ADU Program

Prototype Accessory Dwelling Unit (ADU) Program.  
 Representative: Katie Herlihy, Community Development Director  
 Applicant: City of Capitola

Omar Hason, Alexandra Sklar, and Jamileh Cannon, of WorkBench, presented on their progress creating architectural designs for Accessory Dwelling Units that will fit the aesthetic and size requirements of the City of Capitola. Sam Suter, from Meta Urban Design, also presented.

Commissioner Wilk asked if a projected cost range could be included in future, so that those interested would have an idea of the cost of using plans to build an ADU would be.

**RESULT: RECEIVED REPORT, NO ACTION TAKEN**

**6. DIRECTOR'S REPORT – NONE**

**7. COMMISSION COMMUNICATIONS**

Commissioner Newman commented that today's date, December 2, 2021, is a palindrome.

**8. ADJOURNMENT**

The meeting was adjourned at 7:58PM to the next regular meeting of the Planning Commission on January 20, 2022.

ATTEST:

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Chloé Woodmansee, Clerk to the Commission

# Capitola Planning Commission

## Agenda Report



**Meeting:** FEBRUARY 3, 2022  
**From:** Community Development  
**Address:** 1820 41ST Avenue, Suite A

**Permit Number: #21-0429**

**APN: 034-131-24**

Conditional Use Permit Amendment to allow extended hours of delivery sales for alcohol and non-alcohol retail goods from an existing Retail Alcohol Establishment (BevMo) located in the C-R (Regional Commercial) zoning district.

This project is not in the Coastal Zone.

Environmental Determination: Categorical Exemption 15301

Property Owner: Chaboya Ranch

Representative: Philip Olson - BevMo, Filed: 10.11.21

**Applicant Proposal:** The applicant, Beverages & More (Bevmo) submitted a request for an amendment to an existing Conditional Use Permit (CUP) #08-018 to allow online/app-based delivery sales of alcohol at hours outside the current permitted store hours. Bevmo is located within the Regional Commercial (C-R) zoning district at 1820 41st Avenue, Suite A. The proposed use is consistent with the General Plan, and Zoning Ordinance with the amendment of the Conditional Use Permit and recommended conditions.

**Background:** On June 26, 2008, Bevmo received approval of a CUP #08-018 by the City Council on appeal to begin operating at the current location. The original Planning Commission approval was appealed to City Council by another alcohol retail store owner also located on 41st Avenue. The final local action notice included 15 conditions of approval that are effective currently and are included for reference as Attachment 1 (Existing Conditions of Approval).

**Discussion:** The current CUP includes the following two conditions of approval related to hours of operation and deliveries.

5. Business hours will be limited to 9:00 A.M. — 9:00 P.M., seven days a week. The last six weeks of the year, November 16 through December 31, the hours will be limited to 9:00 P.M. — 10:00 P.M.

7. Delivery hours shall be limited to 8:00 A.M. — 8:00 P.M. Monday through Friday, to minimize noise impacts to neighboring residents. Delivery vehicles shall not be permitted to remain at idle during non-delivery hours.

The applicant's primary request is for approval of an amendment to CUP condition #5 to allow delivery sales of non-alcohol retail items 24 hours per day to customers and to allow alcohol delivery sales at all hours except as prohibited by State law, between 2 A.M. and 6 A.M. Bevmo

additionally requests to retain the existing in-store shopping hours but modify the condition #5 to clarify that it pertains to “In-Store Hours”.

Condition #7 is applicable to deliveries of stock to the store. The applicant requests that clarification language be added to the condition to specify the applicability of the condition and the difference between deliveries to the store for stock and deliveries from the store to customers. The applicant is proposing the existing conditions be modified as follows:

5. Business hours for in-store shopping will be limited to 9:00 A.M. – 9:00 P.M., seven days a week. The last six weeks of the year, November 16 through December 31, the hours for in-store shopping will be limited to 9:00 A.M. – 10:00 P.M. Online/app sales for delivery to customers can occur 24-hours/day, Monday through Sunday, provided there are no sales/deliveries of alcohol between the hours of 2:00 a.m. and 6:00 a.m.

7. Hours for deliveries to the store shall be limited to 8:00 A.M. – 8:00 P.M. Monday through Friday, to minimize noise impacts to neighboring residents. Delivery vehicles shall not be permitted to remain at idle during non-delivery hours.

### Conditional Use Permit

Pursuant to 17.124.060, when evaluating a CUP, the Planning Commission must consider the following characteristics of the proposed use:

- A. Operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).
- B. Availability of adequate public services and infrastructure.
- C. Potential impacts to the natural environment.
- D. Physical suitability of the subject site for the proposed use in terms of design, location, operating characteristics, shape, size, topography.

And;

Pursuant to 17.124.070, the Planning Commission must make the following findings for approval:

- A. The proposed use is allowed in the applicable zoning district.
- B. The proposed use is consistent with the general plan, local coastal program, zoning code, and any applicable specific plan or area plan adopted by the city council.
- C. The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and planned land uses in the vicinity of the property.
- D. The proposed use will not be detrimental to the public health, safety, and welfare.
- E. The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.

In issuing a conditional use permit, the Commission may attach conditions to achieve consistency with the general plan, zoning code, and any applicable specific plan or area plan adopted by the City Council.

The existing CUP for 1820 41<sup>st</sup> Avenue includes several conditions related to hours of operation and tasting, deliveries, exterior lighting, and roof top screening to ensure the likely impacts of the retail use on adjacent residential properties are mitigated through operational and design conditions. Should the Planning Commission decide to approve the amendment, the conditions of the original permit would be included in the amendment along with new conditions related to the modified hours for delivery to protect the adjacent residential properties.

## ANALYSIS

In review of the applicant's proposal, Planning staff and the Police Department searched active alcohol sales permits and permit history in Capitola, made inquiry with nearby jurisdictions to understand how they regulate similar requests, and investigated available app/online based delivery services that deliver locally.

### Retail Sales of Alcohol in Capitola

Permit history shows that Capitola has not approved alcohol retail sales past midnight and has regulated alcohol sales through the CUP process dating back through all available records. The only sale of alcohol within Capitola past midnight are for onsite consumption within eating and drinking establishments. These venues may serve alcohol until 2 am, but the majority close by midnight.

### Retail Sale of Alcohol within Santa Cruz County

Staff contacted planning staff within the region to assess whether or not retail sales of alcohol are currently taking place after midnight.

- Watsonville does not allow sales past midnight.
- City of Santa Cruz has an ordinance that requires Planning Commission review for sales after midnight. The respondent noted that in their experience applicants had not pursued sales past midnight. They did acknowledge several long-operating stores that offer alcohol sales after midnight likely predate current requirements and are legally-nonconforming.
- Scotts Valley did not respond, however, information available online shows that liquor stores posting their hours close at midnight or before.
- Santa Cruz County responded that each alcohol permit has unique conditions. There are some grocery stores which sell alcohol after midnight. However, the majority of liquor stores close at midnight or before.

### Currently available app/online based delivery services

There are several existing app/online based shopping services that will perform a similar delivery service, as proposed by the applicant, for delivery within Capitola. Personal shopping and delivery services will take an order, make purchases at open local stores, and deliver the items, including alcohol.

