

City of Capitola

Planning Commission Meeting Minutes

Thursday, April 07, 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

A. Additions and Deletions to the Agenda

Director Herlihy noted that two public comments have been received: one on the 106 Cliff Avenue application, and the other on the 1410 Prospect Avenue application.

B. Public Comments

None presented

C. Commission Comments

None presented

D. Staff Comments

None presented

3. CONSENT CALENDAR

A. 1835 48th Avenue

Permit Number: #21-0301

APN: 034-022-03

Design Permit for a second-story addition and a new detached garage for an existing nonconforming single-family residence located within the R-1 (Single-Family Residential) zoning district.

Environmental Determination: Categorical Exemption

Property Owner: Dana Glusovich

Representative: Dennis Norton, Filed: 07.07.2021

Motion: Approve the Consent calendar.

Mover: Vice Chair Westman

Second: Commissioner Christiansen

Yea: Commissioner Newman, Commissioner Routh, Chair Wilk

4. PUBLIC HEARINGS

A. 1820 41st Avenue, Suite A

Permit Number: #21-0429

APN: 034-131-24

Conditional Use Permit Amendment to allow extended hours of delivery sales for alcohol and non-alcohol retail goods from an existing Retail Alcohol Establishment (BevMo) located in the C-R (Regional Commercial) zoning district.

This project is not in the Coastal Zone.

Environmental Determination: Categorical Exemption 15301

Property Owner: Chaboya Ranch

Representative: Philip Olson - BevMo, Filed: 10.11.21

Senior Planner Brian Froelich presented the staff report.

Recommendation: approve project #21-0429 based on the Conditions of Approval and Findings.

Public comments: none presented.

Director Herlihy clarified that getting alcohol delivered after midnight may contribute to higher risk. Some bars stay open in Capitola until 2:00AM, but not many.

There appears to be a consensus among the Commissioners on the Commission's power to modify a permit once it is issued; lest violations may be referred to law enforcement regarding.

Motion: approve the application with the recommended conditions and the following amendments:

- i. Comments on additional conditions at the one-year review period on the conditional use permit.
- ii. Adhere to the midnight delivery timeframe review

Recommended Conditions of Approval

1. The project approval consists of a Conditional Use Permit for the off-site retail sale of alcohol (Beverages and More! Inc.) in addition to the limited wine and beer tasting at 1820 41st Avenue. The original CUP application #08-018 was approved on June 26, 2008, by the City Council. The amendment to the CUP application #21-0429 was approved by Planning Commission on April 7, 2022.
2. Beer and wine tasting shall be limited to Friday 4:00 P.M. – 7:00 P.M and Saturday, 12 Noon – 6:00 P.M. Tasting shall also be allowed on Valentine's Day, St. Patrick's Day, Cinco de Mayo, Halloween, day before Thanksgiving, and New Year's Eve from 4:00 P.M. – 7:00 P.M.
3. Any significant modifications to the size and appearance of the structure must be approved by the Planning Commission. Similarly, any significant change to the use itself, or site, must be approved by the Planning Commission.
4. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.

