

Capitola Planning Commission

Agenda Report



Meeting: July 21, 2022

From: Community Development Department

Subject: **Blanket CDP and Design Permit for Prototype Street Dining Deck in Central Village**

Permit Number: 22-0140

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

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

Environmental Determination: Categorically Exempt

Property Owner: City of Capitola

Representative: Katie Herlihy, Community Development Director

Applicant Proposal:

The City of Capitola created prototype street dining deck plans that will be available at no cost to eating and drinking establishment in the Central Village. The street dining deck plans require a blanket Coastal Development Permit (CDP) and Design Permit approved by Planning Commission. Once permitted, the blanket CDP and design permit will be applicable to all eating and drinking establishments which choose to utilize the prototype design.

Background:

On December 9, 2021, the City Council approved an Outdoor Dining Ordinance which establishes a permitting process for street and sidewalk dining within the village.

On July 14, 2022, the Coastal Commission provided preliminary approval of the ordinance with two suggested modifications. The first modification was to require recertification of the CDPs three years after the initial program begins and then every five years thereafter. The second change was an agreement to remove the requirement that 50 percent of the funds acquired from leasing the spaces be dedicated to coastal access. The Coastal Commission recognized Capitola's ongoing monetary dedication to maintain and improve coastal access.

On June 23, 2022, the City Council accepted the Coastal Commission redlines.

On July 14, 2022, the Coastal Commission officially certified the ordinance as part of Capitola Local Coastal Plan (LCP).

Analysis:

In February of 2022, local landscape architecture firm, Michael Arnone + Associates, was contracted by the city to create the city's prototype design. The firm was instructed to produce a prototype street dining deck design which adds the coastal charm of the village, will create continuity along the street, and allows for some differentiation.

On April 7, 2022, the Planning Commission reviewed the first draft of the prototype design. The first design proposed two types of planters with options for two decking materials, two railing designs, string lights, two outdoor furniture options with multiple color options, and a variety of plants. The intent was to have one planter type and multiple options for the other design elements. Staff requested direction from the Commission on whether to utilize the concrete or fiberglass planters. The Commission provided the following feedback:

- Ensure wheel stop is not too high for bikes to get around
- Allow customized furniture
- Add separation between sidewalk and dining deck to avoid patrons from encroaching onto the sidewalks
- Prefer concrete planters for safety
- Have multiple options for railing
- Include one option for no railings and all planters
- Replace “parklet” with “street dining deck”
- Allow custom deck material.
- Add heaters
- Remove solid wood railing from railing options

On May 11, 2022, staff hosted a zoom meeting for the local eating and drinking establishments in the village to provide feedback on the proposed design. The following comments were received:

- Current design does not maximize patron occupancy. Would like to design incorporate counter height, bar seating around the edge.
- Make sure the design complies with Department of Alcohol and Beverage Control regulations.
- Concern with elevation of deck for drainage and car safety
- General support for uniform deck with planters, railings, and string lights
- Prefer to have options on furniture and umbrellas.
- Concern metal chairs could get hot.
- Include angled parking option for restaurants that chose to lease bicycle parking spaces from the City’s centralized bicycle parking option.

Michael Arnone and Associates modified the plans to incorporate the feedback from Planning Commission and the restaurants, as follows:

- Concrete planters rather than fiberglass to ensure safety of patrons. The planters come in three color options: sand acid wash, buff acid wash, and charcoal acid wash. Dimensions 36” high x 16” wide x 48” – 60” long.
- Added option for a wood planter with countertop bar and a wood planter option with a built in bench.
- Added stanchions with heavy duty ropes to create separation between street dining deck and sidewalk. Separation complies with the Department of Alcohol and Beverage Control regulations.
- Added six-foot-wide opening from sidewalk on to deck which complies with accessibility and building code.
- Added new color options for fabricated metal railings: aluminum or black. Removed solid wood option.
- Added new option of planters only with no railing.
- Added angled parking option for restaurants which lease bicycle parking spaces rather than having them on site.

- Added a third furniture option by BFM seating of synthetic teak and aluminum frame chairs and tables
- Added standard heaters

Staff received many comments regarding the prototype design furniture and umbrella options. For instance, Britannia Arms commented that they would like to be able to use their custom wine barrel table and the umbrellas they receive from product distributors with logo on them. Other comments were received from restaurants, such as Capitola Wine Bar, that invested in quality outdoor furniture during the pandemic which has little sign of wear and tear.

Extensive research was completed by Michael Arnone and Associates to identify commercial grade outdoor furniture. The three manufacturers included in the prototype design are Emu, Tolix, and BFM, all known for being high quality and cost effective.

Although many restaurants have requested greater flexibility related to furniture and umbrellas, staff has concerns with removing all oversight on furniture and umbrellas as the overall aesthetic of the village is impacted when quality control is not maintained. As the City transitions from the makeshift temporary emergency permits into a long-term program, the quality of the outdoor dining ambiance should enhance the overall look of the village. To ensure quality control, staff suggests allowing a waiver to the prototype outdoor furniture through Planning Commission approval.

