

City of Capitola

City Council Meeting Agenda

Thursday, April 28, 2022 – 7:00 PM



City Council Chambers
420 Capitola Avenue, Capitola, CA 95010

Mayor: Sam Storey
Vice Mayor: Margaux Keiser
Council Members: Jacques Bertrand, Yvette Brooks, Kristen Brown

Closed Session – 6:15 PM

Closed Sessions are not open to the public and held only on specific topics allowed by State Law (noticed below). An announcement regarding the items to be discussed in Closed Session will be made in the City Hall Council Chambers prior to the Closed Session. Members of the public may, at this time, address the City Council on closed session items only. There will be a report of any final decisions in City Council Chambers during the Open Session Meeting.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Initiation of litigation pursuant to Gov't Code § 54956.9(d)(4).
One potential case

CONFERENCE WITH LABOR NEGOTIATORS
(Gov't Code § 54957.6)
Negotiator: Larry Laurent
Employee Organizations: (1) Association of Capitola Employees; (2) Police Captains; (3) Mid-Management Group; (4) Department Heads; (5) Confidential Employees; (6) Capitola Police Officers Association

REVISED

Regular Meeting of the Capitola City Council – 7 PM

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

1. Roll Call and Pledge of Allegiance

Council Members Jacques Bertrand, Yvette Brooks, Kristen Brown, Vice Mayor Margaux Keiser, and Mayor Sam Storey

2. Additions and Deletions to the Agenda

3. Presentations

Presentations are limited to eight minutes.

[A.](#) Acknowledge Local Government Academy Class of 2022

4. Report on Closed Session

5. Additional Materials

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

A. **Item 9.E - eight public comment emails**

6. Oral Communications by Members of the Public

*Please review the Notice of Remote Access for instructions. Oral Communications allows time for members of the Public to address the City Council on any “Consent Item” on tonight’s agenda, or on any topic within the jurisdiction of the City that is not on the “General Government/Public Hearings” section of the Agenda. Members of the public may speak for up to three minutes, unless otherwise specified by the Mayor. 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. A **maximum of 30 minutes** is set aside for Oral Communications.*

7. Staff / City Council Comments

Comments are limited to three minutes.

8. Consent Items

All items listed as “Consent Items” will be enacted by one motion in the form listed below. There will be no separate discussion on these items prior to the time the Council votes on the action unless members of the City Council request specific items to be discussed for separate review. Items pulled for separate discussion will be considered following General Government. Note that all Ordinances which appear on the public agenda shall be determined to have been read by title and further reading waived.

A. Consider the minutes from the April 14, 2022, regular City Council meeting

Recommended Action: Approve minutes.

B. Consider Adding a Section to the Municipal Code in Accordance with Assembly Bill 481

Recommended Action: Pass an ordinance adding Section 2.60 to the Capitola Municipal Code, approving a Military Equipment Use Policy for Police Services.

C. Receive Update on Pandemic Response and Consider Adopting Proposed Resolution Allowing for the Continuation of Teleconferencing

Recommended Action: 1) Make the determination that all hazards related to the worldwide spread of the coronavirus (COVID-19) as detailed in Resolution No. 4168 adopted by the City Council on March 12, 2020, still exist and there is a need to continue action; and 2) Adopt the proposed resolution authorizing the City Council (along with the Planning Commission and all advisory bodies) to continue to conduct teleconferencing meetings.

9. General Government / Public Hearings

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

A. Approval of Plans, Specifications, and Budget for the Clares Street Traffic Calming Project

Recommended Action: Approve the plans, specifications, and construction budget of \$1,153,000 for the Clares Street Traffic Calming Project and authorize the Department of Public Works to advertise for construction bids.

B. Presentation Regarding Senate Bill 9 and Draft City Ordinance

Recommended Action: Accept staff presentation.

- C.** Presentation on Objective Standards for Multifamily and Mixed-Use Residential and Related Upcoming Proposed Ordinance

Recommended Action: Accept staff presentation.

- D.** Temporary Village Parking Committee Goals and Appointments

Recommended Action: Approve the goals for the Temporary Village Parking Committee, consider applications, and make appointments to the committee including three Village business representatives, three City residents, one member of the Finance Advisory Committee, and two members of City Council.

- E.** Temporary Outdoor Dining Program

Recommended Action: 1) Receive a report on the coastal commission certification of Ordinance 1050: Outdoor Dining in the Public Right of Way; and 2) Consider adopting the proposed resolution extending the COVID-19 temporary outdoor dining use permits with new modified conditions, including fees.

10. Adjournment

Notice of Remote Access

In accordance California Senate Bill 361, the City Council meeting is not physically open to the public and in person attendance cannot be accommodated.

To watch:

- Online <http://cityofcapitola.org/meetings>
- Spectrum Cable Television channel 8
- Youtube

Join Zoom by Computer or Phone:

- Click this meeting link:
<https://us02web.zoom.us/j/81492483812?pwd=bnJjN25aYkRhRHlUajAzM3o1cnpDQT09>
- Or call one of these phone numbers:

1 (669) 900 6833 or 1 (408) 638 0968 or 1 (346) 248 7799

- Meeting ID: **814 9248 3812**
- Meeting Passcode: **426714**

To submit public comment:

When submitting public comment, one comment (via phone or email, not both), per person, per item is allowed. If you send more than one email about the same item, the last received will be read.

- Zoom Meeting (Via Computer or Phone) Link:

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 *9 on your phone to “raise your hand” when the mayor calls for public comment. Once unmuted, you will have up to 3 minutes to speak

- **Send Email:** During the meeting, send comments via email to publiccomment@ci.capitola.ca.us

- Emailed comments on items will be accepted after the start of the meeting until the Mayor 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 outside of the comment period outlined above will not be included in the record.

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

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

Agenda and Agenda Packet Materials: The City Council Agenda and the complete Agenda Packet are available for review on the City’s website: www.cityofcapitola.org and at Capitola City Hall prior to the meeting. Agendas are also available at the Capitola Post Office located at 826 Bay Avenue Capitola. Need more information? Contact the City Clerk’s office at 831-475-7300.

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

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

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

Capitola City Council

Agenda Report

Meeting: April 28, 2022

From: City Manager Department

Subject: Acknowledge Local Government Academy Class of 2022



Background/Discussion: On a semi-annual cycle, the City puts on a Local Government Academy to provide information to interested residents about how local government provides services to the community. The Academy is a series of informational presentations and discussions on the City's government, administration, programs, and partnerships with other local agencies. In March and April, nearly 25 local community members attended the 2022 Local Government Academy. Presentations were made regarding all City departments, and several outside agencies also presented including the Central Fire District, Santa Cruz Public Library System, the Soquel Union Elementary School District, and the Soquel Creek Water District.

Report Prepared By: Chloé Woodmansee, City Clerk, Larry Laurent, Assistant to the City Manager

Approved By: Jamie Goldstein, City Manager



April 28, 2022

Capitola City Council
420 Capitola Ave.
Capitola, CA 95010

VIA EMAIL

Re: April 28, 2022 Meeting Agenda Item 9E, Temporary Outdoor Dining

Mayor and Councilmembers:

I am writing on behalf of my business, Sante Adairius Rustic Ales, located at 101-105 Kennedy Drive within the City of Capitola (the "City"). Specifically, I write in support of the City's continuation of the Outdoor Dining Program both outside of the village (where my business is located) and inside the village.

As you are aware, the onset and continuation of the Covid-19 pandemic has been a significant challenge to all small businesses, but in particular, businesses like mine that rely on in-person patronage from locals and tourists. As the pandemic raged on and small restaurants, bars, and breweries continued to suffer, outdoor dining was deemed somewhat "safe." In response, both the State of California and the City offered us a lifeline by approving the use of outdoor space adjacent to our existing premises for outdoor dining. This approved use allows us to serve the public (and keep our business afloat) while keeping our staff and our customers safe.

My brewery applied for and received outdoor dining permits from the City and the California ABC in the summer of 2021, and we proceeded to erect an outdoor area completely within the confines of our privately-owned parking area. This outdoor space has been instrumental to my brewery's continued survival and success, and losing it at this juncture, when we have not fully recovered from the pandemic, would likely cause us economic harm.

In constructing the approved outdoor dining areas, many small businesses spent thousands of dollars. Indeed, we at Sante Adairius spent over Fifteen Thousand Dollars (\$15,000) just to

construct our outdoor space. Given our substantial investment, we take seriously our commitment to maintaining the space, and we regularly pay someone to replace dead or dying plants. I have attached photos of our outdoor dining area for your review. These are investments we made in our business, but also in our customer community; a community that routinely tells us how much they enjoy being able to sit outside and enjoy the near-perfect climate of our lovely City. As such, Sante Adairius plans to apply for a permanent permit once they become available. In the meantime, it would be onerous for us to completely deconstruct our outdoor dining area next month as scheduled.

In sum, I urge the council to continue the temporary outdoor dining permits on both public and private land until such time that permanent outdoor dining permits become available for application and issuance. I appreciate your time and attention to this matter. Please feel to email me directly at Adair@RusticAles.com if you have any additional questions or would like a tour of our outdoor space.

Best,

/s/ Adair Paterno

Adair Paterno
Co-Owner, Sante Adairius Rustic Ales
101-105 Kennedy Dr.
Capitola, CA 95010



Woodmansee, Chloe

From: anthony kresge <chefkresge@gmail.com>
Sent: Thursday, April 28, 2022 5:25 PM
To: City Council
Subject: Outdoor parklet meeting

To all City Council and Planning commissioners of Capitola City

I never knew until a month ago how important parklets are for visitors and locals. I have nothing but incredible response about the parklet and outdoor space for our patrons. I believe that if any council members are actually business owners in this iconic village, then they would agree with the benefits providing outdoor options for all patrons. There are many patrons that wear masks, and for whatever reason they choose, its our responsibility to provide them a safe space where they can comfortably dine. For many other cities across the nation including Santa Cruz, parklets have had incredible benefits

1. My parklet was carefully designed with the intent of space, comfort and layout. With the design that has been proposed, it is spacious, green and neat.

2. My parklet is safe

3. My parklet has allowed me and many others to grow business these past couple of years, mine being more recent however, it has grown my participation rate by nearly 20%.

4. I am in agreement to pay for my space however, I do think we need to discuss rates and location (I have taken over a 24 minute parking) Although I have extended my seating capacity where I didn't have any prior, I feel responsible to participate with the injection costs otherwise collected for parking fees.

In conclusion; I ask the council and planning dept to identify some or all of these facts for local dining business growth. Let's make this village great, come together and collectively think of a solution in line of the successful parklet towns.

This ultimately may weigh heavily on my longevity here in Capitola Village.

Respectfully,

*Anthony Kresge
Chef/Owner
Reef Dog Deli*



Sent from my iPad

Woodmansee, Chloe

From: AnnMarie@CapitolaWineBar.com
Sent: Thursday, April 28, 2022 10:42 AM
To: City Council
Subject: Capitola Outdoor Dining - Public Comment Attached
Attachments: Outdoor Dining Area 220425.docx

Hello,

Please see attached document for tonight's meeting. I would like this to be entered into the Public Comment and read at the meeting.

Thanks

--

Ann Marie Conrad
Owner
Capitola Wine Bar & Merchants

www.capitolawinebar.com
[instagram.com/capitolawinebar](https://www.instagram.com/capitolawinebar)
[facebook.com/capitolawinebar](https://www.facebook.com/capitolawinebar)

Thoughts on Outdoor Dining Area (ODA)

- We have analyzed our own data for consideration of how to proceed and looking at return on investment
 - We have spent over \$8,700 on our ODA between furniture, decorations and upkeep
 - In July 2021, 35% of our revenue came from the ODA
 - In April 2022, only 10% of our revenue came from the ODA (when city's survey was done)
- The city has a district tax on top of sales tax. The value of this added income to the city will help offset the loss in parking revenue. Hence the city needs to not only look at the loss of parking revenue but also the increase in sales tax dollars it has benefited since the creation of the ODA's.
 - The outdoor dining adds an ambience to the Village life that if taken away leads to one less reason for guests to come to the village. The businesses suffer as well as the city from the lost tax revenue.
- The proposed square foot price, or \$238/month per parking spot should be reduced
 - We propose a discounted rate at half of this full amount, \$119/month until a more permanent solution is put into place for next season, or when Senate Bill SB-314, and Assembly Bill No. 61 expires in July 2024. Giving a larger window of ODA occupancy allows the business to budget accordingly to keep the ODA's in tip top shape.
 - Perhaps the new parking ad-hoc committee review could slightly raise hourly rates to offset the deficit
- The timetable when the survey was completed on Item 9E isn't the best timing for patron flow
 - It's painfully obvious from your report that we don't have the number of patrons pre-pandemic visiting the village. There are still empty parking spots even on Saturdays.
 - Noon (survey time) – On Friday, Saturday and Sunday, this is when we open – patrons aren't seated yet
 - 6pm (survey time) - On Sunday, this is our one day when we close early
 - After sunset the outdoor dining area occupancy increases
 - Had the survey picked up the Saturday night at 7pm, occupancy rates are significantly higher.
 - Weather is an enormous factor in the enjoyment of ODA The dates picked were on the cooler side.
 - Suggest revisiting this survey with July statistics, traditionally a busier time. Pick a weekend, like July 15th, 16th & 17th at Noon and also at 7:30pm, as the sun sets later and review the astounding differences.
 - Also, it would have been a more comprehensive study to include how many parking spots were also vacant during these surveys.

Regarding the design

- We believe that a uniform look of the base is desirable.
 - Safety of patrons should be a top consideration, include traffic bollards
 - The plan should consider how to have string lights easily installed.
 - A line of definition to separate businesses as there are different hours, clientele, cleanliness standards and ABC licenses.
 - Each restaurant is unique in their design and should be reflected in the ODA If too similar it can cause confusion for the guests as to which restaurant oversees a particular area.
 - Requiring us to purchase new outdoor furniture when we already have invested in this portion of the ODA is not a green business practice. New furniture requirements *should not* be part of the plan.
 - It should be also known that furniture is a reflection an establishment's design. Please don't make us purchase new furniture that may not match our business model and add to unnecessary additional expenses.
- Most establishments that have an ODA also hold a Liquor License. Please design in accordance to ABC standards. (i.e.: railings, separations from sidewalk and public)

To conclude, our businesses expenses have dramatically increased in just the past three months. Please consider a reduced rate for the rental rate to extend until a more permanent plan is accepted. We are still in a process of rebuilding. Please consider the guidelines set by the Senate and Assembly bills to allow and extend the time of occupancy beyond July 2022. Thank you.

Woodmansee, Chloe

From: doug@capitolawinebar.com
Sent: Thursday, April 28, 2022 12:35 PM
To: City Council
Subject: Public comment Parklett

Honorable city Council,

Doug Conrad here, owner, with my wife Ann Marie, of Capitola Wine Bar and Merchants on San Jose Ave.

Sorry for the broken record, but history for your edification again. In 2017 we had an approved plan to build a parkett. Approved by the council, coastal commission, ABC, and the property owner, we were and ready to build our redwood parkeltt with lots of seating, plants, bike racks, soft lighting, and most of all a safe place to enjoy outside dining. We pulled away at the last moment as the fees due the city would have been too much of a cash flow risk. So here we are again reinventing something that has already been done. Again the city is welcome to use these approved plans at no cost. The design from 2017 is much better, but more about design later.

In front of you a survey that is loaded with inaccuracies. You cannot use this flawed survey to base any decision on. Planning is welcome to have accurate data from our point of sale for a real time picture of the outdoor dining use. Unfortunately the surveys were taken when business were not open in the mornings, during cold weather, and during tax time, a notorious slow time in retail and service industry. A key metric is missing on this survey...how many parking spaces were also empty at these survey times. Planning stated that "the use has gone down due to seating being available inside" is not true. Many days we have more customers outside than in. Customers still have fear of seating inside, customers are still wearing masks, and our village is not back as it was before. Parking spots go empty even on Saturdays for hours and hours. When you're in the trenches, as we are, it's obvious we are still in recovery mode.

Operationally we whole hardily agree anyone benefiting from a parklett must be open a minimum of five days (and it should be added at least 6 hours or more each day). The resolution should include verbiage to the effect that the program is for restaurants and bars. The future program should not be open to business like retail, food carts, hot dog carts, food trucks, etc.

The benches were put up to protect our customers from traffic, not ideal, but a suggestion from planning of replacing with a planter is worse protection. I suggest that the benches (only two) remain on San Jose ave or traffic bollards be installed in their place. Our customers need to be protected from cars, the liability for all parties is too great.

A refundable deposit of \$500 or more is a good idea. We believe a financial commitment to the city for this program is justified. But we are in a recovery mode, losses incurred during the pandemic are still being addressed. With this in mind we suggest the proposed lease fees be .075 sq foot until a final program is approved. This would help the city recover some parking losses while helping the business recover losses and rebuild.

One thing of important note, the city benefits not only from regular sales tax income, but also a special City of Capitola District tax income. These two taxes will increase with the addition of outdoor dining. This increase in both tax incomes to the city will help offset the loss of parking. It does not seem fair the city would charge the entire loss of the parking spot income, then also benefit from an increase in taxes income from that same spot, that's a double dip for the city!

Back to design briefly. We were greatly disappointed in the parkett design presented to planning. It is unsafe, will not pass ABC rules, will not work operationally, does not allow access below for utilities, looks cheap, and does not seat enough people to make enough income. It is not a design we can buy into or had any input into. Our original design had twice as many seats, took advantage of the view with bar seating, and would be a pleasing architectural addition the village, but most of all it was safe. The prefabricated modular landscape roof decking design proposed by a landscape architect will fail on many levels. Planning should work hand in hand with the business to create a design that works, after all it's us buying, building, and operating these parkletts.

Woodmansee, Chloe

From: petergwilk@gmail.com
Sent: Wednesday, April 27, 2022 6:06 PM
To: City Council
Cc: Herlihy, Katie (kherlihy@ci.capitola.ca.us)
Subject: Outdoor dining

I just read Mr. Termini's letter. I agree that there is now enough information to make a long term decision. May I remind the council that the planning commission recommended limiting the locations permitted. Nothing on Monterey or Capitola Ave. This kind of limitation would help the various event planners going forward.

Regards,
Peter Wilk

Sent from my iPhone

I urge the council to make a motion to continue the temporary outdoor dining program with the addition of a large c and reasonable monthly fees. During this time, together we can work towards a safe design we all be proud of that benefits our village for the long term.

Thank you,

Doug Conrad

Owner

Capitola Wine Bar

Woodmansee, Chloe

From: michael termini <4766206@gmail.com>
Sent: Monday, April 25, 2022 11:49 AM
To: Public Comment
Subject: Item 9E temporary outdoor dining

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Capitola City Council:

I am writing on behalf of the Capitola Safety Foundation. As you know, our organization holds the annual car show in the village in June of each year. While we have not been able to hold this event for two years, 2022 is the year we are bringing it back.

Much talk around town has suggested that the car show is a rationale for removing the parklets to make room for more cars. This is not and has never been our position. The parklets do, however, pose a logistical issue for the Foundation. First, they do take up valuable display space for our entries but we can adjust to this. Second, and more important, many of our entries do not wish to have their cars placed adjacent to a restaurant's service area because of the risk of diners and employees inadvertently damaging their automobiles. What this means is that not only do we lose the spaces occupied by the parklets but also several spaces on each side.

We also recognize the importance of these parklets to many of our restaurants. In short, the well being of some of our village businesses should never be jeopardized by a two day a year event. What we are asking is for clear direction and decisive action by our City Council. Just delaying any decisions by keeping a temporary condition in place helps no one. We would very much like to know exactly how to proceed with our event, and the only way that can happen is if you give clear direction.

We respectfully suggest that those willing to secure a parklet pay a sum of money to the city to indicate their intentions. Those not willing to commit at this time should have their parklet removed immediately after the first weekend in June. This will enable us to make plans on how to arrange our show. We do acknowledge that the more parklets in place will seriously dilute the show, but for the sake of the city we certainly understand.

Please do not leave the Foundation and the city in limbo regarding our village and the restaurant's future. Make a decision as you see fit.

Respectfully,

Michael Termini
President
Capitola Public Safety Foundation

Woodmansee, Chloe

From: Carin Hanna <carinhanna@aol.com>
Sent: Monday, April 25, 2022 10:39 AM
To: City Council
Subject: Item 9e

Follow Up Flag: Follow up
Flag Status: Flagged

Regarding the 4 criteria for parklets in Capitola Village:

A 5th requirement should be added. The businesses with parklets should be required to have their BIA past and present dues paid in full. You would not allow a business that has not paid their business license to have a parklet, the same should apply to BIA dues as they are a legal requirement of the city. Please add this requirement to the temporary extension, if approved, and to the permanent parklet requirements.

Thank you,
Carin Hanna

Capitola City Council Agenda Report

Meeting: April 28, 2022

From: City Manager Department

Subject: Consider the minutes from the April 14, 2022, regular City Council meeting



Recommended Action: Approve minutes.

Discussion: Attached for Council review and approval are the draft minutes from the regular City Council meeting held on April 14, 2022.

Attachments:

1. April 14 draft

Report Prepared By: Chloé Woodmansee, City Clerk

Reviewed/Approved By: Jamie Goldstein, City Manager

City of Capitola

City Council Meeting Minutes

Thursday, April 14, 2022 – 7:00 PM



City Council Chambers
420 Capitola Avenue, Capitola, CA 95010

Mayor: Sam Storey

Vice Mayor: Margaux Keiser

Council Members: Jacques Bertrand, Yvette Brooks, Kristen Brown

Closed Session – 6 PM

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
[Govt. Code §54956.8]
Property: 4400 Jade Street, APN 034-551-02, Capitola, CA
City Negotiator: Jamie Goldstein, City Manager
Negotiating Parties: Soquel Union Elementary School District
Under Negotiation: Terms of Joint Use Agreement

Regular Meeting of the Capitola City Council – 7 PM

1. Roll Call and Pledge of Allegiance

Council Members Kristen Brown, Jacques Bertrand, Margaux Keiser, Mayor Sam Storey, and Yvette Brooks

2. Additions and Deletions to the Agenda

3. Presentations

A. Introduction of new Capitola City Manager Department Staff Member Louis Osemwegie and Recreation Division Staff Member Jesse Leyva

Louis Osemwegie, Deputy City Clerk, and Jesse Leyva, Recreation Coordinator, were introduced.

4. Report on Closed Session

5. Additional Materials

6. Oral Communications by Members of the Public

Linda Smith spoke in favor of extending the temporary outdoor dining use permits in the Village. She also asked that Council consider adopting less strict prototype designs for the longer-term program allowing for a variety of styles and furnishings.

7. Staff / City Council Comments

Community Development Director Herlihy said that the Coastal Commission review of the Outdoor Dining Ordinance has caused some delays in getting the program up and running.

Council Member Bertrand thanked staff for dealing with a complicated project approval at Planning Commission.

Council Member Brooks announced that Central Coast Community Energy has incentive programs for e-bikes and e-vehicles. She said that the Children's Network has adopted an action awareness strategic plan and encouraged that Council, Staff, and community members keep their fingers crossed regarding an earmark request to Congressman Panetta for Capitola Wharf funding.

8. Consent Items

Motion: Approve, determine, and adopt as recommended

Result: Passed, 5:0 (Unanimous)

Mover: Council Member Brown

Second: Vice Mayor Keiser

Yea: Mayor Storey, Vice Mayor Keiser, Council Member Bertrand, Council Member Brooks, Council Member Petersen

- A. Consider the March 24, 2022, City Council Meeting Minutes
Recommended Action: Approve minutes.
- B. Approval of City Check Registers Dated March 4, March 11, March 18 and March 25, 2022
Recommended Action: Approve check registers.
- C. Receive Update on Pandemic Response and Consider Adopting Proposed Resolution Allowing for the Continuation of Teleconferencing
Recommended Action: 1) Make the determination that all hazards related to the worldwide spread of the coronavirus (COVID-19) as detailed in Resolution No. 4168 adopted by the City Council on March 12, 2020, still exist and there is a need to continue action; and 2) Adopt the proposed resolution authorizing the City Council (along with the Planning Commission and all advisory bodies) to continue to conduct teleconferencing meetings.

9. General Government / Public Hearings

- A. Report on Community Grant Program Review
Recommended Action: Receive report and provide direction.

Assistant to the City Manager Laurent introduced Nicole Young and Nicole Lezin, who presented an overview of possible updates to the City's Community Grant Program with the goal of improving the program and simplifying the application and selection process.

Council Member Brooks asked for more clarification on GuideStar.

Council Member Bertrand asked about organizations with goals that surpass Capitola alone, and if the City can collaborate with other Cities to address as shared need such as affordable child care.

There was no public comment.

After some discussion, Council reached consensus that further analysis of the presentation was needed before making official decisions on if/how to change the Community Grant Program.

Motion: Appoint Council Members Brown and Brooks to a committee for further review of the recommendations regarding the Community Grants Program, with the intention of reporting back to the full Council in May 2022

Result: Passed, 5:0 (Unanimous)

Mover: Vice Mayor Keiser

Second: Council Member Bertrand

Yea: Mayor Storey, Vice Mayor Keiser, Council Member Bertrand, Council Member Brooks, Council Member Petersen

B. Consider a Community Survey Contract

Recommended Action: Authorize the City Manager to enter a contract with Gene Bregman and Associates in an amount not to exceed \$17,000 for a community survey to help gauge public interest on potential ballot measures for the November election and approve the proposed resolution amending the FY 2021/22 Budget.

City Manager Goldstein introduced Gene Bregman to discuss a polling contract.

In response to a question about inflation from Council Member Bertrand, Mr. Bregman agreed that any tax may be slightly more challenging than normal to pass, but that it is not impossible for taxes to pass under these circumstances.

City Attorney Zutler clarified that a general tax, with money going into the general fund, needs a simple majority vote to pass. A special tax, with money going to a specific fund or project, requires a two-thirds vote to pass.

In response to a question, City Manager Goldstein said that ideas on enforcing a second home tax would be included in the survey if Council wants to poll this type of tax.

Council Member Brooks asked which type of tax would likely be more effective or generate the most revenue; City Manager Goldstein acknowledged that the taxes represent different orders of magnitude, and that if the polling contract is approved staff will conduct research into the different taxes to determine which was most sensible.

There was no public comment.

Motion: Approve Community Survey contract not to exceed \$17,000

Mover: Vice Mayor Keiser

Second: Council Member Bertrand

Result: Amended by Council Member Brown

Amendment: Approve Community Survey Contract not to exceed \$17,000, including questions regarding a Second Home Tax and a Sales Tax and excluding questions about a Utility Users Tax.

Result: Passed, 5:0 (Unanimous)

Yea: Mayor Storey, Vice Mayor Keiser, Council Member Bertrand, Council Member Brooks, Council Member Petersen

- C. Adopt a Resolution Declaring an Emergency for Storm Drain Repairs in Noble Gulch Park

Recommended Action: Adopt a resolution that 1) declares an emergency, 2) authorizes procurement and services without giving notice for bids pursuant to Public Contract Code Section 22050 and authorizing staff to enter a contract for such services with Graniterock Construction for repairs to a storm drain located in Noble Gulch Park at the intersection of Bay Avenue and Monterey Avenue and 3) approves a budget amendment transfer of \$60,000 from Emergency Reserve Fund to the Capital Improvement Project fund and authorize the creation of a new project entitled Noble Gulch Park Storm Drain Project.

Public Works Director Jesberg presented on the emergency.

There was no public comment

Motion: 1) Adopt the resolution, 2) Authorize procurement of services 3) Approve budget amendment

Result: Passed, 5:0 (Unanimous)

Mover: Council Member Brown

Second: Council Member Bertrand

Yea: Mayor Storey, Vice Mayor Keiser, Council Member Bertrand, Council Member Brooks, Council Member Petersen

- D. Consider Adding a Section to the Municipal Code in Accordance with Assembly Bill 481

Recommended Action: Introduce for first reading, by title only, waiving the full reading of the text, an ordinance adding Section 2.60 to the Capitola Municipal Code, approving a Military Equipment Use Policy for Police Services.

Police Chief Dally presented a staff report.

There was no public comment

Council Member Bertrand said he appreciated that personal weapons were being disclosed, though they are not required to be.

Motion: Pass first reading of proposed ordinance, including the correction made by Chief Dally, adding section 2.60 to Capitola Municipal Code

Result: Passed, 5:0 (Unanimous)

Mover: Council Member Brown

Second: Council Member Brooks

Yea: Mayor Storey, Vice Mayor Keiser, Council Member Bertrand, Council Member Brooks, Council Member Petersen

10. Adjournment

The meeting adjourned at 9:15pm to the next regular City Council meeting on April 28, 2022.

Capitola City Council

Agenda Report

Meeting: April 28, 2022

From: Police Department

Subject: Consider Adding a Section to the Municipal Code in Accordance with Assembly Bill 481



Recommended Action: Pass an ordinance adding Section 2.60 to the Capitola Municipal Code, approving a Military Equipment Use Policy for Police Services.

Background: Effective January 1, 2022, Assembly Bill 481 (codified in Government Code §7070, et seq.) requires legislative bodies to adopt ordinances approving military equipment use policies before law enforcement agencies engage in specified activities related to the use of what the state legislature has now defined as “military equipment” in Government Code §7070. The Capitola Police Department has some equipment that qualifies as “military equipment” in inventory and engages in critical public safety activities in coordination with other local jurisdictions, which will be prohibited within 180 days unless an ordinance meeting the requirements of the Government Code §7071 is adopted.

City Council approved a first reading of the proposed ordinance on April 14, 2022.

Discussion: The Capitola Department (CPD) does not possess any tactical equipment that it has obtained from the military, nor does it possess any equipment that was designed for military use. Notwithstanding, California Government Code § 7071(b) requires that law enforcement agencies submit a proposed Military Equipment Use Policy to their governing board for approval.

The proposed ordinance (Attachment 1) would approve a Military Equipment Use Policy (Attachment 2) that is consistent with the Police Department’s current policy and meets the relevant requirements of AB 481. As required by Government Code §7071(b), the proposed policy was posted on the Department’s website at: www.cityofcapitola.org/police on March 13, 2022. If adopted, the Police Department would be responsible for ensuring that all provisions of Government Code §§7071 and 7072 are met. The Council would be required by law to review the ordinance and policy at least annually and can renew it or make any necessary changes.

The proposed policy approves the continued use of equipment currently in the Police Department’s inventory by authorized and trained personnel when the use is necessary to maintain safety.

The proposed policy would also allow the continued collaboration with other law enforcement agencies in the deployment or other use of military equipment within the City when exigent circumstances require a swift response. The Department works closely with other local, county, state, and federal law enforcement agencies on police-related matters, including safeguarding the public’s welfare and safety, working on regional task forces, conducting training exercises, providing mutual aid, and responding to emergencies. In exigent circumstances, there is sometimes the need to deploy military equipment from or lend military equipment to outside entities to promote the safety and security of community members. When military equipment is used under exigent circumstances, the proposed ordinance requires reporting on the use to the City Council within a specified time frame.

Government Code §7071(d)(1) sets forth the findings that Council must make to adopt the proposed policy and ordinance. Staff believes that Council can make the required findings because:

1. Authorizing the use of military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety. The acquisition and use of this equipment are part of the Capitola Police Department's overall approach to Critical Incident Management, Use of Force, De-Escalation, and public safety. The equipment will enable department members to properly respond to both planned and unplanned events efficiently and effectively.
2. The proposed Military Equipment Use Policy will safeguard the public's welfare, safety, civil rights, and civil liberties by ensuring required reporting, the opportunity for community engagement and feedback, and transparency and oversight regarding the acquisition and use of the specified military equipment in the City of Capitola.
3. Prior military equipment use complied with the military equipment use policy that was in effect at the time of the use.

Fiscal Impact: There would not be any new, unplanned direct fiscal impacts to continuing the use of equipment already in the Department's inventory or continuing to collaborate with other law enforcement agencies, including in mutual aid circumstances. Maintenance costs of existing equipment are within the Department's budget.

There will be staff time associated with compliance, annual review, reporting, and community engagement meetings, all of which are required pursuant to applicable provisions of the Government Code.

Public Notice: The proposed Military Equipment Use Policy was made public via the Police Department's website at least 30 days before the April 14, 2022, Council Meeting. Instead of the full text of the ordinance being published within 15 days after passage, the City Clerk has directed a summary of the proposed ordinance be published in the Santa Cruz Sentinel on April 22, 2022 and will publish and post the ordinance summary within 15 days of its adoption.

Attachments:

1. Proposed Ordinance
2. Proposed Military Use Policy #706
3. Capitola Police Department Equipment

Report Prepared By: Andrew Dally, Chief of Police

Reviewed By: Chloé Woodmansee, City Clerk; Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA, CALIFORNIA, ADDING CHAPTER 2.60 TO THE CAPITOLA MUNICIPAL CODE, APPROVING A MILITARY EQUIPMENT USE POLICY FOR POLICE SERVICES

WHEREAS, effective January 1, 2022, Assembly Bill 481 (AB 481) (Government Code sections 7071 *et. seq.*) sets forth a process by which law enforcement agencies are to obtain approval from their governing bodies of a military equipment use policy through the adoption of an ordinance; and

WHEREAS, pursuant to Government Code Section 7071(a)(1), such an ordinance must be timely adopted before a law enforcement agency may acquire or use new or existing military equipment and engage in other specified activities; and

WHEREAS, the Capitola Police Department currently has military equipment (as that term is defined in Government Code section 7070(c)) in its inventory; and

WHEREAS, the Capitola Police Department works closely with other local, county, state and federal law enforcement agencies within Santa Cruz County on police related matters, including safeguarding the public's welfare and safety, working on regional task forces, conducting training exercises, providing mutual aid and responding to emergencies; and

WHEREAS, in exigent circumstances, there is sometimes the need to deploy military equipment from or lend military equipment to outside entities to promote the safety and security of community members; and

WHEREAS, the continued collaboration with other law enforcement agencies in the deployment or other use of military equipment within the City is necessary to safeguard the public's welfare, safety, civil rights and civil liberties and there is no reasonable alternative that can achieve the same objective of officer and civilian safety; and

WHEREAS, Capitola Police Policy 706 sets forth a military equipment use policy that is consistent with the Police Department's current practices, has been posted on the Department's website for at least thirty (30) days, complies with all the requirements of AB 481, will ensure ongoing regulation and compliance with the law going forward and will provide a means of community engagement and transparency regarding use of military equipment by the Department; and

WHEREAS, public notice has been provided in accordance with applicable law; and

WHEREAS, the City Council desires to approve a military use policy in compliance with AB 481.

NOW, THEREFORE, the City Council of the City of Capitola, California, **DOES HEREBY ORDAIN** as follows:

Section 1. All of the statements and facts set forth above in the recitals are true and correct and incorporated herein by this reference. The recitals constitute findings in this matter and, together with the staff report, other written reports, public testimony and other information contained in the record, are an adequate and appropriate evidentiary basis for the actions taken in this ordinance.

Section 2. The City Council finds that this ordinance and Capitola Police Policy 706 are exempt from the provisions of the California Environmental Quality Act (“CEQA”) because they will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not a “project,” as defined in Section 15378 of the CEQA Guidelines.

Section 3. The Capitola Municipal Code is hereby amended to add Chapter 2.06 to read as follows: See Exhibit A attached hereto.

Section 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 5. Effective Date. This ordinance shall be effective thirty (30) days after its adoption. Within fifteen (15) days after its adoption, the City Clerk of the City of Capitola shall cause this ordinance to be published pursuant to the provisions of Government Code Section 36933.

PASSED, ADOPTED, AND APPROVED by the City Council of the City of Capitola at a regular meeting thereof this ____ day of _____ 2022 by the following vote to wit:

AYES:

NAYS:

ABSTAIN:

ABSENT:

Mayor of the City of Capitola, California

ATTEST:

City Clerk

City of Capitola, California

EXHIBIT A
Amendment to Capitola Municipal Code adding Chapter 2.60

ADDING A NEW CHAPTER 2.60 TO THE CAPITOLA MUNICIPAL CODE REGARDING POLICE ACQUISITION AND USE OF "MILITARY EQUIPMENT"

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

Section 1. The Capitola Municipal Code Chapter 2.60 is amended to read as follows:

Chapter 2.60

"MILITARY EQUIPMENT" USE ORDINANCE

Sections:

2.60.010 Name of Ordinance

2.60.020 Definitions

2.60.030 Military Equipment Use Policy Requirement

2.60.040 Use In Exigent Circumstances

2.60.050 Reports on the Use of Military Equipment

2.60.060 Severability

2.60.010 Name of Ordinance

- A. This Ordinance shall be known as the Military Equipment Use Ordinance.

2.60.020 Definitions

- A. "Military Equipment" includes all of the following (Per Cal. Gov. Code §7070):
 1. Unmanned, remotely piloted, powered aerial or ground vehicles.
 2. Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.
 3. High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.
 4. Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
 5. Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
 6. Weaponized aircraft, vessels, or vehicles of any kind.
 7. Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.
 8. Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.

9. Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.
 10. Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.
 11. Any firearm or firearm accessory that is designed to launch explosive projectiles.
 12. "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls," excluding standard, service-issued handheld pepper spray.
 13. Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device (LRAD).
 14. The following projectile launch platforms and their associated munitions: 40mm projectile launchers, "bean bag," rubber bullet, and specialty impact munition (SIM) weapons.
 15. Any other equipment as determined by a governing body or a state agency to require additional oversight.
 16. Notwithstanding paragraphs (1) through (15), "Military Equipment" does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.
- B. "City" means any department, agency, bureau, and/or subordinate division of the City of Capitola.
- C. "Police Department" means any division, section, bureau, employee, volunteer and/or contractor of the Capitola Police Department.
- D. "City Council" means the governing body that is the Capitola City Council.
- E. "Military Equipment Use Policy" means a publicly released, written document that includes, at a minimum, all of the following:
1. A description of each type of Military Equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the Military Equipment.
 2. The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of Military Equipment.
 3. The fiscal impact of each type of Military Equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.
 4. The legal and procedural rules that govern each authorized use.
 5. The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of Military Equipment to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the Military Equipment use policy.
 6. The mechanisms to ensure compliance with the Military Equipment use policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.
 7. For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type

of Military Equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

- F. "Exigent Circumstances" means a law enforcement agency's good faith belief that an emergency involving the danger of, or imminent threat of death or serious physical injury to any person is occurring, has occurred, or is about to occur.
- G. "State agency" means the law enforcement division of every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.
- H. "Type" means each item that shares the same manufacturer model number.

2.60.030 Military Equipment Use Policy Requirement

- A. The Capitola Police Department shall obtain approval of the City Council, by a resolution adopting a Military Equipment Use Policy (MEUP) at a regular meeting of the City Council held pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) prior to engaging in any of the following:
 - 1. Requesting Military Equipment made available pursuant to Section 2576a of Title 10 of the United States Code.
 - 2. Seeking funds for Military Equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
 - 3. Acquiring Military Equipment either permanently or temporarily, including by borrowing or leasing.
 - 4. Collaborating with another law enforcement agency in the deployment or other use of Military Equipment within the territorial jurisdiction of the City of Capitola.
 - 5. Using any new or existing Military Equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.
 - 6. Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of, Military Equipment.
 - 7. Acquiring Military Equipment through any means not provided by this section.
- B. No later than May 1, 2022, if seeking to continue the use of any Military Equipment that was acquired prior to January 1, 2022, the Capitola Police Department shall commence a City Council approval process in accordance with this section. If the City Council does not approve the continuing use of Military Equipment, including by adoption pursuant to a Military Equipment Use Policy submitted pursuant to this code, within 180 days of submission of the proposed Military Equipment Use Policy to City Council, the Capitola Police Department shall cease its use of the Military Equipment until it receives the approval of City Council in accordance with this code.
- C. In seeking the approval of City Council, the Capitola Police Department shall submit a proposed Military Equipment Use Policy to the City Council and make those documents available on the Police Department's internet website at least 30 days prior to any public hearing concerning the Military Equipment at issue.

- D. The City Council shall only approve a Military Equipment Use Policy pursuant to this chapter if it determines all of the following:
 - 1. The Military Equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
 - 2. The proposed Military Equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
 - 3. If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
 - 4. Prior Military Equipment use complied with the Military Equipment Use Policy that was in effect at the time, or if prior uses did not comply with the accompanying Military Equipment Use Policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

- E. In order to facilitate public participation, any proposed or final Military Equipment Use Policy shall be made publicly available on the internet website of the Police Department for as long as the Military Equipment is available for use.

- F. The City Council shall review this ordinance at least annually and vote on whether to renew it at a regular meeting held pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

2.60.040 Use in Exigent Circumstances

- A. Notwithstanding the provisions of this Chapter, the Police Department may acquire, borrow and/or use Military Equipment in Exigent Circumstances without following the requirements of this code.

- B. If the Police Department acquires, borrows, and/or uses Military Equipment in Exigent Circumstances, in accordance with this section, it must take all of the following actions:
 - 1. Provide written notice of that acquisition or use to the City Council within 30 days following the commencement of such Exigent Circumstance, unless such information is confidential or privileged under local, state or federal law.
 - 2. If it is anticipated that the use will continue beyond the Exigent Circumstance, submit a proposed amended Military Equipment Use Policy to the City Council within 90 days following the borrowing, acquisition and/or use, and receive approval, as applicable, from the City Council.
 - 3. Include the Military Equipment in the Police Department's next annual Military Equipment Report.

