

City of Capitola

Planning Commission Meeting Minutes

Thursday, July 21, 2022 – 7:00 PM



City Council Chambers
420 Capitola Avenue, Capitola, CA 95010

Chairperson: Mick Routh

Commissioners: Courtney Christiansen, Ed Newman, Susan Westman, Peter Wilk

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

None

A. Additions and Deletions to the Agenda

Community Development Director Katie Herlihy noted for the record that there are two additional public comments for item 6D, (720 Hill Street), since the packet was released: an email from a neighbor, and a response to it from the hotel owner.

B. Public Comments

None

C. Commission Comments

None

D. Staff Comments

Community Development Director Katie Herlihy noted that City Council will be going back to in person/hybrid meeting Sept. 1, 2022. Planning Commission feedback is welcome.

There was a consensus among the Commissioners on Planning Commission in person/hybrid meeting starting Sept. 1, 2022.

4. Approval of Minutes

None

5. Consent Calendar

None

6. Public Hearings

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

A. Blanket CDP and Design Permit for Prototype Street Dining Deck in Central Village Permit Number: #22-0140

Location: Up to 25 public parking spaces in the Central Village

Blanket Coastal Development Permit and Design Permit for Capitola's prototype street dining deck design which may be utilized by Eating and Drinking Establishments in the Central Village.

Environmental Determination: Categorically Exempt

Property Owner: City of Capitola

Representative: Katie Herlihy, Community Development Director

Community Development Director Katie Herlihy presented the report, requested feedback, and recommended the Planning Commission approve a blanket CDP and Design Permit for Capitola's prototype street dining deck design.:

Planning Commission Consultants, Michael Arnone, and Jennifer Coifer offered details on concrete planters, railings, and perimeters, relative to space, seating arrangements and sidewalk.

Reef Dog Deli commented on plants' sustainability; growth for the planter boxes must provide green and beauty; low water, yet sustainable.

Linda Smith commented that indoor dining will be less in use in the post-covid era. Also, standard heaters are more efficient than flame heaters.

Associate Planner Sean Sesanto read a written comment from Bob Lashley into the record.

Commissioner Routh discussed outdoor heaters and suggested specific requirements for which kind are allowed.

Commissioner Christiansen noted that the outdoor planters and rails should be consistent, uniform, and intentional. She was supportive of concrete planters. No preference on heaters.

Commissioner Newman cautioned against too much uniformity as Capitola has a more of an eclectic community.

Commissioner Westman felt that dining deck signage should be limited to the side facing the sidewalk and that all elements of the dining deck should remain on the deck and not be placed onto the adjacent sidewalk area. She expressed support for requiring concrete planters for a consistent level of quality.

Chair Wilk agreed with using concrete planters.

There was a consensus among all Commissioners on requiring concrete planters, fewer types of allowed plant options, require utilizing the recommended street furniture manufacturers, signage placement be limited to facing the sidewalk; not to limit heater type, and that bicycle parking be open to the public.

Motion: Approve the blanket coastal development permit, as well as the design permit for the prototype design with the added conditions as reviewed.

Result: Approved 5:0 (Unanimous)

Mover: Commissioner Routh

Second: Commissioner Westman

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

Conditions of Approval

1. The project approval consists of a blanket Coastal Development Permit and a Design Permit for a prototype street dining deck utilizing the design that has been authorized by the Planning Commission on July 21, 2022. The proposed prototype design is approved as indicated on the final plans reviewed and approved by the Planning Commission, except as modified through conditions imposed by the Planning Commission during the hearing.
2. Eating and drinking establishments within the mixed use village with parking spaces along the frontage may apply for an administrative permit for use of the blanket Coastal Development Permit and Design Permit approved by the Planning Commission. All administrative permits are subject to the conditions of approval of the blanket Coastal Development Permit and Design Permit. The administrative permit approval is transferable between owners so an approved street dining deck design and CDP may be conveyed or assigned by the applicant during a sale to the new property owner without losing the approval. The permit cannot be transferred off the parking space on which the approval was granted.
3. 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 prototype design plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans.
4. Prior to issuance of a building permit, the applicant shall complete a revocable encroachment agreement, in a form provided by the Public Works Department, for all approved privately installed improvements within the unutilized street right-of-way.
5. 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.
6. Prior to a certificate of occupancy, 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.
7. 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.
8. The street dining deck must be constructed consistent with a prototype design approved by the City and received all necessary permits and authorizations.
9. The street dining deck must comply with all applicable requirements of Capitola Municipal Code Section 17.96, the Zoning Code, and all other applicable laws, administrative policies, rules, and regulations.

