

# City of Capitola

## Planning Commission Meeting Minutes

### Thursday, October 05, 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

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#### 1. Roll Call and Pledge of Allegiance

*The meeting was called to order at 6:01PM. In attendance, Commissioner Estey, Commissioner Jensen, Commissioner Wilk (teleconference), Vice Chair Christiansen, and Chair Westman.*

#### 2. Oral Communications

*The Commission reordered several agenda items including all items in the Public Hearing Section, and the Directors Report.*

##### A. Additions and Deletions to the Agenda

*Clerk Westly announced three additional materials for Items 5C and 5D.*

##### B. Public Comments

*Goran Klepic, a member of the public, made a comment about certain public health and safety issues that he sees around the City related to bathrooms and garbage.*

##### C. Commission Comments

*None.*

##### D. Staff Comments

*Associate Planner Sesanto noted a correction to Item 5B.*

#### 3. Approval of Minutes

A. August 17, 2023 – Planning Commission Meeting Minutes

***Motion to approve the August 17, 2023 minutes: Commissioner Jensen***

***Seconded: Commissioner Estey***

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

#### 4. Director's Report

*Directory Herlihy provided updates to the Wharf Resiliency Project, mentioning that tree replacement work that was previously required by the commission has not been forgotten and will take place at the appropriate time given construction and seasonality concerns.*

*In addition, she announced the approval of a Land Use Study at the Capitola Mall site. Communication is ongoing and the study will commence soon.*

*Grant funds have been awarded by AMBAG to implement land use planning methods identified in the 6<sup>th</sup>-cycle update of the Housing Element.*

*She gave an update on the affordable housing project at 1098 39<sup>th</sup> Ave proposed by Mid Pen Housing.*

*Finally, she reminded the Commission of an upcoming special meeting on October 19<sup>th</sup> for the recommendation on the Housing Element to the City Council.*

*Chair Westman requested that staff contact former Commissioner Routh with an update about the tree-planting aspect of the Wharf project.*

## **5. Consent Calendar**

### **A. 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

#### 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 31 Item 4 A. 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 UV rated fabric and not include logos, labels, or advertising. The prototype design includes furniture options 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 32 Item 4 A. 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.

**B. 511 Escalona Drive**

**Permit Number: #23-0404**

**APN: 036-125-02**

Design Permit Amendment to modify the previously approved exterior appearance of a two-story, single-family dwelling and attached Accessory Dwelling Unit (ADU), located within the R-1 (Single-Family Residential) zoning district.

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

Environmental Determination: Categorical Exemption

Property Owner: Christine Meserve

Representative: Valerie Hart, Filed: 09.08.23

Conditions of Approval:

1. The project approval includes a design permit amendment for changes to the façade of the previously approved second-story addition and internal conversion ADU (approved ministerially). The permit amendment does not affect the floor area of the previous application. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on October 5, 2023, except as modified through conditions imposed by the Planning Commission during the hearing.
2. All Conditions of Approval associated with permit #20-0002 are applicable to this permit.
3. Prior to issuance of building permit, all Planning fees associated with permit #23-0404 shall be paid in full.
4. Prior to issuance of a Certificate of Occupancy, the second-story exterior doorway that opens onto the ~~east~~ west facing flat roof must be removed. Openings adjacent to the flat roof area must follow the approved plans unless changes are approved in writing by the Community Development Department or Planning Commission.
5. Modifications to the approved revocable encroachment permit are subject to approval by either the Public Works Director or the Planning Commission, whichever applies.

Coastal Development 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 design alterations comply with the development standards of the R-1 zoning district. 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 changes to the façade. 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 of the CEQA Guidelines exempts minor alterations to existing private structures involving negligible or no expansion of existing or former use. This approval is a modification to prior 2019 and 2020 approvals, which are cumulatively exempt under Section 15301(e). The modified approval involves aesthetic alterations which do not result in an expansion of use or floor area within the R-1 (Single-Family Residential) 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.**

The Planning Commission reviewed the project and determined that the proposed 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 façade changes comply 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 reviewed the application for façade changes. The modified residential design with a combination of board-and-batten and shingle siding, composition shingle roof, and stone veneer chimney will fit in nicely with the existing neighborhood. The project will maintain the character, scale, and development pattern of the neighborhood.

