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Prepared December 22, 2009 (for January 14, 2010 hearing)

To: Commissioners and Interested Persons

From: Dan Carl, Central Coast District Manager
Susan Craig, Coastal Planner

Subject: City of Capitola LCP Amendment Number 2-09 Part 1 (Affordable Housing Overlay District). Proposed major amendment to the City of Capitola certified Local Coastal Program to be presented for public hearing and California Coastal Commission action at the Commission's January 14, 2010 meeting to take place at the Huntington Beach City Council Chambers located at 2000 Main Street in Huntington Beach.

Summary

The City of Capitola is proposing to amend its Local Coastal Program (LCP) to add Chapter 17.20 to the Implementation Plan (IP) to include standards for an Affordable Housing Overlay (AHO) District, which will allow for increased densities of up to 20 units per acre in return for the provision of a minimum of 50% affordable units. The City also proposes to amend the certified land use plan to change the land use designation for Assessor's Parcel Number (APN) 036-151-15 from RM-LM (Residential Low Medium; 5-10 units/acre) to RM-H (Residential High; 10-20 units/acre) and to amend the zoning map to apply the AHO District to this property. The proposed AHO District text amendment language generally provides appropriate standards for the development of affordable housing. However, the proposed text does not include language to ensure that coastal resources are protected when considering an increase in density on a site located in the coastal zone that is zoned with the overlay. Thus, Staff recommends a modification to require that any project taking advantage of the AHO District's allowable increase in density must be in conformity with the Local Coastal Program, including but not limited to sensitive habitat, public viewshed, public recreational access and open space protections. The suggested modification will allow for increased residential density to encourage affordable housing, while ensuring that coastal resources are protected from inappropriate increases in density.

The City is also proposing to place standards for affordable housing density bonuses (consistent with the requirements of Government Code Section 65915) in a section of the City's zoning code that is not part of the certified LCP. The purpose of these density bonus standards is to encourage the development of affordable housing in the City of Capitola. The City has indicated that the reason for not including the density bonus language as part of the LCP is because the State's requirements regarding density bonuses are frequently amended and the City wants to avoid the need for regular LCP amendments in this regard. As proposed by the City, however, the affordable housing density bonuses placed in a non-LCP section would not apply in the coastal zone. As a result, LCP Land Use Plan (LUP) provisions encouraging affordable housing would not be adequately implemented, and other potential problems are engendered to the extent the non-LCP sections were applied to development in the coastal zone. To remedy these issues, Staff recommends that the Commission approve a modification to provide for density bonuses



for affordable housing in the coastal zone consistent with Government Code Section 65915 and Coastal Act Section 30604(f) to the extent that such increases in density do not adversely impact coastal resources. Staff has worked closely with the City on the appropriate language to insert in the LCP in this respect, and City staff and Commission staff are in agreement on the recommended modifications. The three necessary motions and resolutions are found on pages 2-4 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on October 21, 2009. The proposed amendment affects the LUP and the IP, and the original 90-day action deadline is January 19, 2010. On December 11, 2009, the Commission extended the action deadline by one year to January 19, 2011. Thus, the Commission has until January 19, 2011 to take a final action on this LCP amendment.

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I. Staff Recommendation – Motions and Resolutions

Staff recommends that the Commission, after public hearing, approve the proposed Land Use Plan amendment as submitted and approve the Implementation Plan portion of the amendment only if it is modified. The Commission needs to make three motions in order to act on this recommendation.

1. Approval of Land Use Plan Amendment 2-09 Part 1 as Submitted.

Staff recommends a YES vote on the motion below. Passage of the motion will result in certification of the land use plan amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion (1 of 3). I move that the Commission **certify** Land Use Plan Amendment Number 2-09 Part 1 as submitted by the City of Capitola.

Resolution to Certify. The Commission hereby **certifies** Land Use Plan Amendment CAP-2-09 Part 1 as submitted by the City of Capitola and adopts the findings set forth below on the



grounds that the amendment conforms with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment 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 plan on the environment, or 2) there are no further feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

2. Denial of Implementation Plan Amendment Number 2-09 Part 1 as Submitted
Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the amendment and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion (2 of 3). I move that the Commission **reject** Implementation Plan Amendment Number 2-09 Part 1 as submitted by the City of Capitola.

Resolution to Deny. The Commission hereby **denies** certification of Implementation Plan Amendment Number 2-09 Part 1 as submitted by the City of Capitola and adopts the findings set forth in this staff report on the grounds that, as submitted, the Implementation Plan amendment is not consistent with and not adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse effect which the Implementation Plan Amendment may have on the environment.

3. Approval of Implementation Plan Amendment Number 2-09 Part 1 if Modified
Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the amendment with the suggested modifications and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion (3 of 3). I move that the Commission **certify** Implementation Plan Amendment Number 2-09 Part 1 if it is modified as suggested in this staff report.

Resolution to Certify with Suggested Modifications. The Commission hereby **certifies** Implementation Plan Amendment Number 2-09 Part 1 to the City of Capitola Local Coastal Program if modified as suggested and adopts the findings set forth in this staff report on the grounds that, as modified, the Implementation Plan amendment is consistent 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 plan on the environment; or (2) there are no further



feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Implementation Plan Amendment may have on the environment.

II. Suggested Modifications

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Land Use Plan consistency findings. If the City of Capitola accepts the suggested modifications within six months of Commission action (i.e., by July 14, 2010), by formal resolution of the City Council, the modified amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Text in underline format denotes text to be added.

