

City of Capitola

Planning Commission Meeting Minutes

Thursday, March 02, 2023 – 6:00 PM



City Council Chambers
420 Capitola Avenue, Capitola, CA 95010

Chairperson: Susan Westman

Commissioners: Courtney Christiansen, Paul Estey, Gerry Jensen, Peter Wilk

1. **Roll Call and Pledge of Allegiance** - *The meeting was called to order at 6:00 PM. In attendance: Commissioners Estey, Jensen, Wilk, Christiansen, and Chair Westman.*
2. **Oral Communications** - *None*
 - A. **Additions and Deletions to the Agenda** – *Item 5C will be continued to a future meeting date. Staff has received 54 public comments on Item 5D.*
 - B. **Public Comments** – *None*
 - C. **Commission Comments** – *None*
 - D. **Staff Comments** – *Community Development Director Herlihy reminded the Commission about the March 16th Housing Element Update Joint City Council and Planning Commission Workshop.*
3. **Approval of Minutes**
 - A. December 1, 2022 - Planning Commission Meeting Minutes
Chair Westman noted a correction to the December 1, 2022, Minutes.
Motion to approve the 12/1/2022 minutes: Commissioner Wilk
Seconded: Vice Chair Christiansen
Voting Yea: Commissioners Estey, Christiansen, and Chair Westman
Voting Abstaining: Commissioners Jensen, Wilk
 - B. January 19, 2023 - Planning Commission Meeting Minutes
 - C. February 2, 2023 - Planning Commission Meeting Minutes
Motion to approve the 1/19/2023 and 2/2/2023 minutes: Commissioner Estey
Seconded: Vice Chair Christiansen
Voting Yea: Commissioners Estey, Jensen, Wilk, Christiansen, Chair Westman
4. **Consent Calendar**
 - A. **203 Esplanade: Permit Number: 23-0046 (APN: 035-211-04)**
Coastal Development Permit and Historic Alteration Permit for window replacement at Zelda's Restaurant located at 203 Esplanade in the Mixed Used Village (MU-V) zoning district.
Environmental Determination: Categorical Exemption 15331
Property Owner & Representative: Jill Ealy, Zelda's Restaurant
Motion to approve the Consent Calendar: Commissioner Wilk
Seconded: Vice Chair Christiansen
Voting Yea: Commissioners Estey, Jensen, Wilk, Christiansen, Chair Westman
5. **Public Hearings**
 - A. **2000 Wharf Road – Park at Rispin Mansion. Permit Number: #23-0021 (APN: 035-371-01)**

Conditional Use Permit, Historic Alteration Permit, and Coastal Development Permit for a public park located within the P/OS (Parks and Open Space) zoning district and VS (Visitor Serving) overlay 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: EIR Addendum

Property Owner: City of Capitola

Representative: Kailash Mozumder, Filed: 02.06.23

City Planner Sean Sesanto presented the staff report. Public Works Project Manager Kailash Mozumder spoke about the project specifications.

No commissioner comments.

Public Comments: None

Motion to approve the Conditional Use Permit, Historic Alteration Permit and Coastal Development Permit: Commissioner Wilk

Seconded: Vice Chair Christiansen.

Voting Yea: Commissioners Estey, Jensen, Wilk, Christiansen, Chair Westman

Conditions of Approval:

1. The project approval consists of a Conditional Use Permit, Coastal Development Permit, and Historic Alteration Permit for a public park located on the Rispin Mansion property. The proposed use and development is approved as indicated on the final plans reviewed and approved by the Planning Commission on the March 2, 2023, except as modified through the conditions imposed by the Planning Commission during the hearing.
2. 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. The Conditions of Approval shall be printed in full on the cover sheet of the construction plans.
4. All construction shall be done in accordance with Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP).
5. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any changes must be consistent with the Secretary of Interior's Standards for the Treatment of Historic Properties.

Aesthetics/Visual Quality

6. All site improvements, including signs, fences, walls, entry gates, and other park features must be designed consistent with the character of the Mansion and the historic district.
7. Lighting must be designed to minimize off-site glare. The type, height, and spacing of lighting shall be approved by the City. Lighting must be directed downward and away from Soquel Creek and residences to the east. Lights must be of minimum intensity necessary for safety lighting. Light standards shall be a maximum of 15 feet high.

Air Quality

8. Require implementation of construction practices to minimize exposed surfaces and generation of dust that include the following measures, at a minimum:

- Exposed earth surfaces shall be watered during clearing, excavation, grading, and construction activities. All construction contracts shall require watering in late morning and at the end of the day.
- Grading and other earthmoving shall be prohibited during high wind.
- Cover all inactive storage piles.
- Maintain at least 2 feet of freeboard for all loaded haul trucks.
- Throughout excavation activity, haul trucks shall use tarpaulins or other effective covers at all times for off-site transport.
- Install wheel washers at the entrance to construction sites for all exiting trucks.
- Sweep streets if visible soil material is carried out from the construction site.
- Upon completion of construction, measures shall be taken to reduce wind erosion.
- Revegetation shall be completed as soon as possible.
- Post a publicly visible sign that specifies the telephone number and person to contact regarding dust complaints and who shall respond to such complaints, and take corrective action within 48 hours. The phone number of the Monterey Bay Unified Air Pollution Control District shall be visible to ensure compliance with Rule 402 (nuisance).

Biological Resources

9. Pre-construction surveys for nesting raptors shall be performed by a qualified biologist to be retained by the applicant. If raptor nests are located during pre construction surveys, a 300-foot buffer shall be established around each nest for the duration of the breeding season (August 1st, or until such time as the young are fully fledged as determined by a qualified biologist in coordination with the California Department of Fish and Game) to prevent nest harassment and brood mortality. Every effort shall be made to avoid removal of, or impact to, known raptor nests within project boundaries. If trees known to support raptor nests cannot be avoided, limbing or removal of these trees may only occur during the non-breeding season.
10. The applicant shall take proper measures to avoid damage to oaks, cypress and redwood trees. Specifically, grading or construction shall not occur within 15 feet of the base of all oak, cypress and redwood trees unless performed under the supervision of a qualified on-site arborist.
11. Prior to commencement of site preparation, a certified arborist shall be retained to review the construction plans and to provide recommendations to protect trees and their root zones from construction activities. Trees which are removed or mortally damaged during site preparation and construction activities shall be replaced with appropriate native species at a minimum 2:1 ratio.
12. Landscape and ground maintenance workers must be informed of conservation issues regarding overwintering monarch habitat. Leaf blowers shall not be used in monarch habitat areas or outside designated park areas.
13. Site preparation (e.g., tree trimming, tree removal, grading, excavation, and construction) on the project site shall not occur when monarchs are potentially present (October 1 through February 28) unless a qualified monarch biologist determines that monarchs are not present or that activities would not disturb overwintering populations.
14. Use of biological insecticides (including bacteria, viruses, protozoans and nematodes) that are effective in the control of all lepidoptera shall be prohibited throughout the habitat. Chemical insecticides shall not be applied during the overwintering season (October 1 through February 28). Use of chemical insecticide agents during the non-roosting season may be done only if approved by

the consulting butterfly expert. Grounds maintenance workers shall be made aware of monarch habitat conservation requirements as they pertain to grounds management.

15. The following measures, at a minimum, shall be implemented during the time when monarchs are potentially present in the habitat (October 1 through February 28, or as determined by the monarch biologist):
 - All pedestrians/visitors/guests shall be kept outside of the monarch roosting area by monarch biologist approved fencing.
 - Outdoor events will be limited to designated portions of the Mansion property (i.e., amphitheater and developed park areas) to avoid roosting area disruption.
 - Outside night-lighting shall utilize low wattage bulbs and fixtures that are mounted close to ground level and directed away from the roosts. In addition, lighting shall not be directed toward Soquel Creek or on-site riparian vegetation.
16. The removal of any riparian or upland trees on the Rispin site that provide shade to Soquel Creek shall not be allowed unless immediately replaced. The amount of shading within the creek currently supplied by Rispin property trees shall be established as a baseline, and any actions reducing this percentage shall require management to improve stream shading by a City approved forester/botanist. Such management shall include planting of native riparian tree species along the creek (i.e. big-leaf maple, sycamore, alder, cottonwood, box elder, willow), to provide shade and aid in cooling of the creek, and to enhance habitat.
17. Protect the eucalyptus grove and patches of redwood trees as valuable sources of shade to the stream, erosion prevention on the steep slope, and as monarch butterfly habitat.
18. The addition of impermeable surfaces at the Rispin Mansion site shall be accompanied with an effective drainage plan. This drainage plan shall ensure the capture of any increase in runoff on the bench (as much as is feasible), without additional overland movement of water down the steep slope toward the creek (to minimize erosion and sedimentation, and the introduction of pollutants).
19. Replace the fence above the retaining wall of the Rispin Mansion to exclude people from accessing the creek through created footpaths.
20. To avoid disturbance to steelhead (and other aquatic or semi-aquatic wildlife), nighttime lighting of the riparian habitat and/or Soquel Creek shall not be allowed. On-site lighting required for Mansion grounds shall not be oriented towards the creek.

Cultural Resources

21. In the event that any archaeological or paleontological resources or human remains are discovered during grading or construction anywhere on the site, work shall be ceased within 150 feet of the find until it can be evaluated by a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented in accordance with CEQA Section 15064.5. All identified archaeological sites should be evaluated using the California Register of Historical Resources criteria, established by the State Office of Historic Preservation. Any discoveries shall be reported to the City Planning Director.
22. In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps shall be taken:
 - 1) There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

- A. The coroner of the county in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required, and
- B. If the coroner determines the remains to be Native American:
 1. The coroner shall contact the Native American Heritage Commission within 24 hours.
 2. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent from the deceased Native American.
 3. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains, and any associated grave goods as provided in Public Resources Code Section 5097.98, or Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.
- C. The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the Commission.
- D. The descendent identified fails to make a recommendation; or
- E. The landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

Noise

23. 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
24. Events and entertainment provided on the property shall meet the following conditions:
 - Hours of operation for events and live entertainment must be restricted to 8:00 a.m. to 10:00 p.m. (consistent with Chapter 9.12 of the Municipal Code, the Noise Ordinance).
 - Hours of operation for amplified outdoor music use or microphones shall be restricted to 8:00 a.m. to 9:00 p.m.
 - Events shall be limited to four hours or less per day.
25. The City shall require that the construction contractor implement noise control measures (Best Construction Management Practices) during project construction, as outlined below:
 - Require use of construction equipment and haul trucks with noise reduction devices, such as mufflers, that are in good condition and operating within manufacturers' specifications.
 - Require selection of quieter equipment (e.g., gas or electric equipment rather than diesel-powered equipment), proper maintenance in accordance with manufacturers' specifications, and fitting of noise-generating equipment with mufflers or engine enclosure panels, as appropriate.
 - Prohibit vehicles and other gas or diesel-powered equipment from unnecessary warming up, idling, and engine revving when equipment is not in use and encourage good maintenance practices and lubrication procedures to reduce noise.
 - Construct temporary plywood barriers around particularly noisy equipment or activities at appropriate heights.

- Locate stationary noise sources, when feasible, away from residential areas and perform functions such as concrete mixing and equipment repair off-site.

Public Services

26. The applicant shall apply for water connection approval ("will serve" letter) from the SCWD.

27. The number and size of all water meters shall be determined by SCWD.

28. The final design shall satisfy all conditions for water conservation required by SCWD at the time of application for service (as detailed in their water efficiency checklist package), including the following:

- Plans for a water efficient landscape and irrigation system that meet SCWD's conservation requirements;
- All interior plumbing fixtures shall be low-flow and all applicant-installed water-using appliances (e.g., dishwashers, clothes washers, etc.) shall have the EPA Energy Star label;
- Inspection by SCWD staff of the completed project for compliance with all conservation requirements prior to commencing water service.

Stormwater & Drainage

29. The owner/developer/applicant shall obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity Construction General Permit Order 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading and disturbances to the ground such as stockpiling, or excavation.

