

# Capitola Planning Commission

## Agenda Report



**Meeting:** March 2, 2023  
**From:** Community Development Department  
**Address:** 4401 Capitola Road

**Permit Number: #22-0244**

**APN: 034-123-05 & 034-124-18**

Design Permit, Conditional Use Permit, Density Bonus, and Coastal Development Permit request for a 36-unit, 100% affordable housing project on an approximate 0.81-acre site on the northeast corner of Capitola Road and 44<sup>th</sup> Avenue. The project includes a mix of 1-bedroom, 2-bedroom and 3-bedroom apartment units, configured in two 3-story buildings. The project includes a density bonus request pursuant to California Government Code sections 65915 – 65918.

Environmental Determination: Categorical Exemption 15332 - In-fill Development

Applicant: CRP Affordable Housing & Community California, LLC

### Applicant Proposal

The project consists of a 36-unit, affordable housing project on an approximate 0.81-acre site on the northeast corner of Capitola Road and 44<sup>th</sup> Avenue in the City of Capitola. Four existing office buildings, totaling approximately 3,700 square feet would be demolished to accommodate the project. The project consists of a mix of 1-bedroom, 2-bedroom and 3-bedroom apartment units, configured in two, 3-story buildings, totaling 32,475 square feet. The project will be a 100% affordable rental housing project. The applicant is requesting a Design Permit, Conditional Use Permit, Coastal Development Permit, and a Density Bonus.

The breakdown of unit type and affordability categories are provided in the table below.

### Affordability Unit Mix/Income Levels

Unit Size:	%AMI	Units	Gross Rents	Utility Allowance	Monthly Net Rent	Income Limits	Income Level
1BR/1BA	80%	10	\$2,333	\$81	\$2,252	\$93,320	Low-Income
1BR/1BA	30%	5	\$874	\$81	\$793	\$34,995	Extremely Low-Income
2BR/1BA	30%	9	\$1,050	\$112	\$938	\$42,000	Extremely Low-Income
3BR/2BA	30%	11	\$1,213	\$144	\$1,069	\$48,525	Extremely Low-Income
3BR/2BA	MGR*	1	\$0	\$0	\$0	\$0	N/A

**Total Units** **36**

The project will also provide approximately 1,270 square feet of support uses, including a community room, a laundry room, a lobby, a mail room and a manager’s office. The project includes a landscaped exterior plaza with a dedicated children’s play area and 36 parking spaces within a surface parking lot.

The applicant requests a Density Bonus pursuant to California Government Code sections 65915 – 65918. Under Density Bonus Law, the applicant is requesting concessions and waivers related to number of parking spaces, building setbacks, building daylight plane, an increase in the allowable compact

parking space ratio, relief from objective design standards regarding building entrance orientation and massing, and increase in building height (from 27 to 36 feet). (Attachment 1 - Project Plans).

Concessions and waivers override local development standards and are required by State law in order to remove barriers to affordable housing production. The City's regulatory role for Density Bonus projects is therefore focused on determining Density Bonus eligibility, overall functionality, and basic accommodation of safety standards rather than across-the-board compliance with local development standards. Eligible projects can request accommodation in the form of concessions and waivers to allow project feasibility without the necessity of variances or code amendments. Further, eligible projects are allowed these benefits by-right.

An incentive or concession can be defined as "a reduction in site development standards or a modification of zoning code or architectural design requirements, such as a reduction in setback or minimum square footage requirements; or approval of mixed use zoning; or other regulatory incentives or concessions which actually result in identifiable and actual cost reductions." (Gov. Code § 65915, subd. (k)(1).) Incentives are presumed to result in cost reductions. In order to overcome this presumption, a city must make a showing of substantial evidence to the contrary. A developer is not required to demonstrate on the front end that any requested incentive will result in actual cost reductions. Projects that are 100% affordable qualify for four waivers.

A waiver or reduction of development standards is also required for any other development standard that would physically prevent the project from being built at the permitted density and with the granted concessions/incentive. There is no limit to the number of waivers a project can have. Special parking requirements are technically considered an additional form of assistance in addition to incentives/concessions.

#### Project Description

The 0.81 acre project site is located at the northeast corner of 44<sup>th</sup> Avenue and Capitola Road in the MU-N (Mixed Use Neighborhood) Zoning District. The site is sparsely developed with four existing two-story office buildings and surface parking. Surrounding land uses and structures include a mix of multi-family developments, a church, and professional offices. The project site includes two parcels of land. If the project is approved, the City would include a condition on the permit requiring the parcels to be merged (condition 34).

The proposed three-story buildings are to be laid out in an L-shape on the property with the longest building façade facing Capitola Avenue. Vehicular access to the property will be split into two parking lots, one accessing Capitola Avenue and the other accessing 44<sup>th</sup> Avenue.

The proposal includes a mix of one, two, and three bedrooms units. All ground floor units will be accessible units to remove the cost of elevator installation.

The project features amenity spaces accessible from the ground floor that include: a community kitchen, administrative office, mail room, and central laundry. Exterior amenities include: a landscaped plaza, children's play area, and short and long term bike parking/storage areas.

The applicant has proposed sustainability features including low water use landscaping, solar arrays on the roof, on-site storm water bio retention areas, EV charging and EV-ready parking spaces.

The architectural style is described as coastal contemporary with pitched gable roofs, articulated facades and patios/balconies. The use of two buildings and the single story community building between the residential buildings would reduce the visual mass when viewed from Capitola Avenue.

## **Background**

The existing professional office building development was approved by the Planning Commission in 1984 and was built in 1985. The development included four office buildings with lofts. No major changes to the property have occurred since the original construction.

On June 29, 2022, the Planning Department received the subject application.

## **Development and Design Review**

Multifamily residential projects necessitate review of the design by a city-contracted design professional and issuance of a design permit by the Planning Commission. RRM Design was contracted by city staff to complete the third-party review of the project for an overall architectural evaluation and review of the city's Objective Standards for Multifamily Residential in Chapter 17.82. The analysis on RRM's findings is summarized within the analysis section of the report under the Design Review and Objective Standards section.