***Motion to approve the Consent Calendar: Commissioner Estey***

***Seconded: Vice Chair Christiansen***

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

**6. Public Hearings**

**A. 1435 41st Avenue – Best Western**

**Permit Number: #23-0397**

**APN: 034-151-51**

Conditional Use Permit Amendment to add five guestrooms by converting double-bay suites to standard guestrooms. The conversion is entirely internal, adds no floor area, and results in 59 total guestrooms. The proposal complies with required parking standards and is located in the C-C (Community Commercial) zoning district.

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

Environmental Determination: Categorically Exempt 15301 – Existing Facilities

Property Owner: Capitola By-the-Sea Inn & Suites, LLC

Representative: Nielsen Architects, Filed: 09.05.2023

**General Conditions of Approval:**

1. The project approval consists of a Conditional Use Permit Amendment for the internal conversion of guestroom suites and manager's unit to create five new standard guestrooms for a total of 59 guestrooms for the hotel at 1435 41st Street. The Modified CUP application #23-0397 was approved by the Planning Commission on October 5, 2023.
2. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this conditional use 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. 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 except for Saturday work between nine a.m. and four p.m. or emergency work approved by the building official. §9.12.010B.
5. 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 non-compliance in a timely manner may result in permit revocation.
6. This permit shall expire 24 months from the date of issuance. The applicant shall have obtained an approved building permit and commenced construction before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration.
7. 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.

Conditional Use Permit Conditions:

1. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
2. Hours for deliveries to the hotel shall be limited to 8:00 A.M. – 8:00 P.M. Monday through Friday, to minimize noise impacts to neighboring residents. Delivery vehicles shall not be permitted to remain idle, shall utilize the loading zones, and shall not stop or park within 50 feet of the residential property boundaries.
3. Bicycle parking is required to be accommodated with six short-term bike parking spaces.
4. Amplified sound is limited to interior areas only.

Planning Department Conditions:

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, all Planning fees associated with permit #23-0397 shall be paid in full.
7. 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.

Public Works Department Conditions:

8. Prior to issuance of building permits, any improvements that interface with the public right of way, e.g., sidewalks, crosswalks, curb, gutter and sidewalks, shall submit plans for review and approval by the Public Works Department.



9. 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.

Conditional Use Permit Findings:

- A. The proposed use is allowed in the applicable zoning district.**  
Hotels are a conditional use in the Community Commercial zone. The Best Western was originally approved in 1998 with a conditional use permit.
- 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 proposal to add five guestrooms is consistent with the general plan, local coastal program, and zoning code.
- 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 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.
- D. The proposed use will not be detrimental to the public health, safety, and welfare.**  
Community Development Department staff, Building Department staff, and the Planning Commission have reviewed the project and determined that it will not be detrimental to the public health, safety, and welfare.
- 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 within the City of Capitola and is adequately served by existing services and infrastructure.

*Senior Planner Froelich gave a staff report summarizing the application for a Conditional Use Permit Amendment to add 5 guest rooms to the Best Western on 41st Ave.*

*Commissioner Jensen asked for clarification about the deconstruction work being proposed. Senior Planner Froelich commented that access to internal electrical work needs to be inspected, necessitating the deconstructive work.*

**Motion to Approve Item 6A: Commissioner Jensen**

**Seconded: Vice Chair Christiansen**

**Voting Aye: Commissioner Estey, Commissioner Jensen, Commissioner Wilk, Vice Chair Christiansen, Chair Westman**

**B. Color and Materials**

**Topic: Color and Materials for single family projects that require a Design Permit**

*Senior Planner Froelich presented a staff report regarding the Color and Materials discussion, related to the colors and materials proposed for single family property development projects that require a Design Permit.*

*Commissioner Jensen asked about procedures related to color and material proposals for these types of projects.*

*Commissioner Estey asked about the process of denying a color and/or material proposal as it relates to the character of a neighborhood.*

*Commissioner Wilk presented his opinion that the City and Planning Commission should minimize the stress placed on applicants during the planning process. While some aspects of the process are necessary, Commissioner Wilk would prefer that the process be streamlined to the degree that certain design elements such as paint color are given more leniency.*

*Commissioner Estey agrees that while material and design elements are necessarily regulated, color is not one such design aspect.*