The three furniture manufactures included in the prototype design are Emu, Tolix, and BFM. They produce many styles, colors, and materials of outdoor, commercial rated furniture. Staff suggest allowing restaurants to choose the style, color, and material. Condition of approval 18 states “18. Materials and Furniture. All infrastructure related to the street dining deck, including but not limited to tables, chairs, umbrellas, lights, heating equipment, etc. must be maintained. If signs of weathering (fading, rust, holes, etc.) are visible, the item(s) shall be replaced immediately. Faded umbrellas shall be replaced with a UV rated fabric and not include logos, labels, or advertising. The prototype design includes furniture option by Emu, Tolix, and BFM. The three furniture companies produce many styles, colors, and materials of commercial rated outdoor furniture. Restaurants may choose the style, color, and material of commercial rated outdoor furniture from either company.”

Cost has also been considered throughout the development of the design. The prototype street dining deck design requires a considerable financial investment by businesses. The estimated cost for a three-space deck with onsite bicycle parking is \$25,000. The majority of the cost is in the deck and planters. In discussion with other cities that have created prototypes, estimated cost has been around \$40,000.

The prototype design concrete planter is currently being used at Southern Kitchen at 27 E Main Street in Los Gatos, California. A picture of the planter from this location is shown on page 16 of the prototype design.

Plans:

The prototype design plans were published on Tuesday July 19, 2022 as additional materials. Updates to the original staff report are shown in underline.

Recommendation:

Approve the Blanket Coastal Development Permit for the Prototype Street Dining Deck plans with the draft conditions.

Conditions of Approval:

1. The project approval consists of a blanket Coastal Development Permit and a Design Permit for a prototype street dining deck utilizing the design that has been authorized by the Planning Commission on July 21, 2022. The proposed prototype design is approved as indicated on the final plans reviewed and approved by the Planning Commission, except as modified through conditions imposed by the Planning Commission during the hearing.
2. Eating and drinking establishments within the mixed use village with parking spaces along the frontage may apply for an administrative permit for use of the blanket Coastal Development Permit and Design Permit approved by the Planning Commission. All administrative permits are subject to the conditions of approval of the blanket Coastal Development Permit and Design Permit. The administrative permit approval is transferable between owners so an approved street dining deck design and CDP may be conveyed or assigned by the applicant during a sale to the new property owner without losing the approval. The permit cannot be transferred off the parking space on which the approval was granted.
3. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the prototype design plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans.
4. Prior to issuance of a building permit, the applicant shall complete a revocable encroachment agreement, in a form provided by the Public Works Department, for all approved privately installed improvements within the unutilized street right-of-way.
5. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official.
§9.12.010B.
6. Prior to a certificate of occupancy, all cracked or broken driveway approaches, curb, gutter, or sidewalk shall be replaced per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches, curb, gutter or sidewalk shall meet current Accessibility Standards.
7. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a permit amendment for Planning Commission consideration. Failure to remedy a non-compliance in a timely manner may result in permit revocation.
8. The street dining deck must be constructed consistent with a prototype design approved by the City and received all necessary permits and authorizations.

9. The street dining deck must comply with all applicable requirements of Capitola Municipal Code Section 17.96, the Zoning Code, and all other applicable laws, administrative policies, rules, and regulations.
10. The street dining deck is consistent with the Local Coastal Program and will not adversely impact coastal resources, coastal access, and coastal views.
11. The street dining deck must utilize high-quality, durable materials that are compatible with surrounding development and can withstand inclement weather.
12. The street dining decks must use the prototype street dining deck design authorized by a valid coastal development permit and shall be subject to the prototype street dining deck coastal development permit findings and conditions.
13. CDP Recertification Requirement. All CDPs issued for outdoor dining permits shall require recertification by the City Council no later than three years after the CDP is issued, and every five years thereafter. Recertification shall require a public hearing before the City Council. City staff will initiate the recertification process by providing notice to the Applicant of the hearing date, at least thirty (30) days in advance of the public hearing. For a CDP to be recertified, the City Council must find that the subject project is operating in compliance with the findings and conditions of the CDP and in compliance with the LCP. The City Council may recertify, modify, or revoke the CDP. The City Council's decision shall be a final action. The project applicant, any aggrieved person, or any two members of the Coastal Commission may appeal the City Council decision. Appeal procedures for coastal development permits shall be as specified in Section 17.44.150.
14. Signs. One business identification sign and one menu sign each not to exceed two square feet are allowed per street dining deck.
15. Stormwater Drainage. All street dining decks must allow for adequate stormwater drainage. Dining decks shall not block the drainage flow along the gutter line. Dining decks shall not block access into any drain inlet or other drainage/stormwater facility.
16. Utilities. All outdoor dining shall not interfere with utility boxes, water hydrants, storm drains, and all other related facilities.
17. Trash and Maintenance. An outdoor dining area in the public right-of-way shall be maintained in a clean and safe condition as determined by the City, including as follows:
 - a. All trash shall be picked up and properly disposed of.
 - b. All flower boxes and planters shall contain live, healthy vegetation.
 - c. All tables, chairs, equipment, and structures must be kept clean and operational.
18. Materials and Furniture. All infrastructure related to the street dining deck, including but not limited to tables, chairs, umbrellas, lights, heating equipment, etc. must be maintained. If signs of weathering (fading, rust, holes, etc.) are visible, the item(s) shall be replaced immediately. Faded umbrellas shall be replaced with a UV rated fabric and not include logos, labels, or advertising. The prototype design includes furniture option by Emu, Tolix, and BFM. The three furniture companies produce many styles, colors, and materials of commercial rated outdoor furniture. Restaurants may choose the style, color, and material of commercial rated outdoor furniture from either company.

