



**DRAFT MINUTES
CAPITOLA PLANNING COMMISSION MEETING
Thursday, January 20, 2022
7 P.M. – CAPITOLA CITY COUNCIL CHAMBERS**

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

2. NEW BUSINESS

A. Nomination of Chair and Vice Chair

MOTION: Appoint Commissioner Peter Wilk as Chair of the Planning Commission.

<p>RESULT: ACCEPTED [4 TO 0] MOVER: Ed Newman SECONDER: Susan Westman AYES: Ed Newman, Mick Routh, Susan Westman, Peter Wilk ABSENT: Courtney Christiansen</p>

MOTION: Appoint Commissioner Westman as Vice Chair of the Planning Commission.

<p>RESULT: ACCEPTED [4 TO 0] MOVER: Ed Newman SECONDER: Mick Routh AYES: Ed Newman, Mick Routh, Susan Westman, Peter Wilk ABSENT: Courtney Christiansen</p>
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3. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda

Director Herlihy noted that additional comments were received late this afternoon regarding 115 Saxon, which is on the agenda as item #5B.

Commissioner Wilk asked other members if they had the chance to review that additional input.

Commissioner Routh stated concerns around SB9 He urged the Planning Commission to act to support the repeal of that State law sometime soon.

B. Public Comments

C. Commission Comments

Commissioner Newman acknowledged Commissioner Routh's service as Chair of the Planning Commission in the past year, although it was mostly virtual. Commissioner Westman concurred.

D. Staff Comments

Director Herlihy introduced two new city employees: Louis Osemwegie, Deputy City Clerk; and Brian Froelich, Senior Planner.

Director Herlihy also provided an update to the Commission on her attendance in AMBAG Planning Director’s Meetings. The city will be assigned RHNA numbers for Affordable Housing Development and will update the housing element of its General Plan. In the current 5th Cycle, Capitola was assigned 145 units of affordable housing within the city. Under the new methodology, Capitola will be assigned 1300 new units.

4. CONSENT CALENDAR

A. SB9 Ordinance for Urban Lot Splits and Two-Unit Developments

Request to Continue Amendments to the Capitola Municipal Code adding Section 16.78 Urban Lot Splits, adding Section 17.108 Two-Unit Developments, amending Section 16.08.020 Definitions, and amending Section 17.74.040 Accessory Dwelling Units, for the implementation of Government Code Section 66411.7 and 65852.21 related to urban lot splits and two-unit developments.

The ordinance is “not a project” under the California Environmental Quality Act (CEQA) pursuant to Section 65852.21(j) and 66411.7(n) of the Government Code.

The update involve developments within the Coastal Zone and is not effective within the Coastal Zone unless certified by the California Coastal Commission.

Applicant: City of Capitola

Representative: Katie Herlihy, Community Development Director

Commissioner Routh pulled item 4.B 1515 Prospect Avenue for public hearing

Motion: approve the Consent Calendar with item 4.A only; Approve the request to continue Item 4.A

RESULT: ACCEPTED [4 TO 0]

MOVER: Susan Westman

SECONDER: Mick Routh

AYES: Ed Newman, Mick Routh, Susan Westman, Peter Wilk

ABSENT: Courtney Christiansen

5. PUBLIC HEARINGS

B. 1515 Prospect Avenue #21-0425 APN: 034-045-10

Design Permit amendment for a second story deck for a single-family dwelling with ADU located within the R-1 (Single-Family Residential) zoning district.

This project is in the Coastal Zone and does not require a Coastal Development Permit.

Environmental Determination: Categorical Exemption

Property Owner: Peter Shamshoian

Representative: Peter Shamshoian, Filed: 09.21.21

Assistant Planner Sean Sesanto presented the staff report.

Commissioner Newman stated that he did not see the noticing in person; he inquired if it was appropriately noticed on the property.

Commissioner Westman noted that it was there on Monday when she walked by.

Commissioner Wilk observed that many second story decks are coming before the Commission, and this is as a result of a change in the city code. He asked for the rational for changing the code.

Director Herlihy stated that massing is considered as part of floor ratio; because second story decks are not enclosed or have roof tops over them, they do not contribute towards massing. We need a design permit for the Planning Commission to review them and address privacy concerns.

