

City of Capitola

Planning Commission Meeting Minutes

Thursday, July 21, 2022 – 7:00 PM



City Council Chambers
420 Capitola Avenue, Capitola, CA 95010

Chairperson: Peter Wilk

Commissioners: Courtney Christiansen, Ed Newman, Mick Routh, Susan Westman

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

Chair Wilk called the meeting to order at 7 P.M. Commissioners Courtney Christiansen, Ed Newman, Mick Routh, Susan Westman, Peter Wilk were present.

2. ORAL COMMUNICATIONS – none

A. Additions and Deletions to the Agenda

Community Development Director Katie Herlihy noted for the record that there are two additional public comments for item 6D, (720 Hill Street), since the packet was released: an email from a neighbor, and a response to it from the hotel owner.

B. Public Comments – none

C. Commission Comments – none

D. Staff Comments

Community Development Director Katie Herlihy noted that City Council will be going back to in person/hybrid meeting Sept. 1, 2022. Planning Commission feedback is welcome.

There was a consensus among the Commissioners on Planning Commission in person/hybrid meeting starting Sept. 1, 2022.

4. Approval of Minutes – none

5. Consent Calendar – none

6. Public Hearings

A. Blanket CDP and Design Permit for Prototype Street Dining Deck in Central Village

Permit Number: 22-0140

Location: Up to 25 public parking spaces in the Central Village

Blanket Coastal Development Permit and Design Permit for Capitola's prototype street dining deck design which may be utilized by Eating and Drinking Establishments in the Central Village.

Environmental Determination: Categorically Exempt

Property Owner: City of Capitola

Representative: Katie Herlihy, Community Development Director

Community Development Director Katie Herlihy presented the report, and requested feedback:

Planning Commission Consultants, Michael Arnone, and Jennifer Coifer offered details on concrete planters, railings, and perimeters, relative to space, seating arrangements and sidewalk.

Public comments:

Reef Dog Deli commented on plants' sustainability; growth for the planter boxes must provide green and beauty; low water, yet sustainable.

Linda Smith commented that indoor dining will be less in use in the post-covid era. Also, standard heaters are more efficient than flame heaters.

Comments from Bob Lashley was read for the record by Planning Associate, Sean Sesanto.

Planning Commission Deliberations and Feedback:

Commissioner Routh noted that most outdoor restaurants have outdoor heaters, which are aesthetically pleasing and easier to operate

Chair Wilk observed that overhead electric heaters are warm and non-intrusive.

Commissioner Westman suggests designating heaters with glass protection. Capitola should replicate the Los Gatos outdoor dining model.

Commissioner Christiansen noted that the outdoor planters and rails should be consistent, uniform, and intentional. No preference on heaters.

Commissioner Newman: Capitola is more of an eclectic community; avoid too much uniformity.

Chair Wilk: recaps that concrete planters is the consistency that makes Capitola unique.

There was a consensus among all Commissioners on scope of plant options, streetscape, street furniture, and signage; the heater type is irrelevant so long as they provide heat.

Motion: Approve the blanket coastal development permit, as well as the design permit for the prototype design with the added conditions as reviewed.

Motion made by Commissioner Routh, Seconded by Vice Chair Westman.

Voting Yea: Chair Wilk, Vice Chair Westman, Commissioner Christiansen, Commissioner Newman, Commissioner Routh

CONDITIONS

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. 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 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 Applicant 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 applicant, 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.
14. Signs. One business identification sign and one menu sign each not to exceed two square feet are allowed per street dining deck. The signs shall be oriented toward the sidewalk, not the street.
15. 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.
16. Utilities. All outdoor dining shall not interfere with utility boxes, water hydrants, storm drains, and all other related facilities.
17. 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.
18. 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 a UV rated fabric and not include logos, labels, or advertising. The prototype design includes furniture option by Emu, Tolix, and BFM. The three 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.
19. Stanchions. The portable stanchions and ropes shall not encroach into the sidewalk. They must be located on the street dining deck.
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. Bicycle parking required for the street dining decks is public bicycle parking available to any member of the public. Bicycle parking shall not limited to patrons of the eating and drinking establishment.

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 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.
25. Planters. The prototype street dining decks shall be planted with plants identified in the prototype street dining deck plant options list.
26. Heaters. Each street dining deck may have free standing heaters. The free standing heaters shall be uniform and match within each dining deck. The details of the street heaters shall be submitted with the building permit application. The prototype design does not dictate the manufacturer or design of street heater other than it must be free standing.

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. The proposed prototype street dining deck complies with the development standards of the mixed use village zoning district. Specifically, all of the requirements of Capitola Municipal Code §17.74.060 have been met. 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 the prototype street dining deck design. 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 15305 (class 5) and 15311 (class 11) of the CEQA Guidelines exempts minor alterations in land use limitation in areas with an average slope of less than 20%, which do not result in any changes in land use or density and projects that consist of construction or placement of minor structures that are accessory to existing commercial facilities and is subject to Section 753.5 of Title 14 of the California Code of Regulations. This project involves street dining decks within the Mixed-Use Village 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.**

Community Development Staff and the Planning Commission have reviewed the project. The proposed prototype street dining deck 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 prototype street dining deck complies with all applicable design review criteria in Section 17.120.070.

F. 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 prototype street dining deck. The design of the deck will fit in nicely with the existing mixed-use village neighborhood. The project will maintain the character, scale, and development pattern of the village.