### Police Department Review

Captain Ryan and Chief Dally reviewed the application and provided feedback. The police department is recommending conditioning alcohol sales to commence at midnight to ensure the City is not creating a new opportunity for late night sales of alcohol that could have an impact on health and safety within Capitola and the greater Santa Cruz area. They also recommended that all deliveries beyond store hours be performed through the front door of BevMo for safety and noise. Planning staff has similar concerns with noise for deliveries in the back of BevMo due to the close proximity of residential properties behind Bevmo. Also, since this is the first CUP related to delivery of alcohol sales, Police and Planning staff are recommending a condition be added that the application be reviewed by the Planning Commission in one year.

With the above analysis, and in consideration of allowing the applicant to operate a competitive business, staff is recommending the following modifications to existing conditions #5 and #7 and adding conditions #16 and #17:

5. Business hours for in-store shopping will be limited to 9:00 A.M. – 9:00 P.M., seven days a week. The last six weeks of the year, November 16 through December 31, the hours for in-store shopping will be limited to 9:00 A.M. – 10:00 P.M. Online/app sales for delivery to customers may occur until midnight, Monday through Sunday, provided there are no sales/deliveries of alcohol between the hours of 12:00 A.M. and 6:00 A.M. Delivery of non-alcoholic consumer goods can occur 24 hours per day.

7. Hours for deliveries to the store shall be limited to 8:00 A.M. – 8:00 P.M. Monday through Friday, to minimize noise impacts to neighboring residents. Delivery vehicles shall not be permitted to remain at idle during non-delivery hours.

16. All delivery services of store goods to customers must utilize the front door facing 41<sup>st</sup> Avenue and parking in front of the store. Delivery services to customers are prohibited from parking or idling vehicles behind the store or idling at delivery locations. Deliveries to customers after store hours shall utilize two-axle passenger vehicles. Use of delivery trucks, moving vans, vehicles equipped with roll up doors or lift gates, back-up alarms, and deliveries that necessitate use of a hand truck or pallet jack are not permitted.

17. A one-year review of the amendment to the conditional use permit by the Planning Commission is required to ensure all impacts of the delivery service are adequately assessed. During the one-year review, the Planning Commission may modify conditions as necessary to ensure health and safety. The review shall be scheduled during the first half of 2023 and will require a cost recovery deposit paid by the applicant.

**CEQA:** The project is categorically exempt under Section 15301 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations. The proposed project involves minor changes to operations and amending a conditional use permit within an existing commercial space. No adverse environmental impacts were discovered during project review by either Planning Department Staff or the Planning Commission.

**Recommendation:** Staff recommends the Planning Commission approve the amendment to the Conditional Use Permit based on the following amended Conditions of Approval and updated Findings.

**Recommended Conditions of Approval:**

1. The project approval consists of a Conditional Use Permit for the off-site retail sale of alcohol (Beverages and More! Inc.) in addition to the limited wine and beer tasting at 1820 41<sup>st</sup> Avenue. The original CUP application #08-018 was approved on June 26, 2008, by the City Council. The amendment to the CUP application #21-0429 was approved by Planning Commission on February 3, 2022.
2. Beer and wine tasting shall be limited to Friday 4:00 P.M. – 7:00 P.M and Saturday, 12 Noon – 6:00 P.M. Tasting shall also be allowed on Valentines Day, St. Patrick's Day, Cinco de Mayo, Halloween, day before Thanksgiving, and New Year's Eve from 4:00 P.M. – 7:00 P.M.

3. Any significant modifications to the size and appearance of the structure must be approved by the Planning Commission. Similarly, any significant change to the use itself, or site, must be approved by the Planning Commission.
4. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
5. Business hours for in-store shopping will be limited to 9:00 A.M. – 9:00 P.M., seven days a week. The last six weeks of the year, November 16 through December 31, the hours for in-store shopping will be limited to 9:00 A.M. – 10:00 P.M. Online/app sales for delivery to customers can occur until midnight, Monday through Sunday, provided there are no sales/deliveries of alcohol between the hours of 12:00 a.m. and 6:00 a.m. Delivery of non-alcoholic consumer goods can occur 24 hours per day.
6. The applicant shall ~~obtain~~ maintain a current business license ~~prior~~ to operating the business.
7. Hours for deliveries to the store shall be limited to 8:00 A.M. – 8:00 P.M. Monday through Friday, to minimize noise impacts to neighboring residents. Delivery vehicles shall not be permitted to remain at idle during non-delivery hours.
8. Air-conditioning equipment or other roof top equipment shall be screened from view and fall within allowable city permitted decibel levels.
9. Trash enclosures shall be covered, gated, and maintained to provide a clean and sanitary area.
10. Security lighting in the rear of the store shall be shielded to prevent light from shining in the neighboring properties.
11. No roof equipment is to be visible to the general public. Any necessary roof screening is to match the color of the building as closely as possible. Plans for any necessary screening shall be submitted to the Community Development Department prior to, or in conjunction with the building permit submittal.
12. The applicant shall develop, submit, and enact a plan for the use and control of their carts, including a plan to collect carts removed from their property.
13. The applicant shall submit a lighting plan for the parking lot area, for review and approval by the Community Development Department prior to, or in conjunction with the building permit submittal. The parking lot lighting shall be shielded to prevent light from shining on the neighboring properties.
14. The applicant shall submit a landscape plan for the parking lot area, for review and approval by the Community Development Department prior to, or in conjunction with the building permit submittal. The landscape plan shall meet the 41<sup>st</sup> Avenue Design Guidelines.
15. The applicant shall comply with the Municipal Code Section 8.36 Environmentally Acceptable Packaging Materials.

16. All delivery services of store goods to customers must utilize the front door facing 41<sup>st</sup> Avenue and parking in front of the store. Delivery services to customers are prohibited from parking or idling vehicles behind the store or idling at delivery locations. Deliveries to customers after store hours shall utilize two-axle passenger vehicles. Use of delivery trucks, moving vans, vehicles equipped with roll up doors or lift gates, back-up alarms, and deliveries that necessitate use of a hand truck or pallet jack are not permitted.
17. A one-year review of the amendment to the conditional use permit by the Planning Commission is required to ensure all impacts of the delivery service are adequately assessed. During the one-year review, the Planning Commission may modify conditions as necessary to ensure health and safety. The review shall be scheduled during the first half of 2023 and will require a cost recovery deposit paid by the applicant.

### Findings:

- A. The proposed use is allowed in the applicable zoning district.**  
Sales and delivery of alcohol are permitted through a conditional use permit in the C-R zoning district.
- B. The proposed use is consistent with the general plan, local coastal program, zoning code, and any applicable specific plan or area plan adopted by the city council.**  
The retail space with alcohol sales and delivery, as conditioned, is consistent with the Zoning Ordinance, General Plan, and Local Coastal Plan.
- C. The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and planned land uses in the vicinity of the property.**  
1820 41<sup>st</sup> Avenue is located in the 41<sup>st</sup> Avenue/West Capitola area, an area capable of handling larger vehicular volume, has plentiful parking, and suburban commercial developments that serve a variety of eating and drinking establishments and larger scale retail spaces. Allowing delivery and later hours to stage from the front of the building is compatible with existing and planned uses.
- D. The proposed use will not be detrimental to the public health, safety, and welfare.**  
Delivery of alcohol goods offered by Bevmo until midnight will not be detrimental to the public health, safety, and welfare. Similar services are currently operating in Capitol and surrounding communities.
- E. The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.**  
1820 41<sup>st</sup> Avenue is properly located within the 41<sup>st</sup> Avenue/West Capitola area and adequately served by services and infrastructure.
- F. This project is categorically exempt under Section 15301 of the California Environmental Quality Act and is subject to Section 753.5 of Title 14 of the California Code of Regulations.**  
Section 15301 of the CEQA Guidelines exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures,



facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. This project involves a minor modification to the retail delivery services for the business and minor changes to the interior inventory. No adverse environmental impacts were discovered during review of the proposed project.