Commissioner Westman noted that discussion about code should be considered as an agenda item for a future meeting.

Public comment:

Anthony Rovai , stated that he has been involved in the process from beginning, (April 2020); the big flat room at the back should not become a real deck. He stated that he received no further noticing or plan changes. Second story deck does not feel right for our neighborhood.

Roger Shaheen spoke in support of the project and said he'd received several notices in the mail; he said he did not see how the deck will cause any security or privacy issues.

Denise Rovai wrote in an email that the fence has a variance, and it's documented at 1505 Prospect.

Peter Shamshoian, (The applicant), stated that he showed the original design to his neighbor, (Anthony Rovai), whom he said was in support of the project at the time.

Commissioner Routh stated that he has lived with second story deck much of his life

Commissioner Westman noted that second floor deck can become intrusive. However, the Planning Commission's decision should not be based on one owner's expectations, but what's in the long-term interest of the community.

Commissioner Newman stated his conflict with this item; he noted that he is more interested in the Planning issues and would like the city's ordinance to provide more guidance than it does.

Commissioner Routh noted that second story deck was previously banned in Capitola; things appear to have changed in the ensuing years.

Commissioner Wilk noted that the Commission has approved rear decks before. This is not a special case to change the Commission's outlook.

MOTION: Approve the application as submitted without the rear deck, (Westman);
(Seconder: Routh):

Commissioner Newman proposed an amendment to the motion that the second story rear deck be approved:

Commissioner Westman stated that, that amendment is unacceptable to her.

Substitute motion was made by Commissioner Newman to approve staff recommendation as submitted. Seconded by Chair Wilk.

<p>RESULT: Substitute motion denied [Tied, not approved] MOVER: Newman</p>
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<p>SECONDER: Wilk AYES: Mick Routh, Peter Wilk NOES: Ed Newman, Susan Westman, ABSENT: Courtney Christiansen</p>
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MOTION: Approve the application as submitted with the rear deck being removed, (Westman); (Seconder: Routh):

Chair Wilk sought clarification on what happens if this motion is denied.

Director Herlihy clarified that both motions would have failed; it could be appealed to City Council. She also clarified concerns on whether the door leading to the deck in the plan needs to be modified to a certain height.

Commissioner Westman amended the motion that the door going out on the deck needs to be changed to a window, approved by planning staff as intended.

MOTION: Approve the Design Permit removing the proposed rear second-story deck with the following conditions and findings:

CONDITIONS

- A. The project approval consists of the construction of 233-square-feet of first- and second-story additions to a 1,518-square-foot, two-story, nonconforming, single-family residence, a new 540-square-foot accessory dwelling unit (approved ministerially under CMC §17.99.050(B)), and a minor encroachment permit for a 42-inch-tall stucco wall in the public right of way. The maximum Floor Area Ratio for the 3,200 square-foot property is 57% (1,824 square feet). The total FAR of the project is 54.7% with a total of 1,751 square feet, compliant with the maximum FAR within the zone. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on January 20, 2022, except as modified through conditions imposed by the Planning Commission during the hearing. The application was approved without the proposed rear second-story deck.
- B. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans
- C. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
- D. At time of submittal for building permit review, Public Works Standard Detail SMP STRM shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with the Public Works Standard Detail BMP STRM.
- E. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.

- F. Prior to issuance of building permit, a landscape plan shall be submitted and approved by the Community Development Department. The landscape plan can be produced by the property owner, landscape professional, or landscape architect. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of any proposed (but not required) irrigation systems.
- G. Prior to issuance of building permit, all Planning fees associated with permits #20-0379 and #21-0425 shall be paid in full.
- H. Prior to issuance of building permit, the developer shall pay Affordable housing in-lieu fees as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance.
- I. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel Creek Water District, and Central Fire Protection District.
- J. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, shall be submitted to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
- K. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).
- L. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan.
- M. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
- N. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official. §9.12.010B
- O. Prior to a project final, all cracked or broken driveway approaches, curb, gutter, or sidewalk shall be replaced per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches, curb, gutter or sidewalk shall meet current Accessibility Standards.
- P. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a permit amendment for Planning Commission consideration. Failure to remedy a non-compliance in a timely manner may result in permit revocation.