10. The street dining deck is consistent with the Local Coastal Program and will not adversely impact coastal resources, coastal access, and coastal views.
11. The street dining deck must utilize high-quality, durable materials that are compatible with surrounding development and can withstand inclement weather.
12. The street dining decks must use the prototype street dining deck design authorized by a valid coastal development permit and shall be subject to the prototype street dining deck coastal development permit findings and conditions.
13. CDP Recertification Requirement. All CDPs issued for outdoor dining permits shall require recertification by the City Council no later than three years after the CDP is issued, and every five years thereafter. Recertification shall require a public hearing before the City Council. City staff will initiate the recertification process by providing notice to the Applicant of the hearing date, at least thirty (30) days in advance of the public hearing. For a CDP to be recertified, the City Council must find that the subject project is operating in compliance with the findings and conditions of the CDP and in compliance with the LCP. The City Council may recertify, modify, or revoke the CDP. The City Council's decision shall be a final action. The project applicant, any aggrieved person, or any two members of the Coastal Commission may appeal the City Council decision. Appeal procedures for coastal development permits shall be as specified in Section 17.44.150.
14. Signs. One business identification sign and one menu sign each not to exceed two square feet are allowed per street dining deck. The signs shall be oriented toward the sidewalk, not the street.
15. Stormwater Drainage. All street dining decks must allow for adequate stormwater drainage. Dining decks shall not block the drainage flow along the gutter line. Dining decks shall not block access into any drain inlet or other drainage/stormwater facility.
16. Utilities. All outdoor dining shall not interfere with utility boxes, water hydrants, storm drains, and all other related facilities.
17. Trash and Maintenance. An outdoor dining area in the public right-of-way shall be maintained in a clean and safe condition as determined by the City, including as follows:
 - a. All trash shall be picked up and properly disposed of.
 - b. All flower boxes and planters shall contain live, healthy vegetation.
 - c. All tables, chairs, equipment, and structures must be kept clean and operational.
18. Materials and Furniture. All infrastructure related to the street dining deck, including but not limited to tables, chairs, umbrellas, lights, heating equipment, etc. must be maintained. If signs of weathering (fading, rust, holes, etc.) are visible, the item(s) shall be replaced immediately. Faded umbrellas shall be replaced with a UV rated fabric and not include logos, labels, or advertising. The prototype design includes furniture option by Emu, Tolix, and BFM. The three furniture companies produce many styles, colors, and materials of commercial rated outdoor furniture. Restaurants may choose the style, color, and material of commercial rated outdoor furniture from either company.
19. Stanchions. The portable stanchions and ropes shall not encroach into the sidewalk. They must be located on the street dining deck.
20. Sound. Music and amplified sound are not allowed in an outdoor dining area.
21. Bicycle Parking. A street dining deck that eliminates an on-street parking space must include a bicycle parking rack integrated in the street dining deck design or within the private property of the eating or drinking establishment. The bicycle parking rack must provide a minimum of two

bicycle parking spaces for each eliminated vehicle parking space. As an alternative to providing the bicycle parking rack, the applicant may pay an in-lieu fee for a central bicycle parking location. Bicycle parking required for the street dining decks is public bicycle parking available to any member of the public. Bicycle parking shall not limited to patrons of the eating and drinking establishment.

22. Hours of Operation. Outdoor dining may occur between 7 a.m. and 10 p.m. seven days a week. The city may allow extended hours for street dining decks for special events and holidays.
23. Open for Use. All outdoor dining in the public right-of-way must be open for use a minimum of five days per week, except in cases of inclement weather. “Open for use” means that the eating or drinking establishment must have tables ready for customers to use the outdoor dining area when the establishment is open for business.
24. All street dining facilities may be subject to inspection by the City on an annual basis or as needed to ensure compliance with this section, conditions of approval, and administrative procedures.
25. Planters. The prototype street dining decks shall be planted with plants identified in the prototype street dining deck plant options list.
26. Heaters. Each street dining deck may have free standing heaters. The free standing heaters shall be uniform and match within each dining deck. The details of the street heaters shall be submitted with the building permit application. The prototype design does not dictate the manufacturer or design of street heater other than it must be free standing.

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 project. The proposed prototype street dining deck complies with the development standards of the mixed use village zoning district. Specifically, all of the requirements of Capitola Municipal Code §17.74.060 have been met. 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 the prototype street dining deck design. 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 15305 (class 5) and 15311 (class 11) of the CEQA Guidelines exempts minor alterations in land use limitation in areas with an average slope of less than 20%, which do not result in any changes in land use or density and projects that consist of construction or placement of minor structures that are accessory to existing commercial facilities and is subject to Section 753.5 of Title 14 of the California Code of Regulations. This project involves street dining decks within the Mixed-Use Village 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 prototype street dining deck 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 prototype street dining deck complies with all applicable design review criteria in Section 17.120.070.

