

Capitola City Council

Agenda Report



Meeting: November 14, 2024
From: Community Development Department
Subject: 2024 Zoning Code Updates

Recommended Action: Adopt an ordinance amending Capitola Municipal Code Title 17: Zoning, Chapter 18.03: Density Bonus, and the Zoning Map (collectively, the “Zoning Code Amendments”), as well as amending Chapter 9.61: Marijuana Sales, Processing and Cultivation.

Project Description: Application #24-0026 for Amendments to Capitola Municipal Code Title 17: Zoning, Chapter 18.03: Density Bonus, and the Zoning Map, collectively known as the “Zoning Code Amendments,” as well as a conforming amendment to Chapter 9.61, Marijuana Sales, Processing and Cultivation. The proposed Zoning Code amendments will impact 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. The amendments to Chapter 9.61 are conforming changes that implement the Zoning Code Amendments allowing for retail cannabis in the C-C zone when fronting 41st Avenue. The proposed Zoning Code Amendments are exempt from CEQA, pursuant to CEQA Guidelines Section 15061(b)(3).

Background: On October 24, 2024, the City Council unanimously approved the introduction of the ordinance amending Capitola Municipal Code Title 17: Zoning, Chapter 18.03: Density Bonus, and the Zoning Map (collectively, the “Zoning Code Amendments”), as well as amending Chapter 9.61: Marijuana Sales, Processing and Cultivation.

On August 22, 2024, the City Council adopted amendments to the 2023-2031 Housing Element of the General Plan. On August 30, 2024, the California Department of Housing and Community Development (HCD) certified the 2023-2031 Housing Element. The Housing Element establishes goals and policies for housing production in Capitola as required by state law. The Housing Element also contains programs with required City actions to implement Housing Element policies. The City must complete these actions by the dates specified for each program. Many Housing Element programs require amendments to the Capitola Zoning Code (Municipal Code Title 17) by the end of 2024 and 2025.

The Planning Commission discussed Zoning Code Amendments to implement the Housing Element at nine meetings over the past eight months. Table 1 shows the topics discussed at each meeting. At these meetings, the Planning Commission also discussed Zoning Code Amendments to address needed Zoning Code updates since the Zoning Code was last updated, but which are not required by Housing Element programs. On September 19 and October 3, 2024, the Planning Commission held a public hearing to consider the Zoning Code Amendments, take public comment, and voted to recommend that the City Council adopt the proposed Zoning Code Amendments (Planning Commission Resolutions 2024-02 and 2024-03).

Table 1: Planning Commission Meetings

Meeting Date	Primary Discussion Topics
February 1, 2024	Incentives for Community Benefits; Second Story Decks; Second Story Windows; Building Massing; Capitola Character
February 15, 2024	Missing Middle Housing; Alternative Housing Types; Parking; Lot Consolidation; Building Massing
May 2, 2024	Residential Multifamily (RM Zone) Density and Development Standards; Housing on Religious Facilities Sites; Design Permit Process
June 6, 2024	RM Zone Density and Standards

July 23, 2024	Design Review; Lot Consolidation; Replacement Housing; Parking; Special Needs Housing
August 15, 2024	Multifamily Residential (RM) Zoning Districts; Housing on Religious Sites; Retail Cannabis; Office Uses in C Zones; “Good Standing” Provision.
September 5, 2024	Density Bonus; Office Uses in Commercial Zones; Second Story Decks and Balconies; Large Residential Care Facilities; Planned Development Zones; Historic Character – Design Permit Criteria
September 19, 2024	Public Hearing on All Amendments – Recommendation on all amendments except Design Permit process and Updated Density Bonus. Continued to October 3, 2024
October 3, 2024	Public Hearing on All Amendments

The proposed Zoning Code amendments do not include changes to standards for the Capitola Mall site or the Residential Multifamily zoning district. The City will complete these amendments in 2025, consistent with Housing Element Programs 1.7 and 1.6.

Discussion: Attachment 1 contains an ordinance comprising the Zoning Code Amendments. Attachment 2 contains a summary table identifying the amendments and their associated Housing Element program, and/or consistency with the General Plan. Noteworthy amendments include the following:

- **Corner Duplexes:** Allows duplex homes allowed on corner parcels in the R-1 Zone. (Implementing HE Program 1.6)
- **Lot Consolidation:** Increases height and floor area ratio (FAR) for housing development projects that consolidate adjacent Housing Element opportunity sites. (Implementing HE Program 1.1)
- **Parking:** Reduces parking required for multifamily dwellings, single-family homes, group housing, residential care facilities, transitional housing, and senior housing. (Implementing HE Program 1.6)
- **Housing on Education and Religious Sites:** Allows affordable housing projects on land owned by religious institutions. (Implementing HE Program 1.8)
- **Replacement Housing:** Language requiring no net loss of housing units and replacement of affordable units (Implementing HE Program 1.1)
- **Density Bonus:** Establishes density bonus procedures consistent with recent updates to state law. (Implementing HE Programs 1.6, 2.5, 3.6)
- **Daycares:** Allows daycares with a Minor Use Permit in commercial zones. (Implementing HE Program 3.6)
- **Retail Cannabis:** Allows retail cannabis in the C-C zones when fronting 41st Avenue. (Consistent with General Plan Policies LU-1.5 (Inclusiveness), LU-1.7 (Economic Viability), LU-3.1 (Land Use Diversity) and LU-9.4 (Retail Protection along the 41st Avenue Corridor), and consistent with the Community Commercial land use designation, which provides for an area for commercial uses primarily serving Capitola residents. Permitted land uses include general retail, personal services, restaurants, offices, and multi-family housing as part of a mixed-use project)
- **Office in Commercial Zones:** Expands allowed location for ground floor office uses in the C-R and C-C zones. (Consistent General Plan Policies LU-1.6 (Balanced Community), LU-1.7 (Economic Viability), and LU-3.1 (Land Use Diversity), and consistent with the Regional Commercial and Community Commercial land use designations, which allow for office uses)

The proposed amendments also eliminate the Affordable Housing Overlay Zone in the Zoning Code and Zoning Map, as called for by Housing Element Programs 1.1 and 1.6. The Affordable Housing Overlay Zone is obsolete, given that density incentives are now available under state density bonus law.

The California Housing Defense Fund (CalHDF) submitted a comment letter related to legislation on accessory dwelling units (ADU) on the day of the October 24th City Council meeting. Staff and legal reviewed the letter and identified one necessary update to the ADU standards, which will be required in 2025. Staff plans to incorporate the ADU amendment in the 2025 zoning code updates.

California Coastal Commission Certification: The Zoning Code is part of Capitola's Local Coastal Program (LCP), and as such, Zoning Code amendments must be certified by the Coastal Commission before they become effective in the coastal zone. When adopting LCP amendments, the Coastal Commission requires cities to consider consistency with the LCP Land Use Plan and potential impacts on public access to the coast. This required analysis is provided in Attachment 3.

Environmental Determination: The proposed Municipal Code amendments are exempt from CEQA, pursuant to CEQA Guidelines Section 15061(b)(3), which provides that a project is exempt from CEQA if the activity is covered by the commonsense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The amendment to Chapter 9.61 not part of the Zoning Code, is a conforming amendment to be consistent with the proposed Zoning Code amendments, and does not authorize any new land uses or expansions of existing uses.

Further, the Municipal Code amendments were considered within the General Plan EIR and the Addendum to the General Plan EIR for the Housing Element, adopted August 22, 2024. No supplemental or subsequent EIR is required because none of the circumstances requiring a supplemental or subsequent EIR exist (CEQA Guidelines Section 15162):

(a) No substantial changes are proposed in the project which will require major revisions of the previous EIR or its Addendum due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The Zoning Ordinance and Zoning Map amendments do not create any additional environmental impacts.

(b) No substantial changes have occurred with respect to the circumstances under which the project is undertaken. The General Plan EIR Update Addendum was adopted in August 2024, and no substantial evidence has been submitted showing any change in the circumstances applicable to the project.

(c) No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified or its Addendum was adopted as complete, has been submitted to the City.

The proposed Zoning Code Amendments are also exempt from CEQA pursuant to CEQA Guidelines Section 15183, as they are consistent with and implement the densities established in the General Plan as analyzed in the General Plan EIR, as well as Housing Element programs that were analyzed in the Addendum to the General Plan EIR. These amendments do not increase development potential beyond levels analyzed in the EIR and the Addendum. The amendments make changes to the Zoning Code to comply with state housing laws and bring the Zoning Code into compliance with state requirements that already apply to proposed development. The Zoning Code Amendments do not involve any peculiar environmental effects or effects, including cumulative impacts, that were not analyzed as significant effects in the General Plan EIR and its Addendum, and no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified or its Addendum was adopted as complete, has been submitted to the City.

Fiscal Impact: No fiscal impacts.

Attachments:

1. Draft Ordinance
 - Exhibit A: Proposed Zoning Code Amendments
 - Exhibit B: Proposed Zoning Map Amendment
 - Exhibit C: Proposed Chapter 18.03 Amendments
2. Zoning Code Amendments Summary Table
3. LCP Consistency Analysis

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