On December 14, 2022, at the Development and Design Review meeting, City staff reviewed the application and provided the applicant with the following feedback:

Public Works Representative, Danielle Uharriet: Commented that the storm drainage plan check was completed and accepted a revised sidewalk design at the driveway along 44<sup>th</sup> Avenue.

Building Official, Robin Woodman: Asked the architect if the buildings were required to have elevators and noted that the trash enclosure floor drain would be required to connect to the sanitary sewer.

Senior Planner, Brian Froelich: Commented that the parking lot accessed from Capitola Road had a "No Parking" area that would serve as a turnaround for passenger vehicles and noted minor corrections needed on plan sheet G1.0.

Following the meeting, the applicant updated the plans and confirmed that elevators were not required for the project.

On January 19<sup>th</sup>, 2023, the Planning Commission continued the item to a special meeting on a date certain (January 25, 2023) due to a regional internet outage.

On January 25, 2023, the Planning Commission considered the item at a special meeting, received public comments, and voted 3-1-1 (Commissioner Wilk - Nay, Chair Westman - Absent) to continue this item off calendar with the following direction to staff:

1. Conduct a safety review of the intersection in front of the Project.
2. Verify that the 300-foot noticing requirement is accurately conducted.

## **New Information**

Staff is providing the following new items for Planning Commission consideration:

- Dudek Traffic Safety Addendum dated February 22, 2023. Study commissioned by staff. (Attachment #10)
- Hexagon Transportation Consultants, Inc. Peer review of first Dudek Traffic Study. Item submitted by the applicant (Attachment #11)
- Public Comment – All written public comments received as of 5pm on February 22, 2023 (Attachment #12). Any written comments received after this date/time will be included in the Supplemental Materials packet.
- Property Management Plan provided by the applicant (Attachment #13)
- Parking Management Plan provided by the applicant (Attachment #14)
- Resident Screening Plan provided by the applicant (Attachment #15)
- Rooftop mechanical and line of sight diagram provided by the applicant (Attachment #16)

## **Traffic Safety**

There will be two parking lots on the project site. A 15-space lot will be provided on the northwest portion of the site, with driveway access on 44th Avenue, and a 21-space lot will be provided on the east side of the site, with driveway access on the north leg of the 45th Avenue/Capitola Road intersection.

Planning staff initially commissioned Dudek Consulting to prepare the baseline Traffic Study dated November 17, 2022. Dudek provided comments which required the applicant to modify the original design. In order to properly place the new driveway on the north leg of the intersection, the existing continental crosswalk will be relocated slightly to the west. The crosswalk relocation will require modification of the existing median on Capitola Road. Also, the driveway access orientation submitted in the original application was modified to be at a right angle to the intersection.

At the direction of Planning Commission, Dudek completed a second study follow-up report focusing on safety of the intersection dated February 22, 2023. The primary findings of the follow up report are as follows:

1. The proposed project and adjacent existing single-family home are very low traffic generators. There will be relatively low traffic volumes entering/exiting the driveways on the north leg of the intersection. Per the LOS analysis, added vehicle delays from the project would be very low.
2. The intersection is an all-way stop-controlled intersection where all stopped vehicles have to give the vehicle, bicyclists, and pedestrians in the intersection their rights-of-way.
3. There is adequate to good sight distance from all approaches of the driveway with well-marked crosswalks.
4. There were two collisions reported within a five-year period. Both collisions involved vehicle-to-pedestrian collisions and the at-fault party were the vehicles who failed to yield the right-of-way. The collisions were not related to any movements at the existing single-family residential driveway on the north leg or the design of the intersection.

The applicant independently commissioned a peer review prepared by Hexagon Traffic Consultants Inc. dated February 14, 2023, of the Dudek baseline Traffic Study dated November 17, 2022. The Hexagon report generally concurs with the Dudek report with regard to trip generation, level of service (LOS), and the recommended on and off-site improvements (onsite turnaround, realigned crosswalk and median). Hexagon introduces new information by studying turning and access models for all vehicle paths in or out of the driveway that accesses at 45th Avenue and Capitola Road. Hexagon prepared exhibits showing that the geometry of all vehicle movements into and out of the proposed driveway are independently functional for a large passenger vehicle (7 ft. x 19 ft. Chevy Suburban).

## **Public Comment**

Planning staff and the Planning Commission have received numerous written comments about the project. Comments opposed to the project generally focus on parking, traffic safety, density, height, and neighborhood impacts. Comments in favor of the project generally support affordable housing and encourage the city to follow state density bonus requirements. Comments opposed to the project greatly outnumber the comments of support. All comments received before 5pm on February 22, 2023 are included in Attachment #12.

## **Applicant's Management Plans**

The applicant has provided a property management plan, parking management plan, and a resident screening plan. Planning staff has included those informational items for the public and the Planning Commission. (Attachments #13, #14, and #15 respectively)

## **Public Noticing**

The Planning Commission instructed Planning staff to confirm that public noticing was verified. Planning staff took the following steps to ensure that the public was notified of the hearing:

1. Planning staff confirmed the 300 foot noticing mail list was correctly created and distributed prior to the January 25, 2023 Planning Commission Meeting.
2. In preparation for the March 2, 2023 Planning Commission Meeting, Planning staff expanded the 300 foot radius for post card notices to include the following:
  - a. Increased to 500 foot radius.
  - b. Added all of 43<sup>rd</sup> Avenue, 44<sup>th</sup> Avenue, 46<sup>th</sup> Avenue, and 47<sup>th</sup> Avenue north of Capitola Road.
  - c. Added all of Capitola Road between 42<sup>nd</sup> Avenue and 47<sup>th</sup> Avenue.
  - d. Added a portion of Diamond Street.
  - e. Added all of Crystal Street and Emerald Street between 45<sup>th</sup> Avenue and 47<sup>th</sup> Avenue.
  - f. On site posting was placed in three locations near the property line.
  - g. Newspaper legal noticing was posted through two cycles.

