

Capitola Planning Commission

Agenda Report



Meeting: December 1, 2022
From: Community Development
Address: 401 Capitola Avenue

Permit Number: #22-0282

APN: 035-131-11

Conditional Use Permit, Parking Variance, and Coastal Development Permit to establish a restaurant that serves beer and wine with no onsite parking in the MU-N (Mixed Use Neighborhood) zoning district.

This project Coastal Development Permit which is appealable to the Coastal Commission.

Environmental Determination: Categorical Exemption 15303

Property Owner: Amy Cheng

Representative: Richard Emigh Filed: 07.06.2022

Applicant Proposal

The applicant is applying for a conditional use permit (CUP) to establish a restaurant serving beer and wine, to expand customer seating areas and a variance to required parking. The existing business, Capitola Tap House, is operating under an existing CUP (#19-0031) as a take-out food and beverage establishment that serves kombucha and coffee. Conditions of the active CUP limit the business to six customer seats and the location provides no onsite parking.

Background

On June 5, 2014, the Planning Commission approved a Design Permit, Setback and Parking Variances, Coastal Development Permit, and Sign Permit to construct the existing building for use by the prior retail tenant. The Parking Variance reduced the parking requirement from four spaces to zero.

On April 4, 2019, the Planning Commission approved CUP #19-0031 for a takeout restaurant that was to serve rice bowls, salads, beverages, and ice desserts with six seats for customers (takeout). The final local action notice included 26 conditions of approval that remains effective (attachment #3). During discussion, the Planning Commission decided not to approve a proposed patio along the side of the building nearest the trestle and that any kitchen/hood exhaust would need to be located on the front half of the building toward Capitola Avenue. The prior zoning ordinance categorized retail uses and takeout restaurants with six or fewer seats the same relative to parking requirements. The Capitola Tap House is operating currently with a condition of approval that limits the use to six or fewer seats. The daily configuration includes no seats but has two bar height tables on the front porch that customers use while standing.

During the Building Permit plan check, the applicant changed the business model to a kombucha, tea, and coffee serving business with a smaller kitchen that is primarily for washing dishes and has no cooking equipment or food preparation counters. The change included replacing a portion of the kitchen and prep area with a walk-in cooler that is plumbed with 32 tap dispensers for non-alcoholic beverages. The county environmental health department has conditioned the approval

of the current facility to limit food services to cold brew coffee and kombucha from approved sources only.

Discussion

The applicant is proposing to modify a portion of the current customer area to add a new 96 square foot food preparation area. The new equipment includes ice storage bin, refrigerator, toaster, and food preparation counter. The proposal also includes the utilization of the 32 tap system for dispensing beer and wine along with the existing kombucha and cold brew coffee and would be offered with a self-pour operation. This means that customers would purchase credits at the point-of-sale counter and obtain an RFID wristband or card that would be read at the tap dispensers and the customer would then be able to pour their own beverage.

The proposed menu includes the following items:

- Daily fresh soup
- Variety crackers and cheese plates
- Daily fresh specialty rolls
- Beef kimbap rolls
- Chicken kimbap rolls
- Spam kimbap rolls
- Tofu and fish cake kimbap rolls
- Shrimps spring rolls
- Chicken rice bowl
- Daily fresh desserts

The only unit of existing or proposed kitchen equipment that warms food is a toaster. It is not clear from the submitted plans how the other menu items would be warmed or cooked. If approved, the applicant would need to submit detailed kitchen plans, a more thorough menu, and operations plan to the county environmental health division for review.