19. Sound. Music and amplified sound are not allowed in an outdoor dining area.
20. Bicycle Parking. A street dining deck that eliminates an on-street parking space must include a bicycle parking rack integrated in the street dining deck design or within the private property of the eating or drinking establishment. The bicycle parking rack must provide a minimum of two bicycle parking spaces for each eliminated vehicle parking space. As an alternative to providing the bicycle parking rack, the applicant may pay an in-lieu fee for a central bicycle parking location.
21. Hours of Operation. Outdoor dining may occur between 7 a.m. and 10 p.m. seven days a week. The city may allow extended hours for street dining decks for special events and holidays.
22. Open for Use. All outdoor dining in the public right-of-way must be open for use a minimum of five days per week, except in cases of inclement weather. "Open for use" means that the eating or drinking establishment must have tables ready for customers to use the outdoor dining area when the establishment is open for business.
23. All street dining facilities may be subject to inspection by the City on an annual basis or as needed to ensure compliance with this section, conditions of approval, and administrative procedures.

Design Permit Findings

A. The proposed project is consistent with the general plan, local coastal program, and any applicable specific plan, area plan, or other design policies and regulations adopted by the city council.

Community Development Staff and the Planning Commission have reviewed the project. The proposed prototype street dining deck complies with the development standards of the mixed use village zoning district. Specifically, all of the requirements of Capitola Municipal Code §17.74.060 have been met. The project secures the purpose of the General Plan, and Local Coastal Program, and design policies and regulations adopted by the City Council.

B. The proposed project complies with all applicable provisions of the zoning code and municipal code.

Community Development Staff and the Planning Commission have reviewed the application for the prototype street dining deck design. The project complies with all applicable provisions of the zoning code and municipal code.

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

Section 15305 (class 5) and 15311 (class 11) of the CEQA Guidelines exempts minor alterations in land use limitation in areas with an average slope of less than 20%, which do not result in any changes in land use or density and projects that consist of construction or placement of minor structures that are accessory to existing commercial facilities and is subject to Section 753.5 of Title 14 of the California Code of Regulations. This project involves street dining decks within the Mixed-Use Village zoning district. No adverse environmental impacts were discovered during review of the proposed project.

- D. The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.**
Community Development Staff and the Planning Commission have reviewed the project. The proposed prototype street dining deck will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.
- E. The proposed project complies with all applicable design review criteria in Section 17.120.070 (Design review criteria).**
The Community Development Staff and the Planning Commission have reviewed the application. The proposed prototype street dining deck complies with all applicable design review criteria in Section 17.120.070.
- F. For projects in residential neighborhoods, the proposed project maintains the character, scale, and development pattern of the neighborhood.**
Community Development Staff and the Planning Commission have all reviewed the application for the prototype street dining deck. The design of the deck will fit in nicely with the existing mixed-use village neighborhood. The project will maintain the character, scale, and development pattern of the village.

Coastal Development Permit Findings

- A. The project is consistent with the LCP land use plan, and the LCP implementation program.**
The proposed development conforms to the City's certified Local Coastal Plan (LCP) land use plan and the LCP implementation program.
- B. The project maintains or enhances public views.**
The proposed project is located on within public parking spaces (maximum 25) within the mixed-use village. The project will not negatively impact public landmarks and/or public views.
- C. The project maintains or enhances vegetation, natural habitats and natural resources.**
The proposed project is located within public parking spaces in the mixed-use village zoning district. The prototype street dining deck provides coastal access. The prototype street dining deck will maintain or enhance vegetation consistent with the allowed use and will not have an effect on natural habitats or natural resources.
- D. The project maintains or enhances low-cost public recreational access, including to the beach and ocean.**
The project involves a prototype street dining deck will not negatively impact low-cost public recreational access. For each parking space utilized for the street dining deck, two bicycle parking spaces are required.
- E. The project maintains or enhances opportunities for visitors.**
The project involves a prototype street dining deck and will not negatively impact visitor serving opportunities. The street dining deck will enhance the visitor experience providing additional opportunities for dining with views and addition bike parking spaces.
- F. The project maintains or enhances coastal resources.**
The project involves a prototype street dining deck and will not negatively impact coastal resources. On busy beach days, the additional seating will provide more opportunities for visitors to dine on a deck and take in the view and coastal feel of the village.

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

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

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

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

Attachments:

1. Prototype Street Dining Deck plan set **(Note: To be published as additional materials)**