

City of Capitola

Planning Commission Meeting Minutes

Thursday, July 20, 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 6:02 PM. In attendance, Chair Westman, Vice Chair Christiansen, Commissioner Estey, Commissioner Jensen. Absent, Commissioner Wilk.*
2. **New Business** – *None*
3. **Oral Communications**
 - A. **Additions and Deletions to the Agenda** – *Request to move 5A to Public Hearing as Item A.*
 - B. **Public Comments** – *None*
 - C. **Commission Comments** – *None*
 - D. **Staff Comments** – *None*
4. **Approval of Minutes**
 - A. March 2, 2023 – Planning Commission Meeting Minutes
Motion to approve the 3/2/2023 minutes: Vice Chair Christiansen
Seconded: Commissioner Estey
Voting Yea: Chair Westman, Vice Chair Christiansen, Commissioner Estey, Commissioner Jensen
 - B. June 1, 2023 – Planning Commission Meeting Minutes
Motion to approve the 6/1/2023 minutes: Vice Chair Christiansen
Seconded: Commissioner Estey
Voting Yea: Chair Westman, Vice Chair Christiansen, Commissioner Estey, Commissioner Jensen
5. **Consent Calendar**
 - A. **4610 Crystal Street**
Permit Number: #22-0396
APN: 034-193-03

Design Permit, for second-story additions to a single-family residence with a Minor Modification for the required covered parking dimensions. The project is located in the R-1 (Single-Family Residential) zoning district.

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

Environmental Determination: Categorical Exemption

Property Owner: Diedre McRobie

Representative: John Craycroft, Filed: 09.21.22

Motion to approve: Commissioner Jensen

Seconded: Vice Chair Christiansen

Voting Yea: Chair Westman, Vice Chair Christiansen, Commissioner Estey, Commissioner Jensen

Conditions of Approval:

1. *The project approval consists of construction of a new 550 square-foot second-story addition. The maximum Floor Area Ratio for the 3,040 square foot property is 57% (1,732 square feet). The total FAR of the project is 55.6% with a total of 1,689 square feet, compliant with the maximum FAR within the zone. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on July 20, 2023, except as modified through conditions imposed by the Planning Commission during the hearing.*

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 time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.*

4. *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.*

5. *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.*

6. *Prior to issuance of building permit, a landscape plan shall be submitted and approved by the Community Development Department. The landscape plan can be produced by the property owner, landscape professional, or landscape architect. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of any proposed (but not required) irrigation systems.*

7. *Prior to issuance of a Certificate of Occupancy, the applicant shall complete landscape work to reflect the approval of the Planning Commission. Specifically, required landscape areas, all required tree plantings, privacy mitigations, erosion controls, irrigation systems, and any other required measures shall be addressed to the satisfaction of the Community Development Director.*

8. *Prior to issuance of building permit, all Planning fees associated with permit #-22-0396 shall be paid in full.*

9. *Prior to issuance of building permit, the developer shall pay Affordable housing impact fees as required to assure compliance with the City of Capitola Affordable Housing Impact Fee Ordinance.*

10. *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.*

11. *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.*

12. *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).*

13. *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.*

14. *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.*

15. *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*

16. *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.*

17. *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.

18. *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 17.156.080.*

19. *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.*

20. *Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.*

21. *Prior to issuance of building permits, the building plans must show that the existing overhead utility lines will be underground to the nearest utility pole.*

22. *Outdoor lighting shall comply with all relevant standards pursuant to Municipal Code Section 17.96.110, including that all outdoor lighting shall be shielded and directed downward such that the lighting is not directly visible from the public right-of-way or adjoining properties.*

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 proposed project. With the granting of a Minor Modification to the required dimensions for covered parking spaces, 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 proposed project. With the granting of a Minor Modification to the required dimensions for covered parking spaces, 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 15301(e) of the CEQA Guidelines exempts additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less. The project involves a

net increase of 375 square feet to a single-family residence which will increase the net floor area by approximately 29%. 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 remodel of a single-family residence 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 project complies with all applicable design review criteria in Section 17.120.070.

F. 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 proposed project. The design of the home will fit nicely with the existing neighborhood. The project will maintain the character, scale, and development pattern of the neighborhood.