The applicant has simultaneously filed for a type 41 license with California Department of Alcohol and Beverage Control (ABC). Type 41 licenses are defined as:

“Type 41 (Restaurant) Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities; and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.” (ABC website)

“Bona fide public eating place” means a place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking and an assortment of foods which may be required for ordinary meals, the kitchen of which must be kept in a sanitary condition with the proper amount of refrigeration for keeping of food on said premises and must comply with all the regulations of the local department of health. (ABC website)

“Meals” means the usual assortment of foods commonly ordered at various hours of the day; the service of such food and victuals only as sandwiches or salads shall

not be deemed a compliance with this requirement. “Guests” shall mean persons who, during the hours when meals are regularly served therein, come to a bona fide public eating place for the purpose of obtaining, and actually order and obtain at such time, in good faith, a meal therein. Nothing in this section, however, shall be construed to require that any food be sold or purchased with any beverage. (ABC website)

Planning staff communicated concern to the applicant about the combination of a Type 41 license and suitability of the existing and proposed kitchen facilities to meet the standard of a “bona fide eating place”. Planning staff has also contacted representatives from ABC and inquired about the proposal. The response was that ABC will not perform an in-depth review or offer written comments until after local approval but offered preliminary verbal feedback. The representative noted that they were familiar with the front porch area and were not concerned with this area being used as customer area. The representative expressed concern with how IDs would be checked for a self-pour tap business model. They also noted that a type 41 license requires that the business be primarily food serving with beer and wine as a beverage option. They stated concern with the kitchen’s limitations and the ability to meet the type 41 requirement of being a bona fide eating place.

The applicant is resolute that the proposed business is a restaurant with beer and wine service. City staff does not believe that the proposed restaurant and kitchen facilities meet the state standard of a bona fide eating place, however, this determination is not made by local agencies and does not factor into the CUP, Variance, or CDP analysis and findings. It is noted in this report as a matter of disclosure to the Planning Commission, the applicant, and the public that, if approved, this proposal may need to come back before the Planning Commission due to ABC requirements for further modification to the kitchen facilities to become a bona fide eating place (hood, exhaust, oven, range, etc..).

The Capitola Tap House is located at 401 Capitola Avenue, within the Mixed-Use Neighborhood (MU-N) zoning district and just outside the Mixed-Use Village (MU-V) boundary, which is aligned with the trestle. The purposes (section 17.20.010) of the two mixed-use zones are different, with the MU-V notably supporting “a mix of retail, restaurants, services, and recreation amenities providing a walkable environment, catering to all ages, and supporting year-round activities during the day and night”. The MU-N purpose is to “allow for neighborhood-serving mixed uses that enhance resident’s quality of life” and is “carefully designed to complement its surroundings and minimize impacts on neighboring properties”.

The immediate vicinity (300-foot radius) of the Capitola Tap House has a total of 83 addresses. A total of 63 (75%) of these addresses are residential (23 in the R-1 and 40 in the MU-V).

The customer area of the existing building (interior plus front porch) is 554 square feet, which is considered legal nonconforming and is subject to a limitation of six seats. The applicant now proposes to activate 458 square foot customer space for customers to include 26 seats and convert 96 square feet of the current customer area for additional food preparation facilities.

The applicant has stated that they would like to establish a “Restaurant and Café” to replace the existing “Takeout food and beverage” facility as defined below:

17.160.020 E “Eating and drinking establishments” means businesses primarily engaged in serving prepared food and/or beverages for consumption on or off the premises.

a. "Bars and lounges" means a business devoted to serving alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages. Includes cocktail lounges, nightclubs, taverns, and other similar uses.

b. "Restaurants and cafes" means a business establishment serving food and beverages to customers where the food and beverages may be consumed on the premises or carried out and where more than one hundred sixty square feet of public area is open to customers. Includes full-service restaurants, fast-food restaurants, coffee shops, cafes, and other similar

c. "Take-out food and beverage" means establishments where food and beverages may be consumed on the premises, taken out, or delivered, but where the area open to customers is limited to no more than one hundred sixty square feet. Includes take-out restaurants, take-out sandwich shops, limited service pizza parlors and delivery shops, and snack bars. Also includes catering businesses or bakeries that have a storefront component.

The applicant has provided a business plan and narrative (attachment #2), which describes the intended operation details and customers for the business. The proposal includes operation hours of 11am-8pm and posits that most customers would be pass-by stops by visitors that are already on their way to and from the Village and beach.