2.60.050 Reports on the Use of Military Equipment.

- A. The Police Department shall submit to City Council an annual Military Equipment Report for each type of Military Equipment approved by the City Council within one year of approval, and annually thereafter for as long as the Military Equipment is available for use.

- B. The Police Department shall also make each annual Military Equipment Report required by this section publicly available on its internet website for as long as the Military Equipment is available for use.
- C. The annual Military Equipment Report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of Military Equipment:
 - 1. A summary of how the Military Equipment was used and the purpose of its use.
 - 2. A summary of any complaints or concerns received concerning the Military Equipment.
 - 3. The results of any internal audits, any information about violations of the Military Equipment Use Policy, and any actions taken in response.
 - 4. The total annual cost for each type of Military Equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the Military Equipment in the calendar year following submission of the annual Military Equipment Report.
 - 5. The quantity possessed for each type of Military Equipment.
 - 6. If the law enforcement agency intends to acquire additional Military Equipment in the next year, the quantity sought for each type of Military Equipment.
- D. Within 30 days of submitting and publicly releasing an annual Military Equipment Report pursuant to this section, the Police Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual Military Equipment report and the law enforcement agency's funding, acquisition, or use of Military Equipment.
- E. The City Council shall determine, based on the annual Military Equipment Report submitted pursuant to this section, whether each type of Military Equipment identified in that report has complied with the standards for approval set forth in this code and the Military Equipment Use Policy. If the City Council determines that a type of Military Equipment identified in that annual Military Equipment Report has not complied with the standards for approval, the City Council shall either disapprove a renewal of the authorization for that type of Military Equipment or require modifications to the Military Equipment Use Policy in a manner that will resolve the lack of compliance.

2.60.060 Severability

- A. If any section, subsection, sentence, clause, phrase, or word of this Chapter, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of this Chapter.
- B. The City Council hereby declares that it would have passed this Chapter and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this Chapter or application thereof would be subsequently declared invalid or unconstitutional.

Military Equipment Use Policy

706.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072).

The Capitola Department (CPD) does not possess any tactical equipment that it has obtained from the military, nor does it possess any equipment that was designed for military use. Notwithstanding, California Government Code § 7071(b) requires that law enforcement agencies submit a proposed Military Equipment Use Policy to their governing board for approval.

California Government Code § 7070 provides a list of equipment types that are considered to be "military equipment" for purposes of this policy requirement, and this Military Equipment Use Policy includes information for any such equipment types that are possessed by the Capitola Police Department, or reasonably likely to be deployed in Capitola by other law enforcement partners.

706.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body – The elected or appointed body that oversees the Department.

Military equipment – includes but is not limited to the following:

1. Unmanned, remotely piloted, powered aerial or ground vehicles.
2. Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
3. High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
4. Tracked armored vehicles that provide ballistic protection to their occupants.
5. Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
6. Weaponized aircraft, vessels, or vehicles of any kind.
7. Battering rams, slugs, and breaching apparatuses that are explosive. This does not include a handheld, one-person ram.
8. Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
9. Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, except for standard-issue firearms.
10. Any firearm or firearm accessory that is designed to launch explosive projectiles.
11. Noise-flash diversionary devices and explosive breaching tools.

- 12. Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- 13. TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- 14. Kinetic energy weapons and munitions.
- 15. Any other equipment as determined by a governing body or a state agency to require additional oversight.
- 16. Notwithstanding paragraphs (1) through (15), "Military Equipment" does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

706.2 POLICY

It is the policy of the Capitola Police Department that members of this department comply with the provisions of Government Code § 7071 with respect to military equipment.

706.3 MILITARY EQUIPMENT COORDINATOR

The Chief of Police designates the Police Captain to act as the Military Equipment Coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- (a) Acting as a liaison to the governing body for matters related to the requirements of this policy.
- (b) Identifying department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.
- (c) Conducting an inventory of all military equipment at least annually.
- (d) Collaborating with any allied agency that may use military equipment within the jurisdiction of Capitola Police Department (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
 - 1. Publicizing the details of the meeting.
 - 2. Preparing for public questions regarding the department's funding, acquisition, and use of equipment.
- (f) Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the department website (Government Code § 7072).
- (g) Coordinating the process for a person to register a complaint, concern, or question about the use of a type of military equipment. The Department will respond promptly.
 - 1. A complaint, concern, or question related to Military Equipment utilization by the Capitola Police Department can be made:
 - (a) Via email to: policechief@ci.capitola.ca.us

(b) Via phone call to: 831.475.4242 and request to speak to the Military Equipment Coordinator.

(c) Via mail sent to Capitola Police Department; Attn: Military Equipment Coordinator; 422 Capitola Avenue, Capitola, CA 95010

706.4 APPROVAL

The Chief of Police or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the military equipment policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the department website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military equipment policy must be presented to the governing body by May 1, 2022, for approval by the governing body within 180 days of the presentation (Government Code § 7071(2)) for continuing use of military equipment currently being utilized by the Department. Thereafter, the following must be approved by the governing body, prior to engaging in (Government Code § 7071):

- (a) Requesting military equipment made available pursuant to 10 USC § 2576a.
- (b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department.
- (e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
- (f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.
- (g) Acquiring military equipment through any means not provided above.

706.5 COORDINATION WITH OTHER JURISDICTIONS

Military equipment used by any member of this Department shall be approved for use and in accordance with this Departmental policy. Military equipment used by other jurisdictions that are providing mutual aid to this Department, or otherwise engaged in a law enforcement operation in this jurisdiction, shall comply with their respective military equipment use policies in rendering mutual aid as defined by Government Code § 7070; Government Code § 7071; and Government Code § 7072.

706.6 ANNUAL REPORT

Upon approval of a military equipment policy, the Chief of Police or the authorized designee should submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

The Chief of Police or the authorized designee should also make each annual military equipment report publicly available on the department website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in department inventory.

706.7 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

706.8 MILITARY EQUIPMENT INVENTORY

The attached list is divided into three sections.

- Section One - lists qualifying equipment that is owned and/or utilized by the Capitola Police Department.
- Section Two - lists qualifying equipment that is not owned or regularly utilized by the Capitola Police Department, but which is known to be owned and/or utilized by law enforcement agencies which the Capitola Police Department collaborates and/ or participates for law enforcement purposes.
- Section Three - lists qualifying equipment that the Capitola Police Department will be procuring, with anticipated dates of procurement.



Andrew Dally
Chief of Police

CITY OF CAPITOLA

Item 8 B.

POLICE DEPARTMENT

Section One: Qualifying Equipment Owned/Utilized by the Capitola Police Department

Lethal Weapon	
Equipment Type: Semi-Automatic Patrol Rifles - These rifles are standard issue service weapons for our officers and therefore exempted from this Military Equipment Use Policy per CA Gov't Code §7070 (c)(10). They have been included in this document in an abundance of caution and the interest of transparency.	
Description: Colt LE6945, semi-auto rifle, black with an adjustable stock.	
Quantity Owned/Sought: 6 owned – Department	Lifespan: 10 years
Equipment Capabilities: A rifle that fires an intermediate-power cartridge (.223/5.56) which is more powerful than a standard pistol.	
Manufacturer Product Description: The Colt LE6945CQ Carbine is a Gas Operated Semi-Auto rifle, chambered in 223 Remington/5.56 NATO (M4), with adjustable stock, featuring a monolithic upper receiver, 10.3" barrel, and A2 flash hider.	
Purpose/Authorized Uses: The Colt M4 enables officers when in compliance with the CPD's Use of Force Policy, to address short to long-distance threats, or those threats who are heavily armed, armored, or both. Further, in both short and long-distance deployments, they allow officers precision shot placement minimizing the risk to officers and innocent citizens. There are no known alternatives to these weapons that will provide the same level of distance and precision.	
Fiscal Impacts: \$1,200.00 (each)	
Legal/Procedural Rules Governing Use: Use is subject to the applicable policies 300, 300.4, 300.4.1, 300.4.2, 300.5.1, 300.5.2, 300.5.3, 300.11, 303.	
Training Required: Officers must complete a CA POST certified 16-hour patrol rifle course and annual department firearms training and qualifications as required by law and policy.	
Compliance mechanisms: Use is subject to the applicable policies 300.4, 300.9, 303.3.2, 303.5, 303.7, 303.8, 303.9.	



Andrew Dally
Chief of Police

CITY OF CAPITOLA

Item 8 B.

POLICE DEPARTMENT

Lethal Weapon	
Equipment Type: Semi-Automatic Patrol Rifles - These rifles are personally owned and are registered with the Department under CPD policy 312.2.4 and are standard service weapons for our officers and therefore exempted from this Military Equipment Use Policy per CA Gov't Code §7070 (c)(10). They have been included in this document in an abundance of caution and the interest of transparency.	
Description: Smith and Wesson M&P 15 Sport .223/5.56 with 16" barrel	
Quantity Owned/Sought: 5 owned – personal	Lifespan: 10 years
Equipment Capabilities: A rifle that fires an intermediate-power cartridge (.223/5.56) which is more powerful than a standard pistol.	
Manufacturer Product Description: Smith and Wesson M&P15 rifles are the ideal modern sporting rifle. Built to perform multiple uses under various conditions, M&P15 Rifles are as versatile as they are reliable. Engineered for a wide variety of recreational, sport shooting, and professional applications, M&P15 Rifles are easy to accessorize, but hard to put down. M&P15 Rifles are lightweight and rugged embodying the best combination of function and form.	
Purpose/Authorized Uses: The Smith and Wesson M&P rifle enables officers when in compliance with the CPD's Use of Force Policy, to address short to long-distance threats, or those threats who are heavily armed, armored, or both. Further, in both short and long-distance deployments, they allow officers precision shot placement minimizing the risk to officers and innocent citizens. There are no known alternatives to these weapons that will provide the same level of distance and precision.	
Fiscal Impacts: \$812	
Legal/Procedural Rules Governing Use: Use is subject to the applicable policies 312.2.4 300, 300.4, 300.4.1, 300.4.2, 300.5.1, 300.5.2, 300.5.3, 300.11, 303.	
Training Required: Officers must complete a CA POST certified 16-hour patrol rifle course and annual department firearms training and qualifications as required by law and policy.	
Compliance mechanisms: Use is subject to the applicable policies 312.2.4 300.4, 300.9, 303.3.2, 303.5, 303.7, 303.8, 303.9.	



Andrew Dally
Chief of Police

CITY OF CAPITOLA

Item 8 B.

POLICE DEPARTMENT

Lethal Weapon	
Equipment Type: Semi-Automatic Patrol Rifles - This rifle is personally owned and is registered with the Department under CPD policy 312.2.4 and is standard service weapons for our officers and therefore exempted from this Military Equipment Use Policy per CA Gov't Code §7070 (c)(10). They have been included in this document in an abundance of caution and the interest of transparency.	
Description: Sig Sauer MP 400 rifle .223/5.56 with 16" barrel	
Quantity Owned/Sought: 1 owned – personal	Lifespan: 10 years
Equipment Capabilities: A rifle that fires an intermediate-power cartridge (.223/5.56) which is more powerful than a standard pistol.	
Manufacturer Product Description: The Sig Sauer MP400 rifle is designed, engineered, and manufactured in America, and ready to perform whenever and wherever the need arises. SIG SAUER is combining industry-leading product innovation with decades of battle-tested experience to engineer the toughest and most accurate rifles for the military and federal agencies. It's our mission at SIG SAUER to provide our elite end-users with a complete weapons system they can depend on to prevail under any circumstance.	
Purpose/Authorized Uses: Sig Sauer MP 400 rifle enables officers when in compliance with the CPD's Use of Force Policy, to address short to long-distance threats, or those threats who are heavily armed, armored, or both. Further, in both short and long-distance deployments, they allow officers precision shot placement minimizing the risk to officers and innocent citizens. There are no known alternatives to these weapons that will provide the same level of distance and precision.	
Fiscal Impacts: \$1615	
Legal/Procedural Rules Governing Use: Use is subject to the applicable policies 312.2.4 300, 300.4, 300.4.1, 300.4.2, 300.5.1, 300.5.2, 300.5.3, 300.11, 303.	
Training Required: Officers must complete a CA POST certified 16-hour patrol rifle course and annual department firearms training and qualifications as required by law and policy.	
Compliance mechanisms: Use is subject to the applicable policies 312.2.4 300.4, 300.9, 303.3.2, 303.5, 303.7, 303.8, 303.9.	



Andrew Dally
Chief of Police

CITY OF CAPITOLA

Item 8 B.

POLICE DEPARTMENT

Lethal Weapon	
Equipment Type: Semi-Automatic Patrol Rifles - This rifle is personally owned and is registered with the Department under CPD policy 312.2.4 and is standard service weapons for our officers and therefore exempted from this Military Equipment Use Policy per CA Gov't Code §7070 (c)(10). They have been included in this document in an abundance of caution and the interest of transparency.	
Description: Rainier Arms RUC Mod 2 rifle .223/5.56 with 16" barrel	
Quantity Owned/Sought: 1 owned - personal	Lifespan: 10 years
Equipment Capabilities: A rifle that fires an intermediate-power cartridge (.223/5.56) which is more powerful than a standard pistol.	
Manufacturer Product Description: Rainier Arms RUC Mod2 Rifle weighs 6 lbs. empty, the Rainier Arms RUC Mod2 has a 15" RA Force Key Mod Rail, as well as the brand-new Rainier Arms Compensator (RAC), a tuned mil sped trigger, and RA MPI/HP Bolt with staked FA carrier, and much more.	
Purpose/Authorized Uses: Rainier Arms RUC Mod 2 rifle enables officers when in compliance with the CPD's Use of Force Policy, to address short to long-distance threats, or those threats who are heavily armed, armored, or both. Further, in both short and long-distance deployments, they allow officers precision shot placement minimizing the risk to officers and innocent citizens. There are no known alternatives to these weapons that will provide the same level of distance and precision.	
Fiscal Impacts: \$1615	
Legal/Procedural Rules Governing Use: Use is subject to the applicable policies 312.2.4 300, 300.4, 300.4.1, 300.4.2, 300.5.1, 300.5.2, 300.5.3, 300.11, 303.	
Training Required: Officers must complete a CA POST certified 16-hour patrol rifle course and annual department firearms training and qualifications as required by law and policy.	
Compliance mechanisms: Use is subject to the applicable policies 312.2.4 300.4, 300.9, 303.3.2, 303.5, 303.7, 303.8, 303.9.	



Andrew Dally
Chief of Police

CITY OF CAPITOLA

Item 8 B.

POLICE DEPARTMENT

Lethal Weapon	
Equipment Type: Semi-Automatic Patrol Rifles - This rifle is personally owned and is registered with the Department under CPD policy 312.2.4 and is standard service weapons for our officers and therefore exempted from this Military Equipment Use Policy per CA Gov't Code §7070 (c)(10). They have been included in this document in an abundance of caution and the interest of transparency.	
Description: BRO-SPEC15-P rifle .223/5.56 with 16" barrel	
Quantity Owned/Sought: 1 owned personal	Lifespan: 10 years
Equipment Capabilities: A rifle that fires an intermediate-power cartridge (.223/5.56) which is more powerful than a standard pistol.	
Manufacturer Product Description: Black Rain Ordnance manufacturing standards are prominent throughout our line of Spec Series weapons, allowing us to produce the highest quality rifle with a cost-effective price tag. The Chromoly barrels and black nitride bolt-carrier groups in the Spec Series combine to provide the reliability and dependability you expect from the BRO family of rifles. Whether it's your first rifle, a patrol weapon, or simply supplementing your collection, the Spec Series is a great addition to your lineup.	
Purpose/Authorized Uses: BRO-SPEC15-P rifle enables officers when in compliance with the CPD's Use of Force Policy, to address short to long-distance threats, or those threats who are heavily armed, armored, or both. Further, in both short and long-distance deployments, they allow officers precision shot placement minimizing the risk to officers and innocent citizens. There are no known alternatives to these weapons that will provide the same level of distance and precision.	
Fiscal Impacts: \$1,050	
Legal/Procedural Rules Governing Use: Use is subject to the applicable policies 312.2.4 300, 300.4, 300.4.1, 300.4.2, 300.5.1, 300.5.2, 300.5.3, 300.11, 303.	
Training Required: Officers must complete a CA POST certified 16-hour patrol rifle course and annual department firearms training and qualifications as required by law and policy.	
Compliance mechanisms: Use is subject to the applicable policies 312.2.4 300.4, 300.9, 303.3.2, 303.5, 303.7, 303.8, 303.9.	



Andrew Dally
Chief of Police

CITY OF CAPITOLA

Item 8 B.

POLICE DEPARTMENT

Lethal Ammunition	
Equipment Type: Speer Gold Dot Duty Ammunition .223 Caliber 55 grain rifle round.	
Description: Speer Gold Dot features nickel-plated brass cases and Boxer primers and is a non-corrosive round. The Gold Dot projectile goes through a process of joining the jacket and core one molecule at a time which eradicates the potential for the leading cause of bullet failure (jacket/core separation). This process will guarantee extraordinary weight retention through barriers as strong as auto-glass. Gold Dot rifle ammunition asserts remarkable accuracy with exact tolerances and unparalleled bullet uniformity.	
Quantity Owned/Sought: 5000	Lifespan: 10 years
Equipment Capabilities: Operational range 0-300 yards	
Manufacturer Product Description: SPEER LE® Gold Dot® Duty Rifle brings proven bullet technology to rifle platform. The Gold Dot® bullet was the first high-performance, bonded-core bullet available in handgun ammunition, and has since set the bar for duty ammunition. The nation's number one law enforcement option is now available in rifle ammunition for agencies everywhere. These specially designed loads bring law enforcement rifle ammunition to the next level. Gold Dot rifle bullets are optimized to ensure expansion out of barrels down to 10" at a wide variety of velocities out to 200 yards. This kind of performance greatly increases the capabilities of duty rifles and gives law enforcement personnel a distinct advantage when it matters most. In addition, these new loads boast outstanding feeding in short, very short, and standard-length AR platforms. Like their handgun counterparts, the Gold Dot rifle bullets are constructed using Gold Dot technology. The process of joining the jacket and core one molecule at a time eliminates the potential for the leading cause of bullet failure—jacket/core separation. It also ensures impressive weight retention through barriers as tough as auto-glass. In addition to being tough, Gold Dot rifle loads boast outstanding accuracy. Exact tolerances and unprecedented bullet uniformity of jacket thickness give Gold Dot rifle loads outstanding accuracy. In addition, these loads feature flash suppressed propellants and a muzzle velocity of up to 3000 fps. The versatility, reliability, and superior construction of the new Speer LE Gold Dot Duty Rifle loads allow law enforcement agencies to utilize this tested and proven bullet technology in duty rifles with complete confidence.	
Purpose/Authorized Uses: To project a force against a selected target to have an effect and stop the threat when other reasonable options are not viable. A verbal warning should precede its application.	
Fiscal Impacts: \$560.00 per case of 1000	
Legal/Procedural Rules Governing Use: Refer to policies 300, 300.4, 300.4.1, 300.5, 300.5.1, 300.5.3, 300.11, 303, 303.3	
Training Required: Sworn members utilizing Speer Gold Dot ammunition are trained in their use by CA POST certified instructors.	
Compliance Mechanism: Use is subject to applicable policies 303.3, 303.3.2.	



Andrew Dally
Chief of Police

CITY OF CAPITOLA

Item 8 B.

POLICE DEPARTMENT

Lethal Ammunition – Practice	
Equipment Type: Winchester Target Ammunition 5.56 Caliber 55 grain rifle round.	
Description: Winchester Target Ammunition features brass cases and Boxer primers and is a non-corrosive round. This ammunition is loaded with a full metal jacket bullet which is known for its positive functioning and exceptional accuracy. On impact, this bullet does not expand and is ideal for target shooting.	
Quantity Owned/Sought: 7000 rounds	Lifespan: 10 years
Equipment Capabilities: Operational range 0-300 yards	
Manufacturer Product Description: Winchester "USA White Box" stands for consistent performance and outstanding value, offering high-quality ammunition to suit a wide range of shooter's needs by providing consistent accuracy, positive functioning, and no expansion.	
Purpose/Authorized Uses: Practice	
Fiscal Impacts: \$380.00 per case of 1000	
Legal/Procedural Rules Governing Use: Refer to policies 300, 300.4, 300.4.1, 300.5, 300.5.1, 300.5.3, 300.11, 303, 303.3	
Training Required: Sworn members utilizing Winchester Target Ammunition are trained in their use by CA POST certified instructors.	
Compliance Mechanism: Use is subject to applicable policies 303.3, 303.3.2.	



Andrew Dally
Chief of Police

CITY OF CAPITOLA

Item 8 B.

POLICE DEPARTMENT

Less Lethal Weapon	
Equipment Type: Less Lethal Shotgun with orange stock and foregrip.	
Quantity Owned/Sought: 4 owned – Departmental	Lifespan: 15
Equipment Capabilities: The Remington 870 Police Magnum with orange stock and foregrip deploys less-lethal weighted munitions. These are used to de-escalate hostile situations and reduce the chance of using deadly force.	
Manufacturer Product Description: The Remington Model 870 Pump Shotgun is a reliable 12-gauge with double-action bars for smooth pump operation. A steel-lined/grooved fore-end provides a stronger grip, while the Flexitab feeding system provides positive and easier cycling. A less-lethal application shotgun is available with the addition of a blaze orange synthetic stock and foregrip for the instant recognition required.	
Purpose/Authorized Uses: To compel an individual to cease his/her actions when such munitions present a reasonable option. A verbal warning of the intended use of the device should precede its application.	
Fiscal Impacts: \$454 each	
Legal/Procedural Rules Governing Use: Refer to policies 300, 301, 301.8-301.11	
Training Required: Sworn members utilizing the Remington 870 less-lethal shotguns are trained in their use by CA POST-certified less-lethal instructors.	
Compliance mechanisms: Use is subject to the applicable policies 300.5, 300.5.1, 300.5.3, 301, 303.4.	



Andrew Dally
Chief of Police

CITY OF CAPITOLA

Item 8 B.

POLICE DEPARTMENT

Less Lethal Ammunition	
Equipment Type: Combined Tactical System (CTS) Model 2851 Super-sock 12-Gauge Less Lethal Round	
Description: A less lethal 2 ¾ inch 12-gauge shotgun shell firing a Super-Sock bean bag round.	
Quantity Owned/Sought: 100	Lifespan: 5 years
Equipment Capabilities: 12-gauge “Super-Sock” bean bag round with an effective range between 5 and 20 yards.	
Manufacturer Product Description: Super Sock projectile is in it’s deployment state immediately upon exiting the weapon’s barrel. It does not require a minimum range to “unfold” or “stabilize”. Optimal ranges are between 5 and 20 yards.	
Purpose/Authorized Uses: To compel an individual to cease his/her actions when such munitions present a reasonable option. A verbal warning of the intended use of the device should precede its application.	
Fiscal Impacts: Approximately \$5.24 per round	
Legal/Procedural Rules Governing Use: Refer to policies 300, 301, 301.8-301.11	
Training Required: Sworn members utilizing the Remington 870 less-lethal shotguns are trained in their use by CA POST-certified less-lethal instructors.	
Compliance Mechanisms: Use is subject to the applicable policies 300.5, 300.5.1, 300.5.3, 301, 303.4.	



Andrew Dally
Chief of Police

CITY OF CAPITOLA

POLICE DEPARTMENT

Section Two: Qualifying equipment not owned but utilized by the Capitola Police Department

706.5 COORDINATION WITH OTHER JURISDICTIONS

Military equipment used by any member of this Department shall be approved for use and in accordance with Departmental policy. Military equipment can be used by other jurisdictions that are providing mutual aid to this Department, or otherwise engaged in a law enforcement operation in this jurisdiction, shall comply with their respective military equipment use policies in rendering mutual aid as defined by Government Code § 7070; Government Code § 7071; and Government Code § 7072.

Section Three: Qualifying Equipment to be procured by the Capitola Police Department

Lethal Weapon	
Equipment Type: Semi-Automatic Patrol Rifles - These rifles will replace the Colt M4 and will be standard issue service weapons for our officers and therefore exempted from this Military Equipment Use Policy per CA Gov't Code §7070 (c)(10). They have been included in this document in an abundance of caution and the interest of transparency.	
Description: Primary Weapons System MK107 with RC2 Suppressor	
Quantity Owned/Sought: 6 sought – Department	Lifespan: 10 years
Equipment Capabilities: A rifle that fires an intermediate-power cartridge (.223/5.56) which is more powerful than a standard pistol.	
Manufacturer Product Description: The Primary Weapons System MK107 Mod 1-M is a 7.75" semi-automatic AR-15 platform rifle. The rifle features a long stroke piston system with a three-way adjustable gas system. The size, weight, and reliability are unmatched by any standard production rifle company. The Surefire suppressor protects the operator and the public. The suppressor is proven to provide a minimal impact shift and group size to ensure accuracy in the field.	
Purpose/Authorized Uses: The PWS MK107 enables officers when in compliance with the CPD's Use of Force Policy, to address short to long-distance threats, or those threats who are heavily armed, armored, or both. Further, in both short and long-distance deployments, they allow officers precision shot placement minimizing the risk to officers and innocent citizens. There are no known alternatives to these weapons that will provide the same level of distance and precision.	
Fiscal Impacts: \$2,049 (each)	
Legal/Procedural Rules Governing Use: Use is subject to the applicable policies 300, 300.4, 300.4.1, 300.4.2, 300.5.1, 300.5.2, 300.5.3, 300.11, 303.	



Andrew Dally
Chief of Police

CITY OF CAPITOLA

Item 8 B.

POLICE DEPARTMENT

Training Required: Officers must complete a CA POST certified 16-hour patrol rifle course and annual department firearms training and qualifications as required by law and policy.

Compliance mechanisms: Use is subject to the applicable policies 300.4, 300.9, 303.3.2, 303.5, 303.7, 303.8, 303.9.

Capitola City Council

Agenda Report

Meeting: April 28, 2022

From: City Manager Department

Subject: Receive Update on Pandemic Response and Consider Adopting Proposed Resolution Allowing for the Continuation of Teleconferencing



Recommended Action: 1) Make the determination that all hazards related to the worldwide spread of the coronavirus (COVID-19) as detailed in Resolution No. 4168 adopted by the City Council on March 12, 2020, still exist and there is a need to continue action; and 2) Adopt the proposed resolution authorizing the City Council (along with the Planning Commission and all advisory bodies) to continue to conduct teleconferencing meetings.

Background: In December 2019, an outbreak of a respiratory illness linked to the novel coronavirus (COVID-19) was first identified. In March 2020, the State of California, the County of Santa Cruz, and the City of Capitola each declared a state of emergency due to the virus. Also in March 2020, the World Health Organization declared COVID-19 a pandemic.

State and local health officers issued health orders to stop the spread of COVID-19; in Santa Cruz County this included March, April, and May 2020 Shelter-In-Place orders that were more restrictive than statewide guidance. Since then, the County Health Officer has incorporated all Orders of the State Public Health Officer, which set baseline statewide restrictions on travel and business activities.

As of April 22, 2022, more than 6.2 million people worldwide have died of COVID-19. This is likely an undercount of all those that have died from the virus. There have been 506 million cases reported worldwide. At least 5.2 million children have lost a parent or caretaker due to the virus.

Since the beginning of the pandemic in the United States more than 988,610 people have died from the virus and more than 80.7 million COVID-19 cases have been reported. According to November 2021 reports, one in 500 children in the U.S. has lost a parent or caregiver to COVID.

Discussion: Since the beginning of the pandemic in California, 89,240 deaths due to COVID-19 have been reported; there is currently a daily average of 57 deaths a day, down from 95 two-weeks ago. According to data from April 18, 2022, the average new COVID-19 case count per 100k was 6.9 (up from 5.2 on April 8). In California, at least 1 in 4 residents have been infected with COVID-19.

Omicron BA.2 & Rising Cases

The Omicron variant of SARS-CoV-2 (COVID) is comprised of several lineages and sub-lineages. The three most common lineages of Omicron currently are BA.1, BA.1.1, and BA.2. The Omicron variant spreads more easily than the earlier variants of the virus, including the Delta variant. It is Omicron BA.2 that seems to be causing a steady rise in cases once again, first seen in the U.K. and now reflected in the U.S. primarily on the east coast in more than a dozen states.

According to reports from NBC News on April 6, the BA.2 subvariant is now 72 percent of new COVID cases in the United States.

On April 19, the New York Times reported that cases are rising again in the United States and “have increased in a majority of states and territories during the past two weeks, but the inclines

are sharpest in the Northeast and Midwest. In Washington, D.C., Michigan, and New Hampshire, cases have more than doubled since the start of the month.” According to reports, hospitalizations remain low, and deaths continue to decline. Deaths are expected to reach 1 million in the United States in the coming weeks.

Boosters

On March 29, 2022, the Center for Disease Control (CDC) announced a recommendation that certain individuals (outlined below) receive an additional mRNA booster (a Moderna or Pziser shot). Those recommended for an additional booster are:

- 1) Immunocompromised individuals
- 2) People over the age of 50 who received an initial booster dose at least 4 months ago
- 3) Adults who received a primary vaccine and booster dose of Johnson & Johnson’s Janssen COVID-19 vaccine at least 4 months ago

Masks

The California Department of Public Health updated its guidance on facial coverings in February.

Everyone is required to wear masks in:

- Public transit and in stations, terminals, and airports
- Healthcare settings
- Emergency shelters and cooling and heating centers
- State and local correctional facilities and detention centers
- Homeless shelters
- Long-term care settings and adult and senior care facilities

Masks are strongly recommended for everyone in:

- Indoor public settings (now including K-12 schools and daycare, since March 12)
- Retail
- Restaurants
- Theaters
- Family entertainment centers
- Meetings
- State and local government offices that serve the public

The U.S. Government is giving out free N95 masks to those that need them. Each person is eligible for three masks, and masks will be available at community health centers, pharmacies, and other stores. Locally, Walgreens and CVS are currently distribution points.

At-home tests are now more readily available at many drug stores. Four free rapid antigen at-home tests are also available for all residents, provided by the federal government. Shipments are limited per household, and you can sign up for your free delivery through the United States Postal Service with this link: <https://special.usps.com/testkits>. Tests are generally delivered within a week-and-a-half of ordering.

Local Case Numbers and Statistics in Santa Cruz County

On April 6, the total known case count in Santa Cruz County was 47,914 with 431 active cases. On April 17, the active case count in Santa Cruz County was 661. Now according to data from April 20 the active case count is 727. The average case count per 100k is 16.3. This number has risen from where it was on April 7 at 9.1 per 100k.

In our County the total death count due to COVID-19 is 260.

City Hall Operations

City Hall has been open to the public since June 2020 in one configuration or another, dependent upon applicable health guidance and local COVID-19 case levels. Staff has returned to the COVID-default setup, with the lobby open to one member of the public at a time.

Virtual/Teleconferencing Meetings & In-Person Meetings

The Governor signed Assembly Bill 361 on September 16, 2021. The Bill allows cities to continue virtual meetings (much as Capitola City Council Meetings function now) as long as the state is under a proclaimed state of emergency; through 2024 when the bill will sunset. The Bill requires legislative bodies to comply with the requirements set forth in Government Code section 54953(e)(2) to ensure the public can safely participate and observe local government meetings. One of the requirements is for Council to adopt findings every thirty days.

Attached is a resolution that makes the following findings:

- 1) Find that current conditions authorize teleconference public meetings, based on the Governor’s state of emergency regarding the COVID-19 Pandemic
- 2) Authorize legislative bodies to conduct teleconference meetings, allowing Capitola City Council, Planning Commission, and other advisory bodies to continue to meet using Zoom.

After feedback provided by Council during the March 24, 2022, meeting, staff is in the process of acquiring, installing, and testing the necessary equipment to allow for “hybrid” Council meetings (with both virtual and in-person attendance). Depending on changes in the pandemic, Council and staff will discuss conducting meetings in this manner beginning in summer. When Council does return for hybrid meetings, the public will be notified in advance that in-person attendance is welcome with information on the published meeting agenda as well as on the City website.

Fiscal Impact: Fiscal impacts are continually reviewed by Staff as business restrictions and consumer behaviors change in our community. In addition, the City Council has set aside \$600,000 to help ensure the City has available resources should the pandemic result in further unforeseen impacts, which remains in the approved FY 2021/22 Budget.

Attachments:

- 1. Proposed Teleconferencing resolution

Report Prepared By: Chloé Woodmansee, City Clerk

Approved By: Jamie Goldstein, City Manager

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA AND ON BEHALF OF COMMISSIONS AND COMMITTEES CREATED BY THE CITY COUNCIL PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 54952(b) AUTHORIZING TELECONFERENCE MEETINGS IN COMPLIANCE WITH AB 361 (GOVERNMENT CODE SECTION 54953(e)) TO CONTINUE TO ALLOW MEMBERS OF THE PUBLIC TO SAFELY PARTICIPATE IN LOCAL GOVERNMENT MEETINGS

WHEREAS, the City Council is committed to ensuring public access to observe and participate in local government meetings; and

WHEREAS, all meetings of the City Council and other legislative bodies created pursuant to Government Code Section 54952(b) are open and public, as required by the Ralph M. Brown Act, so that any member of the public may participate in local government meetings; and

WHEREAS, the recently adopted AB 361, codified at Government Code section 54953(e), makes provisions for remote teleconferencing participation in local government meetings, without compliance with the requirements of 54953(b)(3), during a Governor-proclaimed state of emergency and if the local legislative body determines, by majority vote, that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees, and

WHEREAS, on March 4, 2020, Governor Newsom proclaimed a State of Emergency due to the outbreak of respiratory illness due to a novel coronavirus (now known as COVID-19) and that State of Emergency is still in effect in the State of California; and

WHEREAS, on March 12, 2020, the Capitola City Council proclaimed the existence of a local emergency due to the worldwide spread of the coronavirus with Resolution No. 4168, pursuant to Section 8.08.020 of the Capitola Municipal Code and Section 8625 of the California Emergency Services Act in response to the COVID-19 pandemic; and

WHEREAS, COVID-19 continues to threaten the health and lives of City residents; and

WHEREAS, the SARS-CoV-2 Delta Variant (Delta Variant) is highly transmissible in indoor settings; and

WHEREAS, on July 28, 2021, the California Department of Public Health issued guidance calling for the use of face coverings and stating that the Delta Variant is two times as contagious as early COVID-19 variants, leading to increasing infections, the Delta Variant accounts for over 80% of cases sequenced, and cases and hospitalizations of COVID-19 are rising throughout the state; and

WHEREAS, the Delta Variant has caused, and will continue to cause, conditions of imminent peril to the health safety of persons within the City; and

WHEREAS, on October 14, November 23, and December 9, 2021, January 13, February 10, and February 27, March 10, March 24, and April 14, 2022, the City Council adopted a resolution proclaiming the need to meet by teleconference pursuant to Government Code Section 54953; and

WHEREAS, the City Council, acting as a legislative body pursuant to Government Code section 54952(a) and for the benefit of the commissions, committees and other bodies that were created by the City Council pursuant to Government Code section 54952(b) (collectively referred to as "Legislative Bodies"), finds that the current conditions meet the circumstances set forth in Government Code section 54953(e)(3) to allow Legislative Bodies to continue to use

teleconferencing to hold open and public meetings if the Legislative Bodies comply with the requirements set forth in Government Code section 54953(e)(2) to ensure the public can safely participate in and observe local government meetings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Capitola that the City Council does hereby:

- 1. Recitals. The Recitals set forth above are true and correct and are hereby incorporated by this reference.
- 2. Find that Current Conditions Authorize Teleconference Public Meetings of Legislative Bodies. The City Council has reconsidered the circumstances of the state of emergency and finds that based on the California Governor’s continued declaration of a State of Emergency and current conditions, meeting in person would present imminent risks to the health or safety of attendees, such that the conditions continue to exist pursuant to Government Code section 54953(e)(3) to allow Legislative Bodies to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.
- 3. Authorize Legislative Bodies to Conduct Teleconference Meetings. The Legislative Bodies are hereby authorized to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting open and public meetings in accordance with Government Code section 54953(e)(2) and other applicable provisions of the Brown Act.

I HEREBY CERTIFY that the foregoing resolution was PASSED and ADOPTED by the City Council of the City of Capitola on the 28th day of April 2022, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Sam Storey, Mayor

ATTEST: _____
Chloé Woodmansee, City Clerk

Capitola City Council

Agenda Report



Meeting: April 28, 2022

From: Department of Public Works

Subject: Approval of Plans, Specifications, and Budget for the Clares Street Traffic Calming Project

Recommended Action: Approve the plans, specifications, and construction budget of \$1,153,000 for the Clares Street Traffic Calming Project and authorize the Department of Public Works to advertise for construction bids.

Background: After years of delays due to funding shortfalls, the Clares Street Traffic Calming project is ready to move forward into the construction phase. This project has been on the books since the Rispin Hotel project was being considered and the plans, specifications, and construction estimate are now complete and ready to bid. Most importantly, the funding is in place to complete the project this summer.

Discussion: Public Works held a public workshop and conducted an online survey for this project in June 2021. In addition, presentations were made to the Santa Cruz County Regional Transportation Commission (SCCRTC) Elderly and Disabled Transportation advisory committee and Bicycle advisory committee. Based on this input the project scope was finalized. This project will provide road rehabilitation and the implementation of traffic calming measures along Clares Street from Wharf Road to 41st Avenue. Improvements include three elevated crosswalks with rapid-rectangular flashing beacons (RRFB) to improve pedestrian visibility, ADA curb ramps, narrowed vehicle lanes, buffered bike lanes, a decorative cross walk with a book motif near the library and full pavement rehabilitation and restriping of the entire road including the intersections at Clares/41st Avenue and Clares/Wharf Road.

The project cover sheet and final striping plans (which show all the improvements) are included as Attachment 1. The full set of plans and specifications can be viewed at the Public Works office at City Hall.

Fiscal Impact: The project construction estimate and budget is \$1,153,000. A copy of the estimate is included as Attachment 2.

The available funding comes from multiple sources including the General Fund, Measure D and grant funding from the Santa Cruz County RTC from the Regional Transportation Improvement Program, Regional Surface Transportation Program, and State Transportation Improvement Program. The total available funding is \$1,247,696 as outlined below.

Measure D	\$	264,432
General Fund	\$	150,000
SCCRTC - multiple sources	\$	833,264
Total	\$	1,247,696

Attachments:

1. Cover Sheet and Striping Plans
2. Engineer's Estimate

Report Prepared By: Steven Jesberg, Public Works Director

Reviewed By: Chloé Woodmansee, City Clerk, Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager

PROJECT DESCRIPTION

CONSTRUCT TRAFFIC CALMING IMPROVEMENTS ON CLARES STREET FROM 41ST AVENUE TO WHARF ROAD TO IMPROVE ACCESS FOR VEHICLES, BICYCLES, AND PEDESTRIANS. THE PROJECT SCOPE INCLUDES RE-PAVING THE CLARES STREET ROADWAY AND CONSTRUCTING RAISED CROSSWALKS.

BASIS OF BEARINGS AND ELEVATIONS

THE BASIS OF BEARINGS FOR THIS MAP IS THE SOUTHERN LINE OF THE REMAINDER LOT AS SHOWN ON TRACT 1398, CLARES/WHARF SITE, FILED IN VOLUME 91 OF MAPS AT PAGE 12, SANTA CRUZ COUNTY RECORDS, AND FROM MONUMENTS FOUND AS SHOWN = N 89°40'28" E

THE BASIS OF ELEVATIONS FOR THIS MAP IS THE COUNTY OF SANTA CRUZ BENCHMARK 63A. DESCRIPTION: SER COR OF BAY AVENUE AND CAPITOLA AVENUE INTERSECTION 37' SE FROM C/L OF CAPITOLA AVENUE AND 22' SW FROM C/L BAY AVENUE, STD. BRASS CAP SET IN TOP OF CONCRETE CURB

ELEVATION = 49.777 (NGVD 29 ADJUSTED)

CONTOUR INTERVAL = 1 FOOT
DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF

BASE BID

"C" LINE STA 29+30 TO 50+21

41ST AVENUE TO WHARF ROAD: IMPROVEMENTS INCLUDE PAVEMENT RECONSTRUCTION, RAISED CROSSWALKS, SIDEWALK, CURB RAMPS, SIGNING, AND STRIPING ALONG CLARES STREET.

ADD ALTERNATIVE 1

"C" LINE STA 27+78 TO 29+30

INTERSECTION OF 41ST AVENUE AND CLARES STREET: IMPROVEMENTS INCLUDE PAVEMENT RECONSTRUCTION, CURB RAMPS, SIGNING, AND STRIPING WITHIN THE SIGNALIZED INTERSECTION.