Minor Modification Findings:

G. The modification will be compatible with adjacent structures and uses and is consistent with the character of the neighborhood or district where it is located.

The Modification allows the property to maintain the existing parking arrangement and capacity which is both compliant in terms of minimum parking spaces and similar to that of many properties of the neighborhood.

H. The modification will not adversely impact neighboring properties or the community at large.

The proposal maintains the existing parking capacity of the lot, which already complies in terms of minimum parking spaces.

I. The modification is necessary due to unique characteristics of the subject property, structure, or use.

The existing garage is located within the required side and rear setbacks. Modification of the existing garage to meet the depth requirement would not be possible without also meeting modern setback requirements, effectively requiring the complete demolition of the garage and partial demolition of the residence's habitable space.

J. The modification will be consistent with the purpose of the zoning district, the general plan, local coastal program, and any adopted area or neighborhood plan.

The proposed parking arrangement provides the required number of on-site spaces and does not exacerbate any existing nonconformities. Although the existing garage is substandard in terms of required depth and current industry practice for height, it can still accommodate most modern vehicles.

K. The modification will not establish a precedent.

A significant number of single-family residences in the Jewel Box neighborhood have nonconforming setbacks because much of the neighborhood was built prior to the city's incorporation and under different development standards. The Jewel Box neighborhood has a largely consistent size and shape of lots; however, the subject property is slightly narrower at 38 feet compared to the neighborhood average of 40-foot lot widths. The project also results in maintaining ideal functional parking opportunities.

L. The modification will not adversely impact coastal resources.

The subject property does not contain coastal resources. The proposed on-site parking arrangement will not adversely impact coastal resources in the area.

6. Public Hearings

A. 201 Monterey Avenue #C Permit Number: #22-0125 APN: 035-185-06

Revocation of a Conditional Use Permit for sidewalk dining at an existing restaurant (Castagnola Deli & Café) located within the Mixed-Use Village (MU-V) zoning district.

This project is in the Coastal Zone but is not appealable to the Coastal Commission.

Environmental Determination: Categorical Exemption 15321

Property Owner: Atlantis Properties

Representative: Daniel Castagnola Filed: 3.21.22

Senior Planner Brian Froelich presented a staff report providing an update to the revocation of the sidewalk use permit. As of the time of the meeting, applicant provided full payment of outstanding permit/rent fees and committed to following the City's permitting process. Staff recommended canceling the revocation process and adding conditions to the sidewalk use permitting process in order to avoid canceled revocations in the future.

Commissioner Estey asked for clarification regarding recommended condition 28.

Chair Westman opened the public hearing. John, Capitola village resident, inquired about the sidewalk use fee's purpose.

John, Zoom participant, concurred with the previous commenter and criticized the uses of the Capitola Village commercial spaces.

Motion to approve: Commissioner Estey

Seconded: Vice Chair Christiansen

Voting Yea: Chair Westman, Vice Chair Christiansen, Commissioner Estey, Commissioner Jensen

Conditional Use Permit Conditions of Approval

1. The project approval consists of a Coastal Development Permit, Conditional Use Permit and Design Permit for the sale of wine and beer, sidewalk dining and outdoor dining in the side patio dining. The original CUP application #07-048 was approved on September 6, 2007, by the Planning Commission. An amendment to the CUP application #22-0125 was approved by Planning Commission on July 21, 2022. The Planning Commission revoked modified the sidewalk dining portion of the permit on July 20, 2023.

2. There shall be no more than six seats provided inside the restaurant.

3. Outdoor dining is permitted in an eight foot by 11 foot space in the side patio located within 201 Monterey Avenue; and three, two foot by two foot bistro tables immediately adjacent to the building within the public sidewalk. The tables, chairs, and umbrellas shall not interfere with a required five-foot sidewalk clearance. The table nearest the north entrance shall be limited to two opposing chairs parallel to the sidewalk. Tables, chairs, and umbrellas are prohibited on the public sidewalk.

4. Any significant modifications to the size and appearance of the structure must be approved by the Planning Commission. Similarly, any significant change to the use itself, or site, must be approved by the Planning Commission.

5. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.

