



**SPECIAL MEETING
AGENDA
CAPITOLA PLANNING COMMISSION
THURSDAY, APRIL 19, 2012
7:00 P.M. – CITY HALL COUNCIL CHAMBERS**

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

Commissioners: Ed Newman, Gayle Ortiz, Mick Routh, Linda Smith and
Chairperson Ron Graves
Staff: Senior Planner Ryan Bane
Minute Clerk Danielle Uharriet

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda

B. Public Comments

Short communications from the public concerning matters not on the Agenda.

All speakers are requested to print their name on the sign-in sheet located at the podium so that their name may be accurately recorded in the Minutes.

C. Commission Comments

D. Staff Comments

3. APPROVAL OF MINUTES

A. April 5, 2012 Regular Planning Commission Meeting

4. CONSENT CALENDAR

All matters listed under "Consent Calendar" are considered by the Planning Commission to be routine and will be enacted by one motion in the form listed below. There will be no separate discussion on these items prior to the time the Planning Commission votes on the action unless members of the public or the Planning Commission request specific items to be discussed for separate review. Items pulled for separate discussion will be considered in the order listed on the Agenda.

NONE.

5. PUBLIC HEARINGS

Public Hearings are intended to provide an opportunity for public discussion of each item listed as a Public Hearing. The following procedure is as follows: 1) Staff Presentation; 2) Public Discussion; 3) Planning Commission Comments; 4) Close public portion of the Hearing; 5) Planning Commission Discussion; and 6) Decision.

A. AMEND FLOODPLAIN ORDINANCE 17.50

#12-022

Consideration of an amendment to the Capitola Municipal Code Chapter 17 to modify the floodplain district (17.50) to incorporate revised FEMA management regulations and an amendment to the City's certified Local Coastal Plan to be reviewed and certified by the California Coastal Commission.

B. 700 ESCALONA DRIVE #12-019 APN: 036-141-05, 20

Coastal Permit and Design Permit to demolish an existing one-story single-family residence located on two legal lots of record, and construct two new two-story single-family residences in the R-1 (Single-Family Residence) Zoning District. A variance for a second floor setback and reduction in landscaping is requested for the house located on APN 036-141-20. This project requires a Coastal Permit which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.

Environmental Determination: Categorical Exemption

Property Owner: Lori Perpich & Alberto Munoz, filed 2/14/12

Representative: Derek Van Alstine

C. 220 OAKLAND AVENUE #12-044 APN: 036-124-20

Fence Permit and a Major Revocable Encroachment Permit to construct a wall within the city right-of-way as part of a single-family residential use in the R-1 (Single-Family Residence) Zoning District.

Environmental Determination: Categorical Exemption

Property Owner: Christann A Bohnet, filed 3/29/12

Representative: John Draga

D. 216 SAN JOSE AVENUE #12-011 APN: 035-185-15

Coastal Permit, Design Permit and Tentative Map to construct a three-story two-unit residential condo in the CV (Central Village) Zoning District. This project requires a Coastal Permit which is not appealable to the California Coastal Commission.

Environmental Determination: Categorical Exemption

Property Owner: Marte Formico, filed 1/30/12

Representative: Dennis Norton

6. DIRECTOR'S REPORT

7. COMMISSION COMMUNICATIONS

8. ADJOURNMENT

Adjourn to a Regular Meeting of the Planning Commission to be held on Thursday, May 3, 2012 at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

APPEALS: The following decisions of the Planning Commission can be appealed to the City Council within the (10) calendar days following the date of the Commission action: Conditional Use Permit, Variance, and Coastal Permit. The decision of the Planning Commission pertaining to an Architectural and Site Review can be appealed to the City Council within the (10) working days following the date of the Commission action. If the tenth day falls on a weekend or holiday, the appeal period is extended to the next business day.

All appeals must be in writing, setting forth the nature of the action and the basis upon which the action is considered to be in error, and addressed to the City Council in care of the City Clerk. An appeal must be accompanied by a one hundred forty two dollar (\$142.00) filing fee, unless the item involves a Coastal Permit that is appealable to the Coastal Commission, in which case there is no fee. If you challenge a decision of the Planning Commission in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this agenda, or in written correspondence delivered to the City at, or prior to, the public hearing.

Notice regarding Planning Commission meetings: The Planning Commission meets regularly on the 1st Thursday of each month at 7:00 p.m. in the City Hall Council Chambers located at 420 Capitola Avenue, Capitola.

Agenda and Agenda Packet Materials: The Planning Commission Agenda and complete Agenda Packet are available on the Internet at the City's website: www.ci.capitola.ca.us. Agendas are also available at the Capitola Branch Library, 2005 Wharf Road, Capitola, on the Monday prior to the Thursday meeting. Need more information? Contact the Community Development Department at (831) 475-7300.

Agenda Materials Distributed after Distribution of the Agenda Packet: Materials that are a public record under Government Code § 54957.5(A) and that relate to an agenda item of a regular meeting of the Planning Commission that are distributed to a majority of all the members of the Planning Commission more than 72 hours prior to that meeting shall be available for public inspection at City Hall located at 420 Capitola Avenue, Capitola, during normal business hours.

Americans with Disabilities Act: Disability-related aids or services are available to enable persons with a disability to participate in this meeting consistent with the Federal Americans with Disabilities Act of 1990. Assisted listening devices are available for individuals with hearing impairments at the meeting in the City Council Chambers. Should you require special accommodations to participate in the meeting due to a disability, please contact the Community Development Department at least 24 hours in advance of the meeting at (831) 475-7300. In an effort to accommodate individuals with environmental sensitivities, attendees are requested to refrain from wearing perfumes and other scented products.

Televised Meetings: Planning Commission meetings are cablecast "Live" on Charter Communications Cable TV Channel 8 and are recorded to be replayed at 12:00 Noon on the Saturday following the meetings on Community Television of Santa Cruz County (Charter Channel 71 and Comcast Channel 25). Meetings can also be viewed from the City's website: www.ci.capitola.ca.us



**DRAFT MINUTES
CAPITOLA PLANNING COMMISSION MEETING
THURSDAY, APRIL 5, 2012
7:00 P.M. – CITY HALL COUNCIL CHAMBERS**

Chairperson Graves called the Regular Meeting of the Capitola Planning Commission to order at 7:00 p.m.

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

Commissioners: Ed Newman, Gayle Ortiz, Mick Routh, Linda Smith and
Chairperson Ron Graves
Staff: Senior Planner Ryan Bane
Minute Clerk Danielle Uharriet

2. ORAL COMMUNICATIONS

- A. Additions and Deletions to Agenda - NONE
- B. Public Comments

Toni Castro, CEO of the Capitola Soquel Chamber of Commerce, Economic Development Committee presented an update of the Economic Development Committee, and encouraged the ongoing open communication between the committee and the council with the goal of keeping the business community thriving.

- C. Commission Comments - NONE
- D. Staff Comments - NONE

3. APPROVAL OF MINUTES

- A. March 1, 2012 Regular Planning Commission Meeting

Commissioner Smith clarified: "Page 1, Item 2.C, third sentence: "There will be a grand opening on Saturday, March 10th at 12 noon to celebrate the new exhibit, ~~It's About Time~~ Where Sky and Land Meet Sea and Sand, at the Capitola Museum.

Page 10, motion for Item 5.A: "A motion was made by Commissioner Newman and seconded by Commissioner Routh to continue project application #11-100 one final time to the April 5, 2012 Planning Commission meeting.

A MOTION WAS MADE BY COMMISSIONER ROUTH AND SECONDED BY COMMISSIONER NEWMAN TO APPROVE THE MARCH 1, 2012 MEETING MINUTES, WITH CHANGES.

THE MOTION CARRIED ON THE FOLLOWING VOTE: AYES: COMMISSIONERS NEWMAN, ROUTH, SMITH AND CHAIRPERSON GRAVES. NOES: NONE. ABSENT: NONE. ABSTAIN: ORTIZ.

4. CONSENT CALENDAR

A. 153 MAGELLAN STREET

#12-029

APN: 036-192-17

Coastal Permit and Design Permit to construct a second story addition to an existing one-story single-family residence in the R-1 (Single-Family Residence) Zoning District. This project requires a Coastal Permit which is not appealable to the California Coastal Commission.

Environmental Determination: Categorical Exemption

Property Owner: John & Annelies Walbridge, filed 3/5/12

Representative: Peter Guiley

A MOTION WAS MADE BY COMMISSIONER ROUTH AND SECONDED BY COMMISSIONER SMITH TO APPROVE PROJECT APPLICATION #12-029 WITH THE FOLLOWING CONDITIONS AND FINDINGS:

CONDITIONS

1. The project approval consists of a new 728 square foot second floor addition to an existing 1,970 square foot one-story single-family residence at 153 Magellan Street.
2. The Planning Commission must approve any significant modifications to the size or exterior appearance of the structure.
3. No trees or significant amount of landscaping is to be removed. If any trees, large shrubs or significant landscaping is to be removed as a result of the project, the applicant shall provide a landscape plan to be submitted with the building permit application. The plan shall include the quantity, or specific number of plants for each plant type, their container size, special planting requirements and spacing between plants, subject to the approval of the Community Development Director.
4. Construction hours shall be limited to Monday through Friday 7:30am to 9pm., Saturday 9:00am to 4:00pm, and prohibited on Sundays.
5. Curb and gutter that is currently deteriorated or is damaged during construction shall be repaired or replaced, as determined by and to the satisfaction of the Public Works Director.
6. The utilities shall be underground to the nearest utility pole in accordance with PG&E and Public Works Department requirements. A note shall be placed on the final building plans indicating this requirement.
7. An encroachment permit shall be acquired for any work performed in the right-of-way.
8. Prior to granting of final occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director.

FINDINGS

- A. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**

Planning Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project conforms to the development standards of the R-1 (Single Family Residence) Zoning District. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance and General Plan.

B. The application will maintain the character and integrity of the neighborhood.

Planning Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project conforms to the development standards of the R-1 (Single Family Residence) Zoning District. Conditions of approval have been included to ensure that the project maintains the character and integrity of the neighborhood.

C. This project is categorically exempt under Section 15301(e)(2) of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.

Section 15301(e)(2) of the CEQA Guidelines exempts additions to structures that are less than 10,000 square feet if the project is in an area where all public facilities are available to allow for the development and the project is not located in an environmentally sensitive area. This project involves an addition to a one-story single-family residence that is considered infill development. No adverse environmental impacts were discovered during review of the proposed project

THE MOTION CARRIED ON THE FOLLOWING VOTE: AYES: COMMISSIONERS NEWMAN, ORTIZ, ROUTH, SMITH AND CHAIRPERSON GRAVES. NOES: NONE. ABSENT: NONE. ABSTAIN: NONE.

5. PUBLIC HEARINGS

A. 115 SAN JOSE AVENUE #11-100 APN: 035-221-27

Reconsideration of a Conditional Use Permit for a take-out restaurant with the sale and dispensing of alcohol in the CV (Central Village) Zoning District.
 Environmental Determination: Categorical Exemption
 Property Owner: Peter Dwares, owner/filed: 9/15/11
 Representative: Dennis Norton Designs

Commissioner Newman made a motion to deny the application. Commissioner Routh seconded the motion.

Under discussion Commissioner Ortiz clarified that the city was being compensated for the staff time spent on the project.

Chairperson Graves stated that the applicant has not attended any meetings to address the Commission's concerns about the initial application review.

A MOTION WAS MADE BY COMMISSIONER NEWMAN AND SECONDED BY COMMISSIONER ROUTH TO DENY PROJECT APPLICATION #11-100.

THE MOTION CARRIED ON THE FOLLOWING VOTE: AYES: COMMISSIONERS NEWMAN, ROUTH, AND CHAIRPERSON GRAVES. NOES: COMMISSIONERS ORTIZ AND SMITH. ABSENT: NONE. ABSTAIN: NONE.

B. 100 CENTRAL AVENUE**#11-136****APN: 036-131-10**

Coastal Permit and Design Permit to demolish a single-family residence and construct a new two-story single-family residence in the R-1 (Single-Family Residence) Zoning District.

This project requires a Coastal Permit which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.

Environmental Determination: Initial Study and Mitigated Negative Declaration

Property Owner: Jill Caskey & Bruce Yoxsimer, filed 12/15/11

Representative: Derek Van Alstine

Senior Planner Bane presented the staff report.

Commissioner Smith questioned the building height of the existing residence.

Derek Van Alstine, project designer, responded that the building height is approximately 25-feet.

Commissioner Routh questioned the historical elements in the design that were noted in the staff report.

Senior Planner Bane responded that the design has incorporated various historic elements from the adjacent neighborhood cottage designs.

Commissioner Ortiz requested clarification of the proposed setbacks.

Senior Planner Bane responded that Grand Avenue is considered the front yard and Central Avenue is considered the side yard setback.

Chairperson Graves requested clarification of the parking arrangement.

Senior Planner Bane responded that there is one covered parking space in a garage, one uncovered space in the driveway and one uncovered space parallel to Central Avenue in the side yard area.

The public hearing was opened.

Derek Van Alstine, project designer, spoke in support of the application. The design incorporates historical elements that reflect the general architectural context of Capitola.

Commissioner Smith stated that the elements of Tudor style architecture are in the Depot Hill area. The small cottage next door cottage may be overwhelmed by the new home.

Mr. Van Alstine stated that the design has opened up the view for the cottage on the neighboring property, in addition to keeping the second story stepped back from the property line.

Joan Corsiglia, neighbor, requested the Commission consider removal of the telephone pole located at the southeast portion of the property.

The public hearing was closed.

Commissioner Smith stated that the design blends with the surrounding neighborhood and utilizes historic architectural elements in the design that maintain the historical context of Capitola.

Commissioner Ortiz supported that building design, but noted that the intent of the historic ordinance is to maintain existing historic elements, and does not apply to this project. She spoke with concerns about the overall height of the building.

Commissioner Routh concurred with Commissioner Ortiz' comments.

Commissioner Newman supported the building design, but stated that the parking layout was not ideal.

Chairperson Graves stated that the plans were confusing and difficult to determine the parking area and the landscaping area.

Commissioner Ortiz questioned the material of the parking pad.

Mr. Van Alstine stated that asphalt or concrete paving is proposed, but turf block is a design option. He stated there is sufficient landscaping between the parking space and side yard area. He will discuss the PG&E pole with the property owners.

Commissioner Smith stated that Capitola used to be small cottages, but now land values prohibit small scale development. The proposed design utilizes historical architectural elements that tie into the adjacent neighborhood and overall Capitola community.

Senior Planner Bane stated staff will discuss the PG&E pole with the Public Works Director.

A MOTION WAS MADE BY COMMISSIONER NEWMAN AND SECONDED BY COMMISSIONER SMITH TO APPROVE PROJECT APPLICATION #11-136 WITH THE FOLLOWING CONDITIONS AND FINDINGS:

CONDITIONS

1. The project approval consists of demolition of an existing 1,416 square foot two-story single-family residence and construction of a new 2,062 square foot two-story single-family structure with an attached garage at 100 Central Avenue.
2. The Planning Commission must approve any significant modifications to the size or exterior appearance of the structure.
3. The final landscape plan submitted with the building permit application shall include the specific number of plants of each type and their size, as well as the irrigation system to be utilized. All landscaping shall be installed prior to final building occupancy.
4. If archaeological resources or human remains are accidentally discovered during construction, work shall be halted within 50 meters (150 feet) of the find until it can be evaluated by a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented. Disturbance shall not resume until the significance of the archaeological resources is determined and appropriate mitigations to preserve the resource on the site are established. If human remains are encountered during construction or any other phase of development, work in the area of discovery must be halted, the Santa Cruz County coroner notified, and the provisions of Public Resources Code 5097.98-99, Health and Safety Code 7050.5 carried out. If the remains are determined to be Native American, the Native American Heritage Commission (NAHC) shall be notified within 24 hours as required by Public Resources Code 5097. The NAHC will notify designated "Most Likely Descendants" who will provide recommendations for the treatment of the remains within 48 hours of being granted

access to the site. The NAHC will mediate any disputes regarding treatment of remains and the Planning Director and the Santa Cruz County coroner would be notified.

5. All recommendations contained in the project geological report dated January 2012 by Rogers E. Johnson and Associates, shall be implemented as part of the project.
6. Prior to issuance of a building permit, the applicant shall provide evidence that a qualified geologist has reviewed project plans and determined that they have been prepared in accordance with the recommendations contained in the project geological report.
7. Prior to issuance of a building permit, the applicant shall submit documentation confirming that a qualified geotechnical consultant has been retained to ensure that the recommendations contained in the geotechnical report have been properly implemented.
8. Prior to final inspection of the building permit, the applicant shall provide certification that development has occurred in accordance with the geotechnical report prepared for the project.
9. Affordable housing in-lieu fees shall be paid as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance. Any appropriate fees shall be paid prior to building permit issuance.
10. An encroachment permit shall be acquired for any work performed in the right-of-way.
11. The Grand Avenue public path shall maintain a minimum width of 8'. This shall be incorporated into the landscape plan as part of the building permit process.
12. A drainage plan or design shall be submitted with the final building plans, to the satisfaction of the Public Works Director. All drainage shall be collected in impermeable gutters or pipes and discharged into an established storm drain system that does not issue on to the bluff.
13. The project shall implement at least one low impact development BMP from the *Slow it. Spread it. Sink it. Homeowner's Guide to Greening Stormwater Runoff* by the Resource Conservation District of Santa Cruz County.
14. The utilities shall be underground to the nearest utility pole in accordance with PG&E and Public Works Department requirements. A note shall be placed on the final building plans indicating this requirement.
15. Hours of construction shall be Monday to Friday 7:30AM – 9:00PM, and Saturday 9:00AM – 4:00PM, per city ordinance.
16. Prior to granting of final occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director.

FINDINGS

- A. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**

Planning Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project conforms to the development standards of the R-1 (Single Family Residence) Zoning District. Conditions of approval have been

included to carry out the objectives of the Zoning Ordinance, General Plan and Local Coastal Plan.

B. The application will maintain the character and integrity of the neighborhood.

Planning Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The scale, mass, height and design is similar to other newer residences in the area and thus, the project's overall scale and design will maintain the character and integrity of the neighborhood.

C. A Mitigated Negative Declaration has been prepared for this project based upon the completion of an Initial Study which identified less than significant impacts.

This project is not categorically exempt because the project site is located in geologic hazard, environmentally sensitive habitat, and archaeological sensitive zones. An Initial Study was prepared and circulated per CEQA requirements, and a Mitigated Negative Declaration adopted based on the determination that the project will not have a significant effect on the environment.

THE MOTION CARRIED ON THE FOLLOWING VOTE: AYES: COMMISSIONERS NEWMAN, ORTIZ, ROUTH, SMITH AND CHAIRPERSON GRAVES. NOES: NONE. ABSENT: NONE. ABSTAIN: NONE.

C. 1855 41st AVENUE #12-031 APN: 034-261-37, 38

Conditional Use Permit to establish a weekly farmer's market at the Capitola Mall in the CC (Community Commercial) Zoning District.
Environmental Determination: Categorical Exemption
Property Owner: Macerich, owner/filed: 3/9/12

Senior Planner Bane presented the staff report.

Commissioner Ortiz asked the proposed day of the market and who will run the market?

Senior Planner Bane responded, as proposed, there is not a specific day, but the market is to be held once a week. He referred to the applicant for the name of the market operator.

The public hearing was opened.

Toni Castro, CEO of the Capitola Soquel Chamber of Commerce, spoke in support of the application.

Lisa Porter, representative of Macerich Corp., spoke in support of the application. Ms. Porter stated the market will be held on Thursdays, 9:00 a.m. to 1:00 p.m. The market will be run by Bay Area Farmers Market Association.

Commissioner Routh suggested that the hours of operation, the maximum number of vendors and the number of parking spaces to be displaced be specified in the conditions of approval.

Ms. Porter responded that the market is typically four hours with 40 to 60 vendors, including produce, food, and non-profits, 75 parking spaces or approximately three rows of parking will be displaced.

Chairperson Graves spoke with concerns regarding the access to the handicapped parking spaces. He supported limiting the market area and maintaining access to the handicapped parking spaces.

Johnna Borello, Bay Area Farmers Market Association representative, stated the vendors occupy space up to the handicapped parking. She suggested the hours of operation be 8:00 a.m. to 2:00 p.m. to allow for an hour to set-up and an hour to take down, the market will from 9:00 a.m. to 1:00 p.m.

The public hearing was closed.

Commissioner Routh suggested the following additional conditions: maximum of 50 vendors, including non-profit booths, not more than 75 parking spaces shall be displaced, and the hours of operation are from 8:00 a.m. to 2:00 p.m.

Lisa Porter stated that market demand will determine the best day of the week and hours of operation for the market.

Commissioner Newman stated that there are several unknowns in the application and suggested a trial period for the use permit. The A-frame signs will be a problem with the current sign enforcement program.

Commissioner Graves suggested a banner placed only on the day of the market be permitted on the vendor booths.

A MOTION WAS MADE BY COMMISSIONER NEWMAN AND SECONDED BY COMMISSIONER ORTIZ TO APPROVE PROJECT APPLICATION #12-031 WITH THE FOLLOWING CONDITIONS AND FINDINGS:

CONDITIONS

1. The project approval consists of a Conditional Use Permit (CUP) to establish a weekly farmer's market in the Capitola Mall parking lot. The market will be allowed to operate once a week during the months of February through November. The Conditional Use Permit is valid for a trial period of one (1) year from the date of approval.
2. Acoustical music shall be allowed, but no amplified music will be permitted during the market.
3. Trash receptacles shall be available during the event and removed following the market.
4. The parking lot shall be clean of any trash, food or debris following the market.
5. Temporary signs will be permitted only during the market hours. Freestanding A-frame signs are not permitted along 41st Avenue. Banner signs shall be restricted to the vendor tents only.
6. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
7. The hours of operation are: 8:00 a.m.–9:00 a.m. set-up, 9:00 a.m –1:00 p.m market, 1:00 p.m.–2:00 p.m. take-down.
8. The number of vendors shall not exceed 50, including non-profit organizations.
9. The number of displace parking spaces shall not exceed 75 spaces. The handicapped parking spaces shall remain accessible throughout the market hours of operation.

FINDINGS**A. The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**

Planning Staff and the Planning Commission have reviewed the application and determined that the proposed use is an allowable use in the CC Zoning District with a Conditional Use Permit. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance and General Plan.

B. The application will maintain the character and integrity of the neighborhood.

Planning Department Staff and the Planning Commission have reviewed the project and determined that the proposed Farmers Market will provide a much-needed service to the community and will not have a negative impact on the character and integrity of the 41st Avenue corridor. Conditions of approval have been included to ensure that the project maintains the character and integrity of the area.

C. This project is categorically exempt under Section 15311 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.

The proposed project involves a temporary Farmers Market event in an existing parking lot. No adverse environmental impacts were discovered during project review by either the Planning Department Staff or the Planning Commission. Section 15311 of the CEQA Guidelines exempts mobile, seasonal uses that are generally in the same location.

THE MOTION CARRIED ON THE FOLLOWING VOTE: AYES: COMMISSIONERS NEWMAN, ORTIZ, ROUTH, SMITH AND CHAIRPERSON GRAVES. NOES: NONE. ABSENT: NONE. ABSTAIN: NONE.

D. 1855 41st AVENUE**#12-032****APN: 034-261-37, 38**

Sign Permit to construct several “wayfinding” monument signs at the Capitola Mall in the CC (Community Commercial) Zoning District.

Environmental Determination: Categorical Exemption

Property Owner: Macerich, owner/filed: 3/9/12

Representative: RSM Design

Senior Planner Bane presented the staff report.

Commissioner Smith clarified that this application is not a master sign program for the mall as there are several property owners of the mall parcels. She questioned how the Ross property related to this proposed plan, and if all the various owners agreed to the sign proposal. She also asked staff to define a significant change in Condition #3.

Senior Planner Bane responded that this is not a master sign program and that the project representative could address the approval and interest of other property owners. The Ross property has a master sign program and will not be affected by this proposal. A significant change would be a change in height, design materials, size of font and lettering.

Commissioner Ortiz asked if the existing exterior signage will remain.

Senior Planner Ryan responded that the main Capitola Mall signs will be replaced, but all other exterior signage will remain.

Chairperson Graves noted that the proposed plan shows all perimeter signs have the same four main tenants.

The public hearing was opened.

Bob Aptaher, Macerich representative, spoke in support of the application. He stated the proposed signs will give greater visibility for the mall tenants along 41st Avenue. The timing to implement the proposal is critical to the opening of Target in July.

Stephanie Wills, RSM signage representative, spoke in support of the application.

Commissioner Newman stated the applicant was Macerich, but questioned if Macerich had the authority to represent the other mall property owners. Macy's, Sears, and Citi Bank could each have an independent sign on their property.

Mr. Aptaher responded that Macerich had sent letters to all of the other property owners, and if there is a sign shown in the proposed plans, but no approval from the owner, then no sign will be placed. The sign program is a benefit to all of the mall tenants.

Chairperson Graves clarified that all of the signs will be placed on Macerich properties, but the names on the signs are for other property owners' tenants who may not approve of the sign. He suggested a sign along the Clares Street entrances.

The public hearing was closed.

Chairperson Graves supported the application and suggested that the signs be placed at all the property corners.

Commissioner Ortiz supported the application and commented that the proposal is a positive change for the mall.

Commissioner Smith stated that the other property owners could independently propose signage in other locations.

Commissioner Newman supported the concept of the sign program, however he could not support the application with only one property owner, Macerich. The sign program specifies sign size and location, but without the signage rights of all the tenants.

Commissioner Routh supported the application and stated that the visibility will bring economic viability to the city.

Chairperson Graves suggested that Macerich obtain letters from all the property owners.

A MOTION WAS MADE BY COMMISSIONER ROUTH AND SECONDED BY COMMISSIONER ORTIZ TO APPROVE PROJECT APPLICATION #12-032 WITH THE FOLLOWING CONDITIONS AND FINDINGS:

CONDITIONS

1. The project approval consists of a sign permit to install eleven “wayfinding” or “directory” monument signs in and around the Capitola Mall parking area, and a new primary entry sign
2. A landscape plan for the area surrounding the primary monument sign shall be submitted with the building permit plans for Community Development staff to review and approve.
3. If minor modifications to the signs are desired by the applicant (i.e. lettering, materials, colors, illumination, etc.), the changes may be approved by the Community Development Department. Any significant changes shall require Planning Commission approval.
4. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
5. Prior to building permit sign off, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Zoning Administrator or Community Development Director.

FINDINGS

- A. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance and General Plan.**

The Planning Commission finds that the proposed monument sign complies with the Sign Ordinance regulations in terms of size and design.

