



420 CAPITOLA AVENUE
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FINAL LOCAL ACTION NOTICE AND ZONING PERMIT

April 19, 2019

Amy Cheng
P.O. Box 145
Cupertino, CA 95015

RE: Notice of Final Action on Application #19-0031

401 Capitola Avenue

#19-0031

APN: 035-121-11

Conditional Use Permit and Design Permit for a take-out restaurant with a garbage storage area and trellis located within the CN (Neighborhood Commercial) zoning district.

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

Environmental Determination: Categorical Exemption

Property Owner: Amy Cheng

Representative: Amy Cheng, Filed: 01.23.2019

The above matter was presented to the Planning Commission on April 4, 2019, and was **approved**, with the following findings and conditions. Any modifications to the conditions and findings are indicated below in strikeout and underline notation.

CONDITIONS

1. The project approval consists of a Conditional Use Permit for a take-out restaurant with a maximum of 6 seats and a Design Permit for construction of a ~~442-square-foot patio~~ garbage storage area with a trellis. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on April 4, 2019, except as modified through conditions imposed by the Planning Commission during the hearing.
2. There shall be no amplified audible entertainment inside the business that can be audible outside of the business.
3. The applicant is responsible for maintaining the area directly in front of the business free from litter and/or graffiti.
4. All exterior furniture shall be stored inside the main building when the restaurant is closed.
5. The garbage area shall be maintained to prevent odors and provide screening from the street and screening from adjacent neighbors.

6. Any outside lighting on the building shall be turned off within half an hour of the closing time of the business.
7. 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.
8. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
9. At time of submittal for building permit review, Public Works Standard Detail SMP STRM shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with the Public Works Standard Detail BMP STRM.
10. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.
11. Prior to issuance of building permit, a final landscape plan shall be submitted and approved by the Community Development Department. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of irrigation systems.
12. Prior to issuance of building permit, all Planning fees associated with permit #19-0031 shall be paid in full.
13. 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.
14. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, shall be submitted to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
15. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).
16. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan.
17. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
18. 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

19. Prior to a project final, all cracked or broken driveway approaches, curb, gutter, or sidewalk shall be replaced per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches, curb, gutter or sidewalk shall meet current Accessibility Standards.
20. 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.
21. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.
22. 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.
23. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
24. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
25. The proposed patio on the south side of the building shall be removed. The applicant may construct a small garbage storage area on the south side of the building located toward the midpoint of the building. Revised plans shall be approved by the Community Development Director.
26. Any roof jacks required for future kitchen exhaust systems shall be located on the front half of the roof to minimize the impacts of food odors on adjacent residential properties.

FINDINGS

A. The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance and General Plan.

Community Development Department Staff and the Planning Commission have reviewed the application and determined that the business owner may be granted a conditional use permit for a to-go restaurant within the CN Zoning District. The use meets the intent and purpose of the Neighborhood Commercial Zoning District. Conditions of approval have been included to ensure that the use is consistent with the Zoning Ordinance and General Plan.

B. The application will maintain the character and integrity of the neighborhood.

Community Development Department Staff and the Planning Commission have reviewed the proposed use and determined that the use complies with the applicable provisions of the Zoning Ordinance and maintain the character and integrity of this area of the City. This area of the City is a mix of commercial and residential uses. Conditions of approval have been included to carry out these objectives.

C. This project is categorically exempt under Section 15301 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.

The proposed project involves the conversion of an existing commercial space into a to-go restaurant. No adverse environmental impacts were discovered during project review by either the Community Development Department Staff or the Planning Commission.

This permit is issued to the owner of the property. In executing this permit, owner agrees to comply with all terms of permit, including conditions of approval, if any. Permit must be exercised within 24 months of date of issuance (April 19, 2021) unless otherwise indicated in conditions of approval. Should you have any questions on this matter, do not hesitate to call.

Respectfully,



Matt Orbach
Associate Planner