6. Outdoor dining may occur between 7 a.m. and 10 p.m. seven days a week.

7. The applicant shall maintain a current business license to operate the business.

8. Beer and wine consumption shall be limited to inside the restaurant and the patio area. No beer and wine consumption shall be allowed within the public right of way sidewalk dining.

9. Signage shall be maintained at the entry/exit to the restaurant and patio stating that “consumption of alcohol prohibited beyond this point in sidewalk dining”.

10. No new lighting or signs are approved with this permit.

11. Amplified sound is prohibited outside the building.

12. A restroom shall be available to customers at all times during business hours.

Sidewalk Dining Conditions of Approval

13. The Covid-19 temporary use permit for outdoor dining expires on September 15, 2022. To utilize the sidewalk dining after September 15, 2022, the applicant shall complete a revocable

encroachment agreement, in a form provided by the Public Works Department, for all approved privately installed improvements within the street right-of-way.

14. Prior to use beyond September 15, 2022, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a permit amendment for Planning Commission consideration. Failure to remedy a non-compliance in a timely manner may result in permit revocation.

15. The sidewalk dining shall comply with all applicable requirements of Capitola Municipal Code Section 17.96, the Zoning Code, the revocable encroachment permit, and all other applicable laws, administrative policies, rules, and regulations.

16. The outdoor dining shall be consistent with the Local Coastal Program and not adversely impact coastal resources, coastal access, and coastal views.

17. **Materials and Furniture.** The sidewalk dining must utilize high-quality, durable materials that are compatible with surrounding development and can withstand inclement weather. The application included black wrought iron tables and chairs, as well as two commercial grade umbrellas. The tables, chairs, and umbrellas approved within this permit must be well maintained. Any visible signs of weathering (fading, rust, holes, etc.) shall be addressed immediately through replacement or maintenance. Faded umbrellas shall be replaced with a UV rated fabric and not include logos, labels, or advertising. Upon Planning Commission approval, the property owner will order new umbrellas to replace the existing faded umbrellas.

18. **CDP Recertification Requirement.** All CDPs issued for outdoor dining permits shall require recertification by the City Council no later than three years after the CDP is issued, and every five years thereafter. Recertification shall require a public hearing before the City Council. City staff will initiate the recertification process by providing notice to the applicant of the hearing date, at least thirty (30) days in advance of the public hearing. For a CDP to be recertified, the City Council must find that the subject project is operating in compliance with the findings and conditions of the CDP and in compliance with the LCP. The City Council may recertify, modify, or revoke the CDP.

19. **Signs.** No new business signs are included in the application.

20. **Stormwater Drainage.** The sidewalk dining must allow for adequate stormwater drainage. Sidewalk dining areas shall not block the drainage flow along the gutter line. Sidewalk dining shall not block access into any drain inlet or other drainage/stormwater facility.

21. **Utilities.** The sidewalk dining shall not interfere with utility boxes, water hydrants, storm drains, and all other related facilities.

22. **Trash and Maintenance.** The outdoor dining shall be maintained in a clean and safe condition as determined by the City, including as follows:
 - 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

23. **Sound.** Music and amplified sound are not allowed in an outdoor dining area.

24. **Hours of Operation.** Outdoor dining may occur between 7 a.m. and 10 p.m. seven days a week.

25. **Open for Use.** All outdoor dining in the public right-of-way must be open for use a minimum of five days per week, except in cases of inclement weather. “Open for use” means that the eating or drinking establishment must have tables ready for customers to use the outdoor dining area when the establishment is open for business.

26. All street dining facilities may be subject to inspection by the City on an annual basis or as needed to ensure compliance with this section, conditions of approval, and administrative procedures.

27. The Community Development Director may revoke the sidewalk dining permit if payment in-full is not received after 30 days of issuance of a notice of delinquency or if there is a lapse in providing proof of insurance coverage. The applicant may appeal the Community Development Director’s decision to revoke the permit within 10 calendar days of the decision by providing the applicable form and fees per Section 17.152.

28. Following any late payment, the applicant/owner will be invoiced annually in the following billing cycle. After two successive timely annual payments, the applicant/owner shall be eligible for quarterly payments.

B. 111 Capitola Avenue

Permit Number: 23-0325

Location: 2 parking spaces in front of English Ales

Coastal Development Permit, Design Permit, and Major Encroachment Permit for Custom Street Dining Deck for English Ales at 111 Capitola Avenue in the Mixed-Use Village zoning district.