- B. **The application will maintain the character and integrity of the neighborhood.**

The Community Development Department Staff and Planning Commission have reviewed the plans to ensure that the sign maintains the character and integrity of the neighborhood.

- C. **The special signage, as designed and conditioned, is necessary and appropriate for the subject commercial site, in order to allow the site and the businesses located within it to be competitive with other businesses of a similar nature located elsewhere, and/or to be competitive with industry standards governing sale of the merchandise offered at the site.**

The signage is necessary and appropriate for the Capitola Mall, allowing it to be competitive with other regional malls.

- D. **The special signage, as designed and conditioned, will not have a significant adverse effect on the character and integrity of the surrounding area.**

The signage is appropriate for a commercial retail center of this size, and will not have an adverse effect on the character and integrity of this commercial area.

- E. **This project is categorically exempt under the Section 15311(a) of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

This project involves the installation of a monument sign for an existing commercial retail building. Section 15311(a) exempts on-premise signs appurtenant to existing commercial facilities.

THE MOTION CARRIED ON THE FOLLOWING VOTE: AYES: COMMISSIONERS ORTIZ, ROUTH, SMITH AND CHAIRPERSON GRAVES. NOES: COMMISSIONER NEWMAN. ABSENT: NONE. ABSTAIN: NONE.

E. Sign Ordinance

12-017

Consideration of an amendment to the City of Capitola Sign Ordinance Section 17.57 to allow for freestanding sidewalk signs on the public sidewalks in the Central Village Zoning District.
Environmental Determination: Categorical Exemption
Property Owner: City of Capitola, filed 2/10/12

A MOTION WAS MADE BY COMMISSIONER ROUTH AND SECONDED BY COMMISSIONER NEWMAN TO CONTINUE PROJECT APPLICATION #12-017 TO THE MAY 3, 2012 PLANNING COMMISSION MEETING.

THE MOTION CARRIED ON THE FOLLOWING VOTE: AYES: COMMISSIONERS NEWMAN, ORTIZ, ROUTH, SMITH AND CHAIRPERSON GRAVES. NOES: NONE. ABSENT: NONE. ABSTAIN: NONE.

6. DIRECTOR'S REPORT - NONE

7. COMMISSION COMMUNICATIONS - NONE

8. ADJOURNMENT

The Planning Commission adjourned the meeting at 9:00 p.m. to a Special Meeting of the Planning Commission to be held on Thursday, April 19, 2012 at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

Approved by the Planning Commission on April 19, 2012

Danielle Uharriet, Minute Clerk



STAFF REPORT

TO: PLANNING COMMISSION
FROM: COMMUNITY DEVELOPMENT DEPARTMENT
DATE: APRIL 19, 2012
SUBJECT: **AMEND FLOODPLAIN ORDINANCE 17.50** **#12-022**

Consideration of an amendment to the Capitola Municipal Code Chapter 17 to modify the floodplain district (17.50) to incorporate revised FEMA management regulations and an amendment to the City's certified Local Coastal Plan to be reviewed and certified by the California Coastal Commission.

BACKGROUND

The City has received notice from FEMA, who administers the National Flood Insurance Program (NFIP), requiring updates to the municipal code sections pertaining to floodplain management. In order to continue eligibility in the program these amendments must be adopted by May 16, 2012.

The NFIP provides opportunity for property owners in designated flood hazard areas to purchase flood insurance. Nearly 20,000 communities across the United States and its territories participate in the NFIP by adopting and enforcing floodplain management ordinances to reduce future flood damage. In exchange, the NFIP makes federally backed flood insurance available to homeowners, renters, and business owners in these communities.

Flood insurance is designed to provide an alternative to disaster assistance to reduce the escalating costs of repairing damage to buildings and their contents caused by floods. Flood damage is reduced by nearly \$1 billion a year through communities implementing sound floodplain management requirements and property owners purchasing of flood insurance. Additionally, buildings constructed in compliance with NFIP building standards suffer approximately 80 percent less damage annually than those not built in compliance.

DISCUSSION

The attached ordinance amends Chapter 17.50 Floodplain District with new regulations that better define the building hazards and provisions for allowing construction in the flood hazard areas. In addition, updated development standards are established for utilities, subdivisions, manufactured homes, recreational vehicles, and for construction in floodways and high hazard areas. The variance and appeal process is also better detailed in the revised code.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

Pursuant to CEQA Guidelines Section 15308, Actions by Regulatory Agency for Protection of the Environment, the proposed Zoning and Local Coastal Plan amendments associated with the Floodplain ordinance are exempt from CEQA. The proposed changes to the floodplain district provide improved protection to structures and facilities within the district which will minimize impacts of flood events, thereby providing improved protection of the environment.

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Find the proposed amendment is exempt from CEQA pursuant to Section 15308.
2. Adopt the proposed resolution recommending that the City Council approve amending Chapter 17.50 Floodplain District in the Capitola Municipal Code as required by the Federal Emergency Management Agency (FEMA) for the community to participate in the National Flood Insurance Program (NFIP), and direct the City Manager to submit this Local Coastal Plan amendment to the California Coastal Commission for review and certification.

Report Prepared By: Steven E. Jesberg
Public Works Director

Attachment A – Draft Resolution

Attachment B – Draft Ordinance CMC 17.50, Floodplain District

Attachment C – Strikeout and Underline version of existing CMC 17.50

Attachment D – Letter from FEMA dated November 16, 2011

DRAFT

RESOLUTION NO. 2012-

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CAPITOLA
RECOMMENDING THAT THE CITY COUNCIL AMEND THE
CAPITOLA MUNICIPAL CODE CHAPTER 17.50 FLOODPLAIN DISTRICT IN THE
CAPITOLA MUNICIPAL CODE AS REQUIRED BY THE FEDERAL EMERGENCY
MANAGEMENT AGENCY (FEMA) FOR THE COMMUNITY TO PARTICIPATE IN THE
NATIONAL FLOOD INSURANCE PROGRAM (NFIP), AND DIRECT THE CITY MANAGER
TO SUBMIT THIS LOCAL COASTAL PLAN AMENDMENT TO THE CALIFORNIA COASTAL
COMMISSION FOR REVIEW AND CERTIFICATION.**

WHEREAS, the Federal Emergency Management Agency (FEMA) is requiring updates to municipal code sections pertaining to floodplain management in order to continue eligibility in the National Flood Insurance Program (NFIP); and

WHEREAS, the City of Capitola maintains a floodplain management ordinance to participate in the NFIP to make federally backed flood insurance available to homeowners, renters, and business owners; and

WHEREAS, the new regulations update development standards and define provisions for construction in floodways and high hazard areas, in addition to a detailed variance and appeal process; and

WHEREAS, a portion of the Floodplain District is located in the Coastal Zone; and

WHEREAS, Capitola Municipal Code Chapter 17.50 is a part of the City's certified Local Coastal Plan.

WHEREAS, the Local Coastal Plan (LCP) Amendment is consistent with the Local Coastal Land Use Plan, and the Coastal Act; and

WHEREAS, these LCP Amendments, as drafted, will secure the purposes of the Zoning Ordinance and Local Coastal Program; and

WHEREAS, the required public hearing notices and public hearing were duly given and held; and

WHEREAS, pursuant to CEQA Guidelines Section 15307 the Local Coastal Plan amendment associated with the proposed changes to the Floodplain District are exempt from CEQA.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Capitola recommends that the City Council take the following actions:

1. Adopt an ordinance amending Capitola Municipal Code Chapter 17.50 to modify the Floodplain District to incorporate revised FEMA management regulations in a form substantially similar to Exhibit 1.

2. Direct the City Manager to submit the change to the Local Coastal Plan the Coastal Commission for its review and certification.

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the Planning Commission of the City of Capitola at a special meeting held on the 19th day of April, 2012 by the following vote:

AYES: Commissioners

NOES: Commissioners

ABSENT: Commissioners

ABSTAIN: Commissioners

Ron Graves, Chairperson

ATTEST:

Ryan Bane, Senior Planner

EXHIBIT 1 - Proposed Capitola Municipal Code Chapter 17.50 Floodplain District

EXHIBIT 1

ORDINANCE NO.

Chapter 17.50 FLOODPLAIN DISTRICT

Sections:

17.50.010	Statutory authorization.
17.50.020	Findings of fact.
17.50.030	Statement of purpose.
17.50.040	Methods of reducing flood losses.
17.50.050	Abrogation and greater restrictions.
17.50.060	Interpretation.
17.50.070	Warning and disclaimer of liability.
17.50.080	Severability.
17.50.090	Basis for establishing the areas of special flood hazard.
17.50.100	Definitions.
17.50.110	Designation of the floodplain administrator.
17.50.120	Duties and responsibilities of the floodplain administrator.
17.50.130	Combining district.
17.50.140	Compliance.
17.50.150	Principal permitted uses.
17.50.160	Accessory uses.
17.50.170	Conditional uses.
17.50.180	Development standards.
17.50.190	Development permit.
17.50.200	Appeals.
17.50.210	Standards of construction.
17.50.220	Standards for utilities
17.50.230	Standards for subdivisions.
17.50.240	Standards for manufactured homes.
17.50.250	Standards for recreational vehicles.
17.50.260	Standards within floodways.
17.50.270	Coastal high hazard areas.
17.50.280	Variance procedure.
17.50.290	Conditions of variances.
17.50.300	Approval of variances.
17.50.310	Nonconforming structures in flood plain.
17.50.320	Appeal procedure.
17.50.330	Disclosure requirement.

17.50.010 Statutory authorization.

The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote *the public health, safety, and general welfare of its citizenry*. Therefore, *the City of Capitola* does hereby adopt the following floodplain management regulations.

17.50.020 Findings of fact.

The flood hazard areas of City of Capitola are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and

impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

These flood losses are caused by uses that are inadequately elevated, flood proofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contributes to flood losses.

17.50.030 Statement of purpose.

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by legally enforceable regulations applied uniformly throughout the community to all publicly and privately owned land within flood prone, mudslide (i.e. mudflow) or flood related erosion areas. These regulations are designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

17.50.040 Methods of reducing flood losses.

In order to accomplish its purposes, this ordinance includes regulations to:

- A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Control filling, grading, dredging, and other development which may increase flood damage;
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas; and

17.50.050 Abrogation and greater restrictions.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

17.50.060 Interpretation.

In the interpretation and application of this ordinance, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and

C. Deemed neither to limit nor repeal any other powers granted under state statutes.

17.50.070 Warning and disclaimer of liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Capitola any officer or employee thereof, the State of California, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

17.50.080 Severability.

This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

17.50.090 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of, the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated June 3, 1986 and accompanying Flood Insurance Rate Maps (FIRM's) and Flood Boundary and Floodway Maps (FBFM's) dated June 3, 1986, and all subsequent amendments and/or revisions, are adopted by reference and declared to be a part of this chapter. The FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the city by the floodplain administrator. The study, FIRMS and FBFMs are on file at 420 Capitola Avenue, city of Capitola. (Ord. 755 § 2, 1993)

17.50.100 Definitions.

For the purposes of this chapter, the following words, phrases and terms shall have the meanings ascribed to them by this section:

"**A zone**" - see "Special flood hazard area".

"**Accessory structure**" means a structure that is either:

1. Solely for the parking of no more than 2 cars; or
2. A small, low cost shed for limited storage, less than 150 square feet and \$1,500 in value.

"**Accessory use**" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located. "Alluvial fan" means a geomorphologic feature characterized by cone or fan-shaped deposit of boulders, gravel and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

"**Apex**" means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

"**Appeal**" means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

"**Area of shallow flooding**" means a designation A or AH Zone on the Flood Insurance Rate Map (FIRM) where: the base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow."Area of special flood hazard" - See "Special flood hazard area."

“Area of special flood related erosion hazard” is the land within a community which is most likely to be subject to severe flood related erosion losses. The area may be designated a Zone E on the Flood Insurance Rate Map (FIRM)

“Base flood” means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the “100 year flood”). Base flood is the term used throughout this ordinance.

“Base flood elevation” (BFE) means the elevation shown on the Flood Insurance Rate Map for Zones AE, AH, A1-30, VE and V1-V30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

“Basement” means any area of the building having its floor subgrade - i.e., below ground level - on all sides.

“Breakaway walls” are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. A breakaway wall shall have a safe design loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
2. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

“Building” - see “Structure”.

“Coastal high hazard area” means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE, or V.

“Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

“Encroachment” means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

“Existing manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before August 14, 1984.

“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

“Flood,” “flooding” or “flood water” means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e. mudflows); and
2. The condition resulting from flood related erosion.

“Flood Boundary and Floodway Map (FBFM)” means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

"Flood Hazard Boundary Map" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards.

"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map and the water surface elevation of the base flood.

"Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source - see "Flooding."

"Floodplain administrator" is the individual appointed to administer and enforce the floodplain management regulations.

"Floodplain area" means the land on either side of a creek or other watercourse which may be subject to flooding. "Floodplain area" includes the one-hundred-year floodplain as determined by the Federal Flood Insurance Program and shown on both the Flood Insurance Rate Map and Flood Boundary and Floodway map, each dated June 3, 1986.

"Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, when possible natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations and open space plans.

"Floodplain management regulations" means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "Regulatory Floodway."

"Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

"Flood-related erosion area" means a land area adjoining the shore of a lake or other body of water which, due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood related erosion damage.

"Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood related erosion damage including, but not limited to, emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

"Floodway encroachment lines" means the lines marking the limits of floodways on federal, state and local floodplain maps.

"Floodway fringe" is the area of the floodplain on either side of the "regulatory floodway" where encroachment may be permitted.

"Fraud and victimization" means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City of Capitola will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

"Functionally dependent use" means a use, the intended purpose of which cannot be performed unless the use is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo and passengers, and ship-building and ship-repair facilities, but does not include long-term storage or related manufacturing facilities.

"Habitable floor" means floors usable for living purposes, which includes working, sleeping, eating or recreation, or combination thereof. A floor used only for storage purposes is not a habitable floor.

"Hardship" means the exceptional hardship that would result from a failure to grant the requested variance. The City of Capitola requires that the variance must be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbor likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

"Historic structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

"Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

"Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

"Lowest floor" means the lowest floor of the lowest enclosed area, including basement (see "Basement" definition).

1. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:

- a. The flood openings standard in Section 17.50.210.C.3;

- b. The anchoring standards in Section 17.50.210.A;
 - c. The construction materials and methods standards in Section 17.50.210.B; and
 - d. The standards for utilities in Section 17.50.220
2. For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see "Basement" definition). This prohibition includes below-grade garages and storage areas.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Market value" is defined in the City of Capitola substantial damage/improvement procedures. See Section 17.50.120.B.1.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mudslide" describes a condition where there is river, flow or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain.

"Mudslide prone area" means an area with land surfaces and slopes of unconsolidated material where the history, geology and climate indicate a potential for mudflow.

"New construction", for floodplain management purposes, means structures for which the "start of construction" commenced on or after August 14, 1984, and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after August 14, 1984.

"Obstruction" includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protective, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

"One-hundred-year flood" or "100-year flood" - see "Base flood."

"Primary frontal dune" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.

"Program deficiency" means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.

"Public safety and nuisance" as related to Section 17.50.280 means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing water surface elevation more than one foot.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Sheet flow area" - see **"Area of shallow flooding."**

"Special flood hazard area (SFHA)" means an area having special flood, mudslide or flood-related erosion hazards and shown on the FHBM or FIRM as Zone A, AO, AI—A30, AE, A99, AH, E. M. V1—V30, VE or V.

"Start of construction" includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"V zone" - see "Coastal high hazard area."

"Variance" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

"Violation" means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

"Watercourse" means a lake, river creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplain or coastal or riverine areas. (Ord. 755 § 1, 1993: Ord. 656 § 1, 1988; Ord. 647 § 1, 1988; Ord. 619 § 1, 1987: Ord. 609 § 1, 1986: Ord. 575 § 2 (part), 1984)

17.50.110 Designation of the floodplain administrator.

The (e.g., City Manager, Director of Planning, Public Works, or Building Official, etc.) is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accord with its provisions.

17.50.120 Duties and responsibilities of the floodplain administrator.

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

- A. Permit Review. Review all development permits to determine:
 - 1. Permit requirements of this ordinance have been satisfied, including determination of substantial improvement and substantial damage of existing structures;
 - 2. All other required state and federal permits have been obtained;
 - 3. The site is reasonably safe from flooding;
 - 4. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than 1 foot at any point within the City of Capitola; and
 - 5. All Letters of Map Revision (LOMR's) for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.
- B. Development of Substantial Improvement and Substantial Damage Procedures.
 - 1. Using FEMA publication FEMA 213, "Answers to Questions About Substantially Damaged Buildings," develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining "Market Value."
 - 2. Assure procedures are coordinated with other departments/divisions and implemented by community staff.
- C. Review, Use and Development of Other Base Flood Data.

When base flood elevation data has not been provided in accordance with Section 17.50.090, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Sections 17.50.210-17.50.270.

NOTE: A base flood elevation may be obtained using one of two methods from the FEMA publication, FEMA 265, "Managing Floodplain Development in Approximate Zone A Areas – A Guide for Obtaining and Developing Base (100-year) Flood Elevations" dated July 1995.

- D. Notification of Other Agencies.
 - 1. Alteration or relocation of a watercourse:
 - a. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;
 - b. Submit evidence of such notification to the Federal Emergency Management Agency; and
 - c. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.
 - 2. Base Flood Elevation changes due to physical alterations:
 - a. Within 6 months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that

the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).

- b. All LOMR's for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

3. Changes in corporate boundaries:

Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

E. Documentation of Floodplain Development.

Obtain and maintain for public inspection and make available as needed the following:

1. Certification required by Section 17.50.210.C.1 and Section 17.50.240 (lowest floor elevations);
2. Certification required by Section 17.50.210.C.2 (elevation or floodproofing of nonresidential structures);
3. Certification required by Sections 17.50.210.C.3 (wet floodproofing standard);
4. Certification of elevation required by Section 17.50.230.A.3 (subdivisions and other proposed development standards);
5. Certification required by Section 17.50.260.B (floodway encroachments);
6. Information required by Section 17.50.270.F (coastal construction standards); and
7. Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

F. Map Determination.

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 17.50.200.

G. Remedial Action.

Take action to remedy violations of this ordinance as specified in Section 17.50.140.

H. Biennial Report.

Complete and submit Biennial Report to FEMA.

I. Planning.

Assure community's General Plan is consistent with floodplain management objectives herein.

17.50.130 Combining district.

Land classified FP shall also have a basic classification as set forth elsewhere in this title. For example, R-1-FP means that the R-1 district regulations apply as well as the FP regulations. (Ord. 575 § 2 (part), 1984)

17.50.140 Compliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the city

from taking such lawful action as is necessary to prevent or remedy any violation. (Ord. 755 § 3, 1993)

17.50.150 Principal permitted uses.

The following are principal permitted uses in the FP district: All uses permitted in the basic zoning district. (Ord. 575 § 2 (part), 1984)

17.50.160 Accessory uses.

The following are accessory uses permitted in the FP district: All accessory uses permitted in the basic zoning district. (Ord. 575 § 2 (part), 1984)

17.50.170 Conditional uses.

The following are conditional uses in the FP district: All conditional uses in the basic zoning district. (Ord. 572 § 2 (part), 1984)

17.50.180 Development standards.

The development standards shall be the same as the basic zoning district except in those instances when more restrictive standards are necessary to provide assurance of conforming with this chapter. (Ord. 575 § 2 (part), 1984)

17.50.190 Development permit.

A development permit shall be obtained before any construction or other development, including manufactured homes, within any area of special flood hazard established in Section 17.50.090. Application for a development permit shall be made on forms furnished by the City of Capitola. The applicant shall provide the following minimum information:

A. Plans in duplicate, drawn to scale, showing:

1. Location, dimensions, and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;
 2. Proposed locations of water supply, sanitary sewer, and other utilities;
 3. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;
 4. Location of the regulatory floodway when applicable;
 5. Base flood elevation information as specified in Section 17.50.090 or Section 17.50.120.C;
 6. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and
 7. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Section 17.50.210.C.2 of this ordinance and detailed in FEMA Technical Bulletin TB 3-93.
- B. Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in Section 17.50.210.C.2.
- C. For a crawl-space foundation, location and total net area of foundation openings as required in Section 17.50.210.C.3 of this ordinance and detailed in FEMA Technical Bulletins 1-93 and 7-93.
- D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- E. All appropriate certifications listed in Section 17.50.120.E of this ordinance.

17.50.200 Appeals.

The City of Capitola shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

17.50.210 Standards of construction.

In all areas of special flood hazards the following standards are required:

- A. Anchoring.

All new construction and substantial improvements of structures, including manufactured homes, shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- B. Construction Materials and Methods.

All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:

 - 1. With flood resistant materials, and utility equipment resistant to flood damage for areas below the base flood elevation;
 - 2. Using methods and practices that minimize flood damage;
 - 3. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
 - 4. Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.
- C. Elevation and Floodproofing.
 - 1. Residential construction.

All new construction or substantial improvements of residential structures shall have the lowest floor, including basement:

 - a. In AE, AH, A1-30 Zones, elevated to or above the base flood elevation.
 - b. In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least 2 feet above the highest adjacent grade if no depth number is specified.
 - c. In an A zone, without BFE's specified on the FIRM [unnumbered A zone], elevated to or above the base flood elevation; as determined under Section 17.50.120.C.

Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.
 - 2. Nonresidential Construction.

All new construction or substantial improvements of nonresidential structures shall either be elevated to conform with Section 17.50.210.C.1 or:

 - a. Be floodproofed, together with attendant utility and sanitary facilities, below the elevation recommended under Section 17.50.210.C.1, so that the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - c. Be certified by a registered civil engineer or architect that the standards of Section 17.50.210.C.2.a & b are satisfied. Such certification shall be provided to the Floodplain Administrator.
 - 3. Flood openings.

All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable

solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must meet the following minimum criteria:

- a. For non-engineered openings:
 1. Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 2. The bottom of all openings shall be no higher than one foot above grade;
 3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; and
 4. Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter; or
 - b. Be certified by a registered civil engineer or architect.
4. Manufactured homes.
 - a. See Section 17.50.240.
 5. Garages and low cost accessory structures.
 - a. Attached garages.
 1. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of flood waters. See Section 17.50.210.C.3. Areas of the garage below the BFE must be constructed with flood resistant materials. See Section 17.50.210.B.
 2. A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed. For guidance on below grade parking areas, see FEMA Technical Bulletin TB-6.
 - b. Detached garages and accessory structures.
 1. "Accessory structures" used solely for parking (2 car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Section 17.50.100, may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements:
 - a) Use of the accessory structure must be limited to parking or limited storage;
 - b) The portions of the accessory structure located below the BFE must be built using flood-resistant materials;
 - c) The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;
 - d) Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;
 - e) The accessory structure must comply with floodplain encroachment provisions in Section 17.50.260; and
 - f) The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with Section 17.50.210.C.3.
 2. Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 17.50.210-17.50.270

17.50.220 Standards for utilities.

- A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
 1. Infiltration of flood waters into the systems; and

2. Discharge from the systems into flood waters.
- B. On-site waste disposal systems are prohibited per CMC 13.040.

17.50.230 Standards for subdivisions.

- A. All new subdivisions proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than 50 lots or 5 acres, whichever is the lesser, shall:
 1. Identify the Special Flood Hazard Areas (SFHA) and Base Flood Elevations (BFE).
 2. Identify the elevations of lowest floors of all proposed structures and pads on the final plans.
 3. If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to the Floodplain Administrator:
 - a. Lowest floor elevation.
 - b. Pad elevation.
 - c. Lowest adjacent grade.
- B. All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.
- C. All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- D. All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.

17.50.240 Development standards for manufactured homes and manufactured home parks and subdivisions in floodplain area.

- A. All manufactured homes that are placed or substantially improved, on sites located: (1) outside of a manufactured home park or subdivision; (2) in a new manufactured home park or subdivision; (3) in an expansion to an existing manufactured home park or subdivision; or (4) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall:
 1. Within Zones A1-30, AH, and AE on the community's Flood Insurance Rate Map, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 2. Within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map, meet the requirements of Section 17.50.270.
- B. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, AE, V1-30, V, and VE on the community's Flood Insurance Rate Map that are not subject to the provisions of Section 17.50.240.A will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:
 1. Lowest floor of the manufactured home is at or above the base flood elevation; or
 2. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered civil engineer or licensed land surveyor, and

verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

17.50.250 Standards for Recreational Vehicles.

- A. All recreational vehicles placed in Zones A1-30, AH, AE, V1-30 and VE will either:
 - 1. Be on the site for fewer than 180 consecutive days; or
 - 2. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - 3. Meet the permit requirements of Section 17.50.190 of this ordinance and the elevation and anchoring requirements for manufactured homes in Section 17.50.240.
- B. Recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map will meet the requirements of Section 17.50.250.A and Section 17.50.270.

17.50.260 Standards within floodways.

Since floodways are an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. Until a regulatory floodway is adopted, no new construction, substantial development, or other development (including fill) shall be permitted within Zones A1-30 and AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than 1 foot at any point within the City of Capitola.
- B. Within an adopted regulatory floodway, the City of Capitola shall prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- C. If Sections 17.50.260.A & B are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Section 17.50.210-17.50.270.

17.50.270 Coastal high hazard areas.

Within coastal high hazard areas, Zones V, V1-30, and VE, as established under Section 17.50.090, the following standards shall apply:

- A. All new residential and non-residential construction, including substantial improvement/damage, shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or local building standards.
- B. All new construction and other development shall be located on the landward side of the reach of mean high tide.
- C. All new construction and substantial improvement shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in Section 17.50.100 of this ordinance. Such enclosed space shall not be used for

- human habitation and will be usable solely for parking of vehicles, building access or storage.
- D. Fill shall not be used for structural support of buildings.
 - E. Man-made alteration of sand dunes which would increase potential flood damage is prohibited.
 - F. The Floodplain Administrator shall obtain and maintain the following records:
 - 1. Certification by a registered engineer or architect that a proposed structure complies with Section 17.50.270.A; and
 - 2. The elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement.

17.50.280 Variance procedure.

The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.

The variance criteria set forth in this section of the ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the City of Capitola to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this ordinance are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

17.50.290 Conditions for variances.

- A. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Sections 17.50.110-17.50.200 and 17.50.210-17.50.270 of this ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of "historic structures" (as defined in Section 17.50.100 of this ordinance) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued upon a determination that the variance is the "minimum necessary" considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, this means the City of Capitola need not grant permission for the applicant to build at

- grade, or even to whatever elevation the applicant proposes, but only to that elevation which the City of Capitola believes will both provide relief and preserve the integrity of the local ordinance.
- E. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
 - 1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
 - 2. Such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Santa Cruz County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
 - F. The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

17.50.300 Approval of variances.

- A. In passing upon requests for variances, the City of Capitola shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and the:
 - 1. Danger that materials may be swept onto other lands to the injury of others;
 - 2. Danger of life and property due to flooding or erosion damage;
 - 3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
 - 4. Importance of the services provided by the proposed facility to the community;
 - 5. Necessity to the facility of a waterfront location, where applicable;
 - 6. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - 7. Compatibility of the proposed use with existing and anticipated development;
 - 8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - 9. Safety of access to the property in time of flood for ordinary and emergency vehicles;
 - 10. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
 - 11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.
- B. Variances shall only be issued upon a:
 - 1. Showing of good and sufficient cause;
 - 2. Determination that failure to grant the variance would result in exceptional "hardship" to the applicant; and
 - 3. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (see "Public safety and nuisance"), cause "fraud and victimization" of the public, or conflict with existing local laws or ordinances.
- C. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of Sections 17.50.300.A through 17.50.300.D are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional

threats to public safety and does not create a public nuisance.

- D. Upon consideration of the factors of Section 17.50.290.A and the purposes of this ordinance, the City of Capitola may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

17.50.310 Nonconforming structures in flood plain.

A structure which was lawful before enactment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued as a nonconforming structure subject to the following condition: If any nonconforming structure is destroyed by flood, earthquake, tsunami or, for another cause to the extent of fifty percent or more of its fair market value immediately prior to the destruction, it shall not be reconstructed except in conformity with the provisions of this chapter. (Ord. 575 § 2 (part), 1984).

17.50.320 Variance appeal procedure.

A. Appeal procedure for all decisions made under this chapter shall be in conformance with standard appeal procedures of Chapter 2.52 of this code.

B. The director of public works shall maintain the records of all appeal actions and report any variances to the federal insurance administration upon request.

C. Any applicant to whom a variance is granted should be given written notice that the structure will be permitted to be built in variance with these rules and that the cost of flood insurance will be commensurate with the increased risk resulting from such variance. (Ord. 575 § 2 (part), 1984)

17.50.330 Disclosure requirement.

A person, who is acting as an agent for a seller of real property which is located within a FP district or the seller if he or she is acting without an agent, shall disclose to any prospective purchaser the fact that the property is located within a FP district. The community development director may adopt methods of informing owners and real estate sales persons of this requirement. (Ord. 575 § 2 (part), 1984)

Section 3. Severability. If any provision of this ordinance or the application thereof, to any person or circumstance is held invalid, that invalidity shall not affect any other provision or application of this ordinance, which can be given effect without the invalid provision or application, and to this end, the provisions or applications of this ordinance are severable.

Section 4. This ordinance shall take effect and be in full force thirty (30) days after its final adoption outside the Coastal Zone, and upon approval and certification by the California Coastal Commission in the Coastal Zone.

DRAFT

ORDINANCE NO.

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA AMENDING TITLE 17.50 OF THE CAPITOLA MUNICIPAL CODE PERTAINING TO THE FLOODPLAIN DISTRICT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CAPITOLA AS FOLLOWS:

Section 1. Title 17.50 is hereby added to the Capitola Municipal Code to read as follows:

"Chapter 17.50

FLOODPLAIN DISTRICT

Sections:

- 17.50.010 Statutory authorization.**
- 17.50.020 Findings of fact.**
- 17.50.030 Statement of purpose.**
- 17.50.040 Methods of reducing flood losses.**
- 17.50.050 Abrogation and greater restrictions.**
- 17.50.060 Interpretation.**
- 17.50.070 Warning and disclaimer of liability.**
- 17.50.080 Severability.**
- 17.50.090 Basis for establishing the areas of special flood hazard.**
- 17.50.100 Definitions.**
- 17.50.110 Designation of the floodplain administrator.**
- 17.50.120 Duties and responsibilities of the floodplain administrator.**
- 17.50.130 Combining district.**
- 17.50.140 Compliance.**
- 17.50.150 Principal permitted uses.**
- 17.50.160 Accessory uses.**
- 17.50.170 Conditional uses.**
- 17.50.180 Development standards.**
- 17.50.190 Development permit.**
- 17.50.200 Appeals.**
- 17.50.210 Standards of construction.**
- 17.50.220 Standards for utilities**
- 17.50.230 Standards for subdivisions.**
- 17.50.240 Standards for manufactured homes.**
- 17.50.250 Standards for recreational vehicles.**
- 17.50.260 Standards within floodways.**
- 17.50.270 Coastal high hazard areas.**
- 17.50.280 Variance procedure.**
- 17.50.290 Conditions of variances.**
- 17.50.300 Approval of variances.**
- 17.50.310 Nonconforming structures in flood plain.**
- 17.50.320 Appeal procedure.**
- 17.50.330 Disclosure requirement.**

17.50.010 Statutory authorization.

The Legislature of the State of California has in Government Code Sections 65302, 65560, and

65800 conferred upon local governments the authority to adopt regulations designed to promote *the public health, safety, and general welfare of its citizenry*. Therefore, the City of Capitola does hereby adopt the following floodplain management regulations.

17.50.020 Findings of fact.

The flood hazard areas of City of Capitola are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

These flood losses are caused by uses that are inadequately elevated, flood proofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contributes to flood losses.

17.50.030 Statement of purpose.

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by legally enforceable regulations applied uniformly throughout the community to all publicly and privately owned land within flood prone, mudslide (i.e. mudflow) or flood related erosion areas. These regulations are designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

17.50.040 Methods of reducing flood losses.

In order to accomplish its purposes, this ordinance includes regulations to:

- A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Control filling, grading, dredging, and other development which may increase flood damage;
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas; and

17.50.050 Abrogation and greater restrictions.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement,

covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

17.50.060 Interpretation.

In the interpretation and application of this ordinance, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

17.50.070 Warning and disclaimer of liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Capitola any officer or employee thereof, the State of California, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

17.50.080 Severability.

This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

17.50.090 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of, the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated June 3, 1986 and accompanying Flood Insurance Rate Maps (FIRM's) and Flood Boundary and Floodway Maps (FBFM's) dated June 3, 1986, and all subsequent amendments and/or revisions, are adopted by reference and declared to be a part of this chapter. The FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the city by the floodplain administrator. The study, FIRMS and FBFMs are on file at 420 Capitola Avenue, city of Capitola. (Ord. 755 § 2, 1993)

17.50.100 Definitions.

For the purposes of this chapter, the following words, phrases and terms shall have the meanings ascribed to them by this section:

"**A zone**" - see "Special flood hazard area".

"**Accessory structure**" means a structure that is either:

- 1. Solely for the parking of no more than 2 cars; or
- 2. A small, low cost shed for limited storage, less than 150 square feet and \$1,500 in value.

"**Accessory use**" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located. "Alluvial fan" means a geomorphologic feature characterized by cone or fan-shaped deposit of boulders, gravel and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

"**Apex**" means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

"Area of shallow flooding" means a designation A or AH Zone on the Flood Insurance Rate Map (FIRM) where: the base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow."Area of special flood hazard" - See "Special flood hazard area."

"Area of special flood related erosion hazard" is the land within a community which is most likely to be subject to severe flood related erosion losses. The area may be designated a Zone E on the Flood Insurance Rate Map (FIRM)

"Base flood" means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100 year flood"). Base flood is the term used throughout this ordinance.

"Base flood elevation" (BFE) means the elevation shown on the Flood Insurance Rate Map for Zones AE, AH, A1-30, VE and V1-V30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade - i.e., below ground level - on all sides.

"Breakaway walls" are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. A breakaway wall shall have a safe design loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

2. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

"Building" - see "Structure".

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE, or V.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

"Encroachment" means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before August 14, 1984.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

"Flood," "flooding" or "flood water" means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e. mudflows); and

2. The condition resulting from flood related erosion.

"Flood Boundary and Floodway Map (FBFM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

"Flood Hazard Boundary Map" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards.

"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map and the water surface elevation of the base flood.

"Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source - see "Flooding."

"Floodplain administrator" is the individual appointed to administer and enforce the floodplain management regulations.

"Floodplain area" means the land on either side of a creek or other watercourse which may be subject to flooding. "Floodplain area" includes the one-hundred-year floodplain as determined by the Federal Flood Insurance Program and shown on both the Flood Insurance Rate Map and Flood Boundary and Floodway map, each dated June 3, 1986.

"Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, when possible natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations and open space plans.

"Floodplain management regulations" means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "Regulatory Floodway."

"Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

"Flood-related erosion area" means a land area adjoining the shore of a lake or other body of water which, due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood related erosion damage.

"Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood related erosion damage including, but not limited to, emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

"Floodway encroachment lines" means the lines marking the limits of floodways on federal, state and local floodplain maps.

"Floodway fringe" is the area of the floodplain on either side of the "regulatory floodway" where encroachment may be permitted.

"Fraud and victimization" means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City of Capitola will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

"Functionally dependent use" means a use, the intended purpose of which cannot be performed unless the use is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo and passengers, and ship-building and ship-repair facilities, but does not include long-term storage or related manufacturing facilities.

"Habitable floor" means floors usable for living purposes, which includes working, sleeping, eating or recreation, or combination thereof. A floor used only for storage purposes is not a habitable floor.

"Hardship" means the exceptional hardship that would result from a failure to grant the requested variance. The City of Capitola requires that the variance must be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbor likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

"Historic structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

"Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

"Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

"Lowest floor" means the lowest floor of the lowest enclosed area, including basement (see "Basement" definition).

1. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:
 - a. The flood openings standard in Section 17.50.210.C.3;
 - b. The anchoring standards in Section 17.50.210.A;
 - c. The construction materials and methods standards in Section 17.50.210.B; and
 - d. The standards for utilities in Section 17.50.220
2. For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see "Basement" definition). This prohibition includes below-grade garages and storage areas.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Market value" is defined in the City of Capitola substantial damage/improvement procedures. See Section 17.50.120.B.1.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mudslide" describes a condition where there is river, flow or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain.

"Mudslide prone area" means an area with land surfaces and slopes of unconsolidated material where the history, geology and climate indicate a potential for mudflow.

"New construction", for floodplain management purposes, means structures for which the "start of construction" commenced on or after August 14, 1984, and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after August 14, 1984.

"Obstruction" includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protective, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

"One-hundred-year flood" or "100-year flood" - see "Base flood."

"Primary frontal dune" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.

"Program deficiency" means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.

"Public safety and nuisance" as related to Section 17.50.280 means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or

neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing water surface elevation more than one foot.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Sheet flow area" - see **"Area of shallow flooding."**

"Special flood hazard area (SFHA)" means an area having special flood, mudslide or flood-related erosion hazards and shown on the FHBM or FIRM as Zone A, AO, AI—A30, AE, A99, AH, E, M, V1—V30, VE or V.

"Start of construction" includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"V zone" - see **"Coastal high hazard area."**

"Variance" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

"Violation" means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

"Watercourse" means a lake, river creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and

frequencies in the floodplain or coastal or riverine areas. (Ord. 755 § 1, 1993; Ord. 656 § 1, 1988; Ord. 647 § 1, 1988; Ord. 619 § 1, 1987; Ord. 609 § 1, 1986; Ord. 575 § 2 (part), 1984)

17.50.110 Designation of the floodplain administrator.

The (e.g., City Manager, Director of Planning, Public Works, or Building Official, etc.) is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accord with its provisions.

17.50.120 Duties and responsibilities of the floodplain administrator.

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

- A. Permit Review. Review all development permits to determine:
 - 1. Permit requirements of this ordinance have been satisfied, including determination of substantial improvement and substantial damage of existing structures;
 - 2. All other required state and federal permits have been obtained;
 - 3. The site is reasonably safe from flooding;
 - 4. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than 1 foot at any point within the City of Capitola; and
 - 5. All Letters of Map Revision (LOMR's) for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.
- B. Development of Substantial Improvement and Substantial Damage Procedures.
 - 1. Using FEMA publication FEMA 213, "Answers to Questions About Substantially Damaged Buildings," develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining "Market Value."
 - 2. Assure procedures are coordinated with other departments/divisions and implemented by community staff.

C. Review, Use and Development of Other Base Flood Data.

When base flood elevation data has not been provided in accordance with Section 17.50.090, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Sections 17.50.210-17.50.270.

NOTE: A base flood elevation may be obtained using one of two methods from the FEMA publication, FEMA 265, "Managing Floodplain Development in Approximate Zone A Areas – A Guide for Obtaining and Developing Base (100-year) Flood Elevations" dated July 1995.

D. Notification of Other Agencies.

- 1. Alteration or relocation of a watercourse:
 - a. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;
 - b. Submit evidence of such notification to the Federal Emergency Management Agency; and
 - c. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.
- 2. Base Flood Elevation changes due to physical alterations:
 - a. Within 6 months of information becoming available or project completion, whichever

comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).

- b. All LOMR's for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

- 3. Changes in corporate boundaries:

Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

E. Documentation of Floodplain Development.

Obtain and maintain for public inspection and make available as needed the following:

- 1. Certification required by Section 17.50.210.C.1 and Section 17.50.240 (lowest floor elevations);
- 2. Certification required by Section 17.50.210.C.2 (elevation or floodproofing of nonresidential structures);
- 3. Certification required by Sections 17.50.210.C.3 (wet floodproofing standard);
- 4. Certification of elevation required by Section 17.50.230.A.3 (subdivisions and other proposed development standards);
- 5. Certification required by Section 17.50.260.B (floodway encroachments);
- 6. Information required by Section 17.50.270.F (coastal construction standards); and
- 7. Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

F. Map Determination.

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 17.50.200.

G. Remedial Action.

Take action to remedy violations of this ordinance as specified in Section 17.50.140.

H. Biennial Report.

Complete and submit Biennial Report to FEMA.

I. Planning.

Assure community's General Plan is consistent with floodplain management objectives herein.

17.50.130 Combining district.

Land classified FP shall also have a basic classification as set forth elsewhere in this title. For example, R-1-FP means that the R-1 district regulations apply as well as the FP regulations. (Ord. 575 § 2 (part), 1984)

17.50.140 Compliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with

conditions) shall constitute a misdemeanor. Nothing herein shall prevent the city from taking such lawful action as is necessary to prevent or remedy any violation. (Ord. 755 § 3, 1993)

17.50.150 Principal permitted uses.

The following are principal permitted uses in the FP district: All uses permitted in the basic zoning district. (Ord. 575 § 2 (part), 1984)

17.50.160 Accessory uses.

The following are accessory uses permitted in the FP district: All accessory uses permitted in the basic zoning district. (Ord. 575 § 2 (part), 1984)

17.50.170 Conditional uses.

The following are conditional uses in the FP district: All conditional uses in the basic zoning district. (Ord. 572 § 2 (part), 1984)

17.50.180 Development standards.

The development standards shall be the same as the basic zoning district except in those instances when more restrictive standards are necessary to provide assurance of conforming with this chapter. (Ord. 575 § 2 (part), 1984)

17.50.190 Development permit.

A development permit shall be obtained before any construction or other development, including manufactured homes, within any area of special flood hazard established in Section 17.50.090. Application for a development permit shall be made on forms furnished by the City of Capitola. The applicant shall provide the following minimum information:

A. Plans in duplicate, drawn to scale, showing:

1. Location, dimensions, and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;
2. Proposed locations of water supply, sanitary sewer, and other utilities;
3. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;
4. Location of the regulatory floodway when applicable;
5. Base flood elevation information as specified in Section 17.50.090 or Section 17.50.120.C;
6. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and
7. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Section 17.50.210.C.2 of this ordinance and detailed in FEMA Technical Bulletin TB 3-93.

B. Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in Section 17.50.210.C2.

C. For a crawl-space foundation, location and total net area of foundation openings as required in Section 17.50.210.C.3 of this ordinance and detailed in FEMA Technical Bulletins 1-93 and 7-93.

D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

E. All appropriate certifications listed in Section 17.50.120.E of this ordinance.

17.50.200 Appeals.

The City of Capitola shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

17.50.210 Standards of construction.

In all areas of special flood hazards the following standards are required:

- A. Anchoring.
All new construction and substantial improvements of structures, including manufactured homes, shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- B. Construction Materials and Methods.
All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:
 - 1. With flood resistant materials, and utility equipment resistant to flood damage for areas below the base flood elevation;
 - 2. Using methods and practices that minimize flood damage;
 - 3. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
 - 4. Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.
- C. Elevation and Floodproofing.
 - 1. Residential construction.
All new construction or substantial improvements of residential structures shall have the lowest floor, including basement:
 - a. In AE, AH, A1-30 Zones, elevated to or above the base flood elevation.
 - b. In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least 2 feet above the highest adjacent grade if no depth number is specified.
 - c. In an A zone, without BFE's specified on the FIRM [unnumbered A zone], elevated to or above the base flood elevation; as determined under Section 17.50.120.C.
Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.
 - 2. Nonresidential Construction.
All new construction or substantial improvements of nonresidential structures shall either be elevated to conform with Section 17.50.210.C.1 or:
 - a. Be floodproofed, together with attendant utility and sanitary facilities, below the elevation recommended under Section 17.50.210.C.1, so that the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - c. Be certified by a registered civil engineer or architect that the standards of Section 17.50.210.C.2.a & b are satisfied. Such certification shall be provided to the Floodplain Administrator.
 - 3. Flood openings.
All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing

for the entry and exit of floodwater. Designs for meeting this requirement must meet the following minimum criteria:

- a. For non-engineered openings:
 1. Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 2. The bottom of all openings shall be no higher than one foot above grade;
 3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; and
 4. Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter; or
 - b. Be certified by a registered civil engineer or architect.
4. Manufactured homes.
- a. See Section 17.50.240.
5. Garages and low cost accessory structures.
- a. Attached garages.
 1. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of flood waters. See Section 17.50.210.C.3. Areas of the garage below the BFE must be constructed with flood resistant materials. See Section 17.50.210.B.
 2. A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed. For guidance on below grade parking areas, see FEMA Technical Bulletin TB-6.
 - b. Detached garages and accessory structures.
 1. "Accessory structures" used solely for parking (2 car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Section 17.50.100, may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements:
 - a) Use of the accessory structure must be limited to parking or limited storage;
 - b) The portions of the accessory structure located below the BFE must be built using flood-resistant materials;
 - c) The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;
 - d) Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;
 - e) The accessory structure must comply with floodplain encroachment provisions in Section 17.50.260; and
 - f) The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with Section 17.50.210.C.3.
 2. Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 17.50.210-17.50.270

17.50.220 Standards for utilities.

- A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
 1. Infiltration of flood waters into the systems; and
 2. Discharge from the systems into flood waters.
- B. On-site waste disposal systems are prohibited per CMC 13.040.

17.50.230 Standards for subdivisions.

- A. All new subdivisions proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than 50 lots or 5 acres, whichever is the lesser, shall:
 - 1. Identify the Special Flood Hazard Areas (SFHA) and Base Flood Elevations (BFE).
 - 2. Identify the elevations of lowest floors of all proposed structures and pads on the final plans.
 - 3. If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to the Floodplain Administrator:
 - a. Lowest floor elevation.
 - b. Pad elevation.
 - c. Lowest adjacent grade.
- B. All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.
- C. All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- D. All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.

17.50.240 Development standards for manufactured homes and manufactured home parks and subdivisions in floodplain area.

- A. All manufactured homes that are placed or substantially improved, on sites located: (1) outside of a manufactured home park or subdivision; (2) in a new manufactured home park or subdivision; (3) in an expansion to an existing manufactured home park or subdivision; or (4) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall:
 - 1. Within Zones A1-30, AH, and AE on the community's Flood Insurance Rate Map, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - 2. Within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map, meet the requirements of Section 17.50.270.
- B. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, AE, V1-30, V, and VE on the community's Flood Insurance Rate Map that are not subject to the provisions of Section 17.50.240.A will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:
 - 1. Lowest floor of the manufactured home is at or above the base flood elevation; or
 - 2. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

17.50.250 Standards for Recreational Vehicles.

- A. All recreational vehicles placed in Zones A1-30, AH, AE, V1-30 and VE will either:
 - 1. Be on the site for fewer than 180 consecutive days; or
 - 2. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - 3. Meet the permit requirements of Section 17.50.190 of this ordinance and the elevation and anchoring requirements for manufactured homes in Section 17.50.240.
- B. Recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map will meet the requirements of Section 17.50.250.A and Section 17.50.270.

17.50.260 Standards within floodways.

Since floodways are an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. Until a regulatory floodway is adopted, no new construction, substantial development, or other development (including fill) shall be permitted within Zones A1-30 and AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than 1 foot at any point within the City of Capitola.
- B. Within an adopted regulatory floodway, the City of Capitola shall prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- C. If Sections 17.50.260.A & B are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Section 17.50.210-17.50.270.

17.50.270 Coastal high hazard areas.

Within coastal high hazard areas, Zones V, V1-30, and VE, as established under Section 17.50.090, the following standards shall apply:

- A. All new residential and non-residential construction, including substantial improvement/damage, shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or local building standards.
- B. All new construction and other development shall be located on the landward side of the reach of mean high tide.
- C. All new construction and substantial improvement shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in Section 17.50.100 of this ordinance. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.
- D. Fill shall not be used for structural support of buildings.
- E. Man-made alteration of sand dunes which would increase potential flood damage is prohibited.
- F. The Floodplain Administrator shall obtain and maintain the following records:
 - 1. Certification by a registered engineer or architect that a proposed structure complies

- with Section 17.50.270.A; and
2. The elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement.

17.50.280 Variance procedure.

The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.

The variance criteria set forth in this section of the ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the City of Capitola to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this ordinance are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

17.50.290 Conditions for variances.

- A. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Sections 17.50.110-17.50.200 and 17.50.210-17.50.270 of this ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of "historic structures" (as defined in Section 17.50.100 of this ordinance) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued upon a determination that the variance is the "minimum necessary" considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, this means the City of Capitola need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the City of Capitola believes will both provide relief and preserve the integrity of the local ordinance.
- E. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
 1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
 2. Such construction below the base flood level increases risks to life and property. It is

recommended that a copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Santa Cruz County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

- F. The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

17.50.300 Approval of variances.

- A. In passing upon requests for variances, the City of Capitola shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and the:
1. Danger that materials may be swept onto other lands to the injury of others;
 2. Danger of life and property due to flooding or erosion damage;
 3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
 4. Importance of the services provided by the proposed facility to the community;
 5. Necessity to the facility of a waterfront location, where applicable;
 6. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 7. Compatibility of the proposed use with existing and anticipated development;
 8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 9. Safety of access to the property in time of flood for ordinary and emergency vehicles;
 10. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
 11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.
- B. Variances shall only be issued upon a:
1. Showing of good and sufficient cause;
 2. Determination that failure to grant the variance would result in exceptional "hardship" to the applicant; and
 3. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (see "Public safety and nuisance"), cause "fraud and victimization" of the public, or conflict with existing local laws or ordinances.
- C. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of Sections 17.50.300.A through 17.50.300.D are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.
- D. Upon consideration of the factors of Section 17.50.290.A and the purposes of this ordinance, the City of Capitola may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

17.50.310 Nonconforming structures in flood plain.

A structure which was lawful before enactment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued as a nonconforming structure subject to the following condition: If any nonconforming structure is destroyed by flood, earthquake, tsunami or, for another cause to the extent of fifty percent or more of its fair market value immediately prior to the destruction, it shall not be reconstructed except in conformity with the provisions of this chapter. (Ord.

575 § 2 (part), 1984).

17.50.320 Variance appeal procedure.

A. Appeal procedure for all decisions made under this chapter shall be in conformance with standard appeal procedures of Chapter 2.52 of this code.

B. The director of public works shall maintain the records of all appeal actions and report any variances to the federal insurance administration upon request.

C. Any applicant to whom a variance is granted should be given written notice that the structure will be permitted to be built in variance with these rules and that the cost of flood insurance will be commensurate with the increased risk resulting from such variance. (Ord. 575 § 2 (part), 1984)

17.50.330 Disclosure requirement.

A person, who is acting as an agent for a seller of real property which is located within a FP district or the seller if he or she is acting without an agent, shall disclose to any prospective purchaser the fact that the property is located within a FP district. The community development director may adopt methods of informing owners and real estate sales persons of this requirement. (Ord. 575 § 2 (part), 1984)

Section 2. Severability. If any provision of this ordinance or the application thereof, to any person or circumstance is held invalid, that invalidity shall not affect any other provision or application of this ordinance, which can be given effect without the invalid provision or application, and to this end, the provisions or applications of this ordinance are severable.

Section 3. This ordinance shall take effect and be in full force thirty (30) days after its final adoption outside the Coastal Zone, and upon approval and certification by the California Coastal Commission in the Coastal Zone.

This ordinance was introduced on the 10th day of May, 2012, and was passed and adopted by the City Council of the City of Capitola on the ___ day of _____, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

DISQUALIFIED:

APPROVED:

Michael Termini, Mayor

ATTEST:

_____, CMC

Susan Sneddon, City Clerk

Strikeout and Underline Version of Adopted Ordinance No. ____

Chapter 17.50

FLOODPLAIN DISTRICT

Sections:

- 17.50.010 Statutory authorization.**
- 17.50.020 Findings of fact.**
- 17.50.030 Statement of purpose.**
- 17.50.040 Methods of reducing flood losses.**
- 17.50.050 Abrogation and greater restrictions.**
- 17.50.060 Interpretation.**
- 17.50.070 Warning and disclaimer of liability.**
- 17.50.080 Severability.**
- 17.50.090 Basis for establishing the areas of special flood hazard.**
- 17.50.100 Definitions.**
- 17.50.110 Designation of the floodplain administrator.**
- 17.50.120 Duties and responsibilities of the floodplain administrator.**
- 17.50.130 Combining district.**
- 17.50.140 Compliance.**
- 17.50.150 Principal permitted uses.**
- 17.50.160 Accessory uses.**
- 17.50.170 Conditional uses.**
- 17.50.180 Development standards.**
- 17.50.190 Development permit.**
- 17.50.200 Appeals.**
- 17.50.210 Standards of construction.**
- 17.50.220 Standards for utilities**
- 17.50.230 Standards for subdivisions.**
- 17.50.240 Standards for manufactured homes.**
- 17.50.250 Standards for recreational vehicles.**
- 17.50.260 Standards within floodways.**
- 17.50.270 Coastal high hazard areas.**
- 17.50.280 Variance procedure.**
- 17.50.290 Conditions of variances.**
- 17.50.300 Approval of variances.**
- 17.50.310 Nonconforming structures in flood plain.**
- 17.50.320 Appeal procedure.**
- 17.50.330 Disclosure requirement.**

17.50.010 Statutory authorization.

The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote *the public health, safety, and general welfare of its citizenry.* Therefore, the City of Capitola does hereby adopt the following floodplain management regulations.