General Plan Analysis

Several General Plan policies are relevant to the review of the project and are further cited in the findings.

Policy LU-1.3 Compatible Development. Ensure that all new development is compatible with neighboring land uses and development.

Policy LU-4.1 Quality of Life. Ensure residential neighborhoods are walkable, safe, friendly, and provide a high quality of life for residents of all ages. Minimize unwanted noise and spillover parking in neighborhoods.

Policy LU-4.7 Planning Projects. Ensure that future planning efforts for non-residential areas carefully consider potential impacts on adjacent residential neighborhoods.

Compatibility related to the intensity of the proposed use, no onsite parking, proximity to residential properties, and the location within the city are individually significant issues that are not mitigated and collectively result in an unsupportable project. The zoning code is established to implement the general plan and to protect the public health, safety, and welfare. The proposed project does not conform with the purpose statement of the MU-N zoning district and is contrary to the general plan.

Local Coastal Plan Analysis

401 Capitola Avenue is located in the Coastal Zone. An intensification of a land use requires a Coastal Development Permit (CDP) and consistency with the City's Local Coastal Program (LCP), Land Use Plan and CDP findings. Policy 1-1 of the Land Use Plan states "It shall be the policy of the City of Capitola to maintain and enhance access to Capitola Beach, Village, and Wharf while maintaining and enhancing the existing character of Capitola Village and the surrounding

residential areas. The intensity of new development shall be limited to the availability of parking and other alternative transportation systems, such as a shuttle bus and remote parking.” The proposed intensification of use is in contrast with this policy. Findings for consistency with the City’s LCP cannot be made as the proposal intensifies the use without parking. The increased demand on street parking and public parking will impact parking and beach access in the vicinity for visitors and existing businesses and residents.

Conditional Use Permit

In the MU-N district, Restaurants and Cafes and Alcoholic Beverage Sales require a Conditional Use Permit (CUP) (Table 17.20-1).

CUP’s are required for land uses that are generally appropriate within a zoning district, but potentially undesirable on a particular parcel or in large numbers. A use permit is a discretionary action that enables the city to ensure that a proposed use is consistent with the general plan and local coastal program land use plan and will not create negative impacts to adjacent properties or the general public.

Pursuant to 17.124.060, when evaluating a CUP, the Planning Commission must consider the following characteristics of the proposed use:

- A. Operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).
- B. Availability of adequate public services and infrastructure.
- C. Potential impacts to the natural environment.
- D. Physical suitability of the subject site for the proposed use in terms of design, location, operating characteristics, shape, size, topography.

Pursuant to 17.124.070, the Planning Commission must make the following findings for approval for a CUP:

- A. The proposed use is allowed in the applicable 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.
- 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.
- D. The proposed use will not be detrimental to the public health, safety, and welfare.
- E. The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.

Planning Department staff cannot make the required findings for approval of the proposed CUP. As stated previously, the Capitola Tap House is located within the MU-N zoning district with a stated purpose to “enhance the residents’ quality of life”, and future development is to be “carefully designed to complement its surroundings and minimize impacts on neighboring properties”. With 75 percent of the properties within 300 feet of 401 Capitola being residential, proposed uses at the site must minimize impacts to neighboring properties. The proposed use intensifies the use of the site from the current six seat maximum to a restaurant with 26 seats and 458 square feet of activated space. The location, size, design, and operating characteristics of a dine-in restaurant business with a 32 tap self-pour system for dispensing beer, wine, kombucha, and cold brew coffee with no parking is not compatible with surroundings at this location. The use is also not consistent with the General Plan and the Local Coastal Program, as noted previously.

Parking Variance

Restaurants require parking to be provided at a ratio of 1:60 square feet for customer area and 1:300 square feet for other areas. The gross parking calculation for the proposed business is 11 parking spaces (see table). However, section 17.76.020 only requires parking be provided for the incremental intensification of a proposed new use. The existing takeout restaurant use is categorized by code with a requirement for a 1:300 square foot parking ratio (1,265/300=4). Four parking spaces were also approved with the original Parking Variance for retail use in 2014. Therefore, the existing parking credit for the 1,265 square foot building with a 1:300 ratio is four parking spaces. The proposed change of use from a takeout business to a restaurant and café has an incremental intensification that requires seven parking spaces be added to the site to comply.

