

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
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Th7a

October 28, 2004

TO: Commissioners and Interested Persons

FROM: Charles Lester, Deputy Director *C.L.L. 10/28/04* **RECORD PACKET COPY**
Diane Landry, District Manager
Susan Craig, Coastal Planner

SUBJECT: **CITY OF CAPITOLA: LOCAL COASTAL PROGRAM MAJOR AMENDMENT NO. 1-04.** For public hearing and Commission action at its meeting of November 18, 2004, to be held in San Pedro at the Sheraton Los Angeles Harbor, 601 South Palos Verdes St.

SYNOPSIS

The City of Capitola is proposing to amend the Land Use Plan and Implementation Plan (Zoning Ordinance) of the Local Coastal Program to: 1) amend the Land Use Plan map to re-designate 0.5 acres of APN 034-101-35 from PF/VS (Public Facility/Visitor Serving) to R-MH (Residential-Mobile Homes) and to amend the zoning map for the same portion of this parcel from Public Facility/Visitor Serving/Parks to MHE (Mobile Home Exclusive); 2) amend the zoning ordinance to add more specificity to the procedures and standards for change of use or closure of mobile home parks.

The City Council held noticed public hearings regarding the amendment components.

SUMMARY OF STAFF RECOMMENDATION

Staff has reviewed the proposed Land Use Plan amendment for consistency with the Coastal Act and the proposed Zoning Ordinance amendment for consistency with the certified Land Use Plan. Issues raised by the proposed amendments include protection of moderate cost housing. As discussed in detail below, Staff recommends **approval** of Local Coastal Program Major Amendment No. 1-04 as submitted.

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 LUP and IP components of the City of Capitola LCP. The standard of review for land use plan amendments is that they must be consistent with the Chapter 3 policies of the Coastal Act. 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 Land Use Plan Major Amendment #1-04 as submitted)

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

Motion: I move that the Commission certify Major Amendment #1-04 to the City of Capitola Land Use Plan as submitted.

Resolution to approve land use plan amendment as submitted: The Commission hereby certifies Major Amendment #1-04 to the City of Capitola Land Use Plan as submitted and adopts the findings set forth below on the grounds that the amended land use plan will meet the requirements of and be in conformity 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 there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the land use plan.



Resolution II. (Resolution to approve City of Capitola Implementation Plan Major Amendment No. 1-04 as submitted)

Staff recommends a **NO** vote on the motion below. Failure of this motion will result in certification of the Implementation Plan amendment as submitted 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 #1-04 to the City of Capitola Local Coastal Program Implementation Plan as submitted.

Resolution to approve. The Commission hereby certifies Major Amendment #1-04 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 in conformity with and adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment meets the requirements of the California Environmental Quality Act because there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Plan amendment.

II. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

The proposed amendment calls for the re-designation of a 0.5-acre portion of the existing Surf & Sand Mobile Home Park from PF/VS (Public Facility/Visitor Serving) to R-MH (Residential-Mobile Homes) and the rezoning of this same portion of the existing mobile home park from PF/VS/P (Public Facility Visitor Serving/Parks) to MHE (Mobile Home Exclusive) (see Exhibit 1). This portion of the existing mobile home park was given the designation/zoning of the adjacent railroad right-of-way. Although it is across the street from the shoreline, the 0.5-acre site does not appear to be an appropriate or logical visitor-serving site given the residential character of the surrounding neighborhood, the relatively small size of the site, and the lack of public parking facilities at the site. Also, the City of Capitola has a number of highly used visitor-serving sites and public parking areas that are concentrated in the Central Village area of the City. For these reasons, the proposed amendments to the land use and zoning maps are consistent with the existing use of this portion of the Surf & Sand Mobile Home Park parcel. The removal of the certified designation/zoning is appropriate because the property is not a particularly logical site for a visitor-serving, public facility, or parks use, and there are many other existing visitor-serving amenities nearby in the Central Village area of the City. Finally, as discussed below, Coastal Act Section 30604(g) encourages the provision of affordable housing opportunities, such as mobile homes, in the coastal zone. The proposed amendments to the land use and zoning maps will better meet the goal of Coastal Act Section 30604(g) than the current designation/zoning.

The proposed amendment also amends the zoning ordinance to provide more stringent procedures and standards for change of use or closure of mobile home parks in the City of Capitola (see Exhibit 2). The



amendment recognizes that mobile home parks provide an affordable housing option along this section of the California coast. Because of the unique situation and vulnerability of mobile home owners, state law limits the grounds on which mobile home owners may be evicted from a mobile home park, protects their right to sell their mobile homes, and authorizes local jurisdictions to impose reasonable measures to mitigate the adverse impacts on displaced mobile home owners when a mobile home park closes or converts to another use. Pursuant to state law, the proposed amendment incorporates procedures and standards for reviewing applications for change of use or closure of mobile home parks. The amendment also includes reasonable mitigation measures and protects residents from excessive rent increases and other intimidation tactics designed to pressure mobile home owners to relocate without receiving the assistance that is required pursuant to state law.

