

# Capitola Planning Commission

## Agenda Report

**Meeting:** April 4, 2024

**From:** Community Development Department

**Address:** 1098 38<sup>th</sup> Avenue



**Project Description:** Permit #23-0525 Design Permit, Coastal Development Permit, and Density Bonus request for a 52-unit, 100% affordable housing project on a 1.977-acre site on the east side of 38<sup>th</sup> Avenue, just south of the railroad crossing. The project includes a mix of 1-bedroom, 2-bedroom, and 3-bedroom apartment units configured in 4 buildings. Three of the proposed buildings have 3 floors while one building has 2 floors. The property is located in the Medium Density Multi-Family Residential (RM-M) Zoning District. The project includes a density bonus, 4 incentives/concessions, and reduced parking requirements pursuant to California Government Code sections 65915-65918. This project is in the Coastal Zone and requires a Coastal Development Permit.

**Recommended Action:** Staff recommends that the Planning Commission take the following actions:

1. Find that the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332 (In-Fill Development);
2. Approve the applicant's request for a density bonus concession and reduced parking under State Density Bonus Law, based on the findings and analysis included in this staff report and subject to the included Conditions of Approval;
3. Approve the Design Permit, pursuant to the findings and analysis included in this staff report and subject to the included Conditions of Approval; and
4. Approve the Coastal Development Permit, pursuant to the findings and analysis included in this staff report and subject to the included Conditions of Approval.

**Property Owner & Representative:** MP Rail Trail Associates L.P.

**Applicant Proposal:** The project consists of a Design Permit, Coastal Development Permit, and a Density Bonus requesting construction of a 52-unit, 100% affordable rental housing project on an approximate 1.977-acre site on the east side of 38<sup>th</sup> Avenue, just south of the railroad crossing, in the southwest corner of Capitola. The site was previously occupied by a skilled nursing facility. The skilled nursing facility building was demolished in 2022 and the site is currently vacant. The project consists of a mix of 1-bedroom, 2-bedroom, and 3-bedroom apartment units, configured in 4 buildings, totaling 60,805 square feet.

The project site is located in the RM-M (Multi-Family Residential, Medium Density) Zoning District. Surrounding land uses and structures include a mix of commercial developments, 3 mobile home parks, and single-family homes.

The proposed buildings are laid out in two staggered L-shape formations on the property surrounding the exterior common area uses. The architectural style is described as coastal contemporary with pitched gable roofs, articulated facades patios/balconies, and breezeways. Vehicular access to the property is accessed by a two-way drive aisle off of 38<sup>th</sup> Avenue and runs along the south property line to a surface parking lot at the rear of the property. All ground floor units will be accessible units to remove the cost of elevator installation.

The project will include sustainability features including low water use landscaping, on-site stormwater retention areas, designated parking spaces for electric vehicle charging, all electrical appliances, all electric heating and cooling, and long-term and short-term bike parking. The project will also provide approximately 4,265 square feet of support uses, including a community room, kitchen, two laundry rooms, resident services room, mail room, and a property manager's office. Exterior amenities include a multi-use landscaped exterior plaza with a dedicated children's play area, community dining and game area, long-term bike storage area, a fenced dog run, and a vegetable garden. The breakdown of unit type and affordability category is provided in the table below.

Affordability Unit Mix/Income Levels:

<u>Unit Size</u>	<u>%AMI</u>	<u>Units</u>	<u>Gross Rent</u>	<u>Utility Allowance</u>	<u>Monthly Rent</u>	<u>Income Limits</u>	<u>Income Level</u>
Studio/1BA	30	1	\$864	\$163	\$701	\$39,540	Extremely Low-Income
Studio/1BA	40	2	\$1,152	\$163	\$989	\$52,720	Very Low-Income
Studio/1BA	50	1	\$1,441	\$163	\$1,278	\$65,900	Low-Income
1 BD/ 1 BA	30	4	\$926	\$182	\$744	\$44,490	Extremely Low-Income
1 BD/ 1 BA	40	1	\$1,235	\$182	\$1,053	\$59,320	Very Low-Income
1 BD/ 1 BA	50	4	\$1,544	\$182	\$1,362	\$74,150	Low-Income
1 BD/ 1 BA	60	8	\$1,852	\$182	\$1,670	\$88,980	Low-Income
2 BD/ 1 BA	30	4	\$1,111	\$240	\$871	\$53,370	Extremely Low-Income
2 BD/ 1 BA	40	1	\$1,482	\$240	\$1,242	\$71,160	Very Low-Income
2 BD/ 1 BA	50	4	\$1,853	\$240	\$1,613	\$88,950	Low-Income
2 BD/ 1 BA	60	1	\$2,223	\$240	\$1,983	\$106,740	Low-Income
2 BD/ 2 BA	60	3	\$2,223	\$240	\$1,983	\$106,740	Low-Income
3 BD/ 2 BA	30	4	\$1,284	\$305	\$979	\$61,290	Extremely Low-Income
3 BD/ 2 BA	40	2	\$1,712	\$305	\$1,407	\$81,720	Very Low-Income
3 BD/ 2 BA	50	3	\$2,141	\$305	\$1,836	\$102,150	Low-Income
3 BD/ 2 BA	60	4	\$2,569	\$305	\$2,264	\$122,580	Low-Income

\*Unit mix and income thresholds are subject to minor changes depending on final project funding and amendments to regional income limits.

Based on the above affordability levels, the applicant requests a Density Bonus pursuant to California Government Code sections 65915 – 65918, allowing for up to 180% of the base zoning density allowance for projects that are 100% affordable, which yields the proposed 52 units.

The applicant is also requesting four incentives/concessions (State Density Bonus Law allows up to four concessions for 100% affordable projects) related to private open space requirements for each apartment unit, an increase to the building height limit (from 30 feet to 40 feet 6 inches), reduction in replacement planting ratio, and reduction in the percentage of parking lot landscaping (Attachment 1 - Project Plans).

The applicant is also requesting reduced parking as allowed by State Density Bonus Law ratios, for a total of 70 parking spaces. The total parking count includes 4 EV chargers with 24 spaces being EV-capable or EV-ready. Bike parking is proposed with one long-term bike parking space per unit and seven short-term bike parking spaces for the complex.

**Background:** The previous skilled nursing facility building was demolished in 2022. The prior development included a single-story building of approximately 30,000 square feet.

MidPen Housing purchased the site from the Central California Alliance for Health (CCAH) in 2022. MidPen and CCAH are partnering on several other Monterey and Santa Cruz County developments to provide supportive housing for high utilizers of the health care system.

On December 20, 2024, the Planning Department received the subject application.

**Development and Design Review:** On March 20, 2024, Development and Design Review staff reviewed the application and provided the applicant with the following direction:

Public Works Representatives, Erika Senyk and Kailash Mozumder: advised that HydroScience was issuing conditions of approval for the drainage plan and that the relocated crosswalk would need to be closer to the railroad crossing to improve visibility and safety.

Building Official, Eric Martin: asked if the applicant had contacted utility purveyors to discuss how to cap existing utilities at the property line.

Senior Planner, Brian Froelich: asked the applicant to provide the breakdown of the unit mix and affordability levels.

Following the meeting, the applicant confirmed that utilities had been contacted to the extent possible and provided a unit mix and affordability breakdown. The applicant also agreed that moving the crosswalk outside the City boundary would complicate the project and agreed with the location closer to the railroad crossing.

**Development Standards:** The following table outlines the Zoning Code requirements for development in the Medium Density Multi-Family Residential (RM-M) Zoning District. The proposed project complies with the standards of the RM-M or requests concessions under the Density Bonus Law as noted below.