420 CAPITOLA AVENUE  
 CAPITOLA, CALIFORNIA 95010  
 TELEPHONE (831) 475-7300  
 FAX (831) 479-8879

## FINAL LOCAL ACTION NOTICE AND ZONING PERMIT

July 15, 2008

Susan Vaudagna  
 Chaboya Ranch  
 1445 West San Carlos Street  
 San Jose, CA 95126

**RE: Notice of Final Action on Application #08-018**

**1820 41<sup>st</sup> AVENUE – PROJECT APPLICATION # 08-018**

CONDITIONAL USE-PERMIT FOR A RETAIL BUSINESS ESTABLISHMENT (BEVMO) WITH OFF-SITE SALE OF ALCOHOL AND LIMITED CONSUMPTION OF ALCOHOL ON THE PREMISES IN THE CC (COMMUNITY COMMERCIAL) ZONING DISTRICT. (APN 034-131-22, 034-131-24) CATEGORICALLY EXEMPT. FILED 4/14/08

The above matter was presented to the City Council on June 26, 2008 and was **approved**, with the following findings and conditions.

CONDITIONS

1. The project approval consists of a Conditional Use Permit for the off-site retail sale of alcohol (Beverages and More! Inc.) in addition to limited wine and beer tasting at 1820 41st Avenue.
2. Beer and wine tasting shall be limited to Friday 4:00 P.M. – 7:00 P.M. and Saturday, 12 NOON - 6:00 P.M. Tasting shall also be allowed on Valentine's Day, St. Patrick's Day, Cinco de Mayo, Halloween, day before Thanksgiving, and New Year's Eve from 4:00 P.M. – 7:00 P.M. No seating shall be provided for the tasting events and tasting samples shall be limited to approximately 1 oz. sizes.
3. Any significant modifications to the size or exterior appearance of the structure must be approved by the Planning Commission. Similarly, any significant change to the use itself, or the site, must be approved by the Planning Commission.
4. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
5. Business hours will be limited to 9:00 A.M. – 9:00 P.M., seven days a week. The last six weeks of the year, November 16 through December 31, the hours will be limited to 9:00 P.M. – 10:00 P.M.

6. The applicant shall obtain a business license prior to operating the business.
7. Delivery hours shall be limited to 8:00 A.M. – 8:00 P.M. Monday through Friday, to minimize noise impacts to neighboring residents. Delivery vehicles shall not be permitted to remain at idle during non-delivery hours.
8. Air-conditioning equipment and other roof top equipment shall be screened from view and fall within the allowable city permitted decibel levels.
9. Trash enclosures shall be covered, gated and maintained to provide a clean and sanitary area.
10. Security lighting in the rear of the store shall be shielded to prevent light from shining on the neighboring properties.
11. No roof equipment is to be visible to the general public. Any necessary roof screening is to match the color of the building as closely as possible. Plans for any necessary screening shall be submitted to the Community Development Department prior to, or in conjunction with building permit submittal.
12. The applicant shall develop, submit, and enact a plan for the use and control of their carts, including a plan to collect carts removed from their property.
13. The applicant shall submit a lighting plan for the parking lot area, for review and approval by the Community Development Department prior to, or in conjunction with building permit submittal. The parking lot lighting shall be shielded to prevent light from shining on the neighboring properties.
14. The applicant shall submit a landscape plan for the parking lot area, for review and approval by the Community Development Department prior to, or in conjunction with building permit submittal. The landscape plan shall meet the 41<sup>st</sup> Avenue Design Guidelines.
15. The applicant shall comply with the Municipal Code Section 8.36 Environmentally Acceptable Packaging Materials.

## FINDINGS

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

Community Development Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project conforms with the development standards of the CC (Community Commercial) Zoning District and the 41<sup>st</sup> Avenue Design Guidelines. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance and General Plan.

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

Planning Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project conforms with the development standards of the CC (Community Commercial) Zoning District and the 41<sup>st</sup> Avenue Design Guidelines. Conditions of approval have been included to ensure that the project maintains the character and integrity of the area.

- C. **This project is categorically exempt under Section 15301(e)(2) of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

Section 15301(e)(2) of the CEQA Guidelines exempts interior or exterior alterations to existing structures. No adverse environmental impacts were discovered during review of the proposed project.

This permit is issued to the owner of the property. In executing this permit, applicant /owner agrees to comply with all terms of permit(s), including conditions of approval, if any. Permit must be exercised within 24 months of date of issuance (June 26, 2010) unless otherwise indicated in conditions of approval. Should you have any questions on this matter, do not hesitate to call.

Sincerely,

Handwritten signature of Ryan Bane, consisting of the letters 'Ry' followed by a horizontal line and the letter 'B' followed by a horizontal line.

Ryan Bane  
Senior Planner

Cc: Beverages & More  
City Clerk

COMMENTS

REVISIONS	
NO.	DESCRIPTION

Originally Drawn By:  
 Hayashida Architects

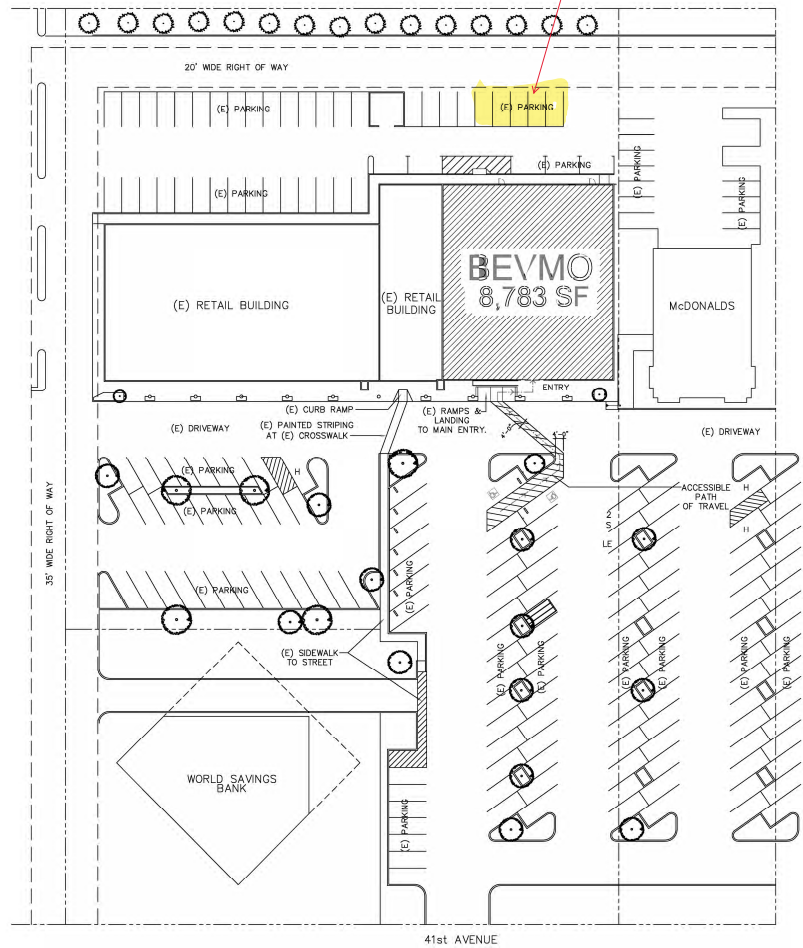
Modified By:  
 go!brands, Inc.