**The following analysis is from the January 25, 2023, Planning Commission staff report and unchanged, with the exception of the new Attachments 8 - 16.**

### Development Standards

The following table outlines the zoning code requirements for development in the Mixed Use Neighborhood (MU-N) Zoning District. The proposed project complies with the standards of the MU-N zone or requests concessions/waivers under Density Bonus law as noted below.

	MU-N	Proposed	Compliance
<b>Site Requirements</b>			
Floor Area Ratio, Maximum	1.0 35,588 sf	0.91 32,475 sf	Yes
Parking	2.5 per unit, 1 covered 90 total  Max. 30% compact 2 EV	36 uncovered -  42% compact 2 EV 13 EV ready	With concession for number of spaces.  With concession for ratio of compact spaces.
<b>Structure Requirements</b>			
<b>Setbacks</b>			
Front (44 <sup>th</sup> Ave.)	0-15 ft.	9 ft. 6 in.	Yes
Rear	20% of lot depth 60 ft.	73 ft.	Yes
Interior Side	10% of lot width 11 ft. 10 in.	5 ft.	With concession.
Street Side	Min: 0 ft. Max: 15 ft.	15 ft.	Yes
Height, Maximum	27 ft.	36 ft.	With waiver.

Residential Transition Standards – Daylight Plane	No structure shall extend above or beyond a daylight plane having a height of twenty-five feet at the setback (11 ft. 10 in.) from the residential property line and extending into the parcel at an angle of forty-five degrees.	Building B 3 <sup>rd</sup> floor encroaches into the daylight plane.	With waiver.
Landscaped Open Space	5%	22%	Yes

**Discussion**

This report outlines the project’s consistency with the zoning ordinance or applicable state law and further describes the proposed development; evaluates the project architecture, landscaping, trees, transportation; and provides a summary of the environmental review process that was completed for the project.

State Density Bonus

The California Density Bonus Law (Government Code 65915-65918) was first enacted in 1979. Since 2019, the Legislature has aggressively amended and expanded the law with increased options and benefits for developers and reduced regulatory authority for local government. The subject property is in the MU-N zoning district and allows for multi-family uses with approval of a Conditional Use Permit. The MU-N zone regulates FAR (Floor Area Ratio), setbacks, and height but does not limit density directly. Therefore, the developer is not requesting consideration of additional density but other allowed benefits that are also included under Density Bonus Law. (Attachment 6 - Government Code 65915-65918)

The law previously allowed developers to request concessions and/or waivers from local government if the developer demonstrated that the associated costs were prohibitive to the project. Now the burden of proof is on local government to demonstrate that the requested concession or waiver, based on substantial evidence, does not result in actual cost reductions. This change raises the bar significantly by assuming requested concessions and waivers are necessary for project feasibility. Further, a local agency cannot deny requests for concessions unless the jurisdiction has fulfilled the current Regional Housing Needs Assessment (RHNA) numbers. At the close of 2021, Capitola had permitted 42 of the 143 allocated through RHNA and estimates up to a dozen more units were permitted in 2022; therefore, concessions may be requested.

Concessions

With the provision of 100% affordable units, the project is eligible for concessions, which are considered a reduction in site development standards or a modification of zoning code requirements or architectural design requirements that result in identifiable and actual cost reductions for the project (Government Code § 65915). Below is a summary of the proposed concessions:

- Daylight plane - encroachment for Building B
- Side setback reduction - five feet where 11 feet 10 inches is required
- Parking Ratio - 1:1 parking space per unit where 1:2.5 is standard
- Percentage of compact parking – 42% where 30% is the standard

Pursuant to Government Code § 65915(d), the City is required to grant the requested concessions unless it makes a written finding based on substantial evidence that: 1) the concession does not result in identifiable and actual cost reductions to provide for the affordable housing; 2) the concession would create a specific adverse impact to health, safety, the physical environment or historic resources for which there is no feasible mitigation; or 3) the concession is contrary to federal or state law. A “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.” (§ 65589.5(d)(2).) Conditions that would have a specific, adverse impact upon the public health and safety “arise infrequently.” In addition, Government Code section 65915, subdivision (r) states: “this chapter shall be interpreted liberally in favor of producing the maximum number of total housing units.”

It is staff’s assessment that the requested concessions are appropriate and will result in identifiable and actual cost reductions consistent with the State Density Bonus Law and the City’s ministerial requirements with respect to those requests. The project is also conditioned to comply with the provisions for affordable housing under Government Code § 65915.

### Waivers

In addition to the permitted number of concessions based on the project’s affordability mix, an applicant may also propose a waiver or reduction of any development standard that would have the effect of physically precluding the construction of the project at the densities or with the concessions permitted under state law. A proposal for a development standard waiver does not reduce the number of concessions to which the applicant is otherwise entitled. (Gov. Code, § 65915(e)(1).) A “development standard” is defined as “a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.” Below is a summary of the proposed waivers:

- Building height - 36 feet where 27 feet is standard
- Mitigation tree size – less than required 24 inch box
- Entry design facing street – entries do not face street
- Massing breaks – design does not provide eight foot recesses every 50 feet of building facade

Pursuant to Government Code § 65915(e), the City cannot apply any development standard to a project that will physically preclude construction of a development that includes the required percentage of affordable units at the eligible density bonus or with the permitted concessions. Therefore, the City must grant a proposal for a waiver or reduction of development standards unless the proposal would: 1) have a specific, adverse impact to health or safety for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact; 2) have an adverse impact on any real property that is listed in the California Register of Historical Resources; or 3) be contrary to federal or state law. It is staff’s assessment that the proposed waivers will not result in any of the above adverse impacts and are appropriate to ensure that construction of the project as proposed is not physically precluded.