Use Areas and Parking Required			
	Building Area	Customer Area	Other Area
First Floor	912 sf	308 sf	604 sf
Loft	203 sf	0 sf	203 sf
Porch	150 sf	150 sf	0 sf
Total	1,265 sf	458 sf	807
Parking Ratio		1:60 sf	1:300 sf
Required Parking		8 spaces	3 spaces
Provided Parking		0 spaces	0 spaces

To approve a variance application, the Planning Commission shall make all of the following findings:

- A. There are unique circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, that do not generally apply to other properties in the vicinity or in the same zone as the subject property.
- B. The strict application of the zoning code requirements would deprive the subject property of privileges enjoyed by other property in the vicinity or in the same zone as the subject property.
- C. The variance is necessary to preserve a substantial property right possessed by other property in the vicinity or in the same zone as the subject property.
- D. The variance will not be materially detrimental to the public health, safety, or welfare, or be injurious to the property or improvements in the vicinity or in the same zone as the subject property.
- E. The variance does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity or in the same zone as the subject property.
- F. The variance will not have adverse impacts on coastal resources

The proposal is to intensify the current takeout restaurant land use to a restaurant and café with beer and wine. There are no unique circumstances applicable to the subject property related to the intensification of the use. In 2014, the property received a parking variance to allow retail on the site. In 2019, the current owner obtained a CUP for a takeout restaurant which has the same parking requirement and is not an intensification of use. The variance is not necessary to preserve a substantial property right as the property has an operating takeout restaurant. Also, if the Planning Commission were to issue the variance, this would be seen as special privilege inconsistent with the limitations placed on the businesses throughout the mixed-use neighborhood

zone. The variance would have an adverse impact on coastal resources as public parking would be impacted.

Applicant's Letter

The applicant responded to the October 6, 2022, staff report with a six-page letter (attachment #4).

- The applicant noted concern with the project being defined as a Bar and Lounge. The applicant believes the project is a Restaurant. Both Bar and Lounge and Restaurant uses require a Conditional Development Permit in the MU-N zone. Additionally, the introduction of Alcohol Sales requires a CUP. For the December 1, 2022 meeting, the project was renoticed as a CUP for a Restaurant with Alcohol Sales.
- The applicant states that the project is eligible for AB 2097. AB 2097 allows transit oriented projects to reduce or be exempt from local parking standards if they are in proximity to high quality transit. There are no high quality transit services operating within city limits and AB 2097 is not applicable to this project. Additionally, AB 2097 does not become effective until January 2023.

Community Communications

At the time of writing this staff report, the city has received three letters of opposition (attachment #5).

CEQA

Section 15303(c) of the CEQA Guidelines exempts the conversion of small commercial buildings and installation of equipment within an urbanized area under where structures are less than 10,000 sf. This project involves conversion of interior space in the MU-N Zoning District.

Recommendation

Staff recommends that the Planning Commission deny the Parking Variance, Conditional Use Permit, and Coastal Development Permit based on the following Findings.

Attachments

1. Proposed Site Plan/Floor Plan
2. Proposed Business Plan and Narrative
3. Existing CUP Conditions for #19-0031
4. Applicant's letter to the Planning Commission
5. Public Comments

Conditional Use Permit Findings

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

Restaurant businesses and alcohol sales are not permitted by-right in the MU-N zoning district and require a conditional use permit. A restaurant serving beer and wine that meets parking standards is a potentially supportable proposal. The subject proposal includes an intensification of customer use areas from six seats to 26 seats while providing no on-site parking. Additionally, the by-right takeout nature of the existing business would be replaced with a dine-in food and beverage experience with 32 self-pouring taps that is conducive to customers staying longer periods of time and occupying more neighborhood and coastal access parking spaces. The combination of intensification of use in customer capacity and duration is not permitted in the zoning district and is counter to MU-N district purpose statement.