1. Add new IP Section 17.20.090(D) to the "AHO – Affordable Housing Overlay District" section of the IP as follows:

17.20.090 Findings. In approving a development project which utilizes the Affordable Housing Overlay Zone, the City Council, upon the recommendation of the Planning Commission, shall make the following findings to ensure that the application is appropriate to the purpose and the location...
D. If located within the Coastal Zone, the project is found to be in conformity with the Local Coastal Program, including but not limited to sensitive habitat, public viewshed, public recreational access and open space protections.

2. Add new IP section 17.46.150 to the "CZ - Coastal Zone Combining District" section of the IP as follows:

17.46.150 Residential Density Bonus for Affordable Housing

The Approving Body (or the Coastal Commission on appeal) may approve a density greater than that allowed by the underlying land use and zone district designations for affordable residential projects if the following criteria are met:

- A. The proposed increased density is consistent with Coastal Act Section 30604(f), Government Code Section 65915 and Chapter 18.03 of the Capitola Municipal Code;
- B. If located within the Coastal Zone, the project is found to be in conformity with the Local Coastal Program (including but not limited to sensitive habitat, public viewshed, public recreational access and open space protections), with the exception of the density provisions.

III. Findings and Declarations

The Commission finds and declares as follows:



A. Description of Proposed LCP Amendment

The proposed amendment would add Chapter 17.20 to the City's IP to create an Affordable Housing Overlay (AHO) District. This new chapter is intended to facilitate the provision of affordable housing units through the retention and rehabilitation of existing units or the construction of new units in the Multiple-Family zoning districts.¹ Land designated and zoned with the overlay would qualify for a density of up to 20 units per acre when a proposed development would provide a substantial level² of affordable housing units. The proposed density increase for affordable housing in the AHO District in most cases exceeds the minimum densities required pursuant to the State's density bonus standards (Government Code Section 65915). The proposed IP language provides definitions, allowable uses with a development agreement, development incentives, assurance of affordability for a period of not less than 55 years, pre-application and application procedures, and required findings for proposed affordable housing projects in the AHO overlay district. Please see Exhibit A for the proposed AHO district text.

The proposed amendment would also amend the certified land use map to change the land use designation for Assessor's Parcel Number (APN) 036-151-15 from RM-LM (Residential Low Medium; 5-10 units/acre) to RM-H (Residential High; 10-20 units/acre) and would amend the zoning map to apply the AHO District to this property. This would be the only parcel in the coastal zone to which the new AHO District would apply. Please see Exhibit B for the proposed map changes.

B. Consistency Analysis

1. Standard of Review

The proposed amendment affects the LUP and IP components of the City of Capitola LCP. The standard of review for LUP amendments is that they must be consistent with and adequate to carry out the policies of the Coastal Act. The standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the certified LUP.

2. LUP Amendment Consistency Analysis

A. Applicable Coastal Act Policies

The following Coastal Act policies encourage the provision of affordable housing in the coastal zone of the City of Capitola:

30604(f): *The commission shall encourage housing opportunities for persons of low and*

¹ The R-M (Multiple-Family) zoning district consists of three specific subzones: RM-LM (Low-Medium Density; 5-10 units/acre); RM-M (Medium Density; 10-15 units/acre), and RM-H (High Density; 10-20 units/acre).

² A "substantial level" is defined in the proposed IP amendment as a minimum of 50% of the units being restricted to affordable housing, of which no less than 50% of those units (25% of the total) shall be affordable to households earning low, very low, and extremely low incomes.



moderate income. In reviewing residential development applications for low- and moderate-income housing, as defined in paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code, the issuing agency or the commission, on appeal, may not require measures that reduce residential densities below the density sought by an applicant if the density sought is within the permitted density or range of density established by local zoning plus the additional density permitted under Section 65915 of the Government Code, unless the issuing agency or the commission on appeal makes a finding, based on substantial evidence in the record, that the density sought by the applicant cannot feasibly be accommodated on the site in a manner that is in conformity with Chapter 3 (commencing with Section 30200) or the certified local coastal program.

30604(g): *The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.*

Other sections of the Coastal Act address the siting of priority visitor-serving and recreational uses. The Coastal Act also provides for protection of the public viewshed, public access and recreation, and sensitive habitats.

B. Analysis

The proposed amendment would amend the certified LUP map to re-designate APN 036-151-15 from RM-LM (Residential Low-Medium; 5-10 units per acre) to RM-H (Residential High; 10-20 units per acre) (see Exhibit B for the location of this parcel). The purpose of the proposed re-designation is to allow future higher-density affordable housing on this site of up to 20 units per acre. The site is currently developed with multi-family residential uses. The site is located within an urbanized area that is well served by public infrastructure, including public transportation. The site is located on the inland side of Park Avenue and does not affect views to and along the shoreline. Thus, increased residential density at this site will not affect views towards the sea. This inland site does not provide for, and is not appropriate for, public access trails or accessways to the ocean. There is no sensitive habitat on the site. Given all of the above, the site is appropriate for a change in land use designation from R-LM to R-H. Thus, the proposed land use map amendment is consistent with the requirements of Sections 30604(f) and 30604(g) of the Coastal Act regarding encouraging affordable housing in the coastal zone, and is also consistent with the resource protection policies of the Coastal Act



3. IP Amendment Consistency Analysis

A. Applicable Policies

The following certified LUP provisions and policies (in relevant part) encourage the provision of housing, including affordable housing, in the coastal zone of the City of Capitola:

***Residential Development:** More residential units are required to serve the needs of the residents of the City of Capitola...*

***Land Use Policy I-2 – Implementation (A):** The City shall rezone sites identified on the Land Use Map as appropriate for residential use.*

***Land Use Policy III-15:** Long-term and short-term housing should be maintained and encouraged...*

The City of Capitola LUP also contains numerous policies requiring that development, including affordable housing development, protect coastal resources, including, but not limited to, visual resources, environmentally sensitive habitat, open space, and public access and recreation.