F. For projects in residential neighborhoods, 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 prototype street dining deck. The design of the deck will fit in nicely with the existing mixed-use village neighborhood. The project will maintain the character, scale, and development pattern of the village.

Coastal Development Permit 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 within public parking spaces (maximum 25) within the mixed-use village. 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 within public parking spaces in the mixed-use village zoning district. The prototype street dining deck provides coastal access. The prototype street dining deck 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 a prototype street dining deck will not negatively impact low-cost public recreational access. For each parking space utilized for the street dining deck, two bicycle parking spaces are required.

E. The project maintains or enhances opportunities for visitors.

The project involves a prototype street dining deck and will not negatively impact visitor serving opportunities. The street dining deck will enhance the visitor experience providing additional opportunities for dining with views and addition bike parking spaces.

F. The project maintains or enhances coastal resources.

The project involves a prototype street dining deck and will not negatively impact coastal resources. On busy beach days, the additional seating will provide more opportunities for visitors to dine on a deck and take in the view and coastal feel of the village.

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 prototype street dining deck project complies with all applicable design criteria, design guidelines, area plans, and development standards. The project has been conditioned to ensure the operating characteristics are consistent with the outdoor dining regulations of the zoning code.

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 a prototype street dining deck design for future development of up to 25 parking spaces within the mixed-use village zoning district. The project is consistent with the LCP goals for appropriate coastal development and land uses. The use is an allowed use consistent with the mixed-use village zoning district.

B. 201 Monterey Avenue #C

Permit Number: #22-0125

APN: 035-185-06

Conditional Use Permit Amendment and Design Permit to allow beer and wine sales, sidewalk dining, and outdoor dining to an existing restaurant (Castagnola Deli & Cafe) located in the MU-V (Mixed Use Village) zoning district.

This project is in the Coastal Zone and requires a Coastal Development Permit.

Environmental Determination: Categorical Exemption 15301

Property Owner: Atlantis Properties

Representative: Daniel Castagnola Filed: 3.21.22

Senior Planner Brian Froelich presented staff report.

Recommended action: Staff recommends the Planning Commission approve project #22-0125 based on the conditions of Approval and Findings

Public Comments

None presented.

There was a consensus among the Commissioners.

Chair Wilk inquired as to the availability of public access restrooms inside the building.

Commissioner Christiansen inquired about the 160 sq ft. limitation in relation to the newly adopted zoning ordinance for take-out restaurants.

Commissioner Routh asked that staff remind the owner to keep the sidewalk sign in front of the business and out of the path of travel.

Motion: Approve the project with the added condition that at least one restroom is available to customers during business hours.

Conditions of Approval

Conditional Use Permit

1. The project approval consists of a Coastal Development Permit and Design permit for sidewalk dining and an amendment to a Conditional Use Permit for the sale of wine and beer and outdoor dining in the side patio dining. The original CUP application #07-048 was approved on September 6, 2007, by the Planning Commission. The amendment to the CUP application #22-0125 was approved by Planning Commission on July 21, 2022.
2. There shall be no more than six seats provided inside the restaurant.
3. ~~No outdoor seating is permitted.~~ Outdoor dining is permitted in an eight foot by 11 foot space in the

side patio located within 201 Monterey Avenue; and three, two foot by two foot bistro tables immediately adjacent to the building within the public sidewalk. The tables, chairs, and umbrellas shall not interfere with a required five-foot sidewalk clearance. The table nearest the north entrance shall be limited to two opposing chairs parallel to the sidewalk.

4. Any significant modifications to the size and appearance of the structure must be approved by the Planning Commission. Similarly, any significant change to the use itself, or site, must be approved by the Planning Commission.
5. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
6. ~~Business hours will be limited to 7:30AM — 8:30PM.~~ Outdoor dining may occur between 7 a.m. and 10 p.m. seven days a week.
7. The applicant shall ~~obtain~~ maintain a current business license ~~prior~~ to operate the business.
8. Beer and wine consumption shall be limited to inside the restaurant and the patio area. No beer and wine consumption shall be allowed within the sidewalk dining.
9. Signage shall be maintained at the entry/exit to the restaurant and patio stating that “consumption of alcohol prohibited in sidewalk dining”.
10. No new lighting or signs are approved with this permit.
11. Amplified sound is prohibited outside the building.
12. A restroom shall be available to customers at all times during business hours.