Scale:  
 1" = 30'

SITE PLAN

1 OF 4

Likely driver parking and loading areas.



1 EXISTING SITE PLAN  
 SD1

FOR REFERENCE ONLY

ALL EXTERIOR STRUCTURE,  
 MATERIALS, FIXTURES, AND  
 FINISHES ARE EXISTING TO  
 REMAIN









## Project Description

Beverages & More, Inc. (“BevMo!”) seeks a modification to the Conditional Use Permit that was granted pursuant to Project Application # 08-018 (the “CUP”) for its operations located at 1820 41st Avenue, Suite A in Capitola, California (generally, the “Site”). The CUP restricts business hours to 9:00 a.m. and 9:00 p.m. seven days a week; the last six weeks of the year, November 16 through December 31, the hours are limited to 9:00 a.m. to 10:00 p.m. This modification would allow BevMo! to establish online delivery sales of alcohol and non-alcohol retail goods at hours outside of current permitted hours.

BevMo! currently operates as a high-end retailer for in-store purchases of beer, wine, and related goods. Sales of alcohol are authorized by liquor licenses issued by the California Alcohol Control Board (ABC) – Type 21 (Off-Sale General) and Type 42 (On-Sale Beers and Wine Public Premises). To enhance the customer experience, BevMo! seeks to allow customers to purchase alcohol and non-alcoholic consumer goods (described below) via its online and mobile platforms for delivery. In-store sales would remain the same, but deliveries of non-alcoholic goods would occur 24 hours/day and deliveries of alcohol would stop at 2:00 a.m.

Customers would select items available from the store via an app or online interface. BevMo! employees would bag the items and put them in bins containing orders from one to four customers. Drivers, who are independent contractors, would pick up the bins for delivery to customers, with a goal of delivering items within 30 minutes of purchase to customers located within a fixed delivery radius, usually 2- 5 miles from the store. The types of goods anticipated to be available for delivery include beer, wine, distilled spirits, ice cream, snacks, hand sanitizer, pet food, toilet paper, and diapers. Most of these items would also be displayed on shelves in the store and would be available for purchase for walk-in customers, but a few items, such as dog food, would be available only for delivery. Driver-partners would enter and exit the store via an existing receiving door in the rear of the facility, even when the storefront is open. Driver-partners would be able to use any parking spaces in the shopping area. Based on sales projections, BevMo! initially anticipates between 50-100 deliveries per day, with the heaviest volumes on Friday and Saturday evenings, which is also when most of the other tenants in the vicinity have their lowest volume of driver traffic as a result of their closing hours.

## Age Verification

BevMo! utilizes robust age verification and ID scanning technology to help prevent age-restricted products from being delivered to minors. Customers are notified in the app that products are age-restricted and require ID verification: first when they put the item in their cart and again when they checkout. Next, BevMo! uses on-the-spot technology to scan IDs and verify age at the point of delivery.

1. **On-the-Spot Verification:** Before an order is closed, the delivery-partner must scan the customer’s valid U.S. government-issued ID.

2. **Optical Scanning Technology:** Using advanced optical scanning ID verification technology, the delivery-partner must verify the ID at the site of the delivery.

3. **Signature Required:** If the ID is verified by the system, the order can be completed and a signature is captured.

Due to these policies, contactless verification is not an option for orders containing age-restricted products. However, BevMo! has implemented a procedure to check and scan IDs from a distance in order to keep both the customers and delivery-partners safe.

If a customer does not have an ID at the time of delivery, or fails to provide a valid form of ID, the customer will be charged a non-refundable fee and will not receive the order.

### **Delivery Partner Eligibility Requirements:**

BevMo! requires all delivery partners delivering age-restricted products meet the following criteria:

1. **Age:** Be at least 21 years of age.
2. **Training:** Complete alcohol beverage service training.
3. **Delivery Service Agreement:** Sign the Alcohol Delivery Service policy.

### Lighting and Security

Proper lighting will be maintained to ensure employee and driver-partner safety at all times. The rear entrance door will remain locked with an electric strike lock for controlling access to the building. Driver-partners will be identified by employees inside of the building via camera before being granted access inside the store for deliveries.

Additional security measures include security camera systems with footage that can be accessed by the General Manager and any Shift Lead in the store. This footage is typically stored for 30 days or longer, depending on how much activity is on a specific camera. The store also includes a telephone for calling 911 and a monitored alarm system with a hold-up panic button for employees in the case of an emergency.

### Changes to the Premises

Minor changes to the configuration of the interior retail space and stock room will be needed, including rearranging shelving and storage areas. None of these changes are expected to require plumbing or electrical work. BevMo! anticipates that approximately 20 to 30 percent of the retail floorspace will be dedicated to non-alcohol items. There are no planned exterior modifications.

### Requested Changes

Requested Change to Permitted Hours: Condition 5 ends business hours at 9:00 p.m. daily, with extended closing hours of 10:00 p.m. between November 16 through December 31. BevMo! is requesting that Condition 5 be modified to state the following: "Business hours for in-store

shopping will be limited to 9:00 A.M. – 9:00 P.M., seven days a week. The last six weeks of the year, November 16 through December 31, the hours for in-store shopping will be limited to 9:00 A.M. – 10:00 P.M. Online/app sales and deliveries can occur 24-hours/day, Monday through Sunday, provided there are no sales/deliveries of alcohol between the hours of 2:00 a.m. and 6:00 a.m."

Requested Change to Delivery Hours: BevMo! is requesting that Condition 7 be revised to clarify that the intention of the condition is to limit the permitted hours of deliveries to the store. BevMo! is requesting that Condition 7 be modified to state the following: "Hours for deliveries to the store shall be limited to 8:00 A.M. – 8:00 P.M. Monday through Friday, to minimize noise impacts to neighboring residents. Delivery vehicles shall not be permitted to remain at idle during non-delivery hours."

# Capitola Planning Commission

## Agenda Report



**Meeting:** February 3, 2022

**From:** Community Development Department

**Address:** Citywide Ordinance Applicable to Single-Family Zone

**Ordinance #: 1049**

**APN: Applicable to all parcels in Single-Family Zone**

Project description: Amendments to the Capitola Municipal Code, Adding Section 17.75 Two-Unit Developments to Title 17, Part 3 (Zoning, Citywide Standards), Adding Section 16.78 Urban Lot Splits to Title 16 (Subdivisions), Amending Section 17.74 Accessory Dwelling Units, and Amending Section 16.08 Definitions for the implementation of Government Code Sections 66411.7 and 65852.21 Related to Urban Lot Splits and Two-Unit Developments.

Environmental Determination: Implement of Government Code sections 65852.21 and 66411.7, are not considered a project under CEQA.

Property: Ordinance applies in the R-1 (Single-Family) zoning district

Representative: Katie Herlihy, Community Development Director

**Background:** Senate Bill 9 (SB 9) was passed in September of 2021, and went into effect on January 1, 2022. SB 9 enacted Government Code Sections 66411.7 and 65852.21 which allows ministerial review of two-lot subdivisions with up to two residential units on each new lot. SB9 applies solely to properties within a single-family zone. The ministerial review is limited to the review of the objective standards established within the municipal code.