B. Analysis

The proposed amendment would add Chapter 17.20 (Affordable Housing Overlay District) to the IP (see Exhibit A for proposed amendment text). The purpose of the AHO District is to facilitate the provision of affordable housing units through the retention and rehabilitation of existing units or the construction of new units. The AHO District will allow a density increase for projects that provide 50% of the units at rents or sale prices that are affordable to low or moderate-income residents, with no less than 50% of those units (25% of the total) being affordable to households earning low, very low, and extremely low incomes. The proposed amendment text: 1) provides definitions of affordability; 2) defines the uses permitted in the AHO District; 3) describes the development incentives for affordability, including specifying the required development standards for the AHO District; 4) requires that affordable units developed pursuant to Chapter 17.20 remain affordable for a period of not less than 55 years; 5) describes pre-application and application procedures, and; 6) requires that specific findings be made to ensure that an application is appropriate to the purpose and the location of the AHO District.

The AHO District does not require a landowner to develop affordable housing on a particular site and does not place any requirements or restrictions on the current uses on a site. Property zoned with the overlay may still be developed with a market rate project, but in that case the project would be subject to the underlying zoning and would be ineligible for the density increase allowed by the overlay.

The proposed AHO District generally provides appropriate standards for the development of affordable housing at a density greater than the underlying zoning district. However, the proposed text does not include language to ensure that coastal resources are protected when considering an increase in density on a site located in the coastal zone that is zoned with the overlay (e.g., sites near public views,



environmentally sensitive habitat, public trails, etc.). Thus, suggested modification 1 requires that any project taking advantage of the AHO District's allowable increase in density must be in conformity with the Local Coastal Program, including but not limited to sensitive habitat, public viewshed, public recreational access and open space protections. The suggested modification will allow for increased residential density to encourage affordable housing, while ensuring that coastal resources are protected from inappropriate increases in density, consistent with the housing and resource protection provisions and policies of the City of Capitola LUP.

The proposed amendment also will amend the certified zoning map to apply the AHO District to one parcel in the coastal zone (APN 036-151-15) (see page 2 of Exhibit B). As discussed above, this site is located in an urbanized area and is currently developed with multiple-family residential housing. This site is well-served by public infrastructure and is located along a public transportation artery. The site does not affect views to or along the shoreline, nor is there any sensitive habitat on this developed site. There is no public access on the site, nor is the site appropriate for public access. Given all of the above, this is an appropriate site for increased residential density to encourage affordable housing. Thus, this aspect of the proposed amendment is consistent with the housing and coastal resource protection provisions and policies of the LUP.

C. State-Mandated Density Bonus Provisions

The City is also proposing to place standards for affordable housing density bonuses (consistent with the requirements of Government Code Section 65915) in a section of the City's zoning code that is not part of the certified LCP. The purpose of these density bonus standards is to encourage the development of affordable housing in the City of Capitola on sites that are not zoned with the affordable housing overlay. The City has indicated that the reason for not including the density bonus language as part of the LCP is because the State's requirements regarding density bonuses are frequently amended and the City wants to avoid the need for regular LCP amendments in this regard. As proposed by the City, however, the affordable housing density bonuses placed in a non-LCP section would not apply in the coastal zone. As a result, LUP provisions encouraging affordable housing would not be adequately implemented, and other potential problems are engendered to the extent the non-LCP sections were applied to development in the coastal zone. Ultimately, any proposed project in the coastal zone that includes an increased density for affordable housing above the density allowed by the underlying zoning district would be inconsistent with the certified LCP.

Government Code Section 65915 - Affordable Housing Background

Section 65915 of the Government Code provides standards and requirements pertaining to affordable housing density bonuses. Section 65915 provides in relevant part:

- 1) *A city, county, or city and county shall adopt an ordinance that specifies the incentives or concessions for the production of housing units and child care facilities that will be made available to an applicant;*



- 2) *A city, county, or city and county shall grant one density bonus (i.e., density increase over the otherwise maximum allowable residential density established under the applicable land use or zoning ordinance) when an applicant for a housing development agrees to construct a housing development that will contain at least any one of the following: a) a minimum of 10 percent of the total units for lower income households; b) a minimum of 5 percent of the total units for very low income households; c) a senior citizen housing development; and d) a minimum of 10 percent of the total dwelling units in a common interest development.*
- 3) *The amount of density bonus to which the applicant is entitled shall vary according to the percentage of affordable housing units proposed, up to a maximum combined mandated density increase of 35 percent;*
- 4) *An applicant for a density bonus may submit to a city, county, or city and county a proposal for the specific incentives or concessions requested and the city, county, or city and county shall grant the concession or incentives requested by the applicant unless said agency makes a written finding based on substantial evidence of either of the following:*
 - a. *The concession or incentive is not required to provide for affordable housing costs;*
 - b. *The concession or incentive would have a specific adverse impact upon public health and safety or the physical environment or on any real property listed in the California Register of Historical Resources, and for which there is no feasible method to mitigate or avoid the specific adverse impact without rendering the development unaffordable to low and moderate income households.*
- 5) *Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact upon the health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.*
- 6) *Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property listed in the California Register of Historical Resources.*
- 7) *An applicant shall agree to, and the city, county, or city and county shall ensure, continued affordability of all low and very low income units that qualified the applicant for the award of the density bonus for 30 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.*