17.50.020 Findings of fact.

The flood hazard areas of City of Capitola are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

These flood losses are caused by uses that are inadequately elevated, flood proofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contributes to flood losses.

17.50.030 Statement of purpose.

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by legally enforceable regulations applied uniformly throughout the community to all publicly and privately owned land within flood prone, mudslide (i.e. mudflow) or flood related erosion areas. These regulations are designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

17.50.040 Methods of reducing flood losses.

In order to accomplish its purposes, this ordinance includes regulations to:

- A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Control filling, grading, dredging, and other development which may increase flood damage;
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas; and

17.50.050 Abrogation and greater restrictions.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

17.50.060 Interpretation.

In the interpretation and application of this ordinance, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

17.50.070 Warning and disclaimer of liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Capitola any officer or employee thereof, the State of California, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

17.50.080 Severability.

This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

17.50.090 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of, the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated June 3, 1986 and accompanying Flood Insurance Rate Maps (FIRM's) and Flood Boundary and Floodway Maps (FBFM's) dated June 3, 1986, and all subsequent amendments and/or revisions, are adopted by reference and declared to be a part of this chapter. The FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the city by the floodplain administrator. The study, FIRMS and FBFMs are on file at 420 Capitola Avenue, city of Capitola. (Ord. 755 § 2, 1993)

17.50.100 Definitions.

For the purposes of this chapter, the following words, phrases and terms shall have the meanings ascribed to them by this section:

"A zone" - see "Special flood hazard area".

"Accessory structure" means a structure that is either:

1. Solely for the parking of no more than 2 cars; or
2. A small, low cost shed for limited storage, less than 150 square feet and \$1,500 in value.

"Accessory use" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located. "Alluvial fan" means a geomorphologic feature characterized by cone or fan-shaped deposit of boulders, gravel and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

17.50.010 Definitions.

~~For the purposes of this chapter, the following definitions shall apply:~~

"Alluvial fan" means a geomorphologic feature characterized by cone or fan-shaped deposit of boulders, gravel and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

"Apex" means the point of highest elevation on an alluvial fan, which on undisturbed fans is generally the point where the major stream that formed the fan emerges from the mountain front.

"Apex" means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

"Area of shallow flooding" means a designation A or AH Zone on the Flood Insurance Rate Map (FIRM) where: the base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of shallow flooding" means a designation A or AH Zone on the Flood Insurance Rate Map (FIRM) where: the base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow."Area of special flood hazard" - See "Special flood hazard area."

"Area of special flood related erosion hazard" is the land within a community which is most likely to be subject to severe flood related erosion losses. The area may be designated a Zone E on the Flood Insurance Rate Map (FIRM)

"Base flood" means a flood which has a one percent chance of being equalled or exceeded in any given year (also called the "100 year flood"). Base flood is the term used throughout this ordinance.

"Base flood elevation" (BFE) means the elevation shown on the Flood Insurance Rate Map for Zones AE, AH, A1-30, VE and V1-V30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade - i.e., below ground level - on all sides.

"Breakaway walls" are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. A breakaway wall shall have a safe design loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

2. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

"Building" - see "Structure".

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE, or V.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

"Encroachment" means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before August 14, 1984.

~~—"Breakaway walls" means any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building materials, which are not part of the structural support of the building and which are so designed as to break away under abnormally high tides or wave action without damage to the structural integrity of the building on which they might be carried by floodwaters.~~

~~—"Coastal high-hazard area" means the area subject to high-velocity waters, including coastal and tidal inundation or tsunamis. This area is designated on the Flood Insurance Rate Map (FIRM) as Zone VI-30.~~

~~—"Existing manufactured home park or subdivision" means a manufactured home park for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) are completed before the effective date of Ordinance No. 562.~~

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

"Flood," "flooding" or "flood water" means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e. mudflows); and
2. The condition resulting from flood related erosion.

"Flood Boundary and Floodway Map (FBFM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

"Flood Hazard Boundary Map" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards.

"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map and the water surface elevation of the base flood.

~~"Floodplain" or "flood-prone area" means any land area susceptible to being inundated by water from any source.~~

"Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source - see "Flooding."

"Floodplain administrator" is the individual appointed to administer and enforce the floodplain management regulations.

"Floodplain area" means the land on either side of a creek or other watercourse which may be subject to flooding. "Floodplain area" includes the one-hundred-year floodplain as determined by

the Federal Flood Insurance Program and shown on both the Flood Insurance Rate Map and Flood Boundary and Floodway map, each dated June 3, 1986.

"Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, when possible natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations and open space plans.

~~"Floodplain management regulations" means the ordinance codified in this chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.~~

~~"Floodproofing" means any combination of structural and nonstructural additions, changes or adjustments to nonresidential structures which reduce or eliminate flood damage to real estate or improved property.~~

"Floodplain management regulations" means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "Regulatory Floodway."

"Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

"Flood-related erosion area" means a land area adjoining the shore of a lake or other body of water which, due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

"Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood related erosion damage including, but not limited to, emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

~~"Floodway" means the channel of the river or other watercourse and the adjacent land areas that must be preserved in order to discharge the base flood without cumulatively increasing the water surface elevations more than one foot. The floodway is delineated on the Flood Boundary Map dated June 3, 1986.~~

"Floodway encroachment lines" means the lines marking the limits of floodways on federal, state and local floodplain maps.

"Floodway fringe" is the area of the floodplain on either side of the "regulatory floodway" where encroachment may be permitted.

~~"Fraud and victimization" as related to Section 17.50.150 means that the variance granted must not cause fraud on, or victimization of, the public. In examining the requirement, the community governing body will consider the fact that every newly constructed building adds to government responsibility and remains a part of the community for fifty to one hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a~~

~~whole are subject to all the cost, inconvenience, danger and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage and can be insured only at very high flood insurance rates.~~

"Fraud and victimization" means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City of Capitola will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

"Functionally dependent use" means a use, the intended purpose of which cannot be performed unless the use is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo and passengers, and ship-building and ship-repair facilities, but does not include long-term storage or related manufacturing facilities.

"Habitable floor" means floors usable for living purposes, which includes working, sleeping, eating or recreation, or combination thereof. A floor used only for storage purposes is not a habitable floor.

"Hardship" as related to Section 17.50.150 means the exceptional hardship that would result from a failure to grant the requested variance. The City of Capitol requires that the variance must be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbor likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

~~—————"Lowest floor" means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.~~

"Historic structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

"Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

"Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

"Lowest floor" means the lowest floor of the lowest enclosed area, including basement (see "Basement" definition).

1. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:

a. The flood openings standard in Section 17.50.210.C.3;

b. The anchoring standards in Section 17.50.210.A;

c. The construction materials and methods standards in Section 17.50.210.B; and

d. The standards for utilities in Section 17.50.220

2. For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see "Basement" definition). This prohibition includes below-grade garages and storage areas.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

~~"Manufactured homes" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured homes" also includes travel trailers or other similar vehicle placed on a site for greater than one hundred eighty days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.~~

"Market value" is defined in the City of Capitola substantial damage/improvement procedures. See Section 17.50.120.B.1.

"Mean sea level" means, for the purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on city- a community's Flood Insurance Rate Map are referenced.

"Mudslide" describes a condition where there is river, flow or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain.

"Mudslide prone area" means an area with land surfaces and slopes of unconsolidated material where the history, geology and climate indicate a potential for mudflow.

~~"New construction" means projects which received their city approval after the effective date of Ordinance No. 575~~

"New construction" for floodplain management purposes, means structures for which the "start of construction" commenced on or after August 14, 1984, and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after August 14, 1984.

"Obstruction" includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protective, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any

watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

"One-hundred-year flood" or "100-year flood" - see "Base flood."

"Primary frontal dune" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.

"Program deficiency" means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.

"Public safety and nuisance" as related to Section 17.50.150 means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

~~"Ravine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.~~

"Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing water surface elevation more than one foot.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Sheet flow area" - see "Area of shallow flooding."

"Special flood hazard area (SFHA)" means an area having special flood, mudslide or flood-related erosion hazards and shown on the FHBM or FIRM as Zone A, AO, AI—A30, AE, A99, AH, E, M, V1—V30, VE or V.

~~"Start of construction," for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. "Permanent construction" does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garage or sheds not occupied as dwelling units or not part of the main structure.~~

"Start of construction" includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or

other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition ~~before damage~~ would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

"Substantial improvement" means ~~any repair, reconstruction or improvement of a structure, the city's approval of which occurs after the original effective date of Ordinance No. 575, the cost of which equals or exceeds fifty percent of the fair market value of the structure:~~

1. ~~Before the improvement or repair is started; or~~
2. ~~If the structure has been damaged and is being restored, before the damage occurred.~~

"Substantial improvement" may occur even if there is no change in a structure's external dimensions. This term does not, however, include either:

1. ~~Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or~~
2. ~~Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.~~

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. ~~Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or~~
2. ~~Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."~~

"V zone" - see "Coastal high hazard area."

"Variance" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

"Violation" means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

"Watercourse" means a lake, river creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplain or coastal or riverine areas. (Ord. 755 § 1, 1993; Ord. 656 § 1, 1988; Ord. 647 § 1, 1988; Ord. 619 § 1, 1987; Ord. 609 § 1, 1986; Ord. 575 § 2 (part), 1984)

17.50.110 Designation of the floodplain administrator.

The (e.g., City Manager, Director of Planning, Public Works, or Building Official, etc.) is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accord with its provisions.

17.50.120 Duties and responsibilities of the floodplain administrator.

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

- A. Permit Review. Review all development permits to determine:

1. Permit requirements of this ordinance have been satisfied, including determination of substantial improvement and substantial damage of existing structures;
2. All other required state and federal permits have been obtained;
3. The site is reasonably safe from flooding;
4. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than 1 foot at any point within the City of Capitola; and
5. All Letters of Map Revision (LOMR's) for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

B. Development of Substantial Improvement and Substantial Damage Procedures.

1. Using FEMA publication FEMA 213, "Answers to Questions About Substantially Damaged Buildings," develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining "Market Value."
2. Assure procedures are coordinated with other departments/divisions and implemented by community staff.

C. Review, Use and Development of Other Base Flood Data.

When base flood elevation data has not been provided in accordance with Section 17.50.090, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Sections 17.50.210-17.50.270.

NOTE: A base flood elevation may be obtained using one of two methods from the FEMA publication, FEMA 265, "Managing Floodplain Development in Approximate Zone A Areas – A Guide for Obtaining and Developing Base (100-year) Flood Elevations" dated July 1995.

D. Notification of Other Agencies.

1. Alteration or relocation of a watercourse:
 - a. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;
 - b. Submit evidence of such notification to the Federal Emergency Management Agency; and
 - c. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.
2. Base Flood Elevation changes due to physical alterations:
 - a. Within 6 months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).
 - b. All LOMR's for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition. Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.
3. Changes in corporate boundaries:

Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

E. Documentation of Floodplain Development.

Obtain and maintain for public inspection and make available as needed the following:

1. Certification required by Section 17.50.210.C.1 and Section 17.50.240 (lowest floor elevations);
2. Certification required by Section 17.50.210.C.2 (elevation or floodproofing of nonresidential structures);
3. Certification required by Sections 17.50.210.C.3 (wet floodproofing standard);
4. Certification of elevation required by Section 17.50.230.A.3 (subdivisions and other proposed development standards);
5. Certification required by Section 17.50.260.B (floodway encroachments);
6. Information required by Section 17.50.270.F (coastal construction standards); and
7. Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

F. Map Determination.

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 17.50.200.

G. Remedial Action.

Take action to remedy violations of this ordinance as specified in Section 17.50.140.

H. Biennial Report.

Complete and submit Biennial Report to FEMA.

I. Planning.

Assure community's General Plan is consistent with floodplain management objectives herein.

17.50.020 Applicability.

~~_____The regulations set forth in this chapter apply in the floodplain district. (Ord. 575 § 2 (part), 1984)~~

17.50.030 Purpose.

~~_____This district is designed to inform property owners and potential property owners of lands which are located in the floodplains, and to regulate development within the floodplain to protect against further hazard resulting from flood, earthquake or tsunami. (Ord. 575 § 2 (part), 1984)~~

17.50.035 Basis for establishing the areas of special flood hazard.

~~_____The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of, the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated June 3, 1986 and accompanying Flood Insurance Rate Maps (FIRM's) and Flood Boundary and Floodway Maps (FBFM's) dated June 3, 1986, and all subsequent amendments and/or revisions, are adopted by reference and declared to be a part of this chapter. The FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the city by the floodplain administrator. The study, FIRMS and FBFMs are on file at 420 Capitola Avenue, city of Capitola. (Ord. 755 § 2, 1993)~~

17.50.040130 Combining district.

Land classified FP shall also have a basic classification as set forth elsewhere in this title. For example, R-1-FP means that the R-1 district regulations apply as well as the FP regulations. (Ord. 575 § 2 (part), 1984)

17.50.045140 Compliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the term of this chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the city from taking such lawful action as is necessary to prevent or remedy any violation. (Ord. 755 § 3, 1993)

17.50.050150 Principal permitted uses.

The following are principal permitted uses in the FP district: All uses permitted in the basic zoning district. (Ord. 575 § 2 (part), 1984)

17.50.060160 Accessory uses.

The following are accessory uses permitted in the FP district: All accessory uses permitted in the basic zoning district. (Ord. 575 § 2 (part), 1984)

17.50.070170 Conditional uses.

The following are conditional uses in the FP district: All conditional uses in the basic zoning district. (Ord. 572 § 2 (part), 1984)

17.50.080180 Development standards.

The development standards shall be the same as the basic zoning district except in those instances when more restrictive standards are necessary to provide assurance of conforming with this chapter. (Ord. 575 § 2 (part), 1984)

~~**17.50.085 Notification of adjacent communities.**~~

~~_____The community development director shall notify the county and other appropriate agencies prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. (Ord. 656 § 2, 1988)~~

~~**17.50.090 Application procedure and recordkeeping.**~~

~~_____As part of the architectural and site review requirements for new construction and substantial improvements in the floodplain district, the following information shall be presented and reviewed to determine that the proposal is reasonably safe from flooding. This information and certification shall be maintained in the project file:~~

~~_____A. _____Elevation in relation to mean sea level of the lowest floor, including basement, of all proposed structures;~~

~~_____B. _____Elevation in relation to mean sea level to which any proposed structure has been floodproofed;~~

~~_____C. _____Certification by a registered professional engineer or architect that the floodproofing methods for any proposed nonresidential structure meet the development standards;~~

~~_____D. _____The public works director shall maintain the as-built elevation of all structures. (Ord. 656 § 3, 1988; Ord. 575 § 2 (part), 1984)~~

~~**17.50.095 Permit requirements.**~~

~~_____Applicants for development permits in flood hazard areas must demonstrate that:~~

~~_____A. _____The permit requirements of Section 17.50.090 have been satisfied;~~

- ~~_____ B. _____ All necessary permits have been obtained from federal, state or local governmental agencies from which prior approval is required;~~
- ~~_____ C. _____ The cumulative effect of the proposed development when combined with all other existing and anticipated development in any flood hazard area will not increase the water surface elevation of the base flood more than one foot at any point;~~
- ~~_____ D. _____ Proposed development in the coastal high hazard area will not alter the shoreline and sand dunes so as to increase potential flood damage;~~
- ~~_____ E. _____ The site is reasonably safe from flooding;~~
- ~~_____ F. _____ When base flood elevation data has not been provided on the Flood Insurance Rate Map (FIRM), the applicant shall obtain elevation data from federal, state or other sources, in order to comply with the provisions of this section. (Ord. 656 § 4, 1988)~~

~~-~~
17.50.100 Development standards—Floodplain area.

~~_____ In all floodplain areas, the following standards are required:~~

- ~~_____ A. _____ Anchoring. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic or hydrostatic loads, including the effects of buoyancy.~~
- ~~_____ B. _____ Construction Materials and Methods.~~
 - ~~_____ 1. _____ All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.~~
 - ~~_____ 2. _____ All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.~~
 - ~~_____ 3. _____ All elements that function as a part of the structure, such as furnace, hot water heater or air conditioner shall be elevated to or above the base flood elevation.~~
 - ~~_____ 4. _____ Within Zones AH or AO, all construction shall provide adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.~~
- ~~_____ C. _____ Elevation and Floodproofing. The planning or public works director shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, as criteria for requiring that new construction, substantial improvements, or other development in Zone A as follows:~~
 - ~~_____ 1. _____ a. _____ New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the base flood elevation, and in areas designated AO on the Flood Insurance Rate Map (FIRM) elevated above the highest adjacent grade, at least as high as the depth specific in feet on the FIRM, or at least two feet if no depth number is specified. Nonresidential structures may meet the requirements in subdivision 2 of subsection C of this section.~~
 - ~~_____ b. _____ Upon completion of the structure, the elevation of the lowest habitable floor, including basement, shall be certified by a registered civil engineer or licensed land surveyor and provided to the public works director.~~
 - ~~_____ 2. _____ Nonresidential construction shall either be elevated in conformance with subsection C1 or shall meet both of the following requirements:~~
 - ~~_____ a. _____ It shall be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water. Examples of floodproofing include, but are not limited to:~~
 - ~~_____ i. _____ Installation of watertight doors, bulkheads and shutters;~~
 - ~~_____ ii. _____ Reinforcement of walls to resist water pressure;~~
 - ~~_____ iii. _____ Use of paints, membranes or mortars to reduce seepage through walls;~~
 - ~~_____ iv. _____ Addition of mass or weight to structure to resist flotation;~~
 - ~~_____ v. _____ Armour protection of all fill materials from scour and/or erosion.~~
 - ~~_____ b. _____ A registered professional engineer or architect must certify that the standards of this subsection are satisfied. Such certification shall be provided to the public works director.~~

~~3. Mobile homes shall meet the above standards and also the standards in Section 17.50.130 of this chapter.~~

~~4. The flood-carrying capacity within the altered or relocated portion of any watercourse shall be maintained.~~

~~D. Floodplain Elevation Data. In the absence of base flood elevation data from FEMA, the community will obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, as criteria for requiring that:~~

~~1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood level; and~~

~~2. All new construction and substantial improvements of nonresidential structures have the lowest floor (including basement) elevated or floodproofed at or above the base flood levels.~~

~~E. Manmade alterations of sand dunes, as part of new construction or substantial improvements, within Zones V1-30, VE, and V, as indicated on the FIRM, shall be prohibited. (Ord. 755 § 4, 1993; Ord. 656 § 5, 1988; Ord. 619 § 2, 1987; Ord. 575 § 2 (part), 1984).~~

17.50.190 Development permit.

A development permit shall be obtained before any construction or other development, including manufactured homes, within any area of special flood hazard established in Section 17.50.090.

Application for a development permit shall be made on forms furnished by the City of Capitola. The applicant shall provide the following minimum information:

A. Plans in duplicate, drawn to scale, showing:

1. Location, dimensions, and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;

2. Proposed locations of water supply, sanitary sewer, and other utilities;

3. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;

4. Location of the regulatory floodway when applicable;

5. Base flood elevation information as specified in Section 17.50.090 or Section 17.50.120.C;

6. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and

7. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Section 17.50.210.C.2 of this ordinance and detailed in FEMA Technical Bulletin TB 3-93.

B. Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in Section 17.50.210.C2.

C. For a crawl-space foundation, location and total net area of foundation openings as required in Section 17.50.210.C.3 of this ordinance and detailed in FEMA Technical Bulletins 1-93 and 7-93.

D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

E. All appropriate certifications listed in Section 17.50.120.E of this ordinance.

17.50.200 Appeals.

The City of Capitola shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

17.50.210 Standards of construction.

In all areas of special flood hazards the following standards are required:

A. Anchoring.

All new construction and substantial improvements of structures, including manufactured homes, shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

B. Construction Materials and Methods.

All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:

1. With flood resistant materials, and utility equipment resistant to flood damage for areas below the base flood elevation;
2. Using methods and practices that minimize flood damage;
3. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
4. Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

C. Elevation and Floodproofing.

1. Residential construction.

All new construction or substantial improvements of residential structures shall have the lowest floor, including basement:

- a. In AE, AH, A1-30 Zones, elevated to or above the base flood elevation.
- b. In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least 2 feet above the highest adjacent grade if no depth number is specified.
- c. In an A zone, without BFE's specified on the FIRM [unnumbered A zone], elevated to or above the base flood elevation; as determined under Section 17.50.120.C.

Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

2. Nonresidential Construction.

All new construction or substantial improvements of nonresidential structures shall either be elevated to conform with Section 17.50.210.C.1 or:

- a. Be floodproofed, together with attendant utility and sanitary facilities, below the elevation recommended under Section 17.50.210.C.1, so that the structure is watertight with walls substantially impermeable to the passage of water;
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- c. Be certified by a registered civil engineer or architect that the standards of Section 17.50.210.C.2.a & b are satisfied. Such certification shall be provided to the Floodplain Administrator.

3. Flood openings.

All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must meet the following minimum criteria:

- a. For non-engineered openings:
 1. Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

2. The bottom of all openings shall be no higher than one foot above grade;
3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; and
4. Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter; or
 - b. Be certified by a registered civil engineer or architect.
4. Manufactured homes.
 - a. See Section 17.50.240.
5. Garages and low cost accessory structures.
 - a. Attached garages.
 1. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of flood waters. See Section 17.50.210.C.3. Areas of the garage below the BFE must be constructed with flood resistant materials. See Section 17.50.210.B.
 2. A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed. For guidance on below grade parking areas, see FEMA Technical Bulletin TB-6.
 - b. Detached garages and accessory structures.
 1. “Accessory structures” used solely for parking (2 car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Section 17.50.100, may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements:
 - a) Use of the accessory structure must be limited to parking or limited storage;
 - b) The portions of the accessory structure located below the BFE must be built using flood-resistant materials;
 - c) The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;
 - d) Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;
 - e) The accessory structure must comply with floodplain encroachment provisions in Section 17.50.260; and
 - f) The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with Section 17.50.210.C.3.
 2. Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 17.50.210-17.50.270

17.50.110220 Standards for utilities.

~~All new and replacement water systems and sanitary sewage systems shall be designed to minimize infiltration of floodwaters into the system and discharge from system into floodwaters. (Ord. 575 § 2 (part), 1984)~~

- A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
 1. Infiltration of flood waters into the systems; and
 2. Discharge from the systems into flood waters.
- B. On-site waste disposal systems are prohibited per CMC 13.040.

17.50.120 Standards for subdivisions.

~~The following standards shall apply to subdivisions proposed for the floodplain area:~~

- ~~A. All preliminary subdivision proposals shall identify the floodplain area and the elevation of the one-hundred-year flood.~~
- ~~B. All final subdivision plans will provide the elevation of proposed structure(s) and pads. If the site is filled above the one-hundred-year flood elevation, the final pad elevation shall be certified by a registered civil engineer or licensed land surveyor and provided to the public works director.~~
- ~~C. All subdivision proposals shall be consistent with the need to minimize flood damage.~~
- ~~D. All subdivision proposals shall have all utilities and facilities under the control of the city located and constructed to minimize flood damage.~~
- ~~E. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage. (Ord. 575 § 2 (part), 1984)~~

17.50.230 Standards for subdivisions.

- A. All new subdivisions proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than 50 lots or 5 acres, whichever is the lesser, shall:
 - 1. Identify the Special Flood Hazard Areas (SFHA) and Base Flood Elevations (BFE).
 - 2. Identify the elevations of lowest floors of all proposed structures and pads on the final plans.
 - 3. If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to the Floodplain Administrator:
 - a. Lowest floor elevation.
 - b. Pad elevation.
 - c. Lowest adjacent grade.
- B. All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.
- C. All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- D. All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.

17.50.130240 Development standards for manufactured homes and manufactured home parks and subdivisions in floodplain area.