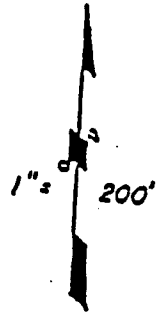
Coastal Act Section 30604(g) declares that the State Legislature finds it important for the Coastal Commission to encourage the provision of affordable housing opportunities, such as mobile homes, in the coastal zone. City of Capitola LCP Policy 1-1 calls for maintaining the existing character of Capitola Village and the surrounding residential areas. Policy 1-2 calls for the designation of certain existing residential areas as exclusively residential. The proposed amendment provides adequate protection of existing residential mobile home parks, adequate to implement the land use policies. Also, the proposed land use plan map amendment is consistent with the Coastal Act and the proposed zoning map amendment is consistent with the amended land use map. Staff recommends approval of the amendment as submitted.

III. 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 submitted, will not have significant environmental effects, consistent with the California Environmental Quality Act.



EXHIBIT "A"



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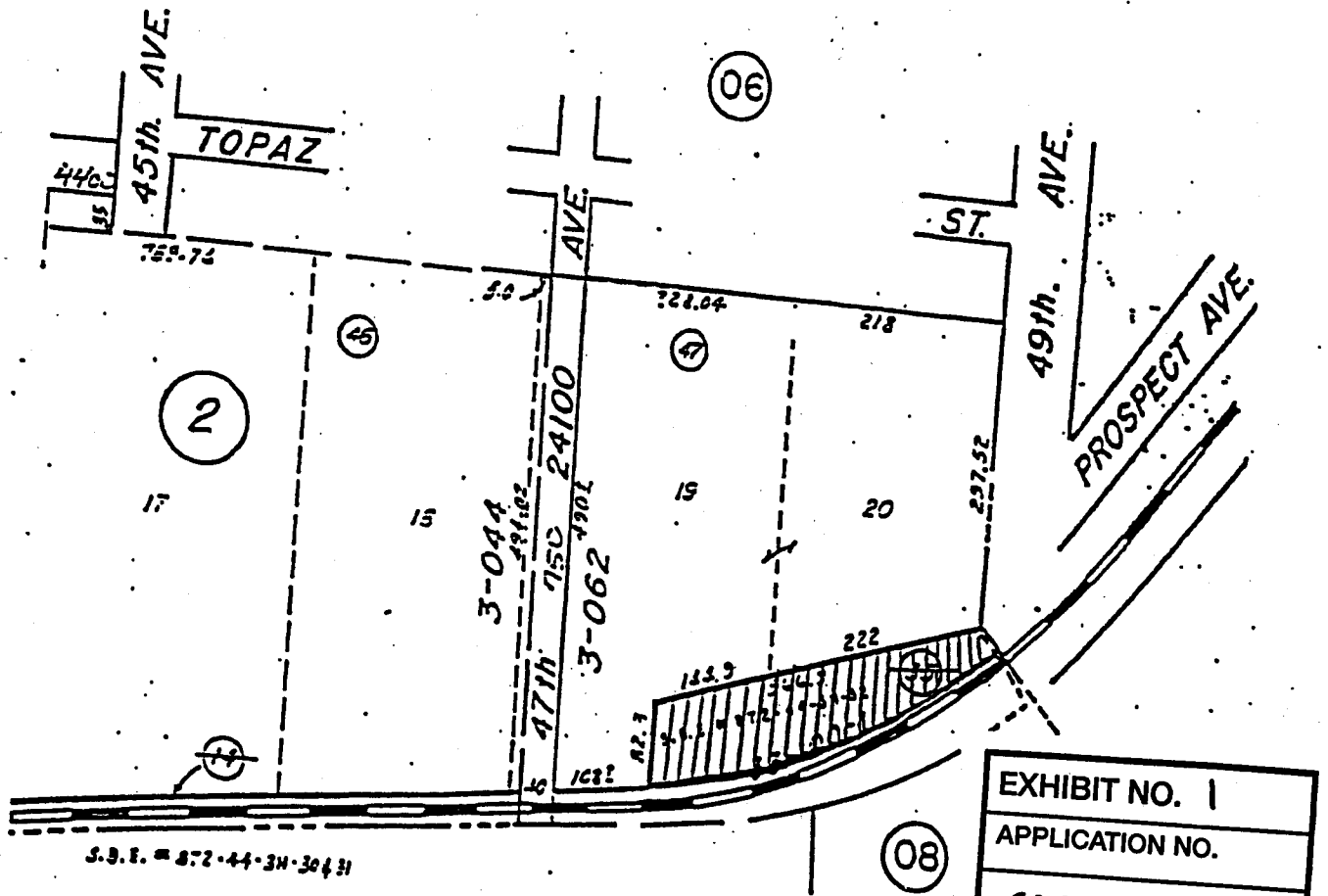


EXHIBIT "A" - AMEND ZONING MAP TO MHE (MOBILEHOME EXCLUSIVE)
 ZONING MAP AMENDMENT TO CHANGE THE CLASSIFICATION OF .5 ACRES OF
 APN 034-101-35 FROM PF/VIS/P (PUBLIC FACILITY/VISITOR SERVING/PARKS)
 TO MHE (MOBILEHOME EXCLUSIVE).

