

Capitola City Council

Agenda Report

Meeting: April 27, 2023

From: Community Development

Subject: 401 Capitola Avenue Appeal



Recommended Action: Adopt a resolution upholding the Planning Commission’s decision to deny Application #22-0282 and approving a modified Conditional Use Permit and Coastal Development Permit for an existing takeout establishment to allow beer and wine sales for onsite consumption at 401 Capitola Avenue (Capitola Tap House).

Background: Applicant Amy Cheng (“Applicant”) submitted an application for a proposed Conditional Use Permit, Parking Variance, and Coastal Development Permit to establish a restaurant that serves beer and wine on a property with no parking at 401 Capitola Avenue located within the MU-N (Mixed Use Neighborhood) zoning district. (“Project”).

The original application included a Conditional Use Permit, a Variance for Parking, and a Coastal Development Permit.

On December 1, 2022 the Planning Commission of the City of Capitola held a duly noticed public hearing at which time it voted to deny the Project by a 3-0 vote, citing an inability to make findings for approval.

On December 9, 2022 the Applicant submitted a timely appeal (“Appeal”) of the Planning Commission’s decision.

On March 23, 2023 the City Council of the City of Capitola held a duly noticed public hearing, at which time it considered the Appeal, including all oral and documentary evidence presented. During the Appeal hearing, modifications to the Project (“Modified Project”) were presented and considered, consisting of maintaining the existing “takeout” establishment with the following added conditions:

1. Sales of beer and wine for onsite consumption shall be limited to less than 50% of the tap system (15 or less).
2. Daily close of business shall be 8pm.
3. The kitchen facilities and meal provisions shall be acceptable to the Department of Alcoholic Beverage Control in order to operate with a type 41 license.
4. The applicant shall obtain all required approvals and final inspections from the Santa Cruz County Department of Environmental Health, prior to the Building Department final inspection.
5. A maximum of six seats shall be deployed inside the building or on the front porch. Customer use of the exterior is confined to the covered front porch area. Customers shall not use the side or rear yards at any time.
6. The applicant shall install signage at the exit to the front porch stating that “no alcoholic beverages beyond this point” and “please be considerate of our neighbors” and any additional signage required by code.

7. Entertainment Permits are prohibited in conjunction with this Conditional Use Permit, as defined by section 5.24.010, to minimize impacts on the surrounding neighborhood.

After taking public testimony, the City Council voted to direct staff to return with a resolution upholding the Planning Commission's denial and approving the Modified Project. The Council further directed that the parking variance be removed from the request and that the business maintain the existing takeout establishment with a limit of six seats; and to also include added conditions that address hours of operation, neighborhood impacts, other regulatory agency's required permits, and recommended bike parking.

Discussion: Planning staff has prepared the following conditions of approval, findings, and the attached resolution for approval (attachment #2).

CEQA: The City Council's action would be statutorily exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332 ("In-fill Development").

Fiscal Impact: None.

Attachments:

1. Proposed Site Plan/Floor Plan
2. Resolution for Modified Approval

Report Prepared By: Brian Froelich, Senior Planner

Reviewed By: Julia Moss, City Clerk; Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager