

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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**W9a**

January 27, 2005

TO: Commissioners and Interested Persons

FROM: Charles Lester, Deputy Director
Diane Landry, District Manager *DL*
Susan Craig, Coastal Planner

RECORD PACKET COPY

SUBJECT: **CITY OF CAPITOLA: LOCAL COASTAL PROGRAM MAJOR AMENDMENT NO. 3-04 Part A.** For public hearing and Commission action at its meeting of February 16, 2005, to be held in Monterey at the Portola Plaza Hotel, 2 Portola Plaza, Monterey, CA 93940.

SYNOPSIS

The City of Capitola is proposing to amend the Implementation Plan (Zoning Ordinance) of the Local Coastal Program to modify applicable use and development standards primarily related to single-family residential development. The primary components of the proposed amendment include changes in: 1) allowable floor area ratio (FAR); 2) parking requirements; 3) allowable heights and required setbacks, and; 4) architectural and site review/design permit procedures. Additionally, the amendment adds standards for home occupation (work) permits, amends standards for large home daycare uses, adds standards regarding yard and garage sales, and extends the expiration date of design permits from one to two years after the date of approval.

SUMMARY OF STAFF RECOMMENDATION

Staff has reviewed the proposed Zoning Ordinance amendment for consistency with the certified Land Use Plan. Issues raised by the proposed amendments include parking and setbacks. As discussed in detail below, Staff recommends **approval** of Local Coastal Program Major Amendment No. 3-04 Part A, if modified.

ANALYSIS CRITERIA

The Commission certified the City of Capitola's Land Use Plan in June 1981 and the City Council accepted this certification action in November 1981. The Implementation Plan was certified in January 1990 and the City accepted this certification action in April 1990. The City has organized and submitted this LCP amendment request in accordance with the standards for amendments to certified LCPs (Coastal Act Sections 30512(c), 30512.2, 30513, and 30514, and California Code of Regulations 13551 through 13553).

**California Coastal Commission**

The proposed amendment affects the implementation plan component of the City of Capitola LCP. The standard of review for implementation amendments is that they must be consistent with and adequate to carry out the policies of the certified coastal land use plan.

ADDITIONAL INFORMATION

Further information on the submittal may be obtained from Susan Craig at the Central Coast District Office of the Coastal Commission at 725 Front Street, Suite 300, Santa Cruz, CA 95060, (831) 427-4863.

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I. STAFF RECOMMENDATION: MOTIONS AND RESOLUTIONS

Staff recommends adoption of the following resolutions:

Resolution I. (Resolution to approve City of Capitola Implementation Plan Major Amendment No. 3-04 (Part A) as submitted)

Staff recommends a YES vote on the motion below. Passage of this motion will result in rejection of the Implementation Plan amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

***Motion.** I move that the Commission reject Major Amendment #3-04(Part A) to the City of Capitola Local Coastal Program Implementation Plan as submitted.*

***Resolution to reject.** The Commission hereby rejects certification of Major Amendment #3-04 (Part A) to the Implementation Plan of the City of Capitola Local Coastal Program, as submitted, and adopts the findings set forth below on grounds that the Implementation Plan, as submitted, is not in conformity with the certified Land Use Plan. Certification of the Implementation Plan amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Plan amendment as submitted.*

Resolution II. (Resolution to approve City of Capitola Implementation Plan Major Amendment No. 3-04 (Part A), if modified)



Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the Implementation Plan amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

***Motion.** I move that the Commission **certify** Major Amendment #3-04 (Part A) to the City of Capitola Local Coastal Program Implementation Plan if modified as suggested by modifications 1-8 in this staff report.*

***Resolution to certify.** The Commission hereby certifies Major Amendment No. 3-04 (Part A) to the Implementation Plan of the City of Capitola Local Coastal Program, as modified by suggested modifications 1-8, and adopts the findings set forth below on grounds that the Implementation Plan amendment with the suggested modification will be in conformity with and adequate to carry out the certified land use plan. Certification of the Implementation Plan amendment, if modified as suggested, complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.*

II. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following changes to the proposed Local Coastal Program amendments, which are necessary to make the requisite findings. If the local government accepts the suggested modifications within six months of Commission action, by formal resolution of the City Council, the corresponding amendment portion will become effective upon Commission concurrence with the Executive Director finding that this has been properly accomplished.

Note: The Commission-suggested modifications are shown by deleting existing text with ~~striketrough~~ and adding text with underline.

Modification #1

Modify the following sections of the zoning ordinance as follows to provide additional clarity:

17.15.030(C). Exemptions from the requirement for a Design Permit include: 1. First floor addition of up to 400 square feet ~~or 25% of the existing gross building floor area (whichever is less);~~ at the rear of the property or structure, which is not visible to the general public, does not exceed 15 feet in height (8 feet to the top of the plate), and which uses similar, compatible or upgraded quality building materials; *(remainder of section unchanged)*

17.15.035(A). The Community Development Director/Zoning Administrator shall be authorized to approve or deny Design Permit applications for: 1. First-floor additions up to 400 square feet ~~or 25% of the existing gross floor area, whichever is less~~ (although certain additions of this type are exempt under section 17.15.030(C) (1); *(remainder of section unchanged)*

17.15.035(B). The Planning Commission shall be authorized to approve or deny Design Permit



applications for...: 3. Additions of more than 400 square feet ~~or 25% of the existing gross floor area, whichever is less; (remainder of section unchanged)~~

17.63.070(A). The Community Development Director/Zoning Administrator shall be authorized to approve or deny Design Permit applications for: 1. First-floor additions up to 400 square feet ~~or 25% of the existing gross floor area, whichever is less~~ (although certain single-family residential additions of this type are exempt under section 17.15.030(C) (1); *(remainder of section unchanged)*)

17.63.070(B). The Planning Commission shall be authorized to approve or deny Design Permit applications for...: 3. Additions of more than 400 square feet ~~or 25% of the existing gross floor area, whichever is less; (remainder of section unchanged)~~

Modification #2:

Modify the following sections of the Zoning Ordinance as follows, to clarify that design permits are not required for secondary dwelling units (to provide consistency with certified Section 17.99.040):

17.15.030(A). A Design Permit shall be required for the following improvements: A. All new single-family dwelling units, but not for secondary dwelling units; *(remainder of section unchanged)*

17.15.035(B). The Planning Commission shall be authorized to approve or deny Design Permit applications for: 1. All new residential dwelling unit construction, but not for secondary dwelling units; *(remainder of section unchanged)*

17.15.040(A) Principal permitted uses. The following are principal permitted uses in an R 1 district: A. One family dwellings, including secondary dwelling units pursuant to Chapter 17.99; *(remainder of section unchanged)*

17.18.040(B) Principal permitted uses. The following are principal permitted uses in an R M district...: B. Single family dwellings, subject to the development standards contained in Chapter 17.15, "Single-family Residence District;"; including secondary dwelling units as allowed in the R-1 District pursuant to Chapter 17.99;

Modification #3

Modify Sections 17.03.246 and 17.15.100 of the Zoning Ordinance to provide more clarity on how to calculate the Floor Area Ratio, as follows:

17.03.246 Floor area. "Floor area" means the entire floor area in all enclosed structures, without deduction for such features as interior walls, stairways or storage, except as permitted for one and one-half story single family residences pursuant to Section 17.15.100(B). It also includes covered or uncovered upper-floor decks; and porches and covered exterior open space in excess of 150 square feet, including eaves greater than 18" in length. For commercial uses the floor area of patios, courtyards and outside dining areas primarily utilized by a business or group of related



businesses, its customers, or its employees, as opposed to the general public. Floor Area Ratio means the gross floor area of all of the buildings on the lot divided by the net lot area.

17.15.100 Floor Area Ratio. Building size shall be regulated by the relationship of the building to the lot size, a measurement identified as Floor Area Ratio (FAR). Maximum FAR shall be determined as follows:

- A. Lots less than 2,650 sf 58%
- Lots 2,651 to 3,250 sf 57%
- Lots 3,251 to 3,500 sf 56%
- Lots 3,501 to 3,750 sf 55%
- Lots 3,751 to 4,000 sf 54%
- Lots 4,001 to 4,250 sf 53%
- Lots 4,251 to 4,500 sf 52%
- Lots 4,501 to 4,750 sf 51%
- Lots 4,751 to 5,000 sf 50%
- Lots 5,001 to 6,000 sf 49%
- Lots more than 6,000 sf 48%

Lots of 5,000 or more square feet with approved second dwelling units are permitted a maximum FAR of 60% for all structures, in accordance with Chapter 17.99 "Secondary Dwelling Units".

This calculation includes the gross building area, including covered parking, as further described in paragraphs B through F below:

B. The following building elements shall be included in the Floor Area Ratio Calculation: 1. That portion of the basement which exceeds the first two hundred fifty gross square feet of a basement, including the measurements of the access stairway; 2. All open area below the ceiling or angled walls, greater than 16 feet in height; 3. All upper floor area greater than four feet in height, measured between the bottom of the upper floor and the top of the ceiling; 4. For 1-½ story structures, the area of the stairwell shall be counted on the first floor only. not be counted twice, but in all cases interior area above a projected floor to ceiling height of two feet shall be included in the FAR; 5. Windows projecting more than 12" from the wall; 6. Covered or uncovered upper floor decks, and covered exterior open space in excess of 150 square feet, including eaves greater than 18 inches in length; 7. All accessory structures other than a single building of 80 square feet or less in size, 8 feet or less in height, and without plumbing or electrical fixtures.

