

City of Capitola

Planning Commission Meeting Minutes

Thursday, May 05, 2022 – 7:00 PM

City Council Chambers
420 Capitola Avenue, Capitola, CA 95010



Chairperson: Peter Wilk

Commissioners: Courtney Christiansen, Ed Newman, Mick Routh, Susan Westman

1. Roll Call

Chair Wilk called the meeting to order at 7 P.M. Commissioners Courtney Christiansen, Ed Newman, Mick Routh, Susan Westman, Peter Wilk were present.

2. Oral Communications

A. Additions and Deletions to the Agenda

Director Herlihy noted that additional comments were received for the 1515 Prospect Avenue and 106 Cliff Avenue applications.

B. Public Comments

C. Commission Comments

Chair Wilk expressed sympathy to all applicants who may have had delays and difficulties during the process. The process has gotten better over the years.

D. Staff Comments

Director Herlihy reported receipt of an appeal on 1410 Prospect Avenue and from the RTC. No date is set yet. Update will follow in the summer.

3. Approval of Minutes

A. Consider the March 3, 2022, Planning Commission - Regular Meeting Minutes

Recommended Action: Approve minutes.

B. Consider the March 31, 2022, Planning Commission - Special Meeting Minutes

Recommended Action: Approve minutes.

Chair Wilk clarified his input during the March 31, 2022, meeting deliberations as “sacrificing setback for parking”, rather than “sacrificing setback for three stories”.

Senior Planner Brian Froelich concurred; the updated Minutes are edited as clarified.

Motion: Approve the minutes from March 3, 2022, and March 31, 2022, Regular and Special Planning Commission Meetings.

Result: Approved, 5:0 (Unanimous)

Mover: Vice Chair Westman,

Second: Commissioner Christiansen.

Yea: Commissioners Courtney Christiansen, Ed Newman, Mick Routh, Susan Westman, Peter Wilk

4. Consent Calendar

A. 504 Oak Drive

Permit Number: #22-0142

APN: 035-09-325

Design Permit for an upper floor deck, landing, and spiral stairway in the rear yard of an existing nonconforming single-family residence located within the R-1 (Single-Family Residential) zoning district.

Environmental Determination: Categorical Exemption

Property Owner: Lori Mahan

Representative: Dennis Norton, Filed: 03.23.2022

Commissioner Westman requests that the consent items are separated as she needs to recuse.

Motion: Approve consent item 4A with the following conditions and findings:

Conditions of Approval

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 on May 5, 2022. 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. Construction activity shall be subject to a 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

4. The project approval consists of construction of a 30 square foot upper floor deck, landing, and spiral stairway to an existing nonconforming single-family residence. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on May 5, 2022, except as modified through conditions imposed by the Planning Commission during the hearing.
5. 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.

6. 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.
7. 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.
8. 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.
9. Prior to issuance of building permit, all Planning fees associated with permit #22-0142 shall be paid in full.
10. Exterior lights for the second story deck area shall comply with CMC Section 17.96.110 and be limited to the Building Code required minimum. Fixtures shall be shielded and directed downward to meet the International Dark Sky Association's (IDA) requirements for reducing waste of ambient light and prevent light trespass on adjacent lots.

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 30 square foot upper floor deck, landing, and stairway are 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 30 square foot upper floor deck, landing, and stairway comply with all 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 15303 of the CEQA Guidelines exempts the construction of a single-family residence and accessory structures in a residential zone. This project involves a new egress installation for an existing single-family residence 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, the Design and Development Review Committee, and the Planning Commission have all reviewed the project. The proposed 30 square foot upper floor deck, landing, and stairway 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 Design and Development Review Committee, and the Planning Commission have all reviewed the project. The proposed 30 square foot upper floor deck, landing, and stairway comply 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 Development and Design Review Committee, and the Planning Commission have all reviewed the application for a landing, deck and stairway and have determined that the project is compatible with the existing neighborhood.