THIS IS TO CERTIFY THAT THE ABOVE AN
 FOREGOING IS A TRUE AND CORRECT COF
 OF ORDINANCE NO. 798 PASSED AN
 ADOPTED BY THE CITY COUNCIL ON TH
 12th DAY OF June 1997

Penelope Greening

Chapter 17.90MOBILE HOME PARKS*Sections:

- 17.90.010 Findings and declaration of purpose.
- 17.90.020 Definitions.
- 17.90.025 Application and relocation impact report (RIR)--Duty to file.
- 17.90.030 Contents of relocation impact report.
- 17.90.040 Filing of relocation impact report.
- 17.90.045 Refusal to review relocation impact report.
- 17.90.050 Notice to new occupants regarding pending change in status of park
- 17.90.060 Application for exemption from relocation assistance obligations.
- 17.90.070 Application for change of use--Public hearing--Findings.
- 17.90.080 Measures to prevent avoidance of relocation assistance obligations.
- 17.90.090 Compliance with relocation assistance required as a condition of approval of a change of use.
- 17.90.100 Modification and revocation of approved change of use.
- 17.90.110 Expiration and extension of approval.
- 17.90.120 Change without new use.
- 17.90.130 Preemption.
- 17.90.140 Severability.

17.90.010 Conversion defined.—Findings and declarations of purpose. “Conversion,” as used in this chapter, means changing the use of any property previously used as a mobile home park to a use other than mobile home park. “Application for conversion” means any rezoning, subdivision or use permit application for property then or last used as a mobile home park if the approval could result in loss of mobile home park spaces. (Ord. 576 S2 (part), 1984). A. Mobile home owners make considerable investments in purchasing, maintaining, and improving their mobile homes, but must rent a space for the home in a mobile home park and cannot easily move the mobile home due to the shortage of mobile home spaces and the high cost and risk of damage involved in moving a mobile home. In recognition of the unique situation and vulnerability of mobile home owners created by these facts, the State Mobile Home Residency Law, Civil Code Section 798, et seq. and Government Code Sections 65863.7 and 66427.4, limit the grounds on which mobile home owners may be evicted from a mobile home park, protect their right to sell their mobile homes in a place in a mobile home park and authorize local jurisdictions to impose reasonable measures to mitigate the adverse impacts on displaced mobile home owners when a mobile home park closes or converts to another use. Pursuant to these

state laws, this chapter provides a procedure and standards for reviewing applications for change of use or closure of

* Prior ordinance history: Ord. 576

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mobile home parks, determining reasonable mitigation measures and protecting residents from tactics such as intimidation and excessive rent increases, designed to pressure mobile home owners to relocate without receiving assistance pursuant to this chapter. Without such assistance mobile home owners may lose the investment in their homes, which may be their only asset, and may not be able to relocate to decent, affordable housing.

B. Nothing in this chapter shall be construed to mean that the city supports any change of use of any mobile home park. (Ord. 759 (part), 1993).

17.90.020 Findings. Definitions. The city council finds as follows:

A. Conversions are likely to be detrimental to residents because of the following:

1. Moving a mobile home often damages it and can be expensive;

2. Unless adequate, comparably priced, nearby space is available, the park resident may be forced to move from a community in which the resident has established social and economic ties; and

3. When a mobile home cannot be sold in place its value will usually be greatly diminished.

B. A conversion, unless comparably priced spaces are available nearby, is likely to be detrimental to the community in that it forces established members of the community to move elsewhere and results in an undesirable mix of housing due to the loss of low and moderate income housing.

C. The benefits of a conversion cannot be reasonably analyzed until a specific application has been made to the city. (Ord. 576 §2 (part), 1984).

As used in this chapter, the following words and phrases shall have the following meanings:

"Applicant" means a person or entity who has filed an application for change of use of a mobile home park.

"Change of use" includes all activities specified in Section 798.10 of the California Civil Code and amendments to the general plan or any applicable specific plan, rezoning of property, land use permits, such as a conditional use permit or a variance, tentative parcel or tentative tract maps, and building permits

when the effect of the change will be to decrease the number of spaces available for mobile home habitation.

"Change without new use" refers to what Civil Code Section 798.56(g)(2) describes as a "change of use [requiring] no local governmental permit" [other than approval of the RJR].

"Comparable housing" means housing which, on balance, is comparable in floor area, number of bedrooms, and amenities, proximity to public transportation, shopping, schools, employment opportunities and medical services and other relevant factors to the mobile home to which comparison is being made.

"Comparable mobile home park" means a mobile home park substantially equal in terms of park condition, amenities and other relevant factors, including, but not limited to, proximity to public transportation, shopping, medical services, employment opportunities and schools.

"Director" means the planning director.

"Eligible mobile home resident" or "eligible resident" means a mobile home resident whose mobile home was located in a mobile home park on the date of an application for change of use. Eligible resident includes the spouse, parents, children and grandchildren of the eligible resident when those persons resided in the mobile home on the date of the application.

"Legal owner" means any person or entity having an ownership interest in a mobile home other than the registered owner, such as a lender or mortgagor.

"Mobile home" has the meaning set forth in Section 798.3 of the California Civil Code.

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17.90.025--17.90.030

"Mobile home owner" means the registered owner or registered owners of a mobile home, regardless of the number of such owners or the form of such ownership.

"Mobile home park" or "park" has the meaning set forth in Section 798.4 of the California Civil Code.

"Mobile home park owner" or "park owner" means the person, persons or entity that owns a mobile home park and includes any person authorized by the park owner to seek approval of an application for change of use or respond to a rent review petition filed pursuant to this chapter.