### Conditional Use Permit Considerations

Pursuant to Section 17.124.060 of the Capitola Municipal Code, when evaluating a CUP, the Planning Commission shall consider the following characteristics of the proposed use:

- A. Operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).

Staff Analysis: Residential housing operates 24 hours per day. The project will have a manager’s unit and the site manager will operate in an office in the community building. This is primarily an internal facing function that will infrequently require visits from maintenance contractors, new tenants, and other similar property management meetings. Proposed exterior lighting complies with city standards and will be shielded to mitigate light cast onto neighboring properties. The project would not result in any significant effects relating to traffic, as further described in the traffic section below.

B. Availability of adequate public services and infrastructure.

Staff Analysis: Public services and infrastructure are available at the site. The property owner and/or City staff have been in contact with Soquel Creek Water District, County Sanitation, and Central Fire District to ensure adequate public services and infrastructure for the use. Prior to issuance of building permit, the applicant must provide will serve letters from the water district and sanitation (condition 20).

C. Potential impacts to the natural environment.

Staff Analysis: The proposed project is exempt under California Environmental Quality Act (CEQA) Section 15332, which is described in the CEQA section below.

D. Physical suitability of the subject site for the proposed use in terms of design, location, operating characteristics, shape, size, topography.

Staff Analysis: The project site is generally flat and is located centrally in the city with access to adequate roads, infrastructure and public transit. The two lots are required to be merged prior to issuance of a Building Permit and are collectively of sufficient size and shape to accommodate the proposed development.

#### Height and Residential Transitions Standards

Pursuant to Municipal Code Section 17.48.020.A, height is measured as the vertical distance from the assumed ground surface to the highest point of the building. The existing topography has a very slight upslope of two feet from south to north and can be described as flat. The proposed grading plan shows cut and fill to further level the site. Thus the building's height is perceived similarly from all sides. The applicant proposes a waiver to maximum height of 27 feet for the MU-N district to 36 feet, which accommodates three floors and an articulated roof design. Building A of the proposed design complies with the transitional standards as outlined below, but Building B is included in a request for a concession to the daylight plan standard.

The standard for Daylight Plane is as follows: No structure shall extend above or beyond a daylight plane having a height of twenty-five feet at the setback from the residential property line and extending into the parcel at an angle of forty-five degrees.

Staff Analysis: The applicant has requested use of a concession at the narrow end, north side of Building B to encroach within the daylight plane. Specifically, two bedrooms and one bathroom on the third floor project into the daylight plane area. All other buildings and portions of buildings comply with the daylight plane standard.

#### Parking

The proposed parking lots are located to the side and rear of the multi-family buildings, which is preferred per Section 17.20.040 E. The zoning ordinance requires two and a half parking spaces per multi-family unit, which would be 90 parking spaces for the proposed project. The applicant is proposing to utilize a concession to reduce parking standards to one vehicle parking space per unit (36 total). The applicant is also proposing a percentage of compact parking spaces of 42% where the standard is 30%. These constitute the most significant deviations requested from typical standards for the project. The Density Bonus Law (Government Code 65915 – 65918) discusses parking throughout in describing the use of concessions, waivers, and impact to project feasibility. The Legislature has targeted first density, and now parking and height, as development standards that are often barriers to production of affordable housing and has incorporated specific tools for developers. The applicant understands the importance of providing parking and making the project both feasible, functional for tenants, and acceptable to the community. They have accordingly provided EV ready parking and bike parking in excess of standards. The requested concession for reduction in the parking ratio for the project will allow for the construction of the proposed



affordable units and would result in a building design and construction efficiencies that could otherwise not be accommodated; it enables the developer to maximize the use of the lot for residential development and to construct the proposed project with the proposed number of affordable housing units, without which the development would be physically precluded [Government Code 65915 (p)(6)].

### Design Review and Objective Standards

The proposed architectural design is “Coastal Contemporary”, with materials consisting of stucco, lap siding, white vinyl windows, wood and perforated metal trim elements, and composite shingle roof. The community building has antique bronze storefront finish with a mono plane roof line. The residential buildings incorporate a façade roofline with gable ends and sloping elements. The center area of the roof is flat and will house mechanical equipment and PV panels.

Multifamily residential projects necessitate review of the design by a city-contracted design professional and issuance of a design permit by the Planning Commission. RRM Design was contracted by city staff to complete the third-party review of the project for an overall architectural evaluation and review of the city’s Objective Standards for Multifamily Residential in Chapter 17.82. RRM reviewed the design twice. The applicant addressed most of the comments from the first round of review. RRM’s final review memo is attachment 4. The only comments that the applicant could not address is summarized below:

- Consider opportunities to relocate primary unit entries to face the street and/or other building entries in order to enhance the street character (OS 17.82.060C.1).

The applicant is using a Density Bonus waiver for this comment noting that the ground floor units are accessible to avoid the cost of elevators for the project. Accessible entries that faced the street would require accessible walkways that are also incompatible with the designed storm drain retention areas.

### Signs

The application does not include signs. A separate application for a Master Sign Permit may be submitted by the applicant for Planning Commission review. Total signage is limited to 20 square feet.

### Landscaping

Under CMC 17.72.050, parcels within the MU-N zoning district must have a minimum of five percent landscape area (1,779 square feet). The proposed overall site plan includes 7,837 square feet of landscaped area, so complies with the landscaped area requirement. The landscape irrigation system is required to be on a separate dedicated water meter (Section 17.72.050 B2)

The applicant demonstrated compliance with the Soquel Creek Water District’s Maximum Allowable Water Use as required by Section 17.72.060 B1 (plan sheet L-3.0).

The new parking lots add 36 new parking spaces and are required to be 15% landscaped with one shade tree per every five parking spaces. The applicant is proposing 15 trees in proximity to the parking lots to meet this requirement. The proposed parking lot areas are 11,850 square feet. The applicant is proposing trees in the new parking lot area that will provide 3,360 square feet (28%) of canopy at maturity, exceeding the requirement.