Result: Approved, 4:0 (Majority)

Mover: Commissioner Mick Routh

Seconded: Commissioner Christiansen

Yea: Commissioners Christiansen, Newman, Routh, Wilk

Recuse: Vice Chair Westman

B. 1515 Prospect Avenue

Permit Number: #22-0094

APN: 034-045-12

Design Permit amendment for additions and design modifications to a single-family dwelling with an ADU located within the R-1 (Single-Family Residential) zoning district.

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

Environmental Determination: Categorical Exemption

Property Owner: Peter Shamshoian

Representative: Peter Shamshoian, Filed: 02.16.22

Commissioner Newman asked if any members of the public wanted to speak on the item or request the item be pulled from the Consent Calendar. No comments were received, and the public comment period was closed.

Motion: Approve the application with the following conditions and findings:

Conditions of Approval

1. The project approval consists of the construction of 365-square-feet of first- and second-story additions to a 1,440-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 56.4% with a total of 1,805 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 May 5, 2022, except as modified through conditions imposed by the Planning Commission during the hearing.

2. 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
3. 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.
4. 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.
5. 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.
6. 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.
7. Prior to issuance of building permit, all Planning fees associated with permits #22-0094 shall be paid in full.
8. 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.
9. 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.
10. 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.
11. 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).
12. 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.

13. 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.
14. 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
15. 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.
16. 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.
17. 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.
18. 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.
19. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
20. 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

G. 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.

H. 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.

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

Section 15301(e) of the CEQA Guidelines exempts the 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. This project involves 365 square-feet of additions to an existing 1,440-square-foot single-family residence within the R-1 (Single-Family Residence) zoning district that will increase the floor area by 25%. No adverse environmental impacts were discovered during review of the proposed project.

J. 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.

K. 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.

L. 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, 5:0 (Unanimous)

Mover: Commissioner Mick Routh

Second: Commissioner Christiansen

Yea: Commissioners Christiansen, Newman, Routh, Westman, Wilk

5. Public Hearings

A. 519 Monterey Avenue

Permit Number: #22-0032

APN: 034-022-03

Design Permit for a 140 square foot stacked addition to the ground and upper floors, upper floor decks off the front and rear of the residence, and an interior remodel in 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: Boguslaw J. Marcinkowski

Representative: John Hofacre, Filed: 01.20.2022

Senior Planner Brian Froelich presented the application.

Boguslaw Marcinkowski expressed gratitude for the City support of his application.

Neighbor Elizabeth Bertrand expressed support of staff's recommendation for a reduced deck size as she feels it will stay quieter.

Architect John Hofacre, project representative, commented on the visual screens.

Chair Wilk clarified staff's opinion on preference for privacy mitigations presented.

Commissioner Newman asked for the applicant thoughts on the recommended changes.

Mr. Hofacre expressed that the modifications would be acceptable.

Mr. Marcinkowski concurred but expressed preference for plantings rather than raised balcony screening.

Commissioner Routh questioned if a six foot screen wall on both sides of the deck affords privacy.

Commissioner Westman stated that a seven-foot screen is more appropriate and eliminates the need for planting along fence.

Commissioner Newman did not wish to modify projects or restrict applications that complied with objective zoning standards.

Motion: Approve the application as originally submitted with the 12 foot deck and landscaping.

This was modified with acceptance of Commissioner Routh's amendment with added condition that both sides of the wall are made of opaque material.

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 on May 5, 2022. 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. Construction activity shall be subject to a 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

4. The project approval consists of construction of a 140 square foot first and second-story addition to an existing nonconforming single-family residence and new upper floor decks of 329 and 88 square feet. The maximum Floor Area Ratio for the 7,780-square-foot property is 48% (3,112 square feet). The FAR of the project is 30% with a total of 2,350 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 May 5, 2022, except as modified through conditions of approval or as required by the Planning Commission during the hearing.
5. 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.
6. 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.
7. 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.
8. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
9. 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.
10. Prior to issuance of building permit, all Planning fees associated with permit #22-0032 shall be paid in full.
11. 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.
12. Exterior lights for the second story deck areas shall comply with CMC Section 17.96.110 and be limited to the Building Code required minimum. Fixtures shall be shielded and directed downward to meet the International Dark Sky Association's (IDA) requirements for reducing waste of ambient light and prevent light trespass on adjacent lots.
13. ~~With the submittal of plans for Building Department plan check, the applicant shall reduce the projection of rear yard upper decks to a maximum of seven (7) feet from the building.~~ The upper section of the privacy screen at the sides of the upper deck in the rear yard shall be the opaque frosted glass option.

14. The owner shall verify that all new fence, gate and columns are on the subject property or in the City Right of Way where approved by an Encroachment Permit.

Public Works

15. Submit a temporary construction sediment and erosion control plan (construction bmp's), The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
16. Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP) shall be printed in full and incorporated as a sheet into the construction plans.
17. 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).
18. 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.
19. 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. No material or equipment storage may be placed in the road right-of-way.

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 Development and Design Review Committee, and the Planning Commission have all reviewed the project. The proposed 140 square foot addition and upper floor decks are 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 Development and Design Review Committee, and the Planning Commission have all reviewed the project. The proposed 140 square foot addition with upper floor decks complies with all measurable 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 15303 of the CEQA Guidelines exempts the construction of a single-family residence and accessory structures in a residential zone. This project involves an addition to a single-family residence and new upper floor decks in 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, the Development and Design Review Committee, and the Planning Commission have all reviewed the project. The proposed 140 square foot addition and upper floor decks 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 Development and Design Review Committee, and the Planning Commission have all reviewed the project. The proposed 140 square foot addition with upper floor decks complies with the applicable design review criteria as described in the staff report and through conditions of approval.

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

Community Development Staff, the Development and Design Review Committee, and the Planning Commission have all reviewed the application for the proposed 140 square foot additions and upper floor decks. The design of the additions with a gable roof, composition shingles, and horizontal lap board siding, will blend appropriately with the existing neighborhood. The project will maintain the character, scale, and development pattern of the neighborhood.

Results: Approved 4:1 (Majority)

Mover: Commissioner Christiansen

Seconder Commissioner Routh.

Yea: Commissioners Christiansen, Newman, Routh, Chair Wilk

Nay: Commissioner Westman

B. 106 Cliff Avenue

Permit Number: #21-0404

APN: 036-112-17

Design Permit and Historical Alteration Permit for additions to a historic single-family residence, a new detached single-story accessory structure that includes an accessory dwelling unit (ADU) and garage, and Variances for the maximum height of the primary structure and the maximum Floor Area calculation. The permit includes the demolition of two non-historic accessory structures behind the primary residence. The project is located within the R-1 (Single-Family Residential) zoning district.

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

Environmental Determination: Categorical Exemption

Property Owner: Sam Abbey

Representative: Cove Britton, Filed: 09.07.21

Associate Planner Sean Sesanto presented the report.

Chair Wilk questioned why staff did not have the same recommendation for all variance requests, and if the chimney could also be considered a special circumstance.

Planner Sesanto stated that staff recommended denial of the chimney variance because it was considered a conjectural feature by the architectural historian.

Commissioner Routh felt that the proposed chimney was consistent with the architectural style and potentially supportable if a variance is similarly justified for the building height.

Architect representing the applicant, (Sam Abbey), expressed support for staff report.

Neighbor John Glina expressed concern about second floor deck and asked that an alternative arrangement be considered.

Project representative Cove Britton noted that there was already one chimney along Cliff Avenue that exceeded the height limit.

Commissioner Westman complimented the overall designed and felt there may be grounds for the chimney variance.

Commissioner Newman approved of the design and the variance for the attic space but agreed with staff against a variance for the chimney.

Commissioner Christensen felt the proposed chimney was compatible with the architectural style and supported the applicant's proposal.

Commissioner Routh concurred with Commissioners Wilk and Christensen regarding the overall design and supported the chimney.

Commissioner Wilk spoke on all the variances and felt that they would not constitute a grant of special privilege.

There appear to be a consensus among the majority of Commissioners in support of the project.

Motion: Approve the project to include all proposed variances with findings that the variances do not constitute a grant of special privilege.

