

Capitola Planning Commission

Agenda Report



Meeting: April 3, 2025

From: Community Development Department

Address: 115 San Jose Avenue

Project Description: Permit #25-0139. APN# 035-221-18 &19. Proposed amendments to the Master Conditional Use Permit for the mixed-use Capitola Mercantile to modify the outdoor seating plan and remove a condition prohibiting live entertainment. The site is in the MU-V (Mixed-Use Village) zoning district.

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

Environmental Determination: Categorical Exemption

Recommended Action: Consider Permit #25-0139 and approve the amendments to the Master Conditional Use Permit with the modified conditions of approval.

Property Owner: Capitola Associates, LLC

Representative: Dennis Norton, filed: 03.11.2025

Background: The subject property is centrally located within the Capitola Village between San Jose Avenue and the Esplanade. The Capitola Mercantile contains 12 commercial tenant spaces, totaling 7,788 square feet, which are currently a mix of retail, entertainment, and restaurant establishments. The development also includes the adjacent building at 107 San Jose Avenue which includes a two-story structure with a 1,185-square-foot residential space on the second floor, a 535-square-foot garage, and the Left Coast Sausage Worx business. The Mercantile is surrounded by one- and two-story structures with retail, restaurant, hotel uses, and several residential units.

The Capitola Mercantile is currently operating with a Master Conditional Use Permit (MCUP #24-0036) that was last approved by the Planning Commission on May 2, 2024. The MCUP outlines the types of uses that are permitted in the tenant spaces, how the shared common areas can be used, parking, and establishes operational conditions of approval for the Mercantile property (Attachment 1).

Discussion: A Master Conditional Use Permit (MCUP) explicitly allows a variety of principally permitted and conditionally permitted uses as permitted uses within a specific location. A tenant may change one use to another use administratively if the proposed use is established as an allowed use in the MCUP. MCUPs are regulated under Capitola Municipal Code (CMC) §17.124.100 "Master conditional use permits – Tenant use permits."

MCUPs are useful to an owner/property manager of a large, multi-tenant property during tenant turnover and to have a uniform set of conditions that regulate the entire property rather than individual tenants pursuing permits for a specific tenant space within a broader development. MCUPs also allow tenants to receive staff level approval for pre-approved types of uses that may have otherwise required a Conditional Use Permit and public hearing, saving time for new tenants. In the case of the Mercantile, each tenant's customers are able to jointly use the common spaces of the property's 'shared premises' without having to accommodate additional onsite parking. Also, small scale (takeout) restaurants are able to apply for administrative permits to establish sales of beer and wine. The Mercantile MCUP does specify that up to 50% of tenant spaces in the Mercantile can be utilized for businesses that serve beer and wine.

Shared Premises

The MCUP allows all Capitola Mercantile businesses to utilize the interior and exterior quasi-public seating areas as 'shared premises' (Attachment 2). These areas include the quasi-public seating areas in the lobby through the center of the building, an outdoor patio adjacent to the main entrance to the building along Esplanade (Patio B), and a small outdoor patio adjacent to the southwest entrance adjacent to the Esplanade.

With the 2024 MCUP approval, the Planning Commission included conditions that limited seating in Patio B to four tables and 16 seats and also prohibited the property from live amplified entertainment.

The applicant is requesting changes to two MCUP conditions of approval. The conditions are currently read as follows:

11. Patio B, as noted on the Shared Premises Plan, shall be limited to four tables and 16 chairs.

12. Amplified sounds associated with live performances is prohibited on the premises.

Building code standards for occupancy and egress must be considered in the layout for dining areas. Patio B is approximately 530 square feet. Building code requires a six-foot-wide egress path of travel which removes 140 square feet from the patio use space leaving a net area of 390 square feet for seating. The City's Building Official has calculated occupancy of Patio B at 26 maximum occupants. This is a ratio of 15 square feet per person.