Sidewalk Dining Conditions of Approval

13. The Covid-19 temporary use permit for outdoor dining expires on September 15, 2022. To utilize the sidewalk dining after September 15, 2022, the applicant shall complete a revocable encroachment agreement, in a form provided by the Public Works Department, for all approved privately installed improvements within the street right-of-way.
14. Prior to use beyond September 15, 2022, 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.
15. The sidewalk dining shall comply with all applicable requirements of Capitola Municipal Code Section 17.96, the Zoning Code, the revocable encroachment permit, and all other applicable laws, administrative policies, rules, and regulations.
16. The outdoor dining shall be consistent with the Local Coastal Program and not adversely impact coastal resources, coastal access, and coastal views.
17. Materials and Furniture. The sidewalk dining must utilize high-quality, durable materials that are compatible with surrounding development and can withstand inclement weather. The application included black wrought iron tables and chairs, as well as two commercial grade umbrellas. The tables, chairs, and umbrellas approved within this permit must be well maintained. Any visible signs of weathering (fading, rust, holes, etc.) shall be addressed immediately through replacement or

maintenance. Faded umbrellas shall be replaced with a UV rated fabric and not include logos, labels, or advertising. Upon Planning Commission approval, the property owner will order new umbrellas to replace the existing faded umbrellas.

18. CDP Recertification Requirement. All CDPs issued for outdoor dining permits shall require recertification by the City Council no later than three years after the CDP is issued, and every five years thereafter. Recertification shall require a public hearing before the City Council. City staff will initiate the recertification process by providing notice to the applicant of the hearing date, at least thirty (30) days in advance of the public hearing. For a CDP to be recertified, the City Council must find that the subject project is operating in compliance with the findings and conditions of the CDP and in compliance with the LCP. The City Council may recertify, modify, or revoke the CDP.
19. Signs. No new business signs are included in the application.
20. Stormwater Drainage. The sidewalk dining must allow for adequate stormwater drainage. Sidewalk dining areas shall not block the drainage flow along the gutter line. Sidewalk dining shall not block access into any drain inlet or other drainage/stormwater facility.
21. Utilities. The sidewalk dining shall not interfere with utility boxes, water hydrants, storm drains, and all other related facilities.
22. Trash and Maintenance. The outdoor dining shall be maintained in a clean and safe condition as determined by the City, including as follows:
 - d. All trash shall be picked up and properly disposed of.
 - e. All flower boxes and planters shall contain live, healthy vegetation.
 - f. All tables, chairs, equipment, and structures must be kept clean and operational
23. Sound. Music and amplified sound are not allowed in an outdoor dining area.
24. Hours of Operation. Outdoor dining may occur between 7 a.m. and 10 p.m. seven days a week.
25. Open for Use. All outdoor dining in the public right-of-way must be open for use a minimum of five days per week, except in cases of inclement weather. "Open for use" means that the eating or drinking establishment must have tables ready for customers to use the outdoor dining area when the establishment is open for business.
26. All street dining facilities may be subject to inspection by the City on an annual basis or as needed to ensure compliance with this section, conditions of approval, and administrative procedures.

Findings

Conditional Use Permit Findings

- A. The proposed use is allowed in the applicable zoning district.**

Beer and wine sales are permitted through a conditional use permit in the MU-V zoning district.
- B. The proposed use is consistent with the general plan, local coastal program, zoning code, and any applicable specific plan or area plan adopted by the city council.**

The restaurant space with beer and wine sales, as conditioned, is consistent with the Zoning Ordinance, General Plan, and Local Coastal Plan.
- C. The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and planned land uses in the vicinity of the property.**

Castagnola deli & cafe is compatible and appropriately located within the blend of land uses in the Capitola Village.

- D. The proposed use will not be detrimental to the public health, safety, and welfare.**
Sales of beer & wine offered by Castagnola deli & cafe until 8:30pm will not be detrimental to the public health, safety, and welfare. Similar services are currently operating in the Capitola Village.
- E. The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.**
Castagnola deli & cafe is properly located within the Capitola Village area and has been a business operating in good standing. The property is adequately served by services and infrastructure.
- F. This project is categorically exempt under Section 15301 of the California Environmental Quality Act and is subject to Section 753.5 of Title 14 of the California Code of Regulations.**
Section 15301 of the CEQA Guidelines exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. This project involves no new permanent physical improvements and does not require a Building permit. The permit will involve a minor change in operations and utilization of existing spaces. No adverse environmental impacts were discovered during review of the proposed project.