**Discussion:** The draft ordinance will establish two new chapters of the Capitola Municipal Code, including Chapter 16.68 for Urban Lots Splits and Chapter 17.75 for Two-Unit Developments. The ordinance establishes review procedures and objective standards for review of SB-9 applications.

Chapter 16.68: Urban Lot Splits

Within Chapter 16.68, Urban Lot Splits, the ordinance includes the following sections:

16.78.010 Purpose and Intent	<ul style="list-style-type: none"> <li>• Production of housing</li> <li>• Implementation of Government Code Section 66411.7 pertaining to Urban Lot Splits</li> </ul>
16.78.020 Eligibility	<ul style="list-style-type: none"> <li>• Located in the single family (R-1) zoning district</li> <li>• Two new parcels of at least 1,200 square feet in area.</li> <li>• Created lots at least 40 percent of the lot area of the original parcel</li> <li>• Lots have access to the public right-of-way.</li> <li>• Additional eligibility requirements tied to natural conditions, hazards, historic properties, special conditions, and previous rental use.</li> </ul>

16.78.030 Objective Standards	<ul style="list-style-type: none"> <li>• Quantifiable standards for a lot split not subject to discretionary review.</li> <li>• Incorporated Capitola's existing design requirements within Title 16 related to design of lots, including parcel lines at right angles to the street, minimum frontage standards, flag lot driveway standards, onsite parking, and encroachments.</li> <li>• Includes state allowance that no setbacks be required for an existing structure or reconstructed structure.</li> <li>• State allowance for minimum setbacks of four feet for the side and rear yards.</li> <li>• State allowance that the establish standards do not preclude the construction of two units on either of the resulting parcels of up to 800 square feet.</li> </ul>
16.78.040 Filing, processing, and action	<ul style="list-style-type: none"> <li>• Application submittal requirements</li> <li>• State required timing of sixty-day review</li> <li>• Coastal development permit</li> <li>• Standards for denial</li> </ul>
16.78.050 Use and Development Requirements	<ul style="list-style-type: none"> <li>• Prohibits vacation rental</li> <li>• Limited to residential</li> <li>• Maximum unit size of 800 square feet</li> <li>• Subject to Chapter 17.75 Two Unit Developments</li> </ul>

### Chapter 17.75: Two-Unit Developments

Within Chapter 17.75, Two-Unit Developments, the ordinance includes the following sections:

17.75.010 Purpose and Intent	<ul style="list-style-type: none"> <li>• Implement Government Code section 65852.21 pertaining to Two-Unit Developments</li> </ul>
17.75.020 Definitions	<ul style="list-style-type: none"> <li>• New definitions for two-unit development and urban lot split</li> </ul>
17.75.030 Eligibility	<ul style="list-style-type: none"> <li>• Lists eligibility requirements of SB-9</li> <li>• Maximum two units per lot</li> <li>• Lot established within an Urban Lot Split</li> <li>• R-1 Zone</li> <li>• Additional eligibility requirements tied to natural conditions, hazards, historic properties, special conditions, and previous rental use apply.</li> </ul>
17.75.040 Permitting Process	<ul style="list-style-type: none"> <li>• Administrative permit no discretionary review or hearing</li> <li>• State required timing of sixty-day review</li> <li>• Coastal Development Permit</li> <li>• Standards for denial</li> </ul>
17.75.050 Objective Development Standards	<ul style="list-style-type: none"> <li>• Quantifiable standards for a lot split not subject to discretionary review.</li> </ul>

	<ul style="list-style-type: none"> <li>• Maximum size, minimum setbacks, maximum height, maximum story, minimum open space, parking, separation between units, non-conforming structures</li> </ul>
17.75.060 Objective Design Standards	<ul style="list-style-type: none"> <li>• Entrance orientation</li> <li>• Privacy</li> <li>• Decks and balconies</li> <li>• Porches and patios</li> <li>• Exterior materials and colors</li> </ul>
17.75.070 General Requirements	<ul style="list-style-type: none"> <li>• Required utility connections and fire sprinklers</li> <li>• Prohibits vacation rental</li> <li>• Separate sale allowed</li> <li>• Guaranteed allowance of two 800 square foot units</li> <li>• Allowance for converting existing structures</li> </ul>

The City can guide the design of the urban lot splits and two-unit developments through the application of objectives standards. The draft ordinance includes objectives standards geared at allowing densification of the single-family zoning district in a manner that maintains the patterns and scale of the residential neighborhood.

At the February 3, 2022, Planning Commission meeting, staff will provide an overview of the proposed objective standards and request feedback from the Planning Commission. The Planning Commission may either forward a positive recommendation to the City Council or continue the item to the March 3, 2022, meeting.

**CEQA:** Enactment of this Ordinance is statutorily exempt from the provisions of the California Environmental Quality Act ("CEQA"), pursuant to Government Code sections 65852.21(j) and 66411.7(n), as this action is to adopt an ordinance to implement the requirements of sections 65852.21 and 66411.7 of the Government Code.

**Recommendation:** Accept staff presentation on Ordinance #1049 and either forward a positive recommendation to the City Council or continue the item to the March 3, 2022 Planning Commission meeting.

**ORDINANCE NO. 1049**

**AN ORDINANCE OF THE CITY OF CAPITOLA ADDING MUNICIPAL CODE CHAPTERS 16.78 AND 17.75, ADDING MUNICIPAL CODE SECTION 16.08.020, AND AMENDING SECTION 17.74.040 FOR THE IMPLEMENTATION OF GOVERNMENT CODE SECTIONS 66411.7 AND 65852.21 RELATED TO URBAN LOT SPLITS AND TWO-UNIT DEVELOPMENTS**

WHEREAS, SB-9 (Chapter 162, Statutes of 2021) enacted sections 66411.7 and 65852.21 to the Government Code, effective January 1, 2022; and

WHEREAS, these provisions require the City to provide ministerial approval of urban lot splits, (“Urban Lot Splits”) and the construction of up to two residential dwelling units (“Two-Unit Developments”) on each single-family residential zoned lot within the City, subject to certain limitations; and

WHEREAS, Government Code section 66411.7(a) limits eligibility of Urban Lot Splits by size and proportionality; and

WHEREAS, Government Code sections 66411.7(a)(3)(C) and 65852.21(a)(2) limit Urban Lot Splits and Two-Unit Developments, respectively, to sites that are not located on or within certain farmland, wetlands, very high fire hazard severity zones, hazardous waste sites, earthquake fault zones, special flood hazard areas, regulatory floodways, lands identified for conservation, habitats for protected species, and historic properties, unless projects on such sites meet specified conditions; and

WHEREAS, Government Code sections 66411.7(a)(3)(D) and 65852.21(a)(3) through (a)(5) limit eligibility of an Urban Lot Split and a Two-Unit Development, respectfully, that proposes to demolish or alter housing subject to affordability restrictions, housing subject to rent or price controls, housing that has been occupied by a tenant in the last three years, housing that has been withdrawn from rent or lease within the past 15 years, and housing that requires demolition of existing structural walls unless authorized by local ordinance or has not been tenant-occupied within the past 3 years; and