- ~~A. Anchoring. All manufactured homes and additions to a manufactured home shall be anchored to resist flotation, collapse or lateral movement by providing an anchoring system designed to withstand horizontal forces of fifteen pounds per square foot and uplift forces of nine pounds per square foot.~~
- ~~B. Standards set out in subdivisions 1 and 2 below are required for: Manufactured homes not placed in manufactured home parks or subdivisions, new manufactured home parks or subdivisions, expansions to existing manufactured home parks or subdivisions, and repair, reconstruction or improvements to existing manufactured home parks or subdivisions that equal or exceed fifty percent of the value (before the repair, reconstruction or improvement has commenced) of the streets, utilities and pads.~~
 - ~~1. Adequate surface drainage and access for a hauler shall be provided;~~
 - ~~2. No manufactured homes may be placed in a floodway except in an existing manufactured home park or subdivision.~~
- ~~C. All manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation, and shall be securely anchored to an adequately anchored foundation system in accordance with the provisions of~~

~~subsection A of this section. This subsection applies to manufactured homes to be placed upon, or substantially improved in, an expansion to an existing manufactured home park or subdivision within zones A1-30, AH and AE on the city's FIRM. This subsection does not apply to manufactured homes to be placed upon, or substantially improved in, an existing manufactured home park or subdivision, and repair, reconstruction or improvements to existing manufactured home parks or subdivisions that equal or exceed fifty percent of the value (before the repair, reconstruction or improvement has commenced) of the streets, utilities and pads. (Ord. 647 § 2, 1988; Ord. 619 § 3, 1987; Ord. 575 § 2 (part), 1984)~~

- ~~A. All manufactured homes that are placed or substantially improved, on sites located: (1) outside of a manufactured home park or subdivision; (2) in a new manufactured home park or subdivision; (3) in an expansion to an existing manufactured home park or subdivision; or (4) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall:~~
- ~~1. Within Zones A1-30, AH, and AE on the community's Flood Insurance Rate Map, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.~~
 - ~~2. Within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map, meet the requirements of Section 17.50.270.~~
- ~~B. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, AE, V1-30, V, and VE on the community's Flood Insurance Rate Map that are not subject to the provisions of Section 17.50.240.A will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:~~
- ~~1. Lowest floor of the manufactured home is at or above the base flood elevation; or~~
 - ~~2. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.~~

~~Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.~~

17.50.250 Standards for Recreational Vehicles.

- ~~A. All recreational vehicles placed in Zones A1-30, AH, AE, V1-30 and VE will either:~~
- ~~1. Be on the site for fewer than 180 consecutive days; or~~
 - ~~2. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or~~
 - ~~3. Meet the permit requirements of Section 17.50.190 of this ordinance and the elevation and anchoring requirements for manufactured homes in Section 17.50.240.~~
- ~~B. Recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map will meet the requirements of Section 17.50.250.A and Section 17.50.270.~~

17.50.140260 Standards within floodways.

~~Located within the floodplain are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:~~

~~_____ A. _____ The following are prohibited: encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.~~

~~_____ B. _____ The placement of any manufactured home within the floodway is prohibited except in an existing manufactured home park or subdivision.~~

~~_____ C. _____ If subsections A and B of this section are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 17.50.100 through 17.50.110 of this chapter. (Ord. 619 § 4, 1987; Ord. 575 § 2 (part), 1984)~~

~~Since floodways are an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:~~

~~A. _____ Until a regulatory floodway is adopted, no new construction, substantial development, or other development (including fill) shall be permitted within Zones A1-30 and AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than 1 foot at any point within the City of Capitola.~~

~~B. _____ Within an adopted regulatory floodway, the City of Capitola shall prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.~~

~~C. _____ If Sections 17.50.260.A & B are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Section 17.50.210-17.50.270.~~

17.50.145270 Coastal high hazard areas.

~~A. _____ Coastal high hazard areas (V Zones) are located within the areas of a special flood hazard established in Section 17.50.010B. These areas have special flood hazards associated with high velocity waters from coastal and tidal inundation tsunamis. Therefore, the following provisions shall apply:~~

~~_____ 1. _____ All buildings or structures shall be located landward out of reach of the mean high tide.~~

~~_____ 2. _____ The placement of manufactured homes shall be prohibited except in an existing manufactured home park or subdivision.~~

~~_____ B. _____ Required construction methods are:~~

~~_____ 1. _____ Elevation. All buildings or structures shall be elevated so that the lowest supporting member is located no lower than the base flood elevation level, with all space below the lowest supporting member open so as to not impede the flow of water, except for breakaway walls as provided in Section 17.50.010.~~

~~_____ 2. _____ Structural Support:~~

~~_____ a. _____ All buildings or structures shall be securely anchored on pilings or columns.~~

~~_____ b. _____ Pilings or columns used as structural support shall be designed and anchored so as to withstand all impact forces and buoyancy factors of the base flood.~~

~~_____ c. _____ There shall be no fill used for structural support.~~

~~_____ 3. _____ Certification. Compliance with the provisions of subsections B2a and B2b of this section shall be certified to by a registered professional engineer or architect and provided to the official as set forth in Section 17.50.090.~~

~~_____ 4. _____ Space Below the Lowest Floor:~~

~~_____ a. _____ Any alteration, repair, reconstruction or improvement to a structure started after the enactment of this chapter shall not enclose the space below the lowest floor unless breakaway walls are used as provided for in this section.~~

~~_____ b. _____ Breakaway walls may be allowed below the base flood elevation provided they are not a part of the structural support of the building and are designed so as to break away, under abnormally~~

~~high tides or wave action, without damage to the structural integrity of the building on which they are to be used.~~

~~c. If breakaway walls are to be utilized, such enclosed space shall not be used for human habitation.~~

~~d. Prior to construction, plans for any structure that will have breakaway walls must be submitted to the city for approval.~~

~~e. Provide that all new construction and substantial improvements, within Zones V1-30, VE and V on the FIRM, have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood, lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For purposes of this section, a breakaway wall shall have a safe loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls which exceed a safe design loading resistance of twenty pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the design proposed meets the following conditions:~~

~~1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and~~

~~2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be issued in this determination shall each have one percent chance of being equalled or exceeded in any given year (one hundred year mean recurrence).~~

~~f. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above the grade. Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters. (Ord. 619 55, 1987; Ord. 609 § 2, 1986)~~

Within coastal high hazard areas, Zones V, V1-30, and VE, as established under Section 17.50.090, the following standards shall apply:

- A. All new residential and non-residential construction, including substantial improvement/damage, shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or local building standards.
- B. All new construction and other development shall be located on the landward side of the reach of mean high tide.
- C. All new construction and substantial improvement shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in Section 17.50.100 of this ordinance. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.
- D. Fill shall not be used for structural support of buildings.
- E. Man-made alteration of sand dunes which would increase potential flood damage is prohibited.

- F. The Floodplain Administrator shall obtain and maintain the following records:
1. Certification by a registered engineer or architect that a proposed structure complies with Section 17.50.270.A; and
 2. The elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement.

17.50.150280 Variance procedure.

Conditions for variances shall be the following:

- ~~_____ A. _____ Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.~~
- ~~_____ B. _____ Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.~~
- ~~_____ C. _____ Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.~~
- ~~_____ D. _____ Variances shall only be issued upon:
 - ~~_____ 1. _____ A showing of good and sufficient cause;~~
 - ~~_____ 2. _____ A determination that failure to grant the variance would result in exceptional hardship to the applicant;~~
 - ~~_____ 3. _____ A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on, or victimization of, the public, or conflict with existing local laws or ordinances.~~
 - ~~_____ 4. _____ Variances may be issued by the city for new construction, substantial improvements and for other development necessary for the conduct of functionally dependent use provided that the criteria of subsections D1 through D3 above are met and the structure and or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.~~
 - ~~_____ E. _____ In passing upon such variances, the decision-making body shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
 - ~~_____ 1. _____ The danger that materials may be swept onto other lands to the injury of others;~~
 - ~~_____ 2. _____ The danger to life and property due to flooding or erosion damage;~~
 - ~~_____ 3. _____ The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;~~
 - ~~_____ 4. _____ The importance of the services provided by the proposed facility in the community;~~
 - ~~_____ 5. _____ The necessity to the facility of a waterfront location, where applicable;~~
 - ~~_____ 6. _____ The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;~~
 - ~~_____ 7. _____ The compatibility of the proposed use with existing and anticipated development;~~
 - ~~_____ 8. _____ The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;~~
 - ~~_____ 9. _____ The safety access to the property in times of flood for ordinary and emergency vehicles;~~
 - ~~_____ 10. _____ The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, and allowance for debris, if applicable, expected at the site;~~
 - ~~_____ 11. _____ The costs of providing governmental services during and after flood conditions, including maintenance and repair of public facilities and facilities such as sewer, gas, electrical, water system and streets and bridges.~~~~
 - ~~_____ F. _____ Generally, variances may be used for new construction and substantial improvements to be erected on a lot of less than one-half acre contiguous to and surrounded by lots with existing~~~~

~~structures constructed below the base flood level, providing subsection E of this section has been fully considered and the land use is consistent with the general plan and coastal land use plan.~~

~~— G. — Upon consideration of the factors of this section, the reviewing body may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.~~

~~— H. — The terms of the variance shall be recorded in the county recorder's office in such form as is approved by the city attorney. (Ord. 619 § 6, 1987; Ord. 575 § 2 (part), 1984)~~

~~The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.~~

~~The variance criteria set forth in this section of the ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.~~

~~It is the duty of the City of Capitola to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this ordinance are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.~~

17.50.290 Conditions for variances.

- ~~A. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Sections 17.50.110-17.50.200 and 17.50.210-17.50.270 of this ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.~~
- ~~B. Variances may be issued for the repair or rehabilitation of "historic structures" (as defined in Section 17.50.100 of this ordinance) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.~~
- ~~C. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.~~
- ~~D. Variances shall only be issued upon a determination that the variance is the "minimum necessary" considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, this means the City of Capitola need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the City of Capitola believes will both provide relief and preserve the integrity of the local ordinance.~~
- ~~E. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
 - ~~1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and~~~~

2. Such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Santa Cruz County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

F. The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

17.50.300 Approval of variances.

A. In passing upon requests for variances, the City of Capitola shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and the:

1. Danger that materials may be swept onto other lands to the injury of others;
2. Danger of life and property due to flooding or erosion damage;
3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
4. Importance of the services provided by the proposed facility to the community;
5. Necessity to the facility of a waterfront location, where applicable;
6. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. Compatibility of the proposed use with existing and anticipated development;
8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. Safety of access to the property in time of flood for ordinary and emergency vehicles;
10. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

B. Variances shall only be issued upon a:

1. Showing of good and sufficient cause;
2. Determination that failure to grant the variance would result in exceptional "hardship" to the applicant; and
3. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (see "Public safety and nuisance"), cause "fraud and victimization" of the public, or conflict with existing local laws or ordinances.

C. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of Sections 17.50.300.A through 17.50.300.D are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

D. Upon consideration of the factors of Section 17.50.290.A and the purposes of this ordinance, the City of Capitola may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

17.50.460310 Nonconforming structures in flood plain.

A structure which was lawful before enactment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued as a nonconforming structure subject to the following condition: If any nonconforming structure is destroyed by flood, earthquake, tsunami or, for another cause to the extent of fifty percent or more of its fair market value immediately prior to the

destruction, it shall not be reconstructed except in conformity with the provisions of this chapter. (Ord. 575 § 2 (part), 1984)

17.50.170320 Variance Appeal procedure.

A. Appeal procedure for all decisions made under this chapter shall be in conformance with standard appeal procedures of Chapter 2.52 of this code.

B. The director of public works shall maintain the records of all appeal actions and report any variances to the federal insurance administration upon request.

C. Any applicant to whom a variance is granted should be given written notice that the structure will be permitted to be built in variance with these rules and that the cost of flood insurance will be commensurate with the increased risk resulting from such variance. (Ord. 575 § 2 (part), 1984)

17.50.180330 Disclosure requirement.

A person who is acting as an agent for a seller of real property which is located within a FP district or the seller if he or she is acting without an agent, shall disclose to any prospective purchaser the fact that the property is located within a FP district. The community development director may adopt methods of informing owners and real estate sales persons of this requirement. (Ord. 575 § 2 (part), 1984)



Federal Emergency Management Agency

Washington, D.C. 20472

cc: *emil*
stev **ATTACHMENT D**

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:
19P-N

November 16, 2011

RECEIVED

NOV 21 2011

CITY OF CAPITOLA

The Honorable Dennis Norton
Mayor, City of Capitola
420 Capitola Avenue, 2nd floor
Capitola, CA 95010

Community: City of Capitola, CA
Community No.: 060354
Map Panels Affected: See FIRM Index

Dear Mayor Norton:

This is to formally notify you of the final flood hazard determination for your community in compliance with Title 44, Chapter I, Part 67, Code of Federal Regulations. On March 2, 2006, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) issued a Flood Insurance Rate Map (FIRM) that identified the Special Flood Hazard Areas (SFHAs) the areas subject to inundation by the base (1-percent-annual-chance) flood in the City of Capitola, Santa Cruz County, California. Recently, FEMA completed a re-evaluation of flood hazards in your community. On November 23, 2010, FEMA provided you with Preliminary copies of the Flood Insurance Study (FIS) report and FIRM that identify existing flood hazards in your community.

FEMA has not received any comments on the Preliminary copies of the FIS report and FIRM. Accordingly, the FIS report and FIRM for your community will become effective on May 16, 2012. Before the effective date, FEMA will send you final printed copies of the FIS report and FIRM.

Because the FIS for your community has been completed, certain additional requirements must be met under Section 1361 of the National Flood Insurance Act of 1968, as amended, within 6 months from the date of this letter. Prior to May 16, 2012, your community is required, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt or show evidence of adoption of floodplain management regulations that meet the standards of Paragraph 60.3(d and e) of the NFIP regulations (44 CFR 59, etc.). These standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature.

It must be emphasized that all the standards specified in Paragraph 60.3(d and e) of the NFIP regulations must be enacted in a legally enforceable document. This includes adoption of the current effective FIS report and FIRM to which the regulations apply and the other modifications made by this map revision. Some of the standards should already have been enacted by your community in order to establish eligibility in the NFIP. Any additional requirements can be met by taking one of the following actions:

1. Amending existing regulations to incorporate any additional requirements of Paragraph 60.3(d and e);
2. Adopting all the standards of Paragraph 60.3(d and e) into one new, comprehensive set of regulations; or

3. Showing evidence that regulations have previously been adopted that meet or exceed the minimum requirements of Paragraph 60.3(d and e).

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 as amended.

In addition to your community using the FIS report and FIRM to manage development in the floodplain, FEMA will use the FIS report to establish appropriate flood insurance rates. On the effective date of the revised FIRM, actuarial rates for flood insurance will be charged for all new structures and substantial improvements to existing structures located in the identified SFHAs. These rates may be higher if structures are not built in compliance with the floodplain management standards of the NFIP. The actuarial flood insurance rates increase as the lowest elevations (including basement) of new structures decrease in relation to the Base Flood Elevations established for your community. This is an important consideration for new construction because building at a higher elevation can greatly reduce the cost of flood insurance.

To assist your community in maintaining the FIRM, we have enclosed a Summary of Map Actions to document previous Letter of Map Change (LOMC) actions (i.e., Letters of Map Amendment, Letters of Map Revision) that will be superseded when the revised FIRM panels referenced above become effective. Information on LOMCs is presented in the following four categories: (1) LOMCs for which results have been included on the revised FIRM panels; (2) LOMCs for which results could not be shown on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lots or structures involved were outside the SFHA as shown on the FIRM; (3) LOMCs for which results have not been included on the revised FIRM panels because the flood hazard information on which the original determinations were based is being superseded by new flood hazard information; and (4) LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures cannot be revalidated through an administrative process like the LOMCs in Category 2 above. LOMCs in Category 2 will be revalidated through a single letter that reaffirms the validity of a previously issued LOMC; the letter will be sent to your community shortly before the effective date of the revised FIRM and will become effective 1 day after the revised FIRM becomes effective. For the LOMCs listed in Category 4, we will review the data previously submitted for the LOMA or LOMR request and issue a new determination for the affected properties after the revised FIRM becomes effective.

The FIRM and FIS report for your community have been prepared in our countywide format, which means that flood hazard information for all jurisdictions within Santa Cruz County has been combined into one FIRM and FIS report. When the FIRM and FIS report are printed and distributed, your community will receive only those panels that present flood hazard information for your community. We will provide complete sets of the FIRM panels to county officials, where they will be available for review by your community.

The FIRM panels have been computer-generated. Once the FIRM and FIS report are printed and distributed, the digital files containing the flood hazard data for the entire county can be provided to your community for use in a computer mapping system. These files can be used in conjunction with other thematic data for floodplain management purposes, insurance purchase and rating requirements, and many other planning applications. Copies of the digital files or paper copies of the FIRM panels may be obtained by calling our FEMA Map Information eXchange (FMIX), toll free, at 1-877-FEMA MAP

(1-877-336-2627). In addition, your community may be eligible for additional credits under our Community Rating System if you implement your activities using digital mapping files.

If your community is encountering difficulties in enacting the necessary floodplain management measures, we urge you to call the Director, Federal Insurance and Mitigation Division of FEMA in Oakland, California, at (510) 627-7100 for assistance. If you have any questions concerning mapping issues in general or the enclosed Summary of Map Actions, please call our FMIX at the toll free number shown above. Additional information and resources your community may find helpful regarding the NFIP and floodplain management, such as *The National Flood Insurance Program Code of Federal Regulations*, *Answers to Questions About the National Flood Insurance Program*, *Frequently Asked Questions Regarding the Effects that Revised Flood Hazards have on Existing Structure*, *Use of Flood Insurance Study (FIS) Data as Available Data*, and *National Flood Insurance Program Elevation Certificate and Instructions*, can be found on our website at <http://www.floodmaps.fema.gov/lfid>. Paper copies of these documents may also be obtained by calling our FMIX.

Sincerely,



Luis Rodriguez, P.E., Chief
Engineering Management Branch
Federal Insurance and Mitigation Administration

Enclosure:

Final Summary of Map Actions

cc: Community Map Repository
Mark Wheeler, Building Official, City of Capitola
Representative Anna G. Eshoo
Representative Sam Farr

FINAL SUMMARY OF MAP ACTIONS

Community: CAPITOLA, CITY OF

Community No: 060354

To assist your community in maintaining the Flood Insurance Rate Map (FIRM), we have summarized below the previously issued Letter of Map Change (LOMC) actions (i.e., Letters of Map Revision (LOMRs) and Letters of Map Amendment (LOMAs)) that will be affected when the revised FIRM becomes effective on May 16, 2012.

1. LOMCs Incorporated

The modifications effected by the LOMCs listed below will be reflected on the revised FIRM. In addition, these LOMCs will remain in effect until the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
			NO CASES RECORDED		

2. LOMCs Not Incorporated

The modifications effected by the LOMCs listed below will not be reflected on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lot(s) or structure(s) involved were outside the Special Flood Hazard Area, as shown on the FIRM. These LOMCs will remain in effect until the revised FIRM becomes effective. These LOMCs will be revalidated free of charge 1 day after the revised FIRM becomes effective through a single revalidation letter that reaffirms the validity of the previous LOMCs.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
LOMR-FW	07-09-0136A	10/31/2006	1920 WHARF ROAD -- Blk P, Capitola Heights	06087C0352D	06087C0352E
LOMA	08-09-0493A	02/14/2008	309 ALMA LANE -- TRACT 342, LOT 20	06087C0352D	06087C0352E
LOMR-VZ	11-09-3545A	08/09/2011	VENETIAN COURT, LOTS 39 & 47 -- 1500 WHARF ROAD	06087C0352D	06087C0352E

3. LOMCs Superseded

The modifications effected by the LOMCs listed below have not been reflected on the Final revised FIRM panels because they are being superseded by new detailed flood hazard information or the information available was not sufficient to make a determination. The reason each is being superseded is noted below. These LOMCs will no longer be in effect when the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Reason Determination Will be Superseded
			NO CASES RECORDED	

FINAL SUMMARY OF MAP ACTIONS

Community: CAPITOLA, CITY OF

Community No: 060354

1. Insufficient information available to make a determination.
2. Lowest Adjacent Grade and Lowest Finished Floor are below the proposed Base Flood Elevation.
3. Lowest Ground Elevation is below the proposed Base Flood Elevation.
4. Revised hydrologic and hydraulic analyses.
5. Revised topographic information.

4. LOMCs To Be Redetermined

The LOMCs in Category 2 above will be revalidated through a single revalidation letter that reaffirms the validity of the determination in the previously issued LOMC. For LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures has changed, the LOMC cannot be revalidated through this administrative process. Therefore, we will review the data previously submitted for the LOMC requests listed below and issue a new determination for the affected properties after the effective date of the revised FIRM.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
			NO CASES RECORDED		



STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: APRIL 19, 2012

SUBJECT: **700 ESCALONA DRIVE #12-019 APN: 036-141-05, 20**
 Coastal Permit and Design Permit to demolish an existing one-story single-family residence located on two legal lots of record, and construct two new two-story single-family residences in the R-1 (Single-Family Residence) Zoning District. A variance for a second floor setback and reduction in landscaping is requested for the house located on APN 036-141-020. This project requires a Coastal Permit which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.
 Environmental Determination: Categorical Exemption
 Property Owner: Lori Perpich & Alberto Munoz, filed 2/14/12
 Representative: Derek Van Alstine

APPLICANT’S PROPOSAL

The applicant is proposing to demolish an 882 square foot single-family residence currently located on two legal lots of record, and then construct two new two-story single-family residences, one on each lot. The project is located at 700 Escalona in the R-1 (Single Family Residence) zoning district. The use is consistent with the General Plan, Zoning Ordinance and Local Coastal Plan.

<u>STRUCTURAL DATA – APN 036-141-05</u>			
<u>SETBACKS</u>		Required	Proposed
Front Yard	Garage	18'	36'
	1 st Story	15'	16'
	2 nd Story	20'	43'
Rear Yard	1 st Story	20'	20'
	2 nd Story	20'	24'
Side Yard	1 st Story	4' (l) & (r)	7' (l) & 4' (r)
	2 nd Story	6' (l) & (r)	9' (l) & 6' (r)
<u>HEIGHT</u>		25'	24'-9"

FLOOR AREA RATIO	Lot Size	MAX (54%)	Proposed (54%)		
	4,000 sq. ft	2,160 sq. ft.	2,158 sq. ft		
	Habitable Space	First Floor Deck or Porch	Second Floor Deck	Garage	Total
Proposed First Story	1,298 sq. ft.	108 sq. ft.*	n/a	200 sq. ft.	1,498 sq. ft.
Proposed Second Story	660 sq. ft.	-	n/a	n/a	660 sq. ft.
Proposed TOTAL	1,958 sq. ft.	108 sq. ft.*	n/a	200 sq. ft.	2,158 sq. ft.
PARKING	Required	Proposed			
	3 spaces, one of which must be covered	1 covered space 2 uncovered			
Total	3 spaces	3 spaces			

* There is a credit of 150 sq. ft. for first floor covered porches.

STRUCTURAL DATA – APN 036-141-20					
SETBACKS		Required	Proposed		
Front Yard					
	Garage	18'	n/a		
	1 st Story	15'	19'-6"		
	2 nd Story	20'	41'		
Rear Yard					
	1 st Story	20'	20'		
	2 nd Story	20'	20'		
Side Yard					
	1 st Story	3' (l) & (r)	3'-1" (l) & (r)		
	2 nd Story	4'-6" (l) & (r)	4'-4 1/2" (l) & 4'-6" (r)		
HEIGHT		25'	21'-2 1/2"		
FLOOR AREA RATIO	Lot Size	MAX (58%)	Proposed (58%)		
	1,800 sq. ft	1,044 sq. ft.	1,044 sq. ft		
	Habitable Space	First Floor Deck or Porch	Second Floor Deck	Garage	Total
Proposed First Story	639 sq. ft.	139 sq. ft.*	n/a	n/a.	639 sq. ft.
Proposed Second Story	405 sq. ft.	-	n/a	n/a	405 sq. ft.
Proposed TOTAL	1,044 sq. ft.	139 sq. ft.*	n/a	n/a	1,044 sq. ft.
PARKING	Required	Proposed			
	2 spaces, neither of which must be covered	2 uncovered			
Total	2 spaces	2 spaces			

* There is a credit of 150 sq. ft. for first floor covered porches.

ARCHITECTURAL AND SITE REVIEW COMMITTEE

On June 14, 2012, the Architectural and Site Review Committee reviewed the application.

- City Landscape Architect Susan Suddjian complimented the planting strip in the driveway and thought the planting plan looked great.
- Public Works Director Steve Jesberg conditioned that a drainage plan be developed and that the development implement at least one low impact development BMP from the *Slow it. Spread it. Sink it. Homeowner's Guide to Greening Stormwater Runoff* by the Resource Conservation District of Santa Cruz County.
- Historian Carolyn Swift explained that the house is not historic.
- Senior Planner Bane noted that utilities would need to be undergrounded, and that the applicant should contact PG&E and the Soquel Creek Water District to begin approvals through those entities.

DISCUSSION

The subject site is a fairly flat pair of parcels containing an 882 square foot single-family residence within a developed single-family neighborhood. With the existing home proposed for demolition, the application is to construct two new single-family homes, one on each legal lot of record.

APN 036-141-05

The larger of the two lots is a standard 4,000 square foot parcel. The new two-story home will consist of 1,958 square feet of living space and a 200 square foot one-car garage. The proposed house is a traditional vernacular style, employing shed roof dormers and a mix of materials including horizontal wood siding for the first floor, wood shingle exterior for the second floor, aluminum clad wood windows and doors, wood trim and asphalt shingle roof. A color and materials board will be available for review at the Planning Commission meeting.

All new landscaping is proposed for the front of the home, including a courtyard enclosed by a white picket fence as indicated on the landscape plan provided, with all trees proposed for removal. The project is located in a curb, gutter, and sidewalk exempt area, therefore no street improvements are proposed. Utilities will be required to be undergrounded. The proposed house conforms to the R-1 single-family development standards, including height, setbacks, parking, and floor area ratio (FAR).

APN 036-141-20

The smaller of the two lots is only 18' in width, totaling 1,800 square feet. The new two-story home will be 1,044 square feet with no garage. The cottage sized house will match the larger home, using the same architecture and materials. A color and materials board will be available for review at the Planning Commission meeting.

Two turf block parking spaces will be located in front of the homes, with a concrete entry path and new landscaping to match the adjacent parcel. The parcel is located in a curb, gutter, and sidewalk exempt area, therefore no street improvements are proposed. Utilities will be required

to be undergrounded. The proposed house conforms to most of the R-1 single-family development standards; however, two variances are being requested.

Variances

Two variances are being requested for the smaller lot (APN 036-141-020):

1. Second Floor Side Yard Setback - As per the R-1 zoning requirements, the required side yard setback for the second floor is 4'-6". The structure is proposed to encroach 1 ½" into the side yard setback along the left side, maintaining a 4'-4 ½" setback.
2. Reduction in Landscaping – Section 17.51.130(10) requires that "Two feet of landscape planting is required in the front yard setback between the parking area and the side property line." Due to the 18' width of the lot, and the fact that the minimum width for the two combined parking spaces is 18', there is no room to meet the two foot landscape requirement.

Per Code Section 17.66.090, a variance permit may be granted when the Planning Commission finds:

1. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification;
2. That the grant of a variance permit would not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated.

Staff can support the requested variances, specifying the constraints associated with the extremely narrow width of the lot, as well as the small size of the lot.

RECOMMENDATION

Staff recommends that the Planning Commission **approve** project application #12-019 based on the following Conditions and Findings for Approval.

CONDITIONS

1. The project approval consists of demolition of an 882 square foot single-family residence currently located on two legal lots of record, and construction of two new two-story single-family residences, one on each lot at 700 Escalona Drive.
2. Any significant modifications to the size or exterior appearance of the structure must be approved by the Planning Commission.
3. Hours of construction shall be Monday to Friday 7:30 a.m. – 9:00 p.m., and Saturday 9:00 a.m. – 4:00 p.m., per city ordinance.
4. The utilities shall be underground to the nearest utility pole in accordance with PG&E and Public Works Department requirements. A note shall be placed on the final building plans indicating this requirement.

5. An encroachment permit shall be acquired for any work performed in the right-of-way.
6. The project shall implement Low Impact Development BMP's outlined in the *Slow it. Spread it. Sink it. Homeowner's Guide to Greening Stormwater Runoff* by the Resource Conservation District of Santa Cruz County. The applicant shall provide details on the bmp's implemented and with a goal of not allowing more than 25% of total impervious area from discharging directly from the site.
7. The final landscape plan shall be submitted with the building permit application and will include the specific number of plants of each type and their size, as well as the irrigation system to be utilized. Front yard landscaping shall be installed prior to final building occupancy.
8. Affordable housing in-lieu fees shall be paid as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance. Any appropriate fees shall be paid prior to building permit issuance.
9. Prior to granting of final occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Zoning Administrator or Community Development Director.

FINDINGS

A. The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.

Planning Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project generally conforms to the development standards of the R-1 (Single Family Residence) Zoning District. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance, General Plan and Local Coastal Plan.

B. The application will maintain the character and integrity of the neighborhood.

Planning Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project generally conforms to the development standards of the R-1 (Single Family Residence) Zoning District. Conditions of approval have been included to ensure that the project maintains the character and integrity of the neighborhood.

C. The variance to the side setback and landscape reduction will better serve the intent of the Zoning Ordinance than will the literal enforcement of the requirements of the Ordinance.

The extremely narrow width and small size of the parcel are special circumstances that exist, which makes it difficult to develop and provide the required landscaping and setbacks. This strict application of the Zoning Ordinance would deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. The granting of a variance would not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity.