Conditions of Approval

1. The project approval consists of construction of a 673 square-foot first- and second-story additions to an existing historic residence, the demolition of two accessory structures, and the construction of a new accessory structure that includes a 718 square-foot accessory dwelling unit and 457 square-foot garage. The approval includes a variance for the second-story additions to exceed the maximum height, ~~and a variance for the floor area calculation of the forward two sections of the third-story, and a variance but does not include the approval of a variance~~ for the primary dwelling chimney. The maximum Floor Area Ratio for the 7,095 square foot property is 47.9% (3,399 square feet). The total FAR of the project is 47.9% with a total of 3,399 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 May 5, 2022, except as modified through conditions imposed by the Planning Commission during the hearing.
2. 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
3. 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.

4. 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.
5. 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.
6. 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.
7. Prior to issuance of building permit, all Planning fees associated with permit #21-0404 shall be paid in full.
8. 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.
9. 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.
10. 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.
11. 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).
12. 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.
13. 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.
14. 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

15. 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.
16. Prior to issuance of a Certificate of Occupancy, the applicant shall demonstrate compliance with the tree removal permit authorized by this permit for 5 trees to be removed from the property. Replacement trees shall be planted at a 2:1 ratio or so as to meet the minimum lot canopy coverage of 15 percent. Required replacement trees shall be of the same size, species and planted on the site as shown on the approved plans. Any modifications to the tree plan must be approved by the Community Development Department.
17. 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.
18. 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.
19. 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.
20. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
21. Prior to issuance of building permits, the building plans must show that the existing overhead utility lines will be underground to the nearest utility pole.
22. Before obtaining a building permit for an accessory dwelling unit, the property owner shall file with the county recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner and stating that:
 - a. The accessory dwelling unit may not be used for vacation rentals; and
 - b. The secondary dwelling unit shall not be sold separately from the primary dwelling.
23. Prior to issuance of building permits, the plans must be revised to provide scaled elevations of the new accessory dwelling unit and garage. The detached accessory dwelling unit and garage may not exceed the allowed heights by the Planning Commission. The ADU chimney shall not exceed 19 feet in height and all other appurtenances shall be consistent with development standards for allowed projections stated in Table 17.48-1.

24. Prior to issuance of building permits, the plans must show that the ADU chimney is not wood-burning.
25. Prior to issuance of a building permits, the applicant shall submit a preservation plan to the satisfaction of the Community Development Department. In addition to Condition #27(a), the plan shall include:
 - a. The details of the porch replacement and first-floor windows, including the type/configuration of the windows and the type/style of the wood columns. The information for the porch detail shall be based on the photographic evidence which exists.
 - b. Provide dimensions of the rear addition's existing and proposed wood wall cladding, including the proposed upper-floor shingle pattern and the proposed lower-floor wood siding exposure width to ensure it differentiates from the historic house.
26. Secretary of the Interior's Standards and Guidelines for preservation, rehabilitation, restoration, or reconstruction shall be followed.
 - a. Prior to the remodel of the historic residence, the applicant shall catalog all existing details of the structure. Once the existing structure is ready to be remodeled, the applicant is required to have an inspection by the City Planner and Building Inspector to ensure all existing materials are documented in accordance with the preservation plan. Existing materials must be stored in a weatherproof area.
 - b. Any removal of existing building materials or features on historic buildings shall be approved by the Community Development Department prior to removal.
 - c. The applicant and/or contractor shall field verify all existing conditions on historic buildings and match replacement elements and materials according to the approved plans. Any discrepancies found between approved plans, replacement features and existing elements must be reported to the Community Development Department for further direction, prior to construction.

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 and the Planning Commission have reviewed the proposed additions to an existing residence, a replacement garage, and new accessory dwelling unit. With the granting of a variance to the maximum height of the roof on the primary residence, the project secures the purpose of the General Plan, and Local Coastal Program, and design policies and regulations adopted by the City Council.

- 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 additions to an existing residence, a replacement garage, and new accessory dwelling unit. With a granting of a variance to the maximum height of the roof on the primary 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 15332 of the CEQA Guidelines exempts in-fill development projects which comply the described conditions. This project involves additions to an existing residence, a replacement garage, and new accessory dwelling unit within the R-1 (Single-Family Residential) zoning district. The project meets all applicable general plan policies and zoning regulations; the project site does not have any identified habitat value; the project will not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site is and can be adequately served by all required utilities and public services.