Design Permit Findings

- A. The sidewalk dining area or street dining deck complies with all applicable requirements of this section, the Zoning Code, and all other applicable laws, administrative policies, rules, and regulations.**
The proposed sidewalk dining area formalizes what the owner was allowed under the Covid-19 Temporary Use Agreement. The proposal complies with the zoning code and the owner is pursuing a license with ABC.
- B. If located in the coastal zone, the sidewalk dining area or street dining deck is consistent with the Local Coastal Program and will not adversely impact coastal resources, coastal access, and coastal views.**
The proposed sidewalk dining is required to maintain a five foot clearance for all associated furniture, tables, chairs, and umbrellas.
- C. The design of the sidewalk dining area or street dining deck supports a safe, inviting, and lively public realm consistent with the purpose of the MU-V zoning district as provided in Section 17.20.040 (Purpose of the Mixed Use Zoning Districts).**
The sidewalk dining area will allow the owner to expand the business under newer code sections that allow limited outdoor dining options without requiring parking upgrades. As conditioned, the sidewalk dining will not be permitted for beer and wine consumption.
- D. The sidewalk dining area or street dining deck materials include high-quality, durable materials that are compatible with surrounding development and can withstand inclement weather.**
The applicant has been using wrought iron style bistro tables and chairs painted black. These tables and chairs are classic and durable design.

Coastal Findings

- A. The project is consistent with the LCP land use plan, and the LCP implementation program.**
The proposed project 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 has no impact on view or coastal access.

- C. The project maintains or enhances vegetation, natural habitats and natural resources.**
The proposed project will have no impact on vegetation or habitat.
- D. The project maintains or enhances low-cost public recreational access, including to the beach and ocean.**
The project has no impact on recreation access or cost and maintenance all required sidewalk clearances.
- E. The project maintains or enhances opportunities for visitors.**
The project has no negative impact on visitors and opportunity.
- F. The project maintains or enhances coastal resources.**
The proposed project has no impact on 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 project complies, as conditioned, with local and state laws regarding outdoor dining, parking, beer and wine service, and parking.
- 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 will not obstruct public access and has no impact on recreation or visitor opportunities and experiences.

Result: Approved 5:0 (Unanimous)

Mover: Commissioner Christiansen

Seconded: Commissioner Routh

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

C. 1350 49th Avenue

Permit Number: #22-0035

APN: 034-068-14

Permit amendment for a Design Permit and Variance to construct first- and second-story additions on an existing single-family residence with a variance to the required side yard setback located at 1350 49th Avenue within the R-1 (Single-Family) 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: Rick Aberle

Representative: John Hofacre, Filed: 01.31.22

Associate Planner Sean Sesanto presented the report.

Recommended action: Staff recommends the Planning Commission approve project #22-0035 based on the conditions of Approval and Findings

Commissioner Routh asked why the permit granted in 2018 had not expired. He also asked for clarification regarding encroachments on adjacent lots.

Planner Sesanto responded that the applicant had an active building permit for the original approval which is why they were able to apply for modifications. He further noted that both property owners

were aware of the longstanding encroachment and the application neither included nor required the owners to establish a permanent easement.

Community Development Director Katie Herlihy clarified that the requirement on this permit is to allow access to the site during construction.

Commissioner Newman asked clarification if their city-issued permit approved encroachment on neighbor's property.

Project representative John Hofacre commented that they already have a building permit and could remodel the home as originally approved without modifying or removing the encroachment but feel the modifications would improve the situation between both properties.

Commissioner Christensen asked for staff confirmation, to which Director Herlihy confirmed the applicant's ability to act on the existing building permit should the current proposal be denied.

Commissioner Westman stated she was favorable of the design itself but suggested continuing the item until the next agenda so staff could consult with the City Attorney.

In response to a question by Commission Routh, John Hofacre described the new design, confirmed that there is not a deck above the garage, and described how structural improvements to the encroachment with respect to stormwater drainage and fireproofing.

Property owner Rick Aberle commented on his relationship with neighbors in the community.

Steven Lang was recognized to speak but had experienced technical issues.

Commissioner Routh: expressed concern about approving a project that may encroach on someone else's property. Supports continuing the item to the next agenda, while the Commission consults with City Attorney's office.

Chair Wilk asked if there was consensus among the Commission regarding the project design.

There was favorable consensus among Commissioners for the project design.

Motion: Continue the item to next meeting and direct staff provide input from the City Attorney regarding encroachment on the neighbor's property.

Result: Accepted 5:0 (Unanimous)

Mover: Commissioner Westman

Second: Commissioner Routh

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

D. 720 Hill Street

Permit Number: #21-0122

APN: 036-011-28

Design Permit, Conditional Use Permit, and Tree Removal Permit for a new 42-room hotel located within the C-C (Community Commercial) zoning district and the AH (Affordable Housing) overlay zone ("Project").

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

Environmental Determination: CEQA Categorical Exemption Section 15332 (In-fill Development)

Property Owner: Dhanesh Patel

Representative: Gwen Jarick

Senior Planner Brian Froelich presented the staff report.

Recommended action: Staff recommends the Planning Commission approve project #22-0122 based on the conditions of Approval and Findings, including conditions 55 and 56.

Chair Wilk asked for clarification on the concessions made by the applicant and if neighbors are happy.