The applicant now proposes a flexible/open seating plan for Patio B with furniture that includes a mix of wine barrel style high-top tables matched with grey metal barstools and black metal picnic tables with matching chairs. The applicant requests the flexibility to rollout different arrangements of furniture depending on season and demand while understanding the maximum occupancy is 26 persons at Patio B. All furniture is weather resistant and intended for outdoor use. A photo of patio furniture is included as Attachment #4.

Planning staff recommends that condition #11 be modified as follows:

11. Patio B, as noted on the Shared Premises Plan, shall be limited to ~~four tables and 16~~ a maximum of 26 seats ~~chairs~~. The patio furniture shall have high-quality, durable materials that can withstand inclement weather. If signs of weathering (fading, rust, holes, etc.) are visible, the item(s) shall be replaced in-kind immediately. Overtime, if the applicant would like to modify the patio furniture, they must first receive written approval from the Community Development Director or Planning Commission.

Condition #12 was added at the May 2, 2024, meeting to prohibit amplified sound. There was also concern about the compatibility with nearby uses, particularly the Capitola Hotel. As currently written, the condition allows ambient music but does not allow live entertainment. The applicant is requesting that live entertainment be allowed during the day. The applicant communicated their intentions for live entertainment with the adjacent hotel ownership and received a letter of support for live entertainment between the hours of 11am and 7pm (Attachment #7). Additionally, the Capitola Police Department typically reviews and issues annual Entertainment Permits for Village businesses that offer live entertainment. The Police Department has confirmed that the Mercantile had an Entertainment Permit for the years 2022 and 2023 and there are no records of complaints or calls for service during that time.

Planning staff recommends that condition #12 be modified as follows:

~~12. Amplified sounds associated with live performances is prohibited on the premises. The applicant shall obtain and maintain an Entertainment Permit pursuant to Chapter 5.24 issued~~

by the Police Department for all live entertainment at the property. Live entertainment is prohibited between the hours of 7pm – 11am.

Modification to condition #12 prompts clarification of 'Shared Premises' condition #8, which currently reads:

8. Entertainment provided shall not be audible beyond the area under the control of the licensee(s) as depicted on the most recently certified ABC-257

Planning staff recommends the following amendment:

8. ~~Entertainment~~ Ambient music provided shall not be audible beyond the area under the control of the licensee(s) as depicted on the most recently certified ABC-257

The property owner's representative and the property manager have both written letters for Planning Commission consideration in Attachments #5 and #6 respectively.

CEQA: The 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 minor changes to operations and conditions of approval. No adverse environmental impacts were discovered during the project review by either Planning Department Staff or the Planning Commission.

Master Conditional Use Permit Findings:

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

The MU-V zone allows the uses operating on the subject property.

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 changes to operational conditions do not significantly alter the use of the site in a way that would create conflict with adopted local laws or policies.

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 shared use area is conditioned to require closure by 10 pm which is compatible with the existing mixed-use land uses in the vicinity. Conditions of approval regarding hours of operation are included in the permit to minimize possible noise impacts on neighbors. The applicant has performed outreach to neighboring property owners and has received support of the proposal. Additionally, live entertainment is subject to an annual review and reissuance of an Entertainment Permit by the Police Department, which provides another opportunity to minimize impacts in an ongoing basis.

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

The proposal to amend conditions does not introduce any new customer area that has not been similarly used by past tenants and the potential impacts to public health, safety, and welfare to adjacent residents and businesses are mitigated by the conditions of approval.

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

The proposed use is conditionally permitted in the MU-V zone. Potential impacts to nearby residents and businesses have been considered and conditions of approval have been added to mitigate potential impacts. The site is adequately served by existing services and infrastructure.

Attachments:

1. MCUP uses, restrictions, and conditions with recommended edits (underline and strike)
2. Shared Premises Plan
3. Proposed Open Seating Area – Patio B
4. Photo of proposed patio furniture
5. Letter – Owner’s Representative
6. Letter – Property Manager
7. Letter of Support – Capitola Hotel

Report Prepared By: Brian Froelich, Senior Planner

Reviewed By: Rosie Wyatt, Deputy City Clerk

Approved By: Katie Herlihy, Community Development Director