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 all reviewed the reviewed the application. The proposed additions, replacement garage, and new accessory dwelling unit 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. With the granting of a variance to the maximum height of the roof on the primary residence, the proposed 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. The design of the remodeled historic residence and new accessory dwelling unit and garage will fit in nicely with the existing neighborhood. The project will maintain the character, scale, and development pattern of the neighborhood.

Variance Findings

A. There are unique circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, that do not generally apply to other properties in the vicinity or in the same zone as the subject property.

Roof and Floor Area Ratio: The unique circumstance applicable to the subject property is that the existing residence is historic and protected within the municipal code and under CEQA. The existing residence is also on a gently sloped lot with a difference of two feet and features a raised ground floor level with steeply pitched rooves which impose difficulties in designing second-story additions that comply with height limitations and blend with the historic design. The variances would allow additions to the home while complying with the Secretary of Interior Standards for historic preservation.

Chimney: The proposed brick chimney meets the same unique circumstance and is a feature found on other examples of Queen Anne style homes.

B. The strict application of the zoning code requirements would deprive the subject property of privileges enjoyed by other property in the vicinity or in the same zone as the subject property.

Roof and Floor Area Ratio: Most properties have more design options at their disposal in meeting height standards, including the redesign of existing roof pitches. To substantially preserve and compliment the character-defining roof, the applicant has

designed the project to match the existing roof pitch and style. The existing third-story rooms are calculated as floor area within Capitola Municipal Code but with exception to the rearmost space, do not provide additional habitable space. The roof heights cannot be modified to either increase habitable function or lowered to be exempted as floor area, therefore the strict application of zoning code requirements would deprive the subject property of development potential enjoyed by other properties in the same zone. Chimney: The structure cannot comply with building code requirements without exceeding building height; therefore, the strict application of the zoning code requirements would deprive the subject property.

C. The variance is necessary to preserve a substantial property right possessed by other property in the vicinity or in the same zone as the subject property.

Roof and Floor Area Ratio: Second-story additions to residences are commonplace within the City. The variance requests are necessary to preserve the right to expand the residence within all other development standards.

Chimney: The variance is necessary to preserve a substantial property right. Wood burning fireplaces are typical of the vicinity, zoning district, and homes of similar age. Building Code requires minimum clearances from adjacent roof structures. The existing roof is taller than allowed by the zoning district but contributes to the character of the historic building. A taller chimney is required to comply with Building Code.

D. The variance will not be materially detrimental to the public health, safety, or welfare, or be injurious to the properties or improvements in the vicinity or in the same zone as the subject property.

Roof, Floor Area Ratio, and chimney: The variance request will not negatively impact the public, properties, or improvements in the vicinity or in the same zone as the subject property.

E. The variance does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity or in the same zone as the subject property.

Height: Of the eight residential properties along the street, 106 Cliff Avenue is one of three that exceed the 25 foot height limitation.

Floor Area Ratio: Although staff did not identify nearby properties that exceed the FAR, there are unique circumstances that directly relate to the third story spaces and the preservation of the historic roofline such that it cannot be modified. A variance specific to the floor area of the forward two third-story spaces would allow the property to be developed in a manner consistent with other properties in the vicinity, therefore it does not constitute a grant of special privilege.

Chimney: The applicant is proposing a chimney that exceeds 41 feet in height measured from grade. The nearby historic structure at 114 Cliff Avenue has a large chimney that measures approximately 30 feet from grade. The grant of a variance to allow the chimney is proportional to the height of the building with clearances required by Building Code and would not constitute a special privilege.

F. The variance will not have adverse impacts on coastal resources.

Roof, Floor Area Ratio, and chimney: The variance request will not negatively impact coastal resources.

Historic Alteration Findings

A. The historic character of a property is retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize the property is avoided.

Community Development Staff and the Planning Commission have reviewed the proposed remodel of the historic structure and determined the majority of additions are located such that they limit publicly visible alterations that would impact the historic character and the structure will retain the character-defining features identified by the architectural historian.