"Mobile home owner" means a mobile home owner who resides in the mobile home he or she owns. Unless the context indicates otherwise, it includes the mobile home owner's spouse, parents, children and grandchildren who reside in the mobile home.

"Mobile home tenant" or "tenant" is a person who occupies a mobile home within a mobile home park pursuant to a bona fide lease or rental agreement and who, during his or her tenancy, was not the owner of that mobile home.

"Handicapped mobile home resident" means a mobile home

resident with any medically determinable physical or mental impairment as demonstrated by a finding of a state or federal agency or a medical certificate, or who requires special care facilities in the mobile home or special care equipment, such as, but not limited to, a wheelchair.

"Low income" means an income of eighty percent or less of current median income as established annually by the United States Department of Housing and Urban Development ("HUD") for the statistical area in which Capitola is located, as adjusted for household-size. (Ord. 759 (part), 1993).

17.90.025 Application and relocation impact report (RIR)--Duty to file. Prior to a change of use of a mobile home park, a relocation impact report (RJR) complying with the requirements of this chapter must be filed with the director. It is the park owner's responsibility to comply with the notice requirements of subsections q(1) and (2) of Civil Code Section 798.56. Because the Civil Code Section 798.56(q)(2) notice cannot be given until after the approval of both the project and the sufficiency of the (RIR), the park owner is encouraged to consult with staff (especially if any waiver of Municipal Code Section 17.90.030 requirements will be requested) early in the process about the contents of the RJR. (Ord. 759 (part), 1993).

17.90.030 Purpose. Contents of relocation impact report. The purpose of this chapter is to prevent the detrimental effects of mobile home park conversions unless the benefits of a proposed conversion, after weighing the interests of all concerned, outweigh the detrimental effects. (Ord. 576 §2 (part), 1984).

All relocation impact reports (RIRs) required by this chapter, Civil Code Section 798.56 or Government Code Section 65863.7 shall contain the following information, unless the director determines that any of the following is unduly burdensome to produce when weighed against its informative value:

A. A detailed description of any proposed or change of use, or change without new use;

B. A timetable for conversion of the park;

C. A legal description of the park;

D. The number of spaces in the park, length of occupancy by the current occupant of each space and current rental rate for each space;

E. The date of manufacture and size of each mobile home;

F. Appraisals addressing relevant issues identified by the director. A qualified appraiser shall be selected by the city and the cost of the appraisals shall be borne by the applicant. The appraisals shall identify those mobile homes which cannot be moved due to type, age or other considerations. Appraisal information shall be provided on the effect upon the homeowner's investment in the mobile home, such as the change in value of effected mobile homes that would result from the proposed change in use;

G. The results of questionnaires to all homeowners/occupants regarding the following: whether the occupant owns or rents, whether this is the only residence, occupants' ages, whether the occupants have disabilities that would be aggravated by the moving process, the purchase date and price paid by the mobile home owner, the costs incurred by the mobile home owner in improving the home, and the amount and relevant terms of any remaining mortgage. Answering such questionnaire shall be voluntary;

H. The name and mailing address of each eligible resident, mobile home tenant, mobile home resident, resident mobile home owner and legal owner of a mobile home in the park;

I. The purchase price of condominiums similar in size to the mobile homes within a reasonable distance, and the rental rates and moving costs involved in moving to an apartment or other rental unit within a reasonable distance including, but not limited to, fees charged by moving companies and any requirement for payment of the first and last month's rent and security deposits;

J. A list of comparable mobile home parks within a twenty-mile radius and a list of comparable mobile home parks within a radius of twenty-five to fifty miles of the applicant's mobile home park. For each comparable park, the list should, if possible, state the criteria of that park for accepting relocated mobile homes, rental rates and the name, address and telephone number of the park representative having authority to accept relocated homes, including any written commitments from mobile home park owners willing to accept displaced mobile homes. The purpose of the requirements in this subsection are to provide information necessary to create appropriate relocation compensation. It is not meant to suggest that the city, in any sense, favors tenants having to move out of any mobile home park in Capitola.

K. Estimates from two moving companies as to the minimum and per mile cost of moving each mobile home, including tear-down and set-up of mobile homes and moving of improvements such as porches, carports, patios and other moveable amenities installed by the residents. Said moving companies shall be approved by the director prior to inclusion in the final RJR.

L. Proposed measures to mitigate the adverse impacts of the conversion upon the mobile home park residents.

M. Identification of a relocation specialist to assist residents in finding relocation spaces and alternate housing. The specialist shall be selected by the applicant, subject to the city's approval, and shall be paid for by the applicant. (Ord. 759 (part), 1993).

17.90.040 Report requirement. No application for a conversion shall be considered unless at least fifteen days prior to hearing by the decision making body there has been prepared a report on the impact of the conversion on displaced residents (see Government Code Section 66427.4). The process of selecting a consultant to make the report and of payment of that consultant shall be the same process as used for environmental impact reports. (Ord. 576 §2 (part), 1984).

Filing of relocation impact report. An RIR shall not be considered filed, within the meaning of Government Code Section 65863.7, until the applicant has caused to be submitted to the director both a draft RIR which applicant believes meets the requirements of Municipal Code Section 17.90.030, and a written statement that such draft RIR is being filed pursuant to Government Code Section 65863.7. (Ord. 759 (part), 1993).