C. The following shall not be included in the Floor Area Ratio calculation: 1. All vehicular rights of way which allow others to use the surface of the property, shall be excluded from the lot area for purposes of this section; 2. The first 250 square feet of basement area including the stairway serving that area; 3. The stairway serving the upper floor in a one and one-half story home; 4. Chimneys and projecting windows less than 12" deep; 5. First level decks 30" or less in height; 6. One hundred (100) square feet of ancillary area in a detached garage; 7. The area between the bottom of the floor and the top of the ceiling which is four feet or less in height, on the second



level of a one-and one-half- or two-story home; 8. All open area between the bottom of the floor and the top of the ceiling or angled wall, which is 16 feet or less in height; 9. Unroofed (permeable) trellis structures, including porte-cocheres, which are open on at least three sides and not higher than 10 feet to the top of the highest portion. Such structures are not permitted in the front setback and must have a two-foot setback from side or rear property lines.

D. The footprint of all structures, except a trellis structure consistent with C.9 above and one accessory building of eighty or fewer square feet, 8 feet or less in height, and without electrical or plumbing fixtures, shall conform to all applicable setback requirements, i.e. for a secondary dwelling unit, detached garage, or principal residential structure.

Modification #4

Add new Section 17.15.140(I) to provide internal consistency regarding development standards for trellises, as follows:

I. Trellis structures intended to provide support for plants and shade for cars, hot tubs,, etc. will not be permitted in the front setback and will not count toward the covered parking requirement. Such structures may be permitted in the side or rear setback as long as the height is limited to ten feet at the top of the highest portion, the structure roof remains permeable (roof members at least 12" apart), and the structure is open on at least three sides.

Modification #5

Modify Sections 17.18.060 (E) and delete Section 17.08.060 (J) (single-family dwellings in the R-M district are a principal permitted use) to provide internal consistency regarding conditional use permits, as follows:

The following are conditional uses in an R-M district, subject in each case to the securing of a use permit, as provided in Chapter 17.60:

E. Large family day care homes subject to the securing of a permit as provided in Section 17.15.060(F), large community care residential facilities (Subject to the special conditions in Section 17.15.060(F)-(G)).

J. ~~Single-family dwellings, subject to the development standards contained in Chapter 17.15, Single-family Residence District."~~ Reserved.

Modification #6

Modify Section 17.03.610 regarding the definition of a "half story," as follows:

17.03.610 Story, half. "Half story" means a partial story under a gable, hip or gambrel roof, the wall plates of which are at least two opposite exterior walls and which are not more than four ~~two~~ feet above the floor plate of the second ~~first~~ floor, and may include shed or dormer projections from those walls. Dormers may constitute not more than one third of the length of the wall upon



which they are located, whether as a single unit or multiple dormers.

Modification #7

Modify Section 17.81.110(B) regarding accessory structures, as follows:

B. One accessory structure 80 square feet or less and 8 feet or less in height shall be permitted without a building or design permit and may be located in the side or rear setback of a residential lot. Any additional accessory structures on any parcel shall comply with the development standards for the district in which they are located. The variance procedure, as provided in Chapter 17.66, shall only apply to the second or more accessory structure(s).

Modification #8

Add Section 17.63.035 to the Zoning Ordinance regarding exemptions from design permit requirements, as follows (to provide consistency with amended Section 17.15.030):

Chapter 17.63 ARCHITECTURAL AND SITE REVIEW

Sections:

17.63.010 Purpose.
 17.63.020 Architectural and site review committee.
 17.63.030 Required when.
17.63.035 Exemptions from design permit requirement. (*remainder of Sections list unchanged*)...

17.63.035 Exemptions from Design Permit Requirement.

A. First-floor additions at the rear of a home which are not visible to the general public; do not exceed 400 square feet; do not exceed 15 feet in height (8 feet maximum plate height); and which utilize matching or compatible building materials.

B. A single accessory structure of less than 80 square feet, less than 9 feet in height, with no electrical or plumbing fixtures.

III. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

The following City of Capitola LCP policy provides for exclusive residential development in certain areas of the City, and states:

Policy I-2. It shall be the policy of the City of Capitola to encourage mixed commercial/residential development in the Village and to designate certain existing residential areas as exclusively residential.



The following policies provide for the protection of water quality and environmentally sensitive habitats within the City, and also provide for adequate bluff top setbacks, and state:

Policy VI-1 (in part): It shall be the policy of the City of Capitola to take measures within its purview to preserve and improve the quality of the waters of Monterey Bay...

Policy VI-2 (in part): It shall be the policy of the City of Capitola to protect, maintain and, where possible, enhance environmentally sensitive and locally unique habitats within its coastal zone...

Policy VI-5: The City shall, as a condition of new development, ensure that run-off does not significantly impact the water quality of Capitola's creeks and wetlands through increased sedimentation, biochemical degradation or thermal pollution.

Policy VI-6: The City shall enact regulations to control erosion and runoff.

Policy VII-7 (in part): Bluff and cliff top development shall be approved only if design and setback provisions are adequate to assure stability and structural integrity for the expected economic lifespan (at least 50 years) of the development and if the development (including storm runoff, foot traffic, grading, and irrigation) will neither create nor contribute significantly to erosion problems or geologic instability of the site or surrounding area...

The following LCP policy requires public access to and along the City's shoreline, and states:

Policy II-1: It shall be the policy of the City of Capitola to provide safe and adequate pedestrian access to and along the shoreline as designated in the Shoreline Access Plan.

The City of Capitola's coastal zone is urbanized and largely developed with a mixture of residential and commercial/visitor-serving uses. Only a very small number of undeveloped parcels of various sizes remain in the City. Capitola has no large tracts of undeveloped land that would provide for significant growth. Because the City is already large built-out, residential development in the City consists largely of remodeling or redevelopment of already developed parcels.

The proposed amendment consists of text amendments to the City's certified Zoning Ordinance to modify the existing development standards for single-family homes in the R-1 (Single-Family Residential) and R-M (Multiple-Family Residential) zoning districts (single-family residential use is a principal permitted use in the R-M zoning district). These zoning districts lie outside the CV (Central Village) and the PF-P (Public Facility – Parks & Open Space) zoning districts, which are the primary destination areas for visitors to the City of Capitola. The amendments include a change in the existing Floor Area Ratio (FAR) from a 65% maximum to a sliding scale FAR based on property size; a reduction in the residential parking requirement, including covered parking; changes to heights and setbacks for principal and accessory structures; changes to miscellaneous operational regulations such as home occupations, garage sales, and second food preparation areas in single-family homes; clarification to the requirements for undergrounding utilities in conjunction with single-family home remodels; extension of permit clarification and changes to the processing of single-family home applications under the Architectural and Site review regulations; and regulations for the operations of large family daycare homes (i.e., a home



that provides family daycare for up to 12 children). Please see Exhibit 1 for the proposed amendment language.

Regarding Floor Area Ratio (FAR), the certified Zoning Ordinance currently allows for a total FAR of no greater than 65% of the parcel. The proposed amendment provides a sliding scale FAR based on parcel size (see Exhibit 1, pp. 4-5), with FARs ranging from 48% to 58% based on lot size. Additionally, the amendment provides more specificity regarding how the FAR is calculated. Reductions in allowable site coverage under the new FAR requirements will result in less impervious surface on residential parcels, with resulting benefits to water quality due to reduced runoff. In addition, the amendment requires the incorporation of permeable driveway materials and other means of retaining storm water runoff on site to reduce non-point source pollution (see Exhibit 1, pg. 18). These amendments provide consistency with the water quality protection policies of the certified LCP.

Regarding allowable heights for residential structures, the amendment retains the 25-foot height limit, but allows an additional two feet of height for half-story designs and buildings that use historic design elements (see Exhibit 1, pg. 3). Regarding setbacks, the proposed amendment provides more detail and clarity regarding required front yard, rear yard, and side yard setbacks (see Exhibit 1, pp. 5-6). Any new residential development in hazardous areas (such as bluff tops) or adjacent to environmentally sensitive habitats will need to be consistent with the certified LCP's required setbacks from these areas.

Regarding parking, the existing LCP requires a minimum of three parking spaces for any single-family residence of 2,000 square feet or less, one of which must be covered. For single-family residences greater than 2,000 square feet, four parking spaces are required. The amendment changes the parking requirements as follows:

Structure Size	Total Required Parking Spaces	Required <u>Covered</u> Parking Spaces
1,500 or less	Two	Zero
1,501 to 2,000	Two	One
2,001 to 2,600	Three	One
2,601 to 4,000	Four	One

Residences greater than 4,000 square feet may require additional parking at the discretion of the Planning Commission (see Exhibit 1, pp. 7, 12).

The City finds that the current parking requirements are excessive given the small lot sizes that characterize many of the older areas of the City, and that the result of the existing standards is buildings dominated by double garages and streetscapes characterized by double driveways. The proposed amendment also encourages garages in rear yards wherever possible by reducing the required setback between detached garages and the main house (see Exhibit 1, pg. 6). The amendment does not change the certified prohibition on providing parking for single-family residences within any public right-of-way.