### Trees

The site contains 26 existing trees and the applicant is proposing removal of 23. The existing trees range in size from four to 14 inches diameter at breast height (DBH) with the exception of one 36 inch white ash tree.

The trees proposed for removal are in locations critical to the project feasibility (circulation, buildings and drainage) and are not particularly unique specimens other than the 36 inch white ash. Mitigation planting

is typically a 2:1 ratio of 24" box trees. The applicant has requested a waiver to the typical mitigation and instead proposes a landscape plan that includes 26 total replacement trees and will provide 44% canopy coverage at maturity, which far exceeds the city's goal of 15% canopy for each parcel. The applicant notes that committing to the cost of larger trees at installation could make the project less feasible.

### Storm Drainage

By size the project would typically be categorized as a Tier 4 project, per the City's Stormwater Technical Guide. Tier 4 development projects include new/replaced impervious area between greater than 22,500 square feet. However, the project site is connected to an underground storm drain that discharges directly to marine nearshore waters, which recategorizes the design as a Tier 3 project. Tier 3 projects must design for the following:

- Treat runoff onsite with an appropriately sized retention system.
- Prevent any offsite discharge for 95<sup>th</sup> percentile rainfall events.
- Low Impact Design, which directs runoff from impervious surface to bio retention and landscape areas.

The project was plan checked by consultant, HydroScience Engineers Inc. to ensure compliance with Tier 3 requirements:

- Seven bioretention basins that captures all new impervious surface drainage and 50% of the replaced impervious surface.
- The total volume of bioretention can accommodate a storm event that delivers 2.1 inches of rain.

HydroScience Inc. concluded that the design meets Tiers 3 standards and provided recommended conditions of approval.

### Traffic Analysis

The project would not result in any significant effects relating to traffic. The project is a 100% affordable housing project, which is screened out (exempt) from traffic-vehicle miles traveled (VMT) review. The City's adopted VMT threshold and accompanying guidelines follow CEQA Guidelines Section 15063(c)(3)(C) and the Office of Planning and Research (OPR) Technical Advisory on Evaluating Transportation Impacts in CEQA, which allows for development of "screening criteria" that can be used to identify projects that are not expected to cause a significant impact on transportation without conducting a detailed VMT analysis. Affordable residential development is screened out; the OPR Technical Advisory provides data to support the conclusion that adding affordable housing to infill locations generally improves jobs-housing match, in turn shortening commutes and reducing VMT. Accordingly, Capitola's screening criteria provides that projects that are a 100% affordable residential development or the residential component of a mixed-use development, in infill locations shall be assumed to have a less than significant impact on transportation for CEQA purposes. The project is both a 100% affordable residential project and located in an infill location.

Notwithstanding the exempt status of affordable housing projects regarding VMT, the city commissioned a project-specific traffic analysis by Dudek (attachment #3). The project was evaluated in accordance with the standards of the City of Capitola's General Plan. The traffic analysis is based on the older methodology of evaluation, Level of Service (LOS). CEQA no longer focuses on LOS-based analyses because such analyses tend to result in mitigation measures calling for new or expanded roadways, which leads to more VMT and Greenhouse Gas (GHG) emissions. Staff commissioned the analysis for this project not for CEQA purposes, but as a way to understand the proportionality of impacts at the most impacted intersection.

The results of the traffic analysis concluded that the LOS related impacts of the proposed project would be less than significant. The project creates a net of seven vehicle trips during the AM peak and a net of 8 trips during the PM peak period compared to the existing offices. Dudek also concluded that the greatest impact to wait times at the intersection of 45<sup>th</sup> Avenue and Capitola Road would be a maximum increase of 1.8 seconds during the PM peak period.

### Sustainability Features

The applicant proposes to incorporate the following sustainability features into the project:

- Two EV chargers
- 13 EV-ready parking spaces
- Solar Panels
- Low water use landscaping
- Storm water retention system

### **CEQA**

Section 15332 of the CEQA Guidelines exempts infill development projects that meet certain criteria.

The city contracted with environmental consultant Dudek to prepare a detailed environmental analysis under CEQA for the proposed project (attachment #5). Aside from the concessions and waivers allowed via Density Bonus Law, the project is consistent with both the general plan and zoning ordinance. The site is within city limits and is surrounded by developed sites and urban uses. No known habitat or rare or threatened species have been identified on the subject site. Potential for traffic, noise, air quality, water quality, and cultural resources impacts were all evaluated and will be effectively mitigated by following current City codes and the recommended project conditions of approval. The site is well served by available public utilities and services.

Therefore, the City has documented that the project qualifies for the Categorical Exemption found in CEQA Guidelines section 15332, the infill exemption, and that none of the potential exceptions to the use of a categorical exemption apply to this project or the project site.

### **Recommendation**

Staff recommends that the Planning Commission adopt the resolution in Attachment #8 finding that:

1. The Project is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15332 (In-Fill Development); and

Approving:

2. The Conditional Use Permit pursuant to the findings and analysis included in this Staff Report and subject to the included Conditions of Approval; and
3. The Density Bonus request for concessions and waivers under State Density Bonus Law based on the findings and analysis included in this Staff Report and subject to the included Conditions of Approval; and
4. The Design Permit including the proposed water feature, pursuant to the findings and analysis included in this Staff Report and subject to the included Conditions of Approval; and
5. The Coastal Development Permit pursuant to the findings and analysis included in this Staff Report and subject to the included Conditions of Approval