	RM-M	Proposed	Compliance
<b>Site Requirements</b>			
Building Coverage	40% 34,447 sf	26% 22,473 sf	Yes
Density	1 unit per 2,900sf 15 per acre 100%	1 unit per 1,650 sf 26 per acre 180%	Density Bonus allows 180% of permitted density for 100% affordable projects

Parking	2.5 per unit (1 covered) 130 total Max. 30% compact 5% EV	1.35 per unit 70 uncovered 10% compact 4 EV 7 EV capable 17 EV ready	Yes Govt. Code 65915(p)(1) 1 per 1BD unit 1.5 per 2BD & 3BD units 66 Required
<b>Structure Requirements</b>			
<b>Setbacks</b>			
Front (38 <sup>th</sup> Ave.)	15 ft.	18 ft.	Yes
Rear	15% of lot depth 77 ft.	131 ft.	Yes
Interior Side –north (Railroad)	10% of lot width (max. 7 ft.)	7 ft.	Yes
Interior Side - south	10% of lot width (max. 7 ft.)	29.5 ft.	Yes
Height, Maximum	30 ft.	40.5 ft.	Yes - With Concession
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 (7 ft.) from the residential property line and extending into the parcel at an angle of forty-five degrees.	Property to the south is residentially zoned. Building C is 37 ft tall at 24 ft. from property line. The daylight plane at this location is 42 ft.	Yes
Landscaped Area	5%	29%	Yes
Common Open Space	15%	26%	Yes
Private Open Space	48 sf per individual unit	0%	Yes - With Concession

**Discussion:** This section outlines the project's consistency with the Zoning Code and applicable state law and further describes the proposed development; evaluates the project architecture, landscaping and exterior lighting, trees, and transportation; and provides a summary of the environmental review process that was completed for the project.

*Application of State Density Bonus Law*

State Density Bonus

The California Density Bonus Law (Government Code 65915-65918) was first enacted in 1979. Since 2019, the California Legislature has further 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 RM-M zoning district that allows for multi-family uses by right. The RM-M zone regulates building coverage, setbacks, height, and limits density to one unit per 2,900 square feet of lot area. The site is 86,118 square feet and yields 29 units with the base zoning density ratio.

The applicant is requesting consideration of additional density pursuant to Density Bonus Law that allows up to 180% of the base zoning density allowance for projects that are 100% affordable, which yields the proposed 52 units. (Attachment 6 - Government Code 65915-65918)

#### Incentives/Concessions

With the provision of 100% affordable units, the project is eligible for four incentives/concessions, which are considered a reduction in site development standards, 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:

- Building Height – increase from 30 feet tall to 40.5 feet tall
- Private Open Space – omission of 48 square foot per unit requirement
- Tree Mitigation Planting Ratio – reduction from the 2:1 requirement
- Parking Lot Landscape Percentage – reduction from the 20% requirement

Pursuant to Government Code § 65915(d), a city is required to grant requested incentives/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.”

#### Height

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 five feet from the southwest corner to the northeast corner and can be described as generally flat. The proposed grading plan shows cut and fill to prep level building pads and for vehicular circulation and parking. The applicant proposes a concession to the maximum height of 30 feet for the RM-M district to allow up to 40.5 feet, which accommodates three floors and an articulated roof design. All buildings comply with the transitional standards as outlined below.

#### Private Open Space

Section 17.16.030 requires that 50% of the units in a multi-family development have at least 48 square feet of private open space. The applicant has planned for extensive communal open space areas and uses and is requesting use of a concession to forgo this requirement due to the design and construction costs of providing both public and private open space and amenities for tenants.

#### Parking Lot Landscape Percentage

The new parking lot includes 70 parking spaces and is required to be 20% landscaped with one shade tree per every five parking spaces (14). The applicant is proposing 16 trees in proximity to the parking lot to exceed the shading requirement. The proposed parking lot areas are 18,350 square feet. The applicant is proposing landscape breaks and island areas in the new parking lot area that will provide 1,930 square feet (10.5%), which is short of the 20% requirement. The applicant proposes a concession to reduce the parking lot landscape percentage requirement.

#### Tree Replacement Ratio

The site contains 43 existing trees and the applicant is proposing removal of all the trees. The existing trees range in size from four to 30 inches in diameter at breast height (DBH).

The trees proposed for removal are in locations critical to project feasibility (circulation, buildings, and drainage) and the most common species are palms (27) and paperbark (9) trees. Mitigation planting is typically a 2:1 ratio of 24" box trees. The applicant has requested a concession to the typical mitigation and instead proposes a landscape plan that includes 71 total replacement trees (1:1.65) and will provide 43% canopy coverage at maturity, which far exceeds the city's goal of 15% canopy for each parcel. The majority (51) of the replacement trees will be 24" box sized.