Hotel and property owner Danhesh Patel commented that the main concern of his neighbor is the connecting wall and noted a commitment to continue being a good neighbor; there will be no large vehicles or idling trucks due to the new demand for parking spaces.

Neighbor Peter Folis expressed concern about privacy issues and the length of the proposed screening.

Neighbor Bill Babcock commented on the height of the proposed wall for privacy reasons.

Letter from a community member requesting rodent control measures, Bob Lashey, was read for record by Senior Planner Brian Froelich.

Commissioner Routh noted that the added conditions in staff presentation, (#s: 55 and 56) effectively resolves the neighbor concerns..

Motion: Approve the project with the following conditions and findings, including modifications recommended by staff in under conditions #55 and 56:

Conditions of Approval

General Conditions

1. The project approval consists of a Conditional Use Permit, Design Permit, and Tree Removal Permit for the construction and operation of a hotel at 720 Hill Street. The CUP, Design Permit, and Tree Removal Permit application #21-0122 was approved by Planning Commission on July 21, 2022.
2. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this conditional use 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. 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.
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 obtained an approved building permit commenced construction before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration.
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. The project applicant shall designate a “disturbance coordinator” who will be responsible for responding to any local complaints regarding construction noise. The coordinator (who may be an employee of the general contractor) will determine the cause of the complaint and will require that reasonable measures warranted to correct the problem be implemented. A telephone number of the noise disturbance coordinator shall be conspicuously posted at the construction site fence and on the notification sent to neighbors adjacent to the site. The sign must also list an emergency after-hours contact number for emergency personnel.
9. Green Waste is the City’s exclusive hauler for recycling and disposal of construction and demolition debris. For all debris boxes, contact Green Waste. Using another hauler may violate City Code Section 8.04 and result in Code Enforcement action.

Conditional Use Permit Conditions

10. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
11. The rooftop patio shall be closed for all use between 10pm and 8am.
12. The applicant shall obtain a business license prior to operating the new hotel.
13. Hours for deliveries to the hotel shall be limited to 8:00 A.M. – 8:00 P.M. Monday through Friday, to minimize noise impacts to neighboring residents. Delivery vehicles shall not be permitted to remain at idle, shall utilize the loading zones, and shall not stop or park within 50 feet of the residential property boundaries.
14. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view and inside the trash enclosure on non-collection days.
15. Bicycle parking is required to be accommodated with 10 short term bike parking spaces and five long term bike parking spaces. The design and specifications of the bike parking spaces shall be included in the plans for Building Permit plan check.
16. The property shall maintain and make available to guests and employees, six property bikes. The applicant shall have the bikes onsite prior to certificate of occupancy.
17. Amplified sound is limited to interior areas only.
18. Alcohol service is not approved with this permit.

Planning Department Conditions

19. 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.
20. Prior to issuance of building permit, all Planning fees associated with permit #21-0122 shall be paid in full.

21. Air-conditioning equipment or other roof top equipment shall be screened from view and fall within allowable city permitted decibel levels.
22. The trash enclosure shall be covered, gated, and maintained to provide a clean and sanitary area. The trash enclosure construction shall be completed, prior to final inspection.
23. Outdoor luminaires shall be energy-efficient fixtures controlled by motion sensors and incorporate cut-off controls and outdoor lighting controls. All building and parking lot lighting shall be shielded to prevent light from shining in the neighboring properties and be Dark Sky compliant. The applicant shall provide a lighting plan and photometric plan with the submittal of plans for building permit plan check.
24. No rooftop equipment is to be visible to the general public. Any necessary roof screening is to match the color of the building as closely as possible. Plans for any necessary screening shall be submitted to the Community Development Department prior to, or in conjunction with the building permit submittal.
25. 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.
26. Prior to the issuance of any building permits, the applicant shall agree, in writing, to defend, indemnify, and hold harmless the City and its officers, agents, and employees in any action brought by a third party to void this Conditional Use Permit, Design Permit, or Tree Removal. The agreement shall be in a form satisfactory to the City Attorney and Community Development Director and executed, prior to issuance of building permits. It shall run with the land and shall not be amended without prior City consent.
27. 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.
28. The owner shall consult the members and/or managers of the Road and Utility Maintenance Agreement to obtain any necessary approvals regarding the design and location of road, sidewalk, and utility improvements associated with this project, prior to start of work. The owner shall further coordinate with the managers of the Road and Utility Maintenance Agreement and adjacent property owners to ensure that appropriate access is maintained throughout the duration of the project. Permit approval does not supersede any obligations of the owner to comply with private agreements.
29. Prior to occupancy, the Landscape Architect shall certify in writing the landscaping and irrigation has been installed in accordance with all aspects of the approved landscape plans, subject to final approval by the Community Development Director.
30. If prehistoric or historic-period cultural materials are unearthed during ground-disturbing activities, it is recommended that all work within 100' of the find be halted until a qualified archaeologist and Native American representative can assess the significance of the find. Prehistoric materials might include obsidian and chert-flaked stone tools (e.g., projectile points, knives, scrapers) or tool-making debris; culturally darkened soil ("midden") containing heat-affected rocks and artifacts; stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and battered-stone tools, such as hammerstones and pitted stones. Historic-period materials might include stone, concrete, or adobe footings and walls; filled wells or privies; and deposits of metal, glass, and/or ceramic refuse. If the find is determined to be potentially significant, the