*Commissioner Jensen agreed but commented that the project design and development process with the former Architectural Review Board, in his experience, was smooth. He recommended bringing that Board back. He also commented about the oft-discussed opaque window issue that has come up and several recent planning meetings. He even presented the idea of involving the community in project design choices such as color.*

*Chair Westman agreed that there shouldn't be a concern over color and recommended we change our definition of façade to be limited to material only, not color.*

*Commissioner Wilk proposed that we remove Color from aspects of the designs that are presented and approved by the Commission.*

*Chair Westman stated that applicants shouldn't need to submit a Colors and Materials board so long as the color and material usage is clearly stated in the plans.*

*Vice Chair Christiansen commented that while she mostly agrees, requesting a Colors and Materials board is a way for the applicant to demonstrate a degree of thought and intention behind the design and is a way to show care for the aesthetics of the community.*

*Commissioner Wilk moved to direct staff to remove paint color from the Colors and Materials board required with R-1 design permit applications, while retaining all other elements of the Colors and Materials Board.*

*Chair Westman directed staff to bring an item to the Commission regarding the possible return of the Architectural Review Board.*

*After the discussion, Commissioner Wilk excused himself from the meeting.*

***Motion to direct staff regarding Item 6B: Commissioner Wilk***

***Seconded: Commissioner Jensen***

***Voting Aye: Commissioner Estey, Commissioner Jensen, Commissioner Wilk, Vice Chair Christiansen, Chair Westman***

### **C. Citywide Housing Element Update**

**Permit Number: 23-0019**

**APN: Citywide**

Housing Element Update 6th Cycle

Environmental Determination: Pending

Property Owner: City of Capitola

Representative: Bret Stinson, RRM Design and Veronica Tam, VTA, Inc.

*Director Herlihy presented a staff report regarding the most recent update and HCD review of the City-Wide Housing Element.*

*Commissioners asked several questions throughout the staff report presentation regarding lot consolidations, density standards, water constrictions, and other elements of the Housing Element and comments from the HCD.*

*Chair Westman expressed concerns related to the scope of this project compared to the staff time currently available in the Planning Department, which don't seem compatible.*

*Chair Westman opened the public hearing.*

*Janine Roth, representing Santa Cruz YIMBY, commented on the group's opinion on Capitola's Housing Element draft, reiterating the comments that were provided to the Commission as part of the additional materials added to the agenda packet.*

*The Chair and Commission discussed the maximum density limits, the recommendation to permit duplexes on corner lots, including clarifications regarding the establishment of objective standards as described in the staff report.*

*Commissioner Estey asked if the City responded to the Merlone-Geier letter regarding the land use study at the Capitola Mall site. Director Herlihy confirmed that conversations with Merlone-Geier are ongoing and helping in the development of the Housing Element.*

*Commissioner Estey and Chair Westman commented on the State of California preventing development on State-owned land at the DMV and New Brighton State Beach, while simultaneously requiring state-mandated development in our City. Director Herlihy suggested they add a program to work with the State in the next cycle toward potential housing on state lands. The Planning Commission concurred.*

#### **D. 421 Riverview Avenue**

**Permit Number: #22-0216**

**APN: 035-132-04**

Design Permit to construct a detached garage with a second story ADU. The application includes a Variance request for the required front setback for detached garages, two ADU deviations for the ADU required second-story front setback and privacy mitigations, and an exception to exceed driveway width. The project is located within the R-1 (Single-Family Residential) zoning district.

This project is in the Coastal Zone and requires a Coastal Development Permit which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.

Environmental Determination: Categorical Exemption

Property Owner: Steve Owens

Representative: Dennis Norton, Filed: 06.01.22

#### **Conditions of Approval:**

1. The project approval consists of construction of a detached accessory structure that includes a 434 square-foot garage and 476 square-foot, second-story accessory dwelling unit. The maximum Floor Area Ratio for the 2,707 square foot property is 57% (1,543 square feet). The total FAR of the project is 55.1% with a total of 1,491 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 October 5, 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 a 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 building permit, the site plan shall indicate a minimum of 48 square feet of appropriate dedicated open space for the accessory dwelling unit, to the satisfaction of the Community Development Department.
8. 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.
9. Prior to issuance of a Certificate of Occupancy, the applicant shall demonstrate compliance with the tree removal permit authorized by this permit for 4 trees to be removed from the property. Two replacement trees shall be planted on-site and in the ground and be reflected in the final landscape plan.
10. Prior to issuance of building permit, all Planning fees associated with permit #22-0216 shall be paid in full.
11. 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.
12. 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.
13. 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.
14. 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).
15. 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.

