

Capitola Planning Commission

Agenda Report



Meeting: September 5, 2024
From: Community Development Department
Address: Citywide Zoning Code Update

Project Description: Application #24-0026 for Amendments to Capitola Municipal Code (CMC) Title 17: Zoning Code, the Capitola Zoning Map, and CMC Chapter 18.03 Residential Density Bonus. The proposed Zoning Code amendments will affect the development standards and regulations for properties citywide. The Zoning Code and Zoning Map are part of the City's Local Coastal Program (LCP), and amendments require certification by the California Coastal Commission before taking effect in the Coastal Zone.

Recommended Action: Staff recommends the Planning Commission (1) provide feedback to staff on discussion items outlined in the staff report related to the draft Zoning Code amendments and draft Zoning Map Amendments; and (2) continue the discussion on the Zoning Code and Zoning Map amendments to the September 19, 2024, Special Planning Commission hearing.

Location: The draft Zoning Code amendments apply to properties citywide.

Representative: Ben Noble Consultant
Sean Sesanto, Associate Planner

Background: The City is updating the Zoning Code to implement programs in the sixth cycle Housing Element and to address other identified issues. The Planning Commission met on February 1, February 16, May 2, June 6, July 23, and August 15, 2024, to discuss and provide staff direction on required Zoning Code updates relating to the Housing Element and general Zoning Code cleanup. Attachment 1, which lists all proposed Zoning Code amendments, identifies Planning Commission direction received at these meetings.

On August 15, 2024, the Planning Commission received public comment and discussed Zoning Code amendments to increase allowed density in the Multifamily Residential (RM) zone. At this meeting the Planning Commission directed staff to revise the proposed RM zone amendments to consider public comment and not include the amendments to the Multifamily Residential zone in the 2024 updates. The topic will be revisited in 2025 with updated public notice.

Discussion: The purpose of this agenda item is to receive public comment and direction on the draft amendments to the Zoning Code. On August 26, 2024, the public review draft of the amendments to the Zoning Code and Chapter 18.03 was made available in hard copy at Capitola City Hall and the Capitola Library and on the City's website at the following link:

<https://www.cityofcapitola.org/communitydevelopment/page/public-review-drafts-zoning-code-updates>

The public review draft Code Amendments and Zoning Map amendments include all amendments proposed for adoption in 2024. Changes to the Zoning Code amendments previously reviewed by the Planning Commission are indicated in the public review draft with yellow highlights and underline or strikethrough, as follows:

- **Density Bonus (18.03):** New chapter, discussed below.
- **Office Uses in Commercial Zones (17.24.020.C):** Creates more flexibility related to location of occupancy of office space. See discussion below.
- **Second story Decks and Balconies (17.16.030.B.10):** Revises side setback and maximum projection standards. See discussion below.

- **Accessory Dwelling Units (17.74):** Minor changes to maximum number per parcel, separate sale from primary dwelling, height of units subject to limited standards, and deed restriction language to address HCD interpretation of state law.
- **Demolition and Replacement of Dwelling Units (17.96.210):** Adds Housing Crisis Act demolition and replacement requirement that apply to all development
- **Development and Design Review Committee (17.120.050.F):** Clarifies that Committee meetings are advisory and do not require public notice.

Density Bonus: Housing Element Program 2.5 requires the City to update its density bonus ordinance to comply with state law and help facilitate the production of affordable housing.

Under state law, local agencies must grant increased density and other incentives for qualifying affordable and senior housing projects. Municipal Code Chapter 18.03 (Residential Density Bonus) is Capitola's local density bonus ordinance that implements state law. Chapter 18.03 was last updated in 2009, and since that time state density bonus law has changed substantially. Due to the discrepancies between state law and Chapter 18.03, staff uses state law (not Chapter 18.03) when processing density bonus applications.

The draft Zoning Code amendments (Attachment 2) contain a new Chapter 18.03 to replace the City's outdated existing density bonus ordinance. The proposed new Chapter 18.03 specifies the City's process to review and act on the application, and other requirements that warrant additional details in a local density bonus ordinance. Density bonus submittal requirements are specified in a separate department handout (Attachment 3)

Unlike Capitola's existing density bonus ordinance, the new Chapter 18.03 does not include specific affordability requirements and permitted densities allowed by state density bonus law. Instead, the new ordinance references these requirements in state law, eliminating the need to frequently amend Chapter 18.03 as state law changes over time.

Office Uses in Commercial Zones: On August 15, 2024, the Planning Commission requested further discussion of proposed amendments to use regulations for first floor office uses in the Commercial zoning districts.

During the 2021 comprehensive zoning code update, the city adopted specific regulations related to office space prohibiting the land use on the ground floor in the C-R zone and requiring a conditional use permit for ground floor office space greater than 5,000 square feet in the C-C zone. Since adopting the new regulations, some commercial property owners have reportedly struggled to fill vacancies and have had to turn away interest from business owners with office uses.

On July 23, 2024, the Planning Commission directed staff to prepare Zoning Code amendments to expand locations where ground floor office uses are allowed in the C-R. As found in Section 17.24.020.C, the permit requirements for office uses in the C-R and C-C zones are as follows:

C. Office Uses in the C-C and C-R Zoning Districts.

1. **New Office Uses.** In the C-C and C-R zoning districts, permits required for new office uses and conversions of nonoffice space to office use are shown in Table 17.24-2. Offices include professional, medical, financial institutions and governmental offices.