- Q. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.156.080.
- R. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.
- S. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
- T. Upon building permit submittal, the plans shall be revised to show the rear second-story deck has been removed and replaced with a flat roof and the associated doorway replaced with a window. The window shall be designed such that it cannot be used as a door to the satisfaction of the Community Development Director.
- U. Outdoor lighting shall comply with all relevant standards pursuant to Municipal Code section 17.96.110, including that all outdoor lighting shall be shielded and directed downward.

DESIGN PERMIT & CEQA FINDINGS

- A. The proposed project is consistent with the general plan, local coastal program, and any applicable specific plan, area plan, or other design policies and regulations adopted by the city council.**

Community Development Staff and the Planning Commission have reviewed the project. The proposed remodel of a single-family residence complies with the development standards of the R-1 zoning district.

- B. The proposed project complies with all applicable provisions of the zoning code and municipal code.**

Community Development Staff and the Planning Commission have reviewed the application for the remodel of a single-family residence. The project complies with all applicable provisions of the zoning code and municipal code.

- C. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).**

Section 15301(e) of the CEQA Guidelines exempts additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structure before the addition, or 2,500 square feet, whichever is less. This project involves 306-square-feet (20%) of first- and second-story additions within the R-1 (Single-Family Residence) zoning district. No adverse environmental impacts were discovered during review of the proposed project.

- D. The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.**

Community Development Staff and the Planning Commission have reviewed the project. The proposed residential remodel will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

E. The proposed project complies with all applicable design review criteria in Section 17.120.070 (Design review criteria).

The Community Development Staff and the Planning Commission have reviewed the application. The proposed remodel complies with all applicable design review criteria in Section 17.120.070.

F. The proposed project maintains the character, scale, and development pattern of the neighborhood.

Community Development Staff and the Planning Commission have all reviewed the application for the residential remodel. The design of the remodel with horizontal Hardie Board siding, Hardie Board fish scale tile at the gable ends, and new Brava slate tile roof will fit in nicely with the existing neighborhood. The project will maintain the character, scale, and development pattern of the neighborhood.

RESULT: Approved [4 TO 0]

MOVER: Westman

SECONDER: Routh

AYES: Ed Newman, Mick Routh, Susan Westman, Peter Wilk

ABSENT: Courtney Christiansen,

A. 619 Sunset Drive #21-0291 APN: 035-071-02

Design Permit for second-story addition to a nonconforming single-family residence with a Minor Modification request for covered parking dimensions and rear setback for an existing single-family residence located within the R-1 (Single-Family Residential) zoning district.

This project is in the Coastal Zone but does not require a Coastal Development Permit.

Environmental Determination: Categorical Exemption 15301(e)

Property Owner: Janet Ward and David Dixon

Representative: Janet Ward, Filed: 06.25.21

Senior Planner Brian Froelich presented the staff report.

Commissioner Routh asked if the parking in the front yard is required for them to meet the parking standard, and if denial of the parking space eliminates the proposed modification.

Senior Planner Froelich clarified that this is correct; denial of the parking space in front means the project cannot proceed.

Commissioner Wilk sought clarification on the depth of the front driveway.

Public comments:

Janet Ward commented that we are enhancing the neighborhood by providing additional parking.

MOTION: Approve the Design Permit and Minor Modification request, with the following conditions and findings:

CONDITIONS OF APPROVAL

General

1. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and

site improvements shall be completed according to the approved plans.

2. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.

3. Prior to issuance of building permit, the developer shall pay Affordable housing in-lieu fees as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance.

4. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official. 9.12.010B

Planning

5. The project approval consists of construction of a 362-square-foot second-story addition to an existing nonconforming single-family residence with a minor modification for a reduced rear setback. The maximum Floor Area Ratio for the 3,000-square-foot property is 57% (1,710 square feet). The total FAR of the project is 53% with a total of 1,598 square feet, compliant with the maximum FAR within the zone. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on January 20, 2022, except as modified through conditions imposed by the Planning Commission during the hearing.

6. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a permit amendment for Planning Commission consideration. Failure to remedy a noncompliance in a timely manner may result in permit revocation.

7. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code 17.156.080.

8. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.

9. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.

10. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.

11. Prior to issuance of building permit, all Planning fees associated with permit #21-0291

shall be paid in full.

12. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel Creek Water District, and Central Fire Protection District.

13. Prior to issuance of building permits, the building permit plans must show that the existing overhead utility lines will be underground to the nearest utility pole.
Public Works

14. Prior to issuance of building permits, the applicant shall submit a temporary construction sediment and erosion control plan (construction BMPs), The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.

15. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).

16. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan.

17. Prior to any work in the City Road right of way, an encroachment permit shall be acquired by the contractor performing the work. All sidewalk, curb and gutter improvements shall be constructed per city standard. Storage of equipment and materials in the public right-of-way is prohibited.

18. Prior to a project final, all cracked or broken driveway approaches, curb, gutter, or sidewalk shall be replaced per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches, curb, gutter or sidewalk shall meet current Accessibility Standards.

19. Prior to issuance of building permits, the applicant shall submit plans detailing all improvements that impact or interface with the public right of way. At a minimum these details will include the limits of an ADA compliant driveway approach, and installation of curb/gutter/sidewalk along the property frontage. The extent of all improvements or modifications shall be limited to those areas fronting the property boundary and shall not impact the frontage of adjacent parcels.

20. At time of submittal for building permit review, Public Works Standard Detail SMP STRM shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with the Public Works Standard Detail BMP STRM.

DESIGN PERMIT FINDINGS

A. The proposed project is consistent with the general plan, local coastal program, and any applicable specific plan, area plan, or other design policies and regulations adopted by the city council.

Community Development Staff, the Design and Development Review Committee, and the Planning Commission have all reviewed the project. The proposed 362-square-foot second-story addition with a minor modification for reduced second-story rear setback and reduced covered parking space length, and an exception to exceed the maximum

driveway width is consistent with the general plan and the local coastal program.

B. The proposed project complies with all applicable provisions of the zoning code and municipal code.

Community Development Staff, the Design and Development Review Committee, and the Planning Commission have all reviewed the project. The proposed 362-square-foot second-story addition with a minor modification for a reduced second-story rear setback and reduced covered parking space length, and exception to exceed the maximum driveway width, complies with all other development standards of the R-1 (Single-Family Residential) zoning district.

C. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

Section 15301(e) of the CEQA Guidelines exempts additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less. The proposed additions add 362 square feet (29%) of floor area, so this exemption applies. No adverse environmental impacts were discovered during review of the proposed project.

D. The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

Community Development Staff, the Design and Development Review Committee, and the Planning Commission have all reviewed the project. The proposed 362-square-foot second-story addition with a reduced second-story rear setback, an exception to driveway width, and reduced covered parking space length will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

E. The proposed project complies with all applicable design review criteria in Section 17.120.070 (Design review criteria).

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The 362-square-foot second story addition with a reduced second-story rear setback, an exception to driveway width, and reduced covered parking space length complies with the applicable design review criteria as described in the staff report.

F. For projects in residential neighborhoods, the proposed project maintains the character, scale, and development pattern of the neighborhood.

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the application for the 362-square-foot second story addition with a reduced second-story rear setback, exception to driveway width, and reduced covered parking space length. The design of the home, with a hip roof, asphalt composition shingles, and horizontal cement lap board siding, will blend appropriately with the existing neighborhood. The project will maintain the character, scale, and development pattern of the neighborhood.

MINOR MODIFICATION FINDINGS

A. The modification will be compatible with adjacent structures and uses and is consistent with the character of the neighborhood or district where it is located.

Setback: Within the Riverview neighborhood, many of the homes have nonconforming yard setbacks with many being originally constructed prior to the city's incorporation. The nearest adjacent structure to the rear property line of the subject property is 618

Riverview Drive and has a detached single-story garage with a reciprocal setback of approximately four feet.

Parking: Existing parking in the neighborhood is accommodated similarly to the subject property with nonconforming driveway parking spaces and covered parking. The proposal increases overall parking opportunities for the site.

B. The modification will not adversely impact neighboring properties or the community at large.

Setback: The proposed second-story addition is in line with the existing first story rear setback at 14 feet 2 inches from the rear property line where 15 feet is required. This is about a 5.5% reduction in the requirement and does not introduce any unusual impacts to the neighboring properties. The proposed project includes a row of windows along the proposed second story on the rear (west) elevation. The windows are elevated to reduce privacy impacts and are for functional for natural light.