16. 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.
17. 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
18. 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.
19. 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.
20. 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.
21. 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.
22. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
23. 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.
24. 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.
25. At the time of building permit application for construction within the floodplain or floodway, the applicant shall provide a “No Rise Study”, performed by a licensed engineer, in which verification of the structure’s impact on the floodplain or floodway is provided.
26. For new residential construction located within the floodplain/floodway, elevation certificates shall be provided at the following stages of construction: 1) prior to building permit issuance; 2) at the time of rough frame inspection; and 3) prior to the finalization of the building permit. The certificates shall be prepared by a licensed engineer or surveyor. The certificate shall document that all residential occupancies are constructed above the Base Flood Elevation (BFE) as per the latest edition of the FEMA Flood Insurance Rate Map.

27. Prior to issuance of a building permit, the applicant shall submit a site and landscape plan that reduces the driveway width to 18 feet, with soft landscaping along the sides of the driveway. The driveway may provide additional width for accommodation of a turning radius at the street, subject to Community Development Department approval. The front landscaped areas must include natural vegetation, the majority of which must be planted in the ground rather than in pots.

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. With the granting of a Variance and ADU deviation for front setbacks, the proposed accessory structure complies with the development standards of the R-1 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 a new detached garage and second story ADU. With the granting of a Variance and ADU deviations, 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 and the Planning Commission have reviewed the project and determined the proposed detached structure 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 and the Planning Commission have reviewed the application. The proposed detached structure complies with all applicable design review criteria in Section 17.120.070. Additionally, the structure also complies with the objective design standards for Accessory Dwelling Units.

- E. 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 new detached structure. The ADU and garage design complement the existing dwelling with matching stucco siding and gateway, flat-pitch roof, and continuation of the roof tile pattern for the new breezeway. The project will maintain the character, scale, and development pattern of the neighborhood.

Accessory Dwelling Unit Findings:

- A. The exterior design of the accessory dwelling unit is compatible with the primary dwelling on the parcel through architectural use of building forms, height, construction materials, colors, landscaping, and other methods that conform to acceptable construction practices.**

The exterior design of the ADU is compatible with the primary dwelling with similar material and architectural form. The ADU utilizes matching stucco siding, roof tile breezeway, and flat pitched roof, with a modern horizontal board accents on the front.

**B. The exterior design is in harmony with, and maintains the scale of, the neighborhood.**

The exterior design is in harmony with and maintains the scale of the neighborhood. The proposed ADU utilizes similar materials and design to the subject property's existing primary dwelling. With respect to scale, two-story dwellings are common along Riverview Avenue, with many located close to the street. The proposed ADU is located 18 feet from the front property line and is within the 22-foot maximum ADU height limit.

**C. The accessory dwelling unit will not create excessive noise, traffic, or parking congestion.**

The proposed project is a single-bedroom ADU on a site that is adequately parked. The ADU will not create excessive noise, traffic, or parking congestion.

**D. The accessory dwelling unit has or will have access to adequate water and sewer service as determined by the applicable service provider.**

The proposed ADU is located on a developed lot in a residential neighborhood with adequate water and sewer service.

**E. Adequate open space and landscaping have been provided that are usable for both the accessory dwelling unit and the primary residence. Open space and landscaping provide for privacy and screening of adjacent properties.**

The ADU has been designed and sited to provide mutual privacy for the new unit, the primary dwelling, and adjacent residential properties. In addition to dedicated exterior access, a condition has been added to ensure adequate open space is provided for the ADU.

**F. The location and design of the accessory dwelling unit maintain a compatible relationship to adjacent properties and do not significantly impact the privacy, light, air, solar access, or parking of adjacent properties.**

The proposed ADU is located in the rear of the property. Potential impacts to privacy, light, air, solar access, and parking have been considered and mitigated. The location and design of the ADU maintains a compatible relationship with adjacent properties.