Environmental Determination: Categorically Exempt

Property Owner: John Kettman

Representative: Peter Blackwell, Business Owner

Senior Planner Brian Froelich presented a staff report about the custom dining deck proposal at English Ales, 111 Capitola Ave. Staff recommended adding condition 25 to the permit.

Commissioner Jensen asked about the width of the deck extending beyond the façade of the building proposing use of the sidewalk and wanted to confirm that neighboring businesses did not object to the proposed use.

Commissioner Estey asked about the prototype umbrellas.

Vice Chair Christiansen asked for clarification about the location of the steel flooring plate used to allow storm drainage under the dining deck.

Chair Westman opened the public hearing. There was no public comment.

Chair Westman wanted to ensure there were no possible alternatives that would prevent the ramp from encroaching upon the sidewalk and commented that other dining deck designs don't have a similar encroachment. Senior Planner Froelich commented that other dining decks won't be impacted by graded streets and therefore do not use a similar design as is being proposed at English Ales, and Community Development Director Herlihy confirmed that these plans meet ADA requirements and the sidewalk encroachment of the ramp will be added to the findings.

Vice Chair Christiansen moved for approval with expanded findings. Commissioner Jensen seconded.

Chair Westman commented that she voted nay due to her opposition to outdoor dining on Capitola Ave in general.

Motion to approve: Vice Chair Christiansen

Seconded: Commissioner Jensen

Voting Yea: Vice Chair Christiansen, Commissioner Estey, Commissioner Jensen

Voting Nay: Chair Westman

Conditions of Approval:

1. The project approval consists of a Coastal Development Permit, Design Permit, and Major Revocable Encroachment Permit for a custom street dining deck. The proposed custom 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. The Design Permit, Coastal Development Permit, and Major Revocable Encroachment Permit is transferable between owners so an approved street dining deck design 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 custom 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 and provide a Certificate of Insurance, 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 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 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.
9. 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.
10. Signs. A maximum limit of one business identification sign and one menu sign each not to exceed two square feet are allowed per street dining deck.
11. Stormwater Drainage. At time of building permit, the custom street dining deck must be amended to include drainage above the gutter and a hatch above the storm drain to allow for adequate stormwater drainage and access to the inlet. 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.
12. Utilities. All outdoor dining shall not interfere with utility boxes, water hydrants, storm drains, and all other related facilities.
13. 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.
14. Sound. Music and amplified sound are not allowed in an outdoor dining area.

15. 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.
16. 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.
17. Materials and Furniture. The street dining deck shall have high-quality, durable materials that can withstand inclement weather. All approved infrastructure shall be maintained including but not limited to tables, chairs, umbrellas, lights, heating equipment, etc. If signs of weathering (fading, rust, holes, etc.) are visible, the item(s) shall be replaced in-kind immediately. Faded umbrellas shall be replaced with a UV rated fabric and may not include logos, labels, or advertising. Overtime, if the applicant would like to modify the tables, chairs, umbrellas, lights, or heating equipment, they must first receive written approval from the Community Development Director or Planning Commission.
18. Stanchions. The portable stanchions and ropes shall not encroach into the sidewalk. They must be located on the street dining deck. Capitola Prototype Street Dining Deck. The portable stanchions and ropes shall not encroach into the sidewalk. They must be located on the street dining deck.
19. 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.
20. The applicant shall provide the required (four) bike parking spaces via the in-lieu fee option. The in-lieu bike fee requires a one-time \$200 per bike parking space fee and an ongoing annual \$300 per bike space annual fee. The annual fee is subject to increase as authorized by the City Council. The applicant shall make the initial payment prior to issuance of Building Permits for the dining deck.
21. Planters. The custom planters shall be repainted to match the building, prior to certificate of occupancy for the dining deck.
22. Heaters. Each street dining deck may have free standing heaters. The free-standing heaters shall be uniform and match within each dining deck. The details of the street heaters shall be submitted with the building permit application.
23. The applicant shall modify the plans for Building Permit plan check to replace the proposed umbrellas and umbrella bases with prototype umbrellas with a maximum spread of eight foot six inches wide, prototype umbrella bases, and prototype string lights.
24. The plans submitted for Building Permit plan check shall show that the gutter is to remain clear for drainage and remove the portion of the fascia board that crosses the gutter.