Thus, Section 65915 describes a mechanism for providing incentives for density bonuses provided such incentives/bonuses do not adversely impact the City's environment. Such a density bonus must be consistent with the applicable Coastal Act/LCP requirements. In other words, Section 65915 does not



trump coastal resource protections of the Coastal Act or the LCP. In short, Section 65915 requires that a density bonus be provided, but not at the expense of the physical environment, including coastal resources within the coastal zone.

The City may in the future wish to apply the new non-LCP density bonus provisions in the coastal zone to allow for affordable housing development at densities greater than the LCP would allow. However, these density bonus provisions would not be part of the LCP and thus would not be applicable in the coastal zone. If they were applied to coastal zone development to allow increased density and related measures that did not comply with underlying LCP policies, then such density and related measures would be inconsistent with the LCP. Because the LCP is the standard of review for coastal permits, some subset of such projects would be subject to challenge through appeal to the Commission, and all could be subject to legal challenge for failure to comply with the LCP. Local affordable housing projects have historically been controversial, and thus it seems clear that the potential for such challenges of City decisions is more likely, and perhaps even reasonably foreseeable. These circumstances do not encourage the provision of affordable housing.

One way to resolve this issue is to make the new zoning code sections that implement the affordable housing provisions of Section 65915 part of the LCP. This would require some changes to the new sections to ensure LCP consistency in that respect, but it is a valid option. However, City staff has indicated that the City will not support modifications that add the density bonus provisions to the LCP. A second option is to include a suggested modification as part of this overall IP Amendment that would add a section allowing affordable housing density bonuses if such increased densities were otherwise consistent with the LCP. In this way, the IP would still be adequate to implement the LUP's provisions and policies that encourage the construction of affordable housing in the Coastal Zone. Although the Commission must consider whether this solution adequately implements the LUP, not the Coastal Act, it is still important to note that Coastal Act Section 30604(f) (cited above) encourages affordable housing and requires local governments to approve greater densities for affordable housing projects, as long as those projects are otherwise in conformity with the certified LCP.

The suggested modification thus allows increased densities for affordable housing projects if they are consistent with Coastal Act Section 30604(f), Government Code Section 65915, the City's density bonus provisions, and the certified LCP. Although the Commission does not generally support the use of cross-referencing in LCPs, given the inherent difficulties in ensuring coastal resources are protected when other cross-referenced provisions may be outside of the Commission's purview, in this case the Coastal Act's cross-reference to the densities of Government Code Section 65915 provides a foundation for addressing the issues described above. In other words, replacement LCP text can be added that includes a similar cross-reference as the Coastal Act to ensure that affordable housing continues to be encouraged and additional densities provided for consistent with Government Code Section 65915. Of course, such addition must also ensure that any such increased density is otherwise in conformity with



the LCP³ (including with respect to LCP provisions protecting sensitive habitats, views, public recreational access, and open space). See suggested modification 2.

In addition, to the extent that any such project is located seaward of the first through public road and the sea, it will also need to be consistent with the public access and recreation policies of the Coastal Act.⁴ On this latter point, City staff has indicated that the City is not supportive of a modification to add this required Coastal Act access and recreation finding to the suggested modification text. Although it would provide a valid reference within the new text, it is true that it is redundant because this requirement applies whether it is identified in the text or not. In that respect, the Commission intends that such finding be made in terms of any future density bonus pursuant to the new LCP text because it is a fundamental requirement of the Coastal Act that applies to development seaward of the first public road whether it is stated explicitly in this new LCP text or not.

In conclusion, the suggested modification will allow for increased densities consistent with State law to encourage affordable housing in certain situations, and will at the same time ensure that coastal resources are protected from inappropriate increases in density above that allowed by the underlying zoning district. Thus, as modified, the proposed amendment can be found consistent with and adequate to carry out the certified LUP.

C. California Environmental Quality Act (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments 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 of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential impact on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake.

The City of Capitola adopted a Negative Declaration for the proposed LUP and IP amendments and in doing so found that the amendments would not have significant adverse environmental impacts. This staff report has discussed the relevant coastal resource issues with the proposal. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

³ Similar to the requirement for Coastal Act and LCP conformance explicitly identified in Coastal Act Section 30604(f), Government Code Section 65915(m) includes a similar explicit requirement, namely that "Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 commencing with Section 30000) of the Public Resources Code." In other words, both the Coastal Act and Government Code recognize that such increased densities may only be allowed if the resultant projects adequately protect coastal resources consistent with the Coastal Act and/or the LCP.

⁴ Pursuant to Coastal Act Section 30604(c), this requirement applies to all development within the coastal zone, whether in a local government jurisdiction where there is a certified LCP or not.



As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment would have on the environment within the meaning of CEQA. Thus, the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).