ACCEPTANCE OF PLANS

THE CITY OF CAPITOLA HEREBY ACCEPTS THESE PLANS FOR CONSTRUCTION, AS BEING IN GENERAL COMPLIANCE WITH PLANS PREPARATION REQUIREMENTS OF THIS GOVERNMENT. RESPONSIBILITY FOR THE COMPLETENESS AND ACCURACY OF THE PLANS AND RELATED DESIGN RESIDES WITH THE ENGINEER AND ENGINEERING FIRM OF RECORD.

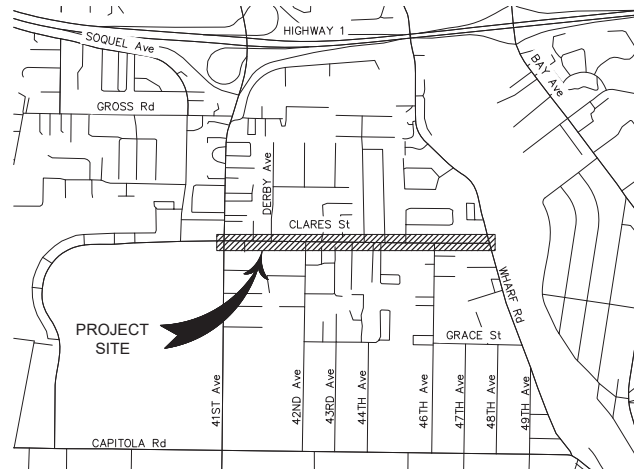
xxxxxxx
DATE

STEVE JESBERG P.E.
DIRECTOR OF PUBLIC WORKS
CITY ENGINEER
CITY OF CAPITOLA

CLARES STREET TRAFFIC CALMING IMPROVEMENTS

SANTA CRUZ COUNTY
CAPITOLA, CALIFORNIA

TO BE SUPPLEMENTED BY THE PROJECT SPECIFICATIONS, CITY OF CAPITOLA STANDARD DRAWINGS, CALTRANS REVISED STANDARD PLANS DATED OCTOBER 2021, AND CALIFORNIA MUTCD REV 6 DATED MARCH 2021.



VICINITY MAP
NO SCALE

SHEET INDEX		
SHEET No	DRAWING No	SHEET CONTENTS
1-2	T-1 TO T-2	TITLE SHEET AND GENERAL NOTES
3	X-1	TYPICAL SECTIONS
4-7	L-1 TO L-4	LAYOUT PLANS
8-10	CD-1 TO CD-3	CONSTRUCTION DETAILS
11-14	SS-1 TO SS-4	SIGNING AND STRIPING PLANS

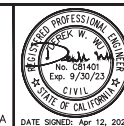


No.	REVISIONS	DATE	BY

Kimley»Horn
© 2022 KIMLEY-HORN AND ASSOCIATES, INC.
10 S ALMADEN BOULEVARD, SUITE 1250, SAN JOSE, CA 95131
PHONE: 669-800-4130
WWW.KIMLEY-HORN.COM

KHA PROJECT
097763133
DATE
4/12/2022
SCALE AS SHOWN
DESIGNED BY DW
DRAWN BY DW
CHECKED BY TM/KM

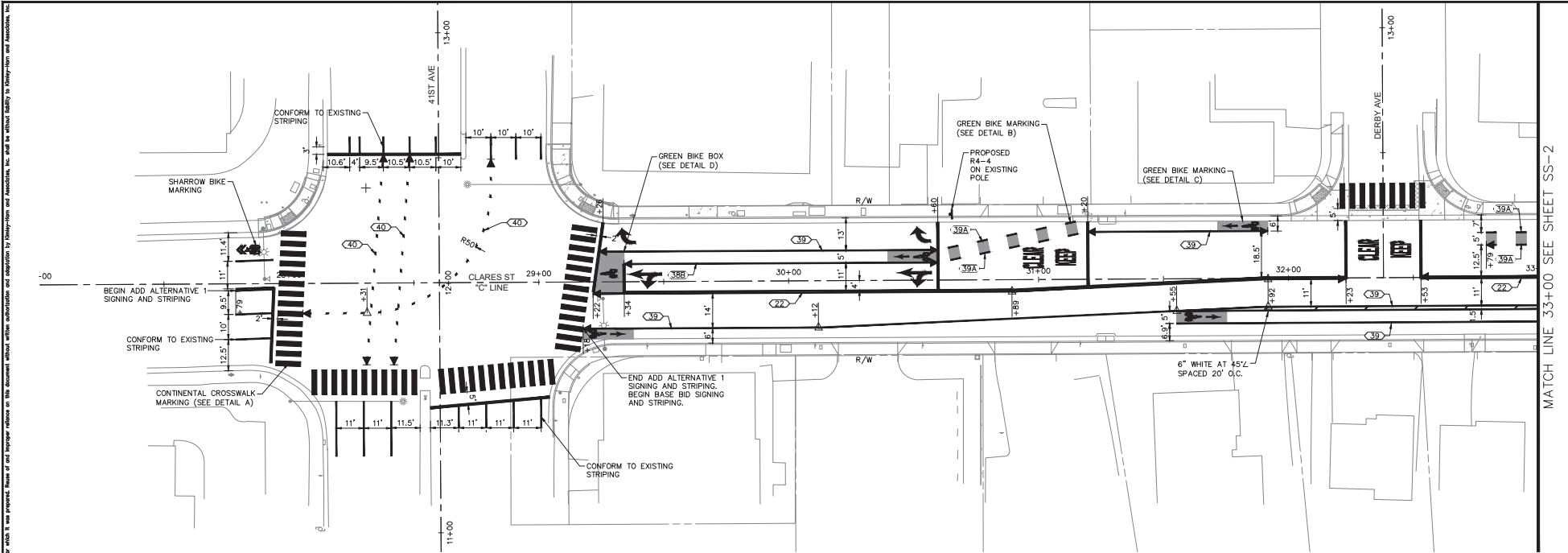
CLARES STREET TRAFFIC CALMING IMPROVEMENTS
PREPARED FOR
CITY OF CAPITOLA
SANTA CRUZ COUNTY



TITLE SHEET

SHEET NO. 1
OF 14 SHEETS

T-1



MATCH LINE 33+00 SEE SHEET SS-2

GENERAL SIGNING AND STRIPING NOTES

1. ALL EXISTING SIGNS SHALL BE PROTECTED IN PLACE UNLESS SPECIFIED FOR REMOVAL OR RELOCATION.
2. ALL EXISTING SIGNS SPECIFIED FOR REMOVAL SHALL NOT BE REMOVED UNTIL NO LONGER PERTINENT TO TRAFFIC CONTROL.
3. ALL EXISTING PAVEMENT DELINEATION CONFLICTING WITH PROPOSED STRIPING SHALL BE REMOVED PRIOR TO NEW STRIPING INSTALLATION.
4. ALL PAVEMENT DELINEATION MUST BE IN ACCORDANCE WITH THE CURRENT VERSION OF THE CALIFORNIA MUTCD AND CALTRANS STANDARD PLANS.
5. ALL STRIPING DIMENSIONS SHOWN ARE MEASURED FROM: (1) STRIPE CENTERLINE TO STRIPE CENTERLINE OR (2) TO TOP OF CURB TO STRIPE CENTERLINE WHICHEVER SCENARIO IS CLOSER.

LEGEND

- ▲ EXISTING SIGN
- ▲ PROPOSED SIGN
- XX EXISTING STRIPING DETAIL
- XX PROPOSED STRIPING DETAIL
- ▶ STRIPING CHANGE
- ▶ STRIPING LIMIT
- ▲ ANGLE POINT
- PM PAVEMENT MARKING

SIGNING AND STRIPING NOTES

- 1 FURNISH AND INSTALL POLE MOUNTED RECTANGULAR RAPID FLASHING BEACON (RRFB) ASSEMBLY PER VENDOR RECOMMENDATIONS (SEE DETAIL E)
- 2 SEE CONSTRUCTION DETAILS FOR SPEED TABLE WITH CROSSWALK PAVEMENT MARKINGS AND SIGNS PER CAPITOLA STANDARD DRAWINGS

SIGN TABLE		
DETAIL	DESCRIPTION	EA
R4-4	BEGIN RIGHT TURN, YIELD TO BIKES	1
W1-2	PEDESTRIAN CROSSING	12
W3-1P	20 MPH	6
W6-7P	DIAGONAL LEFT ARROW	6
W6-7P (R)	DIAGONAL RIGHT ARROW	6
W7-1 (MCD)	SPEED TABLE	6
TOTAL		37

STRIPING AND MARKING TABLE BASE BID			
DETAIL	PATTERN OR LEGEND	LF	SOFT
9	LANE LINE	0	-
22	CENTERLINE	1899	-
38	CHANNELIZING LINE	126	-
39	BIKE LANE LINE (INCLUDES BUFFER)	8055	-
39A	INTERSECTION LINE (BIKE LANE)	830	-
40	INTERSECTION LINE (DASHED)	0	-
PM	"STOP" MARKING	-	132
PM	"KEEP CLEAR" MARKING	-	102
PM	STOP BAR MARKING	-	245
PM	CONTINENTAL CROSSWALK MARKING	-	2080
PM	BIKE SYMBOL/ARROW MARKING	-	105
PM	CHEVRON ARROW (SPEED TABLE)	-	144
PM	TYPE IV ARROW	-	30
PM	TYPE VI ARROW	-	54
PM	GREEN PAINT FOR BIKE LANE	-	3079
TOTAL		10910	5971

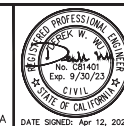
STRIPING AND MARKING TABLE ADD ALTERNATIVE 1			
DETAIL	PATTERN OR LEGEND	LF	SOFT
9	LANE LINE	226	-
22	CENTERLINE	15	-
38	CHANNELIZING LINE	31	-
39	BIKE LANE LINE (INCLUDES BUFFER)	43	-
39A	INTERSECTION LINE (BIKE LANE)	0	-
40	INTERSECTION LINE (DASHED)	289	-
PM	"STOP" MARKING	-	0
PM	"KEEP CLEAR" MARKING	-	0
PM	STOP BAR MARKING	-	131
PM	CONTINENTAL CROSSWALK MARKING	-	1000
PM	BIKE SYMBOL/ARROW MARKING	-	0
PM	CHEVRON ARROW (SPEED TABLE)	-	0
PM	TYPE IV ARROW	-	0
PM	TYPE VI ARROW	-	0
PM	SHARROW	-	12
PM	GREEN PAINT FOR BIKE LANE	-	0
TOTAL		604	1143

No.	REVISIONS	DATE	BY

Kimley»Horn
 © 2022 KIMLEY-HORN AND ASSOCIATES, INC.
 10 S ALMADEN BOULEVARD, SUITE 1250, SAN JOSE, CA 95113
 PHONE: 669-800-4130
 WWW.KIMLEY-HORN.COM

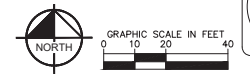
KHA PROJECT
097763133
 DATE
4/12/2022
 SCALE AS SHOWN
 DESIGNED BY DW
 DRAWN BY DW
 CHECKED BY TM/KM

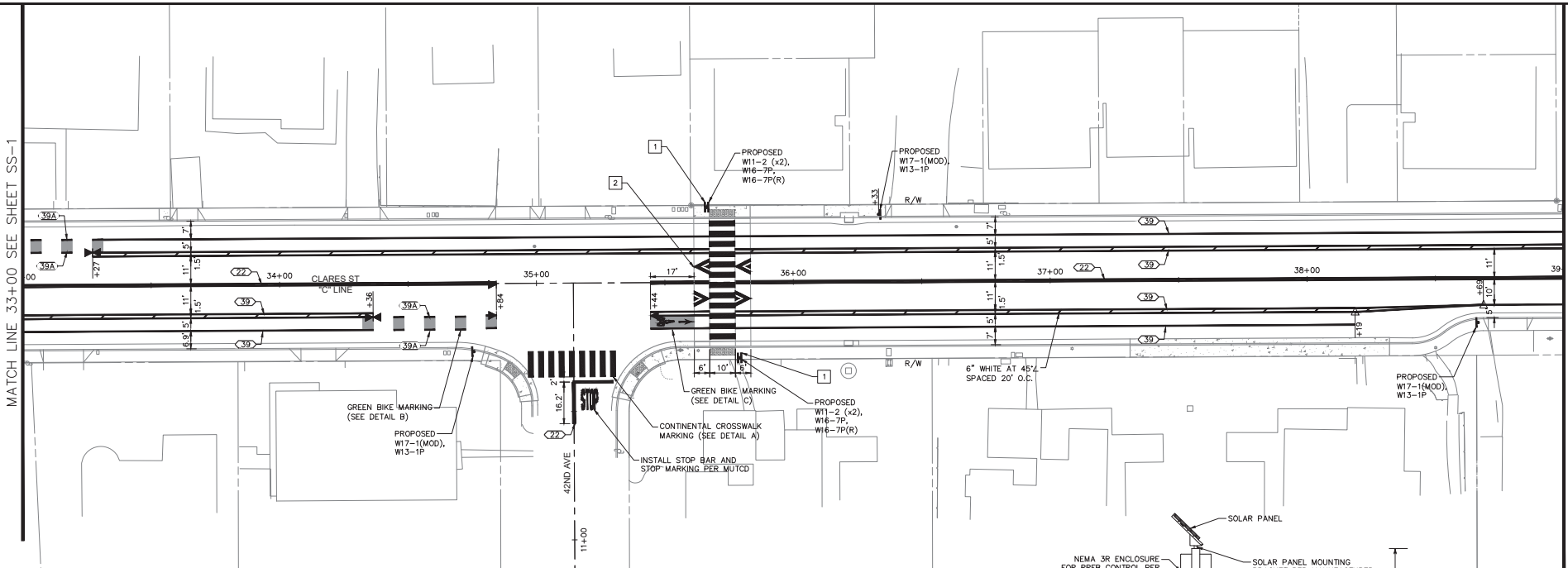
CLARES STREET TRAFFIC CALMING IMPROVEMENTS
 PREPARED FOR
CITY OF CAPITOLA
 SANTA CRUZ COUNTY



SIGNING AND STRIPING PLAN

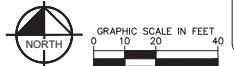
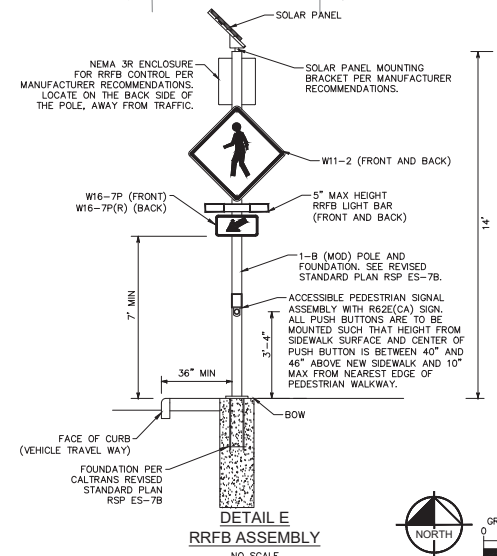
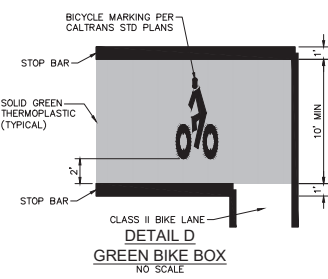
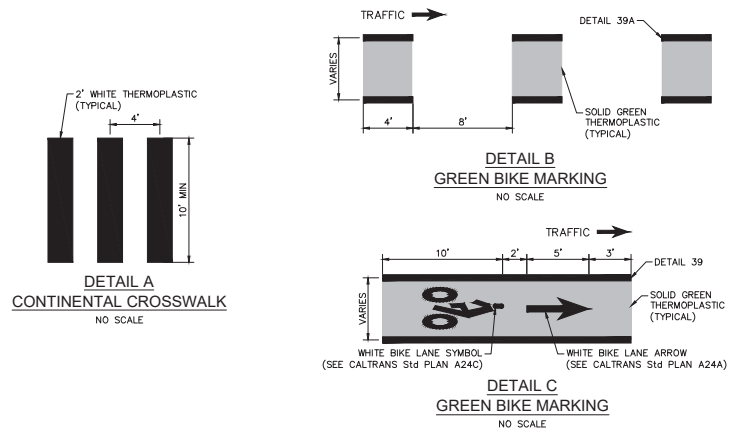
SHEET NO. 11
 OF 14 SHEETS
SS-1





MATCH LINE 33+00 SEE SHEET SS-1

MATCH LINE 39+00 SEE SHEET SS-3

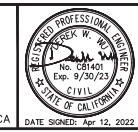


No.	REVISIONS	DATE	BY

Kimley»Horn
 © 2022 KIMLEY-HORN AND ASSOCIATES, INC.
 10 S ALMADEN BOULEVARD, SUITE 1250, SAN JOSE, CA 95131
 PHONE: 669-800-4130
 WWW.KIMLEY-HORN.COM

KHA PROJECT
 097763133
 DATE
 4/12/2022
 SCALE AS SHOWN
 DESIGNED BY DW
 DRAWN BY DW
 CHECKED BY TM/KM

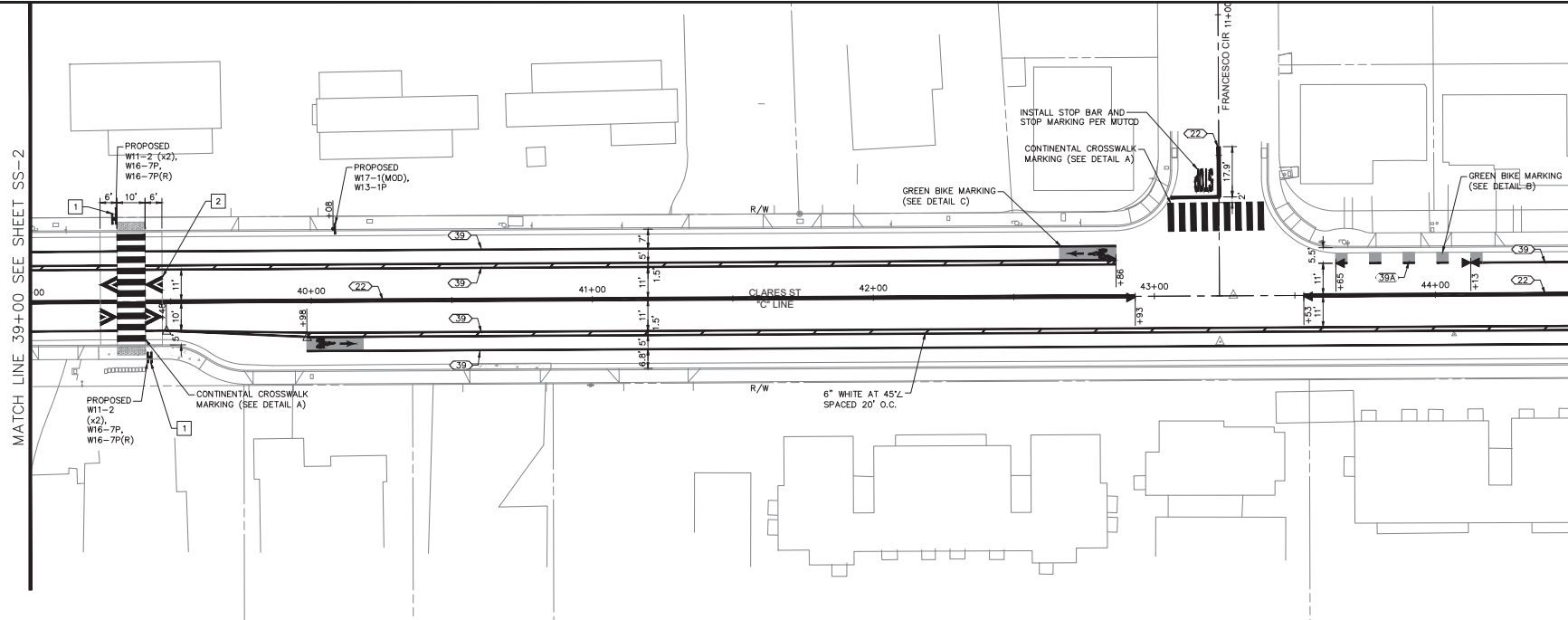
CLARES STREET TRAFFIC CALMING IMPROVEMENTS
 PREPARED FOR
CITY OF CAPITOLA
 SANTA CRUZ COUNTY



SIGNING AND STRIPING PLAN

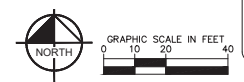
SHEET NO. 12
 OF 14 SHEETS
SS-2

This document, together with the concepts and designs presented herein, is an instrument of service. It is prepared for the specific purpose and client for which it was prepared. None of our engineers and associates, its staff or without liability to Kimley-Horn and Associates, Inc.



MATCH LINE 39+00 SEE SHEET SS-2

MATCH LINE 44+50 SEE SHEET SS-4



No.	REVISIONS	DATE	BY

Kimley»Horn
 © 2022 KIMLEY-HORN AND ASSOCIATES, INC.
 10 S ALMADEN BOULEVARD, SUITE 1250, SAN JOSE, CA 95113
 PHONE: 669-800-4130
 WWW.KIMLEY-HORN.COM

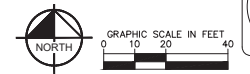
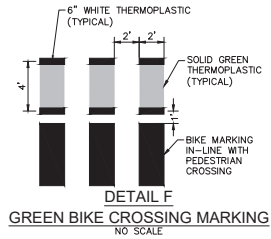
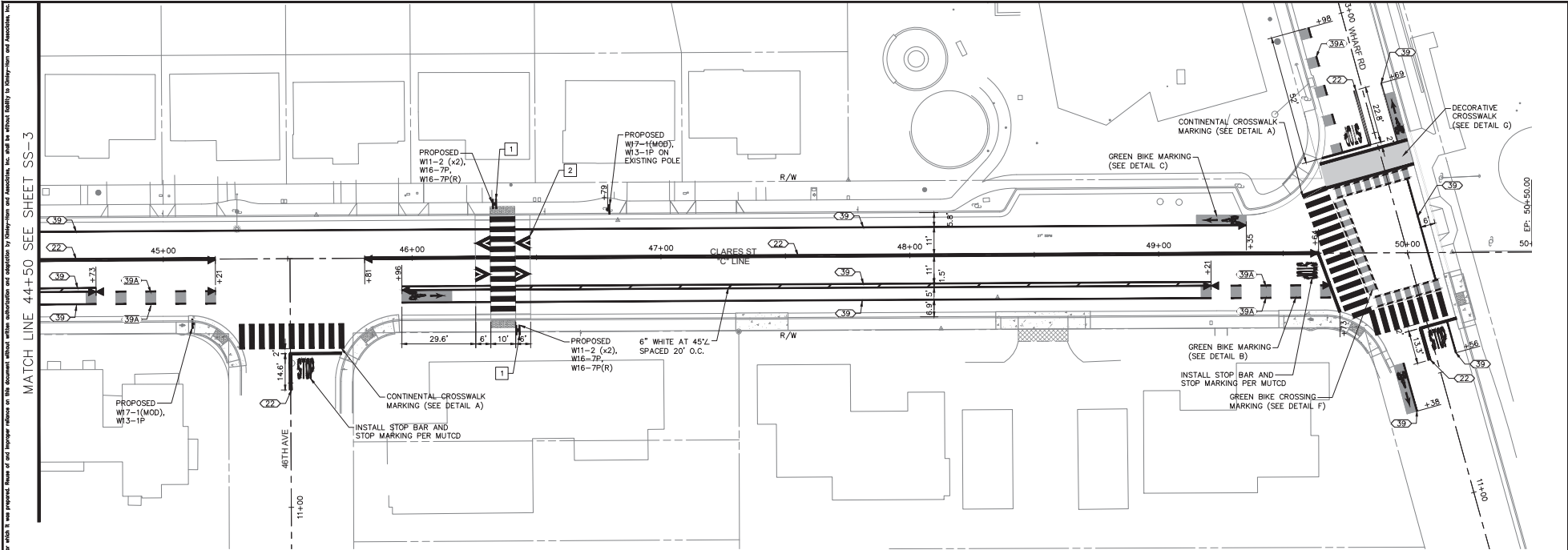
KHA PROJECT
 097763133
 DATE
 4/12/2022
 SCALE AS SHOWN
 DESIGNED BY DW
 DRAWN BY DW
 CHECKED BY TM/KM

CLARES STREET TRAFFIC CALMING IMPROVEMENTS
 PREPARED FOR
CITY OF CAPITOLA
 SANTA CRUZ COUNTY



SIGNING AND STRIPING PLAN

SHEET NO. 13
 OF 14 SHEETS
SS-3



No.	REVISIONS	DATE	BY

Kimley»Horn

© 2022 KIMLEY-HORN AND ASSOCIATES, INC.
10 S ALMADEN BOULEVARD, SUITE 1250, SAN JOSE, CA 95131
PHONE: 669-800-4130
WWW.KIMLEY-HORN.COM

KHA PROJECT
097763133

DATE
4/12/2022

SCALE AS SHOWN

DESIGNED BY DW

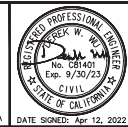
DRAWN BY DW

CHECKED BY TM/KM

CLARES STREET TRAFFIC CALMING IMPROVEMENTS

PREPARED FOR
CITY OF CAPITOLA

SANTA CRUZ COUNTY



SIGNING AND STRIPING PLAN

SHEET NO. 14
OF 14 SHEETS

SS-4

Client: City of Capitola
Project: Clares Street Traffic Calming Improvements
KHA No.: 097763133
Title: Engineering Opinion of Probable Construction Cost
Submittal: Final PS&E Design - 41st Avenue to Wharf Road

Date: 04/19/22
Prepared By: DW
Checked By: KM
Sheet: 1

Base Bid plus Add Alternative 1

Item	Caltrans Item No.	Description	Estimated Quantity	Unit	Unit Price	Total
1	999990	Mobilization	1	LS	\$94,000.00	\$94,000
2	120090	Construction Area Signs	1	LS	\$20,000.00	\$20,000
3	120100	Traffic Control System	1	LS	\$80,000.00	\$80,000
4	-	Survey and Construction Staking	1	LS	\$23,000.00	\$23,000
5	130300	Temporary Water Pollution Control and Erosion Control	1	LS	\$12,000.00	\$12,000
6	-	Adjust Water Valve Box to Grade	26	EA	\$1,000.00	\$26,000
7	-	Adjust Sanitary Sewer Manhole to Grade	15	EA	\$1,000.00	\$15,000
8	-	Adjust Storm Drain Manhole to Grade	4	EA	\$1,000.00	\$4,000
9	-	Adjust Gas Valve Box to Grade	4	EA	\$1,000.00	\$4,000
10	-	Adjust Utility Frame and Cover to Grade	5	EA	\$1,000.00	\$5,000
12	-	Cold In-Place Recycling (CIR)	12,151	SQYD	\$12.00	\$145,809
11	-	Wedge and Conform Grinding	5,004	LF	\$12.00	\$60,044
13	260203	Aggregate Base (Class 2)	71	CY	\$110.00	\$7,834
14	390132	Rubberized Hot Mix Asphalt	353	TON	\$475.00	\$167,497
15	731507	Minor Concrete (Curb and Gutter)	172	LF	\$42.00	\$7,205
16	-	Minor Concrete (Valley and Cross Gutter)	472	SQFT	\$20.00	\$9,430
17	731521	Minor Concrete (Sidewalk)	1,717	SQFT	\$22.00	\$37,777
18	731516	Minor Concrete (Driveway)	302	SQFT	\$25.00	\$7,549
19	731623	Minor Concrete (Curb Ramp)	2,240	SQFT	\$35.00	\$78,405
20	730070	Detectable Warning Surface	384	SQFT	\$45.00	\$17,258
21	-	Thermoplastic Traffic Stripe	11,513	LF	\$3.00	\$34,538
22	840515	Thermoplastic Pavement Marking	4,033	SQFT	\$8.00	\$32,266
23	-	Thermoplastic Pavement Marking (Green)	3,079	SQFT	\$16.00	\$49,264
24	-	Decorative Crosswalk	1	LS	\$20,000.00	\$20,000
25	-	Blue Fire Hydrant Pavement Marker	4	EA	\$35.00	\$140
26	650010	Roadside Sign	37	EA	\$400.00	\$14,800
27	-	Rectangular Rapid Flashing Beacon (RRFB) Assembly	1	LS	\$75,000.00	\$75,000
Subtotal						\$1,047,815
Contingency @ 10%						\$104,782
Total Construction Cost (Rounded)						\$1,153,000

Notes

The Engineer has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to Engineer at this time and represent only the Engineer's judgment as a design professional familiar with the construction industry. The Engineer cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.

Capitola City Council

Agenda Report

Meeting: April 28, 2022

From: Community Development Department

Subject: Presentation Regarding Senate Bill 9 and Draft City Ordinance



Recommended Action: Accept staff presentation.

Background: Senate Bill 9 (SB 9) was passed in September 2021 and went into effect on January 1, 2022. SB 9 enacted Government Code Sections 66411.7 and 65852.21 which apply solely to properties within a single-family (R-1) zone. The bill allows the subdivision on R-1 lots into two lots with up to two residential units on each new lot.

On February 3, 2022, the Planning Commission reviewed the draft SB9 ordinance and provided feedback. The feedback is outlined in the discussion portion of this report.

During a special meeting on March 31, 2022, the Commission reviewed SB9 buildout models designed to fit on typical Capitola lots and provided policy direction regarding height, setbacks, and parking options for smaller lots that cannot accommodate SB9 development without adding additional height or allowing parking within the entire front yard. On April 15, 2022, the draft ordinance was republished with updated including all Planning Commission guidance. On April 21, 2022, the Planning Commission provided a positive recommendation that City Council adopt the ordinance.

This report is intended to provide an overview of SB9 and the proposed draft ordinance. The intent of this agenda item is to circulate the ordinance early to the City Council, in preparation for a first reading on May 12, 2022.

Discussion: The proposed ordinance establishes two new chapters of the Capitola Municipal Code, including Chapter 16.78 for Urban Lots Splits and Chapter 17.75 for Two Unit Developments. The ordinance establishes eligibility requirements, review procedures, and objective standards for review of urban lot splits and SB-9 residential development applications.

Pursuant to state law, the code must allow the following:

Eligibility:

- All properties located in the single family (R-1) zoning district Subdivision
- Up to two new parcels of at least 1,200 square feet in area.
- Created lots at least 40 percent of the lot area of the original parcel
- Lots have access to the public right-of-way.

Allowed Development:

- Up to two units allowed on each lot. Maximum of four units, total.
- Guaranteed allowance of up to 800 square feet per unit, regardless of setbacks, parking, and height
- 4 feet maximum side and rear yard setback

Ministerial Review:

- Ministerial review by staff. Not subject to discretionary review by the Planning Commission.
- Review limited to applying objective development standards
- Review cannot apply subjective standards, such as compatibility within the neighborhood.

When Planning Commission reviewed the first draft of the ordinance on February 3, it provided the following feedback:

1. Add requirement for deed restriction that development be limited to the standards within Chapter 17.75: Two-Unit Development in Chapter 17.75 and Chapter 17.74 Accessory Dwelling Units and prohibit Vacation Rental
2. Keep guaranteed allowance for unit size at 800 square feet
3. Increase maximum unit size to 1,200 square feet for consistency with ADU regulations
4. Do not require separation between residential units
5. Limit front porch development to maintain front yards
6. Remove requirement that color and materials must match other structures on the same parcel
7. Include stormwater and onsite infiltration/pervious surface requirements
8. Specify if accessory uses, such as home occupancy or childcare, are allowed
9. For guaranteed allowance, protect front yards as the last option to expand into
10. Consider decreased side and rear setbacks for smaller lots
11. For lots created through SB9 Urban Lot Split, allow zero setbacks from the new central lot line
12. Minimize curb cuts for driveways. Require shared driveways with a maximum of one curb cut
13. Create maximum driveway widths rather than minimum driveway widths
14. Add standards to preserve front yards in single-family neighborhoods
15. Do not require covered parking
16. Guide parking to the side and rear of homes, not in the front yard

On March 31, 2022, the Planning Commission reviewed SB9 buildout models on typical Capitola lots and provided feedback on policy questions. Specifically, further study of the proposed SB9 development standards applied to Capitola's typical lot sizes revealed that lots under 5,500 square feet in size cannot accommodate four 800-square-foot units which comply with the SB9 ordinance setbacks, height, and parking requirements. For instance, on a 3,200 square foot lot, if parking is required onsite but not in the front yard, a third story and decreased front yard setbacks must be allowed to fit four 800 square foot units within the two lots. During the meeting, three of the five Commissioners directed staff to allow additional height up to three stories and require parking through shared access toward the back to the property to preserve front yards in the R-1 zone. Commissioners Routh and Wilk preferred parking in the front yard rather than additional height. Ultimately, the standards for additional height and no parking in the front yard were included in the draft ordinance recommended by Planning Commission, pursuant to the majority direction.

The draft ordinance was also sent to Coastal Commission staff for comments. In general, Coastal Commission staff comments suggested putting in protections for areas prone to flooding, sea level rise, environmentally sensitive habitat areas (ESHA), and geologic hazards. Another suggestion of Coastal staff was to require onsite parking or limit development in areas with limited

street parking availability to ensure coastal access. Lastly, they requested additional notes to ensure the requirement of a Coastal Development Permit and necessary CDP findings are required for all SB9 development projects within the coastal zone. In response to Coastal Staff's suggestions, City staff updated the ordinance to prohibited SB9 Residential Developments and Urban Lot Splits within the 100-year and 500-year flood areas, the Geological Hazards (GH) overlay, and within the Environmentally Sensitive Habitat Areas (ESHA) overlay. The ordinance was also updated to not allow any parking exceptions to onsite parking requirement for properties located on streets with extremely limited street parking in close proximity to the coast to ensure coastal access is not impacted. A map of impacted streets is included in the ordinance.

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.

Fiscal Impact: None.

Attachments:

1. Draft Ordinance
2. SB9 Buildout Models
3. SB9 Map
4. Environmentally Sensitive Habitat Area Map
5. Geologic Hazards Map
6. Flood Map
7. Zoning Map
8. HCD SB9 Guidance
9. Coastal Commission SB9 Guidance

Report Prepared By: Katie Herlihy, Community Development Director

Reviewed By: Chloé Woodmansee, City Clerk, Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager

ORDINANCE NO. XXXX

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 SB9 RESIDENTIAL 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 (“SB9 Residential 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 SB9 Residential 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 SB9 Residential 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 SB9 Residential 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 SB9 Residential Development; and

WHEREAS, Government Code sections 66411.7 and 65852.21 allow a city to deny a proposed SB9 Residential 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;

WHEREAS, on February 3, 2022, and March 31, 2022, the Planning Commission provided feedback on draft objective standards.

WHEREAS, on April 21, 2022, the Planning Commission recommended to the City Council adoption of the objective standards.

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 as set forth in Attachment 1, attached hereto and incorporated herein by this reference.

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 SB9 Residential Development with two units has been approved for construction pursuant to Chapter 17.75 herein.

Section 5. Chapter 17.75 (SB9 Residential Developments) is added to Title 17, Part 3 (Zoning, Citywide Standards) of the Capitola Municipal Code as set forth in Attachment 2, attached hereto and incorporated herein by this reference.

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:

Sam Story, Mayor

Attest: _____
Chloe Woodmansee, City Clerk

Approved as to form:

Samantha Zutler, City Attorney

CHAPTER 16.78 – URBAN LOT SPLITS

Sections:

16.78.010	Purpose and Intent
16.78.020	Eligibility
16.78.030	Objective Standards
16.78.040	Parcel Map Application Review and Action
16.78.050	Use and Development Requirements
16.78.060	Deed Restrictions

16.78.010 Purpose and Intent

This chapter contains requirements for urban lot splits to implement Government Code Section 66411.7. These requirements are necessary to preserve of the public health, safety, and general welfare, and to promote orderly growth and development. In cases where a requirement in the chapter directly conflicts with Government Code Section 66411.7, the Government Code governs.

16.78.020 Eligibility

- A. Parcel Map Required.** A parcel map is required for all urban lot splits pursuant to Government Code Section 66411.7.
- B. Requirements to Accept Application.** The City shall accept a parcel map application for an urban lot split only if the application complies with all of the following requirements:
1. **Existing Parcel Size.** The area of the existing parcel is 2,400 square feet or more.
 2. **Number of New Parcels.** The urban lot split creates no more than two new parcels.
 3. **New Parcel Size.** The area of each newly created parcel is:
 - a. At least 1,200 square feet; and
 - b. No smaller than 40 percent of the parcel area of the original parcel.
 4. **Zoning District.** The parcel is located within the Residential Single-Family (R-1) zoning district.
 5. **Environmental Resources and Hazards.**
 - a. The parcel satisfies the requirements of Government Code subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4, which prohibits development on sites subject to specified environmental resources and hazards.
 - b. The parcel is not located in any of the following areas as identified in the City's certified Local Coastal Program:
 - (1) Geological hazard areas.

- (2) 100-year and/or 500-year flood hazard areas.
- (3) Environmentally Sensitive Hazard Habitat Areas (ESHA).

6. **Affordable and Rental Housing.** The proposed urban lot split would not 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. 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.
- d. 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.

7. **Historic Resources.**

- a. 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.
- b. 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 Municipal Code Section 17.84.020.B. to qualify as a Designated Historic Resource.

8. **No Prior Urban Lot Split.**

- a. The parcel has not been established through prior exercise of an urban lot split provided for in Government Code Section 66411.7 of this chapter.
- b. 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.

16.78.030 Objective Standards

All urban lot splits shall comply with the following standards, unless the applicant can demonstrate that a standard 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. Parcel Line Angles.** 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. Street Frontage/Flag Lots.** Parcels without 20 feet or more of frontage on a street are not permitted, except that flag lots are permitted if:

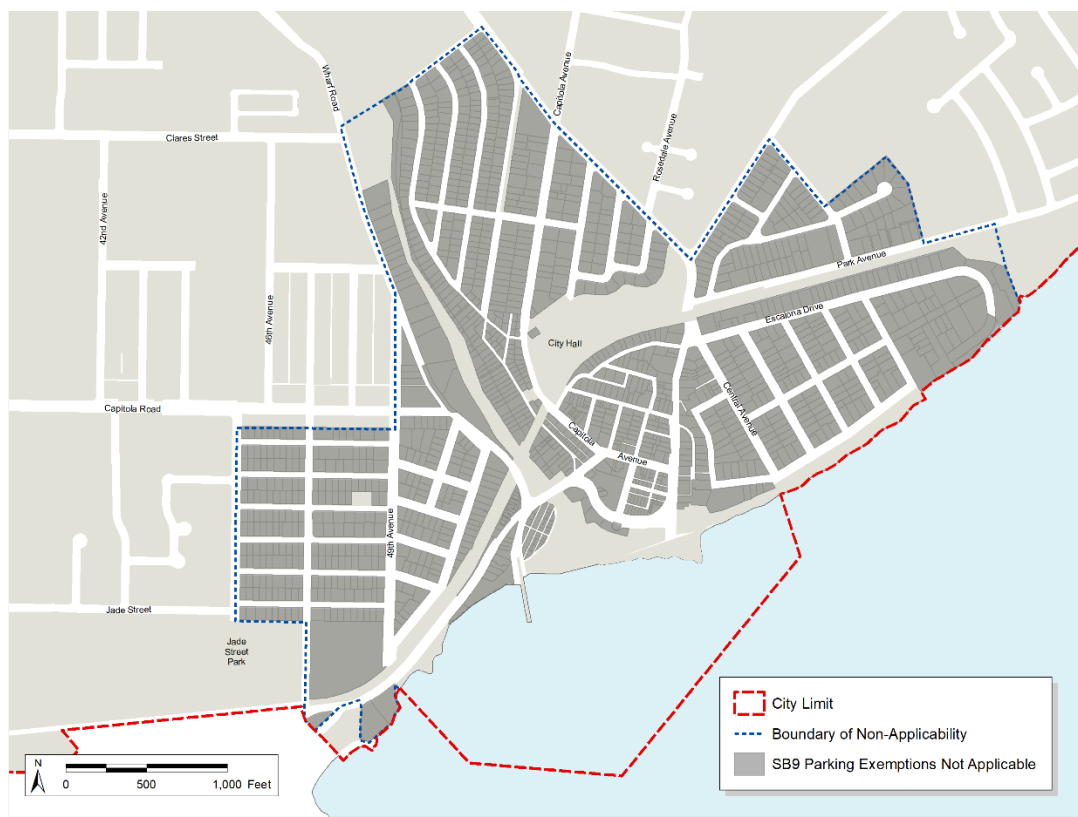
1. The front corridor portion of the flag lot is at least 5 feet in width; and
2. The lot shares with the other newly created lot a driveway or private road at least 10 feet in width and no more than 40 percent of the parcel width or 20 feet, whichever is less.

C. Parking.

1. Number of Spaces.

- a. A minimum of one off-street parking space shall be provided for each dwelling unit except that no parking is required where the parcel satisfies one or more 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.
- b. The exception for parcels that satisfy subparagraphs (1) or (2) does not apply to areas identified in Figure 1.