Parking: The proposal increases overall parking opportunities for the site and the neighborhood. The substandard garage parking space accommodates most modern vehicles and is retained.

C. The modification is necessary due to unique characteristics of the subject property, structure, or use.

Setback: The applicant is requesting the minor modification to construct the second story wall on top of the existing wall on the first story as it can sustain more weight and will require less structural improvements. The additional structural work that would be required to comply with the rear setback would likely necessitate new vertical posts inside the existing first floor living space and substantial new foundations directly adjacent to the existing perimeter foundation.

Parking: Modification of the existing garage to accommodate a conforming parking space is impractical and would require partial demolition and redesign of the kitchen. The garage was originally built in this configuration and will continue to serve as a functional parking opportunity.

D. The modification will be consistent with the purpose of the zoning district, the general plan, local coastal program, and any adopted area or neighborhood plan.

Setback: Under Capitola Municipal Code 17.16.010, the purpose of residential zoning districts is “to support attractive, safe, and friendly neighborhoods consistent with Capitola’s intimate small-town feel and coastal village charm.” Development should “feature high-quality design that enhances the visual character of the community” and the “mass, scale, and design of new homes shall be compatible with existing homes in neighborhoods and carefully designed to minimize impacts to existing homes.” The proposed addition does comply with the increased second-story side setback and is below the height limit permitted, which reduces second-story massing. Additionally, the horizontal cement board siding on the second floor over the existing Santa Barbara stucco finish on the first floor breaks the massing with materials that are commonly used together.

Parking: The proposal increases overall parking opportunities for the site and the neighborhood. The substandard garage parking space accommodates most modern vehicles and is retained.

E. The modification is consistent with the general plan, local coastal program, and any applicable specific plan or area plan adopted by the city council.

Setback: General Plan Policy LU-5.3 states that the mass, scale, and height of new development should be compatible with existing homes within residential neighborhoods. Review of aerial photos shows that several homes within the immediate

Riverview neighborhood have nonconforming setbacks; including two homes in the immediate vicinity with existing nonconforming second-story setbacks.

Parking: The proposal increases overall parking opportunities for the site and the neighborhood. The substandard garage parking space accommodates most modern vehicles and is retained.

F. The modification will not establish a precedent.

Setback & Parking: A significant number of single-family residences in the Riverview neighborhood have nonconforming setbacks because much of the neighborhood was built prior to the city's incorporation and under different development standards. The Riverview neighborhood has a consistent size and shape of lots, however, the style, layout and architectural variety of homes makes this approval unlikely to set a precedent. Additionally, the Minor Modifications being requested with this application are truly minor in both percentage and nature; and afford the owner a level of practicality and reasonableness to execute a project that is compatible with the neighborhood. The project also results in increased functional parking opportunities.

G. The modification will not adversely impact coastal resources.

Setback & Parking: The subject property is not located in an area with coastal resources; therefore, the modification will not adversely impact coastal resources.

RESULT: Approved as recommended [UNANIMOUS]

MOVER: Routh

SECONDER: Susan Westman

AYES: Newman, Routh, Westman, Wilk

ABSENT: Courtney Christiansen

B. 115 Saxon Avenue #21-0339 APN: 036-131-02

Design Permit to convert a portion of roof to a second-story deck on a single-family residence located within the R-1 (Single-Family Residential) zoning district.

This project is in the Coastal Zone but does not require a Coastal Development Permit.

Environmental Determination: Categorical Exemption

Property Owner: Brian and Danielle Wiese, Filed: 07.28.21

Planning Department's Sean Sesanto presented the staff report.

Commissioner Westman recalled she was on the Planning Commission when this remodel was first approved; it was a non-conforming structure. She asked if staff had record of that.

Commissioner Routh noted that we had this conversation last November; it was continued so that neighbors could reach agreement on privacy. It appears that agreement hasn't been reached.

Director Herlihy noted that's correct; she recalled staff met with both the neighbors and the applicant; we cannot force parties into agreement; its up to the planning commission.

Commissioner Newman stated that he mistakenly recused himself and did not participate in decision making when this item was held previously. Now, he realizes he is qualified to participate.