17.90.045 Refusal to review relocation impact report. If the city attorney determines that the proposed change of use or change without new use would be illegal, the director shall not process the RIR until and unless a court of competent jurisdiction rules that the proposed use would be legal. (Ord. 759 (part), 1993).

17.90.050 Approval standard. An application for conversion may be approved only if the decision making body, based upon substantial evidence, finds either:

A. After weighing the interests of all concerned (park owner, park residents, and community), the benefits of the conversion will outweigh the detrimental effects; or

B. Denial of the application would deprive the park owner of the owner's constitutional right of a fair rate of return. (Ord. 576 §2 (part), 1984).

Notice to new occupants regarding pending change in status of park. When an application for change of use of a mobile home park (or for city approval of a RJR) has been filed with the director, the applicant shall thereafter, in addition to Civil

Code Section 798.56 (g)(1) notices, give notice to all known prospective mobile home purchasers and prospective mobile home tenants within the park, and in all cases prior to execution of any new rental agreement, that the application for change of use has been filed. The park owner shall obtain a signed acknowledgment of receipt of such notice from each prospective purchaser or tenant and file it with the director. If the prospective purchaser or tenant refuses to sign, a dependable record of delivery of notice shall be maintained by the park owner. (Ord. 759 (part), 1993).

17.90.060 Conditions. A decision-making body may impose such conditions on the approval of any conversion application as are reasonably necessary to achieve the purposes set forth in this chapter. The following conditions shall be imposed on any approval of a conversion application, except conditions which the applicant can show are both contrary to the approval standard of Section 17.90.060 and would impose substantial hardship on the applicant:

A. All mobile homes capable of being relocated to equivalent or better spaces within the county of Santa Cruz shall be relocated at the expense of the applicant. The applicant may be required to compensate the relocated mobile home owner for the rent differential for up to two years.

B. The decision-making body shall specify a date before which no residents can be displaced without the approval of the particular resident. Said date shall be no earlier than one year following written notice to each mobile home owner of intent to convert.

C. If any mobile home cannot be relocated in accord with the preceding subsections, the applicant for conversion shall purchase such mobile home at its fair market on site value. Absent agreement, such determination shall be made by a qualified independent appraiser selected by the city. (Ord. 576 S2 (part), 1984).

Application for exemption from relocation assistance obligations.

A. Any person who files an application for change of use may file an application for total or partial exemption from the obligation to provide relocation assistance.

B. If such application for exemption is filed, notice thereof, containing the information contained in the appli-

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cation, shall be given pursuant to subsections B and C of Section 17.90.070.

C. An application for total exemption may be made on one of two grounds.

1. That imposition of any relocation obligations would

eliminate substantially all reasonable use or economic value of the property for alternate uses;

2. The park is exempt from the requirement of relocation assistance under state law governing changes of use of mobile home park.

D. Any application for partial exemption shall state that it is made on grounds either:

1. That imposition of particular relocation obligations would eliminate substantially all reasonable use or economic value of the property for alternate uses; or

2. That it would exceed limitations imposed by Government Code Section 65863.7(e). The application shall specify the particular relocation obligations which would cause this result.

E. An application for exemption made pursuant to subsections (C)(1) and (D)(1) of this section shall contain, at a minimum, an estimate of the value of the subject property by a qualified real estate appraiser if the park were permitted to be developed for the use proposed in the application for change of use, or other use consistent with applicable zoning, and an estimate of the value of such park by such appraiser if use of the property as a mobile home park is continued. An application for exemption pursuant to subsection (C)(2) of this section shall specify the provisions of state law providing the claimed exemption and documentation demonstrating entitlement to such exemption.

F. If an exemption is granted after the applicant has purportedly provided Civil Code Section 798.56(q)(2) notice, renoticing will be necessary. (Ord. 759 (part), 1993).

17.90.070 Cut-off date. This chapter shall be applicable only to completed applications received by the city after October 11, 1984. (Ord. 576 §2 (part), 1984).

Application for change of use--Public hearing--Findings. A. Upon the filing of an RJR, the director shall examine the same and advise the applicant in writing within 30 days after receipt thereof whether it is complete. When an application and RIR have been accepted as complete, the director shall set a time, date and place for a hearing before the planning commission not later than sixty days after the date of acceptance. Because certain required information in an RIR (e.g., appraisals, tenant data) cannot be obtained until after filing an application for change of use, the initial application for change of use and RIR should contain all pertinent available information in order to start the process of obtaining the information required for a complete application and/or RIR.

B. Not less than thirty days prior to the scheduled public hearing before the planning commission, the park owner shall, by certified mail or personal delivery, trans-

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mit to the registered and legal owner of each mobile home

occupying a site within the mobile home park and to each resident a copy of the approved RIR and notice (in form approved by the director) of the date, time and place of the public hearing on the application.

C. Not less than fifteen days prior to the scheduled public hearing before the planning commission on the RJR, the park owner shall file with the director a verification that he has complied with the requirements of this section pertaining to notices and transmittal of copies of the RIR and with all notice requirements in Government Code Section 65863.7, et seq. The form and manner of such verification shall be subject to approval by the city attorney.