WHEREAS, Government Code sections 65852.21(a)(6) and 66411.7(a)(3)(E) allow a city to deny an Urban Lot Split for properties within an historic district or listed on the State’s Historic Resource Inventory or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance; and

WHEREAS, Government Code sections 66411.7(c) and 65852.21(b) allow a city to establish objective zoning standards, objective subdivision standards, and objective

design review standards for Urban Lot Splits and Two-Unit Developments, respectively, subject to limits within state law; and

WHEREAS, such objective zoning standards, objective subdivision standards, and objective design review standards may not have the effect of “precluding the construction of two units on either of the resulting parcels from an Urban Lot Split or that would result in a unit size of less than 800 square feet” for a Two-Unit Development; and

WHEREAS, Government Code sections 66411.7 and 65852.21 allow a city to deny a proposed Two-Unit Development or Urban Lot Split, respectively, if the project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact; and

WHEREAS, pursuant to Government Code sections 65852.21(j) and 66411.7(n), the City may adopt an ordinance to implement the provisions of Government Code sections 65852.21 and 66411.7, and such an ordinance shall not be considered a project under the California Environmental Quality Act (“CEQA”); and

WHEREAS, in recognition of the City of Capitola’s unique geography and proximity to the Pacific Ocean, the City Council desires to implement objective standards and an application process for projects undertaken pursuant to Government Code Sections 65852.21 and 66411.7 by the adoption of such an ordinance;

**BE IT ORDAINED** by the City of Capitola as follows:

**Section 1.** The above findings are adopted and incorporated herein.

**Section 2.** Section 16.08.120 (Urban Lot Split) is added to Chapter 16.08 (Definitions) to read as follows:

**16.08.020 Urban Lot Split.**

The subdivision of a parcel within a residential single-family (R-1) zone into two parcels pursuant to Section 66411.7 of the Government Code and Chapter 16.78 of the Capitola Municipal Code.

**Section 3.** Chapter 16.78 (Urban Lot Splits) is added to Title 16 (Subdivisions) of the Capitola Municipal Code to read as follows:

**CHAPTER 16.78**



## URBAN LOT SPLITS

### 16.78.010 Purpose and Intent

It is the purpose of this Chapter to provide procedures necessary for the implementation of section 66411.7 of the Government Code pertaining to Urban Lot Splits, as defined in Section 16.08.020 herein. To accomplish this purpose, the regulations outlined herein are determined to be necessary for the preservation of the public health, safety and general welfare, and for the promotion of orderly growth and development. Except where such provisions directly conflict with Section 66411.7 of the Government Code, the provisions of this Chapter shall apply.

### 16.78.020 - Eligibility

A parcel map shall be required for all Urban Lot Splits pursuant to section 66411.7 of the Government Code. An application for an Urban Lot Split shall comply with all of the following requirements:

- A. The proposed Urban Lot Split will create no more than two new parcels, and each of the newly created parcels meets the following requirements:
  1. Is at least 1,200 square feet in size,
  2. Is at least 40 percent of the lot area of the original parcel,
  3. Has access to or adjoins the public right-of-way, sufficient to allow development on the parcel to comply with all applicable property access requirements under the California Fire Code section 503 (Fire Apparatus Access Roads) and California Code Regulations Title 14, section 1273.00 et seq. (Intent), and
- B. The parcel to be subdivided is located within the residential single-family (R-1) zone.
- C. The development is not located on a site as specified in Government Code subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.; which describe sites that meet specific qualifications related to certain farmland, wetlands, very high fire hazard severity zones, hazardous waste sites, earthquake fault zones, special flood hazard areas, regulatory floodways, lands identified for conservation, habitats for protected species, and historic properties, unless projects on such sites meet specified conditions.

- D. The proposed urban lot split would not require demolition or alteration of any of the following types of housing:
1. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
  2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
  3. A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code (the Ellis Act) to evict tenants due to the property owner's decision to no longer use the property for rental housing within 15 years before the date that the development proponent submits an application.
  4. Housing that has been occupied by a tenant in the last three years based on the date of the application for an Urban Lot Split.
- E. The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city landmark or city heritage resource, or a Designated Historic Resource as defined in Capitola Municipal Code Section 17.84.020.A.
- F. The parcel is not located on a site which includes a structure that is a Designated Historic Resource or that meets the criteria provided in Capitola Municipal Code Section 17.84.020.B. to qualify as a Designated Historic Resource.
- G. The parcel has not been established through prior exercise of an Urban Lot Split provided for in Section 66411.7 of the Government Code or this section.
- H. Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an Urban Lot Split as provided for in this chapter.
- I. The proposed new parcels are intended for exclusively residential use.
- J. The owner of the parcel to be subdivided signs an affidavit under penalty of perjury declaring all of the following to be true:

1. The housing units proposed to be demolished or altered have not been occupied by a tenant at any time within three years of the date of the application for an urban lot split.
2. The owner of the parcel intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the Urban Lot Split. Owner-occupancy is not required if the owner is a community land trust or qualified nonprofit corporation under Sections 214.15 or 402.1 of the Revenue and Taxation Code.
3. The owner has not previously subdivided an adjacent parcel using an Urban Lot Split.
4. The owner has not previously acted in concert with any person to subdivide an adjacent parcel using an Urban Lot Split. "Acted in concert" means that the owner, or a person acting as an agent or representative of the owner, knowingly participated with another person in joint activity or parallel action toward a common goal of subdividing the adjacent parcel.

#### **16.78.030 Objective Standards**

All Urban Lot Splits under this chapter shall comply with the following standards, unless the applicant can demonstrate that the standards would have the effect of physically precluding the construction of two units on either of the resulting parcels or would preclude a unit size of 800 square feet for either unit:

- A. New parcel lines that abut a street shall maintain right angles to streets or radial to the centerline of curved streets, or be parallel to existing parcel lines.
- B. Lots without twenty feet or more of frontage on a street will not be permitted, except that frontage requirements for flag lots may be satisfied by a driveway or private road accessing a street with a minimum of ten feet in width or maximum of 40% of the lot width or 20 feet, whichever is less.
- C. A minimum of one off-street parking space shall be provided on each parcel except that no parking shall be required where the parcel satisfies one or both of the following circumstances:
  1. The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.
  2. There is a car share vehicle located within one block of the parcel.

- D. No setback shall be required for an existing structure or a structure reconstructed in the same location and to the same dimensions as an existing structure, and in all other circumstances a setback of four feet from the side and rear lot lines shall be provided. Verification of size and location of the existing and proposed structure requires pre- and post-construction surveys by a California licensed land surveyor.
- E. The proposed lot split shall not result in the splitting of any structure between the two lots or create a new encroachment of an existing structure over a property line.
- F. The parcel map satisfies the objective requirements of the Subdivision Map Act and this chapter regarding parcel maps, including Chapter 16.24 Design Standards except as provided herein.

#### **16.78.040 Filing, processing, and action**

- A. An application for an Urban Lot Split must be made through submittal of a city application and requisite fees. At a minimum, an application package shall include:
  - 1. Title report less than 30 days old
  - 2. Copies of deeds for all properties included in the request.
  - 3. A plat map drawn to scale by a licensed land surveyor or registered civil engineer depicting all of the following:
    - a. Existing and proposed lot lines.
    - b. Location of easements required for the provision of public services and facilities to each of the proposed parcels.
    - c. Location of any easements necessary for each parcel to have access to the public right-of-way.
  - 4. Survey of existing conditions signed and stamped by licensed land surveyor.
  - 5. Site plan with existing conditions, proposed lot lines, driveways, and location of utility easements.