Design Permit Findings:

A. The sidewalk dining area or street dining deck complies with all applicable requirements of this section, the Zoning Code, and all other applicable laws, administrative policies, rules, and regulations. The proposed dining deck complies with all applicable standards of the Zoning Code and CDP. Conditions of approval have been added to ensure ongoing compliance. The minor encroachment into the sidewalk for the entry ramp is necessary to meet accessibility standards due to the steep slope of the street at this location. The ramp does not encroach into the minimum required sidewalk clearance area.

B. If located in the coastal zone, the sidewalk dining area or street dining deck is consistent with the Local Coastal Program, will not adversely impact coastal resources, coastal access, and coastal views, and has been authorized through a valid coastal development permit.

The CDP applies to this proposal and the limited use of Village street parking for dining decks. The applicant is providing four bike parking spaces to offset the use of street parking.

C. The design of the sidewalk dining area or street dining deck supports a safe, inviting, and lively public realm consistent with the purpose of the MU-V zoning district as provided in Section 17.20.040 (Purpose of the Mixed Use Zoning Districts).

The proposed dining deck provides an inviting and active place for guests and visitors to enjoy Capitola Village.

D. The sidewalk dining area or street dining deck materials include high-quality, durable materials that are compatible with surrounding development and can withstand inclement weather.

The applicant has proposed all weather materials and items. The dining deck will maintain a quality aesthetic with regular maintenance, as conditioned to remove the proposed umbrellas and umbrella stands.

E. 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.

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 within public parking spaces (maximum 25) in 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 street dining deck maintains coastal access. The 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 street dining deck will not negatively impact low-cost public recreational access. For each parking space utilized for the street dining deck, four bicycle parking spaces are required, and the applicant has agreed to the in-lieu fee option.

E. The project maintains or enhances opportunities for visitors. The project involves a 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.

F. The project maintains or enhances coastal resources. The project involves a custom 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 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. The minor encroachment into the sidewalk for the entry ramp is necessary to meet accessibility standards due to the steep slope of the street at this location. The ramp does not encroach into the minimum required sidewalk clearance area.

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 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.

Major Revocable Encroachment Permit Findings:

A. The project’s benefit to the applicant and community exceed the detriment to the community. The City has determined that street dining decks, in a limited implementation, are a net benefit to the Capitola Village. The loss of parking is mitigated by increased bike parking and enhanced visitor and resident opportunities to enjoy the unique and charming Village and beach area. The minor encroachment into the sidewalk for the entry ramp is necessary to meet accessibility standards due to the steep slope of the street at this location. The ramp does not encroach into the minimum required sidewalk clearance area.

**C. 103 Kennedy Drive
Permit Number: 22-0376**

APN: 036-551-08

Design Permit and Conditional Use Permit Amendment to convert parking spaces to an outdoor tasting area, bike parking, and mobile food vending more than four times per year.

The project is not located within the Coastal Zone.

Environmental Determination: Categorically Exempt 15332

Property Owner: John McCoy

Representative: Adair Paterno, Filed: 08.31.2022

Senior Planner Froelich presented a staff report regarding the outdoor dining proposal at Sante Adairius, 103 Kennedy Dr.

Commissioner Estey asked for confirmation regarding bicycle parking.

Vice Chair Christiansen asked about any possible drainage concerns.

Chair Westman opened the public hearing.

Adair Paterno, Sante Adairius business owner, commented about the history of this proposal and the impact that this outdoor dining space has on her business.

John McCoy, property owner, praised his tenant, recounted his experience of the transformation of the neighborhood since Sante Adairuis opened business, and offered his support for this proposal.

Chair Westman asked about outdoor live music plans at the business.

Commissioner Estey asked about the change to allowable occupancy that this proposal would provide. Paterno answered that there would be an increase of approximately 50 patrons.

Manuel Viera, owner of the adjacent mobile home park, Cabrillo Mobile Home Estates, commented on the history of the property's construction, use, and the impact this business has on his mobile home park and the surrounding area, including concerns about public drunkenness, traffic incidents, and other police calls for service. Viera requested the property use return to the original conditional use permit allowances.