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 is not consistent with the General Plan or Zoning Ordinance, as discussed:

GP. LU-1.3 Compatible Development. Ensure that all new development is compatible with neighboring land uses and development.

Staff Analysis: The proposed development is not compatible without providing parking. There is no precedent for new or intensified land uses providing no parking. Additionally, the tap system proposed is out of scale for a restaurant of this size. With 32 taps, there is a tap for every 14 square feet of customer area proposed. The ratio of taps to customer area is more typical of an alcohol serving business than a restaurant.

GP. LU-4.1 Quality of Life. Ensure residential neighborhoods are walkable, safe, friendly, and provide a high quality of life for residents of all ages. Minimize unwanted noise and spillover parking in neighborhoods.

Staff Analysis: The proposal is relying on offsite parking exclusively while intensifying the parking demand. Surrounding areas will be impacted by parking spillover.

GP. LU-4.7 Planning Projects. Ensure that future planning efforts for non-residential areas carefully consider potential impacts on adjacent residential neighborhoods.

Staff Analysis: The subject property sits at a zoning boundary with residential zoning and is located along a transitional street from the Village north on Capitola Avenue to a less active and more residentially developed part of the city.

ZO. 17.20.010 B2 2. Mixed Use, Neighborhood (MU-N) Zoning District. The purpose of the MU-N zoning district is to allow for neighborhood-serving mixed use areas that enhance residents' quality of life. The MU-N zoning district contains an eclectic mix of retail, restaurants, and services for residents and visitors. A range of housing types close to nonresidential uses increases housing choices and supports a walkable community. Development in the MU-N zoning district will be carefully designed to complement its surroundings and minimize impacts on neighboring properties. Land uses will strengthen connections between destinations in Capitola, including the Village, Bay Avenue, and 41st Avenue

Staff Analysis: In 2014, the city has approved a parking variance for the subject property allowing the owner to operate a retail shop. In 2019, the Planning Commission approved a CUP for a takeout restaurant which has the same parking requirement and is not an intensification of use. With these approvals the city has determined the appropriate balance of uses and mitigation of impacts to the vicinity. The applicant is now proposing to intensify the building's use and introduce impacts that are out of scale with the vicinity, would set a new precedent, and cannot reasonably be mitigated.

ZO. 17.128.010 This chapter identifies the process to obtain a variance. A variance is a discretionary permit that allows for deviation from development standards in the zoning code. The city may grant a variance only when the strict application of development standards creates a unique hardship due to unusual circumstances associated with the property.

Staff Analysis: Planning Commission approved a parking variance for the subject property in 2014 and allowed the applicant a change of use in 2019 that maintained the 2014 variance. The applicant is now proposing to intensify parking demand from four to 11 spaces (net seven). The proposal is an exacerbation of nonconformity without mitigation. Approval of this proposal would call into question how the city regulates parking city wide. There is no identified hardship associated with the subject property. The applicant proposes a variance to allow a special privilege not enjoyed by other properties in the city.

The location is not in the Capitola Village. The area of Capitola Avenue between the trestle and Bay Avenue is described as transitional with a focus on residents' quality of life rather than visitor serving amenities like the MU-V zone and Capitola Village area. **This finding cannot be made.**

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 current takeout establishment with its limited capacity for customers is compatible with the existing land uses in the vicinity. The current operation has a correspondingly limited impact on parking and noise in the vicinity. Capitola's zoning ordinance and business licensing process has long held that retail facilities and takeout food and beverage establishments, in their limited capacity, were interchangeable and do not introduce new impacts. The proposal to intensify customer capacity, introduce beer and wine from a tap system, and provide no parking onsite is counter to Capitola's established zoning policy in these circumstances. **This finding cannot be made.**

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

Restaurant uses and beer and wine sales are conditionally permitted in the MU-N. The intensity of use and change of use to a sit-down establishment with 32 taps and no parking presents new and unmitigated impacts to public health, safety, and welfare to adjacent residents and businesses. **This finding cannot be made.**