Figure 1



2. Shared Driveways.

- a. Both newly created parcels shall share one driveway providing vehicle access to the parcels. A maximum of one curb cut is permitted to serve both newly created parcels.
- b. The maximum width of the new driveway crossing a public sidewalk is 12 feet.

D. Access to Public Right-of-way. The newly created parcels shall provide access to or adjoin 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).

E. Setbacks.

1. No setback is required for an existing structure or a structure reconstructed in the same location and to the same dimensions as an existing structure. In all other circumstances minimum setbacks consistent with Zoning Code Section 17.75.050 (Objective Development Standards) are required.
2. Within the coastal zone, structures must comply with minimum setbacks from environmentally sensitive habitat areas and geologic hazards as specified in Zoning Code Chapter 17.64 (Environmentally Sensitive Habitat Areas) and Chapter 17.68 (GH Geologic Hazards District).
3. Verification of size and location of the existing and proposed structure requires pre- and post-construction surveys by a California licensed land surveyor.

F. Existing Structure on One Parcel. The proposed lot split shall not result in the splitting of any structure between the two parcels and shall not create a new encroachment of an existing structure over a property line.

G. Residential Land Use. The proposed new parcels must be intended for residential use.

H. Floor Area Calculation. Floor area calculation exclusions in 17.48.040(B)(6) do not apply to an SB9 residential development.

I. Compliance with Subdivision Requirements. The parcel map shall satisfy the objective requirements of the Subdivision Map Act and this title regarding parcel maps, including Chapter 16.24 (Design Standards) except as provided in this chapter.

16.78.040 Parcel Map Application Review and Action

A. Application Contents. A parcel map application for an urban lot split must be filed with the Community Development Department on an official City application form. Applications shall be filed with all required fees, information, and materials as specified by the Community Development Department. At a minimum, an application package shall include the following:

1. Title report showing the current ownership and all liens and encumbrances.
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 parcel 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.
 - d. Survey of existing conditions signed and stamped by licensed land surveyor or civil engineer.
 - e. Site plan with existing conditions, proposed parcel lines, driveways, and location of utility easements.
4. An affidavit, signed by the property owner under penalty of perjury, declaring all of the following to be true:
 - a. Any 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.
 - b. 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.
 - c. The owner has not previously subdivided an adjacent parcel using an urban lot split.
 - d. 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.

B. Ministerial Approval. The Community Development Director shall ministerially approve a parcel map for an urban lot split if the application complies with all requirements of this chapter. No public hearing or discretionary review is required.

C. Basis for Denial.

1. The Community Development Director shall deny the urban lot split if either of the following is found:
 - a. 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 that is the basis for denial shall be specified by the Community Development Director in writing.

- b. 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.
- 2. For an urban lot split in the coastal zone, the Community Development Director shall deny the application upon finding that the development is inconsistent with policies of the Local Coastal Plan and/or will have an adverse impact on coastal resources.
- 3. The Community Development Director shall not deny an urban lot split solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

D. Conditions of Approval.

- 1. **Easements.** The Community Development Director shall condition parcel map 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.
- 2. **Nonconforming Zoning Conditions.** The Community Development Director may not require the correction of nonconforming zoning conditions on the parcel a condition of parcel map approval.

E. Within Coastal Zone.

- 1. A proposed urban lot split that is located in the coastal zone may require a Coastal Development Permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zone) and the findings for approval of a CDP as specified in 17.44.130 (Findings for Approval).
- 2. A public hearing for a CDP application for an urban lot split is not required.
- 3. 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).

16.78.050 Use and Development Requirements

- A. Short-term Rentals Prohibited.** It is unlawful to use a dwelling unit constructed on a parcel created under this chapter for vacation rentals as defined in Chapter 17.160 (Glossary).
- B. Residential Use.** The primary use of a dwelling unit constructed on a parcel created under this chapter must be residential.
- C. Maximum Unit Size.** New dwelling units constructed on a parcel created under this chapter shall be no more than 800 square feet in floor area, or 1,200 square feet if each newly created parcels contain only one dwelling unit.
- D. Compliance with Zoning Requirements**

1. New dwelling units constructed on a parcel created under this chapter are subject to the requirements of Zoning Code Chapter 17.75 (Two-Unit Developments) and shall also comply with all applicable objective zoning requirements set forth in Zoning Code.
2. The standards described in this paragraph (1) of this subsection apply to all urban lot splits except where a standard directly conflicts with a provision of this chapter, or where the applicant demonstrates that a standard would:
 - a. Have the effect of physically precluding the construction of two units on either of the newly created parcels; or
 - b. Necessarily result in a unit size of less than 800 square feet.

E. Maximum Number of Dwelling Units. Notwithstanding any other provision of the Municipal Code, no more than two dwelling units, including any accessory dwelling units or junior accessory dwelling units, are permitted on a parcel created under this chapter.

16.78.060 Deed Restrictions

- A.** Before obtaining a building permit for a dwelling unit constructed on a parcel created under this chapter, the property owner shall file with the County Recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the current owner. The deed restriction shall state that:
1. The maximum size of the dwelling unit is limited to 1,200 square feet for two-unit projects and 800 square feet for three and four-unit projects;
 2. The primary use of the unit must be residential;
 3. Use of shared driveway must be permanently provided and maintained for both newly created parcels through a reciprocal access easement or other comparable mechanism; and
 4. The unit may not be used for vacation rentals as defined in Zoning Code Chapter 17.160 (Glossary).
- B.** The above declarations are binding upon any successor in ownership of the property. Lack of compliance shall be cause for code enforcement.
- C.** The deed restriction shall lapse upon removal of all dwelling units established on a parcel created under this chapter.

CHAPTER 17.75 – SB 9 RESIDENTIAL DEVELOPMENTS

Sections:

17.75.010	Purpose and Intent
17.75.020	Definitions
17.75.030	Permitting Process
17.75.040	General Requirements
17.75.050	Objective Development Standards
17.75.060	Objective Design Standards.
17.75.070	Deed Restrictions

17.75.010 Purpose and Intent

This chapter contains requirements for SB 9 residential developments pursuant to Government Code Section 65852.21. These requirements are necessary to preserve the public health, safety and general welfare, and to promote orderly growth and development. In cases where a requirement in the chapter directly conflicts with Government Code Section 65852.21, the Government Code governs.

17.75.020 Definitions

- A. SB 9 Residential Development.** An SB 9 residential development is a proposed residential project pursuant to Government Code Section 65852.21.
- B. Urban Lot Split.** The subdivision of a parcel within the Residential Single-family (R-1) zoning district into two parcels pursuant to Government Code Section 66411.7 and Municipal Code Chapter 16.78 (Urban Lot Splits).

17.75.030 Permitting Process

- A. Administrative Permit.** The Community Development Director shall ministerially approve an Administrative Permit for an SB 9 residential development if the application complies with all requirements of this chapter and Municipal Code Chapter 16.78 (Urban Lot Split), when applicable. No discretionary review or public hearing is required.
- B. Basis for Denial.**
 1. The Community Development Director shall deny an application for an SB 9 residential development if either of the following is found:
 - a. The two-unit development fails to comply with any objective requirement 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; or

- b. 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.
 - 2. For an SB 9 residential development in the coastal zone, the Community Development Director shall deny the application upon finding that the development is inconsistent with policies of the Local Coastal Plan and/or will have an adverse impact on coastal resources.
 - 3. The Community Development Director shall not deny an SB 9 residential development solely because it conflicts with the City’s density limitations for the R-1 zoning district.
- C. Within Coastal Zone.** 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 an SB 9 residential development is not 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. Building Permit.** A building permit for an SB 9 residential development may be submitted only after:
- 1. The City approves the Administrative Permit for the two-unit development; and
 - 2. A parcel map for the urban lot split parcel map is recorded by the Santa Cruz County Recorder if a dwelling unit will be constructed on a lot created by an urban lot split.

17.75.040 General Requirements

- A. Eligibility Requirements.** The City shall accept an application for an SB 9 residential development only if the project complies with the following requirements:
- 1. **Zoning District.** The two-unit development is located in the Residential Single-Family (R-1) zoning district.
 - 2. **Compliance with Chapter.** The two-unit development complies with all applicable requirements of this chapter.
 - 3. **Environmental Resources and Hazards.**
 - a. The two-unit development satisfies the requirements of Government Code subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4, which prohibits development on sites subject to specified environmental resources and hazards.

- b. The parcel is not located in any of the following areas as identified in the City’s certified Local Coastal Program:
 - (1) Geological hazard areas.
 - (2) 100-year and/or 500-year flood hazard areas.
 - (3) Environmentally Sensitive Hazard Habitat Areas (ESHA).

4. Affordable and Rental Housing.

- a. The two-unit development will 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) Housing that has been occupied by a tenant in the last three years.
- b. The parcel subject to the proposed Two-Unit Development is not 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.

5. Historic Resources.

- a. The two-unit development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Public Resources Code Section 5020.1.
- b. The two-unit development 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.

B. Number of Primary Dwelling Units.

- 1. A maximum of two primary dwelling units are allowed on a parcel.
- 2. If a parcel is subdivided pursuant to Municipal Code Chapter 17.78 (Urban Lot Splits), a maximum of two primary dwelling units are allowed on each newly created parcel. Up to four units are allowed on the two parcels combined.

C. Accessory Dwelling Units.

- 1. **Projects with Urban Lot Split.** The following accessory dwelling unit (ADU) rules apply to a parcel created through an urban lot split as provided in Chapter 16.78 (Urban Lot Split.)

- a. If the parcel contains one primary dwelling unit, one ADU or Junior ADU is also allowed on the parcel.
 - b. If the parcel contains two primary dwelling units, an ADU or Junior ADU is not allowed on the parcel.
2. **Projects Without Urban Lot Split.** Where a parcel has not been subdivided as provided in Chapter 16.78 (Urban Lot Split), one ADU and/or JADU is allowed on the parcel in addition to the two primary dwelling units.

D. Utility Connections.

1. Each dwelling unit shall be served by a separate utility connection for water, sewer, and electrical services.
2. The Community Development Director shall condition approval of a dwelling unit on the dedication of any easements deemed necessary to provide public services to the unit and access to the public right-of-way.

E. Residential Uses Only.

1. The primary use of a dwelling unit must be residential. A dwelling unit may not be utilized for a non-residential primary use otherwise permitted in the R-1 zoning district as identified in Table 17.16-1.
2. Home occupations and other accessory uses are permitted in a dwelling unit consistent with Section 17.96.040 (Home Occupations) and Section 17.52 (Accessory Uses).

F. Vacation Rentals. A dwelling unit may not be used for vacation rentals as defined in Chapter 17.160 (Glossary).

G. Guaranteed Allowance.

1. The standards in 17.75050 (Objective Development Standards) and 17.75.060 (Objective Design Standards) shall not prohibit up to two dwelling units each with up to 800 square feet of floor area, provided the dwelling units comply with all other applicable standards.
2. The Community Development Director shall determine which standards must be adjusted, if any, to comply with this section.

H. Floor Area Calculation. Floor area calculation exclusions in 17.48.040(B)(6) do not apply to an SB9 residential development.

I. Existing Nonconformities. Establishing a dwelling unit shall not require the correction of an existing legal nonconforming zoning condition on the property.

17.75.050 Objective Development Standards.

- A. General.** Table 17.75-1 shows development standards for two-unit development on parcels with an area of 5,500 square feet or more. Table 17.75-2 shows development standards on parcels with an area of less than 5,500. Parcel sizes are based on the area of a parcel prior to an urban lot split.

Table 17.75-1: Development Standards for Parcels 5,500 Sq. Ft. or More

Maximum Unit Size	
Projects with Two Units	1,200 sq. ft. per unit
Projects with Three and Four Units [1]	800 sq. ft. for each unit within the project
Minimum Setbacks	
Front	
Ground floor	15 ft.
Second story	15 ft.
Garage	20 ft.
New Interior Property Line [2]	0 ft.
Rear	4 ft.
Interior Side	4 ft.
Street Side	4 ft.
Maximum Height	
One-story Building	16 ft.
Two-story Building	
Plate height [3]	20 ft.
Roof peak	3 ft. above plate height
Three-story Building	Not allowed
Minimum Private Open Space [4]	
	48 sq. ft.

Notes:

[1] For projects with a dwelling unit on a parcel created through an urban lot split pursuant to Chapter 16.78 (Urban Lot Split).

[2] "New interior property line" means a property line created pursuant to 16.78 (Urban Lot Split) that does not abut an existing parcel outside of the property subject to the urban lot split.

[3] "Plate height" means the vertical distance from the assumed ground surface of the building to the point that exterior wall meets the roof eave.

[4] Private open space may include screened terraces, decks, balconies, and other similar areas.

Table 17.75-2: Development Standards for Parcels Less than 5,500 Sq. Ft.

	Number of Units [1]		
	Up to Two	Three	Four
Maximum Unit Size	1,200 sq. ft.	800 sq. ft.	800 sq. ft.
Minimum Setbacks			
Front			
Ground floor	15 ft. [2]	10 ft.	0 ft.
Second story	15 ft. [2]	10 ft.	0 ft.
Garage	20 ft. [2]	10 ft.	0 ft.
New Interior Property Line [3]	0 ft.	0 ft.	0 ft.
Rear	4 ft. [4]	4 ft. [4]	4 ft. [5]
Interior Side	4 ft. [4]	4 ft. [4]	4 ft. [6]
Street Side	4 ft. [4]	4 ft. [4]	4 ft. [6]
Maximum Height			
One-story Building	16 ft.	16 ft.	16 ft.
Two-story Building			
Plate height [7]	20 ft.	20 ft.	20 ft.
Roof peak	3 ft. above plate height	3 ft. above plate height	3 ft. above plate height
Three-story Building	Not allowed	Allowed [8]	Allowed
Plate height [7]	-	20 ft.	28 ft.
Roof peak	-	33 ft.	3 ft. above plate height
Minimum Private Open Space [9]	48 sq. ft.	48 sq. ft.	48 sq. ft.

Notes:

[1] Standards for three and four-unit projects apply to projects with a dwelling unit on a parcel created through an urban lot split pursuant to Chapter 16.78 (Urban Lot Split). Standards apply to all units established as part of the project.

[2] For parcels less than 3,200 sq. ft., minimum front setback is 10 feet for ground floor and second story and 15 feet for garage.

[3] "New interior property line" means a property line created pursuant to 16.78 (Urban Lot Split) that does not abut an existing parcel outside of the property subject to the urban lot split.

[4] For parcels less than 3,200 sq. ft., the minimum rear, interior side, and street side setback is 3 feet.

[5] On parcels less than 3,200 sq. ft., 0 ft. rear setback allowed where a side driveway provides vehicle access to parking located behind the front building. A 3-foot rear setback is allowed for all other 4-unit configurations on parcels less than 3,200 sq. ft.

[6] 0 ft. side setback allowed where a side driveway provides vehicle access to parking located behind the front building. A 3-foot side setback is allowed for all other 4-unit configurations on parcels less than 3,200 sq. ft.

[7] "Plate height" means the vertical distance from the assumed ground surface of the building to the point that exterior wall meets the roof eave.

[8] Third story must be built into roof element (2 ½ stories)

[9] Private open space may include screened terraces, decks, balconies, and other similar areas.

B. Additional Setback Standards.

- 1. Converting and Replacing Existing Structures.** No setback is required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.
- 2. Within Coastal Zone.** Within the coastal zone, structures must comply with minimum setbacks from environmentally sensitive habitat areas and geologic hazards as specified in Zoning Code Chapter 17.64 (Environmentally Sensitive Habitat Areas) and Chapter 17.68
- 3. (GH Geologic Hazards District).**

C. Separation Between Dwelling Units.

1. No minimum separation is required between dwelling units on a parcel.
2. Dwelling units may be connected if the structures meet building code safety standards and are sufficient to allow a separate conveyance.

D. Parking.

1. **Required Parking.** A minimum of one off-street parking space is required per dwelling unit except as provided in subsection (D)(7) of this section.
2. **Tandem Spaces.** Required off-street parking for two separate dwelling units shall not be provided as tandem parking.
3. **Parking Placement.** Required off-street parking may not be located within minimum required front setback area.
4. **Number of Driveways.**
 - a. A maximum of one curb cut is allowed to provide vehicle access to the parking.
 - b. Shared driveways are required to serve parking on separate parcels created through an urban lot split.
5. **Driveway Width.** The maximum width of a new driveway crossing a public sidewalk is 12 feet.
6. **Alley Access.** Parking accessed from an alley shall maintain a 24-foot back-out area, which may include the alley.
7. **Exceptions to Required Parking.**
 - a. No off-street parking is required in the following cases:
 - (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.
 - b. The exception for parcels that satisfy subparagraphs (1) or (2) does not apply to areas identified in Figure 1.

Figure 1



17.75.060 Objective Design Standards

- A. Entrance Orientation.** The primary entrance to each new dwelling unit shall face the front or interior of the parcel unless the dwelling unit is directly accessible from an alley.
- B. Neighbor Privacy.** 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 or three-story wall, privacy impacts shall be minimized by either:
 - a. A 6-foot solid fence on the property line; or
 - b. Clerestory or opaque windows for all windows facing the adjacent property.
 2. For a second or third-story wall, all windows facing an adjacent property shall be clerestory or opaque.

C. Upper Story Decks and Balconies. Second and third-story exterior decks and balconies and rooftop decks are prohibited.

D. Front Porches, Patios and Entry Features.

1. If a dwelling unit is set back 15 feet or more from a front property line, a front porch or covered patio may project up to 5 feet into the front setback area.
2. A front porch or covered patio less than 15 feet from a front property line may not exceed a width greater than 10 feet.
3. For a dwelling unit setback less than 15 feet from a front property line, the primary entrance may be covered by a roof element, or other similar overhanging feature provided that:
 - a. The covering is attached to the building wall and is not supported by columns, walls, or other vertical structural elements that extend to the ground; and
 - b. The covering dimensions do not exceed five feet width and three feet depth.

E. Pervious Surface Area. Pervious materials shall be used for all on-site paved areas including driveways, walkways, and patios.

F. Stormwater. SB 9 residential developments shall comply with Municipal Code Chapter 13.16 (Stormwater Pollution Prevention and Protection).

17.75.070 Deed Restrictions

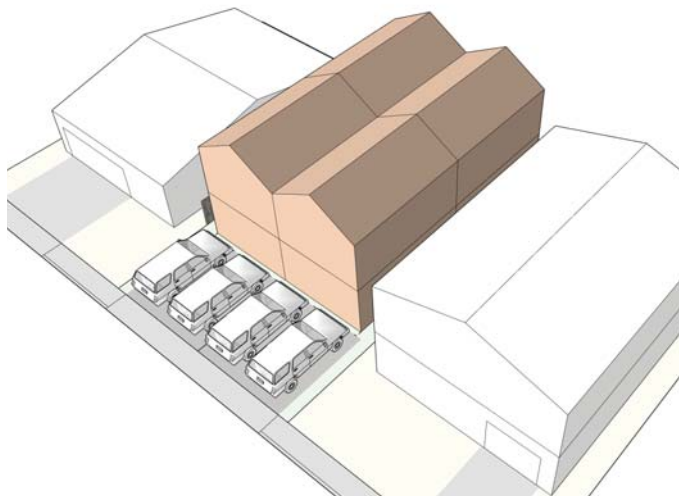
- A.** Before obtaining a building permit for an SB 9 residential development, the property owner shall file with the County Recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the current owner. The deed restriction shall state that:
1. The maximum size of the dwelling unit is limited to 1,200 square feet for two-unit projects and 800 square feet for three and four-unit projects;
 2. The primary use of the dwelling unit must be residential;
 3. For SB 9 residential developments involving an urban lot split, use of shared driveway must be permanently provided and maintained for both newly created parcels through a reciprocal access easement or other comparable mechanism; and
 4. The dwelling unit may not be used for vacation rentals as defined in 17.160 (Glossary).
- B.** The above declarations are binding upon any successor in ownership of the property. Lack of compliance shall be cause for code enforcement.
- C.** The deed restriction shall lapse upon removal of all dwelling units established under this chapter.

1. 40'x70' lot (4 units with parking)

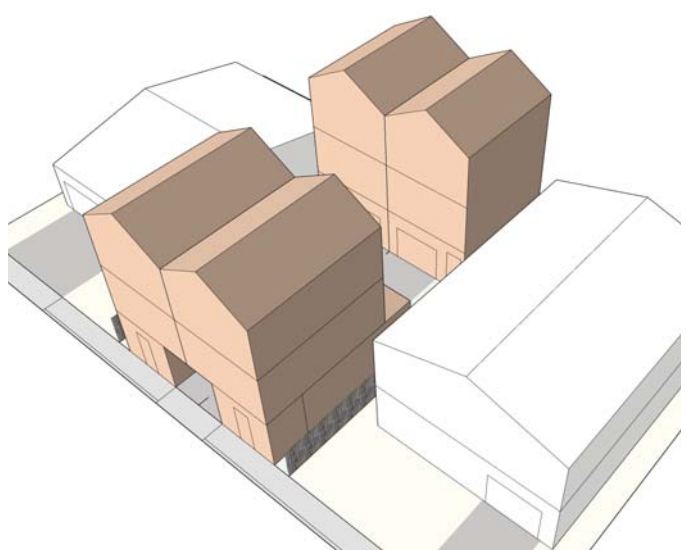
	A.	B.	C.
Front setback	18'	0'	0'
Side setbacks	3'	3'	0'
Rear setback	3'	3'	0'
Height (stories)	2	3	3

All layouts

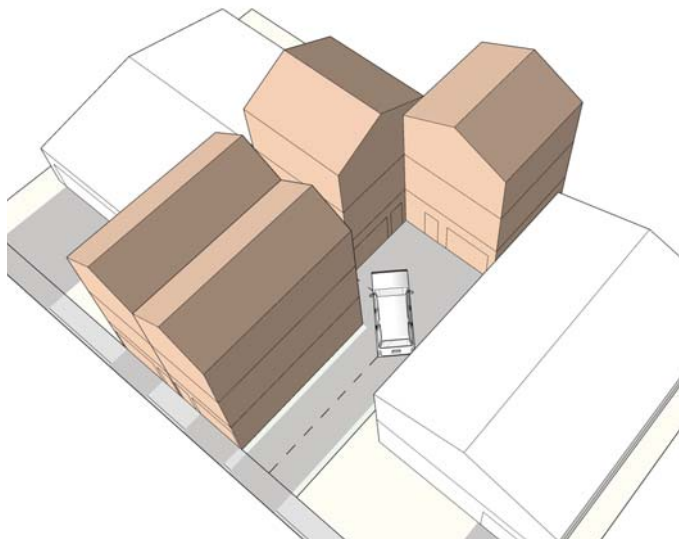
Units	4
Parking (per unit)	1



A. 2 stories, surface parking in front setback



B. 3 stories, garage parking w/one driveway



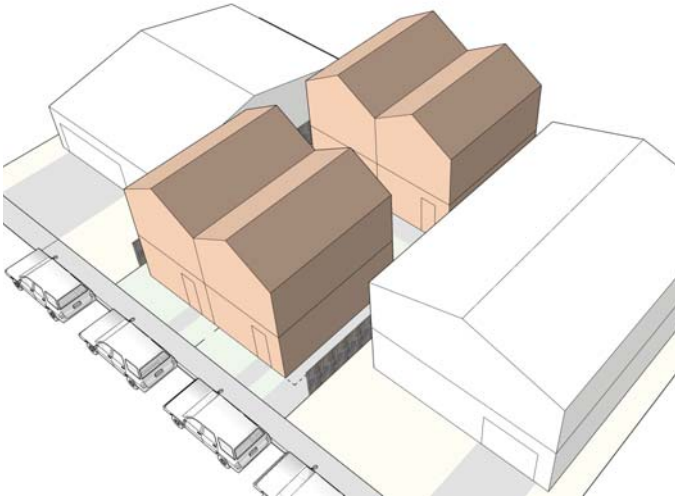
C. 3 stories, garage parking w/three driveways

2. 40'x70' lot (4 units with no parking)

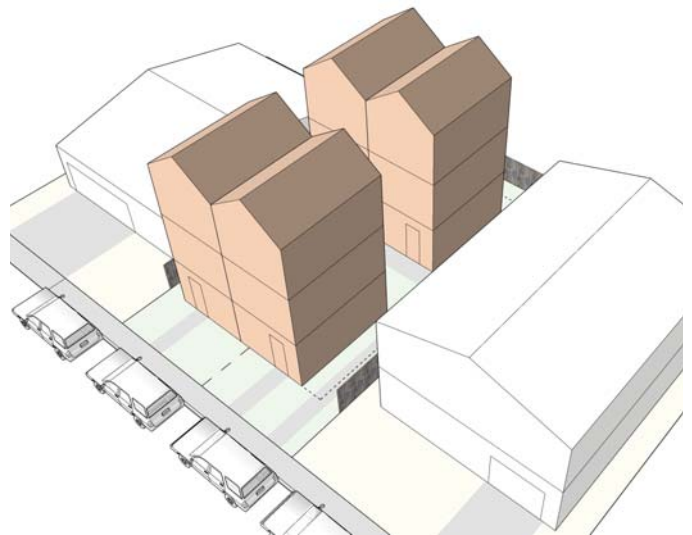
	D.	E.
Front setback	5'	10'
Height (stories)	2	3

All layouts

Units	4
Side setbacks	4'
Rear setback	4'
Parking (per unit)	0



D. 2 stories, no onsite parking



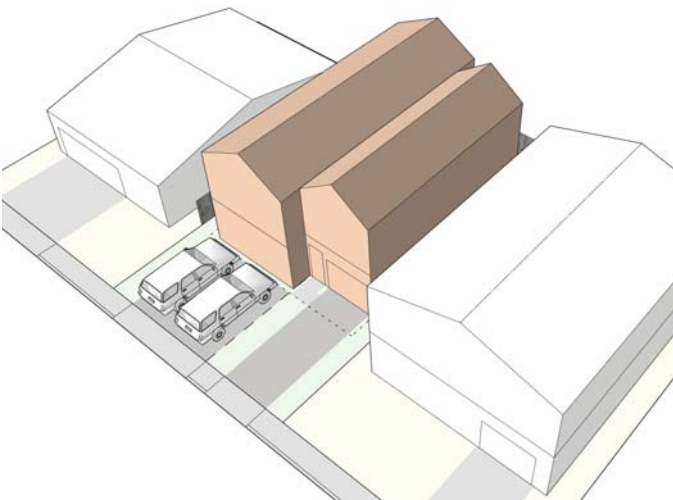
E. 3 stories, no onsite parking

3. 40'x70' lot (2 and 3 units)

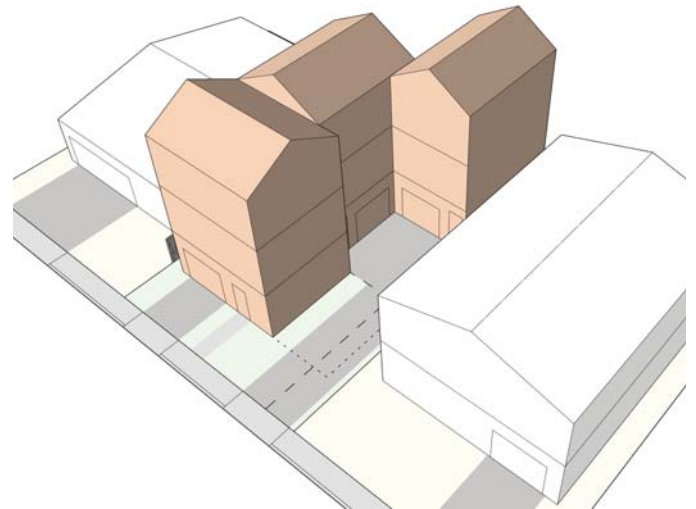
	F.	G.	H.
Units	3	3	2
Front setback	18'	10'	10'
Height (stories)	2	3	2

All layouts

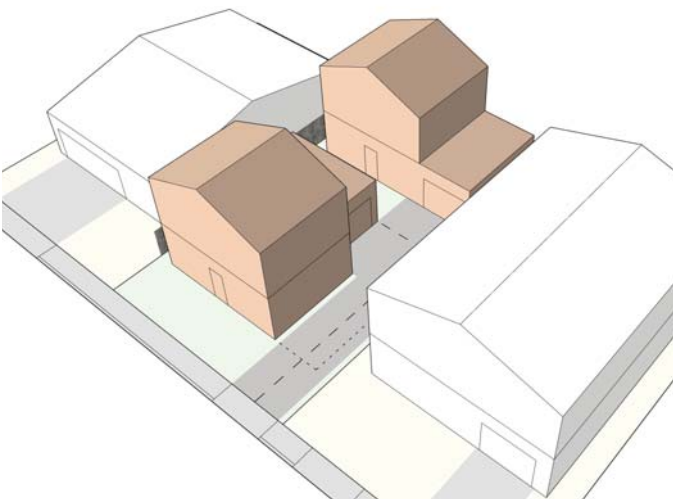
Side setbacks	3'
Rear setback	3'
Parking (per unit)	1



F. 3 units, 2 stories, surface parking in front setback/garage parking in front



G. 3 units, 3 stories garage parking in front and rear



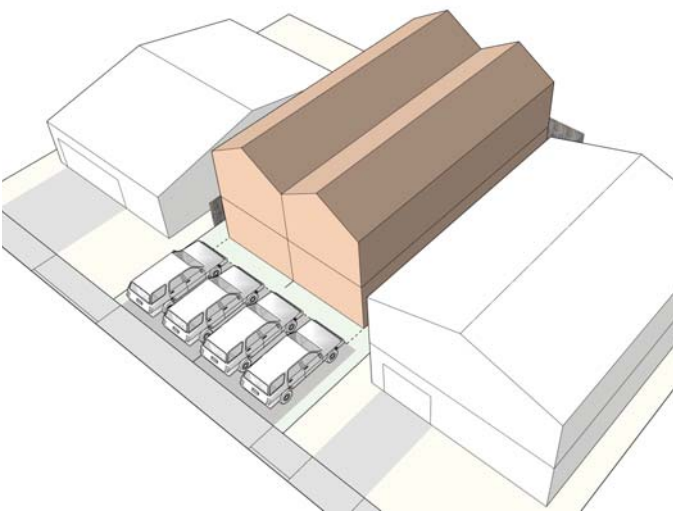
H. 2 units, 2 stories, parking in rear

4. 40'x80' lot (4 units with parking)

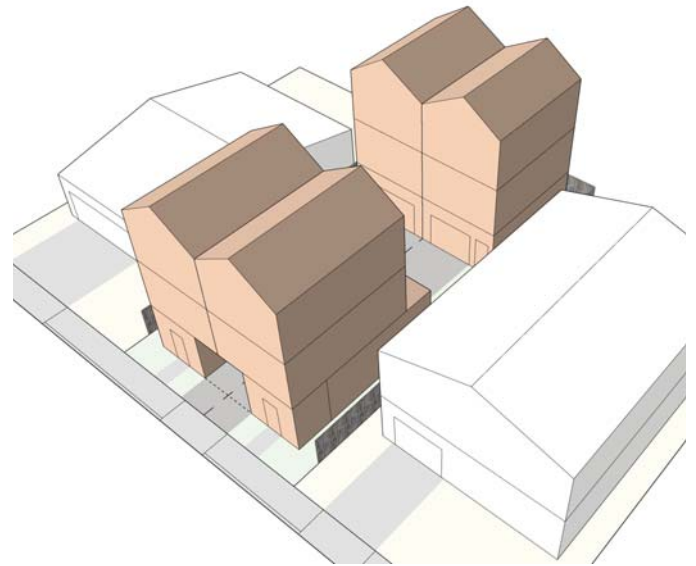
	A.	B.	C.
Front setback	18'	5'	0'
Side setbacks	4'	4'	0'
Height (stories)	2	3	3

All layouts

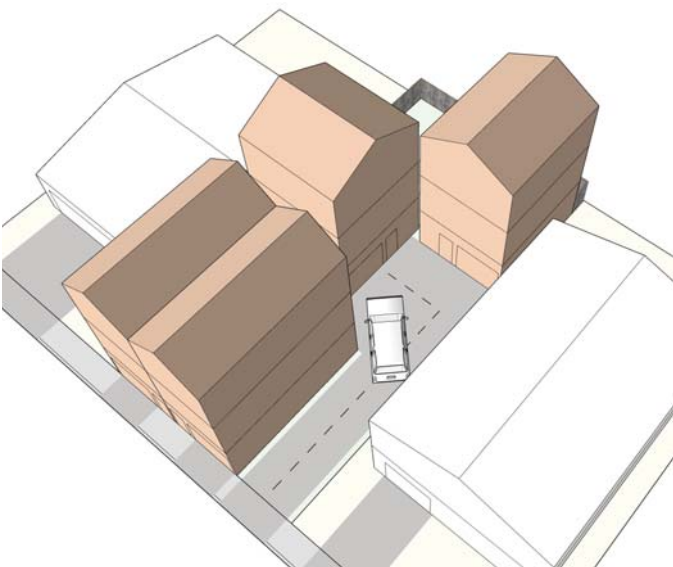
Units	4
Rear setback	4'
Parking (per unit)	1



A. 2 stories, surface parking in front setback



B. 3 stories, garage parking w/one driveway

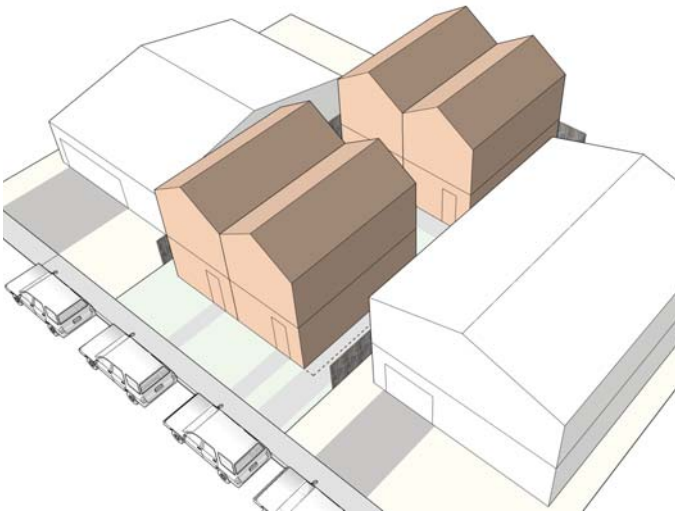


C. 3 stories, garage parking w/three driveways

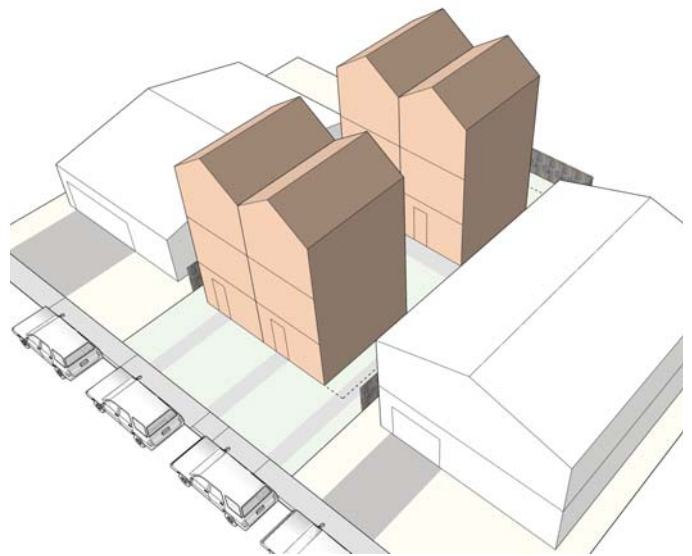
5. 40'x80' lot (4 units with no parking)

	D.	E.
Front setback	10'	15'
Height (stories)	2	3

All layouts	
Units	4
Side setbacks	4'
Rear setback	4'
Parking (per unit)	0



D. 2 stories, no onsite parking



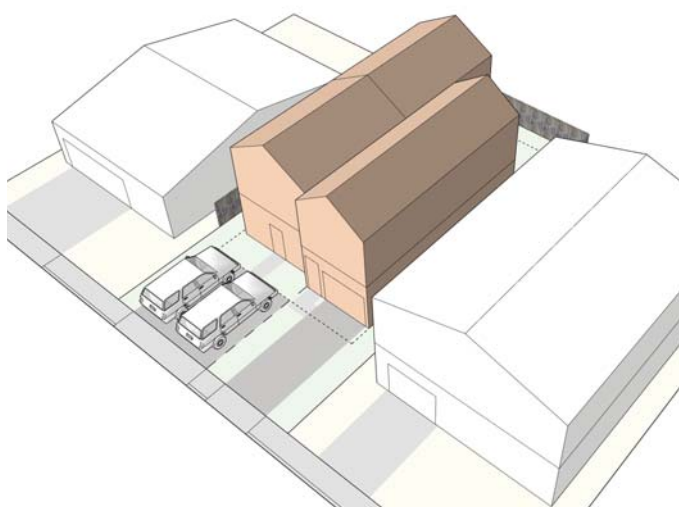
E. 3 stories, no onsite parking

6. 40'x80' lot (3 units)

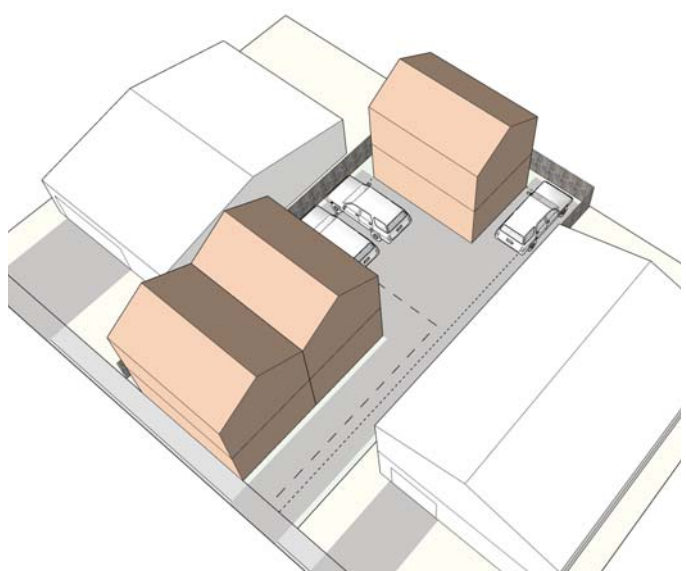
	F.	G.	H.	I.
Front setback	18'	0'	0'	10'
Side setbacks	4'	4'	3'	4'
Height (stories)	2	2	2	3

All layouts

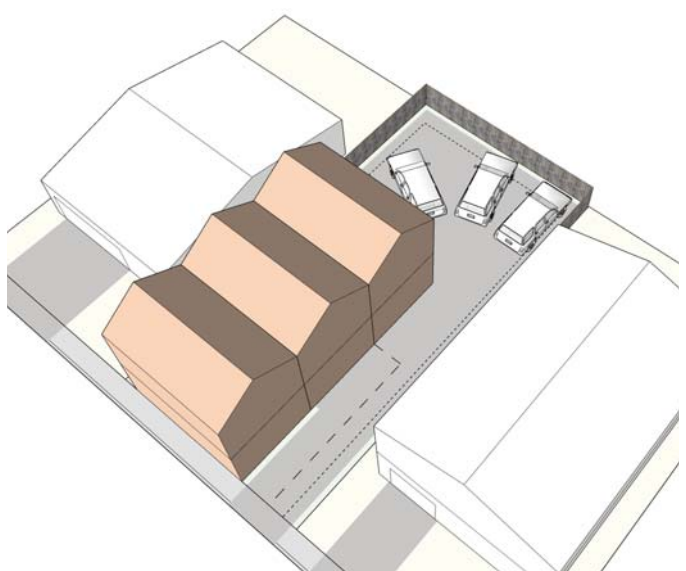
Units	3
Rear setback	4'
Parking (per unit)	1



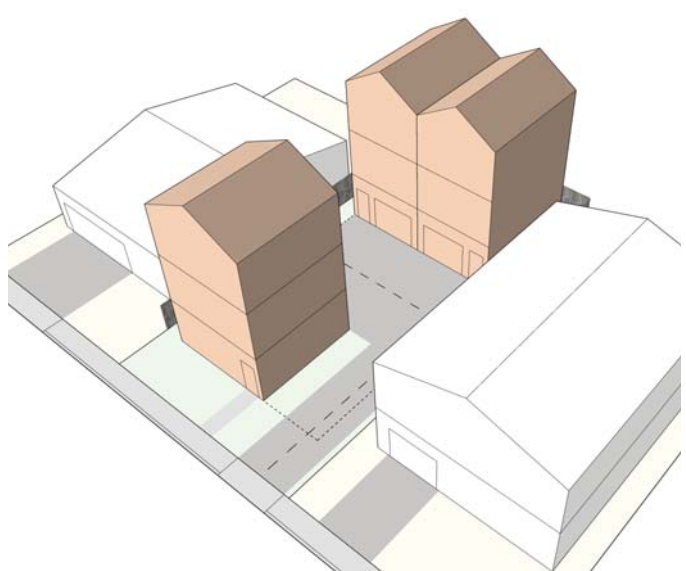
F. 2 stories, surface parking in front setback/garage parking in front



G. 2 stories, parking in side/rear



H. 2 stories, parking in rear

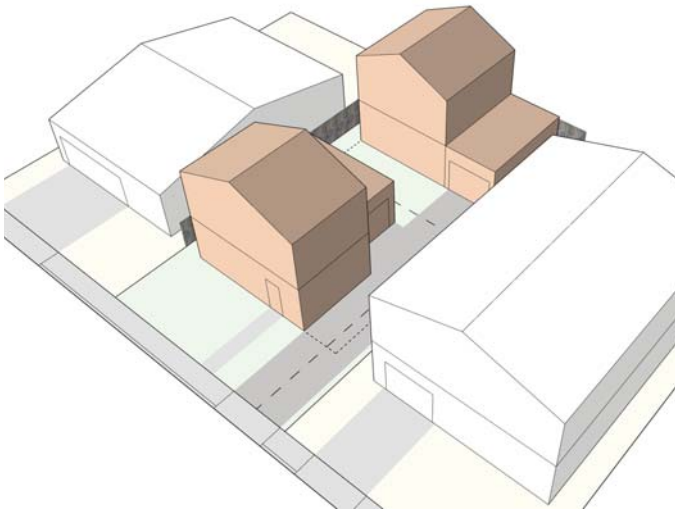


I. 3 stories, parking in rear

7. 40'x80' lot (2 units)

Item 9 B.