The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP shall be developed and amended or revised by a Qualified SWPPP Developer (QSD). The SWPPP shall be designed to address the following objectives:

- All pollutants and their sources, including sources of sediment associated with construction, construction site erosion and all other activities associated with construction activity are controlled;
- All storm water discharges are identified and either eliminated, controlled, or treated;
- Site Best Management Practices (BMPs) are effective and result in the reduction or elimination of pollutants in storm water discharges and authorized non-storm water discharges from construction activity to the BAT/BCT(best available technology/best conventional technology) standard;
- Calculations and design details as well as BMP controls for site run-on are complete and correct, and;
- Stabilization BMPs installed to reduce or eliminate pollutants after construction are completed. To demonstrate compliance with requirements of this General Permit, the QSD shall include information in the SWPPP that supports the conclusions, selections, use and maintenance of BMPs. Section XIV of the Construction General Permit describes the elements that must be contained in the SWPPP.

30. 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). (Disconnect direct discharge of drainage). The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.

31. Grading during the rainy season (October 1 – April 30) shall be restricted to the approval, installation, and maintenance of an erosion and sediment control plan.
32. Graded slopes shall be revegetated with appropriate native plant species immediately following completion of grading.
33. The use of fertilizers and herbicides applied to the Rispin landscaping and gardens shall be minimized to the extent possible. Utilize slow-release chemical fertilizers and herbicides and avoid application prior to scheduled irrigation. The use of fertilizers and herbicides on-site must not conflict with the relevant mitigation intended to protect monarch butterflies.
34. The City of Capitola shall continue its efforts to implement the Soquel Creek Lagoon Enhancement project, and work with the County to ensure that other storm drain and water quality improvements are implemented to reduce cumulative watershed impacts.

Conditional Use Permit Findings:

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

The proposed public park is a principally permitted use within the P/OS (Parks and Open Space) zoning district and a conditionally allowed use within the VS (Visitor Serving) overlay district. The use is therefore allowed with the approval of a Conditional Use Permit.

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.

Planning Commission have reviewed the proposed public park and determined it complies with all development standards and meets the intent and purpose of the P/OS (Parks and Open Space) zoning district and VS (Visitor Serving) overlay district zoning district.

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 Planning Commission reviewed the application and determined the improvements and planned use will be compatible with the surrounding neighborhood.

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

The Planning Commission reviewed the project and imposed conditions to ensure the construction and operation of the proposed park will not be detrimental to the public health, safety, or welfare.

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

The proposed park is located on the Rispin Mansion grounds along Wharf Road within the city and will be adequately served by existing services and infrastructure.

Historic Alteration Permit 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.

The Planning Commission reviewed the proposed park and determined that the proposed community park project requires minimal changes to distinctive materials, features, spaces, and

spatial relationships. Furthermore, the project enhances access and opportunity for interpretation on historic grounds.

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

The proposed project will preserve numerous character-defining features of the Rispin Mansion site, including but not limited to: A large portion of the full-height perimeter wall, the front entry arch and its side walls, the existing front entry gate will be removed and stored for display, the Overlook columns and base wall, the reflecting pool, the majority of the grand staircase.

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.

The project has been designed to protect the historic fabric of the larger historic resource while replaced elements and new site elements/features are compatible and differentiated.

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.

Deteriorated historic features have been identified on drawings for repair and replacement, as appropriate for the condition of each element. Other historic materials and features are to be preserved.

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

Conditions and mitigation measures have been included to ensure adequate protections are afforded to discovered archeological resources.

Coastal Development Permit Findings:

F. 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.

G. The project maintains or enhances public views.

The proposed project is located at the Rispin Mansion property along Wharf Road. The project will enhance public views through site restoration, new improvements, and increased public access.

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

Conditions of approval and mitigation measures have been included to ensure the protection of vegetation, natural habitats, and natural resources. The project has been conditioned to avoid, minimize, and mitigate potential impacts to monarch butterfly habitat as documented in an Addendum to a previously certified Environmental Impact Report.

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

The project will positively impact low-cost public recreational access through new and enhanced access and new amenities.

J. The project maintains or enhances opportunities for visitors.

The project involves a public park which is designed to enhance on-site visitor serving opportunities.

K. The project maintains or enhances coastal resources.

The property will remain open to the public as a public park. The project will not negatively impact coastal resources.

L. 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 project and operating characteristics are consistent with all applicable design guidelines, area plans, and development standards. The operating characteristics are consistent with the underlying zones.