**G. The accessory dwelling unit generally limits the major access stairs, decks, entry doors, and major windows to the walls facing the primary residence, or to the alley if applicable. Windows that impact the privacy of the neighboring side or rear yard have been minimized. The design of the accessory dwelling unit complements the design of the primary residence and does not visually dominate it or the surrounding properties.**

The new external stair case is located in the middle of the lot between the ADU and primary dwelling. Windows near the side property line will be opaque for privacy. The design of the ADU, with siding materials similar to the primary residence and similar roof pitch, complements the design of the primary residence and does not visually dominate it or the surrounding properties.

**H. The site plan is consistent with physical development policies of the general plan, any area plan or specific plan, or other city policy for physical development. If located in the coastal zone, the site plan is consistent with policies of the local coastal plan. If located in the coastal zone and subject to a coastal development permit, the proposed development will not have adverse impacts on coastal resources.**

The location of the proposed ADU complies with the development standards in CMC §17.74.080. The project is within the coastal zone and complies with the local coastal plan.

**I. The project would not impair public views along the ocean and of scenic coastal areas. Where appropriate and feasible, the site plan restores and enhances the visual quality of visually degraded areas.**

The project does not impair public views of the ocean or scenic coastal areas. Existing nearby coastal resources will be maintained, as further described in the Coastal Development Permit findings.

- J. The project deviation is necessary due to special circumstances applicable to subject property, including size, shape, topography, location, existing structures, or surroundings, and the strict application of this chapter would deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zoning classification.**

Front Setback: Special circumstances applicable to the subject property exist that would deprive the subject property of privileges enjoyed by other properties in the vicinity and within the zone with the strict application of this chapter. The subject property is located within a Special Flood Hazard Area as identified by FEMA. As such, new habitable space must be located above the base flood elevation (BFE), which limits ADU construction to the upper story. The proposed detached ADU is located in front of the existing dwelling and has limited alternative placement to meet the minimum side setback to the north and fire separation and ADU egress to the rear. The south side is offset from the minimum setback by one foot for better light access along the primary dwelling pathway. As noted in the variance findings, four of the thirteen nearby properties along the creek have dwellings with non-conforming front setbacks.

South-facing Windows: Special circumstances existing with respect to the proposed development and surroundings. The proposed ADU is located towards the front of the lot, whereas the neighboring residence at 419 Riverview Avenue is situated towards the rear of its lot. During review, staff found the south-facing windows to possess limited privacy concerns, overlooking the neighboring property's driveway and the front corner of the residence.

Variance Findings:

- A. There are unique circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, that do not generally apply to other properties in the vicinity or in the same zone as the subject property.**

Due to the floodplain requirements for new construction, unique circumstances exist on the subject property which generally do not apply to other R-1 zoned properties within Capitola. The subject property is located within a Special Flood Hazard Area as identified by FEMA. Although this existing dwelling is located within the base flood elevation (BFE), new habitable construction must be located above the BFE. In order to comply with a 40-foot front setback for detached garages, the applicant would need to demolish the existing dwelling, which could not be reconstructed at grade due to floodplain restrictions.

- B. The strict application of the zoning code requirements would deprive the subject property of privileges enjoyed by other property in the vicinity or in the same zone as the subject property.**

The strict application of the zoning code would deprive the subject property of covered parking and limit further development of the site that is enjoyed within the same zone and the vicinity. Within the R-1 zoning district, covered parking is often a privilege and requirement for new single-family construction and in neighborhoods such as the Riverview Terrace.

- C. The variance is necessary to preserve a substantial property right possessed by other property in the vicinity or in the same zone as the subject property.**

A variance is necessary to allow a garage on the site, which is a substantial aspect of R-1 zoned residential properties and in the vicinity. Most properties in the vicinity possess some arrangement of garage or carport.



**D. The variance will not be materially detrimental to the public health, safety, or welfare, or be injurious to the properties or improvements in the vicinity or in the same zone as the subject property.**

The project involves a new detached garage and accessory dwelling unit located within the required front yard setback. A detached garage is required to have a 40-foot front yard setback, whereas an attached garage is required to have 20 feet. The proposed detached garage provides a twenty-foot setback. The granting of a variance would not negatively impact the public, properties, or improvements in the vicinity or in the same zone as the subject property.