5. Business hours for in-store shopping will be limited to 9:00 A.M. – 9:00 P.M., seven days a week. The last six weeks of the year, November 16 through December 31, the hours for in-store shopping will be limited to 9:00 A.M. – 10:00 P.M. Online/app sales for delivery to customers can occur Monday through Sunday, provided there are no sales/deliveries of alcohol between the hours of 12:00 a.m. and 6:00 a.m. Delivery of non-alcoholic consumer goods can occur 24 hours per day.
6. The applicant shall ~~obtain~~ maintain a current business license ~~prior~~ to operating the business.
7. Hours for deliveries to the store shall be limited to 8:00 A.M. – 8:00 P.M. Monday through Friday, to minimize noise impacts to neighboring residents. Delivery vehicles shall not be permitted to remain at idle during non-delivery hours.
8. Air-conditioning equipment or other roof top equipment shall be screened from view and fall within allowable city permitted decibel levels.
9. Trash enclosures shall be covered, gated, and maintained to provide a clean and sanitary area.
10. Security lighting in the rear of the store shall be shielded to prevent light from shining in the neighboring properties.
11. No roof equipment is to be visible to the general public. Any necessary roof screening is to match the color of the building as closely as possible. Plans for any necessary screening shall be submitted to the Community Development Department prior to, or in conjunction with the building permit submittal.
12. The applicant shall develop, submit, and enact a plan for the use and control of their carts, including a plan to collect carts removed from their property.
13. The applicant shall submit a lighting plan for the parking lot area, for review and approval by the Community Development Department prior to, or in conjunction with the building permit submittal. The parking lot lighting shall be shielded to prevent light from shining on the neighboring properties.
14. The applicant shall submit a landscape plan for the parking lot area, for review and approval by the Community Development Department prior to, or in conjunction with the building permit submittal. The landscape plan shall meet the 41st Avenue Design Guidelines.
15. The applicant shall comply with the Municipal Code Section 8.36 Environmentally Acceptable Packaging Materials.
16. All delivery services of store goods to customers after regular business hours must utilize the front door facing 41st Avenue and parking in front of the store. Customer delivery services after regular store hours are prohibited from parking, staging, loading, unloading, or idling vehicles behind the store or idling at delivery locations. Deliveries to customers after regular business hours shall utilize two-axle passenger vehicles. Use of delivery trucks, moving vans, vehicles equipped with roll up doors or lift gates, back-up alarms, and deliveries that necessitate use of a hand truck or pallet jack are not permitted.

17. A one-year review of the amendment to the conditional use permit by the Planning Commission is required to ensure all impacts of the delivery service are adequately assessed. During the one-year review, the Planning Commission may modify conditions as necessary to ensure health and safety. The review shall be scheduled during the first half of 2023 and will require a cost recovery deposit paid by the applicant.

Findings

A. The proposed use is allowed in the applicable zoning district.

Sales and delivery of alcohol are permitted through a conditional use permit in the C-R 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 retail space with alcohol sales and delivery, as conditioned, is consistent with the Zoning Ordinance, General Plan, and Local Coastal Plan.

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.

1820 41st Avenue is located in the 41st Avenue/West Capitola area, an area capable of handling larger vehicular volume, has plentiful parking, and suburban commercial developments that serve a variety of eating and drinking establishments and larger scale retail spaces. Allowing delivery and later hours to stage from the front of the building is compatible with existing and planned uses.

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

Delivery of alcohol and retail goods offered by Bevmo until midnight will not be detrimental to the public health, safety, and welfare. Similar services are currently operating in Capitol and surrounding communities.

E. The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.

1820 41st Avenue is properly located within the 41st Avenue/West Capitola area and adequately served by services and infrastructure.

F. This project is categorically exempt under Section 15301 of the California Environmental Quality Act and is subject to Section 753.5 of Title 14 of the California Code of Regulations.

Section 15301 of the CEQA Guidelines exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. This project involves a minor modification to the retail delivery services for the business and minor changes to the interior inventory. No adverse environmental impacts were discovered during review of the proposed project.

Mover: Vice Chair Westman,

Second: Commissioner Routh

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

B. 106 Cliff Avenue

Permit Number: #21-0404

APN: 036-112-17

Design Permit and Historical Alteration Permit for additions to a historic single-family residence, a new detached single-story accessory structure that includes an accessory dwelling unit (ADU) and garage, and a Variance for the maximum height of the primary structure. The permit includes the demolition of two non-historic accessory structures behind the primary residence. The project is located within the R-1 (Single-Family Residential) 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.

Environmental Determination: Categorical Exemption

Property Owner: Sam Abbey

Representative: Cove Britton, Filed: 09.07.21

Associate Planner Sean Sesanto presented the staff report.

Recommendation: approve project #21-0404, but deny the variance for a chimney, based on the conditions of approval and findings

Public comments: The applicant's architect, (Mr. Britton), commented on the ceiling height in the attic. The space is not usable; a certain clearance from the roof is required for a chimney Per building code; woodburning fireplace is a right.