M. 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 the restoration of the historic Rispin Mansion for use as a public park. The project is consistent with the LCP goals for appropriate coastal development and land uses. The use is a conditionally allowed use consistent with the P/OS (Parks and Open Space) zoning district and VS (Visitor Serving) overlay district.

CEQA Findings:

A. The proposed project is consistent with the general plan, any applicable specific plan, the zoning code, and the California Environmental Quality Act (CEQA) and is subject to Section 753.5 of Title 14 of the California Code of Regulations.

The Planning Commission reviewed the proposed park and determined the project is consistent with the general plan and zoning code. The proposed project will not result in any new or more severe environmental impacts than what was previously evaluated and reported in the certified Rispin Mansion EIR (September 2004) as documented in the attached EIR Addendum (2015) for the Rispin Park project.

B. 207, 209, 209A, 211 Esplanade. Permit Number: 23-0104 (APN: 035-211-03)

Guidance on Emergency Coastal Development Permit and future Historic Alteration Permit and Design Permit for façade modifications at 207, 209, 209A, and 211 Esplanade. Environmental Determination: N/A

Property Owner: Chuck Hammers

Representative: Dan Gomes, Fuse Architects

Vice Chair Christiansen recused herself. Community Development Director Herlihy presented the staff report.

Commissioner comments included clarification about piling reinforcement, outdoor seating for The Sand Bar, take-out windows, and individuality of businesses. Direction to the applicant included input on the business individuality and maintaining character within the Capitola Village.

Dan Gomes, Fuse Architects, spoke in favor of the project application.

Public Comments:

Matt Arthur, resident, spoke in favor of the project but recommended incorporating more individuality for each business front.

Steve Walsh, resident, spoke about the smell from garbage storage near the street.

C. 520 Riverview Drive. Permit Number: #22-0056 (APN: 035-081-10)

Design Permit and Accessory Dwelling Unit Permit to remodel a two-story residence, construct an attached ADU, and Variance request for the required minimum setbacks. 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 not appealable to the California Coastal Commission. Environmental Determination: Categorical Exemption

Property Owner: Tarra Gundersgaard

Representative: Martha Matson, Filed: 02.22.22

Motion to continue this item to April 6, 2023: Commissioner Estey

Seconded: Commissioner Jensen

Voting Yea: Commissioners Estey, Jensen, Wilk, Christiansen, Chair Westman

D. 4401 Capitola Road – Permit Number: #22-0244 (APN: 034-123-05 & 034-124-18)

Design Permit, Conditional Use Permit, Density Bonus, and Coastal Development Permit request for a 36-unit, 100% affordable housing project on an approximate 0.81-acre site on the northeast corner of Capitola Road and 44th Avenue. The project includes a mix of 1-bedroom, 2-bedroom and 3-bedroom apartment units, configured in two 3-story buildings. The project includes a density bonus request pursuant to California Government Code sections 65915 – 65918. Environmental Determination: Categorical Exemption 15332 - In-fill Development

Applicant: CRP Affordable Housing & Community California, LLC

Brian Froelich, City Planner, presented the staff report.

Garrett Bascom, CRP Affordable Housing & Community California, LLC, spoke as the applicant of the project.

Public Comments Received In Favor:

Lisa Johnson, Santa Cruz resident	Jim Weller, resident	Cathy Sarto, United Church COPA
Ryan Mickel, Santa Cruz resident	Elizabeth, Santa Cruz resident	Janine, resident
Kalisha Webster, Housing Choices	Paul Wagner, resident	Loni Faulkner, Equity Transit
Tim Willoughby, Affordable Housing Now	Carlos Romero, resident	Andrew Goldenkranz, Santa Cruz Community Health
John Mulry, resident	Reggie, Santa Cruz resident	

Public Comments Received In Opposition:

Stephanie Harlan, resident	Paula Bradley, resident	Melody Nickham, resident
Mick Routh, resident	Nadine Burke, resident	Resident
Cathy Howard, resident	Resident	Dominic Svenson, resident
Todd Bruce, resident	Jim Sherman, resident	Mike Achkar, resident
Rodger Shaheen, resident	Kim Howard, resident	Ralph Vernacchia, resident

Bob Lindley, Studio T-Square Architects, spoke as a part of the applicant presentation.