Regarding public access, the R-1 and R-M districts are located outside of the primary visitor-serving areas of the City. Even so, certain residential areas, such as Depot Hill, may attract visitors due to its bluff top location and public access path along the old Grand Avenue right-of-way. The proposed amendment, however, requires for a reasonable number of on-site parking spaces, based on residential structure size. These standards are adequate to protect public access in the City's coastal zone.

To ensure internal consistency with the Land Use Plan, additional clarity is needed regarding: 1) Exemptions from the design permit requirement; 2) the Floor Area Ratio calculation; 3) Development standards for accessory structures; 4) Conditional use permits, and; 5) the definition of a "half-story." Modifications #1-8 include these clarifications. City planning staff has been consulted and is in agreement with the proposed modifications.

The remaining portions of the amendment including changes to miscellaneous operational regulations such as home occupations, garage sales, and second food preparation areas in single-family homes; clarification to the requirements for undergrounding utilities in conjunction with single-family home remodels; extension of permit clarification and changes to the processing of single-family home applications under the Architectural and Site review regulations; and regulations for the operations of large family daycare homes (i.e., a home that provides family daycare for up to 12 children). These amendments do not raise any coastal issues.

IV. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Coastal Commission's review and development process for Local Coastal Programs and amendments to them has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis on LCP amendments, although the Commission can and does utilize any environmental information that the local government has developed. Approval of the amendments, as modified, will not have significant environmental effects, consistent with the California Environmental Quality Act.



herby finds that the public necessity, convenience, general welfare and good zoning practice support an i
require amendment of the Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Capitola, as
follows:

SECTION 1. CHAPTER 17.15 SHALL BE AMENDED TO READ AS FOLLOWS:

Chapter 17.15

R-1 SINGLE-FAMILY RESIDENCE DISTRICT*

Sections:

17.15.010	Applicability.
17.15.020	Purpose.
17.15.030	Architectural and site review.
17.15.040	Principal permitted uses.
17.15.050	Accessory uses.
17.15.060	Conditional uses.
17.15.070	(Reserved).
17.15.080	Height regulations.
17.15.090	Lot area.
17.15.100	<u>Floor Area Ratio (FAR)</u> Lot coverage.
17.15.110	Yards.
17.15.120	Yard encroachments.
17.15.130	Parking.
17.15.140	Garage and accessory buildings.

17.15.010 Applicability. The regulations set forth in this chapter apply to all R-1 districts.

17.15.020 Purpose. The purpose of the R-1 district is to maintain an area which provides the traditional qualities of privacy, landscaping, parking, and character associated with single-family residential neighborhoods. Each of the neighborhoods in Capitola is unique in its physical design. Special consideration shall be given to new development to insure that it is compatible in size, mass, setbacks, and open space, with existing residential designs in the area.

~~17.15.030 Architectural and Site Review.~~ The architectural and site review committee shall review:

~~A. All new single family development;~~

~~B. Improvements to existing single family structures which either:~~

~~1. Increase the gross floor area of an existing structure by more than fifty percent; or~~

~~2. Significantly alter the appearance of an existing single family residence either by the addition of living space or by the alteration of exterior building materials, as determined by the planning director.~~

17.15.030 Design Permit and Architectural and Site Review. A Design Permit shall be required for the following improvements:

- A. All new single-family dwelling units;
- B. All improvements to existing single-family structures which are not exempt pursuant to subsection C below.
- C. Exemptions from the requirement for a Design Permit include:
 - 1. First floor additions of up to 400 square feet or 25% of the existing gross building floor area (whichever is less), at the rear of the property or structure, which is not visible to the general public, does not exceed 15 feet in height (8 feet to the top of the plate), and which uses similar, compatible or upgraded quality building materials;
 - 2. A single accessory structure on the property of 80 square feet in size or less, 8 feet or less in height, and with no plumbing or electrical fixtures.

17.15.035 Design Permit Approval. Design Permits identified in section 17.15.030 above shall be considered at a public hearing as outlined in Section 17.63.080; following review and consideration by the Architectural and Site Review Committee as determined necessary by the Community Development Director/Zoning Administrator.

- A. The Community Development Director/Zoning Administrator shall be authorized to approve or deny Design Permit applications for:
 - 1. First-floor additions up to 400 square feet or 25% of the existing gross floor area, whichever is less (although certain additions of this type are exempt under section 17.15.030(C) (1);
 - 2. Minor repairs, changes and improvements to existing structures which use similar, compatible or upgraded quality building materials, on residences which are not historic resources.
 - 3. Additional accessory structures beyond the single 80 square-foot or less in size accessory structure which is exempt as per Section 17.15.030 (C) (2) above.
- B. The Planning Commission shall be authorized to approve or deny Design Permit applications for:
 - 1. All new residential dwelling unit construction;
 - 2. Upper floor additions;
 - 3. Additions of more than 400 square feet or 25% of the existing gross floor area, whichever is less;
 - 4. Design Permits accompanied by a request for Conditional Use Permit, Variance, or Minor Land Division;
 - 5. All Design Permit applications referred by the Community Development Director or appealed from the Community Development Director/Zoning Administrator's decision.

17.15.040 Principal permitted uses. The following are principal permitted uses in an R-1 district:

- A. One-family dwellings;
- B. Agriculture, horticulture, gardening, but not including commercial nurseries, or the raising of rabbits, dogs, fowl or other animals for commercial purposes or the sale of any products on the premises. See Section 17.81.050 for more specific regulations;
- C. Small community care residential facilities;
- D. Small family day care homes.

17.15.050 Accessory uses. The following are accessory uses permitted in an R-1 district:

A. Signs in compliance with the municipal sign code, identifying residences and advertising property as being for sale, lease, or rent;

B. Accessory uses, structures, and buildings customarily appurtenant to a permitted use such as private garages. See Section 17.81.110 for additional regulations.

17.15.060 Conditional uses. The following are conditional uses in an R-1 district, subject in each case to the securing of a use permit, as provided in Chapter 17.60:

A. Private schools which offer instruction in several branches of learning and study required to be taught in the public schools by the Education Code of the State of California, nursery schools, day care centers, and private nonprofit recreation areas;

B. Churches and religious institutions;

C. Golf courses and country clubs;

D. Temporary real estate offices, construction yards and sheds;

E. ~~(Reserved) Home occupations, subject to Section 17.03.310 requirements;~~

F. Large family day care homes and large community care residential facilities; provided, that in addition to Chapter 17.60 requirements, the following requirements are met:

1. The applicant shall submit the following:

a. A letter or certification of final approval from the state or county licensing authority,

b. A site plan of the property showing parking, outdoor exercise area and fencing,

c. A letter from the fire department approving the safety of the structure for the use,

d. A letter of application describing the type of use, number of residents, age of residents, any special resident care that is provided, and a daily work schedule showing the number of employees at the facility,

e. Landscaping and other information as required by the planning Community Development Director,

2. A public hearing shall be held by the planning commission with notification made as specified in Section 17.60.070. In addition, not less than ten days prior to the meeting, all property owners within three hundred feet of the outermost boundary of the parcel should be notified of the nature of the application, the name of the applicant, and the time and place of the public hearing before the planning commission;

G. Any activity which includes any significant alteration of an historic feature;

H. Bed and breakfasts, subject to requirements of Section 17.03.085;

I. TRO: transient rental use overlay district (See Chapter 17.19 of this code.)

17.15.070 (Reserved).

17.15.080 Height regulations. No structure shall exceed twenty-five feet in height to the highest point of the roof, ridge or parapet wall, although a twenty-seven foot height limit may be permitted by the Planning Commission for half-story designs and buildings that use historic design elements which meet the applicable side and rear setback standards. No detached accessory structure, including second dwelling units shall exceed fifteen feet, with a nine-foot ground to top-of-wall plate height, unless an exception is granted by the Planning Commission based on compatible building and roof design on a site with an architecturally or historically significant building. Building height: means the vertical distance

measured from the assumed ground surface of the building. The height of the structure is measured from the assumed ground surface, as specified below:

A. Assumed Ground Surface. "Assumed ground surface" means a line on each elevation of an exterior wall or vertical surface which connects those points where the perimeter of the structure meets the finished grade, subject to the following exception:

1. If there has been grading or fill on the property within five years preceding the time of the application, and that grading or filling has or would increase the height of the finished grade at one or more points where it would meet the perimeter of the proposed structure, the planning commission may measure heights from where it estimates the grade is or was before the grading or filling, if the commission determines that such an action is necessary to keep the height of the proposed structure in reasonable relationship to the heights in the neighborhood.