Linda Viera, owner of the adjacent mobile home park, Cabrillo Mobile Home Estates, provided her opposition to the proposal, citing concerns about pedestrian traffic trespassing through the residential area.

Chair Westman closed the public hearing.

Commissioner Jensen asked if any data or research has been gathered regarding the concerns presented by the Viera's. Senior Planner Froelich commented that PD and the Police Chief do not have any concerns about the proposal.

Commissioner Estey expressed concerns about noise and the possible access to the adjacent private mobile home property.

Chair Westman proposed an added condition preventing live music outdoors, and a condition to add signage alerting patrons of the adjacent private property.

Motion to approve with added conditions: Vice Chair Christiansen

Seconded: Commissioner Estey

Voting Yea: Chair Westman, Vice Chair Christiansen, Commissioner Estey, Commissioner Jensen

Conditions of Approval:

1. The current application is for an amendment to the 2011 Conditional Use Permit. Amendment is approved as reviewed by the Planning Commission on July 20, 2023, with the allowed modifications shown in ~~strikeout~~ and underline. The project approval consists of a Conditional Use Permit for a microbrewery with retail sales, tasting room, outdoor tasting area, and mobile food vending (Santa Adairius) located at 100-200 Kennedy Drive. The above-mentioned use shall allow the sale and consumption of food and beverages. No restaurant or table service is permitted without a separate conditional use permit.

2. Any significant modifications to the size or exterior appearance of the structure must be approved by the Planning Commission.
3. Delivery truck loading and unloading hours shall be limited to 7:30 a.m. – 8.p.m. Monday through Friday, and 8:00 a.m. – 8:00 p.m. Saturday, Sunday, and holidays in order to minimize noise impacts to neighboring residents.
4. All signs shall be consistent with the master sign program. The approved sign program shall permit tenants signage along the north elevation of the new building where the main entrances to the office areas will be located. Each of the five tenant spaces will be permitted one wall sign, with a maximum height of 20" and a maximum length of 8'. Signs are to be of wood or metal construction with vinyl graphics. These sign requirements will also apply to the existing building when new tenants are incorporated and the existing nonconforming signs are removed.
5. All businesses shall obtain a sign permit from the Community Development Department.
6. No roof 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, building permit submittal.
7. All lighting shall be focused downward and away from adjacent properties. The Community Development Department shall review lighting upon receipt of a legitimate complaint.
8. All uses shall be conducted wholly within an enclosed building, except for off-street parking and loading facilities, mobile food vending, and tasting in the designated outdoor tasting area. No merchandise shall be displayed outside the building without an individual Conditional Use Permit being issued for the business.
9. All businesses within the center shall obtain a business license and shall comply with all local and state regulations prior to commencing business.
10. Manufacturing and industrial processes shall use only gas or electricity as a fuel; provided, however, that equipment using other fuel may be installed for standby purposes only.
11. No owner or invitee shall use or permit any sound system including, but not by way of limitation, loudspeakers, public address, systems, sound amplifiers, radio, or broadcast within the project in such a manner that any sounds reproduced, transmitted, or produced shall be directed beyond the interior of the building towards the residential areas. This condition does not prohibit the property owner or business from applying for a Special Event Permit that includes live or amplified sound.
12. No vehicle used regularly on site and under control of a business owner or invitee shall be equipped with back up noise devices audible more than twenty feet from vehicle and owner and invitee shall encourage delivery vehicles outside of their control to approach the facility in such a way to minimize noise.
13. Hours of normal operation on site shall be 7:30AM until 8PM. The business may remain open until 10PM a maximum of six times per calendar year for special events. Special events shall only take place on Fridays or Saturdays. Vehicles coming and going at any non-business hours shall be quiet and conform to normal sound levels.
14. Equipment or machinery regularly used in the production of goods or services on site that produces audible at the property boundaries, including but not limited to sawing, cutting, grinding, shall require a Conditional Use Permit. Air compressors shall be of a quiet type and enclosed inside the building in sound containing enclosures.

