

Capitola Planning Commission

Agenda Report



Meeting: June 2, 2022

From: Community Development Department

Address: 4800 Opal Cliff Drive

Permit Number: #22-0011

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: Eliot Beja

Representative: Diedre Hamilton, Filed: 01.22.2021

APPLICANT PROPOSAL

The applicant is proposing an amendment to a Conditional Use Permit (CUP) and Coastal Development Permit (CDP) for the repair and maintenance of a coastal protection structure approved by the Planning Commission on February 8, 1998 in the RM-M (Multi-Family Residential, Medium Density) Zoning District. The proposal consists of a plan for immediate repairs, periodic monitoring, and a maintenance agreement to address future repairs.

BACKGROUND

The Planning Commission originally approved a Coastal Development Permit, Conditional Use Permit, and Design Permit for a bluff toe seawall and a shotcrete bluff top wall in 1998. The approval was appealed by the Coastal Commission. The Coastal Commission required a geotechnical investigation be completed and then withdrew the appeal. The concrete bluff toe seawall and bluff top shotcrete wall were constructed in late 1998 to preserve the configuration of the bluff and protect the bluff top improvements.

This proposal is limited to the bluff top wall only. The only change to the bluff toe wall is a staff recommendation that the applicant remove graffiti (Condition #10).

The bluff top wall is a structural shotcrete retaining wall with post-tensioned tieback anchors. The wall has a substrate panelized drainage system with weepholes to release drainage and pressure from behind the wall.

In January of 2021, the Opal Cliff West HOA filed this application to repair the bluff toe seawall and bluff top shotcrete wall. During plan review, the Coastal Commission staff noted that the bluff toe wall was within the Coastal Commission's jurisdiction and would need a permit from the

Coastal Commission directly. The applicant decided to remove the bluff toe wall from the scope of this permit request. The applicant is also proposing a Monitoring and Maintenance Plan to be formalized and recorded with the property deed. This document formalizes that maintenance and repairs to the shotcrete bluff top wall can be made in the future by determination of the Community Development Director and securing Building Permits rather than requiring a CDP and CUP amendment each time maintenance or repairs are needed.

The applicant provided a geotechnical plan review and inspection report by Haro, Kasunuch and Associates, Inc. (Attachments #2 and #3).

DISCUSSION

Pursuant to Sections 17.16.020 (A)[3], 17.52.020 (6), and 17.44.070 (A) of the Capitola Municipal Code, a conditional use permit and a coastal development permit are required for repair and maintenance activities in the environmentally sensitive habitat area.

The applicant's proposal is broken down into the following components:

1. Repair of two areas of the shotcrete wall that have failed/broken and have left voids in the shotcrete wall face. The repair includes reinstallation of the waterproofing and drainage substrate system, 19 soil nails that serve as a shallow tie back anchor, dowels into the existing shotcrete wall, and application of new shotcrete to fill the voids and to cover the heads of soil nails and dowels. See Location 1 and Location 2 on plan sheet 2 of 4.
2. Saw cutting of a portion of the original shotcrete wall that is at the property boundary with 4790 Opal Cliff Drive. This edge of the shotcrete wall has been outflanked and cutting it back will reduce further erosion behind the wall.
3. The proposal includes removal of pampas grass that has grown in the voids and along the edges of the wall. Removal will be to the top of the root ball with an herbicide applied to minimize root disturbance and further erosion.
4. A maintenance and monitoring agreement with the City of Capitola that will allow the Community Development Director to authorize repair and maintenance work to the bluff top shotcrete wall through the Building Permit process and requires the property owner to commission an inspection of the bluff top wall every five years.

The Coastal Commission staff was included in the plan review process and provided input on the project and maintenance and monitoring agreement. Their primary comment was to remove the bluff toe retaining wall from this application and the maintenance and monitoring agreement. The bluff toe wall is within the Coastal Commission jurisdiction and repairs would require a permit issued directly by the Coastal Commission. The applicant has removed all work scope related to the bluff toe wall from this application request.

Mobilization and Staging

The repair operation will stage from the parking lot only. The applicant is proposing to access the wall face with a truck, boom, and bucket. No beach access or staging are proposed. See the Construction Operations Plan (Attachment #4).

Maintenance Agreement

The applicant is proposing a Maintenance and Monitoring Agreement to allow similar types of repairs in the future without requiring a revision to the Coastal Development Permit. City staff has worked with the Coastal Commission staff and the applicant to create the document that will be recorded with the property title. The agreement assigns the Community Development Director the authority to determine the scope of work and process Building Permits for future maintenance of the blufftop shotcrete wall only.

Project Specific Conditions

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 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 and mobilization) 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 activity ceases for three 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.

CEQA REVIEW

This project is categorically exempt under 15301 (Existing Facilities), 15302 (Replacement or Reconstruction), and 15304 (Minor Alterations to Land) of the California Environmental Quality Act. The proposed project consists of in-kind repairs of an existing deteriorated shotcrete wall, would involve no expansion of use beyond that previously existing, would not result in a significant cumulative impact due to the continuation of the existing use, would consist of the repair of an existing wall structure, would have substantially the same purpose and capacity as originally

intended, would result in no permanent effects on the environment, and would not involve the removal of scenic or mature trees.

RECOMMENDATION

Staff recommends the Planning Commission **approve** project application #21-0011 based on the following Conditions and Findings for Approval.

Attachments

1. Project Plan Set
2. Geotechnical Plan Review
3. Inspection Monitoring and Maintenance Report
4. Construction Operations Plan
5. Maintenance and Monitoring Agreement

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, pre-maintenance 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.

Conditional Use Permit Findings

- A. **The proposed use is allowed in the applicable zoning district.**
Accessory structures located in the ESHA are permitted through a conditional use permit and coastal development permit in the RM-M zoning district.
- B. **The proposed use is consistent with the general plan, local coastal program, zoning code, and any applicable specific plan or area plan adopted by the city council.**
The shotcrete wall was determined to be consistent with the general plan, local coastal program, and zoning code in 1998. The repair and maintenance of the existing wall is consistent the current 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 proposed use is to repair and continue the use of an existing accessory structure that supports the bluff behind the existing multifamily building on the property. The existing shotcrete wall is compatible with and will not interfere with other planned land uses in the vicinity.
- D. **The proposed use will not be detrimental to the public health, safety, and welfare.**
The proposed shotcrete wall repair will not be detrimental to the public health, safety, or welfare. As conditioned, the mobilization and finished repairs will stabilize the wall and reduce the possibility of further debris from falling onto the beach.
- E. **The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.**
The proposed use does not have any immediate demands on services or infrastructure. Similar structures exist in the vicinity and the proposed repair does not alter the existing location.

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.

Prepared By: Brian Froelich