17.15.090 Lot area. Each single-family residence together with its accessory buildings shall be located on a legal building lot. The lot area requirements are as follows:

A. The minimum lot area for any lot hereafter created by any "subdivision" (defined in Government Code Section 66424) shall be five thousand square feet;

B. The lot area may be less than five thousand square feet for any existing legally created lot;

C. Except as otherwise provided, there shall be no more than one dwelling on any lot.

17.15.100 Floor Area Ratio~~Lot coverage.~~ Floor Area Ratio (FAR)~~Lot coverage~~ shall be determined as follows:

A.	<u>Lots less than 2,650 sf</u>	<u>58%</u>
	<u>Lots 2,651 to 3,250 sf</u>	<u>57%</u>
	<u>Lots 3,251 to 3,500 sf</u>	<u>56%</u>
	<u>Lots 3,501 to 3,750 sf</u>	<u>55%</u>
	<u>Lots 3,751 to 4,000 sf</u>	<u>54%</u>
	<u>Lots 4,001 to 4,250 sf</u>	<u>53%</u>
	<u>Lots 4,251 to 4,500 sf</u>	<u>52%</u>
	<u>Lots 4,501 to 4,750 sf</u>	<u>51%</u>
	<u>Lots 4,751 to 5,000 sf</u>	<u>50%</u>
	<u>Lots 5,001 to 6,000 sf</u>	<u>49%</u>
	<u>Lots more than 6,000 sf</u>	<u>48%</u>

Lots of 5,000 or more square feet with approved second dwelling units are permitted a maximum FAR of 60% for all structures, in accordance with Chapter 17.99 "Secondary Dwelling Units". ~~The total floor area shall be no greater than sixty-five percent of the size of the lot.~~

This calculation includes the gross building area, including covered parking, as further described in paragraphs B through F below.

B. The following building elements shall be included in the Floor Area Ratio Calculation:

1. That portion of the basement which exceeds ~~The first two hundred fifty gross square feet of a~~ basement, including the measurements of the access stairway, ~~shall not be included when calculating~~
 2. lot coverage. ~~Only the portion of a basement that exceeds two hundred fifty gross square feet shall be included in the lot coverage calculation.~~ For all structures, the area of the stairwell shall

not be counted twice, but in all cases interior area above a projected floor to ceiling height of two feet shall be included in the FAR.

3. Windows projecting more than 12" from the wall.

4. Covered or uncovered upper floor decks, and covered exterior open space in excess of 150 square feet.

5. All accessory structures other than a single building of less than 80 square feet or less in size, less than 8 feet or less in height, and without plumbing or electrical fixtures.

C. The following shall not be included in the Floor Area Ratio calculation:

1. All vehicular rights-of-way which allow others to use the surface of the property, shall be excluded from the lot area for purposes of this section.

2. The first 250 square feet of basement area including the stairway serving that area.

3. The stairway serving the upper floor in a one and one-half story home.

4. Chimneys and projecting windows less than 12" deep.

5. First level decks 30" or less in height.

6. One hundred (100) square feet of ancillary area in a detached garage.

D. The footprint of all structures, except one accessory buildings of less than fifty eighty or fewer square feet, 8 feet or less in height, and without electrical or plumbing fixtures, shall conform to all applicable setback requirements, i.e. for a secondary dwelling unit, detached garage, or principal residential structure. (move to Section 17.15.140 Accessory Structures)

E. Deck area in excess of twelve square feet shall be included in the calculation.

F. The area of any accessory building (See D.) which exceeds fifty square feet shall be included in the total floor area calculation.

17.15.110 Yards. A. The front yard setback shall be measured from the edge of the public right-of-way. The setback established in accordance to this section shall be the minimum for any part of the structure, with the exception of permitted encroachments. The front setback shall not be measured as the average setback across the front of the building.

B. Front yards for the first floor shall be not less than fifteen feet in depth, except as provided in subsection (B)(1) of this section.

1. In those special areas specified in subsection (B)(2) of this section, the front yard setback may be the average of those lots on the same side of the street within five hundred feet of the subject property; provided, that the front setback is at least ten feet, subject to planning commission approval.

2. The special areas mentioned above shall include the following areas:

Sunset/Riverview area consisting of the following streets: Beverly Avenue; Oak Drive; Gilroy Drive; Center Street; Sunset Drive; Riverview Drive to Riverview Avenue, and Riverview Avenue to the north side of the Southern Pacific Railroad trestle.

C. Front yard setback for the second floor and attached covered parking shall be twenty feet from the front property line, although the setback to covered parking may be reduced to eighteen feet in sidewalk exempt areas. The front yard setback for detached garages or carports shall be forty feet.

D. Front yards area not required for parking shall be landscaped to achieve a 15% tree canopy in accordance with Chapter 12.12 of the Municipal Code; and including a two-foot planter strip between uncovered parking in the front setback and the side property line, and that landscape area maintained in good condition.

E. Side yards shall be at least ten percent of the property width although not more than seven (7) feet shall be required, and but in no case shall less than threefour feet be permitted, except in the following cases;

1. On a corner lot, the side yard setback on the street side shall be a minimum of ten feet (adjacent to the neighboring front yards); and the minimum rear yard shall be the minimum side yard of the adjacent property, but no less than four feet.

2. When a garage obtains access from a side yard, on a corner parcel, the garage shall be set back twenty feet, although this setback may be reduced to eighteen feet in sidewalk exempt areas.

3. For levels above the first floor, set back shall be at least fifteen percent of the side yard although not more than ten (10) feet shall be required. For half-stories, projected building area under/from the roof (e.g. shed or dormer areas) shall also meet the second floor setback requirements. Up to 20% of a second floor wall may be at the same setback as a first-floor wall with a setback of at least four (4) feet.

4. For detached, covered parking the minimum side setback is three (3) feet.

5. For portions of the structure with setbacks between three and four feet, the maximum wall plate height shall be twelve feet.

F. Rear yards shall have a depth equal to not less than twenty percent of the depth of the lot to a maximum required depth of twenty-five feet for such rear yard, with the exception of rear yards associated with detached, covered parking for which the minimum rear setback is eight (8) feet. The minimum setback between the main structure or other detached accessory structures, with or without a breezeway, shall be three (3) feet, or as required by the Uniform Building Code.

G. Lot Dimension Determination. For the purpose of chapter, lot depth shall be the average length of the side property lines which run approximately perpendicular to the street, and the lot width shall be the average length of the front and rear property lines. In the case of an oddly-shaped lot, the city planner shall determine the lot depth and width using the criteria for normally-shaped lots as a guideline. Anyone affected by the city planner's determination may file, within ten days of the determination, a written appeal with the planning commission, which shall consider and decide the matter. No fee shall be required.

17.15.120 Yard encroachments. A. Cornices, eaves, canopies, fireplaces and similar architectural features, but not including any flat wall or projecting closet, may extend into any required side yard a distance not exceeding two feet or into any required front or rear yard a distance not exceeding four feet; provided, that these features do not come within ~~three~~four feet of the property side yard boundaries for chimneys and projecting windows with no floor area, and two feet for fire-safe cornices, eaves, canopies, and rain gutters on the first floor.

B. Main entry porches, stairways, fire escapes, or landing places may extend into any required front yard on the ground floor for a distance not to exceed four feet; and into any required rear yard on the ground floor for a distance not to exceed six feet, and into any required side yard on the ground floor for a distance not to exceed one half the width of the required side yard, provided that these features do not come within ~~three~~four feet of the side property boundaries, and ten feet of the front property boundary.

C. Single-story ~~a~~ Additions to existing single-story residential units which do not exceed ~~fifty~~forty percent of the length of the average of the two sides of the structure may be constructed at the same setback as the existing structure, as long as a minimum four-foot setback remains.

D. Second story additions must meet setback requirements, except that up to 20% of the length of the upper story wall may be constructed at the same setback as the first-floor wall, if that wall is at least four feet from the side property line.

E. Projecting bay windows may extend into any required front or rear yard for a distance not to exceed two feet. The width of the opening required for a bay window which encroaches into any required front or rear yard may not exceed sixty percent of the width of the wall in which it is located. Any bay window which projects more than 18 inches from the wall will be included in the useable area,

~~including window seats and floor extensions, added within a bay window shall be included in the lot coverage/floor area ratio calculation.~~

~~FF. Projecting bay windows may extend into any required side yard for a distance not to exceed two feet provided that the bay window is set back at least threefour feet from the side property lines on the first floor. The width of the opening required for a bay window which encroaches into any required side yard may not exceed sixty percent of the width of the wall in which it is located. Any bay window which projects more than 12 inches from the wall will be included in the floor area ratio~~useable area, including window seats and floor extensions, added within a bay window shall be included in the lot coverage/floor area calculation.~~~~

GF. Rear and side yard decks on the ground level which are thirty inches or less above grade may encroach into the required setbacks; provided, that these features are setback at least threefour feet from the property line.

17.15.130 Parking. A. The minimum parking requirement for a single-family residence of 1,500~~two thousand~~ square feet or less of floor area shall be two~~three~~ parking spaces, neither~~one~~ of which must be covered.

B. For single-family residences 1,501 to 2000 square feet, two spaces~~greater than two thousand square feet, four spaces are required, one~~two of which must be covered; for residences 2,001 to 2,600 square feet three spaces are required, one of which must be covered; for residences 2,601 to 4,000 square feet four spaces are required, one of which must be covered. Residences greater than 4,001 square feet may require additional parking at the discretion of the Planning Commission beyond the three uncovered and one covered space required for residences up to 4,000 square feet, as per Section D below.

C. Interior (covered) parking spaces shall be a minimum of ten feet by twenty feet clear, as measured from the interior finished wall surfaces.

D. The planning commission may require more parking spaces for residential units over four~~two~~ thousand ~~six hundred~~ square feet, or if a finding can be made that there is a parking problem in the neighborhood.

E. No additional square footage which exceeds ten percent of the existing gross floor area may be added to an existing single-family residence, unless minimum parking requirements are met.

F. Parking spaces required by this section may not be located in any public or private right-of-way.

G. No parking space which is utilized to meet the parking requirements of this chapter, nor the path of access of any such parking space, may, without planning commission approval, be modified in any manner which decreases the utility of the space for parking purposes. All areas shown on architectural and site plans utilized by the property owner are subject to this section, and must be maintained as parking spaces.

H. Tandem parking is permitted for up to two uncovered spaces in front of a garage, with a maximum of three tandem spaces, including the covered space for a single garage.

17.15.140 Garage and accessory buildings. The following development standards shall apply for garages and accessory buildings:

A. Garages and accessory buildings other than approved second dwelling units may not be used for human habitation.

B. In the case of a corner lot, no detached accessory building or detached garage shall be erected altered or moved so as to occupy any part of the front half of such lot.

C. The minimum side setback for detached accessory buildings is three feet. The minimum rear setback is eight feet. The minimum front setback is four feet for detached garages.

D. Detached garages, carports and other accessory buildings must be set back from the primary residential structure by three feet but may be connected to the main building by a breezeway which shall be located in accordance with the yard regulations and uniform building code for detached buildings.

E. A single accessory structure of 80 square feet or less and 8 feet or less in height, with no plumbing or electrical fixtures, may be allowed in side and rear setback areas.

FD. If a garage is in a rear yard, a driveway of not less than twelve feet in width (which may include side yard or easement and which can consist of ten feet in a paved driveway and two feet of landscaping along the side property line in the front setback) shall be provided and maintained. However, a driveway width of eleven feet may be permitted by the Planning Commission for additions and remodels, where the paved driveway is nine feet with two feet of landscaping in the front setback. Driveway width for residential uses shall not exceed twenty feet unless an exception is granted by the Planning Commission due to unusual lot configuration, landscaping or site design considerations. Permeable paving materials, and/or paving strips are encouraged for parking and driveway areas.

G. The width of detached garages or carports in the rear yard is limited to twenty-one feet. The height is limited to fifteen feet (nine feet to the top of the wall plate) however the Planning Commission may approve an exception to allow additional height if necessary to match the architectural style of the existing primary structure.

H. Attached garages which constitute less than 50% of the building frontage are encouraged, as are divided garage doors for double garages.

SECTION 2. SECTION 17.18.030 SHALL BE AMENDED TO READ AS FOLLOWS:

17.18.030 Architectural and site review. A Design Permit for aArchitectural and site review approval shall be secured for the establishment and conduct of any principal permitted, accessory or conditional use in all RM districts as provided in Chapter 17.63.

SECTION 3. SECTION 17.18.040 SHALL BE AMENDED TO READ AS FOLLOWS:

17.18.040 Principal permitted uses. The following are principal permitted uses in an R-M district:

- A. Multiple-family residential dwellings;
- B. Single-family dwellings, subject to the development standards contained in Chapter 17.15, "Single-family Residence District";
- C. Small family day care homes;
- D. Small community care residential facilities.

SECTION 4. SECTION 17.18.060(I) AND SECTION 17.18.060(J) OF THE R-M DISTRICT SHALL BE AMENDED TO READ AS FOLLOWS:

I. Home occupations subject to Section 17.03.310; Reserved.

J. Single-family dwellings on a lot of less than five thousand one hundred square feet or fifty feet width or one hundred feet depth upon which construction is proposed pursuant to subsection B of Section 17.18.090; , subject to the development standards contained in Chapter 17.15, "Single-family Residence District";

SECTION 5. SECTION 17.18.070 SHALL BE AMENDED TO READ AS FOLLOWS:

17.18.070 Development standards. The development standards set forth in Sections 17.18.080 through 17.18.210 shall apply for the development of multiple units on a single site in an R-M district. The development of a single-family home on a site in the R-M district shall be governed by the process and standards contained in Chapter 17-15 "R-1 Single-family Residence District".

SECTION 6. SECTION 17.03.020 SHALL BE AMENDED TO READ AS FOLLOWS:

17.03.020 Accessory building. "Accessory building" means a portion of the main building or a detached subordinate building located on the same lot, the use of which is purely incidental to that of the main building structure, or to the use of the land, and which shall not contain living or sleeping quarters, except as provided by Chapter 17.99 for Secondary Dwelling Units.

SECTION 7. SECTION 17.03.150 SHALL BE AMENDED TO READ AS FOLLOWS:

17.03.150 Carport. "Carport" means an accessory ~~building structure~~ to a residential ~~structure,~~ building open on two, ~~three or four or three~~ sides and attached to, ~~or detached from,~~ a dwelling and established for the convenient loading or unloading of passengers or the storage of an automobile.

SECTION 8. SECTION 17.03.246 SHALL BE AMENDED TO READ AS FOLLOWS:

17.03.246 Floor aarea. "Floor area" means the entire floor area in all enclosed structures, without deduction for such features as interior walls, stairways or storage, except as permitted for one and one-half story single family residences pursuant to Section 17.15.100(B). It also includes the floor area of patios, courtyards and outside dining areas primarily utilized by a business or group of related businesses, its customers, or its employees, as opposed to the general public. Floor Area Ratio means the gross floor area of all of the buildings on the lot divided by the net lot area.

SECTION 9. SECTION 17.03.340 SHALL BE AMENDED TO READ AS FOLLOWS:

17.03.340 Kitchen. "Kitchen" means any room or part of a room used or intended or designed to be used for cooking or the preparation of food for a single dwelling unit, and distinct from a "mini-bar/convenience area" which is intended as a supplemental food preparation area within a single-family home. Such an area is limited to a small refrigerator, a microwave oven, and a small sink with a drain size less than 1.5 inches. No gas line or 220 electric service is permitted within this area. Only one such area is permitted within a dwelling in addition to the kitchen, and internal access within the dwelling must be maintained.

SECTION 10. SECTION 17.03.610 SHALL BE AMENDED TO READ AS FOLLOWS:

17.03.610 Story, half. "Half story" means a partial story under a gable, hip or gambrel roof, the wall plates of which are at least two opposite exterior walls and which are not more than two feet above the floor plate of the first floor, and may floor of such story, include shed or dormer projections from those walls. Dormers may constitute not more than one third of the length of the wall upon which they are located, whether as a single unit or multiple dormers.

SECTION 11. SECTION 17.72.070 SHALL BE AMENDED TO READ AS FOLLOWS:

17.72.070 Permissible structural alterations. Structural alterations of nonconforming structures, as defined in Section 17.03.640, shall be limited as follows: at the time application for a structural alteration is made, the building official shall determine the cost at prevailing contractor rates of the total work of the improvements involved, excluding permit costs, landscaping costs and architectural costs. If that cost, added to the costs (similarly calculated) of other work involving structural alterations, commenced in the preceding five years, exceeds sixty eighty percent of the present fair market value of the structure (as it would be without any of the structural alterations), the proposed structural alterations may not be made.

SECTION 12. SECTION 17.51.015(D) SHALL BE AMENDED TO READ AS FOLLOWS:

D. Residential Structures. In the case of residential structures in any district, no additional parking shall be required for reconstruction or structural alteration of existing residential structures, so long as the habitable floor space of the structure is not increased by more than 10 percent. If the structure is enlarged by more than 10 percent, the minimum parking requirements according to Section 17.154.130 and 17.51.130 shall be required.

SECTION 13. SECTION 17.51.063 SHALL BE AMENDED TO READ AS FOLLOWS:

17.51.063 Irrigation. All landscape areas must may have automatic irrigation systems designed to provide complete coverage to promote and sustain healthy plant life, unless an exception is approved by the Planning Commission.

SECTION 14. SECTION 17.51.100 SHALL BE AMENDED TO READ AS FOLLOWS:

17.51.100 Floor area defined. For purposes of calculating the non-residential parking requirements of this chapter, "floor area" means the entire floor area in all enclosed structures, without deduction for such features as interior walls, stairways or storage. It also includes the floor area of patios, courtyards and outside dining areas primarily utilized by a business or group of related

businesses, its customers, or its employees, as opposed to the general public. In shopping centers it does not include quasi-public seating areas as defined in Section 17.51.105.

SECTION 15. SECTION 17.51.130(A) SHALL BE AMENDED TO READ AS FOLLOWS:

17.51.130 Number of Parking spaces required. The number of off-street parking spaces required for each use shall be as follows:

Residential.

A. Residential Structures, Single-family Detached.

1. The minimum parking requirement for single-family residential units up to 15200 square feet shall be two uncovered spaces. any size single family residential unit of two thousand square feet or less of floor area shall be three parking spaces, one of which must be covered.

2. For single-family residential units units 1,5201 square feet to 2,01700 square feet (not including the covered parking space up to 300 square feet in size), the minimum requirement shall be two spaces, one greater than two thousand square feet, four spaces are required, two of which must be covered.

3. For single-family residential units 2,01701 square feet to 2,6300 square feet (not including the first covered parking space up to 300 square feet in size), the minimum parking requirement shall be three spaces, one of which must be covered.

4. For single-family residential units 2,6301 square feet to 4,000 square feet (not including the first covered parking space up to 300 square feet in size), the minimum parking requirement shall be four spaces, one two of which must be covered.

5. For single-family residential units 4,001 square feet and larger, the minimum parking requirement shall be one covered space and three uncovered spaces unless the Planning Commission determines that additional parking is needed based on house size, location, and/or conditions in the neighborhood.