Commissioner commentary included a discussion of the parking exemption, availability of ADA accessible units and parking, building height, and a discussion of the impact that state-imposed housing requirements have had in Capitola. Commissioner Jensen noted general support of the project but asked the applicant to further address inconsistencies of measurements between the plans and traffic safety study related to the parking lot design, and consider concerns with EV parking spaces and Building Code standards.

***Motion to approve the project with the addition of the following conditions:
Commissioner Estey***

- Applicant will coordinate with City staff to plant larger sized trees (partially reimbursed by the Tree Fund), preferential clause for housing applicants within 1.5 miles of the project and obtain and provide a Landscaping Bond (\$5,000 for 5 years) to ensure landscaping is maintained on the project (if this is permissible).

Seconded: Vice Chair Christiansen

Voting Yea: Commissioners Estey, Wilk, Christiansen, Chair Westman

Voting Nay: Commissioner Jensen

Conditions of Approval

General Conditions

1. The project approval consists of a Conditional Use Permit, Design Permit, State Density Bonus and Coastal Development Permit for the construction of a multifamily at 4401 Capitola Road. The application #22-0244 was approved by Planning Commission on March 2, 2023.
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 the time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet or G sheets 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 or activity. 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 name and telephone number of the disturbance coordinator shall be conspicuously posted at the construction site fence and on any notifications sent to neighbors. The sign/banner 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. 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.
12. Bicycle parking is required to be accommodated with 14 short term bike parking spaces and 36 long term bike parking spaces. The design and specifications of the bike parking spaces shall be further detailed in the plans for Building Permit plan check.
13. Amplified sound is limited to interior areas only.

Planning Department Conditions

14. 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.
15. Prior to issuance of building permit, all Planning fees associated with permit #22-0244 shall be paid in full.
16. Air-conditioning equipment or other roof top equipment shall be screened from view and fall within allowable city permitted decibel levels. Additional detail showing equipment heights and any mechanical screens shall be shown on the building permit plans.
17. 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.
18. 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.
19. 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.

20. 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.
21. The Applicant or permittee shall defend, indemnify, and hold harmless the City of Capitola, its agents, officers, and employees from any claim, action, or proceeding against the City of Capitola or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Planning Commission, City Council, Community Development Director, or any other department, committee, or agency of the City concerning a development, variance, permit, or land use approval; provided, however, that the Applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the Applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the Applicant's or permittee's defense of said claims, actions or proceedings.
22. Prior to issuance of building permits, the building plans must show that any existing overhead utility lines within the property and any new utility lines will be underground to the nearest utility pole.
23. Prior to occupancy, the Landscape Architect shall certify in writing that 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.
24. 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.
25. 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 Cruz 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.
26. 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.

27. 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.
28. 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.
29. Inspections by the Planning Department are required for the foundation, final framing, prefinal after application of exterior materials, and final inspection.
30. Separate containers for recyclables, organics, and waste shall be placed in all common areas, including all gathering areas, such as eating areas and community room.
31. A separate water service and water meter for irrigation will be required.
32. The applicant shall provide two electric vehicle charging stations with the plans for building permit plan check.
33. The property at 4401 Capitola Road shall be deed restricted to provide continued affordability of 100% low-income affordable housing rental units in the approved ratio and affordability categorized for a period of no less than 55 years. Low-income household cannot exceed 80% of the median family income level for Santa Cruz County as published by California Department of Housing and Community Development. The owner shall enter into an agreement with the City so as to assure compliance with the provisions of the State Density Bonus affordable housing requirement for all units on site to be deed restricted as a low-income rental as defined in Section 50053 of the Health and Safety Code. The deed restriction shall be in a form suitable for recordation as authorized by the Community Development Director and City Attorney.
34. Prior to issuance of building permits, parcels 034-123-05 & 034-124-18 shall be merged and all final documentation recorded with Santa Cruz County. The applicant shall, at their sole cost, diligently prepare plat maps, legal descriptions, grant deeds, and any other necessary documentation to execute the lot merger.