### **Recommended Conditions of Approval**

### General Conditions

1. The project approval consists of a Conditional Use Permit, Design Permit, State Density Bonus and Coastal Development Permit for the construction of a multifamily at 4401 Capitola Road. The application #22-0244 was approved by Planning Commission on March 2, 2023.
2. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans.
3. At the time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet or G sheets of the construction plans.
4. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official. §9.12.010B.
5. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a permit amendment for Planning Commission consideration. Failure to remedy a non-compliance in a timely manner may result in permit revocation.
6. This permit shall expire 24 months from the date of issuance. The applicant shall have obtained an approved building permit commenced construction before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration.
7. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.
8. The project applicant shall designate a "disturbance coordinator" who will be responsible for responding to any local complaints regarding construction noise or activity. The coordinator (who may be an employee of the general contractor) will determine the cause of the complaint and will require that reasonable measures warranted to correct the problem be implemented. A name and telephone number of the disturbance coordinator shall be conspicuously posted at the construction site fence and on any notifications sent to neighbors. The sign/banner must also list an emergency after-hours contact number for emergency personnel.
9. Green Waste is the City's exclusive hauler for recycling and disposal of construction and demolition debris. For all debris boxes, contact Green Waste. Using another hauler may violate City Code Section 8.04 and result in Code Enforcement action.

### Conditional Use Permit Conditions

10. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
11. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view and inside the trash enclosure on non-collection days.

12. Bicycle parking is required to be accommodated with 14 short term bike parking spaces and 36 long term bike parking spaces. The design and specifications of the bike parking spaces shall be further detailed in the plans for Building Permit plan check.
13. Amplified sound is limited to interior areas only.

#### Planning Department Conditions

14. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.
15. Prior to issuance of building permit, all Planning fees associated with permit #22-0244 shall be paid in full.
16. Air-conditioning equipment or other roof top equipment shall be screened from view and fall within allowable city permitted decibel levels. Additional detail showing equipment heights and any mechanical screens shall be shown on the building permit plans.
17. The trash enclosure shall be covered, gated, and maintained to provide a clean and sanitary area. The trash enclosure construction shall be completed, prior to final inspection.
18. Outdoor luminaires shall be energy-efficient fixtures controlled by motion sensors and incorporate cut-off controls and outdoor lighting controls. All building and parking lot lighting shall be shielded to prevent light from shining in the neighboring properties and be Dark Sky compliant. The applicant shall provide a lighting plan and photometric plan with the submittal of plans for building permit plan check.
19. No rooftop equipment is to be visible to the general public. Any necessary roof screening is to match the color of the building as closely as possible. Plans for any necessary screening shall be submitted to the Community Development Department prior to, or in conjunction with the building permit submittal.
20. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel Creek Water District and Central Fire Protection District.
21. The Applicant or permittee shall defend, indemnify, and hold harmless the City of Capitola, its agents, officers, and employees from any claim, action, or proceeding against the City of Capitola or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Planning Commission, City Council, Community Development Director, or any other department, committee, or agency of the City concerning a development, variance, permit, or land use approval; provided, however, that the Applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the Applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the Applicant's or permittee's defense of said claims, actions or proceedings.
22. Prior to issuance of building permits, the building plans must show that any existing overhead utility lines within the property and any new utility lines will be underground to the nearest utility pole.
23. Prior to occupancy, the Landscape Architect shall certify in writing that the landscaping and irrigation has been installed in accordance with all aspects of the approved landscape plans, subject to final approval by the Community Development Director.

24. If prehistoric or historic-period cultural materials are unearthed during ground-disturbing activities, it is recommended that all work within 100' of the find be halted until a qualified archaeologist and Native American representative can assess the significance of the find. Prehistoric materials might include obsidian and chert-flaked stone tools (e.g., projectile points, knives, scrapers) or tool-making debris; culturally darkened soil ("midden") containing heat-affected rocks and artifacts; stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and battered-stone tools, such as hammerstones and pitted stones. Historic-period materials might include stone, concrete, or adobe footings and walls; filled wells or privies; and deposits of metal, glass, and/or ceramic refuse. If the find is determined to be potentially significant, the archaeologist, in consultation with the Native American representative, will develop a treatment plan that could include site avoidance, capping, or data recovery.
25. In the event of the discovery of human remains during construction or demolition, there shall be no further excavation or disturbance of the site within a 50' radius of the location of such discovery, or any nearby area reasonably suspected to overlie adjacent remains. The Santa Cruz County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his/her authority, he/she shall notify the Native American Heritage Commission, which shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the landowner shall reinter the human remains, and items associated with Native American burials on the property in a location not subject to further subsurface disturbance. A final report shall be submitted to the City's Community Development Director prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and its results, including a description of the monitoring and testing resources analysis methodology and conclusions, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the City's Community Development Director.
26. In the event that a fossil is discovered during construction of the project, excavations within 50' of the find shall be temporarily halted or delayed until the discovery is examined by a qualified paleontologist, in accordance with Society of Vertebrate Paleontology standards. The City shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. If the find is determined to be significant and if avoidance is not feasible, the paleontologist shall design and carry out a data recovery plan consistent with the Society of Vertebrate Paleontology standards.
27. To the extent practicable, tree removal shall be performed from September 1 through January 31 to avoid the general nesting period for birds. If tree removal cannot be performed during this period, precutting surveys will be performed no more than two days prior to beginning work activities to locate any active nests as follows: The owner/applicant shall be responsible for the retention of a qualified biologist to conduct a survey of the project site and surrounding 300' for active nests—with particular emphasis on nests of migratory birds—if tree cutting will begin during the bird nesting season, from February 1 through August 31. If active nests are observed on either the project site or the surrounding area, the project owner/applicant, in coordination with the appropriate city staff, shall establish no-disturbance buffer zones around the nests, with the size to be determined in consultation with the California Department of Fish and Wildlife (usually 100' for perching birds and 300' for raptors). The no-disturbance buffer will remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for three days or more and then resumes during the nesting season, an additional survey will be necessary to avoid impacts on active bird nests that may be present.
28. No signs are approved as part of this application. A Sign Permit application shall be submitted in compliance with Chapter 17.80 of the zoning ordinance and shall include all signage proposed for the project site.