	J.
Units	2
Front setback	15'
Side setbacks	4'
Rear setback	4'
Height (stories)	2
Parking (per unit)	1



J. 2 stories, 2 units

8. 60'x100' lot (4 units)

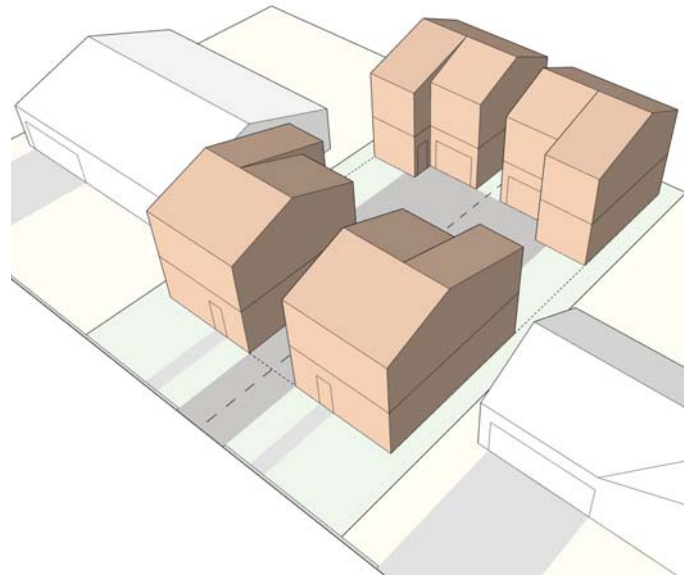
Item 9 B.

All layouts

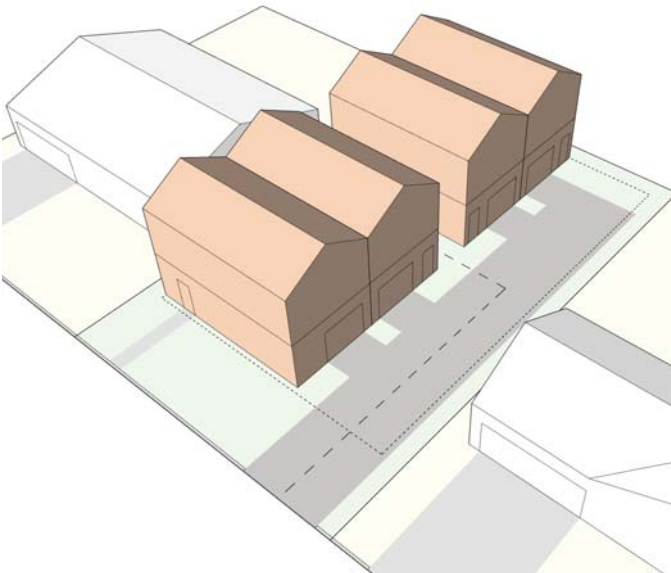
Units	4
Front setback	15'
Side setbacks	4'
Rear setback	4'
Height (stories)	2
Parking (per unit)	1



A. Surface parking in rear



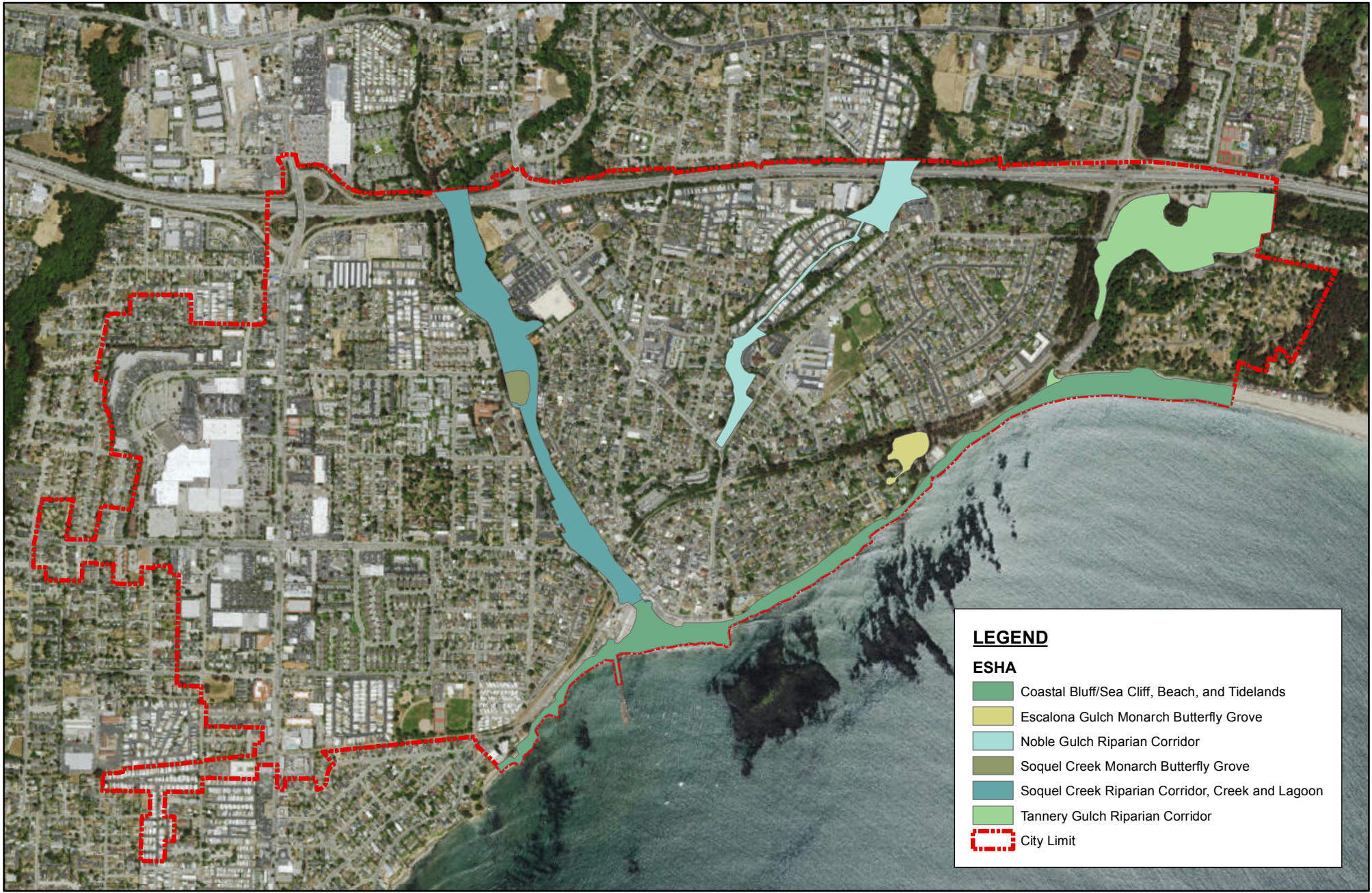
B. Garage parking, detached units



C. Garage parking, attached units

Note: Consider requiring shared driveway access for 60x100 lots

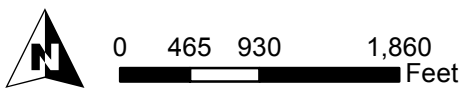




LEGEND

ESHA




- Coastal Bluff/Sea Cliff, Beach, and Tidelands
- Escalona Gulch Monarch Butterfly Grove
- Noble Gulch Riparian Corridor
- Soquel Creek Monarch Butterfly Grove
- Soquel Creek Riparian Corridor, Creek and Lagoon
- Tannery Gulch Riparian Corridor
- City Limit



Source: ESRI, 2017; Kimley-Horn, 2017.

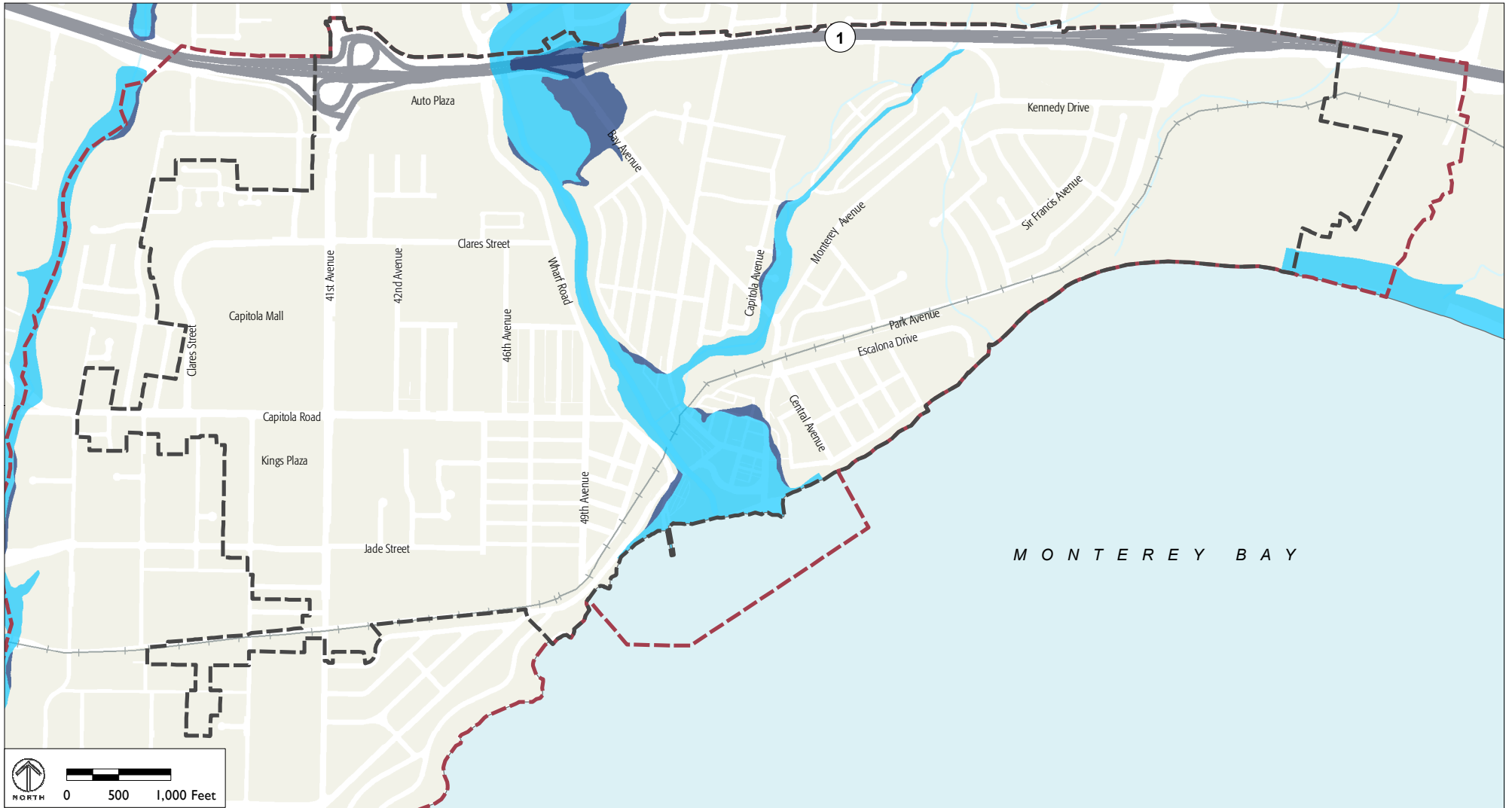
CITY OF CAPITOLA
ZONING CODE UPDATE



-  Geological Hazard
-  City Limits
-  Land Parcels

Source: ESRI 2017; PlaceWorks, 2017.

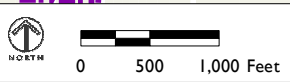
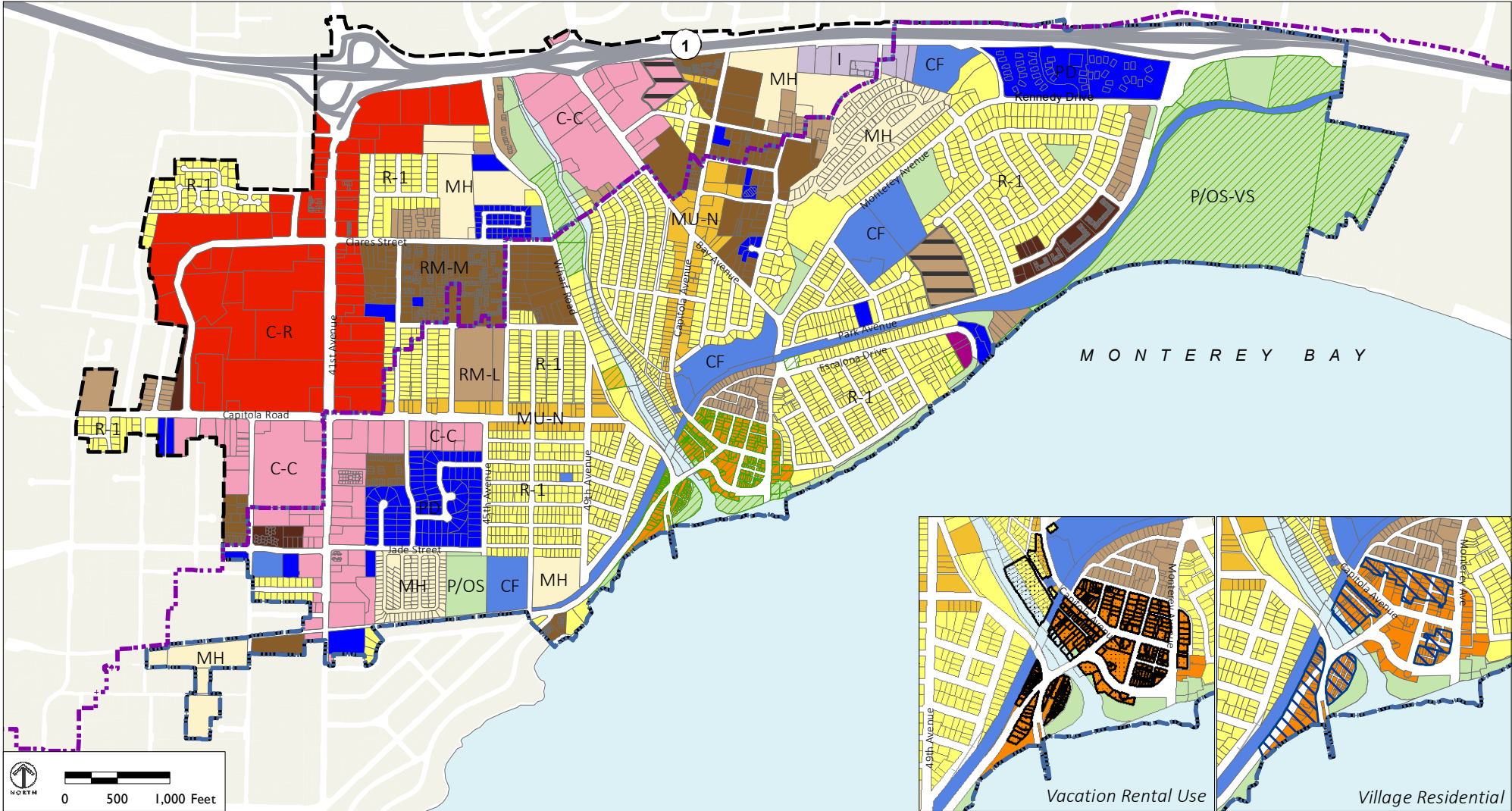
CITY OF CAPITOLA
ZONING CODE UPDATE



- 100-year flood
- 500-year flood
- City Limit
- Sphere of Influence

Source: ESRI, 2017; PlaceWorks, 2017.

CITY OF CAPITOLA
ZONING MAP



Residential Zoning Districts

- R-1 - Single-Family Residential
- RM-L - Multi-Family Residential, Low Density
- RM-M - Multi-Family Residential, Medium Density
- RM-H - Multi-Family Residential, High Density
- MH - Mobile Home Park

Mixed-Use Zoning Districts

- MU-V - Mixed Use Village
- MU-N - Mixed Use Neighborhood

Commercial and Industrial Zoning Districts

- C-R - Regional Commercial
- C-C - Community Commercial

Other Zoning Districts

- I - Industrial
- P/OS - Parks and Open Space
- CF - Community Facility
- PD - Planned Development
- VS - Visitor Serving

Overlay Zones*

- AHO - Affordable Housing Overlay
- CZ - Coastal Zone
- VRU - Vacation Rental Use
- VR - Village Residential
- VS - Visitor Serving

- City Limit
- Santa Cruz Coastal Zone Boundary

Source: ESRI, 2017; PlaceWorks, 2017.

Zoning Map Certified
June 9, 2021
by CA Coastal Commission 97

*See Local Coastal Program Habitats Map for boundaries of Environmentally Sensitive Habitats Area Overlay Zone.

California Department of Housing and Community Development

SB 9 Fact Sheet

On the Implementation of Senate Bill 9 (Chapter 162, Statutes of 2021)



Housing Policy Development Division
March 2022

This Fact Sheet is for informational purposes only and is not intended to implement or interpret SB 9. HCD does not have authority to enforce SB 9, although violations of SB 9 may concurrently violate other housing laws where HCD does have enforcement authority, including but not limited to the laws addressed in this document. As local jurisdictions implement SB 9, including adopting local ordinances, it is important to keep these and other housing laws in mind. The Attorney General may also take independent action to enforce SB 9. For a full list of statutes over which HCD has enforcement authority, visit HCD’s [Accountability and Enforcement webpage](#).

Executive Summary of SB 9

Senate Bill (SB) 9 (Chapter 162, Statutes of 2021) requires ministerial approval of a housing development with no more than two primary units in a single-family zone, the subdivision of a parcel in a single-family zone into two parcels, or both. SB 9 facilitates the creation of up to four housing units in the lot area typically used for one single-family home. SB 9 contains eligibility criteria addressing environmental site constraints (e.g., wetlands, wildfire risk, etc.), anti-displacement measures for renters and low-income households, and the protection of historic structures and districts. Key provisions of the law require a local agency to modify or eliminate objective development standards on a project-by-project basis if they would prevent an otherwise eligible lot from being split or prevent the construction of up to two units at least 800 square feet in size. For the purposes of this document, the terms “unit,” “housing unit,” “residential unit,” and “housing development” mean primary unit(s) unless specifically identified as an accessory dwelling unit (ADU) or junior ADU or otherwise defined.

Single-Family Residential Zones Only

(Reference: Gov. Code, §§ 65852.21, subd. (a); 66411.7 subd. (a)(3)(A))

The parcel that will contain the proposed housing development or that will be subject to the lot split must be located in a single-family residential zone. Parcels located in multi-family residential, commercial, agricultural, mixed-use zones, etc., are not subject to SB 9 mandates even if they allow single-family residential uses as a permitted use. While some zones are readily identifiable as single-family residential zones (e.g., R-1 “Single-Family Residential”), others may not be so obvious. Some local agencies have multiple single-family zones with subtle distinctions between them relating to minimum lot sizes or allowable uses. In communities where there may be more than one single-family residential zone, the local agency should carefully review the zone district descriptions in the zoning code and the land use designation descriptions in the Land Use Element of the General Plan. This review will enable the local agency to identify zones whose primary purpose is single-family residential uses and which are therefore subject to SB 9. Considerations such as minimum lot sizes, natural features such as hillsides, or the permissibility of keeping horses should not factor into the determination.

Residential Uses Only

(Reference: Gov. Code, §§ 65852.21, subd. (a))

SB 9 concerns only proposed housing developments containing no more than two residential units (i.e., one or two). The law does not otherwise change the allowable land uses in the local agency's single-family residential zone(s). For example, if the local agency's single-family zone(s) does not currently allow commercial uses such as hotels or restaurants, SB 9 would not allow such uses.

Ministerial Review

(Reference: Gov. Code, §§ 65852.21, subd. (a); 66411.7, subds. (a), (b)(1))

An application made under SB 9 must be considered ministerially, without discretionary review or a hearing. Ministerial review means a process for development approval involving no personal judgment by the public official as to the wisdom of carrying out the project. The public official merely ensures that the proposed development meets all the applicable objective standards for the proposed action but uses no special discretion or judgment in reaching a decision. A ministerial review is nearly always a "staff-level review." This means that a staff person at the local agency reviews the application, often using a checklist, and compares the application materials (e.g., site plan, project description, etc.) with the objective development standards, objective subdivision standards, and objective design standards.

Objective Standards

(Reference: Gov. Code, §§ 65852.21, subd. (b); 66411.7, subd. (c))

The local agency may apply objective development standards (e.g., front setbacks and heights), objective subdivision standards (e.g., minimum lot depths), and objective design standards (e.g., roof pitch, eave projections, façade materials, etc.) as long as they would not physically preclude either of the following:

Up to Two Primary Units. The local agency must allow up to two primary units (i.e., one or two) on the subject parcel or, in the case of a lot split, up to two primary units on each of the resulting parcels.

Units at least 800 square feet in size. The local agency must allow each primary unit to be at least 800 square feet in size.

The terms "objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. Any objective standard that would physically preclude either or both of the two objectives noted above must be modified or

waived by the local agency in order to facilitate the development of the project, with the following two exceptions:

Setbacks for Existing Structures. The local agency may not require a setback for an existing structure or for a structure constructed in the same location and to the same dimensions as an existing structure (i.e., a building reconstructed on the same footprint).

Four-Foot Side and Rear Setbacks. SB 9 establishes an across-the-board maximum four-foot side and rear setbacks. The local agency may choose to apply a lesser setback (e.g., 0-4 feet), but it cannot apply a setback greater than four feet. The local agency cannot apply existing side and rear setbacks applicable in the single-family residential zone(s). Additionally, the four-foot side and rear setback standards are not subject to modification. (Gov. Code, §§ 65852.21, subd. (b)(2)(B); 66411.7, subdivision (c)(3).)

One-Unit Development

(Reference: Gov. Code, §§ 65852.21, subd. (a); 65852.21, subd. (b)(2)(A))

SB 9 requires the ministerial approval of either one or two residential units. Government Code section 65852.21 indicates that the development of just one single-family home was indeed contemplated and expected. For example, the terms “no more than two residential units” and “up to two units” appear in the first line of the housing development-related portion of SB 9 (Gov. Code, § 65852.21, subd. (a)) and in the line obligating local agencies to modify development standards to facilitate a housing development. (Gov. Code, § 65852.21, subd. (b)(2)(A).)

Findings of Denial

(Reference: Gov. Code, §§ 65852.21, subd. (d); 66411.7, subd. (d))

SB 9 establishes a high threshold for the denial of a proposed housing development or lot split. Specifically, a local agency’s building official must make a written finding, based upon a preponderance of the evidence, that the proposed housing development would have a specific, adverse impact, as defined in Government Code section 65589.5, subdivision (d)(2), 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. “Specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. (Gov. Code, § 65589.5, subd. (d)(2).)

Environmental Site Constraints

(Reference: Gov. Code, §§ 65852.21, subd. (a)(2) and (a)(6); 66411.7, subd. (a)(3)(C) and (a)(3)(E))

A proposed housing development or lot split is not eligible under SB 9 if the parcel contains any of the site conditions listed in Government Code section 65913.4, subdivision (a)(6)(B-K). Examples of conditions that may disqualify a project from using SB 9 include the presence of farmland, wetlands, fire hazard areas, earthquake hazard areas, flood risk areas, conservation areas, wildlife habitat areas, or conservation easements. SB 9 incorporates by reference these environmental site constraint categories that were established with the passing of the Streamlined Ministerial Approval Process (SB 35, Chapter 366, Statutes of 2017). Local agencies may consult HCD’s [Streamlined Ministerial Approval Process Guidelines](#) for additional detail on how to interpret these environmental site constraints.

Additionally, a project is not eligible under SB 9 if it is located in a historic district or property included on the State Historic Resources Inventory or within a site that is designated or listed as a city or county landmark or as a historic property or district pursuant to a city or county ordinance.

California Environmental Quality Act (CEQA)

Reference: Gov. Code, §§ 65852.21, subd. (j); 66411.7, subd. (n))

Because the approval of a qualifying project under SB 9 is deemed a ministerial action, CEQA does not apply to the decision to grant an application for a housing development or a lot split, or both. (Pub. Resources Code, § 21080, subd. (b)(1) [CEQA does not apply to ministerial actions]; CEQA Guidelines, § 15268.) For this reason, a local agency must not require an applicant to perform environmental impact analysis under CEQA for applications made under SB 9. Additionally, if a local agency chooses to adopt a local ordinance to implement SB 9 (instead of implementing the law directly from statute), the preparation and adoption of the ordinance is not considered a project under CEQA. In other words, the preparation and adoption of the ordinance is statutorily exempt from CEQA.

Anti-Displacement Measures

(Reference: Gov. Code, §§ 65852.21, subd. (a)(3); 66411.7, subd. (a)(3)(D))

A site is not eligible for a proposed housing development or lot split if the project would 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; or (3) housing that has been occupied by a tenant in the last three years.

Lot Split Requirements

(Reference: Gov. Code, § 66411.7)

SB 9 does not require a local agency to approve a parcel map that would result in the creation of more than two lots and more than two units on a lot resulting from a lot split under Government Code section 66411.7. A local agency may choose to allow more than two units, but it is not required to under the law. A parcel may only be subdivided once under Government Code section 66411.7. This provision prevents an applicant from pursuing multiple lot splits over time for the purpose of creating more than two lots. SB 9 also does not require a local agency to approve a lot split if an adjacent lot has been subject to a lot split in the past by the same property owner or a person working in concert with that same property owner.

Accessory Dwelling Units

(Reference: Gov. Code, §§ 65852.21, subd. (j); 66411.7, subd. (f))

SB 9 and ADU Law (Gov. Code, §§ 65852.2 and 65858.22) are complementary. The requirements of each can be implemented in ways that result in developments with both “SB 9 Units” and ADUs. However, specific provisions of SB 9 typically overlap with State ADU Law only to a limited extent on a relatively small number of topics. Treating the provisions of these two laws as identical or substantially similar may lead a local agency to implement the laws in an overly restrictive or otherwise inaccurate way.

“Units” Defined. The three types of housing units that are described in SB 9 and related ADU Law are presented below to clarify which development scenarios are (and are not) made possible by SB 9. The definitions provided are intended to be read within the context of this document and for the narrow purpose of implementing SB 9.

Primary Unit. A primary unit (also called a residential dwelling unit or residential unit) is typically a single-family residence or a residential unit within a multi-family residential development. A primary unit is distinct from an ADU or a Junior ADU. Examples of primary units include a single-family residence (i.e., one primary unit), a duplex (i.e., two primary units), a four-plex (i.e., four primary units), etc.

Accessory Dwelling Unit. An ADU is an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel on which the single-family or multifamily dwelling is or will be situated.

Junior Accessory Dwelling Unit. A Junior ADU is a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A Junior ADU may include separate sanitation facilities or may share sanitation facilities with the existing structure.

The terms “unit,” “housing unit,” “residential unit,” and “housing development” mean primary unit(s) unless specifically identified as an ADU or Junior ADU or otherwise defined. This distinction is critical to successfully implementing SB 9 because state law applies different requirements (and provides certain benefits) to ADUs and Junior ADUs that do not apply to primary units.

Number of ADUs Allowed. ADUs can be combined with primary units in a variety of ways to achieve the maximum unit counts provided for under SB 9. SB 9 allows for up to four units to be built in the same lot area typically used for a single-family home. The calculation varies slightly depending on whether a lot split is involved, but the outcomes regarding total maximum unit counts are identical.

Lot Split. When a lot split occurs, the local agency must allow up to two units on each lot resulting from the lot split. In this situation, all three unit types (i.e., primary unit, ADU, and Junior ADU) count toward this two-unit limit. For example, the limit could be reached on each lot by creating two primary units, or a primary unit and an ADU, or a primary unit and a Junior ADU. By building two units on each lot, the overall maximum of four units required under SB 9 is achieved. (Gov. Code, § 66411.7, subd. (j).) Note that the local agency may choose to allow more than two units per lot if desired.

No Lot Split. When a lot split has not occurred, the lot is eligible to receive ADUs and/or Junior ADUs as it ordinarily would under ADU law. Unlike when a project is proposed following a lot split, the local agency must allow, in addition to one or two primary units under SB 9, ADUs and/or JADUs under ADU Law. It is beyond the scope of this document to identify every combination of primary units, ADUs, and Junior ADUs possible under SB 9 and ADU Law. However, in no case does SB 9 require a local agency to allow more than four units on a single lot, in any combination of primary units, ADUs, and Junior ADUs.

See HCD’s [ADU and JADU webpage](#) for more information and resources.

Relationship to Other State Housing Laws

SB 9 is one housing law among many that have been adopted to encourage the production of homes across California. The following represent some, but not necessarily all, of the housing laws that intersect with SB 9 and that may be impacted as SB 9 is implemented locally.

Housing Element Law. To utilize projections based on SB 9 toward a jurisdiction’s regional housing need allocation, the housing element must: 1) include a site-specific inventory of sites where SB 9 projections are being applied, 2) include a nonvacant sites analysis demonstrating the likelihood of redevelopment and that the existing use will not constitute an impediment for additional residential use, 3) identify any governmental constraints to the use of SB 9 in the creation of units (including land use controls, fees,

and other exactions, as well as locally adopted ordinances that impact the cost and supply of residential development), and 4) include programs and policies that establish zoning and development standards early in the planning period and implement incentives to encourage and facilitate development. The element should support this analysis with local information such as local developer or owner interest to utilize zoning and incentives established through SB 9. Learn more on HCD’s [Housing Elements webpage](#).

Housing Crisis Act of 2019. An affected city or county is limited in its ability to amend its general plan, specific plans, or zoning code in a way that would improperly reduce the intensity of residential uses. (Gov. Code, § 66300, subd. (b)(1)(A).) This limitation applies to residential uses in all zones, including single-family residential zones. “Reducing the intensity of land use” includes, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or any other action that would individually or cumulatively reduce the site’s residential development capacity. (Gov. Code, § 66300, subd. (b)(1)(A).)

A local agency should proceed with caution when adopting a local ordinance that would impose unique development standards on units proposed under SB 9 (but that would not apply to other developments). Any proposed modification to an existing development standard applicable in the single-family residential zone must demonstrate that it would not result in a reduction in the intensity of the use. HCD recommends that local agencies rely on the existing objective development, subdivision, and design standards of its single-family residential zone(s) to the extent possible. Learn more about [Designated Jurisdictions Prohibited from Certain Zoning-Related Actions](#) on HCD’s website.

Housing Accountability Act. Protections contained in the Housing Accountability Act (HAA) and the Permit Streaming Act (PSA) apply to housing developments pursued under SB 9. (Gov. Code, §§ 65589.5; 65905.5; 65913.10; 65940 et seq.) The definition of “housing development project” includes projects that involve no discretionary approvals and projects that include a proposal to construct a single dwelling unit. (Gov. Code, § 65905.5, subd. (b)(3).) For additional information about the HAA and PSA, see HCD’s [Housing Accountability Act Technical Assistance Advisory](#).

Rental Inclusionary Housing. Government Code section 65850, subdivision (g), authorizes local agencies to adopt an inclusionary housing ordinance that includes residential rental units affordable to lower- and moderate-income households. In certain circumstances, HCD may request the submittal of an economic feasibility study to ensure the ordinance does not unduly constrain housing production. For additional information, see HCD’s [Rental Inclusionary Housing Memorandum](#).

CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105- 2219
VOICE (415) 904- 5200
FAX (415) 904- 5400
WWW.COASTAL.CA.GOV



To: Planning Directors of Coastal Cities and Counties
From: John Ainsworth, Executive Director, California Coastal Commission
Date: January 21, 2022

Re: Implementation of New SB 9 Housing Laws in Sea Level Rise Vulnerable Areas

As of January 1, 2022, SB 9 (Atkins) changed the way that local governments can regulate new residential development and lot splits in single-family residential zones within designated urban areas, with the goal of increasing housing density in those areas. The new housing laws added by SB 9, Government Code Sections 65852.21 and 66411.7, contain Coastal Act savings clauses. This means that, except for public hearing requirements, the Coastal Act continues to apply in full force in the coastal zone. Accordingly, certified Local Coastal Program (LCP) provisions continue to apply but, in most places, will need to be updated to conform with SB 9 to the greatest extent possible while still complying with the Coastal Act. This memorandum focuses on how to harmonize the new SB 9 requirements with LCP and Coastal Act policies in areas that are vulnerable to sea level rise because increasing residential density in these areas presents unique challenges and risks. When updating LCPs, local governments should keep in mind that LCP provisions must continue to be consistent with all applicable Coastal Act policies in all areas.

I. Housing in the Coastal Zone

The State of California is experiencing a critical shortage of affordable housing. In recognition of this critical shortage, the state Legislature passed numerous laws in recent years aimed at increasing construction of additional housing units, and preferably affordable units. Many of these measures, including SB 9, state that they do not supersede or lessen the application of the Coastal Act. The Coastal Commission (Commission) recognizes the particularly critical shortage of affordable housing in the coastal zone and has strongly supported strategies to increase access to affordable housing near the coast. To address housing shortages in the coastal zone over the long-term, new residential development must be built in locations and with designs that ensure it will be safe from hazards, have access to adequate public services, and will minimize coastal resource impacts.

Importantly, siting new housing in areas projected to be impacted by sea level rise, without planning for adaptation, will not address the housing crisis over the long-term and will instead put more residences and lives at risk and exacerbate housing shortages. The hazards and other impacts associated with sea level rise require local governments to plan carefully to ensure that new housing is safe both now and for future generations. Likewise, effective January 1, 2022, a

new section was added to the Coastal Act that explicitly requires the Commission to “take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify, assess, and, to the extent feasible, avoid and mitigate the adverse effects of sea level rise.” (Pub. Res. Code § 30270.) While the Commission has considered sea level rise in its planning, policies, and activities for many decades, the new section of the Coastal Act further emphasizes the importance of accounting for sea level rise.

New residential development in the coastal zone must be consistent with Coastal Act and LCP policies, including requirements relating to protection of coastal resources and hazards, such as Coastal Act Sections 30250, 30253, 30235 and 30240, as discussed further below. In addition to these requirements, a variety of other provisions in the Coastal Act relate to housing in the coastal zone. As relevant here, the Coastal Act does not exempt local governments from complying with state and federal law “with respect to providing low- and moderate-income housing, replacement housing, relocation benefits, or any other obligation related to housing imposed by existing law or any other law hereafter enacted.” (Pub. Res. Code § 30007.) The Coastal Act also requires the Commission to encourage housing opportunities for low- and moderate-income households (Pub. Res. Code § 30604(f)), but states that “[n]o local coastal program shall be required to include housing policies and programs.” (Pub. Res. Code § 30500.1.) Lastly, the Coastal Act regulates where new development can be sited. New residential development must be “located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it” or in other areas where development will not have significant adverse effects, either individually or cumulatively, on coastal resources. (Pub. Res. Code § 30250(a).) Land divisions, other than leases for agricultural uses, are permitted outside existing developed areas “only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.” (Pub. Res. Code § 30250(a).)

II. Overview of New Legislation

As of January 1, 2022, SB 9 adds Government Code Sections 65852.21 and 66411.7, and amends Government Code Section 66452.6. The new laws apply only to parcels located in: (a) a city that includes some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, within the city’s boundaries; or (b) an unincorporated area, *and* the parcel is located entirely within either an urbanized area or urban cluster, as designated by the United States Census Bureau. (Gov. Code §§ 65852.21(a)(1), 66411.7(a)(3)(B).) Currently certified LCPs are not superseded by the new laws and continue to apply until an LCP amendment is adopted.

The new legislation makes two primary changes to existing law:

a. Ministerial consideration of proposals to develop two or fewer residential units in urban areas

For projects outside the coastal zone, local governments must now ministerially consider, without discretionary review, proposals to develop two or fewer residential units in a single-family residential zone in designated urban areas when certain criteria are met. (Gov. Code § 65852.21.) Proposals to construct two new residential units and proposals to add one new unit to a parcel with an existing unit are both covered by this section. (Gov. Code § 65852.21(i)(1).) For ministerial consideration of proposed residential development to be required, proposals must meet the many criteria set forth in the statute, including that rental of any new unit created is for a term longer than 30 days. (See Gov. Code § 65852.21(a), (d)-(g).) Local governments are free to adopt objective zoning, subdivision, and design review standards for development of residential units in any residential zone that do not conflict with Government Code Section 65852.21. (Gov. Code § 65852.21(b)-(c).) This new section of the Government Code does not supersede or in any way alter application of the Coastal Act, except that local governments are not required to hold public hearings for coastal development permit (CDP) applications. (Gov. Code § 65852.21(k).) This means that, aside from CDP public hearing requirements, Government Code Section 65852.21 does not override the Coastal Act or LCP policies implementing the Coastal Act, which may involve the application of discretion. Therefore, local governments should adopt LCP amendments with standards that harmonize with SB 9 requirements as much as is feasible and that also ensure such new development is consistent with the Coastal Act and any applicable LCP policies, including requirements relating to notice of local decisions to the public and the Commission.

b. Ministerial approval of urban lot splits

For projects outside the coastal zone, local governments must now ministerially approve lot splits that create no more than two new lots in single-family residential zones in designated urban areas when certain criteria are met, (Gov. Code § 66411.7). However, as with the new requirements regarding residential development, this section of the Government Code does not supersede or in any way alter application of the Coastal Act, except that local governments are not required to hold public hearings for coastal development permit (CDP) applications. (Gov. Code § 66411.7(o).) Accordingly, for projects in the coastal zone, review for consistency with Coastal Act and applicable LCP policies is still required, and that may involve the application of discretion. For ministerial approval to be required outside the coastal zone, proposals must meet the many criteria set forth in the statute, including that no more than two new lots are created, and that rental of any new unit created is for a term longer than 30 days. (See Gov. Code § 66411.7.) Although discretionary review is prohibited in these circumstances in non-coastal zone areas, local governments are free to adopt objective zoning standards, objective subdivision standards, and objective design review standards applicable to urban lot splits that do not conflict with Government Code § 66411.7. (Gov. Code § 66411.7(c), (e).)

Although the new laws do not supersede the Coastal Act, and the requirement for ministerial approval does not automatically apply in the coastal zone, the laws should be harmonized with the Coastal Act as much as feasible. This could be accomplished, for example, by updating LCPs to create a checklist of objective standards for qualifying projects so that little or no discretion is involved when considering them. Overall, local governments should adopt LCP amendments with standards to ensure that such new development is consistent with the Coastal Act and any applicable LCP policies, including requirements relating to notice of local decisions to the public and the Commission.¹

III. SB 9 Application to Coastal Act Policies Generally

Local governments should consider how to amend their LCPs to comply with SB 9 to the greatest extent possible, while continuing to be consistent with the Coastal Act. Approval of the types of lot split and residential development projects contemplated by SB 9 is likely to increase residential density in urban areas, both in terms of the overall number of residential units and in terms of the nature of the built environment itself. In some areas, this increase in density may be able to be accommodated with limited coastal resource impacts. However, in other areas, there may be cases where such projects cause significant adverse impacts to coastal resources such as public access, sensitive habitats, and recreation areas. (See Pub. Res. Code § 30250.) For example, approval of new residential development projects and lot splits pursuant to SB 9 would not be consistent with the Coastal Act if the projects are adjacent to environmentally sensitive areas (ESHA) and are not sited and designed to prevent impacts which would significantly degrade those areas, or are incompatible with the continuance of those habitat and recreation areas. (Pub. Res. Code § 30240.) Residential areas in the coastal zone are often intertwined with significant coastal resource areas, such as along the immediate shoreline, between the first public road and the sea, near LCP-designated scenic areas, and near sensitive habitat areas. LCPs generally include a myriad of provisions protecting these coastal resources; LCP provisions designed to implement SB 9 should not conflict with or inappropriately diminish any such LCP protections that already apply. At the same time, SB 9's focus on ensuring that applicable standards are objective and processed ministerially means that local governments should consider ways to evaluate the potential for coastal resource impacts at the LCP planning stage, such as by using checklists or other such ministerial tools that can be employed at the CDP application stage as much as possible. Local governments are encouraged to coordinate with Commission staff as they develop LCP provisions to implement SB 9.

