



FINAL LOCAL ACTION NOTICE AND ZONING PERMIT

June 20, 2022

Eliot Beja
4800 Opal Cliff Drive #102
Capitola, CA 95010

RE: **Notice of Final Action on Project Application #21-0011**

4800 Opal Cliff Drive Drive #21-0287 APN: 034-462-05

An application for a Conditional Use Permit and Coastal Development Permit amendments (Permit #97-88) for repair and maintenance of an existing coastal protection structure located within the RM-M (Multi-Family Residential, Medium Density zoning district and the CZ (Coastal Overlay) zone. This project is in the Coastal Zone and requires a Coastal Development Permit that is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.

Environmental Determination: Categorical Exemption 15301 (Class 1), 15302 (Class 2), 15304 (Class 4)

Property Owner's Representative: Eliot Beja

Applicant: Diedre Hamilton

Filed: 01.22.2021

The above matter was presented to the Planning Commission on June 2, 2022, and was **approved**, with the following findings and conditions. Any modifications to the staff report are indicated below in strikeout and underline notation. *Please note that this project includes a Coastal Development Permit, which is appealable to the Coastal Commission pursuant to Coastal Act Section 30603 and City Zoning Ordinance Section 17.44.150. **The Coastal Development Permit will not be effective until after the Coastal Commission's 10 working day appeal period has expired and no appeal has been filed.** The Coastal Commission's appeal period begins the first working day after receipt by the Coastal Commission of adequate notice of this final City action. Any such appeal must be made directly to the California Coastal Commission's Central Coast District Office in Santa Cruz; there is no fee for such an appeal. Should you have any questions regarding the Coastal Commission appeal period or process, please contact Susan Craig at (831) 427-4863.

Conditions of Approval

1. 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 on June 2, 2022. All construction and site improvements shall be completed according to the approved plans.
2. 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.
3. Construction activity shall be subject to a 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.

Planning

4. The project approval consists of construction of conditional use permit, and coastal development permit amendments to permit #97-88 for repair and maintenance of an existing coastal protection structure. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on June 2, 2022, except as modified through conditions imposed by the Planning Commission during the hearing.
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 project scope shall require Planning Commission approval.
6. Prior to issuance of a building permit, all Planning fees associated with permit #21-0011 shall be paid in full.
7. Prior to Final Inspection by the Planning Department, 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 may 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. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit issued before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration.
9. This permit is transferable with the title to the underlying property such 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.
10. The applicant shall remove the graffiti on all portions of the blufftop or blufftop walls, prior to the satisfaction of the Community Development Director, prior to Planning Department final inspection.
11. The applicant shall remove all broken off wall debris from the beach and bluff, prior to Planning Department final inspection.
12. To the extent practicable, vegetation removal and maintenance activities shall be performed from September 1 through January 31 to avoid the general nesting period for birds. If maintenance or

vegetation removal cannot be performed during this period, premaintenance surveys will be performed no more than two days prior to beginning work activities to locate any active nests as follows: The owner/applicant shall be responsible for the retention of a qualified biologist to conduct a survey of the project site and surrounding 300' for active nests—with particular emphasis on nests of migratory birds—if maintenance (including site preparation) will begin during the bird nesting season, from February 1 through August 31. If active nests are observed on either the project site or the surrounding area, the project owner/applicant, in coordination with the appropriate City staff, shall establish no-disturbance buffer zones around the nests, with the size to be determined in consultation with the California Department of Fish and Wildlife (usually 100' for perching birds and 300' for raptors). The no-disturbance buffer will remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for two days or more and then resumes during the nesting season, an additional survey will be necessary to avoid impacts on active bird nests that may be present.

13. The applicant and City of Capitola shall execute and record the maintenance and monitoring agreement prior to issuance of Building Permit for the proposed maintenance and repair.
14. The shotcrete used for repair shall match the color and texture of the existing shotcrete wall.

Public Works

15. At the time of submittal for building permit review, a sediment and erosion control plan (construction BMP's), including equipment and stockpile location and protection, 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.
16. At the 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.
17. 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.
18. Prior to a Public Works final inspection, 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.

Coastal Findings

1. **The project is consistent with the LCP land use plan, and the LCP implementation program.**
The proposed project conforms to the City's certified Local Coastal Plan (LCP) land use plan and the LCP implementation program.
2. **The project maintains or enhances public views.**
The proposed project has no permanent impact on view or coastal access.
3. **The project maintains or enhances vegetation, natural habitats and natural resources.**
The proposed project will have a minimal impact to existing with Pampas Grass to be removed above the root. Pampas Grass is nonnative and is a "recommended to avoid" plant species by the Department of Fish and Wildlife. Condition of approval #12 requires the applicant to avoid repairs during the nesting season or hire a qualified biologist to survey any nesting activity in the area prior to start of work.
4. **The project maintains or enhances low-cost public recreational access, including to the beach and ocean.**
The project has no impact on recreation access or cost.

5. **The project maintains or enhances opportunities for visitors.**
The project has no impact on visitors and opportunity.
6. **The project maintains or enhances coastal resources.**
The proposed wall repair is intended to maintain the bluff and minimize erosion.
7. **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 wall repair will not be noticeable from offsite when compared to the conditions since 1998. There are no significant design or operational impacts associated with the repair.
8. **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 will not obstruct public access and has no impact on recreation or visitor opportunities and experiences. Short term mobilization impacts will be minimal and only impact the project site

This permit is issued to the applicant. In executing this permit, applicant agrees to comply with all terms of permit, including conditions of approval, if any. Permit must be exercised within 24 months of date of issuance (June 20, 2024) unless otherwise indicated in conditions of approval. Should you have any questions on this matter, do not hesitate to call.

Respectfully,



Brian Froelich, AICP
Senior Planner

cc: Coastal Commission