653. Interior (covered) parking spaces shall be a minimum of ten feet by twenty feet clear, as measured from the interior finished wall surfaces. An additional 100 square feet of ancillary activity area, e.g. laundry, workshop, or storage, which is not included in the area subject to additional parking requirements, isare permitted in conjunction with the first required covered space provided in a detached garage.

764. The planning commission may require additional uncovered parking spaces beyond the minimum requirement for residential units over 4000two thousand six hundred square feet, or if a finding can be made that there is a parking problem in the neighborhood.

875. No additional square footage exceeding ten percent of the existing gross floor area may be added to an existing single-family residential unit, unless minimum parking requirements are met.

98. Uncovered parking spaces for single-family residential units shall be 109 feet by 20 feet in the front setback (or 18 feet minimum for lots located in sidewalk exempt areas), i.e. on the driveway apron, with two (2) feet of landscaping provided along the side property line, except that for existing homes and remodels, uncovered parking spaces may be 9 feet wide. Uncovered spaces provided in tandem on a single-width driveway beyond the front setback shall also be located within an 11-foot (for remodels and additions) or 12-foot (for new units) area that includes 2 feet of required landscaping adjacent to the side property line. Tandem spaces outside the front setback may be nine feet by 18 feet in length.

109. Two feet of landscape planting is required in the front yard setback between the parking area and the side property line.

110. Maximum width of driveways serving attached or detached garages is 20 feet, not including the landscaped area.

121. A twelve-foot (12') driveway is required to access single attached or detached single garages beyond the front setback for new homes; an eleven-foot driveway may be permitted for remodels and additions. Two cars may be parked in tandem in the driveway in front of a garage or carport.

13. Permeable driveway materials other than gravel are encouraged, as well as paved wheel strips for driveways, to increase extent of pervious surfaces on site.

SECTION 16. SECTION 17.51.180 SHALL BE AMENDED TO READ AS FOLLOWS:

17.51.180 Size of non-residential parking spaces. A. Each off-street parking space shall be not less than nine feet in width and twenty feet in length for diagonal parking and ten by twenty feet for right-angle parking, and shall be of usable shape and condition.

B. Parking spaces of less dimensions may be allowed if specifically authorized by the planning commission in an architectural and site approval. The smaller spaces shall be designed to accommodate compact automobiles.

SECTION 17. SECTION 17.81.110 SHALL BE AMENDED TO READ AS FOLLOWS:

17.81.110 Accessory structures. A. All accessory structures 80 or more square feet or with electrical or plumbing fixtures shall require building permits.

B. One accessory structure 80 square feet or less and 8 feet or less in height shall be permitted without a building or design permit and may be located in the side or rear setback. Any additionalAll accessory structures in excess of fifty square feet on any parcel shall comply with the development standards for the district in which they are located. The variance procedure, as provided in Chapter 17.66, shall only apply to the second or more accessory structure(s).

SECTION 18. SECTION 17.81.180 SHALL BE ADDED TO READ AS FOLLOWS:

17.81.180 Placement of Utilities Underground

A. New residential construction or any residential remodels that result in an increase of 25% or greater of the existing square footage shall be required to place existing overhead utility lines underground to the nearest utility pole.

B. Exceptions to this requirement can be made by the Planning Commission if it is determined that a "hardship" exists. Financial hardships are not the basis for exceptions, which may be granted primarily for environmental reasons, such as tree preservation, proximity to water courses or archaeological sites, and similar considerations. e.g. the overhead utility line traverses other properties which would render undergrounding difficult and expensive, the undergrounding would result in significant adverse

environmental impacts, or the undergrounding would result in other impacts or hardships as determined by the Planning Commission.

SECTION 19. SECTION 17.81.190 SHALL BE ADDED TO READ AS FOLLOWS:

17.81.190 Yard/Garage Sales

A. Yard/Garage sales for individual residences shall be limited to not more than three, 1-2 day events per calendar year. Block or neighborhood sales would be allowed annually in addition to individual sales.

SECTION 20. SECTION 17.81.200 SHALL BE ADDED TO READ AS FOLLOWS:

17.81.200 Home Occupation Permits and Limitations

A. Home occupations are permitted subject to Section 17.03.310 requirements, and approval of a Home Occupation Permit by the Community Development Director or designated Zoning Administrator. ~~Posting of the site~~neighboring property owners and residents within 100-foot radius will be provided notification that a permit has been issued, with the notice to describe the nature of the home occupation and the limitations imposed. ~~posting to allow for appeals of the issuance of the Permit, which shall then be considered by the Planning Commission.~~

B. All home occupations must comply with the following restrictions and limitations:

1. No advertising signs or banners other than a nameplate, not to exceed one square foot.
2. No display or outside storage of goods, materials, or equipment.
3. No commodities sold on the premises in the normal course of operation.
4. No employees other than the residents of the dwelling.
5. No objectionable noise, odor or equipment and materials.
6. No excessive pedestrian, auto, or truck traffic introduced to the neighborhood as a result of the home occupation.
7. No more than one client/customer at the dwelling at any one time, by appointment only, and not more than three such clients, customers per day.
8. No use of required covered or uncovered parking.
9. Does not provide a service which normally involves the client being present when a significant portion of the services are performed.
10. Automotive repair or detailing services are specifically prohibited.

C. Community Development Director retains the discretion to forward any home occupation permit application to the Planning Commission for approval or termination in response to legitimate complaints regarding noncompliance with home occupation permit limitations.~~B. All yard/garage sales require a permit from the Community Development Department. Said permit shall be displayed during the event.~~

SECTION 21. CHAPTER 17.63 SHALL BE AMENDED TO READ AS FOLLOWS:

Chapter 17.63

ARCHITECTURAL AND SITE REVIEW

Sections:

- 17.63.010 Purpose.
- 17.63.020 Architectural and site review committee.
- 17.63.030 Required when.
- 17.63.040 Application.
- 17.63.50 Maps and drawings.
- 17.63.055 Visualization requirements
- 17.63.060 Fee.
- 17.63.070 Review of application by committee.
- 17.63.080 Hearing and notice.
- 17.63.090 Considerations in review of applications.
- 17.63.100 Conditions.
- 17.63.110 Findings and decision.
- 17.63.120 Notification of approval.
- 17.63.130 Time limitations on approval.
- 17.63.140 Transfer of approval upon change in use.
- 17.63.150 Conformance to approval and site supervision.
- 17.63.160 Appeal to city council.
- 17.63.170 Hearing on appeal.
- 17.63.180 Revocation.
- 17.63.190 Council review.
- 17.63.200 Amendments.

17.63.010 Purpose. The intent of architectural and site review is to secure the general purposes of this title and the general plan and to maintain the character and integrity of the neighborhood by promoting excellence of development, preventing undue traffic hazards or congestion, encouraging the utilization of solar energy, and encouraging the most appropriate development and use of land in harmony with the neighborhood. In fulfilling its intent, architectural and site approval may result in the placement of certain reasonable conditions which exceed the basic development standards listed elsewhere in this title, on the Design Permit which accompanies the architectural and site review process.

17.63.020 Architectural and site review committee.A. The architectural and site review committee shall consist of six members as follows:

1. Architect;
2. Landscape architect;
3. Building official;
4. Community Development ~~Planning~~ Director or designated planning staff;
5. Public works director;
6. Historian.

B. The architect, historian, and landscape architect members of the architectural and site review committee shall be appointed by the mayor; however, a majority of the city council may remove the architect, historian, or landscape architect. At the first meeting of the city council following the effective date of the ordinance codified or amended in this section, the mayor should appoint the architect, historian, and landscape architect members, whose terms will expire one month after the certification of any regular election of city council members. The mayor, at his or her discretion, may appoint an alternate architect, alternate historian, and alternate landscape architect member to serve in the absence of the regular architect or landscape architect. A majority of the city council may remove the alternate

architect, alternate historian, and alternate landscape architect. The terms of the alternate architect, alternate historian, and alternate landscape architect will expire at the same time as the terms of the regular architect and landscape architect.

17.63.030 Required when. A Design Permit for ~~Site plan and architectural~~ and site review is required for the following structures, uses or significant building changes:

- A. Any use or structure requiring architectural and site review in the applicable district regulations ~~(17.15.030)~~;
- B. Any use requiring a conditional use permit or variance;
- C. Any use requiring architectural and site review by a condition of a previous permit;
- D. Any use of factory-built or modular built housing in a district;
- E. The establishment of solar energy systems as provided in Section 17.81.120 and 17.81.130;
- F. Any dish-type antenna which is larger than twenty-four inches in diameter, except the following:

- 1. Those located in a rear or side yard which are: (a) not visible either from the public right-of-way upon which the property fronts; or (b) not visible from the ground level of the adjacent properties,
- 2. Those located upon flat roofs which: (a) do not exceed twenty-four (24) inches in height above the roof and have no dimension which exceeds twenty-four (24) inches,
- 3. Those located on sloping roofs where: (a) no part of which exceeds the height of the highest part of the roof, and (b) no dimension of which exceeds twenty-four (24) inches,
- 4. Those entirely prohibited by Section 17.81.140.