¹ SB 9 also amends Government Code § 66452.6 to allow local governments to provide by ordinance an additional 24-month time period before an approved or conditionally approved tentative subdivision map expires.

IV. SB 9 Application in Sea Level Rise Vulnerable Areas

As described in Chapter 3 of the Coastal Commission’s [2018 Update to the Sea Level Rise Policy Guidance](#) (SLR Guidance), as sea levels rise, tidal and groundwater inundation, flooding, wave impacts, bluff and beach erosion, saltwater intrusion, and other impacts are projected to worsen and further threaten residential development and coastal resources in the coastal zone. The applicability of SB 9 in areas vulnerable to the impacts associated with sea level rise is thus a critical concern.

a. Development of two or fewer residential units in sea level rise vulnerable areas

In many cases, increasing density in areas subject to sea level rise impacts without including appropriate siting, design, and mitigation features will not be consistent with Coastal Act policies. Proposals to develop two or fewer residential units pursuant to Government Code Section 65852.21 may be permitted in sea level rise-vulnerable areas if they can be developed in such a way as to be found consistent with the Coastal Act and LCP provisions, and can be designed and sited to be safe from hazards for the expected life of the structures. Proposed projects to construct two or fewer residential units pursuant to Government Code Section 65852.21 typically qualify as “development” under the Coastal Act because such projects usually involve “the placement or erection of any solid material or structure,” and/or a “change in the density or intensity of use of land. . . .” (Pub. Res. Code § 30106.)² As new development, the new units must minimize risks to life and property in areas of geologic and flood hazard; assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area; and not in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. (Pub. Res. Code §§ 30253, 30270; *see also* corresponding LCP provisions.) New residential development must be consistent with the Chapter 3 policies of the Coastal Act and any relevant LCP policies, including that they must be sited and designed to prevent significant degradation of adjacent sensitive habitats and recreation areas and to allow the continuance of those areas into the future (Pub. Res. Code § 30240(b)).

In some areas vulnerable to sea level rise, the risk of hazards during the anticipated life of the structure may be too great to permit development of two residential units on one lot if the new unit(s) cannot be sited and designed safely and consistent with relevant Coastal Act and LCP provisions. In other vulnerable areas, development may be permitted where adaptation strategies and special conditions can minimize hazard risks and avoid impacts on coastal

² As discussed in the Updates Regarding the Implementation of New ADU Laws Memorandum (Jan. 2022), conversion of existing habitable space within a single-family residence into another residential unit may not qualify as development if there are no major structural changes (e.g., changes to roofs, exterior walls, foundations, etc.) and no change to the size or intensity of use of the existing structure. (See Pub. Res. Code § 30106.)

resources. Local governments and applicants should refer to the Commission’s SLR Guidance when determining whether construction of residential units pursuant to Government Code Section 65852.21 in vulnerable areas is consistent with the Coastal Act and LCP policies. Chapter 7 of the SLR Guidance describes some of the adaptation strategies to consider when planning for development in sea level rise vulnerable areas. Some adaptation strategies may require land use plans or proposed projects to anticipate long-term impacts now. Other strategies may build adaptive capacity into the plan or project itself, such as special conditions that require elevation or removal of structures when certain triggers are met, so that future changes in hazard risks can be effectively addressed while ensuring long-term resource protection.

b. Lot splits in sea level rise vulnerable areas

As discussed above, Government Code Section 66411.7 requires ministerial consideration of urban lot splits in single-family residential zones in designated areas outside the coastal zone when certain criteria are met. “[S]ubdivision . . . and any other division of land, including lot splits,” qualify as “development” under the Coastal Act, thereby triggering the need for a CDP or other appropriate authorization. (Pub. Res. Code § 30106.) Lot splits also qualify as development because they constitute a “change in the density or intensity of use of land.” (*Id.*) As new development, proposals to subdivide land must:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

(Pub. Res. Code § 30253.) New development must also be sited and designed to prevent significant degradation of adjacent sensitive habitats and recreation areas and to allow the continuance of those areas in the future. (Pub. Res. Code § 30240(b).) In addition, new development must be consistent with all Chapter 3 policies of the Coastal Act, including Sections 30210 through 30224 protecting public access and recreational opportunities; Sections 30230 and 30231 protecting marine habitats and water quality; Section 30250 requiring development to have adequate public services; and Section 30251 protecting visual resources. Subdivisions in areas with certified LCPs must also be consistent with corresponding, relevant LCP provisions. The Commission must also consider the effects of sea level rise in its coastal resources planning and management policies and activities, including those relating to new residential development. (Pub. Res. Code § 30270.)

The Commission’s SLR Guidance states that to comply with Section 30253 of the Coastal Act or the equivalent LCP section, projects will need to be planned, located, designed, and engineered

for the changing water levels and associated impacts that might occur over the life of the development. In addition, Chapter 7 of the SLR Guidance recommends concentrating development away from hazardous areas and limiting subdivisions in areas vulnerable to sea level rise. To be consistent with the Coastal Act, including how it is interpreted through the SLR Guidance, proposals to subdivide land in areas vulnerable to sea level rise should be considered very carefully for several reasons.

First, subdividing land projected to be negatively impacted by sea level rise in the foreseeable future is not a sound way to minimize risks to life and property in areas with high flood and geologic hazards. (See Pub. Res. Code § 30253.) Instead, subdivision in these areas is likely to increase risks to life and property by allowing for increased density and intensity of use of sites that are projected to be exposed to hazards such as tidal and groundwater inundation, flooding, wave impacts, bluff and beach erosion, and saltwater intrusion. Under SB 9, a lot currently zoned for a single-family residence could support many additional residential units. For example, a lot could be subdivided pursuant to Government Code Section 66411.7, and then two residential structures could be built on each of the newly divided lots pursuant to Government Code Section 65852.21. This scenario would result in four residences on a lot that, prior to SB 9, could only support one residence. When considering the circumstances in which residentially zoned lot splits (pursuant to SB 9 or otherwise) should be allowed in the coastal zone, local governments should consider whether each of the new lots would have a buildable area that is safe from coastal hazards for the foreseeable future without relying on shoreline armoring and could be developed in conformance with relevant coastal resource protection policies of the LCP and Coastal Act.

Second, it is important to analyze the safety of proposed lot splits over the longest feasible timeframe. Hazard analyses typically evaluate potential hazards for the expected life of the development. Unlike the development of residential structures that may only need to be safe for approximately 75-100 years, land divisions tend to be permanent and have little to no adaptive capacity. Although the SLR Guidance does not suggest a specific timeframe for the hazard analysis of proposed lot splits, it does note that projects that are expected to last indefinitely should consider time frames of 100 years or more, and this is also consistent with past Commission action. For example, Commission staff recently recommended denial of a proposal to subdivide property in Orange County that was particularly vulnerable to sea level rise because, among other reasons, the project did not minimize risks to life and property and could not assure stability and structural integrity of the project, as Section 30253 of the Coastal Act requires. ([Staff Report](#), Application Nos. 5-18-0907 & 5-18-0908, August 29, 2019.) The staff report found that the proposed subdivision could last in perpetuity, potentially long beyond the anticipated life of the proposed residential structure, and that both new lots would likely be subject to sea level rise impacts after the anticipated life of the residential structure. (*Id.*) After some deliberation with the Commission at the public hearing, the applicant [withdrew](#) its application and submitted a new proposal to build two single-family residences on the lot

without subdivision. The Commission [approved](#) the new application with the condition that the property cannot be subdivided now or in the future, among other conditions addressing the property’s sea level rise vulnerabilities. ([Staff Report](#), Application No. 5-20-0646, May 21, 2021.) In the zoning context, the Commission [denied](#) a request by the County of Santa Barbara to amend its Land Use Plan (LUP) to rezone a single oceanfront property from recreation/open space to single-family residential because the property was projected to be impacted by hazards in the foreseeable future, among other reasons. The Commission found that the hazards analysis for a proposed land use designation change should consider hazards for the foreseeable future because “[u]nlike residential structural development, where the Commission generally analyzes whether the structure will be stable and safe for its expected life of 75 to 100 years, the land use designation change of a parcel would be more or less permanent.” ([Staff Report](#), Application No. LCP-4-STB-18-0039-1- Part D, July 10, 2019, p. 16.) Land divisions, like land use designation changes, may last in perpetuity. Thus, the Commission’s past guidance and actions demonstrate that, in most circumstances, a hazard analysis for a lot split proposal should consider the longest time frame feasible.

Third, subdivision may limit the adaptation strategies available to individuals and communities as sea levels rise. Unlike structural development, which can be designed to incorporate adaptive elements like waterproofing, elevation, or relocation, subdivisions have little to no adaptive capacity; thus, it is not always feasible to mitigate the impacts created by subdivisions. Subdividing a parcel can also limit the opportunities to adapt to sea level rise on that land by decreasing the land available on a lot for existing development to be moved landward, or for new development to be sited in a more landward or higher elevation location. Land divisions also increase the number of property interests in a site. This can add cost and logistical complexity to community-scale adaptation strategies, making it harder to form and manage geological hazard abatement districts, negotiate buyouts, and implement conservation easements, and making it more difficult to minimize hazards and protect coastal resources in the future.

Lastly, allowing subdivisions in vulnerable areas may negatively impact coastal resources and public access. Coastal resources such as beaches and wetlands will migrate and naturally adapt due to future coastal erosion and sea level rise conditions. Increased residential density and intensity of use along the shoreline and in vulnerable areas may impact coastal resources through, for example, “coastal squeeze” where shoreline development prevents beaches and bluffs from migrating inland, which causes the narrowing and eventual loss of beaches, dunes, and other shoreline habitats as well as the loss of offshore recreational areas. Having fewer structures on relatively larger lots may allow more opportunities for those structures to adapt—for example, by being moved to other parts of the lot that are safer. Depending on the geography and other site-specific conditions, creating additional, smaller lots with more structures may reduce this adaptive capacity.

In light of the potential hazards and coastal resource impacts associated with subdivision in areas vulnerable to sea level rise, many local governments have avoided such land divisions. For example, Policy 7-2 of the City of Half Moon Bay’s Local Coastal LUP limits “subdivisions in areas vulnerable to environmental hazards, including as may be exacerbated by climate change, by prohibiting any new land divisions, including subdivisions, lot splits, and lot line adjustments that create new building sites unless specific criteria [are] met that ensure that when the subject lots are developed, the development will not be exposed to hazards, pose any risks to protection of coastal resources, or create or contribute to geologic instability.” Likewise, San Mateo County’s LCP Implementation Plan (IP) requires applications for proposed subdivisions to include a development footprint analysis that comprehensively evaluates site development constraints and potential impacts, including sea level rise impacts, prior to approval of subdivision parcel maps. These LCP policies allow lot splits, such as those authorized by Government Code § 66411.7, but only when consistent with the Coastal Act.

c. Identifying areas vulnerable to sea level rise

The best available, up-to-date scientific information about coastal hazards and sea level rise should be used to determine whether proposals for lot splits and new residential units in areas vulnerable to sea level rise are consistent with the Coastal Act and LCP provisions. Local governments and applicants should refer to the SLR Guidance when conducting this analysis.

Step 1: Identify sea level rise projections. First, identify the best available, locally-relevant sea level rise projections. In line with statewide guidance, the Commission currently recognizes the Ocean Protection Council’s 2018 State Sea-Level Rise Guidance as the best available science on sea level rise projections for California.

- *Tide gauges.* Appendix G of the SLR Guidance includes sea level rise projections for every 10 years from 2030 to 2150 for 12 tide gauges along the California coast; the projections from the closest tide gauge to the project site should be used.
- *Planning horizon.* Hazard analyses typically evaluate potential hazards for the expected life of the development. Some LCPs include a specified design life for new types of development. If no specified time frame is provided, a time frame may be chosen based on the type of development. For proposed development of new residential units, it is generally appropriate to analyze sea level rise impacts for at least the expected life of the proposed structure(s), often 75-100 years for residential structures, as described in Chapter 6 of the SLR Guidance. Although situations may vary, local governments and applicants should typically use a longer planning horizon of at least 100 years for lot splits because, as described in subsection (b), land divisions are expected to be permanent, unlike many other kinds of development, and have a limited ability to adapt.
- *Risk aversion scenario.* Evaluate impacts from the “medium-high risk aversion” scenario, as described in Chapters 5 and 6 of the SLR Guidance. The SLR Guidance recommends

that all communities evaluate the impacts from the “medium-high risk aversion” scenario (p. 76), and that residential structures and projects with greater consequences and/or a lower ability to adapt use this projection scenario (p. 102). In addition, impacts under other risk aversion scenarios may be helpful to analyze.

Step 2: Analyze the physical effects of sea level rise. Analyze the following hazards under the medium-high risk aversion scenario: erosion of beaches, bluffs, cliffs, and other landforms; tidal inundation of shoreline areas; flooding (wave run-up and storm impacts); and saltwater intrusion and groundwater impacts, consistent with the SLR Guidance and Coastal Act and LCP requirements.

Step 3: Assess impacts to future development and coastal resources. Determine whether the proposed residential units and/or potential building sites on new parcels are vulnerable to sea level rise impacts.

Step 4: Determine whether proposed development is appropriate. Lastly, determine whether the proposed development is consistent with the LCP and Coastal Act as proposed, or can be made consistent with design modifications, adaptive strategies, or other conditions. Development of new residential units in areas projected to be impacted by sea level rise may be inconsistent with the Coastal Act or LCPs if adaptive strategies cannot minimize the risk of hazards and protect coastal resources, as discussed in subsection (a). Lot splits may be inconsistent with the Coastal Act or LCP policies if they occur in areas projected to be impacted by the hazards associated with sea level rise over the next 100+ years under the medium-high risk aversion scenario, as discussed in subsection (b). As described in the SLR Guidance, local governments should consider whether to “[p]rohibit any new land divisions, including subdivisions [and] lot splits . . . that create new beachfront or blufftop lots unless the lots can meet specific criteria that ensure that when the lots are developed, the development will not be exposed to hazards or pose any risks to protection of coastal resources.” (SLR Guidance, p. 130.) A lot split may be appropriate if the project site is not projected to be impacted by sea level rise hazards for the longest time frame feasible, typically at least 100 years, and is otherwise consistent with the LCP and Coastal Act.

V. Local Government Application of SB 9 in the Coastal Zone

a. Update applicable LCP provisions

Local governments in the coastal zone are required to comply with both the Coastal Act and, to the extent they do not conflict with Coastal Act requirements, the new SB 9 requirements. Currently certified provisions of LCPs are not superseded by Government Code Sections 65852.21 and 66411.7 and continue to apply to CDP applications until an LCP amendment is adopted. Where LCP provisions directly conflict with the new Government Code provisions or require refinement to be consistent with the new laws, those LCP provisions should be updated to be consistent with SB 9 to the greatest extent feasible while still complying with Coastal Act

requirements. As discussed above, when updating LCP policies to account for SB 9, local governments should also consider how proposed lot splits and residential development might impact public access, sensitive habitats, recreation areas, and other coastal resources. Local governments should also consider new LCP provisions that limit or prohibit subdivisions in areas vulnerable to sea level rise, and that appropriately account for coastal hazards and coastal resource impacts, including as exacerbated or associated with sea level rise, for new residential development.

Although a public hearing is not required under SB 9, public notice requirements still apply. LCP amendment applications should specify how local and Coastal Act public notice requirements will be fulfilled, including the notice requirements for: (a) pending action to interested parties prior to a local decision, and (b) notice of final action to the Commission and those who have requested such notice after a local decision. LCP amendment applications should specify the procedures for issuing a Final Local Action Notice (FLAN) for local decisions on applications for development that are appealable to the Commission. Some LCP amendments may qualify for streamlined review as minor or de minimis amendments. (Pub. Res. Code § 30514(d); Cal. Code Regs., tit. 14, § 13554.)

b. Review SB 9 applications consistent with the Coastal Act/LCP and SB 9

Local governments should generally follow the below process when considering proposed SB 9 projects outside of areas that are potentially vulnerable to sea level rise.

Review Prior CDP History. First, determine whether a CDP or other form of Coastal Act authorization was previously issued for development of the site and whether that CDP and/or authorization limits, or requires a CDP or CDP amendment for, changes to the approved development or for future development or uses of the site. The applicant should contact the appropriate Commission district office if a Commission-issued CDP and/or authorization limits the applicant’s ability to apply to construct two or fewer residential units or split the lot.

Consider Possible Expedited Permitting Processes. Second, and only if an application proposes to undertake development in an area where it will be consistent with LCP and Coastal Act hazard and coastal resource protection policies, consider whether any expedited permitting processes, such as waivers or administrative permits, are available. If a local government’s LCP includes a waiver provision, and the proposed lot split and/or residential unit development proposal meets the criteria for a CDP waiver, the local government may issue a CDP waiver in place of a CDP. The Commission has generally allowed a CDP waiver only when the Executive Director determines that the proposed development is de minimis (i.e., it is development that has no potential for any individual or cumulative adverse effect on coastal resources and is consistent with all Chapter 3 policies of the Coastal Act). Such a finding can typically be made when the proposed project has been sited, designed, and limited in such a way as to ensure any potential impacts to coastal resources are avoided (such as through habitat and/or hazards setbacks, provision of adequate off-street parking to ensure that public access to the coast is

not impacted, etc.). (See Pub. Res. Code § 30624.7.) Projects that qualify for a CDP waiver typically allow for a substantially reduced evaluation process and streamlined approval. It may be appropriate for local governments to use waivers to approve applications in both appealable and non-appealable areas to streamline permitting.³ Local governments interested in exploring this option should consult with Commission staff. LCP amendment applications that propose to allow waivers in appealable areas should ensure that there are proper procedures for notifying the public and the Commission of approvals for individual, appealable waivers (such as Final Local Action Notices) so that the proper appeal period can be set, and any appeals received are properly considered.⁴

Require and Review a CDP Application. Lastly, if a proposal is not eligible for a waiver or similar expedited process authorized by the Coastal Act and the certified LCP, including because it is located in an area potentially subject to coastal hazards and/or future sea level rise hazards, it requires a CDP. (Pub. Res. Code § 30600.) The CDP must be consistent with the requirements of the certified LCP and any relevant policies of the Coastal Act. Local governments must provide all required public notice for any CDP applications for development covered by SB 9 and process the application pursuant to LCP requirements, but local governments are not required to hold public hearings. (Gov. Code §§ 65852.21(k); 66411.7(o).) Once the local government has made a CDP decision, it must send the required final local action notice of that decision to the appropriate Commission district office. If the CDP decision on the proposed project is appealable, a local government action to approve a CDP for the proposed project may be appealed to the Commission. (Pub. Res. Code § 30603.)

³ Most, if not all, LCPs with CDP waiver provisions do not allow for waivers in areas where local CDP decisions are appealable to the Coastal Commission. There have been a variety of reasons for this in the past, including that the Commission’s regulations require that local governments hold a public hearing for all applications for appealable development (14 Cal. Code Regs § 13566), and also that development in such areas tends to raise more coastal resource concerns and that waivers may therefore not be appropriate. However, under SB 9 provisions, public hearings are not required for qualifying development. Because of this, the above-described public hearing issue would not be a concern, so it could be appropriate for LCPs to allow CDP waivers in both appealable and non-appealable areas at least related to this criterion. Local governments should consult with Commission staff should they consider proposing CDP waiver provisions in their LCP.

⁴ The development authorized by SB 9—specifically, residential lot splits and development of new residential units that change the intensity of use—are not types of development that the Commission has typically found to be exempt from CDP requirements as improvements to single-family residences. (See Pub. Res. Code § 30610; Cal. Code Regs., tit. 14, § 13250(a).) In addition, any development that is not designated as the principal permitted use under the approved zoning ordinance or zoning district map—such as lot splits—is appealable to the Commission. (Pub. Res. Code § 30603(a)(4).)

VI. Conclusion

The Commission strongly supports increased access to affordable housing and increased residential density in the coastal zone. For new housing to be a long-term solution to the housing shortage, it must be sited and designed to be safe from hazards, such as sea level rise, and to not have significant adverse effects on coastal resources. Local governments should review their LCPs to determine what changes are necessary to implement SB 9 in a manner that is consistent with the Coastal Act and appropriate for local geography, and prepare and submit LCP amendments to the Commission as soon as is feasible.

This document was developed using federal financial assistance provided by the Coastal Zone Management Act, as amended, under award NA19NOS4190073, administered by the Office for Coastal Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce. The statements, findings, conclusions, and recommendations are those of the author and do not necessarily reflect the views of the National Oceanic and Atmospheric Administration or the U.S. Department of Commerce.

Capitola City Council

Agenda Report

Meeting: April 28, 2022

From: Community Development Department

Subject: Presentation on Objective Standards for Multifamily and Mixed-Use Residential and Related Upcoming Proposed Ordinance



Recommended Action: Accept staff presentation.

Background: In 2017, the State of California established the Senate Bill 2 (SB2) grant program to fund city planning efforts that streamline housing approvals and accelerate housing production. Capitola utilized part of its SB2 grant to create objective standards for multi-family and mixed-use development projects, which will ensure quality design and development in Capitola, while keeping the City in compliance with new state housing laws.

In 2021, the City began to prepare objective standards for multifamily dwellings and mixed-use residential development. These standards are needed to protect the city and ensure quality development in light of new state housing laws. The City is using part of its SB2 grant funds for this project and is working with consultants Ben Noble and Bottomley Design and Planning on the project.

The City has held the following meetings for the Objective Standards project:

- February 3, 2021: Planning Commission Study Session to present project goals and approach
- April 8, 2021: City Council Study Session to present project goals and approach.
- July 21, 2021: Stakeholder Meeting #1 to receive preliminary input from developers, architects, and residents on potential draft standards
- February 16, 2022: Stakeholder Meeting #2 to receive feedback on draft standards
- March 31, 2022: Planning Commission to receive feedback on draft standards
- April 21, 2022: Planning Commission positive recommendation to City Council

This report is intended to provide an overview of the proposed Objective Standards for Multifamily and Mixed-Use Residential ordinance. The intent of this agenda item is to circulate the ordinance early to the City Council, in preparation for a first reading on May 12, 2022.

Discussion: Recent changes to state law aimed at increasing housing production create an “expedited review” process for multifamily housing projects. These laws include Senate Bill (SB) 35, the Housing Accountability Act, and SB 330. The state created a streamline administrative review process for applicable multifamily housing projects which comply with the local jurisdiction’s objective standards. Objective standards are defined by the state as standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark. Subjective standards, such as “neighborhood compatibility,” are not allowed in the review of applicable multifamily and mixed-use housing applications. Multifamily housing is allowed in the Multifamily Residential (RM) zoning districts in

the City, and mixed-use applications are allowed in Mixed-Use Neighborhood (MU-N), Community Commercial (C-C), and Regional Commercial (C-R) zoning districts as shown in Zoning Map in Attachment 3.

City staff will present the draft objective standards for multifamily and mixed-use residential development in preparation for a first reading of the proposed ordinance on May 12, 2022 (Attachment 1). The new standards would apply to all new multifamily and mixed-use residential development in the Multifamily Residential (RM), Mixed-Use Neighborhood (MU-N), Community Commercial (C-C), and Regional Commercial (C-R) districts. The standards would not apply in the Mixed-Use Village (MU-V) district as sufficient standards are already in place for this district. The standards would apply to projects that require Design Review, as well as projects requesting ministerial approval under SB 35.

The standards are divided into six categories. Each category includes an intent statement to explain the purpose of the standards followed by the objective standards to guide the design and citing. The six categories are:

1. Circulation and Streetscape
2. Parking and Vehicle Access
3. Building Placement, Orientation, and Entries
4. Building Massing
5. Facade and Roof Design
6. Other Site Features

A proposed project would be permitted to request deviation from one or more standard with Planning Commission review. The Planning Commission could approve a deviation upon finding that the project successfully incorporates an alternative method to achieve the intent of the standard. A project requesting a deviation would not be eligible for streamlined review under SB 35.

Fiscal Impact: None.

Attachments:

1. Draft Ordinance
2. Memorandum on Objective Standards for Multifamily and Mixed-Use Development
3. Zoning Map

Report Prepared By: Katie Herlihy, Community Development Director

Reviewed By: Chloé Woodmansee, City Clerk; Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager

ORDINANCE NO. XXXX**AN ORDINANCE OF THE CITY OF CAPITOLA ADDING MUNICIPAL CODE CHAPTERS 17.82 TO ESTABLISH OBJECTIVE STANDARDS FOR MULTIFAMILY DWELLINGS AND MIXED-USE RESIDENTIAL DEVELOPMENT, AMENDING SECTION 17.16 RESIDENTIAL ZONING DISTRICT, SECTION 17.20 MIXED USE ZONING DISTRICTS, AND 17.24 COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS TO REFERENCE CHAPTER 17.82 OBJECTIVE STANDARDS FOR MULTIFAMILY DWELLINGS AND MIXED-USE RESIDENTIAL DEVELOPMENT.**

WHEREAS, SB-35 (Chapter 366, Statutes of 2017) enacted section 65913.4 to the Government Code, effective January 1, 2018; and

WHEREAS, Government Code section 65913.4 requires cities and counties to approve qualifying multifamily projects through a streamlined ministerial process if a project conforms to applicable objective standards and meets other requirements;

WHEREAS, The Housing Accountability Act (HAA), Government Code section 65589.5, limits the ability of cities and counties to deny or reduce the density of housing development projects that are consistent with objective standards;

WHEREAS, SB-330 (Chapter 654, Statutes of 2019) enacted Government Code section 66300 which prohibits cities and counties from establishing design standards that are not objective;

WHEREAS, the HAA and SB-330 apply within the coastal zone, but do not alter or lessen the effect or application of Coastal Act resource protection policies;

WHEREAS, Capitola's Zoning Code currently contains limited objective design standards for multifamily residential development;

WHEREAS, Capitola currently relies on subjective design review criteria in Zoning Code Section 17.120.070 to ensure that multifamily residential development exhibits high-quality design that enhances Capitola's unique identity and sense of place;

WHEREAS, for a project requesting streamlined review under SB-35, the City cannot enforce these requirements;

WHEREAS, under the Housing Accountability Act and SB-330, the City cannot require compliance with these standards for any multifamily or mixed-use residential project in a manner that disallows or reduces the density of the proposed project;

WHEREAS, in 2021 Capitola was awarded an SB-2 grant from the State of California established to fund city planning efforts to streamline housing approvals and accelerate housing production;

WHEREAS, Capitola elected to use part of this SB-2 grant to prepare new objective standards for multifamily and mixed-use residential development;

WHEREAS, the Planning Commission held a study session on February 3, 2021 and the City Council held a study session on April 8, 2021 to provide feedback on the project goals and approach;

WHEREAS, a stakeholder group including architects, developers, and residents provided input on new objective standards at meetings on July 21, 2021 and February 16, 2022;

WHEREAS, on March 31, 2022, the Planning Commission provided feedback on draft objective standards.

WHEREAS, on April 21, 2022, the Planning Commission recommended to the City Council adoption of the objective standards.

BE IT ORDAINED by the City of Capitola as follows:

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

Section 2. Section 17.82 (Objective Standards for Multifamily and Mixed-Use Residential Development) is added to the Municipal Code to read as shown in Attachment 1.

Section 3:

Paragraph 4 is added to Municipal Code Section 17.16.030.C as follows:

4. Objective Standards for Multifamily Dwellings. New multifamily dwellings in the RM zoning district must comply with Chapter 17.82 (Objective Standards for Multifamily and Mixed-use Residential Development).

Subsection I is added to Municipal Code Section 17.20.040 as follows:

I. Objective Standards for Multifamily Dwellings and Mixed-use Residential Development. New multifamily dwellings and mixed-use residential development in the MU-N zoning district must comply with Chapter 17.82 (Objective Standards for Multifamily and Mixed-use Residential Development).

Subsection H is added to Municipal Code Section 17.24.030 as follows:

H. Objective Standards for Multifamily Dwellings and Mixed-use Residential Development. New multifamily dwellings and mixed-use residential development in the C-c and C-R zoning districts must comply with Chapter 17.82 (Objective Standards for Multifamily and Mixed-use Residential Development).

Section 4: 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 15061(b)(3).

Section 5: 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 6: 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 7: 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:

Sam Story, Mayor

Attest: _____
Chloe Woodmansee, City Clerk

Approved as to form:

Samantha Zutler, City Attorney

Chapter 17.82 - OBJECTIVE STANDARDS FOR MULTIFAMILY AND MIXED-USE RESIDENTIAL DEVELOPMENT

Sections:

- 17.82.010 Purpose
- 17.82.020 Applicability
- 17.82.030 Deviations
- 17.82.040 Circulation and Streetscape
- 17.82.050 Parking and Vehicle Access
- 17.82.060 Building Placement, Orientation, and Entries
- 17.82.070 Building Massing
- 17.82.080 Facade and Roof Design
- 17.82.090 Other Site Features

17.82.010 Purpose

This chapter contains objective standards for multifamily and mixed-use residential development. These standards are intended to help ensure that proposed development exhibits high-quality design that enhances Capitola's unique identity and sense of place.

17.82.020 Applicability

A. Land Use.

1. The standards in this chapter apply to new multifamily dwellings, attached single-family homes (townhomes), and mixed-use development that contain both a residential and non-residential use.
2. This chapter does not apply to detached-single-family dwellings, including subdivisions of multiple subdivisions of multiple single-family homes.

B. Zoning Districts. The standards in this chapter apply in all zoning districts except for the Single-Family (R-1), Mobile Home (MH), Mixed Use Village ((MU-V), and Industrial (I) districts.

17.82.030 Deviations

An applicant may request deviation from one or more standard through the design permit process. The Planning Commission may approve a deviation upon finding that the project incorporates an alternative method to achieve the intent statement the proceeds the standard. A project requesting a deviation is not eligible for streamlined ministerial approval under Government Code Section 65913.4.

17.82.040 Circulation and Streetscape

A. Intent. The intent of the circulation and streetscape standards is to:

1. Enhance the visual character and aesthetic qualities of the city.
2. Encourage pedestrian mobility with safe, functional, and attractive sidewalks.
3. Provide for sufficient sidewalk widths to accommodate street trees and an ADA-compliant pedestrian clear path.
4. Provide for appropriate and attractive transitions from the public to private realm.
5. Promote social engagement along property frontages.

B. Standards.

1. **Sidewalks.** Outside of designated sidewalk exempt areas, public sidewalks abutting a development parcel shall have a minimum sidewalk width (back of curb to back of walk) as follows:
 - a. RM and MU-N zones: 6 feet. If the sidewalk ties into an existing 4-foot sidewalk, the minimum sidewalk width is 4 feet.
 - b. C-C and C-R zones: 10 ft.
2. **Street Trees.**
 - a. At least one street tree for every 30 feet of linear feet of sidewalk length shall be provided within the sidewalk.
 - b. A minimum 48-inch pedestrian clear path shall be maintained adjacent to street trees.
 - c. Sidewalk tree wells shall be minimum 36 inches in width by minimum 36 inches in length. Tree grates are required for sidewalks less than 7 feet in width.
 - d. Street trees shall be located a minimum 15 feet from power and/or other utility poles and “small” per PG&E’s “Trees and shrubs for power line-friendly landscaping” to reduce potential utility line conflicts.
 - e. Street trees shall not be planted over buried utilities, public or private,
 - f. Street trees shall be planted with approved root guard to encourage downward root growth
 - g. The variety of street tree to be planted must be approved the City as part of a landscape plan.
3. **Public Access Easement.** If the existing public right-of-way area between the curb and the property line is insufficient to meet the minimum standards above, extension of the sidewalk onto the property, with corresponding public access easement or dedication, shall be provided.

17.82.050 Parking and Vehicle Access

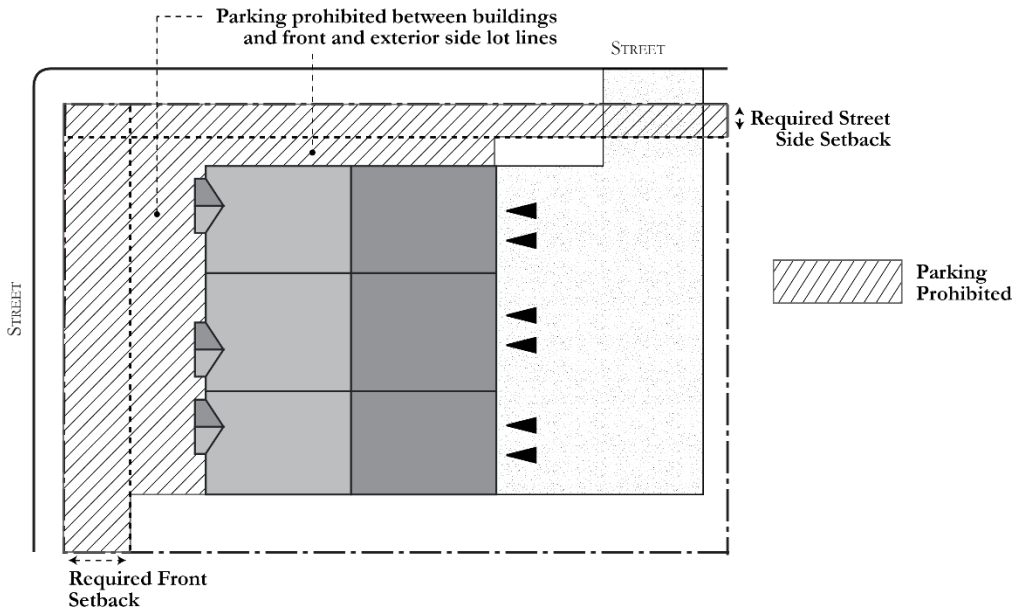
A. Intent. The intent of the parking and vehicle access standards is to:

1. Support a pedestrian-friendly streetscape, walkable neighborhoods, and active and inviting mixed-use districts.
2. Minimize the visual dominance of parking facilities visible from the street frontage.
3. Encourage residents to walk, bike, and/or take transit to destinations, rather than drive.

B. Standards

1. Parking Placement.

- a. As shown in Figure 17.82-1, surface parking spaces may not be located:
 - (1) In a required front or street side setback area; or
 - (2) Between a primary structure and a front or street side property line.
- b. The Director may administratively approve an exception to this requirement for age-restricted senior housing developments or when necessary to provide ADA-compliant parking. For such exceptions, the following standards apply:
 - (1) Parking areas adjacent to a street must include a landscaped planting strip between the street and parking area at least four feet wide with a minimum planting height of 36 inches.
 - (2) Plantings and screening materials may include a combination of plant materials, earth berms, solid decorative masonry walls, raised planters, or other screening devices that are determined by the Director to meet the intent of this requirement.
 - (3) Trees must be provided within the planting strip at a rate of at least one tree for each 30 feet of street frontage with a minimum distance of not more than 60 feet between each tree. Tree species must reach a mature height of at least 20 feet.

Figure 17.82-1: Parking Placement

2. **Driveway Width.** The maximum width of a new driveway crossing a public sidewalk is 12 feet for a one-car driveway and 20 feet for a two-car driveway. Greater driveway width is allowed if required by the Fire District.
3. **Number of Driveways.** A maximum of two curb cuts for one-way traffic and one curb cut for two-way traffic are permitted per street frontage per 150 feet of lineal street frontage. Deviation from this standard is allowed if required by the Fire District.
4. **Garage Width and Design.**
 - a. Garage doors may occupy no more than 40 percent of a building's street frontage and shall be recessed a minimum of 18 inches from a street-facing wall plane.
 - b. Street-facing garage doors serving individual units that are attached to the structure must incorporate one or more of the following so that the garage doors are visually subservient and complementary to other building elements:
 - (1) Garage door windows or architectural detailing consistent with the main dwelling.
 - (2) Arbor or other similar projecting feature above the garage doors.
 - (3) Landscaping occupying 50 percent or more of driveway area serving the garage (e.g, "ribbon" driveway with landscaping between two parallel strips of pavement for vehicle tires)
5. **Podium Parking.**

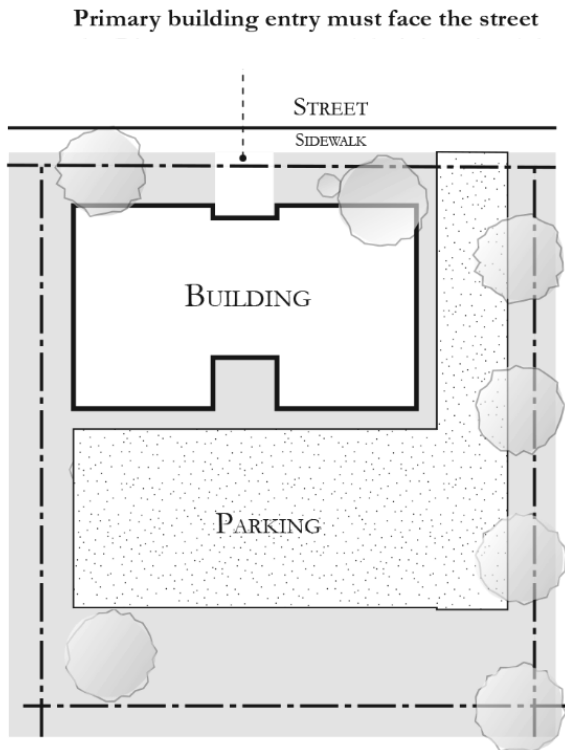
- a. **Landscaping Strip.** Partially submerged podiums adjacent to a street must include a landscaped planter between the street and podium at least 4 feet wide with a planting height and vegetative cover sufficient in height to fully screen the podium edge and ventilation openings from view. At maturity, plantings must comprise a minimum of 75 percent of the total landscape planter area.
 - b. **Residential-only Projects.**
 - (1) The maximum height of lower-level parking podium adjacent to the street is 5 feet above finished sidewalk grade.
 - (2) First-floor units above a street-facing podium must feature entries with stoops and stairs providing direct access to the adjacent sidewalk.
 - c. **Mixed-Use Projects.** The podium parking entry shall be recessed a minimum of 4 feet from the front street-facing building facade.
6. **Loading.**
- a. Loading docks and service areas on a corner lot must be accessed from the side street.
 - b. Loading docks and service areas are prohibited on the primary street building frontage.

17.82.060 Building Placement, Orientation, and Entries

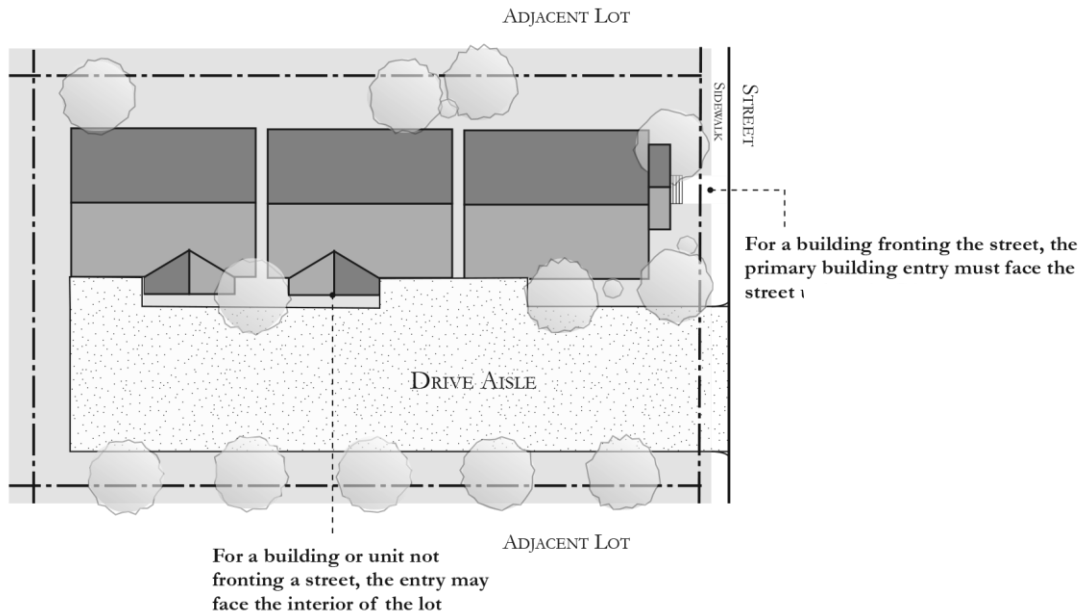
- A. Intent.** The intent of the building placement, orientation, and entries standards is to:
- 1. Support cohesive neighborhoods and social interaction with outward facing buildings.
 - 2. Support a pedestrian-oriented public realm with an attractive and welcoming streetscape character.
 - 3. Provide for sensitive transition from the public realm (sidewalk) to the private realm (residences).
 - 4. Provide adequate area behind buildings for parking.
- B. Standards**
- 1. **Maximum Front Setback.**
 - a. RM Zone: 25 ft. or front setback of adjacent building, whatever is greater.
 - b. MU-N Zone: 25 ft.
 - c. C-C and C-R Zones: 25 ft. from edge of curb.
 - 2. **Front Setback Area.**

- a. All areas between a building and adjoining sidewalk shall be landscaped with live plant materials, except for:
 - (1) Areas required for vehicular or pedestrian access to the property; and
 - (2) Courtyards, outdoor seating areas, and other similar outdoor spaces for residents, customers and/or the general public.
 - b. Landscaping shall consist of any combination of trees and shrubs, and may include grass or related natural features, such as rock, stone, or mulch. At maturity, plantings must comprise a minimum of 75 percent of the total landscape area.
3. **Building Entrances.**
- a. For buildings with one primary entrance that provides interior access to multiple individual dwelling units, the primary building entrance must face the street. A primary building entrance facing the interior of the interior of a lot is not allowed. See Figure 17.82-2.