**E. The variance does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity or in the same zone as the subject property.**

The variance does not constitute a grant of special privilege. Numerous Riverview Avenue homes abutting Soquel Creek have a unique development pattern with their principal elevations facing the creek and pathway and structures located close to the street. Of the 13 other properties between Blue Gum Avenue and the trestle that abut both Riverview Avenue and the creek, four properties have dwellings with non-conforming front setbacks, and three properties have detached garages with non-conforming front setbacks.

**F. The variance will not have adverse impacts on coastal resources.**

The granting of a variance will not have an impact on coastal resources. Existing nearby resources will be maintained, as further described in the Coastal Development Permit findings.

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 private property at 421 Riverview Avenue. 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 at 421 Riverview Avenue adjacent the Soquel Creek. The new detached structure is located between the street and the primary dwelling. The project will not impact vegetation, natural habitats, or natural resources, and is consistent with the allowed use.

**D. The project maintains or enhances low-cost public recreational access, including to the beach and ocean.**

The project maintains existing public access. A portion of the Riverview public pathway runs across the rear of the lot along Soquel Creek. The project is located at the front of the property towards the street and will not interfere with the existing pathway.

**E. The project maintains or enhances opportunities for visitors.**

The project involves a new detached garage and accessory dwelling unit and will not negatively impact visitor serving opportunities.

**F. The project maintains or enhances coastal resources.**

The project maintains existing coastal resources. A portion of the Riverview public pathway runs across the rear of the lot along Soquel Creek. The project is located at the front of the property towards the street and will not interfere with the existing pathway.

**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 residential project complies with all applicable design criteria, design guidelines, area plans, and development standards. The operating characteristics are consistent with the R-1 (Single-Family Residential) zone.

**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 detached accessory dwelling unit and garage on a residential lot of record. The project is consistent with the LCP goals for appropriate coastal development and land uses. The use is an allowed use consistent with the R-1 zoning district.

CEQA Findings:

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

Section 15303 of the CEQA Guidelines exempts the construction of small facilities or structures, including but not limited to second dwelling units in a residential zone. The project involves the construction of a detached garage and accessory dwelling unit within a residential zoning district. No adverse environmental impacts were discovered during review of the proposed project.

*Chair Westman recused herself due to living within 500 feet of the proposed development.*

*Associate Planner Sesanto presented the staff report and suggested that the Commission consider limiting the driveway width.*

*Dennis Norton, Architect, spoke to his perception that the zoning requirements are not well-matched to the size, shape, and orientation of the lots along Riverview. He noted that limiting the driveway limits access due to the narrow road.*

*Commissioner Jensen and Commissioner Estey asked for clarification about the plants that flank the driveway and other elements of the plan. Mr. Norton offered his rationale for these design elements.*

*There was a discussion regarding the Commission's ability to make findings related to the driveway width and landscape plan as they relate to other variances that are already found in the neighborhood.*

*Vice Chair Christiansen opened the public hearing.*

*Dean Matsua, owner of 419 Riverview Ave, spoke about an issue related to a property line shared with the project site and an existing archway that is attached to his structure, yet sits on both properties. He also commented on the effect that this project will have on the ability to offer short-term rentals.*

*There was disagreement between Mr. Norton and Mr. Matsua regarding the archway and the easements/access rights affected by this project.*

*In response to a question by the Commission, Planner Sesanto clarified that the plans initially included a new gateway that would span both properties, but that the applicant had removed it when they were unable to produce a shared use and maintenance agreement with the neighbor.*

*Director Herlihy commented that since there is no current easement and no proposed encroachment, matters regarding the archway and access must be resolved between the property owners, independent of the application.*

*Commissioner Jensen moved approval with the condition that Staff make accommodations regarding the driveway width at the front property line to ensure adequate turning radius and access to the driveway.*

***Motion to approve Item 5D with proposed conditions: Commissioner Jensen***

***Seconded: Commissioner Estey***

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

***Abstaining: Chair Westman***

***Absent: Commissioner Wilk***

**7. Commission Communications**

*Commissioner Jensen asked about an update regarding the Outdoor World site as it relates to the Housing Element. Directory Herlihy responded that the design team has not been focused on this site, although it is identified as a deliverable in the Housing Element Update and asked the Commission to provide a timeline for a final deliverable regarding this site.*

**8. Adjournment**

*The meeting was adjourned at 8:18PM to the next regularly scheduled meeting on November 2, 2023.*

**ATTEST:**

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Austin Westly, Deputy City Clerk