29. Inspections by the Planning Department are required for the foundation, final framing, prefinal after application of exterior materials, and final inspection.
30. Separate containers for recyclables, organics, and waste shall be placed in all common areas, including all gathering areas, such as eating areas and community room.
31. A separate water service and water meter for irrigation will be required.
32. The applicant shall provide two electric vehicle charging stations with the plans for building permit plan check.
33. The property at 4401 Capitola Road shall be deed restricted to provide continued affordability of 100% low-income affordable housing rental units in the approved ratio and affordability categorized for a period of no less than 55 years. Low-income household cannot exceed 80% of the median family income level for Santa Cruz County as published by California Department of Housing and Community Development. The owner shall enter into an agreement with the City so as to assure compliance with the provisions of the State Density Bonus affordable housing requirement for all units on site to be deed restricted as a low-income rental as defined in Section 50053 of the Health and Safety Code. The deed restriction shall be in a form suitable for recordation as authorized by the Community Development Director and City Attorney.
34. Prior to issuance of building permits, parcels 034-123-05 & 034-124-18 shall be merged and all final documentation recorded with Santa Cruz County. The applicant shall, at their sole cost, diligently prepare plat maps, legal descriptions, grant deeds, and any other necessary documentation to execute the lot merger.

#### Public Works Department Conditions

35. Prior to filing an application for a building permit the applicant shall prepare and submit a plat map showing the original parcels (APN: 034-123-05 and APN: 034-124-18) and the parcel being combined by the lot merger with pertinent supporting data. Said map shall be filed with the Public Works Department with the appropriate review fees for review by the City Surveyor. Said plat map shall be prepared by a licensed land surveyor who shall be responsible for responding to comments until the map is acceptable to the Public Works Department. The final accepted map shall be recorded with the Santa Cruz County Recorder.
36. Prior to the issuance of the building permit the applicant shall submit plans detailing all improvements or modifications that impact or interface with the public right of way. At a minimum these details will include the limits of any existing or proposed curb drains, ADA compliant driveway approach, signage and striping or any other modification to the curb/gutter/sidewalk. The extent of all improvements or modifications shall be limited to those areas fronting the property boundaries (44<sup>th</sup> Avenue and Capitola Road) and shall not impact the frontage of any adjacent parcels.
37. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
38. Prior to a project final, all cracked or broken driveway approaches, curb, gutter, or sidewalk shall be replaced per the Public Works Standard Details and to the satisfaction of the Public Works Department. The sidewalk along the Capitola Road frontage shall entirely be replaced eliminating all identified ADA barriers: cross slopes exceed 2%, lips greater than ¼ - ½ inch between sections, curb ramp cross/running/landing slopes, lack of minimum clearance at utility poles and signs. The

driveway approach on 44<sup>th</sup> Avenue – north wing running slope shall be limited to those areas fronting the property boundary and shall not impact the frontage of any adjacent parcels.

39. Prior to issuance of a building permit the applicant shall incorporate the following design recommendations per the November 17, 2022, Dudek Traffic Analysis:
  - a. The relocated continental crosswalk on the west leg of the intersection shall be placed at a 90-degree angle with the roadway. The existing raised median on Capitola Road shall be modified to integrate the crosswalk. The crosswalk shall be designed per City and ADA standards.
  - b. A “no parking” area shall be striped for turnaround at the north end of the east parking lot so that vehicles can turn around on site instead of backing into the intersection.
40. Prior to issuance of building permits, the Public Works Standard Detail SMP STRM shall be printed in full and incorporated as a sheet into the construction plans.
41. Prior to issuance of building permits, the applicant shall submit a stormwater temporary construction sediment and erosion control plan, (BMPs) e.g., wattle location, storm drain protection, construction entrance, washout areas, contain trash/debris, stockpile protection and details, location of portable toilet and containment/protection, etc. All BMPs, sediment and erosion control measures shall be installed prior to the start of construction; and shall be maintained throughout project duration.
42. Prior to any land disturbance, applicant shall notify the Public Works Department 24 hours in advance for a pre-site inspection to be conducted by the grading official to verify initial compliance with the approved stormwater temporary construction erosion and sediment control plan. All temporary sediment and erosion control best management practices (BMPs) shall be maintained throughout the project duration.
43. No material or equipment storage may be placed in the road right-of-way.
44. Keep work site clear of debris & be aware of tracking mud, dirt, gravel into the street, and sweep daily, cover all stockpiles and excavation spoils. Practice good housekeeping BMPs.
45. Prior to issuance of building permits, the applicant shall submit a Stormwater Control Plan, Bioretention Construction Checklist, and detailed draft Stormwater Operation and Maintenance Plan prepared and certified by a Registered Civil Engineer as submitted on November 30, 2022, and conditionally approved by HydroScience Engineers on December 9, 2022, in accordance with the current Post Construction Requirements (PCRs) for a Tier 2 project for review and approval by the Public Works Director.
46. The Engineer of Record shall inspect and provide record drawings of construction of stormwater management improvements and certify to the City that the construction meets the intent of the approved design drawings, Stormwater Control Plan, and City Post Construction Requirements.
47. Prior to final occupancy approval the applicant shall submit a final Operation and Maintenance Plan including any revisions resulting from changes made during construction for review, approval and recorded in the Office of the County Recorder by the Public Works Director.
48. Prior to final occupancy approval the applicant shall enter into and record in the Office of the County Recorder, any agreements identified in the Stormwater Control Plan which pertain to the transfer of ownership, right-of-entry for inspection or abatement, and/or long-term maintenance of the stormwater treatment BMPs.



49. The drain within the dumpster enclosure shall be connected to the sanitary sewer with the review and approval of Santa Cruz County Sanitation.

### **Conditional Use Permit Findings**

**A. The proposed use is allowed in the applicable zoning district.**

Multifamily housing is a conditional use in the MU-N zone. The project complies with state law or local codes, as required, and provides needed affordable housing units in Capitola.

