

Herlihy, Katie (kherlihy@ci.capitola.ca.us)

From: Thomas, Xjvirr@HCD <Xjvirr.Thomas@hcd.ca.gov>
Sent: Friday, January 30, 2026 2:14 PM
To: Herlihy, Katie (kherlihy@ci.capitola.ca.us); Heaton, Brian@HCD; McDougall, Paul@HCD
Cc: Ben Noble; Phillips, Eric S.; Herrera, Fidel@HCD
Subject: RE: Technical Complaint Follow-Up

Good Afternoon Katie,

Thank you for the email and for sitting down with us the other day to discuss the City's plans for the Capitola Mall area. After discussing the matter with Brian, Paul, and our Section Chief over Housing Element Implementation (Fidel Herrera), HCD would like to see the following changes/refinements be added to the code amendments that will be presented to your Planning Commission February 5. The following build upon the suggestions made by the City your previous email:

City Suggestion 1: Insert additional references throughout the draft code to emphasize the purpose of the amendments are to facilitate a mixed-use housing development and support for housing (and particularly affordable housing) production consistent with the Housing Element's programs.

- **HCD Response Recommendation:** In the Land Use Regulation section, clarifying that more certain parameters could be granted for Conditional Use Permit (CUP) submittals for affordable housing projects or projects that consist of majority of residential units. We recognize the need for discretion with such a large and complex property but also suggest adding parameters on the CUP process to promote approval certainty. This could be accomplished via an alternative permit type such as a Minor Use Permit (MUP) or Site Plan Review that provides an applicant more certainty than the existing CUP process. The CUP process could also be refined to provide decision-making parameters such as access, circulation, etc. The idea is to focus the deliberation and not rove into unnecessary areas. If not amenable to this approach, consider other approaches to promote approval certainty in the CUP process. This would demonstrate a predictable and prioritized permitting pathway for residential developments which syncs the City's proposed actions with the commitments made in Program 1.7 of the Housing Element.

City Suggestion 2: Clarify that the "deviation" section of the objective standards is only applicable to projects that are not eligible for or do not seek incentives, concessions, or waivers under the state density bonus law and that a request for a deviation (outside of the state density bonus law context) means that the project is not consistent with applicable, objective standards without concluding that no state streamlining laws are applicable (17.57.040.B).

- **HCD Response Recommendation:** The City should reconsider the necessity of the provision at 17.57.040(B)(2) altogether. It is redundant (and possibly confusing for applicants and decision makers) to state that a housing development project is not eligible for the benefits and protections of state housing law for which it does not qualify. HCD recommends rephrasing it to a positive, such as, "Requesting a deviation does not limit a housing development project's ability to use the benefits and protections of State housing laws for which it is eligible, including specifically State Density Bonus Law incentives, concessions, and development standard waivers."

City Suggestion 3: To reduce entitlement costs, waive Fiscal Impact Analysis (FIA) requirements for stand-alone 100% affordable housing projects. Consider whether an FIA waiver may also be appropriate for projects that include a minimum threshold of commercial development (17.24.035.E).

- HCD Response Recommendation: Exempting 100% affordable housing projects from the requirement to provide an FIA is a good start. However, HCD recommends that the City reconsider the benefit of requiring FIAs for any 100% residential projects. It's well known that ongoing costs to provide services (e.g., police, fire, etc.) to residential land uses generally exceeds the tax revenue generated by these uses. Without directive language in the municipal code, decisionmakers might inappropriately attempt to reduce residential unit counts in mixed-use projects in an attempt to make the projects revenue neutral (per 17.24.035 (E)(2)(c), which relates to need to "offset any negative fiscal impacts"). As you are aware, the Housing Accountability Act strictly limits the ability of a local government to reduce the density of a qualifying housing development project. To best implement Housing Element Implementation Program 1.7, the City should exempt all 100% residential projects from this requirement. The City should also add language stating that anticipated increases in City expenditures generated by residential projects/projects components at buildout cannot be used to justify a reduction in the residential units/residential floor area in a proposed project.

Thank you



Xjvirr Thomas

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From: Herlihy, Katie (kherlihy@ci.capitola.ca.us) <kherlihy@ci.capitola.ca.us>

Sent: Wednesday, January 28, 2026 10:01 AM

To: Thomas, Xjvirr@HCD <Xjvirr.Thomas@hcd.ca.gov>; Heaton, Brian@HCD <Brian.Heaton@hcd.ca.gov>; McDougall, Paul@HCD <Paul.McDougall@hcd.ca.gov>

Cc: Ben Noble <bnoble@bnplanning.com>; Phillips, Eric S. <EPhillips@bwslaw.com>

Subject: Technical Complaint Follow-Up

Dear Xjvirr, Brian, and Paul,

Thank you again for taking the time to meet with Eric, Ben, and me to walk through the technical complaint HCD received related to the Capitola Mall zoning code amendments. We appreciate the opportunity to discuss your review in detail and appreciate your guidance on paths forward.

As a brief update, the Capitola Planning Commission is scheduled to meet on February 5, 2026, at 6:00 p.m. to review the most recent updates to the zoning code amendments and may make a recommendation to the City Council at that meeting.

In the interest of time and in advance of that discussion, we have put together a list of edits to the draft code that we will incorporate before releasing our next public review draft for the February 5 Planning Commission meeting, which are intended to address the topics discussed during our meeting. These include:

1. Insert additional references throughout the draft code to emphasize the purpose of the amendments are to facilitate a mixed-use housing development and support for housing (and particularly affordable housing) production consistent with the Housing Element's programs.
2. Clarify that the "deviation" section of the objective standards is only applicable to projects that are not eligible for or do not seek incentives, concessions, or waivers under the state density bonus law and that a request for a deviation (outside of the state density bonus law context) means that the project is not consistent with applicable, objective standards without concluding that no state streamlining laws are applicable (17.57.040.B).
3. To reduce entitlement costs, waive Fiscal Impact Analysis (FIA) requirements for stand-alone 100% affordable housing projects. Consider whether an FIA waiver may also be appropriate for projects that include a minimum threshold of commercial development (17.24.035.E).

Please consider these modifications as you determine what further guidance HCD may provide in advance of our Planning Commission hearing.

Thank you again for your time and collaboration. We look forward to continuing to work with you as we move this forward.

Best regards,

Katie Herlihy, AICP
Community & Economic Development Director

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