EXHIBIT B: Exact copy of adopted amendment**MUNICIPAL CODE SECTION
Chapter 17.20****AHO - AFFORDABLE HOUSING OVERLAY DISTRICT**

Sections:

17.20.010	Purpose
17.20.020	Applicability
17.20.030	Definitions
17.20.040	Conditionally permitted uses
17.20.050	Development incentives
17.20.060	Assurance of affordability
17.20.070	Pre-application procedure--Consultation recommended
17.20.080	Application--Development plans and map required
17.20.090	Findings for Approval

17.20.010 Purpose.

A. The Affordable Housing Overlay (AHO) District is intended to facilitate the provision of affordable housing units as defined in Section 17.20.030 through the retention and rehabilitation of existing units, or the construction of new units. The AHO District is intended to provide the opportunity and means for the City to meet its regional fair share allotment of such units, and to implement the policies and goals of the Housing Element of the City's General Plan.

B. These regulations are intended to encourage the development of affordable housing units by assisting both the public and private sector in making the provision of these units economically viable, while providing assurances to the City that these units will maintain a high degree of quality and will remain affordable to the target population over a reasonable duration of time.

C. These regulations are further intended to encourage the provision of affordable housing through the combination of the AHO District with multiple family residential zoning districts within the City where the affordable housing projects are determined to be feasible and are consistent with the City's General Plan.

D. The Affordable Housing Overlay provides a density increase for affordable housing development that in most cases exceeds density bonuses permitted by State law (Government Code Section 65915). Consequently, a development may utilize the Affordable Housing Overlay as an alternative to the use of State density bonus but may not utilize both the Affordable Housing Overlay and State density bonuses.

E. The Affordable Housing Overlay is intended to provide a means of directing and simplifying the process for creating and maintaining affordable housing.

F. The Affordable Housing Overlay is also intended to provide incentives to developers whether in new or rehabilitated housing, to maintain rental units for the long term, e.g. not less than 55-years, and affordable ownership units in perpetuity.

17.20.020 Applicability.

A. The regulations set forth in this chapter may be applied to specific sites meeting the following criteria:

1. Be located in the multiple-family residential zoning districts.
2. Is not located in the R-1 zoning district.
3. 1 acre in size.

17.20.030 Definitions.

A. "Affordable housing" means housing capable of being purchased or rented by a household with "very low," "low," or "moderate" income levels at an "affordable housing cost" or "affordable rent," as those terms are defined by the state of California.

B. "Affordable Housing Overlay District" means a zoning district that applies in addition to existing zoning designation where the City encourages the provision of affordable housing units as described in this Chapter.

C. The "very low," "low," and "moderate" income levels are defined by the state of California in Sections 50105, 50079.5, and 50093, respectively, of the California Health and Safety Code, and in Subchapter 2 of Chapter 6.5 of Division 1 of Title 25 of the California Code of Regulations, commencing with Section 6900. These income levels are:

1. Very Low Income. Up to and including fifty percent of the Santa Cruz County median income, adjusted for family size, as defined by the state law;

2. Lower Income. Fifty one percent to eighty percent of Santa Cruz County median income, adjusted for family size, as defined by the state law;

3. Moderate Income. Eighty-one percent to one hundred twenty percent of Santa Cruz County median income, adjusted for family size, as defined by State law.

D. "Affordable housing cost" and "affordable rent" are defined in Sections 50052.5 and 50053, respectively, of the California Health and Safety Code, and in Subchapter 2 of Chapter 6.5 of Division 1 of Title 25 of the California Code of Regulations, commencing with Section 6900.

E. All of the state laws and regulations referenced above, or their successors, as the same from time to time may be amended, are incorporated herein as though fully set forth. In the event of any inconsistency or discrepancy between the income and affordability levels set forth in this chapter and the levels set in state laws and regulations, the state provisions shall control.

17.20.040 Uses Permitted with a Development Agreement.

The following uses are permitted with the execution of a Development Agreement by the City and the developer in accordance with the provisions of California Government Code Section 65864 et seq.

A. Residential developments at a density greater than normally permitted by the underlying, multiple family zoning district (up to 20 units per acre), when the development provides a substantial level of affordable housing units, as defined in Section 17.20.030. A substantial level is defined herein as a minimum of 50% of the units in the project be income restricted affordable housing, of which, no less than 50% of those units (25% of the total) shall be affordable to households earning low, very low and extremely low incomes. A greater level of affordability will not allow a greater level of density. The 20 units/acre limit shall be based on a calculation that includes all existing and all new units on the land area that is being included in the calculation.

B. Accessory uses or structures incidental to the principally permitted use.

17.20.050 Development incentives.

A. General. In order to reduce costs associated with the development and construction of affordable housing, the property development standards set forth in subsection C of this section are established for the AHO district. These property development standards represent a relaxation of standards normally applied to housing in the City and are established in order to facilitate and promote the development of affordable housing in the City and shall be extended upon issuance of a design permit for architectural and site review. As a further inducement to the development of affordable housing beyond the relaxation and flexibility of development standards, the City, where appropriate, may also extend one or more of the

development incentives set forth in subsection D, the selection of which shall depend on the quality, size, nature, and scope of the project being proposed. Incentives shall be targeted to improve the project design or to yield the greatest number of affordable units and required level of affordability, so as to permit the City to meet its regional fair share allotment of affordable housing and the goals of the Housing Element of the City's General Plan. It is also the intent of the City to facilitate affordable housing by encouraging developer involvement with the City's Redevelopment Agency and other public and private entities concerned with the provision of affordable housing and by cooperating with such entities.