archaeologist, in consultation with the Native American representative, will develop a treatment plan that could include site avoidance, capping, or data recovery.

31. In the event of the discovery of human remains during construction or demolition, there shall be no further excavation or disturbance of the site within a 50' radius of the location of such discovery, or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his/her authority, he/she shall notify the Native American Heritage Commission, which shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the landowner shall reinter the human remains, and items associated with Native American burials on the property in a location not subject to further subsurface disturbance. A final report shall be submitted to the City's Community Development Director prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and its results, including a description of the monitoring and testing resources analysis methodology and conclusions, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the City's Community Development Director.
32. In the event that a fossil is discovered during construction of the project, excavations within 50' of the find shall be temporarily halted or delayed until the discovery is examined by a qualified paleontologist, in accordance with Society of Vertebrate Paleontology standards. The City shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. If the find is determined to be significant and if avoidance is not feasible, the paleontologist shall design and carry out a data recovery plan consistent with the Society of Vertebrate Paleontology standards.
33. To the extent practicable, tree removal shall be performed from September 1 through January 31 to avoid the general nesting period for birds. If tree removal cannot be performed during this period, precutting surveys will be performed no more than two days prior to beginning work activities to locate any active nests as follows: The owner/applicant shall be responsible for the retention of a qualified biologist to conduct a survey of the project site and surrounding 300' for active nests—with particular emphasis on nests of migratory birds—if tree cutting will begin during the bird nesting season, from February 1 through August 31. If active nests are observed on either the project site or the surrounding area, the project owner/applicant, in coordination with the appropriate city staff, shall establish no-disturbance buffer zones around the nests, with the size to be determined in consultation with the California Department of Fish and Wildlife (usually 100' for perching birds and 300' for raptors). The no-disturbance buffer will remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for three days or more and then resumes during the nesting season, an additional survey will be necessary to avoid impacts on active bird nests that may be present.
34. This project requires the approval of the Santa Cruz County Environmental Health Department prior to issuance of Building Permits.
35. No signs are approved as part of this application. A Sign Permit application shall be submitted in compliance with Chapter 17.80 of the zoning ordinance and shall include all signage proposed for the project site.
36. The Water Feature shall not be directly connected to water utility source and shall be equipped with a recirculation pump.
37. Inspections by the Planning Department are required for the foundation, final framing, prefinal after application of exterior materials, and final inspection.

38. Separate containers for recyclables, organics, and waste shall be placed in all common areas, including all gathering areas, such as eating areas and break rooms.
39. A separate water service and water meter for irrigation will be required.
40. The applicant shall submit an application to meet the public art requirement prior to building permit issuance. The proposed conceptual mural at the northwest corner of the building shall be incorporated into the project in any case; even if it does not qualify or is otherwise not accepted to satisfy the public art requirement. A cash deposit for the value of the public art shall be paid prior to issuance of building permits.
41. The applicant shall provide four electric vehicle charging stations with the plans for building permit plan check.
42. The landscape plans for Building Permit plan check shall replace the six, 15-gallon pittosporum shrubs at the south end of the new parking lot with three, 24 inch box evergreen trees.

Public Works Department Conditions

43. Prior to issuance of building permits, any improvements that interface with the public right of way, e.g., sidewalks, crosswalks, curb, gutter and sidewalks, shall submit plans for review and approval by the Public Works Department.
44. 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.
45. Prior to a project final, all cracked or broken driveway approaches, curb, gutter, or sidewalk in the City Road right of way 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.
46. 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.
47. 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.
48. Applicant shall notify the Public Works Department 24 hours in advance of the commencement of work. A pre-construction inspection must be conducted to verify compliance with the approved temporary erosion and sediment control plan
49. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan (Temporary Construction BMPs) shall be submitted to the City and approved by the Public Works Director. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16.100 Construction Site Storm Water Runoff Control. All improvements shall be installed prior to the start of construction and shall be maintained throughout project duration.
50. Prior to issuance of building permits, the applicant shall submit a Stormwater Control Plan, Bioretention Construction checklist, and detailed draft Stormwater Operation and Maintenance Plan prepared and certified by a Registered Civil Engineer in accordance with the current Post

construction Requirements (PCRs) for a Tier 2 project for review and approval by the Public Works Director. The revisions specified in the HydroScience Preliminary Stormwater Control Plan Review dated July 11, 2022, including subsequent updates, shall be completed to the satisfaction of the Public Works Director.