Figure 17.82-2: Building Entry Orientation – Single Primary Entry



- b. On lots where units have individual exterior entrances, all ground floor units with street frontage must have an entrance that faces the street. If any wall of a ground floor unit faces the street, the unit must comply with this requirement. For units that do not front the street, entrances may face the interior of the lot. See Figure 17.82-3.

Figure 17.82-3: Building Entry Orientation – Multiple Primary Entries

- c. The Director may administratively approve an exception to the entry-orientation standards in this section for residential-only projects on Bay Avenue, Capitola Road, and 41st Avenue north of Jade Street that comply with all of the following standards:
- (1) At least one pedestrian walkway per 50 feet of property street frontage must connect the adjacent sidewalk to the interior of the lot.
 - (2) The area between a building and the street must be landscaped, except for private open space for units (patios) and pedestrian pathways.
 - (3) Continuous solid fences between buildings and the street are prohibited. Private outdoor space, if provided, may be defined by a low fence at least 50 percent transparent.
 - (4) Street-facing buildings may not exceed a width of 100 feet.

4. **Pedestrian Walkway.** A pedestrian walkway, minimum 6-foot width, shall provide a connection between the public street and all building entrances (i.e., residents shall not be required to walk in a driveway to reach their unit).

C. Entry Design.

1. Residential Projects.

- a. A street-facing primary entrance must feature a porch, covered entry, or recessed entry clearly visible from the street that gives the entrance visual prominence. Entrances must be connected to the adjacent sidewalk with a pedestrian walkway.
- b. Front porches must comply with the following:

- (1) The front porch must be part of the primary entrance, connected to the front yard and in full view of the street-way.
 - (2) Minimum dimensions: 6 feet by 5 feet.
 - (3) The porch or covered entry must have open-rung railings or landscaping defining the space.
- c. Recessed entries must feature design elements that call attention to the entrance such as ridged canopies, contrasting materials, crown molding, decorative trim, or a 45-degree cut away entry. This standard does not apply to secondary or service entrances.
2. **Mixed-Use Projects.** Entrances to mixed-use buildings with ground floor commercial must be emphasized and clearly recognizable from the street. One or more of the following methods shall be used to achieve this result:
- a. Projecting non-fabric awnings or canopies above an entry (covered entry);
 - b. Varied building mass above an entry, such as a tower that protrudes from the rest of the building surface;
 - c. Special corner building entrance treatments, such as a rounded or angled facets on the corner, or an embedded corner tower, above the entry;
 - d. Special architectural elements, such as columns, porticos, overhanging roofs, and ornamental light fixtures;
 - e. Projecting or recessed entries or bays in the facade;
 - f. Recessed entries must feature design elements that call attention to the entrance such as ridged canopies, contrasting materials, crown molding, decorative trim, or a 45-degree cut away entry; and
 - g. Changes in roofline or articulation in the surface of the subject wall.
3. **Street-facing Entries to Upper Floors.** Street-facing entries to upper floors in a mixed-use building shall be equal in quality and detail to storefronts. This standard may be satisfied through one or more of the following:
- a. Dedicated non-fabric awning, canopy, or other projecting element
 - b. Dedicated light fixture(s)
 - c. Decorative street address numbers or tiles
 - d. Plaque signs for upper-floor residences.

17.82.070 Building Massing

A. Intent. The intent of the building massing and open space standards is to:

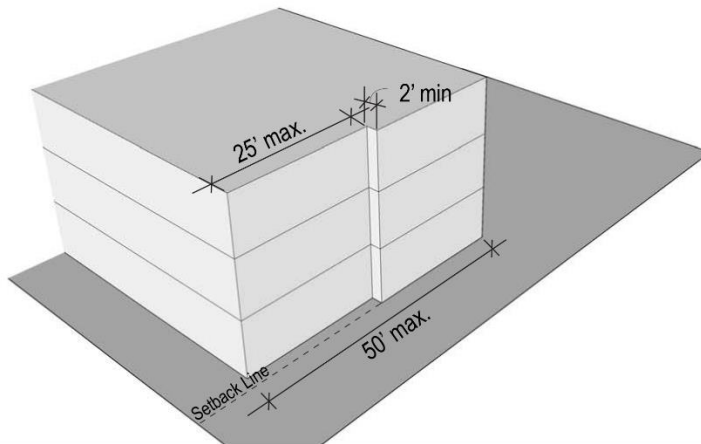
1. Provide for human-scale and pedestrian-friendly building massing where large buildings are broken into smaller volumes that fit into the surrounding neighborhood.
2. Provide for sensitive transitions to adjacent lower-density residential uses.
3. Minimize visual and privacy impacts to neighboring properties.

B. Standards.

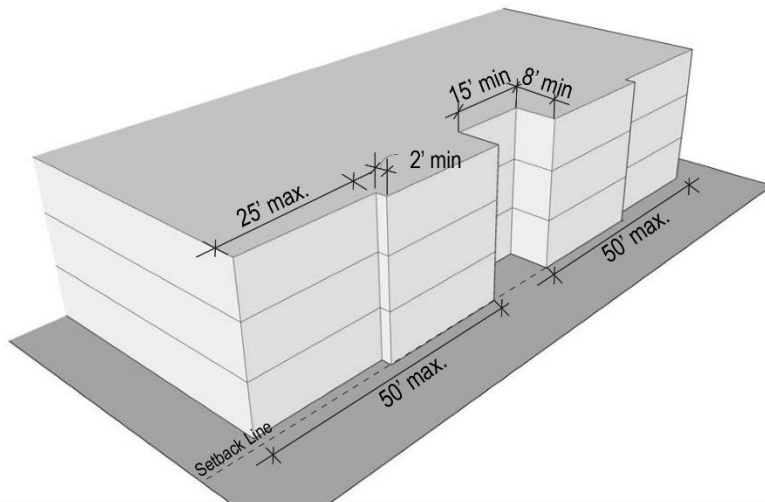
1. Massing Breaks.

- a. All street-facing building facades 25 feet or more in length shall incorporate a building projection or recess (e.g., wall, balcony, or window) at least 2 feet in depth. See Figure 17.82-4.

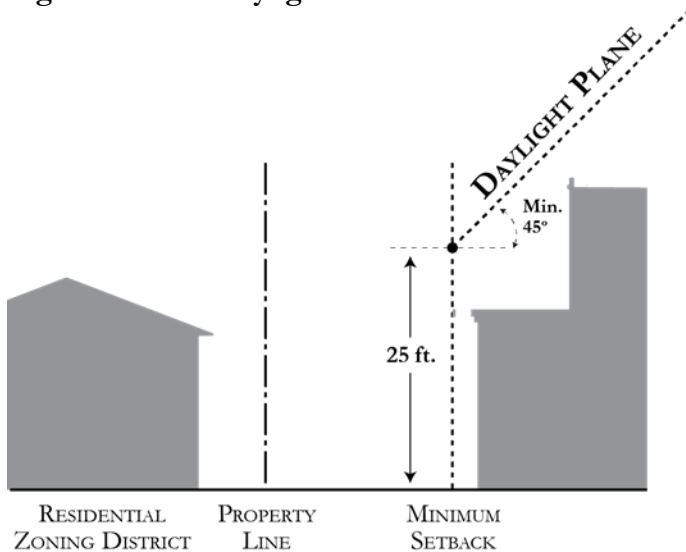
Figure 17.82-4: Massing Breaks – 25 ft. Module



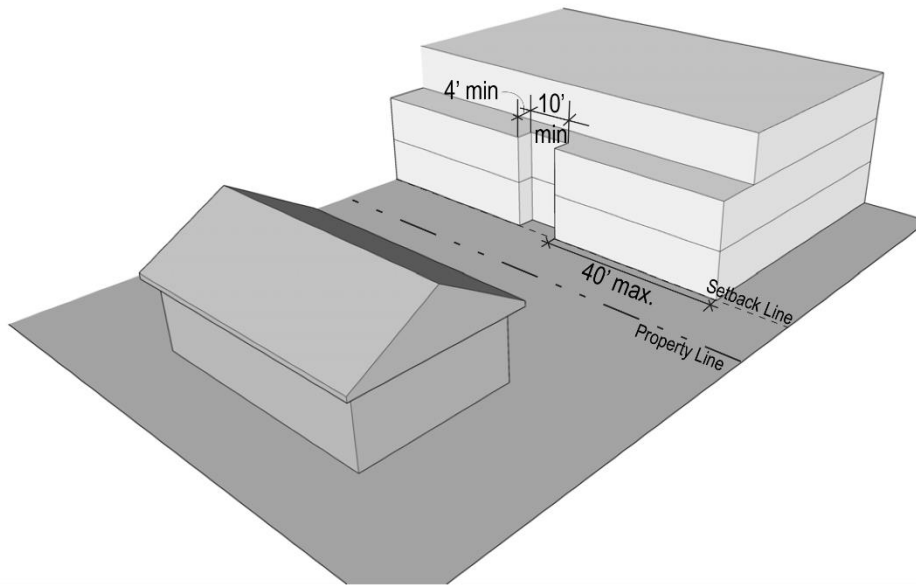
- b. Buildings that exceed 50 feet in length along a street facade shall provide a prominent recess at intervals of 50 feet or less. The recess shall have a minimum of depth of 8 feet and minimum width of 15 feet. See Figure 17.82-5.

Figure 17.82-5: Massing Breaks – 50 ft. Module

2. **Residential Transitions.** Development sharing a side or rear lot line with the R-1 district shall comply with the following:
 - a. No structure shall extend above or beyond a daylight plane having a height of 25 feet at the setback from the residential property line and extending into the parcel at an angle of 45 degrees. See Figure 17.82-6.

Figure 17.82-6: Daylight Plane

- b. A side building wall adjacent to a single-family dwelling may not extend in an unbroken plane for more than 40 feet along a side lot line. To break the plane, a perpendicular wall articulation of at least 10 feet width and 4 feet depth is required. See Figure 17.82-7.

Figure 17.82-7: Break in Side Building Wall**17.82.080 Facade and Roof Design**

A. Intent. The intent of the facade and roof design standards is to:

1. Create street-facing building facades that are varied and interesting with human-scale design details;
2. Incorporate architectural elements that reduce the perceived mass and box-like appearance of buildings;
3. Provide for buildings designed as a unified whole with architectural integrity on all sides of the structure;
4. Promote design details and materials compatible with the existing neighborhood character; and
5. Minimize privacy impacts to neighboring properties

B. Standards.**1. Blank Wall Areas.**

- a. The area of a blank building wall fronting a public street may not exceed a square area where the height and width are both 10 feet. See Figure 17.82-8.
- b. A break in a blank building wall may be provided by any of the following:
 - (1) Doors, windows, or other building openings.
 - (2) Building projections or recesses, decorative trim, trellises, or other details that provide architectural articulation and design interest.

- (3) Varying wall planes where the wall plane projects or is recessed at least six inches.
- (4) Awnings, canopies or arcades.
- (5) Murals or other similar public art.

Figure 17.82-8: Blank Walls



2. **Windows and Doors.** Street-facing windows and doors shall comply with one of the following:
 - a. All street-facing windows and doors feature built up profile trim/framing. Windows must include sills and lintels. Trim/framing must project at least two inches from the building wall with material that visually contrasts from the building wall.
 - b. For all street-facing windows, glass is inset a minimum of 3 inches from the exterior wall or frame surface to add relief to the wall surface.
3. **Facade Design.** Each side of a building facing a street shall include a minimum of two of the following façade design strategies to create visual interest:
 - a. **Projecting Windows.** At least 25 percent of the total window area on the street-facing building wall consists of projecting windows. The furthest extent of each projecting window must project at least one foot from the building wall. This requirement may be satisfied with bay windows, oriel windows, bow windows, canted windows, and other similar designs.
 - b. **Window Boxes.** A minimum of 50 percent of street-facing windows feature window boxes projecting at least one-half foot from the building wall.
 - c. **Shutters.** A minimum of 50 percent of street-facing windows feature exterior decorative shutters constructed of material that visually contrasts from the building wall.

- d. **Prominent Front Porch.** A front porch with a minimum depth of 6 feet and width of 12 feet providing access to the unit's primary entrance.
 - e. **Balconies.** Balconies, habitable projections, or Juliet balconies, with at least 20 percent of the linear frontage of the street-facing building wall containing one or more above-ground balcony.
 - f. **Shade/Screening Devices.** Screening devices such as lattices, louvers, shading devices, awnings, non-fabric canopies, perforated metal screens, with such a device occupying at least 20 percent of the linear frontage of the street-facing building wall.
 - g. **Datum Lines.** Datum lines that continue the length of the building, such as cornices, with a minimum four inches in depth, or a minimum two inches in depth and include a change in material.
 - h. **Varied Exterior Color.** The street-facing building walls feature two or more visibly contrasting primary colors, with each color occupying at least 20 percent of the street-facing building wall area.
 - i. **Varied Building Wall Material.** The street-facing building walls feature two or more visibly contrasting primary materials (e.g., wood shingles and stucco), with each material occupying at least 20 percent of the street-facing building wall area.
4. **Roof Design.** Each side of a building facing a street shall include a minimum of one of the following roof design strategies to create visual interest:
- a. **Roof Eaves.** A roof eave projecting at least two feet from the street-facing building wall with ornamental brackets or decorative fascia and eave returns.
 - b. **Roof Form Variation.** At least 25 percent of the linear frontage of the building's street-facing building roof line incorporates at least one element of variable roof form that is different from the remainder of the street-facing roof form. This requirement may be satisfied with recessed or projecting gabled roof elements, roof dormers, changes in roof heights, changes in direction or pitch of roof slopes, and other similar methods.
 - c. **Roof Detail and Ornamentation.** At least 80 percent of the linear frontage of the building's street-facing roof line incorporates roof detail and/or ornamentation. This requirement may be satisfied with Parapet wall that is an average of at least one-foot tall and has a cornice, periodic and articulated corbelling or dentils, an ornamental soffit, an offset gable clearstory, and other similar methods.
5. **Neighbor Privacy.**
- a. Balconies, roof decks and other usable outdoor building space is not allowed on upper-story facades abutting R-1 zoning district.

- b. Sliding glass doors, French doors, and floor-to-ceiling windows are not allowed on upper-story facades abutting R-1 zoning district.
 - c. Windows facing adjacent dwellings must be staggered to limit visibility into neighboring units. The vertical centerline of a window may not intersect the window of an adjacent dwelling.
6. **360-degree Design.** Buildings shall have consistent architectural quality on all sides, with all exterior surfaces featuring consistent facade articulation, window and door material and styles, and building wall materials and colors.

17.82.090 Other Site Features

A. Intent. The intent of the other site feature standards is to:

- 1. Minimize visual clutter on a development site.
- 2. Enhance the design character of the public realm.
- 3. Support an active and welcoming pedestrian environment.
- 4. Minimize noise, odor, and visual impacts on neighboring residential properties.

B. Standards.

- 1. **Refuse Storage Areas.**
 - a. Refuse collection and storage areas may not be located:
 - (1) In a required front or street side setback area;
 - (2) Between a primary structure and a front or street side property line;
 - (3) Within a required landscape area; or
 - (4) Within a required side setback area adjacent to an R-1 district.
 - b. Refuse containers shall be located in a building or screened from public view by a solid enclosure.
- 2. **Mechanical Equipment Screening.**
 - a. Rooftop mechanical equipment, including vents and stacks, shall be fully screened from view by an architectural feature, such as a parapet wall.
 - b. Ground-mounted mechanical equipment may not be located
 - (1) In a required front setback area; or
 - (2) Between a primary structure and a front property line.
- 3. Backflow prevention devices shall not be placed directly in front of the building but may be located in a side location of the front yard. Backflow prevention devices may be located within the front half of the lot, when located between the side building plane extending to the front property line and the side yard property line. The equipment shall be either:

- a. Screened to its full height by a combination of fencing and perennial landscaping to 70 percent opacity; or
- b. Contained within a protective enclosure (metal grate) within a planter or landscape bed.



memorandum

To: City of Capitola
From: Ben Noble
Subject: Objective Standards for Multifamily and Mixed-Use Development

This memorandum describes the approach to prepare new objective standards for multifamily and mixed-use residential development in Capitola (the “Objective Standards project”). In addition to this project approach, this memorandum also provides background information about the Objective Standards project and describes recently adopted state housing law relevant to the project.

PROJECT BACKGROUND

In 2017 the State of California established the SB2 grant program to fund city planning efforts to streamline housing approvals and accelerate housing production. Capitola is using part of its SB2 grant for the Objective Standards project. As described further below, new objective standards for multifamily and mixed-use development will help to protect the City and ensure quality development in light of new state housing laws. The City hired consultants Ben Noble and Bottomley Design and Planning to assist with this project.

Process and Schedule

The Objective Standards project includes the following three main tasks:

- **Task 1: Existing Regulation Review & Recommended Approach.** Summarize existing regulations and recommend approach to new objective standards (to be completed in March 2021).
- **Task 2: Objective Standards Drafting.** Prepare new objective standards for multifamily and mixed-use residential development (to be completed in June 2021).
- **Task 3: Public Review and Adoption.** Hold public hearings and adopt new objective standards (to be completed in October 2021).

Public Engagement

Information about the Objective Standards project will be posted online at www.cityofcapitola.org.communitydevelopment. The public will be able to participate in the project in the following ways:

- Planning Commission and City Council study sessions (2)
- Stakeholder meetings (2)
- Planning Commission and City Council public hearings

For the stakeholder meetings, the City will invite interested architects, builders, property owners, and residents to review and comment on project materials. At the first meeting planned for April 2021,

stakeholders will review a draft outline of new objective standards. Stakeholders will meet a second time in May 2021 to review the draft standards prior to public hearings.

STATE LAW

Recent changes to state housing law aim to facilitate housing production by streamlining the approval of housing projects that comply with established local standards. These laws include Senate Bill (SB) 35, the Housing Accountability Act, and SB 330. The Regional Housing Needs Allocation (RHNA) requirement in state housing element law is also relevant to the Objective Standards project.

SB 35

In 2017 the California legislature adopted SB 35, which was part of a 15-bill housing package aimed at addressing the state’s housing shortage and high housing costs. SB 35 requires local governments that have not met their RHNA to approve by right without a discretionary process qualifying multifamily and mixed-use residential projects. A qualifying project in Capitola must be consistent with all objective standards, contain at least 50 percent affordable units, agree to pay prevailing wages for construction work, and meet other requirements. Projects in the coastal zone are not eligible for streamlined approval under SB 35.

If an applicant requests streamlined approval for a qualifying project under SB 35, the City must approve the project if it is consistent with objective standards in effect at the time the application was submitted. The City must review and act on the application through a ministerial process without a use permit, design review, or public hearings. SB 35 defines objective standards as “standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.”

Housing Accountability Act and SB 330

The Housing Accountability Act (HAA), Government Code Section 65589.5, limits a local government’s ability to deny or reduce the density of housing development projects that are consistent with objective standards. The HAA was originally enacted in 1982 and amended in 2017, 2018, and 2019 to expand and strengthen its provisions.

The HAA applies to any development project with two or more units, including multifamily housing, mixed-use residential development and projects with two or more detached single-family homes. Under the HAA, a local government may deny or reduce the proposed density of a project only if it finds that 1) the project “would have a specific, adverse impact upon the public health or safety” and 2) “there is no feasible method to satisfactorily mitigate or avoid the adverse impact.”

SB 330, adopted in 2019, amended the HAA to establish vesting rights for projects that use a new pre-application process. SB 330 also added a new chapter to the Government Code, the “Housing Crisis Act of 2019,” which prohibits local governments from:

- Reducing the allowed intensity on a property below what was allowed under the general plan or zoning in effect on January 1, 2018;
- Imposing a moratorium or similar restriction or limitation on housing development;

- Establishing or imposing growth control measures that meter the pace of housing construction or limit the jurisdiction’s population; and
- Establishing new design standards that are not “objective.” The definition of an objective standard in SB 330 is the same as in SB 35.

The HAA and SB 330 apply within the coastal zone, but do not alter or lessen the effect or application of Coastal Act resource protection policies. Government Code Section 65589.5(e) states “Nothing in this section shall be construed to relieve the local agency from complying with...the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code)”

Regional Housing Needs Allocation (RHNA)

State housing element law requires Capitola to accommodate its fair share of new housing units during a specified planning period. This fair share requirement is determined by the Association of Monterey Bay Area Governments (AMBAG) and known as the Regional Housing Needs Allocation (RHNA). Table 1 shows Capitola’s RHNA for the 2015-2023 planning period, including units affordable at different income levels. Since January 1, 2015, Capitola has not approved any very low or low-income units. One moderate income unit, a town house in Tera Court located behind OSH, was approved.

Table 1: RHNA and Permits Issued for 2015-2023 Planning Period

Income Group	RHNA
Very Low-Income (<50% of Median Family Income)	34
Low-Income (50-80% of Median Family Income)	23
Moderate-Income (80-120% of Median Family Income)	26
Above Moderate-Income (>120% of Median Family Income)	60
Total	143

In 2022, Capitola will be assigned a new RHNA for the 2024-2032 planning period and will update its Housing Element and Zoning Code (if needed) to provide adequate sites for these units. Based on preliminary information from AMBAG, Capitola’s new RHNA will likely be two to three times greater than the RHNA for the prior planning period. AMBAG will release its draft RHNA in January 2022 and approve the final RHNA in June 2022.

To accommodate the new RHNA, Capitola may need to identify new housing sites, increase the allowed density of existing sites, or both. Recently approved state law also may limit Capitola’s ability to carry forward previously identified sites where housing was not approved during prior planning periods. If Capitola adds new sites for multifamily housing, it becomes increasingly important for the City to have quality standards in place.

EXISTING REGULATIONS

Objective Standards

Table 2 on the following page shows Capitola’s existing Zoning Code requirements for multifamily and mixed-use residential development that meets the state definition of an objective standard. Table 2 shows objective standards in all zoning districts where multifamily and mixed-use residential development is allowed. A gray cell in Table 2 means that there is no objective standard in the zoning district.

Objective standards may also be found in the in the General Plan, Subdivision Ordinance, and other similar regulatory documents. The General Plan contains few objective standards as it was written to provide a policy foundation for land use and development in Capitola. Objective standards in the General Plan are limited to allowed land uses and density in RM designation, allowed land use and FAR in mixed-use and commercial designations, and noise standards in Policy SN-7.4.

Subdivision Ordinance Chapter 16.24 contains design standards that apply to proposed subdivisions. Standards in Chapter 16.24 that qualify as objective standards include new street standards (street alignment, intersection angles, intersection cure radius, street grade) and lot configuration standards (property line angles, minimum frontage width).

If a qualifying project requests streamlined review under SB 35, the City must approve the project ministerially if it conforms with these standards. The City may not require project changes to comply with subjective requirements, such as the City’s design review criteria in Zoning Code Section 17.120.070. The Housing Accountability Act and SB 330 may also limit the City’s ability to require changes to a proposed project if the project complies with all objective standards

Table 2: Existing Zoning Code Objective Standards

Standard	Zoning District			
	MF	MU-V	MU-N	C-C & C-R
Allowed Land Uses	17.16.020	17.20.020	17.20.020	17.24.020
Development Standards				
Parcel Size and Dimensions			17.20.040	17.24.030
Floor Area Ratio		17.20.030	17.20.040	17.24.030
Building Coverage	17.16.030			
Open Space	17.16.030			17.24.030
Density	17.16.030			17.24.030
Setbacks	17.16.030	17.20.030	17.20.040	17.24.030
Build-to Line		17.20.030.D	17.20.040	
Height	17.16.030	17.20.030	17.20.040	17.24.030
Design Standards				
Building Orientation		17.20.030.E	17.20.040.B	17.24.040.B.3
Blank Walls		17.20.030.E		17.24.040.B.4
Storefront Width	N/A	17.20.030.E		17.24.040.B.5
Ground Floor Transparency		17.20.030.E		17.24.040.B.6
Retail Depth	N/A			17.24.040.B.7
Ground Floor Height				17.24.040.B.8
Parking Placement and Screening		17.20.030.E	17.20.040.E	17.24.040.B.9
Driveway Width		17.20.030.E	17.20.040.F	
Garbage and Recycling Screening		17.20.030.E		
Residential Transitions			17.20.040.D	17.24.030.E
Landscaping				
Required landscape areas	17.72.050.A	17.72.050.B	17.72.050.B	17.72.050.B
General standards [1]	17.72.060.A	17.72.060.A	17.72.060.A	17.72.060.A
Irrigation and Water Efficiency	17.72.060.B	17.72.060.B	17.72.060.B	17.72.060.B
Maintenance	17.72.070	17.72.070	17.72.070	17.72.070
Parking				
Required Spaces	17.76.030	17.76.030	17.76.030	17.76.030
Parking in Setbacks	17.76.040.B	17.76.040.B	17.76.040.B	17.76.040.B
Parking Design Standards [2]	17.76.060	17.76.060	17.76.060	17.76.060
Landscaping [3]	17.76.070	17.76.070	17.76.070	17.76.070
Bicycle Parking	17.76.080	17.76.080	17.76.080	17.76.080
Outdoor Lighting [4]	17.967.110	17.967.110	17.967.110	17.967.110

Notes:

[1] Includes plant selection, turf limitations, maximum slope, plant groupings, water features, watering times

[2] Includes parking space dimensions, parking lot dimensions, surfacing, pedestrian access, screening

[3] Includes minimum amount of required landscaping, shade trees

[4] Includes maximum height, prohibited lighting types, fixture types, light trespass

Subjective Requirements

Proposed multifamily and mixed-use residential development requires a Design Review Permit and, in certain zoning districts, a Conditional Use Permit. To approve these permits, the Planning Commission must make findings in Section 17.120.080 for Design Permits and Section 17.124.070 for Conditional Use Permits. These findings are provided in Attachment A.

Design Permit Finding E requires compliance with all applicable design review criteria in Zoning Code Section 17.120.070. These design review criteria, also provided in Attachment A, address a broad range of building and site design issues and were recently developed as part of the Zoning Code Update. These criteria reflect public desires for new development and are based on design-related policies in the General Plan such as community character, neighborhood compatibility, mass and scale, articulation, and visual interest.

In addition to permit findings, the Zoning Code contains a number of requirements for multifamily and mixed-use residential development that do not meet the state definition of an objective standard. These subjective requirements are identified in Attachment B. Some requirements apply in all zoning districts (e.g., fence color and material) while others apply only in certain zoning districts or locations (e.g., 3-story building requirements on Capitola Road).

For projects requiring a Design Review Permit or Conditional Use Permit, the City can require compliance with subjective requirements through the discretionary process. For a project requesting streamlined review under SB 35, the City cannot enforce these requirements. Under the Housing Accountability Act and SB 330, the City also cannot require compliance with these standards for any multifamily or mixed-use residential project in a manner that disallows or reduces the density of the proposed project.

PROJECT APPROACH

Given the project goals and relevant state law, this section describes the City’s approach to prepare new objective standards for multifamily and mixed-use residential development.

1. Translate Design Review Criteria to New Standards

As described above, a qualifying project requesting streamlined approval under SB 35 must be approved ministerially without Design Review or a public hearing. Instead, the City may only require compliance with objective standards in effect at the time the application was submitted. The City would not be able to require changes to the project to address Design Review criteria in Section 17.120.070.

For this reason, we will translate Design Review criteria into objective standards as needed to ensure quality design for all multi-family and mixed-use residential projects, including projects qualifying for streamlined approval under SB 35. Table 3 below lists Design Review criteria appropriate for translation into objective standards. Translating Design Review criteria into objective standards will also benefits applicants, decision-makers, and the public by providing greater certainty on City requirements and expectations for all proposed projects.

Table 3: Design Review Criteria to Translate into New Objective Standards

<p>B. Neighborhood Compatibility. The project is designed to respect and complement adjacent properties. The project height, massing, and intensity is compatible with the scale of nearby buildings. The project design incorporates measures to minimize traffic, parking, noise, and odor impacts on nearby residential properties.</p> <p>C. Historic Character. Renovations and additions respect and preserve existing historic structure. New structures and additions to non-historic structures reflect and complement the historic character of nearby properties and the community at large.</p> <p>E. Pedestrian Environment. The primary entrances are oriented towards and visible from the street to support an active public realm and an inviting pedestrian environment.</p> <p>F. Privacy. The orientation and location of buildings, entrances, windows, doors, decks, and other building features minimizes privacy impacts on adjacent properties and provides adequate privacy for project occupants.</p> <p>H. Massing and Scale. The massing and scale of buildings complement and respect neighboring structures and correspond to the scale of the human form. Large volumes are divided into small components through varying wall planes, heights, and setbacks. Building placement and massing avoids impacts to public views and solar access.</p> <p>J. Articulation and Visual Interest. Building facades are well articulated to add visual interest, distinctiveness, and human scale. Building elements such as roofs, doors, windows, and porches are part of an integrated design and relate to the human scale. Architectural details such as trim, eaves, window boxes, and brackets contribute to the visual interest of the building.</p> <p>L. Parking and Access. Parking areas are located and designed to minimize visual impacts and maintain Capitola's distinctive neighborhoods and pedestrian-friendly environment. Safe and convenient connections are provided for pedestrians and bicyclists.</p> <p>S. Mechanical Equipment, Trash Receptacles, and Utilities. Mechanical equipment, trash receptacles, and utilities are contained within architectural enclosures or fencing, sited in unobtrusive locations, and/or screened by landscaping.</p>
--

Design Review criteria excluded from Table 3 will not be translated into new objective standards. New standards to translate Design Review Criteria M (Landscaping), N (Drainage), O (Open Space and Public Places), P (Signs), Q (Lighting), and R (Accessory Structures) are not needed because existing standards are sufficient to address these issues. We will not translate Design Criteria I (Architectural Style) and K (Materials) to avoid establishing overly prescribe building design standards. We also will not translate G (Safety) as this criterion does not easily lend itself to objective standards.

Many of the Design Review criteria in Table 3 are already addressed in existing objective standards for some zoning districts. For example, Mixed-Use Village design standards in Section 17.20.030.E contain building orientation, blank walls, storefront width, ground floor transparency, and parking location and buffer standards that address aspects of Design Review Criteria E (Pedestrian Environment), H (Massing and Scale), J (Articulation and Visual Interest), L (Parking and Access), and J (Articulation and Visual Interest). As we prepare the new standards, we will consider if any existing standards should be applied in other zoning districts. We will also consider if existing standards should be augmented or modified to more fully implement the Design Review criteria.

2. Consider New Standards for Other Subjective Requirements

As described above, the City may not require compliance with subjective requirements in Attachment B for projects requesting streamlined approval under SB 35. For this reason, we will review the requirements in Attachment B to determine which, if any, should be translated into an objective standard. Some of these existing requirements are relatively minor and may not need an objective standard (e.g., MU-V pavement material in 17.20.030.E.7). Other requirements may be important to the community and warrant a new objective standard (e.g., 3-story buildings on Capitola Road).

3. Provide Options to Achieve Objectives

Design standards can establish a single method by which all proposed projects must achieve a design objective. For example, to provide variation in facade articulation, the design standards could require all building walls to feature a wall modulation or increase setback every 30 feet. Alternatively, design standards could allow projects to choose from different options to achieve the objective. With this approach, a project could achieve the facade articulation objective by selecting from options such as changes in material and color, vertical accent lines, wall modulation, balconies, bay windows, and changes in building height.

New objective standards will include options to achieve design objectives where appropriate. The facade articulation standard above is an example of where providing options is appropriate. For other standards, options may not be needed or desirable. As we prepare the standards, we will look for opportunities to incorporate options into standards so that individual projects can determine the best design solutions to achieve the City’s objectives. In unique circumstances, applicants will also be able to request a deviation from a standard, as described below.

4. Allow Deviations with Design Review

The design standards need to specify if a proposed project may deviate from the standards through a discretionary process. If deviation is allowed, the standards need to identify who approves the deviation, the criteria to allow the deviation, and if deviation is allowed from all standards, or just certain ones.

We will allow deviation from all standards with Planning Commission approval of a Design Permit. This approach matches allowed deviations for accessory dwelling units in Zoning Code Section 17.74.100. However, the default assumption should be that projects will comply with all standards, with deviations allowed only due to unique circumstances.

Findings required to approve the deviation will allow for flexibility when needed but ensure that all projects achieve quality design. We will clearly identify the intent of the standards, and allow for deviation only if the Planning Commission finds that 1) the project, with the deviation, achieves the intent of the standard to the extent possible; and 2) unique circumstances on the property require the deviation.

For example, the new design standards may include a requirement for buildings to be oriented towards a public street with the primary entrance to the building directly accessible from an adjacent sidewalk. The new standards will identify the intent of the standard, which is to provide for an active public realm and an inviting pedestrian environment. On certain sites, complying with this standard may not be feasible or desirable due to unique circumstance such as the location of existing buildings or an unusual

parcel configuration. In such a case, the Planning Commission could allow for an alternative entrance orientation upon finding that the project incorporates alternative design features to support a pedestrian-friendly environment and active/inviting public realm.

5. Locate Standards in Zoning Code

New standards may be located in the Zoning Code or adopted separately by resolution. We plan to locate new standards in the Zoning Code so that all similar development and design standards are found together in one place. With this approach, users will not need to consult a separate document to find the standards, and the standards are less likely to be overlooked by City staff and applicants.

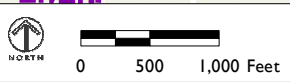
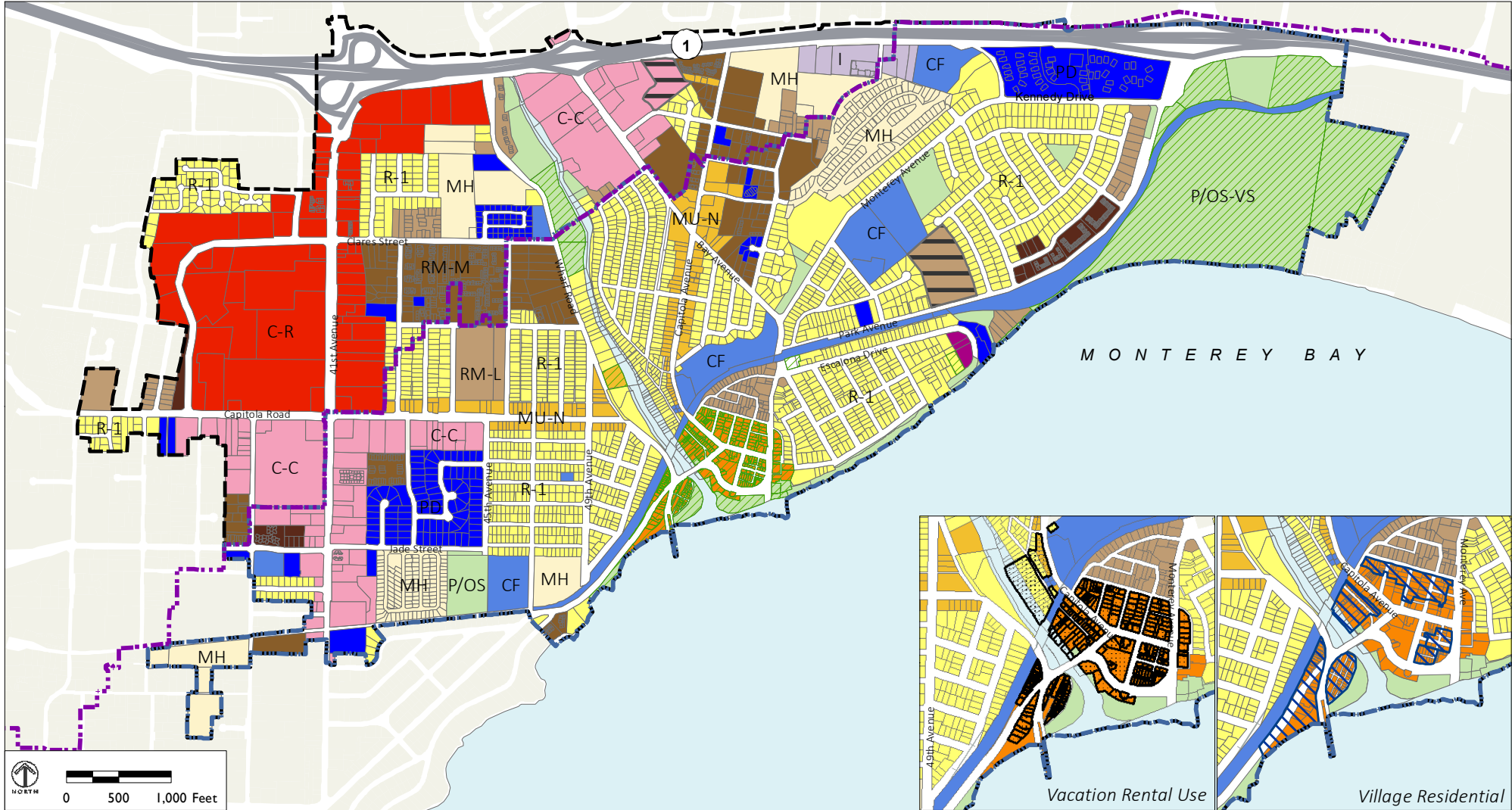
Within the Zoning Code, the new standards may be added to individual zoning district chapters (e.g., Chapter 17.16: Residential Zoning Districts) or placed in a new separate chapter in the Zoning Code. The best location will depend on the details of the standards once they are drafted. If the standards vary considerably across zoning districts, the best location for the standards will likely be individual zoning district chapters. If the standards are more generally applicable to all zoning districts, a separate new chapter may be preferable.

Because new standards will be tailored to different areas of the city and types of development, we expect that we will add the standards to individual zoning district chapters. As we proceed with drafting the standards, we will confirm that this approach works best. The goal should be to locate standards where readers expect to find them while minimizing unnecessary repetition where possible.

Attachments:

- A. Design Permit Findings, Conditional Use Permit Findings, and Design Review Criteria
- B. Additional Subjective Zoning Code Requirements

CITY OF CAPITOLA
ZONING MAP



Residential Zoning Districts

- R-1 - Single-Family Residential
- RM-L - Multi-Family Residential, Low Density
- RM-M - Multi-Family Residential, Medium Density
- RM-H - Multi-Family Residential, High Density
- MH - Mobile Home Park

Mixed-Use Zoning Districts

- MU-V - Mixed Use Village
- MU-N - Mixed Use Neighborhood

Commercial and Industrial Zoning Districts

- C-R - Regional Commercial
- C-C - Community Commercial

Other Zoning Districts

- I - Industrial
- P/OS - Parks and Open Space
- CF - Community Facility
- PD - Planned Development
- VS - Visitor Serving

Overlay Zones*

- AHO - Affordable Housing Overlay
- CZ - Coastal Zone
- VRU - Vacation Rental Use
- VR - Village Residential
- VS - Visitor Serving

City Limit

- Santa Cruz Coastal Zone Boundary

Source: ESRI, 2017; PlaceWorks, 2017.

Zoning Map Certified
June 9, 2021
by CA Coastal Commission

*See Local Coastal Program Habitats Map for boundaries of Environmentally Sensitive Habitats Area Overlay Zone.

Capitola City Council

Agenda Report

Meeting: April 28, 2022

From: Department of Public Works

Subject: Temporary Village Parking Committee Goals and Appointments



Recommended Action: Approve the goals for the Temporary Village Parking Committee, consider applications, and make appointments to the committee including three Village business representatives, three City residents, one member of the Finance Advisory Committee, and two members of City Council.

Background: On March 10, 2022, the City Council reviewed a work plan for the study of Village Parking Meter and Parking Permit Programs and established the composition of an “ad-hoc”, temporary, committee to complete the study and prepare a report. The Council directed staff to expand the goals of the committee contained in the work plan and bring them back for approval with the appointments to the committee. The Council further approved the composition of the committee to be two Council Members, one Finance Advisory Committee member, three Village business representatives, and three Capitola residents. The committee is subject to the Brown Act and will hold public meetings staffed by the Public Works Department. Recruitment for committee members opened on March 11.

Discussion: The proposed goals for the Temporary Village Parking Committee are summarized below. The detailed goals are Attachment 1.