17.63.040 Application. Application for architectural and site review shall be filed with the Community Development Department ~~planning commission, which.~~ The ~~planning commission~~ shall prescribe the form of application and data to be filed with the application. The application shall be signed by the property owner. Except where such information is obviously of no use to the Community Development Department staff or Planning Ceommission, such applications should include an evaluation of whether the proposed project:

- A. Makes maximum use of solar energy potential;
- B. Totally or partially blocks sunlight to the south roof and wall of adjacent buildings;
- C. Utilizes most appropriate placement of solar energy systems;
- D. All plans for development or any other type of building and planning for four or more residential units or for any commercial use shall be designed or produced by a licensed architect or civil engineer. All such building or architectural design drawings shall be stamped and signed by a licensed architect or civil engineer.

17.63.050 Maps and drawings. Maps and drawings shall be submitted to indicate the following:

- A. A topographic map and site development plans or a staged development master plan showing:
 - 1. The siting of all structures on subject property and on adjoining properties to show ~~that~~ that privacy, light and air are preserved, so as not to be detrimental to the orderly and harmonious development of the city,
 - 2. Landscaping and/or fencing of yards and setback areas and use of landscaping and/or walls or fencing for screening purposes,
 - 3. Design of ingress and egress so as not to interfere with normal traffic flow on abutting streets,
 - 4. Off-street parking and loading facilities,

5. Disposition of Major drainage on the site and in the sidewalk-exempt easement areas plan,

6. Designation of areas to be computed as usable open space, including balconies, roof decks, patios and other spaces or areas at grade, as appropriate,

7. Designation of location of existing fire hydrants;

B. Drawings to scale of the exterior elevations and/ or perspective drawings of the buildings or structures under consideration;

C. Preliminary floor plans, to scale, of the buildings under consideration.

D. Calculation and identification on the plans of all areas included in the FAR.

17.63.055 Visualization requirements. The City of Capitola shall have the authority to require an applicant to carry out certain visualization techniques in order to assist with city and public review of a proposed project. Projects subject to the visualization requirements includes those designated pursuant to visualization guidelines adopted by resolution of the city council. Projects proposed for major development sites, or within or adjacent to defined vista points or visually sensitive areas, or which request a height variance, or for which the city determines that carrying out visualization will assist with the development review process, shall carry out visualization techniques for the proposed development in accordance with guidelines adopted by resolution of the city council.

17.63.060 Fee. An application fee for architecture and site review, culminating in approval or denial of a Design Permit, shall be established by the city council resolution.

17.63.070 Design Permit Approval. Design Permits identified in section 17.63.030 above shall be considered at a public hearing as outlined in Section 17.63.080; following review and consideration by the Architectural and Site Review Committee as determined necessary by the Community Development Director/Zoning Administrator.

A. The Community Development Director/Zoning Administrator shall be authorized to approve or deny Design Permit applications for:

1. First-floor additions up to 400 square feet or 25% of the existing gross floor area, whichever is less (although certain single-family residential additions of this type are exempt under section 17.15.030(C) (1);

2. Minor repairs, changes and improvements to existing structures which use similar, compatible or upgraded quality building materials, on structures which are not historic resources.

3. Additional accessory structures beyond the single 80 square-foot or less in size accessory structure which is exempt as per Section 17.15.030 (C) (2).

B. The Planning Commission shall be authorized to approve or deny Design Permit applications for:

1. All new residential dwelling unit construction;

2. Upper floor additions;

3. Additions of more than 400 square feet or 25% of the existing gross floor area, whichever is less;

4. Design Permits accompanied by a request for Conditional Use Permit, Variance, or Minor Land Division;

5. All Design Permit applications referred by the Community Development Director or appealed from the Community Development Director/Zoning Administrator's decision.

~~17.63.070 Review of application by architectural and site review committee, and action on permit application by Planning Commission.~~

~~A. The architectural and site review committee shall review all applications for architectural and site review as required by this title or by condition of a permit. The committee shall make reports and recommendations on each application to the planning commission.~~

~~B. The architectural and site review committee shall review all new single family development, and improvements to existing single family structures which either:~~

- ~~1. Increase the gross floor area of an existing structure by more than fifty percent;~~
- ~~2. Significantly alters the appearance of an existing single family residence either by the addition of living space or by the alteration of exterior building materials, as determined by the planning director.~~

17.63.080 Hearing and notice. Design Permit Applications for architectural and site review may be heard by the architecture and site review committee without the notice required by other provisions of this title. The city planner shall arrange with the applicant a time and place of meeting between the applicant and the committee.

A. Consideration of Design Permits for architectural and site review by the Community Development Director/Zoning Administrator, shall be carried out at a duly noticed public hearing for which neighboring properties (both owner and occupant) within 100 feet of the subject property are notified, ten days in advance of the hearing, by mail and by posting the site with the time and date of the meeting.

B. Consideration of Design Permits for architectural and site review by the planning commission, shall be carried out at a duly noticed public hearing for which neighboring properties (both owner and occupant) within 300 feet are notified by mail and the site is posted with the time and date of the meeting.

17.63.090 Considerations in review of applications. The considerations of the architectural and site review committee, Community Development Department, and/or Planning Commission shall include, but not be limited to, the following:

A. Considerations relating to traffic circulation, safety and congestion;

B. Considerations relating to outdoor advertising:

1. The number, location, color, size, height, lighting and landscaping of outdoor advertising signs and structures in relation to the creation of traffic hazards and the appearance and harmony with adjacent development;

C. Considerations relating to landscaping:

1. The location, height and materials of walls, fences, hedges, trees and screen plantings to insure harmony with adjacent development or to conceal storage areas, utility installations or other unsightly development,

2. The planting of groundcover or other landscape surfacing to prevent dust and erosion,

3. The prevention of unnecessary destruction of existing healthy trees,

4. Usable open space shall be reviewed both with respect to area and quality of landscape development;

D. Considerations relating to site layout:

1. The orientation and location of ~~buildings~~ buildings, decks or balconies, and open spaces in relation to the physical characteristics of the site, the character of the neighborhood and the appearance and harmony of the buildings with adjacent development such that privacy of adjacent properties is maintained to the greatest extent possible.

17.63.120 Notification of approval. Upon grant of a Design Permit for architectural and site approval, the ~~Community Development Director/Zoning Administrator~~ secretary of the planning commission shall prepare and deliver to the applicant a formal notice statement stating the fact of the grant and any conditions attached thereto. Such notice shall not be delivered until the period for appeal has expired.

17.63.130 Time limitations on approval. A. In any case where an approved Design Permit ~~an architectural and site approval~~ has not been activated by the issuance of a building permit or otherwise used, ~~used~~ within etwone ~~two~~ years after the date of granting thereof (or within such other period of time which may be prescribed in the permit), or within any extension granted pursuant to Section 17.82.160, then without further action, the permit will expire. Such termination will take effect without further city action if a timely request for extension of time has not been made or is denied. Any interruption or cessation beyond the control of the property owner shall not result in the termination of such right or privileges.

B. For purposes of this section, "used" has the definition set forth in Section 17.60.090(B).

17.63.140 Transfer of approval upon change in use. A Design Permit for a ~~Architectural and site approval~~ may ~~shall be deemed revoked~~ transfer to subsequent tenant(s) of the site/structure if the use for which the approval was granted is changed, however unless, upon application to the architectural and site review committee, the approval is transferred. ~~The Community Development Director~~ committee shall not approve ~~transfer the approval to a~~ the new use if he/she it finds that the changed use does not meet previous approval ~~meets the requirements of this section for the changed use.~~ If the ~~Director~~ committee does not reissue the approval, a new application must be filed.

17.63.150 Conformance to approval and site supervision. The city planner shall perform site supervision as part of the building permit procedure for developments for which architectural and site approval has been granted, and the city planner shall follow through to ensure that all provisions and conditions of the architectural and site approval are complied with.

17.63.160 Appeal to city council. A determination of the Community Development Director/Zoning Administrator with respect to a Design Permit for architectural and site review may be appealed to the planning commission. A determination of the planning commission with respect to a Design Permit for an architectural and site review is appealable to the city council. The appeal shall be in writing and shall give reasons for the appeal and specifically state where the ~~planning commission's~~ findings or procedures were in error. If the appeal is by the applicant ~~from a decision by the planning commission~~, there shall be no fee for filing such appeal. If the appeal is by others ~~from a grant an approval~~ by the Community Development Director/Zoning Administrator or planning commission, the fee for filing such appeal shall be set by city council resolution. In the absence of such a request being filed with the planning commission or city council within ten working days after determination by the Community Development Director/Zoning Administrator or planning commission, such determination is final.

17.63.170 Hearing on appeal. In any appeal before the city council in an architectural and site review matter, consideration by the council shall be limited to the evidence and matters presented at the original hearing before the planning commission; provided, that the city council may, by motion duly passed, elect in its discretion to grant a hearing de novo.

17.63.180 Revocation. A. The planning commission may, after holding a public hearing, revoke or amend a Design Permit for architectural and site approval for either of the following reasons:

1. That the approval of the permit was based upon false information submitted by the applicant;
2. That the permit is being exercised contrary to the terms or conditions of approval, or in violation of this title.

B. The violation of any of the conditions imposed by the Community Development Director/Zoning Administrator or planning commission in connection with the granting of a Design Permit for any architectural and site approval shall constitute a violation of this title, and shall be subject to the same penalties as any other violation of this title.