It is staff's assessment that the requested incentives/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.

#### Reduced Parking Requirements

The proposed parking lot is located to the rear of the multi-family buildings, which is preferred per Section 17.20.040 E. The zoning ordinance requires 2.5 parking spaces per multi-family unit, totaling 130 parking spaces for the proposed project. Pursuant to Government Code section 65915(p)(1), upon the request of the developer, a city shall not require a vehicular parking ratio, inclusive of parking for persons with a disability and guests, of a development meeting the density bonus criteria that exceeds the following ratios:

- 1 parking space per studio or 1 bedroom
- 1.5 parking spaces per 2- & 3-bedroom units

As a 100% affordable density bonus project, the project qualifies for reduced parking requirements subject to state-level parking ratios. Following the state's ratios and applying them to the proposed unit mix yields a requirement for 66 parking spaces. The applicant is proposing 70 parking spaces and therefore satisfies this requirement.

The proposal also includes 4 EV chargers with 24 additional spaces that are EV-capable and EV-ready. Bike parking meets standards with one long-term parking space per unit and seven short-term parking spaces.

#### Additional Development Requirements

##### Residential Transitions Standards

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 the use of a concession for building height up to 40.5 feet where 30 feet is the standard. The property to the south is a residentially zoned mobile home park and daylight plane standards are applicable. Building C is 37 feet tall at 24 feet from the property line. The daylight plane at this location is 42 feet in height. This is the closest of any of the buildings to the daylight plane. In summary, the project complies with the daylight plane requirement and the applicant is using a concession to exceed the height limit.

##### Design Review and Objective Standards

The proposed architectural design is "Coastal Contemporary", with materials consisting of board and batten, lap siding, shingle siding, gray vinyl windows, and asphalt shingle roof. Each of the buildings incorporates a varied accent color theme to add visual interest and distinction. All roofs are fully sloped with no mechanical wells. Roof slopes primarily follow a 3:12 slope, except for the gable ends that feature a 5:12 roof slope. The applicant anticipates mounting solar panels on the sloped roofs.

Multifamily residential projects necessitate a 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's review memo is included as Attachment 4 and the applicant's responses are included as Attachment 5. A highlight of the applicant's responses to RRM's comments are below:

- Added railings to the street-facing porches.
- Added windows and massing breaks in several locations.
- Added color changes and trim to add vertical articulation.
- Added wood trim to surround all windows.
- Modified columns to be wider with a solid base at street-facing porches.
- Extended the screening tree line along the south property line.

### Signs

The application does not include signs. For multifamily properties a Master Sign Permit is required for one or more signs, is limited to 20 square feet total, and requires Planning Commission review.

### Landscaping and Lighting

Under CMC 17.72.050, parcels within the RM-M zoning district must have landscaping along all property frontages. Residentially zoned parcels do not have a minimum percentage requirement. The proposed landscape plan includes landscaping throughout the project site, 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 PL3.2).

Landscape lighting is proposed throughout the site and complies with outdoor lighting standards pursuant to 17.96.110. All lighting will be down cast and have shields, cutoffs, or frosted lenses to prevent light trespass. All light standards in the parking lot will be less than 15 feet tall.

### Storm Drainage

The storm drain design is categorized as a Tier 4 project, per the City's Stormwater Technical Guide. Tier 4 development projects create and replace 22,500 square feet or more of impervious surface and need to meet the requirements of State Resolution No. R3-2013-0032.

Tier 4 projects must design for the following:

- Meet all Tier 1 to Tier 4 Performance Requirements.
- Treat runoff onsite with an appropriately sized retention system (8,316 cubic feet).
- Prevent any offsite discharge for 95<sup>th</sup> percentile rainfall events using Stormwater Control Measures.
- Low Impact Design which directs runoff from impervious surface to bio retention and landscaped areas.
- Control peak flows to not exceed pre-project flows for the 2-year through 10-year events.