B. Eligibility. To be eligible for the property development standards set forth in subsection C of this section requires the developer to propose a housing development containing at least 50% affordable units. All affordable units can be in a single category or there can be a mixture of affordable unit types (although 25% of total must be affordable to low, very low or extremely low-income households) which include:

1. Moderate-income households; or
2. Lower income households; or
3. Very low income households; or
4. Extremely low income households

C. Property Development Standards. The following development standards shall apply to affordable housing units in the AHO district:

1. General Design Standards. The affordable housing units shall be designed and developed in a manner compatible with and complementary to existing and potential development in the immediate vicinity of the project site. Site planning on the perimeter shall provide for protection of the property from adverse surrounding influences and shall protect surrounding areas from potentially adverse influences from the property. To the greatest extent possible, the design of the development shall promote privacy for residents and neighbors, security, and use of passive solar heating and cooling through proper placement of walls, windows, and landscaping. Building design and materials shall blend with the neighborhood or existing structures on the site.

2. Minimum Design Standards. Unless modified by the Planning Commission, the following design standards shall apply to a project that utilizes the density increases allowed by this section.

a. The front façade and main entrance of dwellings adjacent to the front property line shall face the street and must be clearly articulated through the use of architectural detailing.

b. The front entrance of the dwelling facing the street should be defined by at least one of the following: a porch of at least eight feet in width and depth, roof overhang, or similar architectural element.

c. Except for a basement-level garage below grade, any garage, carport or other accessory structure, attached or detached, shall be located at least 15 feet behind the front of the principal building facing the front property line.

d. Sidewalks shall be installed along all street frontages.

e. Existing vegetation on perimeter shall be preserved to maintain a buffer to existing surrounding structures. Existing significant trees are to remain whenever feasible.

f. The Planning Commission may waive, or modify, any, or all, of these requirements when the Commission finds it is infeasible to comply due to physical or other constraints on the lot.

3. Minimum Building Site Area and Lot Area Per Dwelling Unit. There shall be no minimum building site area requirement for individual lots or individual dwelling sites in an affordable housing development. The building site area shall be designated on a site plan approved by the Planning Commission pursuant to Chapter 17.63, Architectural and Site Review.

4. Density. In multiple family residential districts, overall density of site development within an AHO District shall not exceed twenty (20) units per acre. A development may utilize the Affordable Housing Overlay as an alternative to the use of State density bonus but may not utilize both the Affordable Housing Overlay and State density bonuses. "Density averaging" may be used to achieve an overall acceptable density level for a project. As used herein, "density averaging" means meeting the density requirements by averaging the density on a project-wide basis so as to permit higher density levels in certain project portions in exchange for advantageous project design features. In all zoning districts, density permitted by the AHO District shall not exceed what can be accommodated by the site while meeting parking, unit size, and other development standards.

5. Building Height. The building height shall not exceed two-stories or 27 feet from existing grade or finish grade, whichever is more restrictive.

6. Setbacks. The minimum setbacks from the lot line of the project shall be determined through approval of a Design Permit/Architectural and Site Review with the exception of setbacks from property lines adjacent to R-1 zoned property, which shall be a minimum of 20 feet for 1st floors and 50 feet for 2nd floors.

7. Lot Coverage. The maximum lot coverage for a proposed project shall be determined through the Design Permit/Architectural and Site Review

8. Parking. R-1 parking standards shall apply with a minimum two spaces per unit. In addition, a minimum of one visitor parking space for every seven units shall be required.

9. Common Open Space. Common open space shall comprise the greater of (i) ten percent of the total area of the site, or (ii) seventy-five square feet for each dwelling unit. Land occupied by buildings, streets, driveways, parking spaces, utility units, and trash enclosures shall not be counted in satisfying the open space requirement; land in landscaping and passive and active recreation/open space with a minimum depth/width of five feet shall be counted, and land occupied by recreational buildings and structures shall be counted.

10. Streets. All public streets within or abutting the proposed planned development shall be dedicated and improved to City specifications for the particular classification of street; all private streets shall meet fire code and access standards.

11. Accessory Uses and Structures. Accessory uses and structures shall be located as specified on the site plan as approved by the Planning Commission.

12. Signs. Signs shall be permitted only to the extent allowed under Chapter 17.57 and must be approved by the Planning Commission.

D. Additional Development Incentives. In addition to the relaxed and flexible development standards set forth in subsection C of this section, the City may offer other development incentives should the developer meet the eligibility requirements. For example, exceptions, waivers or modifications of other development standards which would otherwise inhibit density and achievement of affordable housing goals for the development site, including but not limited to placement of public works improvements.

17.20.060 Assurance of Affordability.

Affordable housing units developed under this chapter shall remain available to persons and families of very low, low and moderate income, at an affordable housing cost or affordable rental cost, as those income and affordability levels as defined in Section 17.20.030, for a period of not less than fifty-five years, unless a longer period is required by a construction or mortgage financing program, mortgage insurance program, California Redevelopment Law, or housing grant, loan or subsidy program. The period of affordability required hereunder shall run concurrently with any period of affordability required by any other agency; provided, however, that the affordability period shall not be less than as set forth in this section. The project developer shall be required to enter into an appropriate agreement with the City to ensure affordability is maintained for the required period.

17.20.070 Pre-application Procedure.

Prior to submitting an application for an affordable housing development, the applicant or prospective developer should hold preliminary consultations with the Community Development Department, Redevelopment Agency, and other city staff as may be desirable, to obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys and other data. Such preliminary consultations should include information on potential federal, state, and local affordable housing funding availability, and program requirements in guaranteeing the project's consistency with the objectives of this overlay district.