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. 201 Monterey Avenue #C

Permit Number: #22-0125

APN: 035-185-06

Conditional Use Permit Amendment and Design Permit to allow beer and wine sales, sidewalk dining, and outdoor dining to an existing restaurant (Castagnola Deli & Cafe) located in the MU-V (Mixed Use Village) zoning district.

This project is in the Coastal Zone and requires a Coastal Development Permit.

Environmental Determination: Categorical Exemption 15301

Property Owner: Atlantis Properties

Representative: Daniel Castagnola Filed: 3.21.22

Senior Planner Brian Froelich presented staff report.

Recommended action: Staff recommends the Planning Commission approve project #22-0125 based on the conditions of Approval and Findings

There were no public comments.

Planning Commission Deliberation and Feedback:

There was a consensus among the Commissioners.

Chair Wilk: clarified availability of public access restrooms inside the building

Commissioner Christiansen: clarified the 160 sq ft. limitation in relation to the newly adopted zoning ordinance for take-out restaurants

Motion: Approve the project; (amended with the condition that public restroom is available.)

Motion made by Commissioner Christiansen, Seconded by Commissioner Routh.

Voting Yea: Chair Wilk, Vice Chair Westman, Commissioner Christiansen, Commissioner Newman, Commissioner Routh

C. 1350 49th Avenue
Permit Number: #22-0035
APN: 034-068-14

Permit amendment for a Design Permit and Variance to construct first- and second-story additions on an existing single-family residence with a variance to the required side yard setback located at 1350 49th Avenue within the R-1 (Single-Family) 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: Rick Aberle

Representative: John Hofacre, Filed: 01.31.22

Associate Planner Sean Sesanto presented the report.

Recommended action: Staff recommends the Planning Commission approve project #22-0035 based on the conditions of Approval and Findings

Planning Commission Questions and Comments:

Commissioner Routh: asked for clarification if permit granted in 2018 could expire when not used. He also asked to clarify encroachment on adjacent lots.

Community Development Director Katie Herlihy clarified that the requirement on this permit is to allow access to the site during construction.

Commissioner Newman: asked clarification if their city-issued permit approved encroachment on neighbor's property.

Architect John Hofacre commented on active building permit that was approved to build or make improvements to a building.

Commissioner Westman: suggests continuing the item until the next agenda, while the Commission consults with the City Attorney office on the correct course of action.

Public Comments

The Applicant, (John Hofacre), commented that the area around the garage is about 4 ft', and a 1' overhang.

Community member, (Rick) commented on his relationship with neighbors in the community, (when he got the house years ago.)

Steven Lang was recognized to speak but had a technical glitch. Chair Wilk noted that the Commission welcomes his comments if he's able to send it in via text message.

Planning Commission Deliberation and Feedback:

Commissioner Routh: expressed concern about approving a project that may encroach on someone else' property. Supports continuing the item to the next agenda, while the Commission consults with City Attorney's Office.

Chair Wilk: happy with the application other than approving if it encroaches on someone else' property.

Motion: continue the application to next Planning Commission meeting, to give staff the time to get a written response from the City Attorney's Office for the Planning Commission regarding encroachment on the neighbor's property.

Motion made by Vice Chair Westman, Seconded by Commissioner Routh.

Voting Yea: Chair Wilk, Vice Chair Westman, Commissioner Christiansen, Commissioner Newman, Commissioner Routh

D. 720 Hill Street

Permit Number: #21-0122

APN: 036-011-28

Design Permit, Conditional Use Permit, and Tree Removal Permit for a new 42-room hotel located within the C-C (Community Commercial) zoning district and the AH (Affordable Housing) overlay zone ("Project").

This project is outside of the Coastal Zone and does not require a Coastal Development Permit.

Environmental Determination: CEQA Categorical Exemption Section 15332 (In-fill Development)

Property Owner: Dhanesh Patel

Representative: Gwen Jarick

Senior Planner Brian Froelich presented the staff report.

Recommended action: Staff recommends the Planning Commission approve project #22-0122 based on the conditions of Approval and Findings, including conditions 55 and 56.

Chair Wilk: asked for clarifications on the concessions made by the applicant and if neighbors are happy.

Public Comments

The applicant, (Danesh Patel), commented that the main concern of his neighbor is the connecting wall; there will be no large vehicles or idling trucks.

Peter Folis expressed concern about privacy issues and the length of the proposed screening.

Bill Babcock commented on the height of the proposed wall for privacy reasons.

Letter from a community member, (Bob Lashey), was read for record by Senior Planner Brian Froelich.

Planning Commission Deliberation and Feedback:

Commissioner Routh noted that the added conditions in staff presentation, (#s: 55 and 56) is good to approve the project.

Motion: Approve the project with the added conditions in staff presentation, (#s: 55 and 56).

Motion made by Commissioner Christiansen, Seconded by Commissioner Newman.

Voting Yea: Chair Wilk, Vice Chair Westman, Commissioner Christiansen, Commissioner Newman, Commissioner Routh

7. Director’s Report

Community Development Director Katie Herlihy noted that there is an upcoming new project, (Assisted Living Facility), submitted for 37 Capitola Road across from Target. This will be agendaized for the next Planning Commission hearing.

8. Commission Communications – none

9. Adjournment

The meeting was adjourned at: 9:36PM to the next Regular Meeting of the Planning Commission on August 18, 2022.

ATTEST/Approved by the Planning Commission

Louis Osemwegie, Clerk to the Commission

APPROVED SEPTEMBER 1, 2022