The project was plan checked by a consultant, Hydrosience Engineers Inc., to ensure compliance with the following requirements:

- Surface stormwater is directed into 18 below-grade detention chambers.
- The total volume of bioretention can accommodate a storm event that delivers 1.9 inches of rain.

HydroScience concluded that the project concept and preliminary design appear feasible, but requested additional information to verify the Post Construction Monitoring requirements 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 the 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 provide 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 following 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 to peak hour traffic.

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 total of 26 vehicle trips during the AM peak and a total of 24 trips during the PM peak period. The trip generation modeling for the previous use, the 80-bed Capitola Manor Skilled Nursing Facility, would have accounted for 14 vehicle trips during the AM peak and 18 during the PM peak period. The proposed project results in a net increase of 12 AM peak period trips and 6 PM peak period trips.

### Crosswalk Relocation

The applicant hosted a neighborhood outreach meeting prior to submitting an application to the City. They received feedback from nearby residents that the existing painted crosswalk does not provide enough visibility for traffic that is approaching from the north due to the rail crossing and grade changes. The applicant has agreed to relocate and upgrade the crosswalk with the project. Condition of Approval #33 requires that the applicant install a lighted crosswalk at the north edge of the property, nearest the rail crossing to elevate the crosswalk and make it more visible from all directions.

### Sustainability Features

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

- 4 EV chargers
- 17 EV-ready parking spaces
- 7 EV-capable parking spaces
- Solar Panels are expected to be added
- Low water use and native landscaping
- Storm water retention system
- All electric appliances
- All electric heating and cooling



- Short- and long-term bike parking

**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 2). Aside from the concessions allowed via Density Bonus Law, the project is consistent with both the City's 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, soil vapor, 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.

### **Findings:**

#### **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 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 56,950 square foot multi-family development complies with all development standards of the RM-M zoning district and/or applicable state law.

- C. The proposed project has been reviewed in compliance with the California Environmental Quality Act (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 2). The project is consistent with the General Plan, Zoning Ordinance, and applicable state law. 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, soil vapor, and water quality 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.

- 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 buildings 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 56,950 square foot multifamily development and supporting improvements comply with the applicable design review criteria 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 multi-family residential zone with professional office, retail, single-family, and mobile home park uses in nearby proximity. The design complies with local standards, with the exception of state-permitted concessions. 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 opportunities.
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 the required RHNA units to the region.

### **Recommended Conditions of Approval:**

#### General Conditions

1. The project approval consists of a Design Permit, State Density Bonus and Coastal Development Permit for the construction of a multifamily at 1098 38<sup>th</sup> Avenue. Application #23-0525 was approved by the Planning Commission on April 4, 2024.
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 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. The 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.
10. 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.
11. Bicycle parking is required to be accommodated with seven short term bike parking spaces and 52 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. The long-term bike parking shall be equipped with a security camera or fully enclosed with a lockable gate.
12. Amplified sound is limited to interior areas only.

#### Planning Department Conditions

13. Prior to making any changes to the 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.

14. Prior to issuance of a building permit, all Planning fees associated with Permit #23-0525 shall be paid in full.
15. Air-conditioning equipment or other mechanical equipment shall be screened from view and fall within allowable city-permitted decibel levels. Additional details showing equipment locations and any mechanical screens shall be shown on the building permit plans.
16. The trash enclosures shall be covered, gated, and maintained to provide a clean and sanitary area. The trash enclosures construction shall be completed, prior to final inspection.
17. 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.
18. 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.
19. Prior to issuance of a building permit, the Building Permit plans will be routed for plan approval to the following entities: Santa Cruz County Sanitation Department, Soquel Creek Water District and Central Fire Protection District.
20. 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.
21. 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.
22. 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.
23. If prehistoric or historic-period cultural materials are unearthed during ground-disturbing activities, it is recommended that all work within 100 feet 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.