Public Works Department Conditions

35. Prior to filing an application for a building permit the applicant shall prepare and submit a plat map showing the original parcels (APN: 034-123-05 and APN: 034-124-18) and the parcel being

combined by the lot merger with pertinent supporting data. Said map shall be filed with the Public Works Department with the appropriate review fees for review by the City Surveyor. Said plat map shall be prepared by a licensed land surveyor who shall be responsible for responding to comments until the map is acceptable to the Public Works Department. The final accepted map shall be recorded with the Santa Cruz County Recorder.

36. Prior to the issuance of the building permit the applicant shall submit plans detailing all improvements or modifications that impact or interface with the public right of way. At a minimum these details will include the limits of any existing or proposed curb drains, ADA compliant driveway approach, signage and striping or any other modification to the curb/gutter/sidewalk. The extent of all improvements or modifications shall be limited to those areas fronting the property boundaries (44th Avenue and Capitola Road) and shall not impact the frontage of any adjacent parcels.
37. 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.
38. 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. The sidewalk along the Capitola Road frontage shall entirely be replaced eliminating all identified ADA barriers: cross slopes exceed 2%, lips greater than ¼ - ½ inch between sections, curb ramp cross/running/landing slopes, lack of minimum clearance at utility poles and signs. The driveway approach on 44th Avenue – north wing running slope shall be limited to those areas fronting the property boundary and shall not impact the frontage of any adjacent parcels.
39. Prior to issuance of a building permit the applicant shall incorporate the following design recommendations per the November 17, 2022, Dudek Traffic Analysis:
 - a. The relocated continental crosswalk on the west leg of the intersection shall be placed at a 90-degree angle with the roadway. The existing raised median on Capitola Road shall be modified to integrate the crosswalk. The crosswalk shall be designed per City and ADA standards.
 - b. A “no parking” area shall be striped for turnaround at the north end of the east parking lot so that vehicles can turn around on site instead of backing into the intersection.
40. Prior to issuance of building permits, the Public Works Standard Detail SMP STRM shall be printed in full and incorporated as a sheet into the construction plans.
41. Prior to issuance of building permits, the applicant shall submit a stormwater temporary construction sediment and erosion control plan, (BMPs) e.g., wattle location, storm drain protection, construction entrance, washout areas, contain trash/debris, stockpile protection and details, location of portable toilet and containment/protection, etc. All BMPs, sediment and erosion control measures shall be installed prior to the start of construction; and shall be maintained throughout project duration.
42. Prior to any land disturbance, applicant shall notify the Public Works Department 24 hours in advance for a pre-site inspection to be conducted by the grading official to verify initial compliance with the approved stormwater temporary construction erosion and sediment control plan. All temporary sediment and erosion control best management practices (BMPs) shall be maintained throughout the project duration.
43. No material or equipment storage may be placed in the road right-of-way.
44. Keep work site clear of debris & be aware of tracking mud, dirt, gravel into the street, and sweep daily, cover all stockpiles and excavation spoils. Practice good housekeeping BMPs.

45. 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 as submitted on November 30, 2022, and conditionally approved by HydroScience Engineers on December 9, 2022, in accordance with the current Post Construction Requirements (PCRs) for a Tier 2 project for review and approval by the Public Works Director.
46. The Engineer of Record shall inspect and provide record drawings of 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 City Post Construction Requirements.
47. 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.
48. 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.
49. The drain within the dumpster enclosure shall be connected to the sanitary sewer with the review and approval of Santa Cruz County Sanitation.

Planning Commission Added Conditions:

50. Landscaping shall be added at the north side of the parking lot that is accessed from 44th Avenue between the paving and property line.
51. The landscaping plan shall comply with section 17.96.050 in order to maintain adequate sight distance at the proposed driveways. The applicant shall coordinate with Planning staff prior to installation of landscaping in the sight distance triangles defined in the noted code section.
52. The applicant shall provide annual reporting to the Community Development Director prior to April 1st of each year, for the prior year, documenting on-going compliance with the provisions of the State Density Bonus affordable housing requirement for all units on site as a low-income rental as defined in Section 50053 of the Health and Safety Code.
53. To the extent consistent with state and federal fair housing requirements and to the extent the Project relies on public and private funding sources, Developer or owner shall cause the affordable housing units to be marketed with preference given to households with at least one member who either works in Capitola or has accepted a job offer to work in Capitola. This condition implements the State's goal to reduce VMT.
54. The applicant shall work with City staff to utilize, if allowed by City Ordinance, the use of Community Forest Program funds to ensure that all proposed trees are a minimum of 24 inch box size at installation.
55. A landscape maintenance deposit in the amount of \$5,000 shall be posted prior to final inspection to ensure compliance with Section 17.72.070. An inspection of the landscape to ensure adequate establishment and maintenance shall be made five years after the installation by the Planning Department. The deposit will be released at that time if the required plantings remain viable.