D. Planning Commission Hearing, Findings and Advisory Decision. Upon review of an application for change of use or exemption and the RIR and consideration of the written and oral evidence received at the hearing, the commission shall render its findings and recommendation to the city council by resolution within ninety-five days of the date the application and RIR were accepted as complete. In rendering its advisory decision, the commission may recommend reasonable measures not exceeding the reasonable costs, or estimates thereof, of relocation to mitigate the adverse impacts on eligible residents displaced by the change of use or mobile home owners who may have to move their mobile homes, which may include, but are not limited to the following:

1. Payment of the cost of physically moving the mobile home to a new site, including tear-down and setup of mobile homes, including, but not limited to, movable improvements such as patios, carports and porches;

2. Payment of a lump sum based on consideration of any increase in security deposit at the new mobile home park which the resident or tenant lacks the ability to pay;

3. Payment of a lump sum based on consideration of any differential between rental rates at the closing mobile home park and the new mobile home park during the first year of the new tenancy;

4. For those mobile home residents who move to apartments or other rental housing alternatives, payment of a lump sum based on consideration of any differential in the rental rate between the closing park and the comparable housing, requirements for payment of security deposits and cleaning fees. Mobile home households may be compensated based on the number of bedrooms in the mobile home so that a one bedroom mobile home may be compensated based on a one bedroom apartment, a two bedroom mobile home based on a two bedroom apartment, etc.;

5. Provision of a replacement space within a reasonable distance of the closing mobile home park;

6. For residents whose mobile home cannot be relocated to a comparable park within a fifty-mile radius of the closing mobile home park, payment of a lump sum based upon consideration of the value of the mobile home,

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including resident improvements (i.e., landscaping, porches, carports, etc.), any increase in mortgage obligations of the resident on the mobile home, and the costs of purchasing a mobile home on-site in a comparable park or acquiring other comparable replacement housing;

7. The park owner shall make the monetary payments contemplated in this subsection a reasonable period of time (to be set by the city council) in advance of the actual relocation of a resident or homeowner. The resident or homeowner shall not be under a legal obligation to relocate by the method used to measure mitigation costs.

E. Time periods in this chapter may be extended as necessary to comply with C.E.Q.A. or the Coastal Act.

F. Notwithstanding any other provision in this section, the total of the mitigation measures required shall be subject to and shall not exceed the limitation in Government Code Section 65863.7 which provides: "the steps taken to mitigate shall not exceed the reasonable costs of relocation."

G. City Council Hearing, Findings and Decision.

1. The application for change of use and any application for exemption shall be set for hearing before the city council within forty-five days of the date of the planning commission decision recommending the mitigation measures to be imposed on the change of use of a park or exemption from the provision of relocation assistance.

2. The city council, after review and consideration of the application, the RIR and the written and oral evidence received at the hearing, shall by resolution render its findings and decision within eighty days of the date of the planning commission decision.

3. The city council may impose reasonable measures not exceeding the reasonable costs of relocation to mitigate the adverse impacts of the change of use on eligible mobile home residents pursuant to subsections (D) and (E) of this section. The decision of the city council shall be final. Pursuant to Code of Civil Procedure 1094.6, the statute of limitations for bringing a judicial challenge to any decision concerning a change of use of mobile home park shall be ninety days and notice of the city's decision to the applicant, park owner and affected residents shall include notice that the ninety-day statute of limitations in 1094.6 is applicable. (Ord. 759 (part), 1993).

17.90.080 Measures to prevent avoidance of relocation assistance obligations. A. If any change of use or RIR approval application is withdrawn or denied, those previously given notices or announcements shall be so informed in writing by the park owner.

B. No prospective mobile home resident or existing mobile home resident may be required to sign a waiver, or a lease or rental agreement which includes a waiver, of their rights under this chapter. Any waiver of rights under this

chapter by such a mobile home resident shall be deemed invalid unless the resident or prospective resident and the park owner obtain the prior approval of the waiver from the director, who may grant such approval only upon a finding that the waiver is voluntary and was made after being fully informed of the terms of this chapter. (Ord. 759 (part), 1993).

17.90.090 Compliance with relocation assistance required as a condition of approval of a change of use. A. The applicant shall execute and record a certificate, and file proof thereof with the director, accepting the mitigation measures imposed on the approval of a change of use within ninety days of the final council action approving the change of use and shall give the six- or twelve-month notice of the termination of tenancy and closure of the park required by Civil Code Section 798.56 (g) within one hundred twenty days of that action. An approval of a change of use shall automatically become null and void if the certificate accepting the conditions is not filed and executed within ninety days of the date of the approval of the change of use and the notice of termination of tenancy has not been given within one hundred twenty days of that resolution. All mitigation measures imposed on the approval of a change of use shall be fully performed as to each resident prior to that resident's required vacation of the mobile home park, unless otherwise provided in the mitigation measure. No eligible resident shall be required to vacate a mobile home space unless the applicant is in full compliance with all mitigation measures imposed pertaining to such resident, and has otherwise fulfilled the notice requirements of the California Mobile Home Residency Law relating to termination of tenancy.

B. No building permit shall be issued for the development of any real property which has been, or is being, converted from a mobile home park pursuant to this chapter unless and until the city has adopted a resolution approving the change of use and the park owner has fully complied with the relocation assistance required by that resolution. (Ord. 759 (part), 1993).