**B. The proposed use is consistent with the general plan, local coastal program, zoning code, and any applicable specific plan or area plan adopted by the city council.**

The proposed use, as conditioned, is consistent with local long range and implementation planning documents as listed. The Project site has a General Plan land use designation that allows for residential uses. The Project is consistent with the local coastal program, and with the zoning code except for the allowable incentives and concessions under Density Bonus Law. The Project is not located within a Specific Plan. The Project meets Design Review criteria.

**C. The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and planned land uses in the vicinity of the property.**

The project will have a minimal effect on trip generation and improve the jobs to housing ratio in the region, which according the Office of Planning and Research, will have a net beneficial effect on traffic and greenhouse gas emissions. In addition, surrounding land uses and structures include a mix of multi-family developments, a church, and professional offices. The proposed Project is a multi-family development, similar in size and scope to the surrounding land uses.

**D. The proposed use will not be detrimental to the public health, safety, and welfare.**

The building provides required affordable housing and RHNA units, will be fire sprinkled, and will be served by all necessary public utilities.

**E. The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.**

The proposed use is appropriately located and generally mitigated from impacts to adjacent residential uses. The project is within 0.75 miles of State Route 1 and within 200 feet of bus route 55. The property will be served by all utilities.

### **Design Permit Findings**

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

Community Development staff, the Development and Design Review Committee, consultant RRM and the Planning Commission have all reviewed the project. The proposed project, as conditioned, is consistent with local long range and implementation planning documents. The Project site has a General Plan land use designation that allows for residential uses. The Project is consistent with the local coastal program, and with the zoning code except for the allowable incentives and concessions under Density Bonus Law. The Project is not located within a Specific

Plan. The project meets the Design Review Criteria.

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

Community Development Staff, the Design and Development Review Committee, and the Planning Commission have all reviewed the project. The proposed 32,475 square foot multi-family development complies with all development standards of the MU-N zoning district and/or applicable state law, outside of those standards being waived by incentives or waivers pursuant to Density Bonus law.

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

The Project has been reviewed in compliance with and found to be exempt from CEQA through a Class 32 Infill exemption.

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

The proposed multifamily development will not have an impact to public, health, safety, and welfare. The building will be fire sprinkled and will be served by all necessary public utilities.

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

Community Development Staff, the Design and Development Review Committee, design consultant RRM and the Planning Commission have all reviewed the project. The proposed 32,475 square foot multifamily development and supporting improvements comply with the applicable design review criteria and as described by RRM.

**F. For projects in residential neighborhoods, the proposed project maintains the character, scale, and development pattern of the neighborhood.**

The project site is in a mixed use zone with professional office, single family and multi family uses in nearby proximity. The design complies with local standards with the exception of state permitted concessions and waivers. The proposed use does not introduce any new or unusual impacts.

## **Coastal Findings**

- 1. The project is consistent with the LCP land use plan, and the LCP implementation program.**  
The proposed project conforms to the City's certified Local Coastal Plan (LCP) land use plan and the LCP implementation program.
- 2. The project maintains or enhances public views.**  
The proposed project has no permanent impact on view or coastal access.
- 3. The project maintains or enhances vegetation, natural habitats and natural resources.**  
The proposed project has no impact on coastal vegetation, habitats, or resources.

4. **The project maintains or enhances low-cost public recreational access, including to the beach and ocean.**  
The project has no impact on recreation access or cost.
5. **The project maintains or enhances opportunities for visitors.**  
The project has no impact on visitors and opportunity.
6. **The project maintains or enhances coastal resources.**  
The proposed multifamily project has no negative impact on coastal resources.
7. **The project, including its design, location, size, and operating characteristics, is consistent with all applicable design plans and/or area plans incorporated into the LCP.**  
The proposed multifamily project allows Capitola to produce needed affordable housing units in an area that is zoned for this type of use. The project is consistent with the LCP.
8. **The project is consistent with the LCP goal of encouraging appropriate coastal development and land uses, including coastal priority development and land uses (i.e., visitor serving development and public access and recreation).**  
The project will not obstruct public access and has no impact on recreation or visitor opportunities and experiences. The project allows the city to produce affordable housing and deliver required RHNA units to the region.

### **Density Bonus Findings**

Pursuant to Density Bonus Law, the Project qualifies for four incentives and concessions and unlimited waivers from development standards. The Project has requested incentives and concessions related to the required daylight plane, side setback, parking ratio, and percentage of compact parking spaces. The Project has requested waivers from building height, mitigation tree size, entry orientation, and massing breaks. Pursuant to Density Bonus Law, proposed concessions or incentives must be approved unless it can be established by written findings based on a preponderance of the evidence that the proposed concession or incentive does not result in identifiable and actual cost reductions, would cause a public health or safety problem, would cause an environmental problem, would harm historical property, or would be contrary to law.

Report prepared by: Brian Froelich

### **Attachments January 25, 2023:**

1. Project Plans – November 30, 2022
2. CEQA Draft NOE prepared by Dudek – November 14, 2022
3. Transportation Study prepared by Dudek – November 17, 2022
4. RRM Final Design Review Memo – November 18, 2022
5. Applicant's Attorney Memo re: Density Bonus – October 21, 2022
6. California Density Bonus Law (Government Code 65915-65918)
7. Design Review Criteria

### **Attachments March 2, 2023**

8. Draft Resolution Approving application #2022-0244
9. Planning Commission Meeting Minutes – January 25, 2023
10. Dudek Traffic Study Addendum dated February 22, 2023 – City commissioned
11. Hexagon Peer review dated February 17, 2023 – applicant commissioned

12. Public Comments received by 5pm on February 22, 2023
13. Property Management Plan – by applicant
14. Parking Management Plan – by applicant
15. Resident Screening Plan – by applicant
16. Rooftop Equipment and Line of Sight Diagram