15. Trash enclosures shall be covered, gated, and maintained to provide a clean and sanitary area.
16. Any outdoor washdown of equipment shall be prohibited.
17. The gate along Rosedale Avenue will be closed after business hours or by 9:00 p.m.
18. Signage will be placed on 100-200 Kennedy Drive. at the entrance to the mobile home park stating. **"Not a Through-Street- Resident Traffic Only"** and **"Private property. Please be respectful of our neighbors and do not walk through the mobile home park."**
19. Prior to exercising the conditional use permit, the applicant must provide documentation of plan approval by the Central Fire Protection District.
20. Mobile food vendors shall obtain a Capitola Business License and any required county and state licenses prior to commencing business in Capitola.
21. Only one mobile food vendor shall operate at the property at a time.
22. Placement of food vendor vehicles or trailers shall not obstruct fire lane access, as determined by the Fire Marshal.
23. Placement of food vendor vehicles or trailers shall not obstruct vehicular right of way.
24. Mobile food vendors shall supply their own bird deterrent trash receptacles and empty them in the refuse collection areas when full and upon leaving the premises daily.
25. Mobile food vendor lighting shall be limited to lighting located on the food vendor vehicle or trailer. Lighting shall be in compliance with the Capitola Municipal Code.
26. Mobile vendor may not discharge any liquids including wash water onto the ground.
27. Mobile vendor must clean up any spills caused by their operation or customers.
28. Mobile food vendors shall be responsible for maintaining ADA access to the vendor vehicle or trailer.
29. Mobile food vendors shall comply with all sign standards in CMC Chapter 17.80. Specifically, mobile food vendors shall comply with the prohibition of portable signs in CMC §17.80.060(A)(2) and flag signs in CMC §17.80.060(A)(5). Signs will be limited to signage on the mobile food vendor vehicle and/or trailer.
30. Mobile food vendors shall not put out seating or tables for customers.
31. Mobile food vendors shall not utilize a loudspeaker or other amplified sound.
32. The applicant shall obtain a Building Permit for any ADA accessibility ramps, handrails, or other requirements for the proposed outdoor tasting area.

Conditional Use Permit Findings

1. The proposed use is allowed in the applicable zoning district. Outdoor uses and mobile food vending are allowed in the I (Industrial) zoning district with Planning Commission approval of a conditional use permit.
2. 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 outdoor use and mobile food vending use is consistent with the general plan, local coastal program, and zoning code.

3. 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 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.

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

Community Development Department Staff, Public Works Staff, Police Department, Central Fire Protection District, and the Planning Commission have reviewed the project and determined that it will not be detrimental to the public health, safety, and welfare.

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

The proposed use is located within the City of Capitola and is adequately served by existing services and infrastructure.

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, and the Planning Commission have reviewed proposed outdoor tasting area and determined complies with the development standards of the I (Industrial) zoning district.

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 outdoor tasting area and determined the project complies with all applicable provisions of the zoning code and municipal code.

C. 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, the Development and Design Review Committee, and the Planning Commission have reviewed the project. The proposed outdoor tasting area will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

D. The proposed project complies with all applicable design review criteria in Section 17.120.070 (Design review criteria).

The Community Development Staff, the Development and Design Review Committee, and the Planning Commission have reviewed the application. The proposed outdoor tasting area comply with all applicable design review criteria in Section 17.120.070.

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

Community Development Staff, the Development and Design Review Committee, and the Planning Commission have all reviewed the application for the facade modifications. The project will maintain uses and operations that have been ongoing without complaint or issue.

D. 1855 41st Avenue

Permit Number: #23-0041

APN: 034-261-38, -52

Conditional Use Permit to allow Capitola Mall food court restaurants to sell beer and wine within the designated food court area. The project is located within the C-R (Regional Commercial) zoning district.

The project is not located within the Coastal Zone.

Environmental Determination: Categorical Exemption

Property Owner: Merlone Geier

Representative: Brian Kirk, Filed: 02.03.23

Associate Planner Sesanto presented a staff report regarding the proposal of a conditional use permit to allow the sale of beer and wine at the food court at Capitola Mall, 1855 41st Ave.

Commissioner Estey asked for clarification regarding to-go sales and how to avoid to-go beverages being consumed elsewhere in the mall. Associate Planner Sesanto offered clarification citing ABC code.

Commissioner Jensen asked about the history of alcohol licenses at the food court.

Chair Westman opened the public hearing.