17.90.100 Modification and revocation of approved change of use.

A. Modification.

1. After a change of use has been approved and after the applicant has executed and recorded a certificate of acceptance of the conditions of any approval, modification of the mitigation measures imposed, including additions and deletions, may be considered upon the filing of a written application by the applicant. Modification may be granted on the grounds that there has been a change in circumstances or new information, which could not reasonably have been known or considered at the time of the hearings on the application, has become available. Examples of such new information or changed circumstances include, but

are not limited to, revised plans by the applicant and a change in the availability of relocation spaces. Modification shall not be granted when it would unreasonably prejudice the ability of the residents to relocate to comparable spaces or comparable alternate housing.

2. Any application for modification shall be subject to the notice and hearing procedures set forth in Sections 17.90.070 and 17.90.080. The decision in connection with a modification request shall take place as with the initial approval.

B. Revocation.

1. The city council may initiate revocation proceedings on the grounds that the park owner or applicant has violated the provisions of this chapter or the terms of the approval of the change of use. The approval shall specify the grounds asserted for revocation of the approval of the change of use by the park and shall set a hearing before the city council to consider the revocation not sooner than forty-five and not later than sixty days after the date of the approval.

2. Notice of revocation proceeding shall be sent to the park owner by certified mail or personal delivery together with notice that any response by the park must be filed at least twenty days prior to the date set for the revocation hearing.

3. The city council shall render its findings and decision concerning revocation within ninety days after initiating revocation proceedings. (Ord. 759 (part), 1993).

17.90.110 Expiration and extension of approval. A. Approval of a change of use shall become null and void if the notice of termination of tenancy has not been given within the time provided in Section 17.90.090 and relocation pursuant to the conditions of approval has not occurred within twelve months of the effective date of the approval of the change of use, unless otherwise extended as provided in subsection (B) of this section, or unless otherwise provided in the resolution approving it.

B. Upon application by the park owner filed with the director on or before the time provided for giving the notice of termination or the expiration of the approval of the change of use, the date for giving notice and the approval may be extended by the city council upon a showing of good cause. The request may be denied if the council finds that the park owner has unreasonably delayed implementation of the mitigation measures or that further delay will result in prejudice or further adverse impacts upon eligible residents remaining in the park. Approval of an extension may be conditioned on reasonable measures designed to mitigate the adverse impacts resulting from the delay. The application for extension shall be subject to the notice and hearing procedures set forth in Section 17.90.100(B). (Ord. 759 (part), 1993).

17.90.120 Change without new use. Government Code Section 65863.7 and Civil Code Section 798.56 require submission and approval of an RIR even in situations where no other local government permit is required for the contemplated change of use or change without new use. It is the park owner's responsibility to file the RIR in time for the review required by this chapter. (Ord. 759 (part), 1993).

17.90.130 Preemption. In the event the provisions of this chapter conflict with any code, ordinance or regulation of the city, the provisions of this chapter shall govern. In the event any provisions of this chapter conflict with a provision of state law, this chapter shall be interpreted and applied in conformity with state law. (Ord. 759 (part), 1993).

17.90.140 Severability. If any part or provision of this chapter, or the application of such to any person or circumstance is held invalid, the remainder of the chapter, including the application of such part or provision to other persons or circumstances, shall not be effected and shall continue in full force and effect. To this end the provisions of this chapter are severable. (Ord. 759 (part), 1993).

COPY**RESOLUTION NO. 3355****RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
AUTHORIZING THE CITY MANAGER TO SUBMIT THE CURRENT AND
PREVIOUS CITY LOCAL COASTAL PROGRAM AMENDMENTS TO THE
CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION**

WHEREAS, the City's Local Coastal Program was certified by the California Coastal Commission on June 1981, and updated in October of 2001; and

WHEREAS, the Planning Commission conducted a public hearing on February 19 and March 4, 2004; and the City Council held a public hearing on March 11 and took action on March 25, 2004, for amendments to the City's Local Coastal Program as part of a Coastal Commission grant completed in March 2004, and forthwith collectively referred to as the Coastal Commission Grant LCP Amendment, which include the following:

1. A Zoning Ordinance amendment to revise Chapter 17.30 Visitor Serving (VS) and Section 17.46.50 Permit Exemptions, and adding a new Section 17.46.55 Exclusionary Areas (Ordinance No. 868);
2. Amendment to the Local Coastal Program to include within the City of Capitola Coastal Zone boundary three areas formally designated as "Areas of Deferred Certification," namely Rispin Mansion, Shadowbrook Restaurant, and Blodgett/Dodds' Properties (Resolution No. 3353);
3. An ordinance to amend the Blodgett/Dodds' Properties Zoning Map designation from AR/VS/R-1 to VS/R-1 for Assessor's Parcel Numbers 036-142-26, 036-142-27, 036-143-31, 036-142-28, and 036-143-29; and from AR/VS/R-1 to VS/RM-LM for Assessor's Parcel Number 036-143-30 (passed to a second reading on March 25, 2004);
4. Amend the General Plan Map/Local Coastal Program Land Use Plan and Implementation Program to Designate Property located at 620, 720, and 723 El Salto Drive (Assessor's Parcel Numbers 036-142-26, 036-142-27, 036-142-28, 036-143-29, 036-143-30 and 036-143-30) for Visitor Serving / Residential-Low Medium (VS/R-LM) (Resolution No. 3354);
5. Authorization to forward these above amendments as well as previous Local Coastal Program amendments listed below to the California Coastal Commission for certification of the City's Local Coastal Program (this Resolution No. 3355):

Ord. No. 587 Amending Section 10.36.195 of the Municipal Code concerning areas of no weekend or holiday parking.