17.20.080 Application--Development plans and map required.

An application for an affordable housing development must be for a parcel or parcels of land, is under the control of the person, corporation, or entity proposing the development. The application shall be accomplished by the submittal of the following plans and maps with the city's standard application form:

A. A boundary survey map of the property or, if the applicant proposes to subdivide the property, a subdivision map.

B. Topography of the property and the preliminary proposed finished ground shown at contour intervals of not to exceed two feet.

C. The gross land area of the development, the present zoning classification and land use of the area surrounding the proposed development, including the location of structures and other improvements.

D. A general development plan with at least the following details shown to scale and dimensions:

1. Location of each existing and each proposed structure in the development area, the use or uses to be contained therein, the number of stories, gross building and floor areas, approximate location of entrances thereof.

2. All streets, curb cuts, driving lanes, parking areas, public transportation points and illumination facilities for the same.

3. All pedestrian walks, malls and open areas for use of occupants and members of the public.

4. Location and height of all walls, fences and screen planting, including a detailed plan for the landscaping of the development and the method by which such landscaping is to be accomplished.

5. Types of surfacing, such as paving or turfing to be used at various locations.

6. A preliminary grading plan of the area.

E. Plans and elevations of building and structures sufficient to indicate the architectural style and construction standards.

F. The proposed means for assuring the continuing existence, maintenance and operation of the project as an affordable housing project.

G. Such other information as may be required by the Director to allow for a complete analysis and appraisal of the planned development.

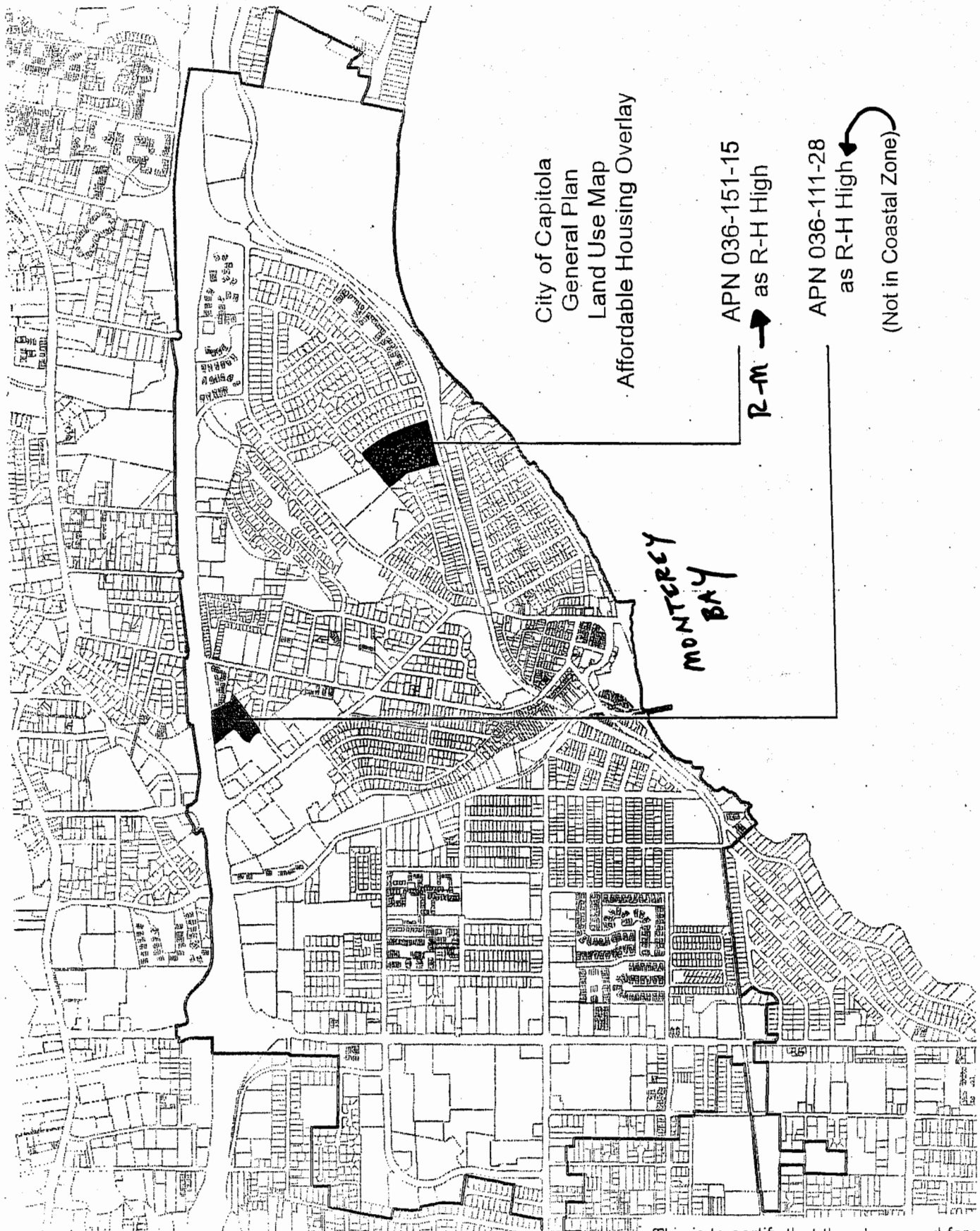
17.20.090 Findings.