- D. This project is categorically exempt under Section 15303(a) of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

This project involves construction of two new single-family residences in the R-1 (single family residence) Zoning District. Section 15303 of the CEQA Guidelines exempts the construction of up to three single-family residences in an urbanized area.

Report Prepared By: Ryan Bane
Senior Planner

Attachment A - Project Plans (Munoz Residence)
Attachment B – Project Plans (Munoz Cottage)

MUNOZ RESIDENCE

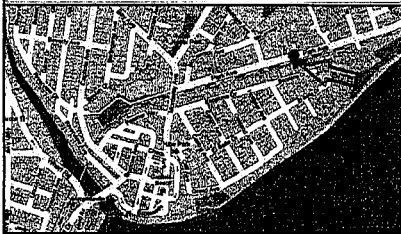


MUNOZ COTTAGE
APN: 036-141-020

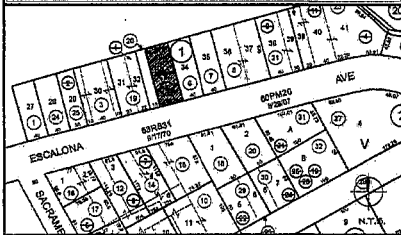


MUNOZ HOUSE
APN: 036-141-005

VICINITY MAP



PARCEL MAP



BUILDING INFORMATION SUMMARY

PROJECT DESCRIPTION:	DEMOLITION OF AN EXISTING 869 SQ.FT. SINGLE FAMILY DWELLING AND CONSTRUCTION OF NEW 2,158 SQ.FT. TWO STORY SINGLE FAMILY DWELLING.		
PROJECT ADDRESS:	700 ESCALONA DRIVE CAPITOLA, CA 95010		
PARCEL NUMBER:	036-141-020		
OCCUPANCY TYPE:	R-3		
SETBACK INFORMATION:	FRONT YARD 15'-0"	SIDE YARD 4'-0" (FIRST FLOOR) 6'-0" (SECOND FLOOR)	REAR YARD 20'-0"
LOT AREA:	4,000 SQ.FT.		
PROPOSED FLOOR AREA:	FIRST FLOOR AREA: 1,498 SQ.FT. SECOND FLOOR AREA: 660 SQ.FT.		
TOTAL FLOOR AREA:	2,158 SQ.FT.		
FLOOR AREA RATIO:	2,158 / 4,000 = .54		
F.A.R. PERMITTED:	54%		
PARKING (PROVIDED):	1 COVERED AND 2 UNCOVERED		
CODE NOTE:	THESE PLANS CONFORM TO THE 2010 CALIFORNIA RESIDENTIAL BUILDING, MECHANICAL, PLUMBING, ELECTRICAL AND ENERGY CODE (I.E., 2009 IRC, IRC, LMC, UPC, AND 2008 NEC) AS AMENDED BY THE STATE OF CALIFORNIA.		

CONTACTS

OWNER:
LORI PERFICH & ALBERTO MUNOZ
700 ESCALONA DRIVE
CAPITOLA, CA 95010
(831) 903-9912

PROJECT DESIGNER:
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DEREK VAN ALSTINE
716 SOQUEL AVENUE SUITE A
SANTA CRUZ, CA 95062
PH: (831) 426-5400
FAX: (831) 426-5446
dvanet@dvanalstine.com

LANDSCAPE ARCHITECT:
ELLEN COOPER & ASSOCIATES
ELLEN COOPER
612 WINDSOR STREET
SANTA CRUZ, CA 95062
PH: (831) 426-5545
FAX: (831) 426-5545

DRAWING INDEX

BUILDING DESIGN	
T1	TITLE SHEET
T2	STREETScape
A1	SITE PLAN
A2	FIRST & SECOND FLOOR PLANS
A3	EXTERIOR ELEVATIONS
L1	LANDSCAPE PLAN

DEREK VAN ALSTINE
RESIDENTIAL DESIGN INC.
716 SOQUEL AVENUE SUITE A, SANTA CRUZ, CALIFORNIA,
95062
(831) 426-5446 FAX

DVRD
DERRICK VAN ALSTINE
DESIGN

MUNOZ RESIDENCE
700 ESCALONA DRIVE
CAPITOLA, CA 95010

APN: 036-141-020	2024-14-20
ISSUE DESCRIPTION:	
SCHEDULED DIBING:	03 FEB 12
DESIGN DEVELOPMENT:	
PLANNING SUBMITTAL:	09 FEB 12
PERMISSION SUBMITTAL:	
REVISIONS:	03-06-12
PLANNING RESPONSE:	

TITLE SHEET
MODIFIED
T1

ATTACHMENT A

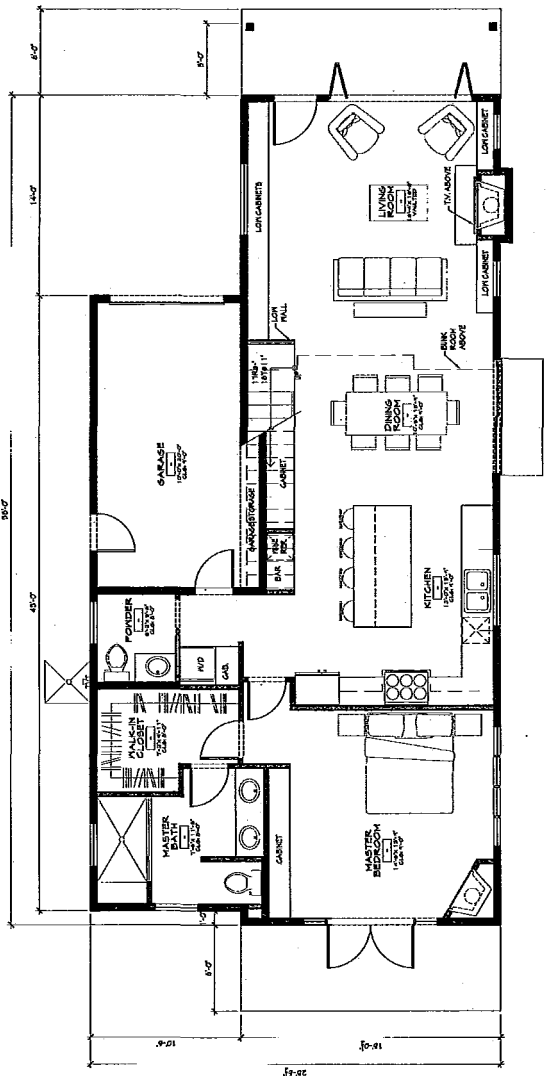
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 ALL PLANS
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REVISIONS
 NO. DATE BY
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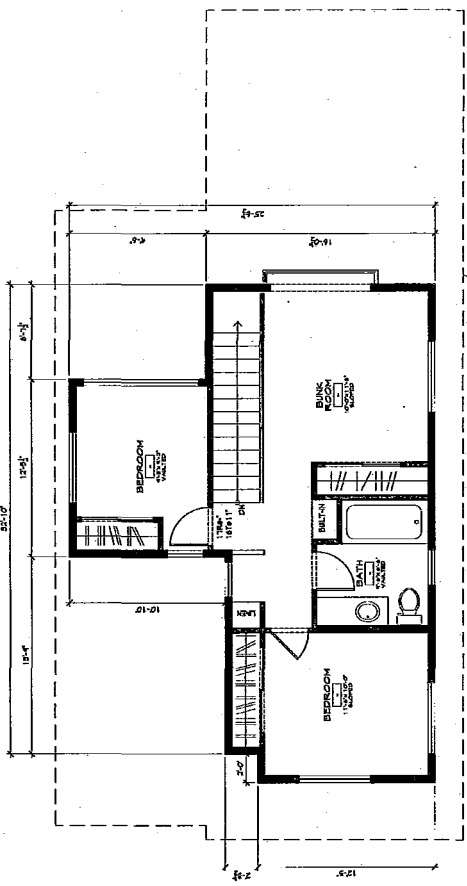
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 (415) 766-8100 PHONE (415) 766-4666 FAX



1 FIRST FLOOR PLAN
 SCALE: 1/4" = 1'-0"



2 SECOND FLOOR PLAN
 SCALE: 1/4" = 1'-0"

Plant Legend

Sym	Botanical Name	Common Name	Size	Quan
T1	Lagerstroemia 'Muskoegae'	Lavender Purple Crepe Myrtle Tree	15GC	1
S1	Loropetalum 'Plum Delight'	Red-leafed Magenta Fringe Flower	5GC	6
S2	Hebe 'Reevesii'	Purple Hebe	5GC	8
S3	Leucodendron 'Pisa'	Silver/Yellow Cone Bush	5GC	4
S4	Daphne odora 'Marginata'	Winter Blooming Daphne	5GC	3
S5	Rosa 'Yuletide'	Red Disease Resistant Yuletide Rose	5GC	2
S6	Rosa 'Gold Medal'	Yellow DR Rose - Standard Thrift	5GC	2
S7	Chryslia tamata	White Mexican Orange	5GC	6
P1	Pelargonium 'Mabel Grey'	Lavender Pink Pelargonium	1GC	3
P2	Phormium 'Cream Delight'	Green & White Leafed Flax	5GC	3
P3	Heuchera sanguinea	Pink Coral Bells	1GC	5
P4	Anigozanthos 'Yellow Gem'	Yellow Kangaroo Paws	1GC	8
P5	Umonium perzli	Purple Sea Lavender	1GC	9
P6	Penstemon 'Catherine de la Mar'	Blue Beard Tongue	1GC	2
P7	Levandula angustifolia	Violet English Lavender	1GC	3
GC1	Rosa 'Pink Flower Carpet'	Light Pink Carpet Rosa	1GC	11
GC2	Lantana 'Dwarf White'	White Lantana	1GC	8
GC3	Cobelia leptinella 'Platt's Black'	Platt's Black Cobelia	1GC	10
GC4	Helianthemum 'Wilday Primrose'	Yellow Sunrose	1GC	9
GC5	Zoylia tenuifolium	Korean Grass	Flats	
V1	Solanum jasminoides	White Potato Vine	5GC	2
V2	Cyrtosoma canaliculoides	Violet Trumpet Vine	5GC	1
V3	Rosa 'Walter'	Pink Disease Resistant Climbing Rose	5GC	1
V4	Wisteria sinensis	Violet Chinese Wistaria	5GC	1

Planting Notes

PLANTING AREA PREPARATION

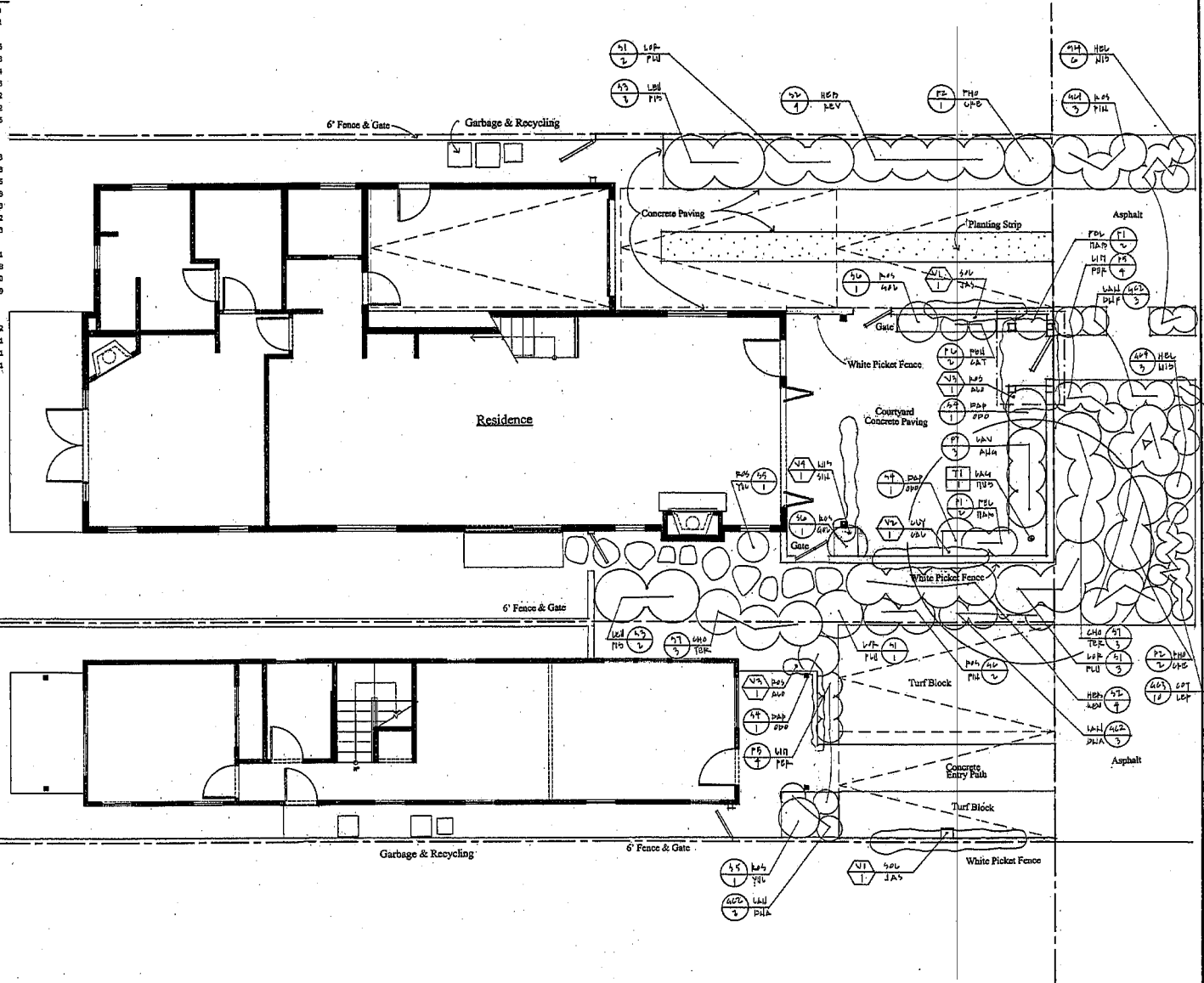
1. Remove soil as required to accommodate soil amendments and ensure positive drainage away from all structures.
2. Cultivate all planting areas to a minimum of 6".
3. After the completion of all grading and underground construction, all planting areas shall be finish graded, to smooth, even surfaces with positive drainage per existing topography or to drainage swales or structures.
4. Existing plants to be saved shall be protected from injury.
5. No stockpiles of plants or materials to be saved shall be located within the drip line of any existing tree to be saved.

QUALITY OF PLANT MATERIALS

1. All plant material shall be nursery grown, healthy and free from disease and pests.
2. Plants not conforming to common nursery standards or found unacceptable by the Landscape Architect will be considered defective and shall be replaced at no additional cost to the owner.
3. Plants shall be protected from drying out, wind burn and injury during handling and storage.

INSTALLATION

1. Planting holes shall be as deep as the root ball and 2.5 times the width of the root ball.
2. Backfill for the planting holes shall be 80% site soil and 20% 50-50 blend mushroom compost, aged chicken manure or other approved material.
3. All planting areas shall be mulched with 3" of redwood bark, fir bark or other approved material.
4. All trees shall be staked with 1, 2" x 10' lodge pole pine tree stake placed outside the root ball and secured with two rubber tree ties.
5. The contractor shall guarantee all plant material for 30 days or until all plants have leafed out.



Irrigation Note
A drip irrigation system shall be professionally installed to insure complete coverage.

1 Landscape Plan
SCALE 1/4" = 1'-0"



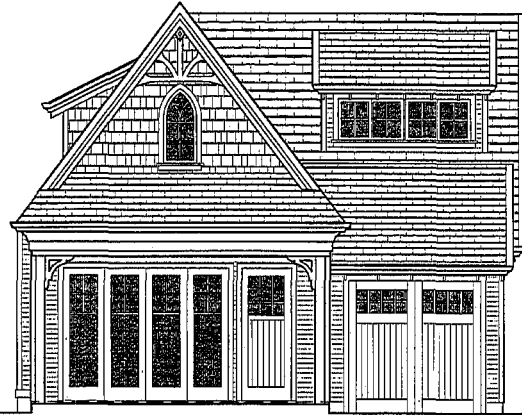
95

Escalona Drive
 Ellen Cooper
 Landscape Architect
 831-426-6845
 Ch. Lic. #2937
 MUNOZ RESIDENCE
 700 ESCALONA DRIVE
 CAPITOLA, CA 95010
 ISSUE DESCRIPTION
 March 8th 2012
 LANDSCAPE PLAN
 LI

MUNOZ COTTAGE

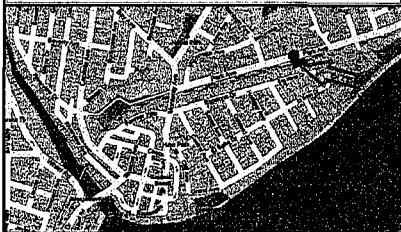


MUNOZ COTTAGE
APN: 036-141-020

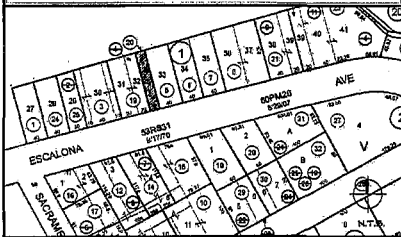


MUNOZ HOUSE
APN: 036-141-005

VICINITY MAP



PARCEL MAP



BUILDING INFORMATION SUMMARY

PROJECT DESCRIPTION:	CONSTRUCTION OF NEW 1,044 SQ.FT. TWO STORY SINGLE FAMILY DWELLING.		
PROJECT ADDRESS:	700 ESCALONA DRIVE CAPITOLA, CA 95010		
PARCEL NUMBER:	036-141-020		
OCCUPANCY TYPE:	R-3		
SETBACK INFORMATION:	FRONT YARD 15'-0"	SIDE YARD 3'-0" (FIRST FLOOR) 4'-6" (SECOND FLOOR)	REAR YARD 20'-0"
LOT AREA:	1,600 SQ.FT.		
PROPOSED FLOOR AREA:			
FIRST FLOOR AREA:	639 SQ.FT.		
SECOND FLOOR AREA:	405 SQ.FT.		
TOTAL FLOOR AREA:	1,044 SQ.FT.		
FLOOR AREA RATIO:	1,044/ 1,600 = .65		
F.A.R. PERMITTED:	50%		
PARKING (PROVIDED):	3 UNCOVERED		
CODE NOTE:	THESE PLANS CONFORM TO THE 2010 CALIFORNIA RESIDENTIAL BUILDING, MECHANICAL, PLUMBING, ELECTRICAL AND ENERGY CODE (I.E., 2009 IRC, ISC, UMC, UPC, AND 2008 NEC) AS AMENDED BY THE STATE OF CALIFORNIA.		

CONTACTS

OWNER:
LORI FERIGH & ALBERTO MUNOZ
700 ESCALONA DRIVE
CAPITOLA, CA 95010
(650) 303-9912

PROJECT DESIGNER:
DEREK VAN ALSTINE RESIDENTIAL DESIGN, INC.
DEREK VAN ALSTINE
71 S BOQUEL AVENUE SUITE A
SANTA CRUZ, CA 95062
TEL: (651) 426-6400
FAX: (651) 426-6416
dvanal@vawad.com

LANDSCAPE ARCHITECT
ELLEN COOPER & ASSOCIATES
ELLEN COOPER
612 WINDSOR STREET
SANTA CRUZ, CA 95062
TEL: (651) 426-6415
FAX: (651) 426-6415

DRAWING INDEX

BUILDING DESIGN	
T1	TITLE SHEET
T2	STREETSCAPE
A1	SITE PLAN
A2	FIRST & SECOND FLOOR PLANS
A3	EXTERIOR ELEVATIONS
L1	LANDSCAPE PLAN

DEREK VAN ALSTINE
RESIDENTIAL DESIGN INC.
76 BOQUEL AVENUE SUITE A SANTA CRUZ, CALIFORNIA
(651) 426-6400

DVRD
DEREK VAN ALSTINE
RESIDENTIAL DESIGN

MUNOZ COTTAGE
700 ESCALONA DRIVE
CAPITOLA, CA 95010

APN: 036-141-020

036-141-020

ISSUE DESCRIPTION

SCHEMATIC DESIGN

09 JAN 12

DESIGN DEVELOPMENT

PLANNING SUBMITTAL

09 FEB 12

BUILDING SUBMITTAL

03-05-12

PLANNING RESPONSE

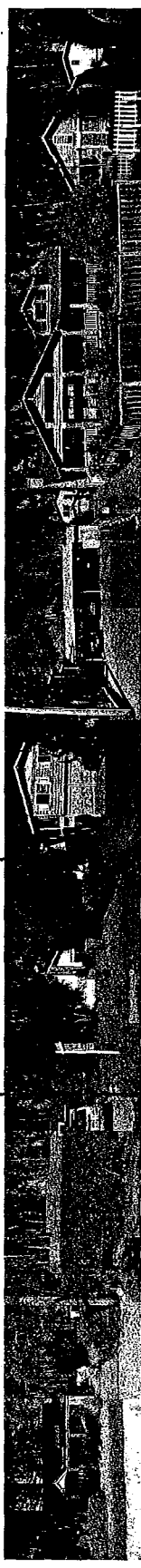
T1

TITLE SHEET
MODIFIED

T1

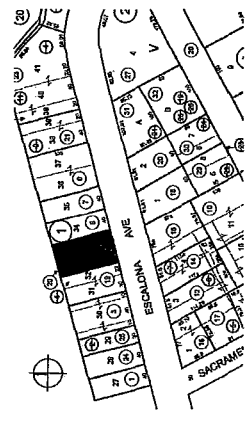
ATTACHMENT B

SUBJECT
PROPERTY

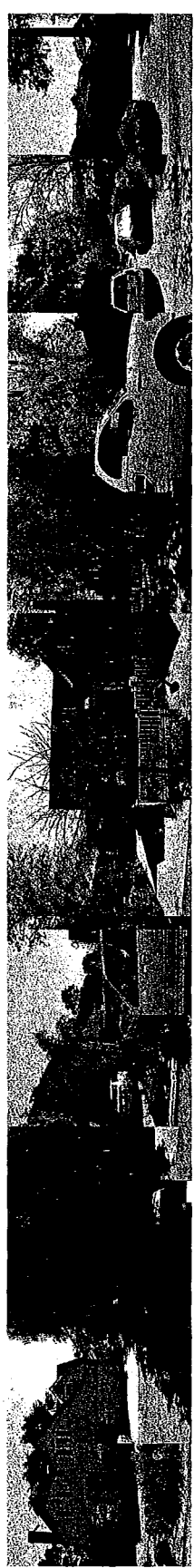


700 ESCALONA DR

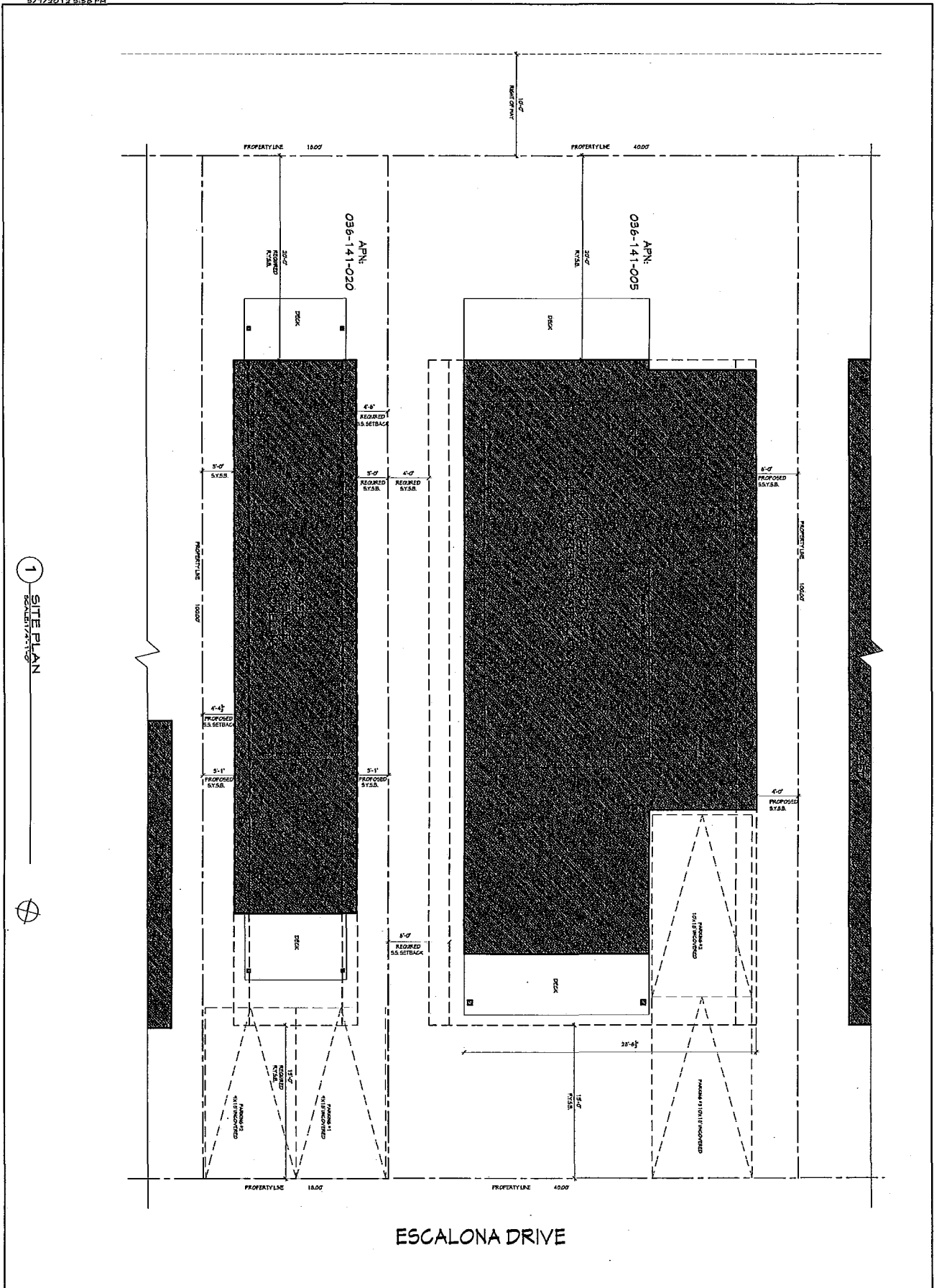
1 ESCALONA DRIVE - NORTH
SCALE NONE



2 ESCALONA DRIVE - SOUTH
SCALE NONE



8/7/2012 9:56 PM



1 SITE PLAN

ESCALONA DRIVE

<p>A1</p> <p>30% PLAN ADDED</p>	<p>APN: 036-141-020</p> <p>DATE: 08 JAN 12</p> <p>PROJECT: MUNOZ COTTAGE</p> <p>OWNER: DEREK VAN ALSTINE</p> <p>DESIGNER: DEREK VAN ALSTINE</p>	<p>DVRD</p> <p>DEREK VAN ALSTINE</p> <p>RESIDENTIAL DESIGN INC.</p> <p>716 SOQUEL AVENUE SUITE A, SANTA CRUZ, CALIFORNIA</p> <p>(531) 416-9601 PHONE (531) 416-9446 FAX</p>
	<p>MUNOZ COTTAGE</p> <p>700 ESCALONA DRIVE</p> <p>CAPITOLA, CA 95010</p>	
	<p>DATE: 08 JAN 12</p> <p>PROJECT: MUNOZ COTTAGE</p> <p>OWNER: DEREK VAN ALSTINE</p> <p>DESIGNER: DEREK VAN ALSTINE</p>	
	<p>APN: 036-141-020</p> <p>DATE: 08 JAN 12</p> <p>PROJECT: MUNOZ COTTAGE</p> <p>OWNER: DEREK VAN ALSTINE</p> <p>DESIGNER: DEREK VAN ALSTINE</p>	

