

Capitola Planning Commission

Agenda Report



Meeting: October 5, 2023

From: Community Development Department

Subject: **Modifications to Permit #22-0140 for the Blanket CDP for Street Dining Decks in Capitola's Central Village**

Permit Number: 22-0140

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

Modifications to the Blanket Coastal Development Permit for Capitola's prototype street dining decks which may be utilized by Eating and Drinking Establishments in the Central Village to review CDP recertifications programmatically rather than individually.

Environmental Determination: Categorically Exempt

Property Owner: City of Capitola

Recommended Action:

Approve the modified condition of approval #13 for an annual, grouped recertification for street dining decks approved under the Street Dining Deck Program.

Proposal:

In 2022, the City of Capitola approved a Blanket Coastal Development Permit (CDP) for the Street Dining Deck Program. Condition of approval #13 requires that the CDPs for individual street dining decks be reviewed and recertified after an initial three-year period and every five years thereafter. City staff is proposing an amendment to the Blanket CDP condition #13 that would allow all dining decks that are completed within the same year to be reviewed as a group in November at the time of recertification. Staff is also recommending that the initial three-year recertification period be reset to November 2023 for all decks completed in 2023 with a recertification scheduled for November 2026 due to the stifled launch of the program and severe winter of 2023.

Background:

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

On July 21, 2022, the Planning Commission approved a blanket CDP for the street dining deck program.

August 2023, the first dining deck was completed at Left Coast Sausage Worx, followed by English Ales and the Capitola Wine Bar in September. To date, the three dining decks are in operation within four of 25 possible parking spaces.

Analysis:

The Blanket CDP for street dining decks allowed up to 25 parking spaces for the program. With 25 spaces allowed for the program, it is estimated that the Capitola Village will have 8-12 dining decks at buildout. Recertifying each of these decks individually, for the duration of the program, is administratively inefficient. Additionally, tourism in the Capitola Village is seasonal and

conducting the recertification reviews in the off-peak season will ease the process for the City and business owners.

For the above reasons, staff is recommending the following modification to condition of approval #13:

13. CDP Recertification Requirement. All CDPs issued for outdoor dining permits shall require recertification by the City Council three years after the program start date ~~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 applicants 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 applicants, 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. For the purposes of implementing this condition, issuance of the CDP for all decks with occupancy prior to October 31, 2023, will be November 2023. Any dining deck that received a final inspection in 2023 will be reviewed for recertification in November 2026, November 2031, and every five years thereafter. To minimize the administrative effort for recertification, dining deck recertification will be grouped by year completed and reviewed on annual basis so that dining decks that receive a final inspection in any subsequent year will also be reviewed in November after the initial three years, and then every five years thereafter.

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 and modified on October 5, 2023. 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 three years after the program start date ~~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 applicants 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 applicants, 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. For the purposes of implementing this condition, issuance of the CDP for all decks with occupancy

prior to October 31, 2023, will be November 2023. Any dining deck that received a final inspection in 2023 will be reviewed for recertification in November 2026, November 2031, and every five years thereafter. To minimize the administrative effort for recertification, dining deck recertification will be grouped by year completed and reviewed on annual basis so that dining decks that receive a final inspection in any subsequent year will also be reviewed in November after the initial three years, and then every five years thereafter.

14. for coastal development permits shall be as specified in Section 17.44.150.
15. Signs. One business identification sign and one menu sign each not to exceed two square feet are allowed per street dining deck.
16. 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.
17. Utilities. All outdoor dining shall not interfere with utility boxes, water hydrants, storm drains, and all other related facilities.
18. 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.
19. 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 and Tolix. The two 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.
20. Sound. Music and amplified sound are not allowed in an outdoor dining area.
21. 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.
22. 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.
23. 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.

24. 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.

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.

Report [prepared by: Brian Froelich, Senior Planner