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

The intensity of the proposed use is not adequately served by parking and proposes to transfer the full impact of the increased parking demand entirely offsite. The nearest R-1 zoned single family residence is approximately five feet away and over 60 residentially occupied properties are within 300 feet. The proposed use will have an impact to the daily life for these residents. The combination of parking deficiency, proximity to sensitive receptors, and the proposed intensity of use are not supported by services or infrastructure. **This finding cannot be made.**

Variance Findings

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

The lot size and shape was noted with the prior variance for four parking spaces granted in 2014. The applicant is now proposing a variance to exacerbate the existing parking deficiency without demonstrating a reason for reconsidering the prior variance approval. The city determined in the 2014 decision the appropriate parking variance for the property. **This finding cannot be made.**

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

Strict application of the zoning code is that the subject property is currently operating with a legal nonconforming status with an approved parking variance and is enjoying the privilege of a customer area larger than currently permitted. The property is not deprived an opportunity or privilege enjoyed by any comparable property in the MU-N zoning district. The proposal introduces a request for a new privilege that is not supported by the zoning ordinance or general plan and transfers the increased impacts of additional parking demand and business activity to offsite locations. **This finding cannot be made.**

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

The proposed variance is not necessary to preserve a substantial property right possessed by other property in the vicinity or in the same zone. The city has evaluated the property and the hardship related to parking and determined that granting a variance for four parking spaces was appropriate to allow the property to maintain similar rights and uses as other properties in the same zone. **This finding cannot be made.**

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

Granting of the proposed variance would be detrimental to public health, safety, or welfare. The project presents noise impacts to the 63 sensitive receptors in the vicinity due to all parking demand for the project to be provided on or adjacent to surrounding properties. Noise associated with increased activity to and from vehicles parked in the neighborhood would have an unmitigated negative impact on residences and businesses in the vicinity. **This finding cannot be made.**

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

The granting of the parking variance would be a granting of special privilege by allowing an intensified use that requires seven additional parking spaces and provides none. **This finding cannot be made.**

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

The variance would have an impact on coastal parking resources due to displacing the entire parking burden on other parking locations. This would limit overall visitor parking opportunities. **This finding cannot be made.**

Coastal Findings

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

The proposed project is not consistent with LCP land use Policy I-1 "The intensity of new development shall be limited to the availability of parking and other alternative transportation systems, such as a shuttle bus and remote parking." The proposed intensity of use necessitates parking that is not accommodated on site and displaces the burden to available public and street parking. The result is a reduction of coastal access for the public. **This finding cannot be made.**

- 2. The project maintains or enhances public views.**
The proposed project has no permanent impact on views.
- 3. The project maintains or enhances vegetation, natural habitats and natural resources.**
The proposed project has no impact on vegetation, natural habitats or natural resources.
- 4. The project maintains or enhances low-cost public recreational access, including to the beach and ocean.**
The project has a direct impact on neighborhood parking and Village parking. The project displaces parking demand from onsite activity to be provided in offsite locations limiting options for low-cost public parking. **This finding cannot be made.**
- 5. The project maintains or enhances opportunities for visitors.**
The project limits opportunities for coastal access to visitors by not providing parking or mitigating demand. The project results in a net loss for coastal visitor opportunities and access. **This finding cannot be made.**
- 6. The project maintains or enhances coastal resources.**
The proposed project has no impact on natural or environmental resources. The project has a negative and unmitigated impact on coastal access for visitors by intensifying a land use without providing any parking. **This finding cannot be made.**
- 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.**
LCP Policy I-1 requires that the city protect adjacent residential neighborhoods from parking intrusions while providing for public access to viewpoints and recreation areas. **This finding cannot be made.**
- 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 limit public access and impact recreation and visitor opportunities and experiences. The proposed project contrasts with the long-standing city standard of allowing retail and takeout restaurants to change uses. The proposed intensification is not a priority development. **This finding cannot be made.**

Report prepared by: Brian Froelich