- B. The city shall act on an application for an Urban Lot Split within fifty days from the date the city receives a completed application. If the applicant requests a delay in writing, the fifty-day time period shall be tolled for the period of the delay. The city has acted on the application if it:
1. Approves or denies the application for the Urban Lot Split; or
  2. Informs the applicant in writing that changes to the proposed project are necessary to comply with this chapter; or
- C. The Community Development Director shall deny the Urban Lot Split if either of the following is found:
1. The Urban Lot Split fails to meet or perform one of more objective requirements imposed by the Subdivision Map Act or by this chapter. Any such requirement or condition shall be specified.
  2. The building official makes a written finding, based upon a preponderance of the evidence, that the proposed subdivision would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5 of the Government Code, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.
- D. The Community Development Director shall not reject an application solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.
- E. The Community Development Director shall condition approval on the dedication of any easements deemed necessary for the provision of public services to the proposed parcels and any easements deemed necessary for access to the public right-of-way.
- F. The Community Development Director shall not require the correction of nonconforming zoning conditions.
- G. Nothing in this chapter shall be construed to supersede or in any way alter or lessen the effect of application of the California Coastal Act of 1976 (Division 20, commencing with Section 30000, of the Public Resources Code), except that a public hearing for a CDP application for an Urban Lot Split shall not be required.

## 16.780 Use and Development Requirements

- A. It shall be unlawful to rent, offer to rent or lease, or to advertise for rent or lease, any dwelling unit or portion thereof constructed on a lot created under this chapter for a term that is thirty days or less.
- B. It shall be unlawful to use any dwelling unit constructed on a lot created under this chapter for any use other than a residential use.
- C. New dwelling units constructed under this chapter shall be no more than 800 square feet in floor area.
- D. Development of new Two-Unit Developments on any lot created under this chapter shall be subject to the requirements of CMC Chapter 17.75, and shall also comply with all applicable objective zoning requirements set forth in Section 17.16 applicable to the subject parcels and any objective requirements in the City's design guidelines. The standards described in this paragraph shall apply to all Urban Lot Splits except where such standard directly conflicts with a provision of this chapter, or whether the applicant demonstrates that such zoning district standard or design standard would have the effect of physically precluding the construction of two units on either of the resulting parcels or would necessarily result in a unit size of less than 800 square feet.
- E. Notwithstanding any other provision of this code, no more than two dwelling units shall be permitted on any parcel created under the provisions of this chapter.

**Section 4.** The following subsection M is added to Section 17.74.040 (General Requirements) of Chapter 17.74 (Accessory Dwelling Units) of the Capitola Municipal Code to read as follows:

M. Pursuant to the authority provided by section 65852.21(f) of the Government Code, no accessory dwelling unit or junior accessory dwelling unit shall be permitted on any lot in a single-family zoning district if: 1) an Urban Lot Split has been approved pursuant to Chapter 16.78 herein; and 2) a Two-Unit Development with two units has been approved for construction pursuant to Chapter 17.75 herein.

**Section 5.** Chapter 17.75 (Two-Unit Developments) is added to Title 17, Part 3 (Zoning, Citywide Standards) of the Capitola Municipal Code to read as follows:

## CHAPTER 17.75

## TWO-UNIT DEVELOPMENTS

### 17.75.010 Purpose and Intent

The purpose of this Chapter is to provide regulations for the establishment of Two-Unit Developments pursuant to and as defined in Government Code section 65852.21. To accomplish this purpose, the regulations outlined herein are determined to be necessary for the preservation of the public health, safety and general welfare, and for the promotion of orderly growth and development. Except where such provisions directly conflict with section 66411.21 of the Government Code, the provisions of this Chapter shall apply.

### 17.75.020 Definitions

- A. Two-Unit Development. A Two-Unit Development is a development which proposes no more than two residential units in total on each parcel created within an Urban Lot Split. The two units may be either two new units on a vacant lot or the addition of one new unit to a lot with one existing residential unit.
- B. Urban Lot Split. The subdivision of a parcel within the residential single-family (R-1) zone into two parcels pursuant to Section 66411.7 of the Government Code and Chapter 16.78 of the Capitola Municipal Code (CMC).

### 17.75.30 Eligibility

- A. Notwithstanding anything in this section to the contrary, a residential development is eligible for a Two-Unit Development if the development complies with all of the following criteria:
  - 1. Where Allowed. A Two-Unit Development is permitted in the Single-Family (R-1) Residential Zone on a lot which was established within an Urban Lot Split pursuant to CMC Chapter 16.78
  - 2. Maximum Number per Lot. Not more than two dwelling units are allowed per Lot.
  - 3. The application complies with all standards in this chapter.
- B. A residential development that does not comply with all standards in this chapter is not eligible for Two-Unit Development.

- C. Density Limitations. Incompatibility with the City's density limitations shall not provide a basis to deny a Two-Unit Development that otherwise conforms to the requirements of this section.
- D. Ineligible Circumstances. A Two-Unit Development shall not be approved in each of the following circumstances:
1. The Two-Unit Development would require demolition or alteration of any of the following types of housing:
    - a. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
    - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
    - c. Housing that has been occupied by a tenant in the last three years.
  2. The parcel subject to the proposed Two-Unit Development is a parcel on which an owner of residential real property has exercised the owner's rights under Government Code Section 7060 et seq. (the Ellis Act) to evict tenants due to the property owner's decision to no longer use the property for rental housing within 15 years before the date that the Two-Unit Development proponent submits an application.
  3. The parcel subject to the proposed Two-Unit Development is located within a historic district or property included on the State Historic Resources Inventory, as defined in Public Resources Code Section 5020.1, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.
  4. The parcel is not located on a site which includes a structure that is a Designated Historic Resource or that meets the criteria provided in Capitola Municipal Code Section 17.84.020.B. to qualify as a Designated Historic Resource.
  5. The parcel subject to the proposed Two-Unit Development does not satisfy the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4, as provided in Section 16.78.030(C), respective to sites that meet specific



qualifications related to certain farmland, wetlands, very high fire hazard severity zones, hazardous waste sites, earthquake fault zones, special flood hazard areas, regulatory floodways, lands identified for conservation, habitats for protected species, and historic properties, unless projects on such sites meet specified conditions.

### **17.75.040 Permitting Process**

- A. Administrative Permit. A residential unit within a Two-Unit Development that complies with all standards in this chapter and CMC Chapter 16.78 shall be approved ministerially with an administrative permit. No discretionary review or public hearing is required.
  
- B. The city shall act on an application for a Two-Unit Development within sixty days from the date the city receives a completed application. If the applicant requests a delay in writing, the sixty-day time period shall be tolled for the period of the delay. The city has acted on the application if it:
  - 1. Approves or denies the building permit for the Two-Unit Development; or
  - 2. Informs the applicant in writing that changes to the proposed project are necessary to comply with this chapter.
  
- C. Coastal Permit. A proposed Two-Unit Development that is located in the coastal zone may require a coastal development permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zone) and the findings for approval of a CDP as specified in Section 17.44.130 (Findings for approval).
  - 1. A public hearing for a CDP application for a Two-Unit Development shall not be required.
  - 2. Nothing in this chapter shall be construed to supersede or in any other way alter or lessen the effect of application of the California Coastal Act of 1976 (Division 20, commencing with Section 30000, of the Public Resources Code).
  