24. 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 foot 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 their authority, they 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.
25. In the event that a fossil is discovered during construction of the project, excavations within 50 feet 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. 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.
26. 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 feet 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.
27. The applicant shall continue to work with the County of Santa Cruz Health Services Agency (CSCHSA) to manage and evaluate soil vapor. The applicant shall provide the Planning Department with final permit documentation associated with all additional testing results, remediation plans (if required), soil management plans, and vapor intrusion mitigation systems that are conditions of approval or requirements of CSCHSA, prior to issuance of Building Permits. If required, the vapor intrusion membrane or system shall be coordinated with the Building Permit drawings (i.e. foundation, utilities, storm water, etc.), prior to issuance of Building Permits.
28. The applicant shall provide a construction operations plan for review and approval by the Building Official and the Community Development Director, prior to issuance of Building Permits. The construction operation plan shall address truck traffic issues regarding dust, noise, and vehicular and pedestrian traffic safety on 38<sup>th</sup> Avenue and surrounding roadways, storage of construction materials, placement of sanitary facilities, parking for construction vehicles, clean-up area, and

parking for construction personnel. A debris box (trash dumpster) shall be placed on site for collection of construction debris. Arrangements must be made with GreenWaste for the debris box since they have a franchise with the City of Capitola.

29. 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.
30. Inspections by the Planning Department are required for the foundation, final framing, prefinal after application of exterior materials, and final inspection.
31. A separate water service and water meter for irrigation will be required.
32. The applicant shall provide four electric vehicle charging stations with the plans for building permit plan check.
33. The property at 1098 38<sup>th</sup> Avenue 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.

#### Public Works Department Conditions

34. Prior to building permit application submittal, the applicant shall provide the additional requested information and revisions outlined in the HydroScience Memo dated March 20, 2024 (Capitola Preliminary Stormwater Control Plan Review for 1098 38th Ave Apartments, Capitola) to verify the Post Construction Monitoring requirements and support the stormwater plan review process for a Tier 4 project.
35. Prior to issuance of building permits, submit a site plan that includes a crosswalk on the northern limit of the frontage on 38th Ave. The crosswalk ramps should utilize Caltrans 2018 Standard Details on page A88A and include appropriate signage and an RRFB as required by the Public Works Director.
36. Prior to issuance of building permits, the applicant shall submit a detailed draft Stormwater Operation and Maintenance Plan prepared and certified by a Registered Civil Engineer and in accordance with the current Post Construction Requirements (PCRs) for a Tier 4 project for review and approval by the Public Works Director.
37. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, shall be submitted to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
38. Prior to issuance of building permits, submit a site plan that includes stormwater temporary construction sediment and erosion control measures (e.g., access to construction site, equipment and material storage locations and duration of placement, stockpile protection location and detail, wattle locations and detail, inlet protection detail, containment of trash/debris, location of portable toilet and containment/protection, etc.). The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.

39. Public Works Standard Detail BMP STRM (Stormwater Pollution Prevention and Protection for Construction Projects) shall be printed in full and incorporated as a sheet in the construction plans with the date and signature. All construction shall be done in accordance with the Public Works Standard Detail BMP STRM.
40. 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, 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 (38th Avenue) and shall not impact the frontage of any adjacent parcels.
41. Applicant shall notify the Public Works Department **24 hours in advance** of the commencement of work. A pre-construction inspection must be conducted by the grading official, or appointed staff to verify compliance with the approved erosion and sediment control plan. 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 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.
43. Utility connections - All utility connections made in the public right of way will be completed in a manor so that the final paving is completed as one uniform patch rather than multiple trench line patches.
44. Prior to final occupancy approval, 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.
45. 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 and approval by the Public Works Director and recorded in the Office of the County Recorder.
46. 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.
47. General Site Maintenance: Keep work site clear of debris and advise drivers not to tracking mud, dirt or gravel into the street, and sweep daily, cover all stockpiles and excavation spoils.

**Attachments:**

1. Project Plans – March 5, 2024
2. CEQA Draft NOE prepared by Dudek
3. Transportation Technical Memorandum prepared by Dudek – February 8, 2024
4. RRM Design Review Memo – January 26, 2024
5. Applicant's Response to Design Review Memo – March 7, 2024
6. California Density Bonus Law (Government Code 65915-65918)
7. Design Review Criteria

Report Prepared By: Brian Froelich, Senior Planner

Reviewed By: Julia Gautho, City Clerk; Leila Moshref-Danesh, City Attorney Office

Approved By: Katie Herlihy, Community Development Director