B. Distinctive materials, features, finishes, and construction techniques or examples of fine craftsmanship that characterize a property are preserved.

Community Development Staff and the Planning Commission have reviewed the proposed project and determined that distinctive design will be preserved by preserving the distinctive wood shingle siding, wood-sash windows, and complex roof massing.

C. Any new additions complement the historic character of the existing structure. New building components and materials for the addition are similar in scale and size to those of the existing structure.

Community Development Staff and the Planning Commission have reviewed the proposed additions to the structure and determined that they are focused to the rear of the structure. Work to the most publicly visible east and south elevations is focused on restoration of the original design and removal of conjectural windows.

D. Deteriorated historic features are repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature matches the old in design, color, texture, and, where possible, materials.

Community Development Staff and the Planning Commission have reviewed the proposed project and determined that historic features will be preserved, reused, and repaired to the extent possible. The applicant is proposing to replace existing siding only as necessary due to deterioration or approved additions. Original siding and windows removed due to additions will be reused on the structure where possible. Replacements shall be done to match.

E. Archeological resources are protected and preserved in place. If such resources must be disturbed, mitigation measures are undertaken.

Community Development Staff and the Planning Commission have reviewed the proposed involves additions to an existing residence, a replacement garage, and new accessory dwelling unit and determined it will not impact archeological resources.

Coastal Findings

A. The project is consistent with the LCP land use plan, and the LCP implementation program.

The proposed development conforms to the City's certified Local Coastal Plan (LCP) land use plan and the LCP implementation program.

B. The project maintains or enhances public views.

The proposed project is located on private property at 106 Cliff Avenue. The project will not negatively impact public landmarks and/or public views.

C. The project maintains or enhances vegetation, natural habitats and natural resources.

The proposed project is located at 106 Cliff Avenue. The residence is not located in an area with coastal access. The residence will maintain or enhance vegetation consistent with the allowed use and will not have an effect on natural habitats or natural resources.

D. The project maintains or enhances low-cost public recreational access, including to the beach and ocean.

The project involves additions to an existing residence, a replacement garage, and new accessory dwelling unit, which will not negatively impact low-cost public recreational access.

E. The project maintains or enhances opportunities for visitors.

The project involves additions to an existing residence, a replacement garage, and new accessory dwelling unit, which will not negatively impact visitor serving opportunities.

F. The project maintains or enhances coastal resources.

The project involves additions to an existing residence, a replacement garage, and new accessory dwelling unit, which will not negatively impact coastal resources.

G. The project, including its design, location, size, and operating characteristics, is consistent with all applicable design plans and/or area plans incorporated into the LCP.

The proposed residential project complies with all applicable design criteria, design guidelines, area plans, and development standards. The operating characteristics are consistent with the R-1 (Single-Family Residential) zone.

H. The project is consistent with the LCP goal of encouraging appropriate coastal development and land uses, including coastal priority development and land uses (i.e., visitor serving development and public access and recreation).

The project involves additions to an existing residence, a replacement garage, and new accessory dwelling unit, on a residential lot of record. The project is consistent with the LCP goals for appropriate coastal development and land uses. The use is an allowed use consistent with the R-1 zoning district.

Result: Approved, 4:1 (Majority)

Mover: Commissioner Christiansen

Seconded Commissioner Routh

Yea: Commissioners Christiansen, Westman, Routh, Wilk

Nay: Commissioner Newman

6. Director's Report

Director Herlihy reported that City Council reviewed the temporary outdoor dining on April 28, 2022, and had it extended with additional requirements. Maintenance deposit and monthly fee is required.

7. Commission Communications

Commissioner Newman referenced the status of the compliance of vacation rental tax requirements.

Director Herlihy reported on update, including the hiring of Consultant HDL. Additional updates will follow.

8. Adjournment

The meeting was adjourned at 8:20PM to the next Regular Meeting of the Planning Commission on June 2, 2022.

ATTEST/Approved by the Planning Commission

Louis Osemwegie, Clerk to the Commission