- D. The Community Development Director shall deny the Two-Unit Development if either of the following is found:
  - 1. The Two-Unit Development fails to comply with any objective requirements imposed by this Chapter. Any such requirement or condition that is the basis for denial shall be specified by the Community Development Director in writing.

2. The building official makes a written finding, based upon a preponderance of the evidence, that the proposed development would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

E. Building Permit. A building permit may be submitted subsequent to:

1. Approval of an Administrative Permit for a Two-Unit Development; and
2. Recordation of the Urban Lot Split parcel map by the Santa Cruz County Recorder.

**17.75.050 Objective Development Standards.**

The objective development standards in this section apply to all Two-Unit Developments.

A. General. Table 17.75-1 shows development standards that apply to the individual units within a Two-Unit Development.

<b>Residential Unit within Two-Unit Development</b>	<b>Standard</b>
<b>Unit Size, Maximum</b>	800 sq. ft.
<b>Setbacks, Minimum</b>	
Front	Ground floor: 15 ft
	Second story: 20 ft.
	Garage: 20 ft
Rear	4 ft
Side yard	4 ft
<b>Height, Maximum [1]</b>	16 ft. First story
	22 ft. Second story
<b>Story, Maximum</b>	Single Story
<b>Private Open Space, Minimum</b>	48 sq. ft.

[1] Residential unit is limited to a single story and 16 ft. except as allowed pursuant 17.75.070.G: Guaranteed Allowance.

B. Parking.

1. Required Parking. One off-street parking space is required per residential unit within a Two-Unit Development, except as provided in subsection (B)(4) of this section.

2. Tandem Spaces. Required off-street parking for two separate residential units within a Two-Unit Development shall not be provided as tandem parking.
3. Parking Design.
  - a. Required off-street parking may be located within minimum required setback areas from front, side, and rear property lines.
  - b. A parking space in a required front setback area shall be a “ribbon” or “Hollywood” design with two parallel strips of pavement. The paving strips shall be no wider than two and one-half feet each and shall utilize permeable paving such as open-joint pavers and turf grids. Unpaved areas between the strips shall be landscaped with turf or low-growing ground cover.
  - c. Parking accessed from an alley shall maintain a twenty-four-foot back-out area, which may include the alley.
4. Exceptions to Required Parking. No off-street parking is required for a residential unit within a Two-Unit Development in the following cases:
  - a. The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.
  - b. There is a car share vehicle located within one block of the parcel.

#### C. Separation Between Residential Units.

1. Each unit in a Two-Unit Development shall be separated by a distance of at least ten feet from any other structure on the parcel, except as provided in subsection (C)(2) of this section and section 17.75.070.G: Guaranteed Allowance.
2. Units may be adjacent or connected if the structures meet building code safety standards and are sufficient to allow a separate conveyance.

D. Exceptions to Development Standards

1. Non-conforming Structures.

- a. No setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

**17.75.060 Objective Design Standards.**

The objective design standards in this section apply to all Residential Units within a Two-Unit Developments:

- A. Entrance Orientation. The primary entrance to each new dwelling unit shall face the front or interior of the parcel unless the unit is directly accessible from an alley or a public street.
- B. Privacy Impacts. To minimize privacy impacts on adjacent properties, the following requirements apply to walls with windows within eight feet of an interior side or rear property line abutting a residential use:
1. For a single-story wall or the first story of a two-story wall, privacy impacts shall be minimized by either:
    - a. A six-foot solid fence on the property line; or
    - b. Clerestory or opaque windows for all windows facing the adjacent property.
  2. For a second-story wall, all windows facing an adjacent property shall be clerestory or opaque.
- C. Decks and Balconies. Second story exterior decks and balconies, and rooftop decks, shall be prohibited on dwelling units constructed under this section.
- D. Exterior covered space that is attached to each dwelling unit, including but not limited to covered porches and patios, shall not exceed a total of 150 square feet, and at least one third of the square footage of the attached exterior covered space shall be attached to the front of the dwelling unit.
- E. When construction of a new dwelling unit is proposed on a parcel with an existing dwelling unit, any new dwelling unit shall utilize the same exterior materials and colors as the existing dwelling unit, subject to any restrictions on use of building materials. Where two new units are proposed to be constructed on a parcel, each unit shall utilize the same exterior materials and colors as the other unit.

**17.75.070 General Requirements**

The following requirements apply to all units within a Two-Unit Development:

A. Utility Connections.

1. Each dwelling unit constructed under this section shall be on a separate utility connection directly between each dwelling unit and the utility for water, sewer, and electrical utilities.
2. The Community Development Director shall condition approval on the dedication of any easements deemed necessary for the provision of public services to the proposed residential units and any easements deemed necessary for access to the public right-of-way.

B. Fire Sprinklers. The city shall not require a Two-Unit Development to provide fire sprinklers if they would not be required for the primary residence under the current fire code.

C. Vacation Rentals Prohibited. A Two-Unit Development may not be used for vacation rentals as defined in Chapter 17.160 (Glossary).

D. Separate Sale from Primary Dwelling. The units within a Two-Unit Development on the same lot may not be sold or conveyed separately.

E. Guaranteed Allowance. The objective development standards and objective design standards of this chapter shall not prohibit a Two-Unit Development with up to eight hundred square feet of floor area, provided the accessory dwelling unit complies with all other applicable standards. The guaranteed allowance of eight hundred square feet of floor area is in addition to the maximum floor area of a property.

F. Converting and Replacing Existing Structures.

1. If an existing structure is demolished and replaced with an accessory dwelling unit, an accessory dwelling unit may be constructed in the same location and to the same dimensions as the demolished structure.
2. The application shall not require the correction of an existing legal nonconforming zoning conditions.

G. Land Use. It shall be unlawful to use any dwelling unit under this chapter for any use other than a residential use.

**Section 6:** Environmental Review.

The City Council finds and determines that enactment of this Ordinance is statutorily exempt from the provisions of the California Environmental Quality Act ("CEQA"), pursuant to Government Code sections 65852.21(j) and 66411.7(n), as this action is to adopt an ordinance to implement the requirements of sections 65852.21 and 66411.7 of the Government Code.

**Section 7:** Effective Date.

This Ordinance shall be in full force and effect thirty (30) days from its passage and adoption except that it will not take effect within the coastal zone until certified by the California Coastal Commission. This Ordinance shall be transmitted to the California Coastal Commission and shall take effect in the coastal zone immediately upon certification by the California Coastal Commission or upon the concurrence of the Commission with a determination by the Executive Director that the Ordinance adopted by the City is legally adequate.

**Section 8:** Severability.

The City Council hereby declares every section, paragraph, sentence, cause, and phrase of this ordinance is severable. If any section, paragraph, sentence, clause, or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses, or phrases.

**Section 9:** Certification.

The City Clerk shall cause this ordinance to be posted and/or published in the manner required by law.

This Ordinance was introduced at the meeting of the City Council on the \_\_\_\_ day of \_\_\_\_\_ 2022, and was adopted at a regular meeting of the City Council on the \_\_\_\_ day of \_\_\_\_\_ 2022, by the following vote:

AYES:  
NOES:  
ABSENT:

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Sam Story, Mayor

Attest: \_\_\_\_\_  
Chloe Woodmansee, City Clerk

Approved as to form:

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Samantha Zutler, City Attorney