Table 17.24-2: Permitted New Office Uses in the C-C and C-R Zoning Districts

Key	C-C Zoning District	C-R Zoning District
	P Permitted Use	
C Conditional Use Permit required		
- Use not allowed		
Location and Size of Office Use		
Ground floor, less than 5,000 sq. ft.	P	-/C [1]
Ground floor, 5,000 sq. ft. or more	P/C [2]	-/C [1]
Upper floor above a ground floor	P	P

Notes:

[1] Allowed with a conditional use permit only in a multi-tenant building if one or more of the following conditions are met: (1) entry doors do not face an adjacent street frontage; or 2) the building does not front 41st Avenue or Clares Street.

[2] Permitted by right where: 1) entry doors do not face an adjacent street frontage; or 2) the building does not front 41st Avenue. Otherwise, a Conditional Use Permit is required.

2. Existing Office Uses.

- a. In the C-C and C-R zoning districts, office uses may continue to occupy existing office space. For purposes of this section, “existing office space” means any tenant space legally occupied by an office use and vacant tenant space where the most recent legal occupant was an office use. The City shall use business license documentation to determine the legal occupancy of tenant space.
- b. Offices are a permitted use in existing office space. A new office tenant may occupy existing office spaces without the permit requirements in Table 17.24.

Second Story Decks and Balconies: On August 15, 2024, the Planning Commission requested further discussion of standards for second story decks and balconies.

One February 1, 2024, the Planning Commission directed staff to revise standards for second story decks and balconies in 17.16.030.B.10 as follows:

- Clarify that 150 square feet is cumulative of all decks for FAR calculation.
- Allow second-story decks and balconies with a 15-foot front setback instead of 20 feet.
- Within the front 25 feet of a lot, allow second-story decks and balconies with a 15 percent side setback instead of 10 feet.
- Require privacy walls on upper story decks on a case-to-case basis only when needed.
- Add examples of privacy screens to include opaque materials and vegetation.

Staff prepared Zoning Code amendments consistent with these revisions. Since that time, staff received public comment requesting additional revisions to the standards (Attachment 4). Staff has considered these comments and has prepared additional revisions to the standards, shown with yellow highlighting in the draft Zoning Code Amendments. Proposed standards for second story decks and balconies in the R-1 zone, as revised, are as follows:

10. Second-Story Decks and Balconies.

- a. Cumulative upper floor deck area in excess of 150 square feet is included in the floor area ratio calculation.

- b. A second-story deck or balcony may not face an interior side parcel line abutting a lot with a single-family dwelling.
- c. A second-story deck or balcony must comply with the minimum parcel line setback requirements in Table 17.16-4

Table 17.16-4: Second Story Deck and Balcony Setbacks

Parcel Line	Minimum Setback
Front	15 ft.
Interior Side	
Decks areas located within 25 feet of the front property line	15% of parcel width
All other decks	10 ft.
Street Side	10 ft.
Rear	25% of lot depth

- d. To address neighbor privacy impacts, the Planning Commission may require permanent privacy screening (e.g., opaque glass, solid materials, vegetation) for an upper floor deck or balcony.
- e. A second-story deck or balcony may not project further than 10 feet from the exterior building wall to which it is attached.
- f. Roof decks are prohibited in the R-1 zoning district.
- g. The elevation of a freestanding deck or platform not attached to a building may not exceed thirty-five inches above the adjoining grade.

Next Steps: The Housing Element requires many of the proposed Zoning Code Amendments to be completed in 2024. Table 3 shows completed meetings and upcoming milestones to complete the Zoning Code amendments. On September 19, 2024 the Planning Commission will consider a draft resolution recommending that the City Council adopt the proposed Zoning Code Amendments.

Table 3: Zoning Code Update Schedule

Milestone	Date
Planning Commission Study Session 1 (completed)	February 1, 2024
Planning Commission Study Session 2 (completed)	February 15, 2024
Planning Commission Study Session 3 (completed)	May 2, 2024
Planning Commission Study Session 4 (completed)	June 6, 2024
Planning Commission Study Session 5 (completed)	July 23, 2004
Planning Commission Hearing 1 (completed)	August 15, 2024
Planning Commission Hearing	September 5, 2024
Planning Commission Hearings (special)	September 19, 2024
City Council Public Hearing	October 10, 2024
City Council Second Reading	October 24, 2024

CEQA: Analysis of potential environmental impacts from proposed Zoning Code amendments will be presented at a future Planning Commission hearing.

Attachments:

1. Zoning Code Amendments Summary Table
2. Public Review Draft of Zoning Code Amendments, Zoning Map Amendments, and CMC Chapter 18.03 Residential Density Bonus Amendments - Available on the City's website at:
<https://www.cityofcapitola.org/communitydevelopment/page/public-review-drafts-zoning-code-updates>
3. Draft Zoning Map Amendment
4. Draft Density Bonus Submittal Checklist
5. Public Comment, Second-story Decks

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Reviewed By: Julia Gautho, City Clerk

Approved By: Katie Herlihy, Community Development Director