Conditional Use Permit Findings

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

Multifamily housing is a conditional use in the MU-N zone. The project complies with state law or local codes, as required, and provides needed affordable housing units in Capitola.

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 as listed. The Project site has a General Plan land use designation that allows for residential uses. The Project is consistent with the local coastal program, and with the zoning code except for the allowable incentives and concessions under Density Bonus Law. The Project is not located within a Specific Plan. The Project meets Design Review criteria.

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 minimal effect on trip generation and improve the jobs to housing ratio in the region, which according to the Office of Planning and Research, will have a net beneficial effect on traffic and greenhouse gas emissions. In addition, surrounding land uses and structures include a mix of multi-family developments, a church, and professional offices. The proposed Project is a multi-family development, similar in size and scope to the surrounding land uses.

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

The building provides required affordable housing and RHNA units, 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 generally mitigated from impacts to adjacent residential uses. The project is within 0.75 miles of State Route 1 and within 200 feet of bus route 55. 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 site has a General Plan land use designation that allows for residential uses. The Project is consistent with the local coastal program, and with the zoning code except for the allowable incentives and concessions under Density Bonus Law. The Project is not located within a Specific Plan. 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 32,475 square foot multi-family development complies with all development standards of the MU-N zoning district and/or applicable state law, outside of those standards being waived by incentives or waivers pursuant to Density Bonus law.

C. The proposed project has been reviewed in compliance with the California Environmental

Quality Act (CEQA).

The Project has been reviewed in compliance with and found to be exempt from CEQA through a Class 32 Infill exemption.

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 multifamily development will not have an impact to public, health, safety, and welfare. The building will be fire sprinkled and will be served by all necessary public utilities.

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, design consultant RRM and the Planning Commission have all reviewed the project. The proposed 32,475 square foot multifamily development and supporting improvements comply with the applicable design review criteria and as described by RRM.

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

The project site is in a mixed use zone with professional office, single family and multi family uses in nearby proximity. The design complies with local standards with the exception of state permitted concessions and waivers. The proposed use does not introduce any new or unusual impacts.

Coastal Findings

1. **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.
2. **The project maintains or enhances public views.**
The proposed project has no permanent impact on view or coastal access.
3. **The project maintains or enhances vegetation, natural habitats and natural resources.**
The proposed project has no impact on coastal vegetation, habitats, or resources.
4. **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.
5. **The project maintains or enhances opportunities for visitors.**
The project has no impact on visitors and opportunity.
6. **The project maintains or enhances coastal resources.**
The proposed multifamily project has no negative impact on coastal resources.
7. **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 multifamily project allows Capitola to produce needed affordable housing units in an area that is zoned for this type of use. The project is consistent with the LCP.

- 8. **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. The project allows the city to produce affordable housing and deliver required RHNA units to the region.

Density Bonus Findings

Pursuant to Density Bonus Law, the Project qualifies for four incentives and concessions and unlimited waivers from development standards. The Project has requested incentives and concessions related to the required daylight plane, side setback, parking ratio, and percentage of compact parking spaces. The Project has requested waivers from building height, mitigation tree size, entry orientation, and massing breaks. Pursuant to Density Bonus Law, proposed concessions or incentives must be approved unless it can be established by written findings based on a preponderance of the evidence that the proposed concession or incentive does not result in identifiable and actual cost reductions, would cause a public health or safety problem, would cause an environmental problem, would harm historical property, or would be contrary to law.

6. Director's Report

Community Development Director Herlihy informed the Commission that the SB9 Ordinance was certified by the Coastal Commission last week.

7. Commission Communications

None

- 8. **Adjournment** – Adjourned at 9:29 PM to the next regularly scheduled meeting on April 6, 2023, at 6:00 PM.

ATTEST:

Julia Moss, City Clerk