In approving a development project which utilizes the Affordable Housing Overlay Zone, the City Council, upon the recommendation of the Planning Commission, shall make the following findings to ensure that the application is appropriate to the purpose and the location.

A. The concessions granted for density and deviation from design standards, are commensurate with the level of affordability. Specifically, the greater the extent of concessions and incentives, the greater the level of affordability.

B. The design of the proposed project, even with the concessions for density and deviation from design standards, is appropriate for the scale and style of the site (where additional units are being added to an existing development) and surrounding neighborhood. Specifically, the development will provide an attractive visual transition and will not significantly impact the integrity of the surrounding neighborhoods.

C. The Developer has agreed to enter into an agreement to maintain the affordability of the project specific to the requirements of the City and any funding sources with greater or longer affordability requirements.



City of Capitola
 General Plan
 Land Use Map
 Affordable Housing Overlay

APN 036-151-15
 R-M → as R-H High

APN 036-111-28
 as R-H High
 (Not in Coastal Zone)

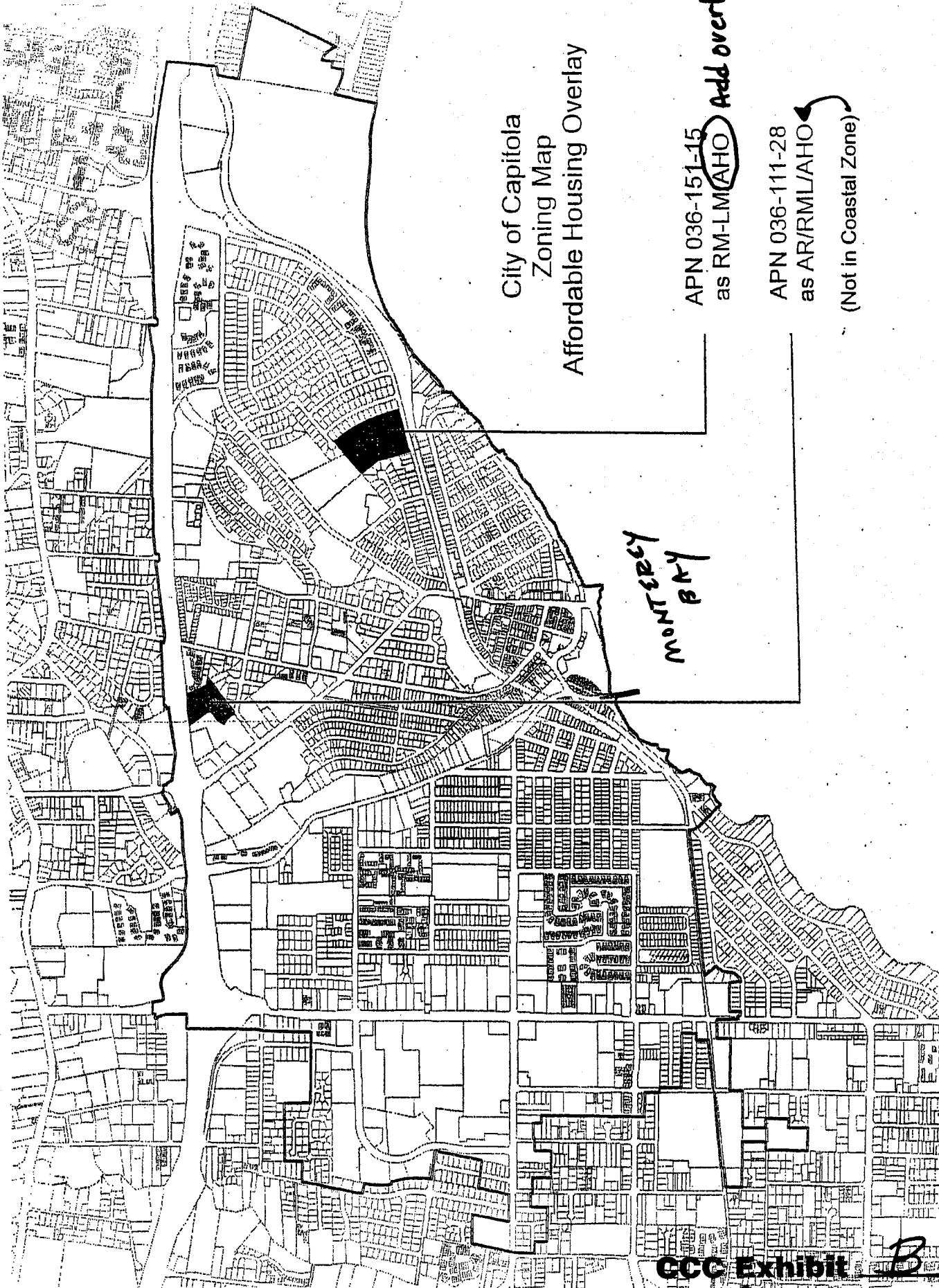
MONTEREY
 BAY

CCC Exhibit B
 (page 1 of 2 pages)

This is to certify that the above and foregoing is a true and correct copy of Resolution No. 3769 passed and adopted by the Capitola City Council on the 23rd day of July, 2009.

Pamela Greening MMC

City of Capitola
Zoning Map
Affordable Housing Overlay



MONTSEBY
BAY

APN 036-151-15
as RM-LM(AHO) **Add overlay**

APN 036-111-28
as AR/RM(LAHO)
(Not in Coastal Zone)