Plant Legend

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V2	Cytosoma callistegloides	Violet Trumpet Vine	5GC	1
V3	Rosa 'John'	Pink Disease Resistant Climbing Rose	5GC	1
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Planting Notes

PLANTING AREA PREPARATION

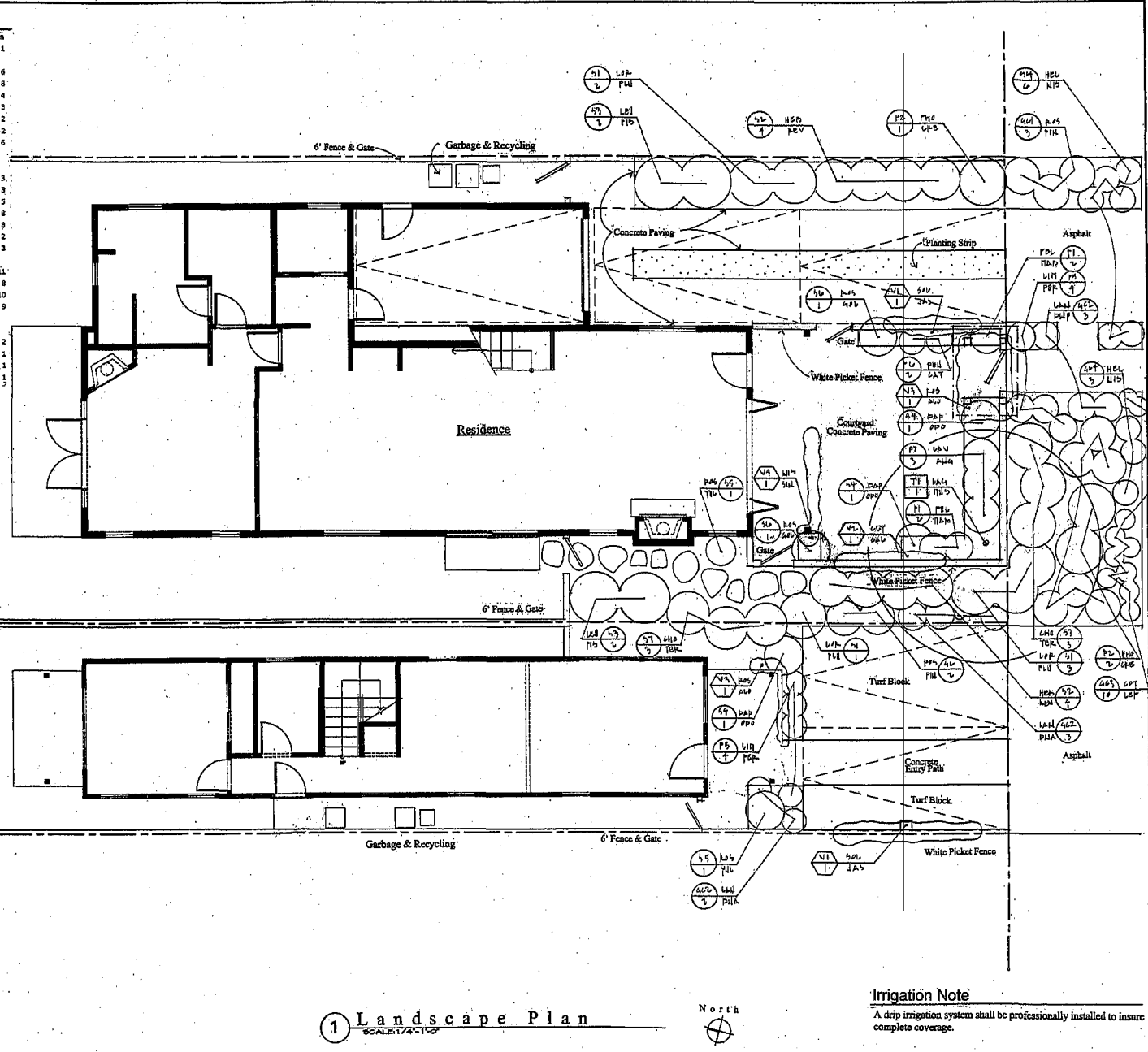
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2. Plants not conforming to common nursery standards or found unacceptable by the Landscape Architect will be considered defective and shall be replaced at no additional cost to the owner.

INSTALLATION

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5. The contractor shall guarantee all plant material for 30 days or until all plants have leafed out.



1 Landscape Plan
SCALE: 1/4" = 1'-0"



Irrigation Note

A drip irrigation system shall be professionally installed to insure complete coverage.

101

Escalona Drive
MUNOZ RESIDENCE
 700 ESCALONA DRIVE
 CAPITOLA, CA 95010
 March 3rd, 2012
 LANDSCAPE PLAN
 LI

Ellen Cooper
 Landscape Architect
 CA Lic. #2937
 831-426-6845



STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: APRIL 19, 2012

SUBJECT: **220 OAKLAND AVENUE #12-034, -044 APN: 036-124-20**
Fence Permit and a Major Revocable Encroachment Permit to construct a wall within the city right-of-way as part of a single-family residential use in the R-1 (Single-Family Residence) Zoning District.
Environmental Determination: Categorical Exemption
Property Owner: Christann A Bohnet, filed 3/29/12
Representative: John Draga

APPLICANT'S PROPOSAL

The applicant is proposing to construct two portions of wall structure within the city right-of-way at 220 Oakland Avenue in the R-1 (Single-Family Residential) Zoning District. Approval of a fence permit and Major Revocable Encroachment Permit is being requested of the Planning Commission.

BACKGROUND

On May 6, 2010, the Planning Commission approved a Design Permit to convert a former church structure (St. John the Baptist Episcopal Church) into a single-family residence. Construction of the project is nearing completion.

DISCUSSION

The applicant is proposing two sections of fence, both located within the city right-of-way:

1. Escalona Section – This section has a total length of 22'. The 6' high portion paralleling Escalona extends 17', and is setback 6" from the edge of roadway. The remaining 5' portion angles toward the main structure and drops in height from 6' to 3'-6".
2. Oakland Avenue Section – This section has an approximate length of 37' along the Oakland Avenue frontage. The majority of the length of the wall stands at a height of 3'-6", but rises to 5' columns on either side of the main entrance gate.

The two sections of wall are proposed to look like an old style stacked concrete/stucco wall. The wall will purposely be designed to look aged, with sections that are crumbled and revealing stacked bricks/stone. Vines are also proposed to be planted and grow on the wall.

Chapter 17.54 of the Zoning Ordinance regulates fences and the issuance of fence permits. Per Section 17.54.020:

- A. The planning department shall issue fence permits, upon application from the property owner, in the following instances:
 - 1. Between that portion of any private property in front of the setback line established by the zoning ordinance or other ordinances of the city, and that portion in front of the front line of any residence or other principal building now erected on any private property, to a maximum height of three feet six inches;
 - 2. On that part of the property back of the front line of any building or capital building now on the premises, to a maximum height of eight feet; provided, that the top two feet of the fence be made of lattice or other open material;
 - 3. On corner lots, the fence shall be set back at least five feet from the property line on that side of the lot which has the greatest length along the street.
- B. Alternative locations, height, and material for fences shall be approved by the planning commission.

While the Oakland Avenue section meets the general height requirements for approval by the planning department, the Escalona portion clearly does not. Therefore, per Section 17.54.020(B), an application has been submitted for an alternative location and height to be approved by the Planning Commission.

RECOMMENDATION

Based on the height and proximity to the street, staff cannot support the Escalona section of the wall. Approval of such a wall would set a precedent for similar type fences in the Depot Hill area, which generally has open landscaping between the roadway and residential structures.

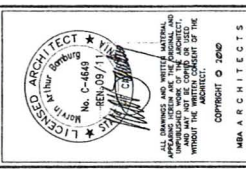
In addition, the former church property is considered a significant local historic resource due to the architecture and association with the community development of Capitola. Staff questions if the faux old style wall is consistent with the *Secretary of the Interior's Standards and Guidelines for Rehabilitation of Historic Properties*. Standard #3 states, "Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken." Based on the old style design, the wall could be creating a false sense of historic development, and not be consistent with the historic standards. Staff recommends that the Planning Commission **deny** project application #12-034 and 12-044.

Report Prepared By: Ryan Bane
Senior Planner

Attachment A – Letter from the applicant
Attachment B – Project Plans

JOB NO.	0927
DATE	17 AUG 2010
DESCRIPTION	
DATE	
REVISION	
DATE	
REVISION	
DATE	
REVISION	

BOHNET RESIDENCE
228 OAKLAND AVE
CARROLL CA 95622



DATE PLOTTED
SITE PLAN
SCALE
AS SHOWN
DATE PLOTTED
SHEET
3 OF 3
APPROVED
FOR COPY

GENERAL NOTES

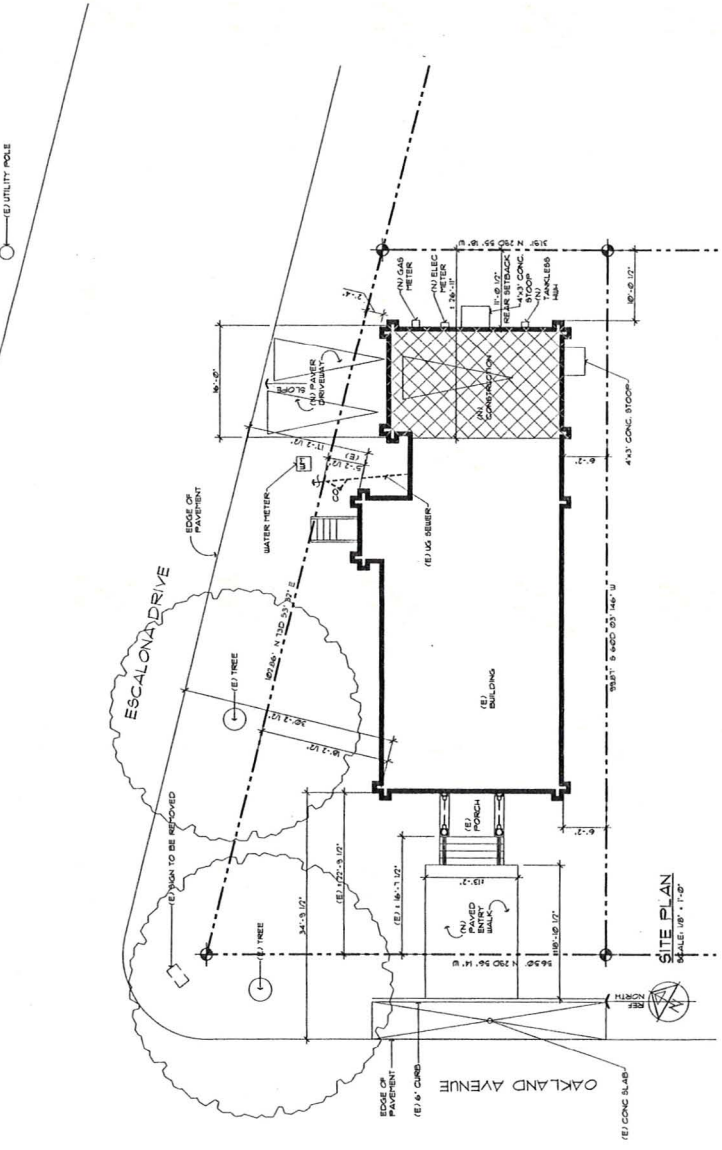
NOTE AND REFER TO THE DRAWINGS FOR THE SHEET NUMBER AND TO THE GENERAL NOTES ON OTHER SHEETS.

1. ALL UTILITIES SHALL BE LOCATED TO THE PROPERTY LINE AND SHALL BE DEEPENED TO THE PUBLIC WORKS DEPARTMENT REQUIREMENTS.

2. VERIFICATION OF STRUCTURE LOCATION AND ELEVATION ON EXISTING FOUNDATION SHALL BE PROVIDED TO THE LOCAL BUILDING DEPT. PRIOR TO FOUNDATION CONSTRUCTION.

RECEIVED
MAR 29 2012
CITY OF CARROLL

12-044





220 OAKLAND AVE
 RESIDENCE





BOHNET RESIDENCE
w/ STAKED
OLD STILE
WALL

VIEW ANGLE (SEE SITE MAP/DRAWING)



I would like to open by saying that this project requires special consideration because of its unusual nature. I am not sure that we would be following a precedent set by another project nor do I believe that we would be setting a new precedent. I think that this situation is one of a kind.

This is a unique building and because of its historical value to the community (being listed in the inventory of historical buildings), we feel compelled to honor and showcase the architecture and preserve the essence of the publicness that was this site for more than a century.

This being said, now the usage is changing to become a private residence and we are realizing that the challenges extend beyond just the usage of the space within the structure.

We spent a lot of time grappling with how to create a private yard, or at least a private section of the yard, while not obstructing the beauty of the architecture as seen from the street.

We went through several design iterations and have arrived at what we are presenting to you today. We believe that this solution considers the original building and how it relates to the neighborhood while accommodating the new use as a private residence.

Though the original landscape design worked well on paper, it became apparent, as the work on the building progressed and we gained a better sense of how the space would be used, that we needed to revisit the area surrounding the building. This is especially true of the side door area.

This side door area is a particular challenge for a number of reasons.

1. There is the historical element,
2. the intended purpose for the original structure,
3. the scale of the building with relationship to the area surrounding it,
4. the way the building is sited on the lot, and,
5. the current intended use and how to bridge all of these in a tasteful manner while keeping the safety and visual compatibility to surrounding neighborhood buildings in mind.

1. The building on the corner of Escalona and Oakland was the one of the original buildings in Capitola and probably the second on Depot Hill. It was built in 1897 and is truly a landmark to the town. We are attempting to showcase this piece of Capitola's history by creating a privacy barrier in the fashion of a crumbling partial wall.

2. The original usage allowed for a very open and public passage from the street to and from the building. There was little need for any privacy. It was a public building. I would like to create the illusion of a cloistered garden area outside the

"sanctuary" side entrance but still allow the architecture of the building to be seen from the street corner.

3. The third point is the scale of the building. It is important aesthetically, to keep the perimeter to scale with the size of the structure. The fact that this will no longer be used as a public building creates the need to define the private yard. Our challenge is do this in a way that keeps with and enhances the elegance of the site.

4. The location of the building envelope on the parcel was decided based on the needs of the previous occupants. It made sense to site the building toward the back of the property since most of the traffic pattern of the congregation was through the front of the yard to the front entrance of the church.

The set back to the side entry was not an issue because that door was never used. In fact, there was a pipe organ that filled the alcove on the other side of the door. This brings us to point number 5, which is the change of use to today

5. As a private home, access to the garden from the kitchen for outdoor entertaining would certainly be through the side door. The problem we have encountered is the elevation. The transition from the building requires a few steps to reach street level.

By the time you reach the ground, you are a couple of inches from the property line. I am asking to construct a partial wall on the public easement at this location; just a couple of sections that would create a small cloistered buffer zone. It would serve to partially block the view from the street into the open door and cut the street noise where it is the closest to the building. I envision a water feature to further muffle street sounds.

Keeping the public safety in mind, after a site review from a planning department staff member who took street measurements, it was found that Escalona Avenue meets the required width for street parking without using the easement.

As depicted in our renderings, this partial wall would have the appearance of having been built long ago and transition to the existing greenery.

From a design and usage perspective, this area should be a private transition into the yard.



STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: APRIL 19, 2012

SUBJECT: **216 SAN JOSE AVENUE #12-011 APN: 035-185-15**
 Coastal Permit, Design Permit and Tentative Map to construct a three-story two-unit residential condo in the CV (Central Village) Zoning District.
 Environmental Determination: Categorical Exemption
 Property Owner: Marte Formico, filed 1/30/12
 Representative: Dennis Norton

APPLICANT’S PROPOSAL

The applicant is proposing to construct a new three-story structure containing two condo units at 216 San Jose in the CV (Central Village) Zoning District. The use is consistent with the General Plan, Zoning Ordinance and Local Coastal Plan.

<u>STRUCTURAL DATA</u>				
<u>SETBACKS</u>		Required	Proposed	
Front Yard				
	Driveway	0'	3'-6"	
	1 st Story	0'	3'	
	2 nd Story	0'	3'	
Rear Yard				
	1 st Story	0'	3'	
	2 nd Story	0'	3'	
Side Yard				
	1 st Story	0' (l) & (r)	0' (l) & 3' (r)	
	2 nd Story	0' (l) & (r)	0' (l) & 3' (r)	
<u>HEIGHT</u>		27'	27'	
<u>LOT COVERAGE</u>		Lot Size	MAX (80%)	Proposed (75%)
		1,650 sq. ft	1,320 sq. ft.	1,228 sq. ft.

Unit A	Habitable Space	Garage	Second Floor Deck	Total
First Story	0 sq. ft.	504 sq. ft.	-	504 sq. ft.
Second Story	543 sq. ft.	-	60 sq. ft.	603 sq. ft.
Third Story	284 sq. ft.	-	-	284 sq. ft.
Unit B				
Proposed First Story	0 sq. ft.	504 sq. ft.	-	504 sq. ft.
Proposed Second Story	563 sq. ft.	-	50 sq. ft.	613 sq. ft.
Proposed TOTAL	284 sq. ft.	-	-	284 sq. ft.
TOTAL 2,792 sq. ft.				
PARKING	Required	Proposed		
	4 spaces/ 2 of which must be covered	4 covered space		
Total	4 spaces	4 spaces		

BACKGROUND

On May 5, 2005, the Planning Commission approved an identical project on a 4-1 vote. It was appealed to City Council where it was heard on June 9, 2005. The Council approved the application on a 3-1 vote. Design Permit approvals are valid for up to two years, therefore the application expired in June 2007.

ARCHITECTURAL AND SITE REVIEW COMMITTEE

On March 14, 2012, the Architectural and Site Review Committee reviewed the application.

- City Architect Derek Van Alstine stated that the project was a nice use of space, and suggested that the individual garage doors be replaced with double doors to help with maneuverability.
- City Landscape Architect Susan Suddjian stated that the plants proposed would work for the project.
- Senior Planner Bane noted that utilities would need to be undergrounded, and that the applicant should contact PG&E and the Soquel Creek Water District to begin approvals through those entities.

DISCUSSION

The project site is a 1,650 square-foot vacant lot at the corner of San Jose Avenue and Park Place, in the Cherry Avenue Residential Overlay District of the CV-Central Village zoning district. The two-unit residential condominium provides the four required off-street parking spaces at the street level, with access from Park Place. Access to the two units is also proposed from Park Place through a common gate immediately adjacent to the property line/street. The parcel map shows the units generally divided down the middle of the lot, but the entrance on Park Place, the common stairways, and light well, would be shared and easements and/or common space will be necessary to clarify ownership, use and maintenance of the area.

The building design uses wood siding and craftsman elements like the rafters and rafter tails. Multiple gables set back from the second floor are used to reduce the roof massing on the third

floor and provide articulation on three of the four elevations. The structure meets the 27' height limit for the zoning district, and appears to be compatible with other buildings in the immediate area which are predominantly multi-family and multi-story, as demonstrated by the streetscape plan.

There is no Floor Area Ratio for residential development in the CV district, even in the residential overlay area, just as there is no minimum lot size or density standard. Lot coverage for the Cherry Avenue residential overlay district is defined as the footprint of the building and area used to meet the parking requirements of the use. Garages, carports or open space parking used to meet the parking requirements are included as the actual square footage, although driveway approaches and sidewalks are not included in lot coverage. There are no yard requirements in the residential overlay districts except that 10% of the lot area shall be developed as landscaped open area, at least partially fronting on, and open to, the street, which is not used for parking. The landscape requirement is being met.

Parking

Per Zone Section 17.51.130(B), duplexes are required to provide two off-street parking spaces for each unit. In addition, one space for each unit must be covered. The project as proposed provides two two-car garages. Therefore, the proposed parking meets the Zoning Code requirements.

It should also be noted that two street spaces on Park Place are proposed for removal in order to accommodate enough back up space for the new garages. While it is difficult losing street parking, the project will be providing four off-street parking spaces that previously did not exist. Additionally, Park Place is a very narrow street (20') that will be better able to accommodate through traffic with the removal of the spaces.

Environmental Review

The project was determined to be categorically exempt under Sections 15315 and 15332 for minor land divisions and urban infill projects. However, the site is located both in the flood plain and in an archeologically sensitive area, as is virtually the entire village. A condition of approval has been included to address monitoring of the site by a qualified archaeologist during all soil disturbance. A condition of approval also reflects the necessity for compliance with FEMA regulations for elevation in the flood plain, and since the garage is proposed for the ground floor this will not be problematic.

RECOMMENDATION

Staff recommends that the Planning Commission **approve** project application #12-019 based on the following Conditions and Findings for Approval.

CONDITIONS

1. The project approval consists of construction of a new three-story structure containing two condo units at 216 San Jose Avenue.
2. Any significant modifications to the size or exterior appearance of the structure must be approved by the Planning Commission.
3. Hours of construction shall be Monday to Friday 7:30 a.m. – 9:00 p.m., and Saturday 9:00 a.m. – 4:00 p.m., per city ordinance.

4. If archaeological resources or human remains are accidentally discovered during construction, work shall be halted within 50 meters (150 feet) of the find until it can be evaluated by a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented. Disturbance shall not resume until the significance of the archaeological resources is determined and appropriate mitigations to preserve the resource on the site are established. If human remains are encountered during construction or any other phase of development, work in the area of discovery must be halted, the Santa Cruz County coroner notified, and the provisions of Public Resources Code 5097.98-99, Health and Safety Code 7050.5 carried out. If the remains are determined to be Native American, the Native American Heritage Commission (NAHC) shall be notified within 24 hours as required by Public Resources Code 5097. The NAHC will notify designated "Most Likely Descendants" who will provide recommendations for the treatment of the remains within 48 hours of being granted access to the site. The NAHC will mediate any disputes regarding treatment of remains and the Planning Director and the Santa Cruz County coroner would be notified.
5. Compliance with FEMA regulations for construction within the flood district shall be demonstrated to the satisfaction of the Building Official.
6. An erosion control plan shall be approved and in place prior to grading and construction on site.
7. A Homeowner's Association CC&R document shall be prepared by the developer and subject to the approval of the Community Development Director, Public Works Director, and City Attorney. The CC&Rs shall be prepared and approved prior to recordation of the Parcel Map and all costs associated with the creation of the documents will be the responsibility of the applicant.
8. The utilities shall be underground to the nearest utility pole in accordance with PG&E and Public Works Department requirements. A note shall be placed on the final building plans indicating this requirement.
9. An encroachment permit shall be acquired for any work performed in the right-of-way.
10. The project shall implement Low Impact Development BMP's outlined in the *Slow it. Spread it. Sink it. Homeowner's Guide to Greening Stormwater Runoff* by the Resource Conservation District of Santa Cruz County. The applicant shall provide details on the bmp's implemented and with a goal of not allowing more than 25% of total impervious area from discharging directly from the site.
11. The final landscape plan shall be submitted with the building permit application and will include the specific number of plants of each type and their size, as well as the irrigation system to be utilized. Front yard landscaping shall be installed prior to final building occupancy.
12. Affordable housing in-lieu fees shall be paid as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance. Any appropriate fees shall be paid prior to building permit issuance.
13. The subdivider shall comply with all of the provisions of the approved Tentative Parcel Map and all pertinent provisions of the Municipal Code.

14. Prior to granting of final occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Zoning Administrator or Community Development Director.

FINDINGS

A. The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.

Community Development Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project and determined that the project, subject to the conditions, is consistent with the development standards of the CV-Central Village Zoning District, Cherry Avenue Residential Overlay, as well as the Parking and Subdivision Ordinances. Conditions of approval have been included to carry out the objectives of the Subdivision and Zoning Ordinance, as well as the General Plan.

B. The application will maintain the character and integrity of the neighborhood.

Community Development Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project and determined that the proposed project will maintain the character and integrity of the neighborhood as demonstrated by the streetscape illustration for comparative height and mass, because the proposed structure uses building and trim elements and materials which blend with the style of surrounding wood-frame structures, and a massing which is not substantially greater than other multi-family buildings in the immediate neighborhood.

C. This project is categorically exempt under Section 15315 and 15332 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.

This project involves construction of two residential condo units. Section 15315 and 15332 of the CEQA Guidelines exempts minor land divisions and urban infill projects in an urbanized area.