Brian Kirk, General Manager at Capitola Mall, answered Commissioner Jensen's question about the history of alcoholic beverage permits at the food court and offered his appreciation for consideration of this permit. He commented on the effect that this proposal would have on the tenants and the mall itself.

Vice Chair Christiansen moved approval. Commissioner Jensen Seconded.

Motion to approve: Vice Chair Christiansen

Seconded: Commissioner Jensen

Voting Yea: Chair Westman, Vice Chair Christiansen, Commissioner Estey, Commissioner Jensen

Conditions of Approval:

1. The project approval consists of a Conditional Use Permit for the sale and consumption of beer and wine by Capitola Mall food court restaurants within the designated shared seating area. The project is located within the C-R (Regional Commercial) Zoning District. Eligible tenant spaces and the designated alcohol area is limited to the areas indicated on the final plans reviewed and approved by the Planning Commission on July 20, 2023, except as modified through conditions imposed by the Planning Commission during the hearing.
2. No open alcoholic containers may leave the designated area.
3. Alcohol sales are permitted during primary mall operating hours unless the California Department of Alcoholic Beverage Control places stricter requirements.
4. In order to be eligible, businesses must be considered a restaurant (bona fide eating place) by the Capitola Planning Director and the California Department of Alcoholic Beverage Control (ABC). All uses that sell or dispense alcoholic beverages shall require an ABC license.

5. Prior to obtaining an ABC license, each participating business shall obtain a letter from the Chief of Police either a Letter of Public Necessity and Convenience or written determination that a PCN is not required.
6. Businesses seeking ABC licenses shall participate in an employee program, with curriculum that includes not only business-related activities but also a section on ABC laws. Businesses must show ongoing commitment to training employees and agree to take part in future ABC LEADS (Licensee Education on Alcohol and Drugs) workshops.
7. The applicant shall install visible signage at all exits from the Food Court stating that “no alcoholic beverages beyond this point” and any additional signage required by local, state, or federal law or code.
8. Alcoholic beverage supplies, including kegs, and unsold alcohol products shall be kept indoors and in secure locations and at all times.
9. The Planning Department shall perform a final inspection, prior to initiating beer and wine sales for each tenant. Prior to the Planning Department final inspection, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director.
10. 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.
11. 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 17.156.080.
12. Upon evidence of non-compliance with conditions of approval, applicable municipal or ABC 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 in the manner provided in CMC §17.156.110.

Conditional Use Permit Findings:

- A. The proposed use is allowed in the applicable zoning district. Community Development Staff and the Planning Commission have reviewed the project use and determined the proposed alcohol use is consistent with Conditionally permitted uses within the C-R (Regional Commercial) 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. Community Development Staff and the Planning Commission have reviewed the proposed Conditional Use Permit and determined it complies with all development standards and meets the intent and purpose of the C-R (Regional Commercial) 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. Community Development Staff and the Planning Commission have reviewed the proposed use and determined it fits well with the existing food court and commercial center.
- D. The proposed use will not be detrimental to the public health, safety, and welfare.

The Community Development Department, Police Department, and the Planning Commission have reviewed the proposed use and determined it will not be detrimental to the public health, safety, or welfare. Conditions of approval have been included to carry out these objectives.

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

The proposed use is located along within the Capitola Mall shopping center and is adequately served by existing services and infrastructure.

California Environmental Quality Act (CEQA) Findings:

A. This project is categorically exempt under Section 15301 of the California Environmental Quality Act and is subject to Section 753.5 of Title 14 of the California Code of Regulations.

Section 15301 of the CEQA Guidelines exempts the permitting, licensing, and minor alterations to existing private facilities. This project involves an existing commercial space with the addition of alcohol sales within the C-R (Regional Commercial) zoning district. No adverse environmental impacts were discovered during review of the proposed project.

7. **Director's Report** – *Community Development Director Herlihy presented the Director's Report, commenting about the next August 17th meeting, the updated agenda format to be used in future Planning Commission meetings, and gave an update about the status of the HCD review of the Housing Element.*

8. **Commission Communications** – *Chair Westman commented that she will be absent on September 7th.*

9. **Adjournment** – *Meeting was adjourned at 7:11PM.*

Attest:

Austin Westly, Deputy City Clerk