Ord. No. 755 Amending Sections 17.50.010 and 17.50.100 and adding Sections 17.50.035 and 17.50.045 to the municipal code regarding flood regulations.

Ord. No. 756 Amending Section 17.51.100 (Floor Area Defined) and Adding Section 17.51.035 (Quasi-Public Seating Area).

Ord. No. 757 Deleting Chapter 17.48 re Future Width and Special Building Lines, Amending Section 17.21.110 and Section 17.27.110, and Adding Subsection N. to Section 17.63.090.

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★ Ord. No. 759 Amending Chapter 17.90 of the Capitola Municipal Code pertaining to changes of use of Mobilehome Parks.

Ord. No. 795 Amending Chapter 17.57, and Land Use Map re off-site Real Estate for Sale signs.

Ord. No. 799 Amending Zoning Map of Zoning Ordinance for APN 034-182-01 (3790 Brommer Street) from RM-M to PD District (Habitat).

★ Ord. No. 798 Amending GP/LCP Land Use Map from PF/VS (Public Facilities/Visitor and Res. No. 2896 Serving) to R-MH (Residential- Mobile Homes) for the Surf and Sand MHP.

Ord. No. 805 Amending the zoning map of the Zoning Ordinance for APN: 034-161-12, at 1255 41st Avenue, by way of rezoning a portion of the parcel from the "RM-M" (Multiple Family Residential-Medium) district to the "PD" (Planned Development) District.

Ord. No. 809 Adding Section 17.63.055 to Chapter 17.63 Architectural and Site Review and Res. No. 2989 re: Visualization Requirements.

Ord. No. 817 Amending Sections 17.03.690 defining "use," 17.60.020 re CUP requirements, 17.60.030 adding criteria to evaluate Use Permits for uses in excess of 12,000 sf., and 17.60.100 for Master Use Permits.

Ord. No. 819 Amending the Zoning Ordinance for APN 036-062-07, (409 Pine Street) from RM-M to PD District.

Ord. No. 837 Repealing Ordinance 586 and Section 10.36.045 pertaining to parking meter zones and parking meter rates, and adding a new Section 10.36.045 and Section 10.36.055 to the Municipal Code regarding the same.

Ord. No. 853 Amending Section 17.63.020 pertaining to the Architectural and Site Review Board.

Ord. No. 858 Secondary Dwelling Units (SDU) Ordinance amending Section 17.15.040 to include SDU as a Principally Permitted Use. Added Chapter 17.99 pertaining to SDU.

Ord. No. 860 Urgency Ordinance re Secondary Dwelling Units.

Ord. No. 862 Ordinance adding Chapter 17.98 to Capitola Municipal Code pertaining to Wireless Communications Facilities.

Ord. No. 863 Amendment replacing Chapters 12.12, and 12.16 with a new Chapter 12.12 Community Tree and Forest Ordinance.

WHEREAS, the City Council conducted a public hearing on March 11, 2004, and took final action on March 25, 2004, for these Coastal Commission Grant Amendments; and

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WHEREAS, this Coastal Commission LCP Grant Amendment is Statutorily Exempt under CEQA Section 15265 (a) (1); and

WHEREAS, this Coastal Commission LCP Grant Amendment is intended to bring the City's Local Coastal Program into conformance with the Coastal Act; and

WHEREAS, This Coastal Commission LCP Grant Amendment provides the Coastal Commission with the benefit of viewing the proposed changes as a comprehensive package; and

WHEREAS, a Notice of Availability was prepared six weeks prior to final action by the City Council.

NOW, THEREFORE, the City Council of the City of Capitola hereby finds:

1. This Coastal Commission LCP Grant Amendment is Categorical Exempted, and in conformance with the under CEQA Section 15265 (a) (1).
2. This Coastal Commission LCP Grant Amendment is consistent with the Local Coastal Land Use Plan, and the Coastal Act.
3. This Coastal Commission Grant Amendment, as drafted, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Program.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Capitola that this Coastal Commission LCP Grant Amendment is hereby adopted and are in full conformity with the City of Capitola Local Coastal Program and provisions of the California Coastal Act.

BE IT FURTHER RESOLVED, that the City Manager or his designee is directed to submit the said Coastal Commission LCP Grant Amendment to the California Coastal Commission for its review and certification. If the Coastal Commission approves the amendment package, it will take effect automatically upon Coastal Commission approval. If the Coastal Commission modifies the amendment package, only the modifications will require formal action by the City of Capitola.

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 25th day of March, 2004, by the following vote:

AYES: Council Members Norton, Ortiz, Arthur and Mayor Harlan
 NOES: None
 ABSENT: Council Member Gualtieri
 ABSTAIN: None

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Stephanie Harlan
Stephanie Harlan, Mayor

ATTEST:
Pamela Greeninger, CMC
Pamela Greeninger, City Clerk

This is to certify that the above and foregoing is a true and correct copy of Resolution No. 3355 passed and adopted by the Capitola City Council on the 25th day of March, 2004.

Pamela Greeninger City Clerk
Pamela Greeninger, CMC

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