

Capitola Planning Commission

Agenda Report



Meeting: July 17, 2025

From: Building, Planning, and Economic Development Department

Address: 4820 Opal Cliff Drive

Project Description: Application #25-0231. APN: 034-463-04. Conditional Use Permit and Coastal Development Permit for a pin pier wall bluff retreat mitigation device in the RM-M (Multi-Family Residential – Medium Density) Zoning District with a CZ (Coastal Zone) overlay.

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

Environmental Determination: Statutory Exemption

Recommended Action: Consider application #25-0164 and approve the project based on the attached Conditions and Findings for Approval.

Property Owner: Opal Cliff East HOA

Representative: Jon Khazam, HOA Representative, Filed: 05.02.2025

Background: The applicant is requesting consideration of a Conditional Use Permit (CUP) and Coastal Development Permit (CDP) to install a new coastal bluff retreat mitigation device at 4820 Opal Cliff Drive in the RM-M (Multi-Family Residential – Medium Density) zoning district with CZ (Coastal Zone) overlay and ESHA (Environmentally Sensitive Habitat Area). Existing development on the parcel contains a three-story condominium building with 12 units that were constructed in 1975; and predates the establishment of the California Coastal Act in 1977.

In the first several days of January 2023, the property experienced a significant bluff failure due to major storm events and wave activity. The project geologist has documented that there are currently 28.7 horizontal feet of land, at the narrowest point between the condominium complex and the coastal bluff top. The Building Code requires that a minimum setback from the bluff to the structure should be 23 feet in this location. The project geologist has concluded that another bluff failure could occur at any time and could instantaneously reduce the setback to 18.7 feet based on their analysis of existing conditions. The consultant concludes that the structure is in imminent danger and has recommended a pin pier wall system with tiebacks as an immediate protection measure.

The HOA representative has communicated an intention to pursue a long-term solution to erosion protection and bluff loss in the form of a seawall at the toe of the bluff and blufftop armoring with a shotcrete wall at the upper slope of the bluff. A seawall at the toe of the bluff is within the jurisdiction of the Coastal Commission and would require permits directly issued by that agency. The applicant's team has advised that the permitting timeline can take years and there is no guarantee of approval. The pin pier wall is above the mean high water mark and subject to Planning Commission review; therefore the applicant is pursuing permits for the pin pier wall first.

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 construction activities in the environmentally sensitive habitat area (ESHA).

Discussion: The coastal bluff is approximately 69 feet in height and faces both south and east at the subject property. The bluff has been subject to episodic failures with a total loss of seven feet since 2020, according to the project engineering consultant. The upper layer of the bluff is comprised of an

approximate 24 foot layer of marine terrace deposit soil composed of silt, clay, sand and gravel which is underlain by 45 feet of Purisima Formation sandstone and siltstone bedrock. Failure of the bedrock layer is typically caused incrementally by hydraulic plucking/wave action and episodically by storm and seismic events. Failure of the bedrock layer leads to the marine terrace layer being over-steepened where it then tends to layback and erode more rapidly due to terrestrial processes of raveling and sliding, which are hastened by rainfall.

The proposed project consists of a pin pile wall system with tiebacks and are connected by a grade beam. The system includes 28 concrete piers that extend approximately 47 feet vertically into the bluff and 23 feet into the bedrock layer. The proposed pier holes are two feet in diameter and are spaced at four feet on center running a total of 110 linear feet flanking the east side of the condominium structure. Tieback anchors are spaced at six feet and descend under the condominium structure at a 25 degree angle.

Local Coastal Program

Capitola's Local Coastal Program (LCP), Land Use Plan (LUP) is the policy document that provides guiding policies for the proposed project. Specifically, Component VII Natural Hazards of the LUP has a subsection that addresses bluff and beach erosion.

Policy VII-9: Shoreline structures such as seawalls, revetments, groins, and breakwaters shall be permitted only to serve coastal dependent uses, to protect existing development (other than accessory structures), or to protect public beaches in danger of erosion, and shall be permitted only if nonstructural solutions (such as artificial beach nourishment and relocating structures) have proved to be infeasible. Such structures shall be designed to eliminate or mitigate adverse impacts on local shoreline sand supply, public access, marine habitats and paleontological resources. It is further the policy of the City of Capitola that no permanent channelization of the mouth of Soquel Creek shall be permitted. The seasonal movement of sand to form the lagoon, maintenance dredging and infill of bulkheads shall not be considered permanent channelization.

Pursuant to the above policy, the proposed shoreline structure is intended to protect existing development. The Coastal Commission interprets "existing structures" under Coastal Act Section 30235 as meaning structures that existed on January 1, 1977, the effective date of the Coastal Act, and that have not been redeveloped. The condominium building at 4820 Opal Cliff Drive was built in 1975 and has not been significantly altered. The Coastal Commission allows construction of shoreline protection structures to protect existing structures in certain circumstances if the structures lawfully existed prior to January 1, 1977.

Coastal Commission Correspondence

The Coastal Commission staff were contacted during the plan review process and they provided input on the project. Specifically, they commented that the pin pier wall should be relocated further away from the property line to the interior of the property closer to the existing development (attachment #7). The proposal originally included the pin pier line two feet from the property line and now the revised plans show the line of pin piers at six and a half feet from the property line.