Commissioner Wilk asked the possible scenario if the commission denied the side deck entirely and only approved a deck in front of the house.

Public comments:

John Shenk commented on the commission's concern on the need to protect privacy; second story small windows are raised to protect privacy. The commission's collective concern on privacy is important.

Commissioner Westman stated her interest to support the 2017 Planning Commission's recommendation that the area in question is not suitable for decks.

Commissioner Newman addressed the issue of balancing the interests of the two neighbors based on standards that are vague and uncertain.

Commissioner Routh expressed reservation, and sees no guarantees that with time, the deck will not be expanded to be the whole roof area.

Commissioner Wilk is torn by the issue but leans towards approval.

MOTION: Approve Design Permit, with the following conditions and findings:

RESULT: Application denied [Tied, not approved]
MOVER: Wilk
SECONDER: Newman
AYES: Newman, Peter Wilk
NOES: Mick Routh, Susan Westman,
ABSENT: Courtney Christiansen

DESIGN PERMIT FINDINGS FOR DENIAL

A. The proposed project is inconsistent with the general plan, local coastal program, and any applicable specific plan, area plan, or other design policies and regulations adopted by the city council.

Community Development Staff and the Planning Commission have reviewed the design permit for a proposed second-story modifications to a single-family residence and determined it does not satisfy the design permit criteria of Section 17.120.070(F). The orientation and location of the deck does not minimize privacy impacts on adjacent properties.

B. The proposed project does not comply with all applicable provisions of the zoning code and municipal code.

Community Development Staff and the Planning Commission have reviewed the application for a second-story rooftop conversion into a deck on a single-family residence and determined the project does not satisfy all design review criteria established in Section 17.120.070. The orientation and location of the deck does not minimize privacy impacts on adjacent properties.

C. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

Section 15301 of the CEQA Guidelines categorically exempts minor additions and alterations of existing private structures that will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less. The proposed project includes second-story alterations that do not

increase the floor area. No adverse environmental impacts were discovered during project review by Planning Department Staff.

- D. The proposed development will be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.** Community Development Staff and the Planning Commission have reviewed the project. The proposed second-story modifications to a single-family residence will be detrimental to properties in the vicinity with respect to privacy
- E. The proposed project does not comply with all applicable design review criteria in Section 17.120.070 (Design review criteria).** The Community Development Staff and the Planning Commission have reviewed the application. The proposed second-story modifications to a single-family residence do not comply with all applicable design review criteria in Section 17.120.070. Specifically, the proposed orientation of the deck does not adequately minimize privacy impacts on adjacent properties as specified within Capitola's Design Review Criteria(F).
- F. The proposed project does not maintain the character, scale, and development pattern of the neighborhood.** Community Development Staff and the Planning Commission have reviewed the application for the second-story modifications to a single-family residence. The proposed project would convert an existing section of roof into a second-story deck facing the side of the property. The proposed deck would not maintain the character and expectation of privacy commonly found within the Depot Hill neighborhood. The orientation and location of the deck does has privacy impacts on the adjacent properties.

C. Report on City Wide Alcohol Sales

At the November 4, 2021, meeting the Planning Commission noted an interest in hearing a status report on city-wide alcohol sales and permitting. Planning and Police Department staff have collaborated to prepare this response.

Senior Planner Brian Froelich presented a brief report.

Commissioner Westman thanked staff for taking the time to bring forth this information

Commissioner Newman echoed the sentiment; don't recall having ever received reports like this in the past.

Commissioner Wilk sought clarification on what guidance the commission has on alcohol sales.

Police Captain Sarah Ryan commented on alcohol sales, the Police Department's vigilance, and noise in the village.

6. DIRECTOR'S REPORT

7. COMMISSION COMMUNICATIONS

Commissioner Westman reiterated bringing back the issue of second story deck and the history of why it is not included in the floor area ratio

Commissioner Newman proposed expansion of that enquiry further to modify the ordinance and add criteria to facilitate the planning commission's dealing with applications for second story decks, including a review of what's applicable in other jurisdictions.

8. ADJOURNMENT

The meeting was adjourned at 8:56PM to the next regular meeting of the Planning Commission of February 3, 2022.

Approved by the Planning Commission

Louis Osemwegie, Clerk to the Commission