17.63.190 Council review. Notwithstanding any other provision of this chapter, the actions of the planning commission are subject to review by the city council at its discretion.

17.63.200 Amendments. A property owner may petition to amend a Design Permit for architectural and site approval by filing a new application.

SECTION 22. PARAGRAPH 17.46.120(B)(1) REGARDING COASTAL PERMIT ISSUANCE SHALL BE AMENDED TO READ AS FOLLOWS:

B. Expiration of Permits.

1. Except as otherwise provided for in conditions of approval, every right or privilege authorized under this chapter shall terminate ~~one year~~ two years after granting the request, if such right or privilege has not been exercised in good faith within that ~~year~~ time. Such termination will take effect without further city action if a timely request for extension of time has not been made or is denied. Any interruption or cessation beyond the control of the property owner shall not result in the termination of such right or privileges.

SECTION 23. PARAGRAPH 17.66.110 REGARDING VARIANCES SHALL BE AMENDED TO READ AS FOLLOWS:

17.66.110 Expiration. ~~If any use for which a variance permit has been granted is not established within one year of the date of delivery of the permit, it shall be deemed automatically revoked.~~ Every right or privilege authorized under this chapter shall terminate two years after granting the request, if such right or privilege has not been exercised in good faith within that time. Such termination will take effect without further city action if a timely request for extension of time has not been made or is denied. Any interruption or cessation beyond the control of the property owner shall not result in the termination of such right or privileges.

SECTION 24. PARAGRAPH 17.60.090(A) REGARDING CONDITIONAL USE PERMITS SHALL BE AMENDED TO READ AS FOLLOWS:

17.60.090 Expiration. A. In any case where a conditional use permit has not been used within ~~one year~~ two years after the date of granting thereof, (or within such other period of time which may be prescribed in the permit) or within any extension granted pursuant to Section 17.81.160, then

without further action the permit will expire. Any interruption or cessation beyond the control of the property owner shall not result in the termination of such right or privileges.

SECTION 25. Development applications filed with the City of Capitola Community Development Department before the effective date of the ordinance shall be evaluated under zoning regulations then in effect, however, if during the permit review process any applicant voluntarily decides to modify plans to be consistent with the new ordinance that becomes effective prior to the time that the application is acted upon by the Planning Commission or City Council, the subject development application shall be evaluated under the amended zoning development standards and regulations as are approved by the Coastal Commission and City Council.

SECTION 26. This ordinance shall be in full force and take effect upon approval and certification by the California Coastal Commission. If the Coastal Commission modifies any portion of the ordinance, only the sections with modifications will require formal action by the City of Capitola.

This ordinance was introduced on the 8th day of July, 2004, and was passed and adopted by the City Council of the City of Capitola on the 22nd day of July, 2004; by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED: _____
Stephanie Harlan, Mayor

ATTEST:

_____, CMC
Pamela Greeninger, City Clerk

17.15.060 Conditional uses. The following are conditional uses in an R-1 district, subject in each case to the securing of a use permit, as provided in Chapter 17.60:

A. Private schools which offer instruction in several branches of learning and study required to be taught in the public schools by the Education Code of the State of California, nursery schools, day care centers, and private nonprofit recreation areas;

B. Churches and religious institutions;

C. Golf courses and country clubs;

D. Temporary real estate offices, construction yards and sheds;

E. (Reserved)

~~F. Large family day care homes and large community care residential facilities; provided, that in addition to Chapter 17.60 requirements, the following requirements are met:~~

- ~~1. The applicant shall submit the following:~~
 - ~~a. A letter or certification of final approval from the state or county licensing authority;~~
 - ~~b. A site plan of the property showing parking, outdoor exercise area and fencing;~~
 - ~~c. A letter from the fire department approving the safety of the structure for the use;~~
 - ~~d. A letter of application describing the type of use, number of residents, age of residents, any special resident care that is provided, and a daily work schedule showing the number of employees at the facility;~~
 - ~~e. Landscaping and other information as required by the Community Development Director;~~

~~2. A public hearing shall be held by the planning commission with notification made as specified in Section 17.60.070. In addition, not less than ten days prior to the meeting, all property owners within three hundred feet of the outermost boundary of the parcel should be notified of the nature of the application, the name of the applicant, and the time and place of the public hearing before the planning commission;~~

~~G. Any activity which includes any significant alteration of an historic feature;~~

~~H. Bed and breakfasts, subject to requirements of Section 17.03.085;~~

~~I. TRO: transient rental use overlay district (See Chapter 17.19 of this code.)~~

F. Large family day care homes. No person shall operate a large family day care home without obtaining a large family day care home permit in compliance with the standards set forth within this subsection.

1. Any person seeking a large family day care home permit shall submit an application

minimum standard of 75 square feet of outdoor activity space for each child. The outdoor area must be owned or leased by the applicant and cannot be shared with other property owners unless permission is granted by the joint owners. This space requirement can be waived if the applicant can demonstrate that there is a public park or other public open area that is in close proximity to the large family day care home (for purposes of this subsection, "close proximity" means within two blocks);

c. Is not located within a 500 foot radius of the exterior boundaries of any existing large family day care home or child day care center;

d. Provides at least two parking spaces for customers during the family day care home's hours of operation, and provides parking for any employees as required by Section 17.51.130(P) (one off-street parking space required for each employee not permanently residing at the house). The parking spaces shall be located in a manner to be readily and safely utilized by the customer(s). The required parking spaces may be located on the street along the property frontage (off-site) or on the driveway (on-site). The following are examples of acceptable parking areas:

- i) On-street parking areas along the property frontage;
- ii) Guest parking spaces reserved for the use of the dwelling unit; or
- iii) A private driveway exclusively serving a single dwelling unit such as a single family home.

e. Complies with the following limitations when the dwelling unit is provided with a private driveway and/or garage:

- i) If the driveway is specified as the parking area for the use of the large family day care home, the driveway shall remain clear and available for the customer(s) during the hours of operation; the parking spaces shall not be used by the property owner or day care home operator or employees during the hours of operation;
- ii) The garage shall be utilized for the parking of the property owner's and/or day care home operator's vehicles. Use of the garage for the day care home function, such as for a play area, shall not be allowed.

f. Provides procedures for safely loading and unloading children from vehicles without blocking the public sidewalk and/or right-of-way with vehicles. Double-parking in the street to pick-up or drop-off children shall be prohibited. The applicant shall distribute a notice of loading and unloading procedures to all persons that utilize the services of the large family day care home.

G. Large community care residential facility, provided, that in addition to Chapter 17.60 requirements, the following requirements are met:

1. The applicant shall submit the following:

- a. A letter or certification of final approval from the state or county licensing authority;
- b. A site plan of the property showing parking, outdoor exercise area, and fencing;
- c. A letter from the fire department approving the safety of the structure for the use;
- d. A letter of application describing the type of use, number of residents, age of residents, any special resident care that is provided, and a daily work schedule showing the number of employees at the facility; and
- e. Landscaping and other information as required by the Community Development Director.

2. A public hearing shall be held by the planning commission with notification made as specified in Section 17.60.080. In addition, not less than ten days prior to the meeting, all property owners within three hundred feet of the outermost boundary of the parcel should be notified of the nature of the application, the name of the applicant, and the time and place of the public hearing before the planning commission.

H. Any activity which includes any significant alteration of an historic feature;

I. Bed and breakfasts, subject to the requirements of Section 17.03.085;

J. TRO: transient rental use overlay district (See Chapter 17.19 of this code.)

17.03.242 Family day care home. "Family day care home" means a home that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family day care home or a small family day care home. (See Section 1596.78 of the California Health and Safety Code.)

A. "Large family day care home" means a home that that provides family day care for up to 12 children, or for up to 14 children if certain criteria are met, as set forth in California Health and Safety Code Section 1597.465 and as defined in state regulations (See 22 California Administrative Code Sections 102352(f)(1)(B) & 102416.5(c)). These

capacities include children under age 10 who live in the licensee's home and the assistant provider's children under age 10.

B. "Small family day care home" means a home that provides family day care for up to six children, or for up to eight children if certain criteria are met, as set forth in California Health and Safety Code Section 1597.44 and as defined in regulations (See 22 California Administrative Code Sections 102352(f)(1)(A) & 102416.5(b)). These capacities include children under age 10 who live in the licensee's home.

Amend Section 17.72.080 as follows:

17.72.080 Destruction by fire, explosion, flood or other disaster. Buildings which are destroyed by fire, explosion, flood or other disaster will be allowed to be rebuilt as long as there is no increase in size of structures or intensity of activity and the cost of repair, excluding permits and architectural costs, measured by prevailing contractor rates, does not exceed ~~seventy-five~~ ninety percent of the fair market value of the structure as it existed before the disaster.

~~17.03.242 Family day care home. A "family day care home" is a community care facility which is the family residence of the person operating the facility, in which the operator regularly provides care, protection and supervision to a child or children, other than the operator's own children, for periods of less than twenty-four hours per day, while the parents or guardians are away.~~

~~_____ A small family day care home is one for six or fewer children other than the operator's children.~~

~~_____ A large family day care home is one for seven or more children other than the operator's children. (Ord. 608 §2(part), 1986).~~

(See previous page for amended language for Section 17.03.242).