51. Prior to final occupancy approval the applicant shall submit a final Operation and Maintenance Plan including any revisions resulting from changes made during construction for review, approval and recorded in the Office of the County Recorder by the Public Works Director.
52. Prior to final occupancy approval the applicant shall enter into and record in the Office of the county Recorder, any agreements identified in the Stormwater Control Plan which pertain to the transfer of ownership, right-of-entry for inspection or abatement, and/or long-term maintenance of the stormwater treatment BMPs.
53. Prior to final occupancy approval the Engineer of Record shall inspect construction of stormwater management improvements and certify to the City that the construction meets the intent of the approved design drawings, Stormwater Control Plan, and the City Post Construction Requirements.
54. Prior to final occupancy approval the Engineer of Record shall provide final record drawings of the constructed stormwater management improvements.

Planning Commission Conditions

55. Prior to acceptance of plans for building permit plan check, the applicant shall adjust existing parking lot lighting to avoid light trespass onto neighboring properties.
56. The applicant shall add a three foot tall solid wood cap to the existing five foot tall masonry wall, prior to certificate of occupancy.

Conditional Use Permit Findings

A. The proposed use is allowed in the applicable zoning district.

Hotels are a conditional use in the Community Commercial zone. The design and use incorporate mitigations and conditions to result in a hotel that has an appropriate transition and limited impact on surrounding residential uses. The property has an Affordable Housing Overlay that is assigned 61 units under the current Housing Element. The City has identified new sites and progress toward RHNA goals that result in No Net Loss.

B. The proposed use is consistent with the general plan, local coastal program, zoning code, and any applicable specific plan or area plan adopted by the city council.

The proposed use, as conditioned, is consistent with local long range and implementation planning documents.

C. The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and planned land uses in the vicinity of the property.

The project will have a beneficial effect on traffic and provide a support service to local business. The design incorporates appropriate residential transition measures and involves only a 40% buildout of the site. The rooftop patio is regulated by appropriate hours.

D. The proposed use will not be detrimental to the public health, safety, and welfare.

The proposed hotel will not have an impact to public, health, safety, and welfare. The building provides for required parking, will be fire sprinkled, and will be served by all necessary public utilities.

E. The proposed use is properly located within the city and adequately served by existing or

planned services and infrastructure.

The proposed use is appropriately located and well mitigated from impacts to adjacent residential uses. The project is with a quarter mile to SR1 and a bus route. The property will be served by all utilities.

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, consultant RRM and the Planning Commission have all reviewed the project. The proposed project, as conditioned, is consistent with local long range and implementation planning documents. The project meets the Design Review Criteria.

- 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 18,261 square foot hotel complies with all development standards of the C-C (Community Commercial) zoning district.

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

Section 15332 of the CEQA Guidelines exempts infill development projects that meet certain criteria. The city contracted with environmental consultant Dudek to prepare a detailed environmental analysis under CEQA for the proposed project (attachment #5). The project is consistent with both the general plan and zoning ordinance. The site is within city limits and is surrounded by developed sites and urban uses. No known habitat or rare or threatened species have been identified on the subject site. Potential for traffic, noise, air quality and water quality were all evaluated and will be effectively mitigated by following current City codes and the recommended project conditions of approval. The site is well served by available public utilities and 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.**

The proposed hotel will not have an impact to public, health, safety, and welfare. The building provides for required parking, will be fire sprinkled, and will be served by all necessary public utilities. Condition #22 requires the applicant to work with the Road and Utility Maintenance Agreement members to ensure compliance with the property's underlying private contracts.

- 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, design consultant RRM and the Planning Commission have all reviewed the project. The proposed 18,261 square foot hotel and supporting improvements 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.**

The project site is not in a residential neighborhood but adjacent to single family and multi family zoning. The design incorporated all required transitional standards and conditions of approval further mitigate impacts of operating hours, privacy, and noise.

Result: Approved 5:0 (Unanimous)

Mover: Commissioner Christiansen

Second: Commissioner Newman.

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

7. Director’s Report

Community Development Director Katie Herlihy noted that there is an upcoming new project, (Assisted Living Facility), submitted for 3720 Capitola Road across from Target. This will be agendized for the next Planning Commission hearing.

8. Commission Communications

9. Adjournment

The meeting was adjourned at: 9:36PM to the next Regular Meeting of the Planning Commission on August 18, 2022.

ATTEST/Approved by the Planning Commission

Louis Osemwegie, Clerk to the Commission