Third Party Review

The City contracted with a consultant, Cotton, Shires, and Associates (CSA) to perform a peer review of the proposed plans, geotechnical reports and inspections. Below is a summary of the CSA comments provided to the consultant team:

1. Recommended increasing the depth of the pin piers by four feet and reducing tieback spacing.
2. Recommended increasing the inclination angle of the tiebacks.
3. Consideration of equipment use and mobilization relative to any dependencies in accessing the adjacent property and surcharge on the bluff during the construction activity.

The applicant has addressed and responded to all comments in either design alteration or with further explanation. The full CSA comment letter is included as attachment #2. The applicant's consultant and construction team has responded in writing and the letters are included as attachments #3 through #6. In summary, the applicant's team increased the depth of the piers, reduced the tieback spacing, increased the tieback inclination angle, moved the pin pier system closer to the condominium building, and specified construction equipment and means and methods to address the concerns of accessing adjacent properties and potential for impacts from equipment on the bluff.

Mobilization and Staging

The construction will be staged from the subject property only. The applicant is proposing to access the side yard area of work with a drill rig that has an eight foot wide track. The existing building is approximately 16-18 feet from the property line in this side yard location. The applicant's contractor has provided a written description and sequencing of the mobilization and construction effort (Attachment #5). There will be loss of landscaping in the areas of work. Staff is recommending a condition that the applicant provide a landscape plan and install replanting, prior to final inspection (condition #12).

Environmental Analysis

The property is in the locally mapped Environmentally Sensitive Habitat Area. The City contracted with the environmental consultant, Dudek, to prepare the required environmental review document. The consultant determined that the proposed project is in response to damage incurred during a declared State of Emergency event and the project qualifies for a Statutory Exemption from CEQA. The draft Notice of Exemption is included in attachment #8.

Staff is recommending a condition of approval that requires preconstruction surveys for nesting birds (condition #10), which is typical for projects in this location.

CEQA:

Section 15269(a) allows exemption from CEQA for emergency projects under certain conditions when projects are approved by a public agency to maintain, repair, restore, demolish or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed. Section 15269(c) also exempts specific actions necessary to prevent or mitigate an emergency. The California Governor filed a Proclamation of a State of Emergency #23-001, which is directly related to the storm events that resulted in bluff loss and is still in effect.

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 R-1 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 pin pier wall system is consistent with the general plan, local coastal program, and zoning code. Shoreline structures are permitted to protect development that existed prior to the Coastal Act.

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 install an accessory structure that reinforces the bluff and protects the existing building on the property. The structure is compatible with and will not interfere with other planned land uses in the vicinity. The project contractor has considered mobilization and does the proposed project does not require access to any other property.

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

The proposed pin pier wall system will not be detrimental to the public health, safety, or welfare. As conditioned, the mobilization and installation will stabilize the bluff and protect the existing structure.

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 installation does not have any anticipated impact to public services or infrastructure.

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. Specifically, Policy VII-9 allows shoreline structures to be installed for protection of existing structures.

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 an impact on existing decorative landscaping and patios. These are not areas conducive to native habitat. Condition of approval #10 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. Condition #13 requires the applicant to provide a landscape plan to the Planning Department for review and installation, prior to final inspection.

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 pin pier wall system is intended to maintain the bluff, minimize erosion, and protect the existing structures.

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 pin pier wall will not be noticeable from offsite when completed. The proposed wall is a passive installation below grade. There are no significant design or operational impacts associated with the proposed project.

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 are appropriately conditioned by this permit and only impact the project site.

Conditions of Approval:

1. The application is for a Conditional Use Permit (CUP) and Coastal Development Permit (CDP) to construct a coastal protection pin pile wall structure with tiebacks and a grade beam at 4820 Opal Cliff Drive. Prior to construction, a building permit shall be secured for any new construction or modifications to existing structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission on July 17, 2025, except as modified through conditions imposed by the Planning Commission during the hearing. 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 to construct a coastal protection pin pile wall structure with tiebacks and a grade beam. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on July 17, 2025, except as modified through conditions imposed by the Planning Commission during the hearing.
5. Prior to making any changes to the 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 #25-0231 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. To the extent practicable, construction activities shall be performed from September 1 through January 31 to avoid the general nesting period for birds. If construction cannot be performed during this period, preconstruction 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 construction (including 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 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.

11. Prior to building permit issuance, the City's Geotechnical Consultant shall review and approve all geotechnical aspects of the project construction and grading plans (i.e., site preparation, grading, excavation, and subsurface drainage improvements, etc..) to ensure that their comments have been addressed and/or properly incorporated into the project design.
12. Prior to final inspection, a landscape plan shall be submitted and approved by the Community Development Department and installed by the applicant. The landscape plan may be produced by the property owner, landscape professional, or landscape architect. Landscape plans shall, at minimum, demonstrate how the affected areas will be replanted and protected for erosion control. The plan shall identify planting type, size, and location of species and details of any proposed (but not required) irrigation systems.
13. If during construction operations the contractor needs access to any adjacent private property, the applicant shall immediately notify the City and, prior to accessing any adjacent private property, provide the City with documentation of a signed access agreement that references the needed encroachment and includes permission from the affected property owner(s) to access and conduct the work.

Public Works

14. 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.
15. 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.
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. 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.

Attachments:

1. Project Plans

2. Cotton, Shires Peer Review
3. Geotechnical Consultant Response
4. Project Engineer Response
5. Project Contractor Response
6. HOA Response
7. Coastal Commission Technical Memo
8. Draft Notice of Exemption

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