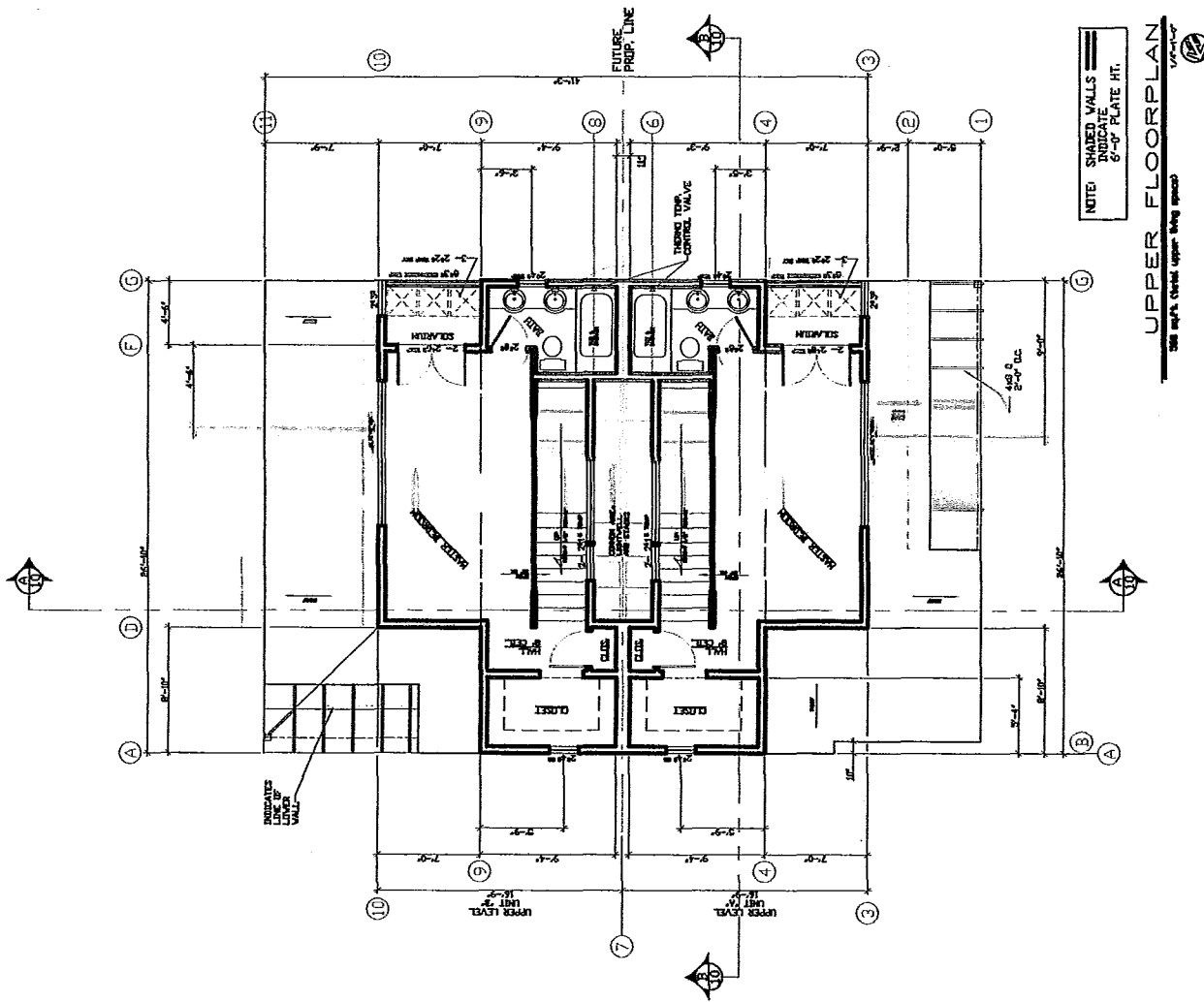
D. Findings for Approval of the Tentative Parcel Map

1. The proposed map, including its design and improvements, is consistent with the general plan and the specific plan for the project area, the Capitola Village Design Guidelines, and the Local Coastal Program for the area.
2. The site is physically suitable for the type and density of development proposed, since it is generally flat and there are no biological resources to be affected by the proposed project.
3. The design of the subdivision and its improvements is not likely to cause substantial environmental damage or serious public health problems, based on its size, location, and proximity to existing infrastructure. An archaeologist will be on site during all soil disturbing activities to ensure that historic resources are not damaged. The design of the subdivision will not conflict with any easements which serve the public, and will eliminate only two on-street parking space in return for providing four spaces on the site.

Report Prepared By: Ryan Bane
Senior Planner

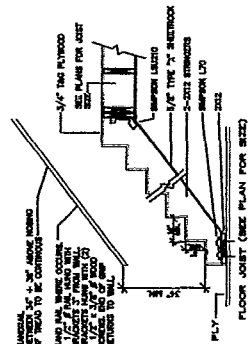
Attachment A - Project Plans

Attachment B – Letter of opposition from Philip J. Moscone & Barbara Taylor Mayper



UPPER FLOOR PLAN
 1/8" = 1'-0"
 1/8" = 1'-0" (SEE PLAN FOR SIZE)

- NOTES**
1. CONTRACTOR TO PROVIDE & INST. ON THE REGULATORY CONTROLS & INSTALLATION CERTIFICATE.
 2. WIND LABELS MUST REMAIN ATTACHED TO THE GLAZING UNTIL AFTER REGULATION INSPECTION IS COMPLETE.
 3. THE CONTRACTOR SHALL BE RESPONSIBLE TO MAINTAIN SAFE FRONT TO REAR EXPOSURE PLAN TO CLEARLY INDICATE REQUIRED EXPOSURE LOAD AND PIPE SIZE.



(A) TYPICAL STAIR DETAIL
 1/8" = 1'-0"
 1/8" = 1'-0" (SEE PLAN FOR SIZE)

MICHAEL ARNONE
 LANDSCAPE ARCHITECT
 California license #3347
 3970 Samuel Place
 Santa Cruz, CA 95062
 831.462.4988

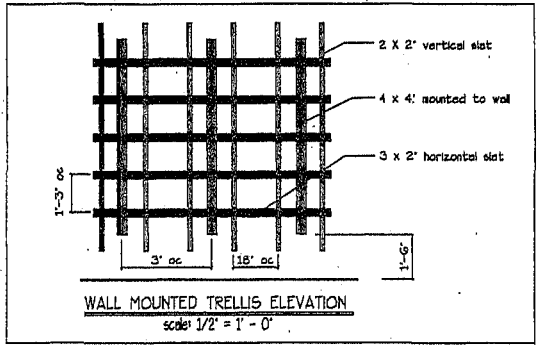
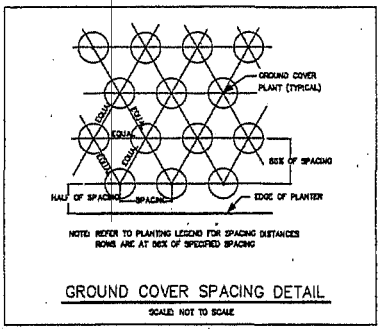
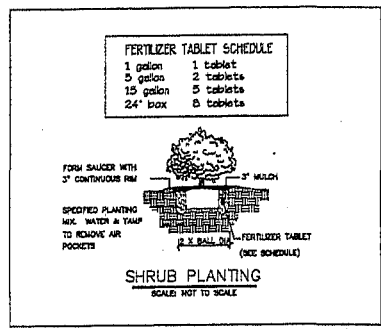
HENKEL RESIDENCE
 216 San Jose Avenue
 Capitola, California

DATE	PURPOSE	BY
AB04	review	MAA
7/20/11	revised site plan	MAA

scale:
 1/4" = 1'-0"

sheet title:
 planting

sheet number:
 L - 1

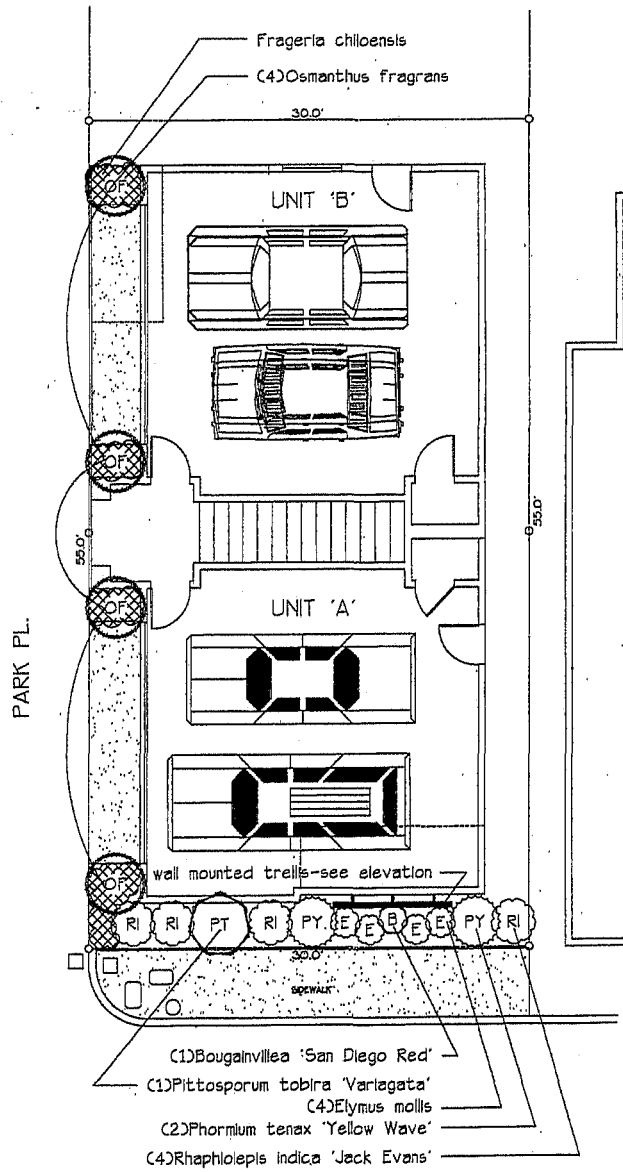


PLANTING NOTES:

- All existing trees, shrubs and ground covers to remain shall be protected. Any damage caused by Contractor's work shall be repaired or replaced at the Contractor's expense and be approved by the Landscape Architect.
- All planting areas shall receive the following soil amendments per thousand square feet to be thoroughly incorporated into the top 6 inches of soil:
 4 cubic yards strawbed shavings
 50 lb. Trible superphosphate (0-45-0)
 25 Nitroform (38-0-0)
- After amending soil grade at areas smooth with no localized depressions exceeding 5/8 in. All areas shall surface drain with 1% percent minimum slope away from all buildings, paving or other structures.
- Quantities are for staging in bidding only. Contractor shall verify all quantities.
- Contractor shall buy out plant material as per plan and receive approval from Landscape Architect prior to installation.
- No plants shall be planted with root balls or air pits in a dry condition.
- Plant all plants as per planting details in square pits with sides and bottoms thoroughly watered. Do not amend backfill mix beyond initial topsoil amending unless noted. Use Agriform time release fertilizer tablets or equal as per schedule in planting details.
- All newly planted material shall be watered by deep soaking with 3 hours of watering.
- All planting areas shall receive 2 to 3 inches of shredded 1/2" bark top dressing (catch). 10. Contractor shall be responsible for irrigating all new plant material until the entire project as been approved and accepted by Owner.
- An automatic irrigation system shall be installed to effectively water all plants.



DISCLAIMER
 THE DATA SET FORTH ON THESE SHEETS IS THE PROPERTY OF MICHAEL ARNONE LANDSCAPE ARCHITECTURE. IT IS AN INSTRUMENT OF SERVICE AND NOT TO BE ALTERED, REPRODUCED, OR USED WITHOUT THE CONSENT OF THE LANDSCAPE ARCHITECT. THE PROPER ELECTRONIC TRANSFER OF DATA SHALL BE THE USER'S RESPONSIBILITY WITHOUT LIABILITY TO THE LANDSCAPE ARCHITECT. UNAUTHORIZED USE OF THE DRAWINGS OR SPECIFICATIONS IS PROHIBITED.
 OWNER SHALL ASSUME RESPONSIBILITY FOR COMPLIANCE WITH ALL APPLICABLE LOCAL ORDINANCES AND PERMITTING AGENCIES. OWNER SHALL ASSUME ALL NECESSARY PERMITS REQUIRED TO SUPPORT THIS WORK. OWNER SHALL PROVIDE AND MAINTAIN ALL NECESSARY PERMITS AND APPROVALS FOR THIS PROJECT. MICHAEL ARNONE LANDSCAPE ARCHITECTURE ASSUMES NO LIABILITY FOR THE ACCURACY OF THIS PROJECT OR OTHERWISE, PROVIDED OR PROVIDED FOR.



HENKEL PLANT LEGEND

Alias	Scientific Name	Common Name	Size	Quantity
B	Bougainvillea 'San Diego Red'	Bougainvillea	19-Gal	1
F	Elymus mollis	Pacific Dune Grass	1-Gal	4
OF	Osmanthus fragrans	Sweet Osmanthus	5-Gal	4
PY	Phoridium tenax 'Yellow Wave'	Dwarf Flax	5-Gal	2
PT	Pittosporum tobira 'Variegata'	Variegated Tobira	5-Gal	1
RI	Rhaplolepis indica 'Jack Evans'	India Hawthorn	5-Gal	4

GROUND COVER LEGEND

Symbol	Scientific Name	Common Name	Size	Quantity
	Frageria chiloensis	Ornamental Strawberry	Plats	12' a. c.

RECOMMENDED IRRIGATION EQUIPMENT

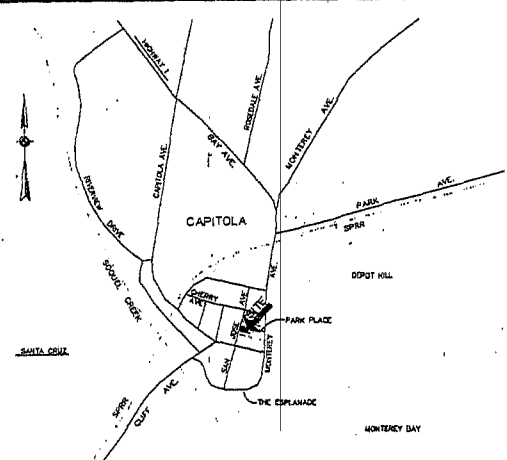
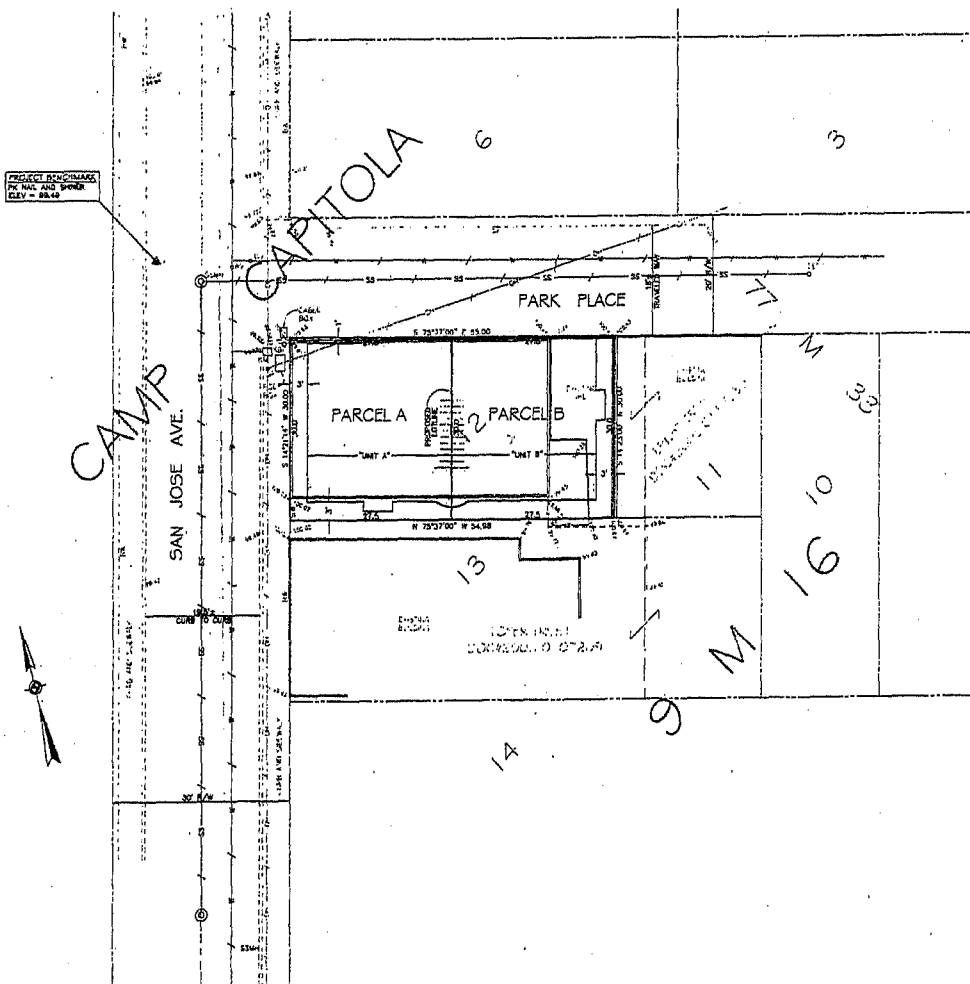
MANUFACTURER	MODEL #	DESCRIPTION
Sch. 40 PVC	NSF Approved	1" Irrigation Mainline
Class 200 PVC	NSF Approved	3/4" Irrigation Lateral as needed
3/4" Polyethylene	Rainbird	3/4" drip tubing
Rainbird	ESP-4	4 Station Controller
Toro	2PT-OG-04	1" electric AVB remote control valve, w/ flow control
Seminger	FR - 20 - L	3/4" drip pressure regulator set at 20 p.s.i.
Antrod	34-D	3/4" drip filter, 200 mesh self-flushing
Toro	5702-4P-DOH 5 Series T, H + F	4" pop up lawn spray sprinkler with check valve 5' radius, etc. as required
Rain Bird	1/4" drip socket	1/4" tubing with 1/2" GPH emitters 12" on center
Maxi Jet	black base G, H, F	90, 120, & 180 degree drip spray arcs on fixed riser
Rain Bird	XB-DU-6	Mini-DuJet Xert-Dog emitter

Emitter Schedule

Manufacturer	Model #	GPH Emitters per container size
Wackler equal	STF-1	One 1 emitter per each gallon plant
Wackler equal	STF-2	Two 1 emitter per each 5 gallon plant
Wackler equal	STF-2	Two 3 emitters per each 15 gallon plant
Wackler equal	STF-2	Two 6 emitters per each 24" box

- (1)Bougainvillea 'San Diego Red'
- (1)Pittosporum tobira 'Variegata'
- (4)Elymus mollis
- (2)Phoridium tenax 'Yellow Wave'
- (4)Rhaplolepis indica 'Jack Evans'

SAN JOSE AVE.



VICINITY MAP
SCALE: 1"=300'

NOTES:

1. OWNER:
ROBERT HENKEL & CHRIS GERD
231 12TH AVE
SANTA CRUZ, CA. 95062
2. SUBDIVIDER:
ROBERT HENKEL
231 12TH AVE
SANTA CRUZ, CA. 95062
3. WATER SOURCE: SOQUEL CREEK WATER DISTRICT
4. SEWAGE DISPOSAL: CITY OF CAPITOLA
5. PRESENT ZONING: C.V.
6. PROPOSED ZONING: C.V.
7. PROPOSED LAND USE: SINGLE FAMILY RESIDENCE (TO BE REMOVED)
8. PROPOSED LAND USE: SINGLE FAMILY RESIDENCE
9. EXISTING LOT SIZE:
APN 035-185-15 1850 S.F.
- PROPOSED PARCELS:
PARCEL A 825 S.F.
PARCEL B 825 S.F.
10. STREET TREES: NONE
11. COMMON AREA: NONE
12. AREAS SUBJECT TO INUNDATION: FEMA FLOOD ZONE A9
13. COLLECT ALL WATER NATURALLY FLOWING/FALLING ON THE PROJECT AND CONVEY TO THE STORM DRAIN OR GUTTER. NO WATER IS ALLOWED TO FLOW ONTO AN ADJOINING LOT OR PARCEL.
14. ALL UTILITIES SHALL BE UNDERGROUND.
15. REFER TO BUILDING PLANS BY DENNIS NORTON FOR DETAILED INFORMATION ON THE PROPOSED "UNITS".

LEGEND

- | | |
|--|-----------------------------|
| | EXISTING ASPHALT CONCRETE |
| | EXISTING SPOT ELEVATION |
| | EXISTING SEWER MAIN |
| | EXISTING WATER SERVICE |
| | EXISTING OVERHEAD UTILITY |
| | BW BACK OF WALK |
| | EP EDGE OF PAVEMENT |
| | JP JOINT UTILITY POLE |
| | SSMH SANITARY SEWER MANHOLE |
| | WM WATER METER |
| | WV WATER VALVE |
- DATUM IS ASSUMED
UNITS ARE IN FEET AND DECIMALS

MID COAST ENGINEERS
CIVIL ENGINEERS AND LAND SURVEYORS
70 PENNY LANE, SUITE A WATSONVILLE, CA 95076 - (831) 724-2590



TENTATIVE MAP
ROBERT HENKEL
APN 035-185-15
MINOR LAND DIVISION

SCALE 1"=10'
DESIGNED BY: DCN
DRAWN BY:
DATE: APRIL 30, 2004
REVISED:
JOB NO: 04075
SHEET

1A

April 12, 2012

TO: Honorable Members
Capitola Planning Commission
Ron Graves
Ed Newman
Gayle Ortiz
Mike Routh
Linda Smith

FROM: Judge Philip J. Moscone
Barbara Taylor Mayer
Property Owners
217 San Jose Avenue
Capitola, California

REGARDING: Application to build a three-story structure at 216 San Jose Avenue

Dear Commissioners Graves, Newman, Ortiz, Routh and Smith,

We are the long time owners of the property at 217 San Jose Avenue directly across the street from 216 San Jose Avenue where the owner is applying for permits to build two condominiums. While we support the construction of housing at that location, we do not support the project as it is presently proposed for the reasons outlined below.

SIZE AND SCOPE:

This project would be three stories high. There are no three-story buildings on the 200 block of San Jose Avenue. Our three-unit cottage is a single story structure and all the other buildings on the block are either one or two stories tall. The cottage that was demolished on that site was a small one story structure.

Therefore, this project is out of scope with the surrounding houses and would loom large on the block, crowd sight lines and, we fear, shadow the small bit of morning sunshine we have on our front porch. There is no open space, front or back yard, green space or landscaping in the design, no community benefit -- just a building that rises three stories and covers the entire lot.

PLEASE NOTE: The Planning Document submitted for review is factually inaccurate.

Specifically, the drawings of San Jose Avenue called Street Profile A and Street Profile B, wrongly portray the buildings on San Jose Avenue, with the exception of one single story house, as the same size as the proposed project. In fact, the block is a mix of one and two story buildings and there are ***no three-story buildings.***

The Street Profile entirely omits our **ONE-STORY house at 217 San Jose Avenue**, even though it is directly across the street from the project. Nor does it show the single story house next to ours at 219 San Jose Avenue, which is also across the street from the project.

Instead the Street Profile shows a taller building at 215 San Jose Avenue that is farther away from the project and profiles it in a manner that suggests it is on our lot. We find it interesting, to say the least, that the one-story homes most impacted by the project **are not shown at all** in the developer's planning documents.

A shadow/sunlight study is needed to insure that the setbacks are sufficient to prevent the structure from shading our front yard and porch and, if necessary, the plan should be modified to insure that there is no shadow impact on our property. Requiring a small patch of green somewhere would be welcome as well.

About ten years ago we lost considerable light, sunshine and visual space when the building next door to ours was renovated and again when a very large new building was constructed two doors down. This proposal would swallow up another big chunk of air space, thereby contributing further to the loss of the space and sunshine, not to mention the quaint Village feel of our street.

Please take a few minutes of your time to visit the site and view it from our front porch. Imagine how a three-story building would impact our enjoyment of our lovely street and Village.

DESIGN:

The current plan shows the front entrance to the units on Park Place, which is basically an alley, not San Jose Avenue, the main street and address of the project. This is a bad design for the neighborhood. Instead of a pleasant, inviting entryway on San Jose Avenue, the developer proposes to build a tall stark wall on the first floor with no design features ---- again totally out of sync with the character of the Village.

In a perfect world, The developer should be required to put the front entrance where the property is located – at 216 SAN JOSE AVENUE. However, we recognize that to make such a dramatic alteration would require a major re-design of the project.

Therefore, cosmetic enhancements and landscaping should be required to soften the negative impact of the first floor wall on San Jose Avenue.

PARKING:

The project would include 4 off-street parking spaces. We applaud the developer for both the parking and the decision to access the spaces from Park Place instead of San Jose Avenue. However, the plan also calls for the removal of two street parking spaces on Park Place that are now available to all village residents in order to provide private parking for the proposed development.

We strongly object to any plan that would include the removal of public street parking -- vital spaces that are used by property owners, including ourselves and our tenants who have taken great care to preserve historic Capitola Village homes that were built before the days of the automobile.

In the last couple of years a number of parking spaces were removed from our block on San Jose Avenue and finding parking is now more difficult than ever. We cannot afford to lose another parking space. Each one is critical.

We ask that the developer be required to set back the building on Park Place enough to allow cars to turn into the project's parking without encroaching upon the street spaces on Park Place. The plans show ample room in the garages to increase the setback.

In addition, we ask you to return the disabled parking space on Park Place to regular parking. It is our understanding that the space was created specifically for a disabled person who no longer lives on Park Place. If necessary, an alternative disabled space could be designated on Monterey or Capitola, which would make more sense for Village visitors.

Almost all of the buildings on San Jose Avenue and Park Place have year round tenants with cars and most of the buildings have no parking whatsoever. ***So it is very important that those spaces on Park Place be saved.*** They have been there as long as we have owned our building, at least 30 years, and probably much, much longer.

CONSTRUCTION IMPACT:

While any construction project obviously has an adverse impact on neighbors, because this is a large project on a small street, the impact will be particularly harsh. We are concerned about the noise, air pollution and congestion caused by the workers and their heavy equipment. We are also very concerned about the contractors and their workers using street parking to stage their work and/or park their vehicles.

We, therefore, ask that you require all construction to be staged on the property site itself, not the sidewalk or street and that you require all contractor and worker vehicles to park in the Village lot, not in Village street parking spaces. The only exceptions should be vehicles such as a Cement Mixer that must be on site for brief periods of time to pour cement, etc.

We also request that you limit construction hours and days to Monday through Friday from 8:00 a.m. to 5:00 p.m. As you know on Saturdays the Village is overwhelmed with visitors and congestion and the fight for parking reaches critical mass. Adding a major construction project to the mix would simply ruin the environment of our street on Saturdays.

We are very concerned about losing our tenants because of this construction and, if they leave, who is going to rent an apartment within feet of a major construction project? The economic loss to us could be devastating.

In conclusion, it is not our intention to NIMBY this housing project out of existence. We welcome a new building to replace the dilapidated cottage that was torn down and an opportunity to fill the empty lot that has been a neighborhood eyesore for several years. Overall, these units have laudable qualities and the general design is quite pleasant.

But the new building must be required to fit seamlessly into San Jose Avenue without stealing our street parking, blocking our sunshine, shadowing our homes, detracting from the Village character and making our lives miserable during construction.

With a few important design modifications and construction rules we can all have a terrific addition to the neighborhood.

Thank you very much for your consideration of these requests.

Sincerely,

Judge Philip J. Moscone
Barbara Taylor Mayper
sfwordgal@aol.com
415-703-8785 work
415-265-4055 mobile