1. Examine parking meter rates to determine if there should be an inflation adjustment
2. Evaluate equity between parking permit costs and value for all permit programs
3. Examine changes to parking programs and rates to encourage use of upper and lower Beach and Village Parking Lots behind City Hall
4. Evaluate opportunities to reduce parking impacts on neighborhoods, without expanding permit zones or Coastal Commission-approve permit rules

Due to Coastal Commission oversight on these programs, staff recommends the committee not make any recommendations that would change or create new parking meter zones or permit parking boundaries.

During the March 15, 2022, Finance Advisory Committee, the committee recommended that Vice Chair Anthony Rovai serve on the Temporary Village Parking Committee. During recruitment for Business and Resident committee members, the City received nine applications from community members. A list of applicants, organized by type (Village Business Representative or Resident), is included as Attachment 2. A combined PDF of all applications is Attachment 3.

Fiscal Impact: The formation of the committee does not require funding.

Attachments:

1. Ad-hoc Village Parking Committee Goals
2. List of Applicants
3. Applications

Report Prepared By: Steven Jesberg, Public Works Director, Chloé Woodmansee, City Clerk,

Reviewed By: Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager

Ad-hoc Parking Committee

Goal	Actions
Examine parking meter rates to determine if there should be an inflation adjustment.	<ul style="list-style-type: none"> • Review data regarding how costs have changed to administer parking program • Compare rates to other coastal cities • Evaluate change in CPI since last adjustment • Evaluate ratio of parking rates in Village to Beach and Village Parking Lots
Evaluate equity between permit costs/utility Village Parking Lots	<ul style="list-style-type: none"> • Review data regarding costs for various parking permit types, and rights associated with each • Compare costs to existing per-space meter revenue
Examine changes to parking programs rules and rates to encourage use of upper and lower Beach and	<ul style="list-style-type: none"> • Examine if there are new permit variants that could be offered at low/no cost • Examine if other permit rates can be adjusted to encourage use of remote lots
Evaluate opportunities to reduce parking impacts on neighborhoods, without expanding permit zones or Coastal Commission-approve permit rules	<ul style="list-style-type: none"> • Evaluate parking permit rules, that are not subject to Coastal Commission review
Parking Committee will not review:	
<ol style="list-style-type: none"> 1. Changes in parking meter zone areas 2. Changes permit parking program boundaries 3. Consider new parking meter areas or permit areas 	

Ad-Hoc Village Parking Committee

*applications due April 21, 2022

Village Business Representative Applicants:

Dharmesh Patel
Anthony Guajardo
Vicki Guinn
Carin Hanna

City Resident Applicants:

Mary McKittrick
Dennis Norton
Molly Ording
Peter Wilk
Joseph Winslow



CITY of CAPITOLA BOARDS AND COMMISSIONS APPLICATION

Application for:

- Art & Cultural Commission
[Artist; Arts Professional; At Large Member]
Please underline category above.
- Architecture & Site Committee
[Architect; Landscape Architect; Historian]
Please underline category above.
- Finance Advisory Committee
[Business Representative; At Large Member]
Please underline category above.
- Traffic & Parking Commission
[Village Resident; Village Business Owner; At Large Member]
Please underline category above.
- Historical Museum Board
- Planning Commission
- Library Advisory Committee
- Other Committee _____

Name: Patel Dharmesh
Last First

Residential Neighborhood: Capitola Village Business Owner
Occupation: Hotel Owner - Capitola Hotel

Describe your qualifications and interest in serving on this Board/Commission/Committee: _____

Please See attached.

(Use additional paper, if necessary)

Please Note: Appointment to this position may require you to file a conflict of interest disclosure statement with the City Clerk. This information is a public record and these statements are available to the public on request.

3/21/22
Date


Signature of Applicant

Email to: cwoodmansee@ci.capitola.ca.us
-OR- Mail/Deliver Application to:
Capitola City Hall
Attn: City Clerk
420 Capitola Avenue, Capitola, CA 95010

All information contained in this page of the application is public data and will be made available for public review and copying for anyone requesting it, and may be posted on the website of the City of Capitola. All information in this page will be provided to the Capitola City Council in a public forum and will be reviewed in public. It will therefore be part of the public record.

Application for Capitola Traffic and Parking Commission

I would like to express my interest in serving on the Capitola Traffic and Parking Commission as a Capitola Village Business owner. As you may know, I'm one of the few Hotel owners in the Village and issues related to traffic and parking have significant impact on our business as well as other businesses in the Village. As a hotel owner I think I would bring a unique perspective to the Commission regarding traffic and parking. Also, I have served on many boards and public interest commissions over my years in business. Most recently I'm serving on a commission of hotel owners through the Santa Cruz CVC with Santa Cruz County to explore the initiative to raise Transient Occupancy Tax (TOT) in the unincorporated Santa Cruz County jurisdiction in an upcoming ballot vote. I would love to bring my perspective and experience to this commission.

Thanks,
Dharmesh Patel
Capitola Hotel – Owner



CITY of CAPITOLA BOARDS AND COMMISSIONS APPLICATION

Application for:

- Art & Cultural Commission
[Artist; Arts Professional; At Large Member]
Please underline category above.
- Architecture & Site Committee
[Architect; Landscape Architect; Historian]
Please underline category above.
- Finance Advisory Committee
[Business Representative; At Large Member]
Please underline category above.
- Traffic & Parking Commission
[Village Resident; Village Business Owner; At Large Member]
Please underline category above.
- Historical Museum Board
- Planning Commission
- Library Advisory Committee
- Other Committee _____

Name: Guajardo Anthony
Last First

Residential Neighborhood: _____

Occupation: Business Owner - Mijo's Taqueria

Describe your qualifications and interest in serving on this Board/Commission/Committee: _____

- Business owner in Capitola Village
Current President of Capitola Village BIA, past Vice Pres and
board of directors.

- I have a good pulse on the daily traffic, issues that occur in the
Village from both a visitor, business owner and the needs of the village.

(Use additional paper, if necessary)

Please Note: Appointment to this position may require you to file a conflict of interest disclosure statement with the City Clerk. This information is a public record and these statements are available to the public on request.

4/10/2022
Date

[Signature]
Signature of Applicant

Email to: cwoodmansee@ci.capitola.ca.us

-OR- Mail/Deliver Application to:

Capitola City Hall

Attn: City Clerk

420 Capitola Avenue, Capitola, CA 95010

All information contained in this page of the application is public data and will be made available for public review and copying for anyone requesting it, and may be posted on the website of the City of Capitola. All information in this page will be provided to the Capitola City Council in a public forum and be reviewed in public. It will therefore be part of the public record.



CITY of CAPITOLA BOARDS AND COMMISSIONS APPLICATION

Application for:

- Art & Cultural Commission
[Artist; Arts Professional; At Large Member]
Please underline category above.
- Finance Advisory Committee
[Business Representative; At Large Member]
Please underline category above.
- Historical Museum Board
- Library Advisory Committee
- Architectural & Site Committee
[Architect; Landscape Architect; Historian]
Please underline category above.
- Traffic & Parking Commission
[Village Resident; Village Business Owner; At Large Member]
Please underline category above.
- Planning Commission
- Other Committee Parking

Name: Hanna, Carin
Last First

Residential Neighborhood: Out of City

Occupation: Village Business Owner

Describe your qualifications and interest in serving on this Board/Commission/Committee: _____

I have an ongoing interest in the parking issue in the village. _____

As a business owner for 52 years in the village I have served on many parking, traffic and improvement committees. I can bring historical knowledge as well as representing opinions of many business owners and residents. _____

(Use additional paper, if necessary)

Please Note: Appointment to this position may require you to file a conflict of interest disclosure statement with the City Clerk. This information is a public record and these statements are available to the public on request.

3-12-22
Date

Carin Hanna
Signature of Applicant

Email to: cwoodmansee@ci.capitola.ca.us

-OR- Mail/Deliver Application to:
Capitola City Hall
Attn: City Clerk

420 Capitola Avenue, Capitola, CA 95010

All information contained in this page of the application is public data and will be made available for public review and copying for anyone requesting it, and may be posted on the website of the City of Capitola. All information in this page will be provided to the Capitola City Council in a public forum and will be made available to the public record.



CITY of CAPITOLA BOARDS AND COMMISSIONS APPLICATION

Application for:

- Art & Cultural Commission
[Artist; Arts Professional; At Large Member]
Please underline category above.
- Architecture & Site Committee
[Architect; Landscape Architect; Historian]
Please underline category above.
- Finance Advisory Committee
[Business Representative; At Large Member]
Please underline category above.
- Traffic & Parking Commission
[Village Resident; Village Business Owner; At Large Member]
Please underline category above.
- Historical Museum Board
- Planning Commission
- Library Advisory Committee
- Other Committee _____

Name: Norton ennis
Last First

Residential Neighborhood: Riverview Terrace, Village

Occupation: Home designer and Urban Planner

Describe your qualifications and interest in serving on this Board/Commission/Committee: _____

40 years of home and Community Design

16 years on Capitola City Council

5 years as Planning Commission

7 years on Santa Cruz County Transportation Commission

5 years on Santa ruz Metro Board

(Use additional paper, if necessary)

Please Note: Appointment to this position may require you to file a conflict of interest disclosure statement with the City Clerk. This information is a public record and these statements are available to the public on request.

4-1-2022
Date

Signature of Applicant

Email to: cwoodmansee@ci.capitola.ca.us

-OR- Mail/Deliver Application to:

Capitola City Hall

Attn: City Clerk

420 Capitola Avenue, Capitola, CA 95010

All information contained in this page of the application is public data and will be made available for public review and copying for anyone requesting it, and may be posted on the website of the City of Capitola. All information in this page will be provided to the Capitola City Council in a public forum and will be reviewed in public. It will therefore be part of the public record.



COVER SHEET CITY of CAPITOLA BOARDS AND COMMISSIONS APPLICATION (for filing in City Clerk's Office)

Community members are encouraged to serve on the various City Boards, Committees, and Commissions. Appointments are made at a public City Council meeting.

Application for:

- Art & Cultural Commission
[Artist; Arts Professional; At Large Member]
Please circle category above
- Commission on the Environment
- Finance Advisory Committee
[Business Representative; At Large Member]
Please circle category above
- Planning Commission
- Architectural & Site Committee
[Architect; Landscape Architect; Historian]
Please circle category above
- Historical Museum Board
- Other Committee Ad Hoc Parking
- Check if applying as youth member for any board

Name: Wilk Peter
Last First

Telephone: (510) 378 2769
Home Business Cell

E-mail Address: petergwilk@gmail.com

Physical Address of Residence: [REDACTED]

Mailing Address: same

Are you a resident of the City of Capitola? Yes No

Happy to put in my 2 bits



CITY of CAPITOLA

BOARDS AND COMMISSIONS APPLICATION

Application for:

- | | |
|--|---|
| <input type="checkbox"/> Art & Cultural Commission
<i>[Artist; Arts Professional; At Large Member]</i>
<u>Please underline category above.</u> | <input type="checkbox"/> Architectural & Site Committee
<i>[Architect; Landscape Architect; Historian]</i>
<u>Please underline category above.</u> |
| <input type="checkbox"/> Finance Advisory Committee
<i>[Business Representative; At Large Member]</i>
<u>Please underline category above.</u> | <input checked="" type="checkbox"/> Traffic & Parking Commission
<i>[Village Resident; Village Business Owner; At Large Member]</i>
<u>Please underline category above.</u> |
| <input type="checkbox"/> Historical Museum Board | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Library Advisory Committee | <input type="checkbox"/> Other Committee _____ |

Name: Winslow Joseph
Last First

Residential Neighborhood: _____

Occupation: Financial Services

Describe your qualifications and interest in serving on this Board/Commission/Committee: _____
Past leadership training, and has served on other boards and committee
in my professional life of 30 years. These were non profits and other
neighborhood committee's. Past president of my last two homes
neighborhood boards. Also served and donated time and money to
Boys and Girls club of EPA, and also Ravenswood School District.
And since i live on Capitola Ave, I have a keen interest in parking (cont

(Use additional paper, if necessary)

Please Note: Appointment to this position may require you to file a conflict of interest disclosure statement with the City Clerk. This information is a public record and these statements are available to the public on request.

3/23/22
Date

[Signature]
Signature of Applicant

Email to: cwoodmansee@ci.capitola.ca.us

-OR- Mail/Deliver Application to:

Capitola City Hall

Attn: City Clerk

420 Capitola Avenue, Capitola, CA 95010

All information contained in this page of the application is public data and will be made available for public review and copying for anyone requesting it, and may be posted on the website of the City of Capitola. All information in this page will be provided to the Capitola City Council in a public forum and will be reviewed in public. It will therefore be part of the public record.

(Continued from application)

I also have spent a lot of time understanding density issues for developing towns and expanding commercial use space in any community. And complexity surrounding those decisions. Of which often can be traffic flow, along with parking. Capitola is a gem, and a resource we need to preserve. Also understanding the use of permits, or meter parking is also of interest. Even the use of permit parking which was terminated on 38th and 37th etc. Ave. in Santa Cruz. As a private business owner, myself, understanding how to make sure employees have safe and affordable parking too is important for The Village and homeowners as well.

Thank you



Joe

415 672 5535



COVER SHEET CITY of CAPITOLA

BOARDS AND COMMISSIONS APPLICATION

(for filing in City Clerk's Office)

Citizens are encouraged to serve on the various City Boards, Committees, and Commissions. Appointments are made at a public City Council meeting.

Application for:

- | | |
|--|---|
| <input type="checkbox"/> Art & Cultural Commission
<i>[Artist; Arts Professional; At Large Member]</i>
<u>Please underline category above.</u> | <input type="checkbox"/> Architectural & Site Committee
<i>[Architect; Landscape Architect; Historian]</i>
<u>Please underline category above.</u> |
| <input type="checkbox"/> Finance Advisory Committee
<i>[Business Representative; At Large Member]</i>
<u>Please underline category above.</u> | <input checked="" type="checkbox"/> Traffic & Parking Commission
<i>[Village Resident; Village Business Owner; At Large Member]</i>
<u>Please underline category above.</u> |
| <input type="checkbox"/> Historical Museum Board | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Library Advisory Committee | <input type="checkbox"/> Other Committee _____ |

Name: MCKITTTRICK MARY ANNE
Last First

Telephone: _____ 775-546-3445
Home Business Cell

E-mail Address: mcmary35@yahoo.com

Physical Address of Residence: 109 MONTEREY AVE, UNIT 6

Mailing Address: Capitola, CA 95010

Are you a resident of the City of Capitola? Yes No



CITY of CAPITOLA

BOARDS AND COMMISSIONS APPLICATION

Application for:

- | | |
|--|--|
| <input type="checkbox"/> Art & Cultural Commission
<i>[Artist; Arts Professional; At Large Member]</i>
<u>Please underline category above.</u> | <input type="checkbox"/> Architectural & Site Committee
<i>[Architect; Landscape Architect; Historian]</i>
<u>Please underline category above.</u> |
| <input type="checkbox"/> Finance Advisory Committee
<i>[Business Representative; At Large Member]</i>
<u>Please underline category above.</u> | <input type="checkbox"/> Traffic & Parking Commission
<i>[Village Resident; Village Business Owner; At Large Member]</i>
<u>Please underline category above.</u> |
| <input type="checkbox"/> Historical Museum Board | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Library Advisory Committee | <input checked="" type="checkbox"/> Other Committee <u>AD-HOC Parking Committee</u> |

Name: Guinn Vicki
Last *First*

Residential Neighborhood: Capitola Village

Occupation: Office Manager David Lyng Real Estate Capitola Village

Describe your qualifications and interest in serving on this Board/Commission/Committee: _____

I am in my 3rd year as a Director on the Board of the Capitola Village Business Improvement Association (BIA).

I have worked at and managed the David Lyng RE Office (corner of Stockton and Capitola Ave.) since 2000.

Through business and BIA, I am very familiar with the Capitola Village and issues that arise in the Business Community giving me a multifaceted view that may benefit the Committee.

(Use additional paper, if necessary)

Please Note: Appointment to this position may require you to file a conflict of interest disclosure statement with the City Clerk. This information is a public record and these statements are available to the public on request.

4/21/2022

 Date

Vicki Guinn

 Signature of Applicant

Email to: cwoodmansee@ci.capitola.ca.us

-OR- Mail/Deliver Application to:

Capitola City Hall

Attn: City Clerk

420 Capitola Avenue, Capitola, CA 95010

All information contained in this page of the application is public data and will be made available for public review and copying for anyone requesting it, and may be posted on the website of the City of Capitola. All information in this page will be provided to the Capitola City Council in a public forum and will be reviewed in public. It will therefore be part of the public record.

Capitola City Council

Agenda Report

Meeting: April 28, 2022

From: Community Development

Subject: Temporary Outdoor Dining Program



Recommended Action: 1) Receive a report on the coastal commission certification of Ordinance 1050: Outdoor Dining in the Public Right of Way; and 2) Consider adopting the proposed resolution extending the COVID-19 temporary outdoor dining use permits with new modified conditions, including fees.

Background: On June 2, 2020, in response to the COVID-19 pandemic and the ensuing social distancing orders, the City adopted Emergency Order No. 4-2020 to issue temporary use permits to allow local restaurants outdoor dining within public parking spaces and on private property. City Council extended the temporary outdoor dining use permit program four times in 2021. The temporary program is currently due to expire on May 31, 2022.

In September of 2021, City Council directed staff to develop a program for permanent street dining in Capitola Village. On December 9, 2021, City Council adopted Ordinance 1050 allowing 25 Village parking spaces to convert to street dining areas and allowing sidewalk dining on Monterey Avenue, Capitola Avenue, and the Capitola Wharf. The ordinance will not take effect until certified by the Coastal Commission.

In January 2022, City staff submitted the ordinance to the Coastal Commission for certification. Coastal Commission staff has requested two changes to the ordinance which staff has identified as potentially problematic. Currently, City staff is working with Coastal staff toward a solution. However, due to this delay certification will not occur prior to May 31, 2022, when the temporary outdoor dining use permits are set to expire. The purpose of this report is to provide an overview of the temporary outdoor dining use permit program, and outline staff recommendations for program changes should Council wish to extend the temporary program until Ordinance 1050 is certified by the Coastal Commission.

Discussion: The temporary outdoor dining use permit program is linked to Emergency Order 4-2020. Based on prior City Council action, the temporary program expires on May 31, 2022. City Council has the option to let the program expire, extend the current program, or extend the program with new conditions.

There are currently 18 active temporary outdoor dining permits citywide: 12 in the Village, one on the Wharf, and five outside the Village. In the Village, 10 dining areas are located within 27 public parking spaces and two are located on the sidewalk.

The five eating and drinking establishments with temporary outdoor dining use permits outside the Village are: East End Gastropub, Pizza My Heart 41st Avenue, Pono Hawaiian Bar and Grill, Sante Adarius Brewery, and the Cook House. Of the five, all dining areas outside the Village are in private parking lots or private open space. Each of the outdoor dining areas on private property have been well maintained and remain available for patrons.

Ongoing Concerns

Within the Village, there are several ongoing issues related to the dining areas in public parking spaces. One significant item of concern is that the areas are underused: Staff monitored use in November 2021 and again in April 2022 (Attachment 1 and 2). The trend of little-to-no use and,

in some instances, street dining areas being unavailable to customers, is noted because if the spaces are not being used for dining, they could instead revert to valuable public parking spaces. In the most recent survey, 7 of 12 restaurants regularly allow access to outdoor areas during lunch and dinner hours. Others limit customer access to outdoor dining areas to only night and weekend operating hours. In a few instances, the outdoor dining areas appeared completely unused.

A second concern is the ongoing dining area maintenance. Although some restaurants do an exemplary job of keeping their outdoor dining area clean, plants maintained, and ground swept, others do not. Staff observed outdoor dining areas with litter on the ground (napkins and condiment packets) for multiple consecutive days, broken planters, and dead plants. There are several locations that have yet to transplant plants into planters, leaving unattractive empty planters. Overall, the appearance/maintenance of outdoor dining areas varies from establishment to establishment.

Further, City benches also require attention. The original design for outdoor dining areas in the public street included planters with posts and City benches as the area barriers. At the time of its adoption the outdoor dining temporary use permit program was anticipated for one summer; we are now headed into the program’s third summer. The use of City benches as barriers for all participating restaurants worked well in the short-term. Now that the program has been extended several times, staff recommends that City benches be returned for public use. Staff has received multiple requests from members of the public to return the benches to their original locations for all to enjoy and some of the benches need repair and maintenance.

Special Events

Special Events should also be considered if Council is to decide upon an additional program extension. The following special events are scheduled to take place in Capitola Village this summer and fall:

Date	Event
June 11 – 12	Capitola Rod and Custom Classic Car Show
July 24	Wharf to Wharf
September 10 – 11	Art and Wine Festival
September 24 – 25	Capitola Beach Festival
October 9	Monte Foundation Fireworks

In summary, the temporary outdoor dining program was put in place to assist businesses through the pandemic. Now that all restaurants are allowed to function at full capacity with no pandemic restrictions required, the use of the outdoor dining areas has decreased substantially, except for in food establishments with limited interior dining. Understanding that many of the outdoor dining areas are not being utilized, City staff recommends that outdoor dining be balanced with the high demand for public parking. To create this balance, staff recommends only continuing the temporary outdoor dining program with the addition of the following requirements:

1. Implement the “open for use” requirement from Ordinance 1050. Require all outdoor dining be open for use a minimum of five days per week, except in cases of inclement weather. “Open for use” means that the eating or drinking establishment must allow customers to use the outdoor dining area when the establishment is open for business. Signs should indicate seating available for patrons.
2. Remove all city benches from outdoor dining areas and instead require planters every 5-feet. Planters must be a minimum of five gallons and be consistent in design throughout the outdoor dining area. Planers must contain live plants.

3. Require a maintenance deposit. Each establishment shall pay a \$500 maintenance deposit. Staff will do random, periodic inspections to ensure street dining areas are clean, plants are alive and maintained, ground is swept, and the tables and heaters organized. Non-compliance will result in an administrative citation with a fee assessed against the depots. If all funds are depleted due to multiple citations for non-compliance, the outdoor dining permit will be revoked.
4. Require a fee of \$1.50 per square foot per month, due on the 15th of the month prior. For example, a single parking space is approximately 180 square feet. The monthly fee would be \$283. All establishments participating June 1 and beyond must pay the appropriate fee by May 15, 2022. The recommended fee is based on the annual \$3,400 fee established for the permanent program, prorated to a monthly fee.

The above conditions are included in a proposed resolution (Attachment 3), which extends the deadline for temporary use permits.

On October 8, 2021, Assembly Bill No.61 was passed by the State to allow jurisdictions the ability to extend the outdoor dining that take up existing parking spaces to July 1, 2024. Staff recommends extending the Village two months beyond the Coastal Commission's certification of Ordinance 1050. This will allow adequate time to hold the lottery and issue permits.

City Council could consider a different expiration date for temporary outdoor dining use permits held by restaurants located outside the Village.

Fiscal Impact: The temporary outdoor dining use permit program reduces parking meter revenue by approximately \$7,587 per month based on pre-pandemic annual revenue.

Attachments:

1. Utilization survey November 2021:
2. Utilization survey April 2022
3. Proposed resolution extending temporary use permits with new conditions

Report Prepared By: Katie Herlihy, Community Development Director

Reviewed By: Chloé Woodmansee, City Clerk; Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager

The following data was collected by Capitola staff to gauge how often the temporary outdoor dining is utilized in the Capitola Village. Staff took counts of the number of diners utilizing the space on seven occasions. Some counts were done the same day at different times. The first table summarizes the totals from the data by street and the second table includes the raw data from each of the seven counts.

Street	Total Cumulative Diners Observed During 7 Surveys	Parking Spaces	Total Cumulative Diners per Parking Space
Esplanade	12	18	0.67
Monterey Ave	16	5	3.2
Capitola Ave	6	2	3.0
San Jose Ave	24	7	3.4
	58	32	

Raw Data

Street	Dining Area	28-Oct 12:45	29-Oct 13:30	29-Oct 17:15	30-Oct 13:20	30-Oct 17:30	3-Nov 14:30	3-Nov 17:30	Total	Total by Street		
		Th	Fri	Fri	Sat	Sat	Wed	Wed		Diners	Parking Spaces	Diners per Parking Space
Esplanade	1	0	0	0	0	0	0	0	0	12	18	0.67
	2	0	0	0	0	2	0	0	2			
	3	0	2	0	0	0	0	2	4			
	4	0	6	0	0	0	0	0	6			
	5	0	0	0	0	0	0	0	0			
Monterey Ave	6	0	8	8	0	0	0	0	16	16	5	3.2
Capitola Ave	7	0	2	0	2	0	0	2	6	6	2	3.0
San Jose Ave	8	0	0	3	2	9	0	0	14	24	7	3.4
	9	0	0	4	0	2	0	4	10			
	10	0	0	0	0	0	0	0	0			
	Total	0	18	15	4	13	0	8	58			

Date	Monday 4/11/2022	Tuesday 4/12/2022	Wednesday 4/13/2022	Thursday 4/14/2022	Friday 04/15/2022	Saturday 4/16/2022	Sunday 4/17/2022
Time	Noon	Noon	Noon	Noon	Noon	Noon	Noon
Weather	54 deg. Rainey	57 deg. Sunny	54 deg. Sunny	53 deg. Rain just cleared	56 deg. Sun coming out	54 deg. cloudy/rainy	45 deg sunny/cool
Restaurant	# Seats In Use, Availability, & Appearance	# Seats In Use, Availability, & Appearance	# Seats In Use, Availability, & Appearance	# Seats In Use, Availability, & Appearance	# Seats In Use, Availability, & Appearance	# Seats In Use, Availability, & Appearance	# Seats In Use, Availability, & Appearance
Mr. Toots	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean	0 guest - seating not avail for patrons, coffee sleeves and plastic on ground	5 guests - clean, seating avail
Paradise Grill	0 guests - Seats not available for patrons, tables & charis unorganized, dead plants, trash	0 guests - Seats not available for patrons, tables & charis unorganized, dead plants, trash	0 guests - Seats not available for patrons, tables & charis unorganized, dead plants, trash	0 - Seats not available for patrons, organized, dead plants,	0 - Seats not available for patrons, organized, dead plants,	0 guests - seating not avail for patrons,mask and condiment packet on the ground, disorganized table setting	2 guests - clean, disorganized table setting, mask on ground
The Sandbar	0 guests - Seats not available for patrons, plants not transplanted into planters, plants unhealthy, trash on ground	0 guests - Seats available for patrons,plants not transplanted into planters, plants unhealthy, trash on ground	0 guests - Seats available for patrons,plants not transplanted into planters, plants unhealthy, trash on ground	0 guests - Seats available for patrons,plants not transplanted into planters, plants unhealthy, trash on ground	0 guests - Seats available for patrons,plants not transplanted into planters, plants unhealthy, trash on ground	5 guests -clean,seating avail for patrons, wilted plants	3 guests, clean, seating avail, trash bags in the back, wilted plants
My Thai Beach	0 guests - Seats available for patrons, clean, broken planters	5 guests, clean, broken planters	0 guests - Seats available for patrons, clean, broken planters	0 guests - Seats available for patrons, clean, broken planters	0 guests - Seats available for patrons, clean, broken planters	0 guests - seating not avail for patrons,clean	8 guests - clean, seating avail
Left Coast Sausage	0 - seats not avail for patrons, trash on ground	0 - seats not avail for patrons, trash on ground	0 - seats not avail for patrons, trash on ground	0 - seats not avail for patrons, trash on ground	0 - seats not avail for patrons, trash on ground	0 guests - clean, seating avail for patrons, tree debris	4 guests - clean, seating avail, tree debris
Capitola Wine Bar	0 - seats not avail for patrons, clean	0 - seats not avail for patrons, clean	0 - seats not avail for patrons, clean	0 - seats not avail for patrons, clean	1 guest, clean	0 guests - clean,seating avail for patrons, organized	0 guests -clean, seating not avail,
Caruso's	0 - seats not available for patrons, clean	0 - seats not available for patrons, clean	0 - seats not available for patrons, clean	0 - seats not available for patrons, clean	0 - seats not available for patrons, clean	0 guests- clean, seating not avail for patrons	0 guest - clean, seating noit avail
Britannia Arms	0 guest, available, clean	0 guest, available, clean	2 - clean	0 guest, available, clean	0 guest, available, clean	0 guests -seating not avail for patrons, organized	3 guests - clean, seating, organzied
El Toro Bravo	0 guests - seats brought inside for rain, clean	3 guests - clean	0 guests - available, clean	0 guests - seats brought inside fro rain, clean	1 guest, clean	0 guests - clean, seating not avail for patrons	0 guests -clean, seating not avail
Castagnola Deli	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean	5 guests - clean	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean	0 guests - seating avail for patrons, plant debris	0 guests -clean, seating avail, plant debris, coffee cup left on table
English Ales	0 guests- seats available for patrones, clean, broken bench	1 guest - clean, broken bench	0 guests- seats available for patrones, clean, broken bench	0 guests- seats available for patrones, clean, broken bench	4 guests - clean, broken bench	0 guests -clean, seating avail for patrons	0 guests -clean, seating avail,
Reef Dog Deli	0 - seats not available for patrons, clean	11 guests - clean	6 guests - clean	0 guests - Seats available for patrons, clean	6 guests - clean	3 guests - clean, seating avail for patrons	5 guests - clean, seating avail

Date	Monday 4/11/2022	Tuesday 4/12/2022	Wednesday 4/13/2022	Thursday 4/14/2022	Friday 04/15/2022	Saturday 4/16/2022	Sunday 4/17/2022
Time	6:00 PM	6:00 PM	6:00 PM	6:00 PM	6:00 PM	6:00 PM	6:00 PM
Weather							
Restaurant	# Seats In Use, Availability, & Appearance	# Seats In Use, Availability, & Appearance	# Seats In Use, Availability, & Appearance	# Seats In Use, Availability, & Appearance	# Seats In Use, Availability, & Appearance	# Seats In Use, Availability, & Appearance	# Seats In Use, Availability, & Appearance
Mr. Toots	0 guests -seats are avail for patrons, clean	0 guests -seats are available for patrons, misc debirs	0 guests - clean	0 guests -clean	3 guests - food waste on tables, seats available for patrons	2 guests - clean, seating avail for patrons	2 guests - seating avail, tray and plastic bottle left on table
Paradise Grill	0 guests -seats are avail for patrons, dead plants, napkins and food on	0 guests - seats are available for patrons, misc debris, misc debris,	0 guests - seating avail for patrons, clean	0 guests - seating avail for patrons, clean	0 guests - clean, seating available	0 guests - seating avail for patrons, clean, mask on ground, better table	5 guests - clean, seating avail, mask left on ground
The Sandbar	0 guests -seats not avail or patrons, debris on ground	0 guests - seats are avail for patrons, some debris on ground	0 guests - clean, seats available for patrons	0 guests - clean, seats available for patrons	3 guests - mask on ground	0 guests - clean, seating avail for patrons,	0 guests -clean, seating avail, trashbags left in the back
My Thai Beach	0 guests -seats not avail for patrons, clean	0 guests - seats are available for patrons, clean	0 guests - clean, seats available for patrons	0 guests - clean, seats available for patrons	0 guests - clean, seats available for patrons	1 guest - clean, seats avail for patrons	0 guests -clean, seating avail, trashbags left in the back
Left Coast Sausage	0 -seats not avail for patrons, debris oin ground	0 -seats not available for patrons, clean	0 -seats not avail for patrons, debris oin ground	0 -seats not avail for patrons, debris oin ground	0 guests-clean, seats available for patrons	0 guests - clean, seats not avail for patrons	0 guests - clean, seating not avail,tree debris
Capitola Wine Bar	0 - seats not available for patrons, clean	0 - seats not avail for patrons, clean	0 guests - clean	0 guests - clean	0 guest - clean, seats available for patrons	0 guests - clean, seating avail for patrons,organized	0 guests -clean, seating not avail,
Caruso's	0 - seats not available for patrons, clean	0 -seats not avail for patrons, clean	9 guests - clean	9 guests - clean	0 guests - clean, seats available for patrons	11 - clean, seating avail for patrons, organized	0 guest - clean, seating noit avail
Britannia Arms	0 guest - seats available for patrons, clean	0 guest - seats available for patrons, clean	0 guest - seats available for patrons, clean	0 guest - seats available for patrons, clean	4 guest - clean	16 guests - clean, seating avail for patrons, organized	8 guests - clean, seating avail, organized
El Toro Bravo	0 guests - no seats or tables available,clean	0 guest - no seats or tables avail for patrons, clean	0 guests - clean, seating avail	0 guests - clean, seating avail	0 guests -clean, seats available	1 guests - clean, seating avail for patrons	0 guests -clean, seating not avail
Castagnola Deli	0 guests - seats available for patrons, clean	0 guests- seats avail for patrons	0 guests- seats not avail for patrons	0 guests- seats not avail for patrons	0 guests- seats avail for patrons	0 guests - clean, seating avail for patrons	0 guests - clean,seating avail, plant debris
English Ales	0 - seats available for patrons, clean	0 -seats not avail for patrons, clean	0 - seats available for patrons, clean	0 - seats available for patrons, clean	0 - seats available for patrons, clean	10 guests - clean, seating avail for patrons	0 guests- clean, seating avail,
Reef Dog Deli	0 - seats not available for patrons, clean	0 - seats not avail for patrons clean	0 - seats not avail for patrons clean	0 - seats not avail for patrons clean	0 - seats avail for patrons clean	0 guests - clean, seating not avail for patrons	0 guests -clean, seating not avail

Date	Monday 4/18/2022	Tuesday 4/19/2022	Wednesday 4/20/2022	Thursday 4/21/2022
Time	Noon	Noon	Noon	Noon
Weather	54 deg. Rainey	Sunny - 55 deg	Sunny - 56 deg	Showers off and on. 57 deg
Restaurant	# Seats In Use, Availability, & Appearance	# Seats In Use, Availability, & Appearance	# Seats In Use, Availability, & Appearance	# Seats In Use, Availability, & Appearance
Mr. Toots		0 guests - seats available for patrons, clean	2 guests - clean	0 guests - seats available for patrons, trash on ground
Paradise Grill		2 guests -clean, dead plants	0 guests - Seats available for patrons, organized, dead plants	0 guests - Seats available for patrons, organized, dead plants, trash on ground
The Sandbar		0 guests - Seats available for patrons, plants not transplanted into planters, plants unhealthy	0 guests - Seats available for patrons, plants not transplanted into planters, plants unhealthy	0 guests - Seats available for patrons, plants not transplanted into planters, plants unhealthy
My Thai Beach		0 guests - Seats available for patrons, clean, broken planters	0 guests - Seats available for patrons, clean, broken planters	0 guests - Seats available for patrons, clean, broken planters, trash on ground
Left Coast Sausage		0 guests - seats not avail for patrons, trash in planters	0 guests - seats not avail for patrons, trash in planters	0 - seats not avail for patrons, trash on ground and in planters
Capitola Wine Bar		0 - seats not available for patrons, clean	0 - seats not available for patrons, clean	0 - seats not available for patrons, trash on ground
Caruso's		0 - seats not available for patrons, clean	0 - seats not available for patrons, clean	0 - seats not available for patrons, clean
Britannia Arms		1 guest - clean	0 guest - Seats available for patrons, clean	0 guest - Seats available for patrons, clean
El Toro Bravo		1 guest - clean	1 guest - clean	1 guest - clean
Castagnola Deli		2 guests - clean	6 guests - clean	0 guests - seats available for patrons, clean
English Ales		0 guests - seats not available for patrons, clean, broken bench	1 guests - clean, broken bench	0 guests- seats not available for patrons, clean, broken bench
Reef Dog Deli		4 guests - clean	7 guests - clean	0 guests - clean, seats available for patrons

Date	Monday 4/11/2022	Tuesday 4/12/2022	Wednesday 4/13/2022	Thursday 4/14/2022
Time	6:00 PM	6:00 PM	6:00 PM	6:00 PM
Weather				
Restaurant	# Seats In Use, Availability, & Appearance	# Seats In Use, Availability, & Appearance	# Seats In Use, Availability, & Appearance	# Seats In Use, Availability, & Appearance
Mr. Toots	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean
Paradise Grill	0, seats available for patrons, misc debris on ground	0, seats available for patrons, debris on ground	0, seats available for patrons, misc debris on ground	0, seats available for patrons, debris on ground
The Sandbar	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean
My Thai Beach	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean
Left Coast Sausage	0 guests - seats not available for patrons, clean	0 guests - seats not available for patrons, clean	0 guests - seats not available for patrons, clean	0 guests - seats not available for patrons, clean
Capitola Wine Bar	0 guests - seats not available for patrons, clean	0 guests - seats not available for patrons, clean	0 guests - seats not available for patrons, clean	0 guests - seats not available for patrons, clean
Caruso's	0 guests - seats not available for patrons, clean	2 guests -seats available for patrons, clean	0 guests - seats not available for patrons, clean	6 guests - clean, seats avail
Britannia Arms	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean
El Toro Bravo	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean
Castagnola Deli	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean
English Ales	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean	0 guests - seats available for patrons, clean
Reef Dog Deli	0 guests - seats available for patrons, clean	0, seats not available for patrons, clean	0 guests - seats available for patrons, clean	0 guests - seats not available for patrons, clean

RESOLUTION NO. ____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
EXTENDING THE DEADLINE FOR OUTDOOR ACTIVITIES AND ENCROACHMENTS FOR
BUSINESSES OPERATING IN THE CAPITOLA VILLAGE
AND ESTABLISHING FEES FOR THE PROGRAM**

WHEREAS, on June 2, 2020, in response to the COVID-19 pandemic and the ensuing social distancing orders, the City adopted Emergency Order No. 4-2020 to issue temporary use permits to allow local restaurants to provide outdoor dining within public parking spaces and on private property.; and

WHEREAS, City Council extended the temporary outdoor dining use permit program four times in 2021, and the program is currently due to expire on May 31, 2022; and

WHEREAS, On October 8, 2021, the State enacted Assembly Bill No.61, which allows jurisdictions the ability to extend the outdoor dining that take up existing parking spaces to July 1, 2024.; and

WHEREAS, the City anticipates enacting a permanent outdoor dining program pursuant to Ordinance 1050, adopted by the City Council on December 9, 2021. Ordinance 1050 allows 25 Village parking spaces to convert to street dining areas and allows sidewalk dining on Monterey Avenue, Capitola Avenue, and the Capitola Wharf, but it will not take effect until certified by the Coastal Commission, which the City anticipates taking place after the temporary program's expiration date of May 31, 2022; and

WHEREAS, the outdoor dining program has allowed the City to increase vibrancy in the Village, which is particularly important during the challenging economic conditions created by the COVID-19 pandemic; and

WHEREAS, the City has an important governmental interest in maintaining a thriving business community and promoting the economic welfare of its community; and

WHEREAS, the City has determined that having an increased number of outdoor dining spaces open for businesses increases the vibrancy of the Village area; and

WHEREAS, the original temporary outdoor dining use permit program repurposed City benches as barriers for the outdoor dining areas as a stop-gap measure to allow the program to begin as soon as possible. Now, two years later, restaurants have had ample time to install planters as outdoor dining area barriers and some City benches have yet to be returned to their original public use as City benches along the Esplanade and throughout the City; and

WHEREAS, City surveys have found that some temporary outdoor dining areas are, at times, not maintained at a high level, which negatively impacts the aesthetic and positive ambiance of the Village as a whole, and a maintenance deposit is a way to encourage businesses with temporary use permits to maintain their outdoor dining spaces; and

WHEREAS, the parking meters in the Village generate on average \$3,400 per year, or \$283 per month, or approximately \$1.50/square foot; and

WHEREAS, by utilizing public metered parking spaces for outdoor dining, the City does not receive parking meter revenue from those spaces, and so the City is imposing a fee on businesses that utilize outdoor dining of a similar amount; and

WHEREAS, the City Council wishes to extend the temporary outdoor dining program beyond the May 31, 2022, deadline.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Capitola that City Council puts in place the following requirements to continue the temporary outdoor dining program:

RESOLUTION
NO.

Item 9 E.

8657

1. All outdoor dining must be open for use a minimum of five days per week, except in cases of inclement weather. "Open for use" means that the eating or drinking establishment must allow customers to use the outdoor dining area when the establishment is open for business. Signs should indicate seating available for patrons.
2. All City benches must be removed from outdoor dining areas and instead have planters every 5-feet. Planters must be a minimum of five gallons and be consistent in design throughout the outdoor dining area. Planers must contain live plants.
3. A maintenance deposit will be required. Each establishment shall pay a \$500 maintenance deposit. Staff will do random, periodic inspections to ensure street dining areas are clean, plants are alive and maintained, ground is swept, and the tables and heaters organized. Non-compliance will result in an administrative citation with a fee assessed against the deposit. If all funds are depleted due to multiple citations for non-compliance, the outdoor dining permit will be revoked.
4. A payment of \$1.50 per square foot per month, due on the 15th of the month prior, will be required for each outdoor dining establishment.

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the City Council of the City of Capitola on the 28th day of April 2022, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Sam Storey, Mayor

Chloé Woodmansee, City Clerk