John Glenna commented as follows:

1. The chimney on the ADU is my greatest concern; it's right next in the middle. I 'm concerned the smoke from the chimney's woodburning may end up on my second floor.
2. the canopy of the redwood tree requires regular trimming for safety reasons.
3. the chimney is above 16-foot height limit permitted for an ADU.
4. the variance for the garage height should be capped at 15ft.
5. I'd be pushing back on the southeast corner if they re-design the house, as it takes away my ocean view.

Caroline Swift, (in a written statement read for the record,) stated that, while the visible history is used to justify proposed alterations, the invisible history should also be considered.

Phone # ending in 915, (Patti Steinbeck), thanked the applicant for preserving the redwood tree on the property.

Commission feedback:

Commissioner Westman noted specifically:

1. Lowering the ceilings is a good fit.
2. Staff should determine and recommend variant for floor area ratio.
3. No problem with wood-burning chimney or fireplace.
4. Disfavors second floor deck as it's the house' biggest issue.
4. No justification for this project because it's a historical home.
5. Agrees with the neighbor who is concerned with chimney on the ADU.

Commissioner Christiansen addressed specifically:

1. if the Commission would be reviewing the ADU's if there were no other issues.
2. No problem with second floor deck.

3. clarification on usable space and if the turret's unique design and historical feature is cause to negotiate

Director Herlihy will clarify if there are exceptions for ADU.

Commissioner Routh addressed specifically:

1. Clarification on ceiling height from the applicant.
2. Prefers a variant that makes available space usable.
3. No problem with the chimney.
4. Configuration of neighbor's house suggests there are no privacy issues with second storey deck.
5. Supports gas-fired stove in the ADU.

Commissioner Newman noted specifically:

1. We need to continue this matter.
2. Variant is a better solution.
3. Chimney height needs to be qualified.

Chair Wil noted specifically:

1. Willing to explore variants again; it's a unique case.
2. No problem with the chimney height or second floor deck.
3. Wood burning stove in the ADU should be considered problematic both to the neighbors' and the health of the coastal redwood trees.
4. There's room for design modifications to satisfy all stakeholders.

Recommended Action: Continue the item to a future Planning Commission Agenda.

MOTION: Continue the item to a future Planning Commission Agenda.

Mover: Commissioner Newman

Second: Commissioner Christiansen.

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

C. 1410 Prospect Avenue

Permit Number: 21-0376

APN: 034-046-19

Design Permit, Historical Alteration Permit and Variance to demolish an existing residence and construct a new home that retains nonconformities for size and setbacks. The project is located within the R-1-GH (Single-Family Residential) zoning district and (Geologic Hazards) overlay zone.

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: Alex Johnson

Representative: Derek Van Alstine, Filed: 08.24.21

Associate Planner Sean Sesanto presented the staff report.

Recommended Action: Approve the project based on the conditions of approval and findings or continue the application to the next hearing with direction.

Commission feedback:

Commissioner Routh: seeks to clarify if the applicant has submitted a landscape plan.

Staff, (Associate Planner Sean Sesanto), clarified that they have not, as they're not proposing doing anything but remove the low-lying deck; a geological report may be required.

Public Comments:

1. Derek Ben Austin? commented that this project is a generic style architecture that has to do with pattern of construction from 1901. We don't want to lose its historic value.
2. Jeffl commented on his meeting with the architect and noted that there are several discrepancies, (e.g., the proposed setbacks); additional time for further review is required.
3. Telephone # ending in 915, (Becky Steinbrenner), questioned why the owner seeks to demolish a historic building, rather than remodel it. Also, the cypress tree is a heritage tree that should not be removed but preserved.
4. Steve Kell, who stated that he is a property owner across the street, (call is inaudible,) has 3 major issues: 1. dislike for location of the house; 2. Inadequate parking space, and cypress trees need to be preserved.

Commission provided feedback:

All Commissioners appear to agree that the building is not only old, the possibility of preserving or remodeling it is low.

MOTION: Approve the project based on the conditions of approval and findings or continue the application to the next hearing with direction.

Conditions of Approval:

1. The project approval consists of Design Permit, Historical Alteration Permit, and Variance to allow the demolition of an existing historic structure and construction of a 1,422 square-foot single-family residence with a 796 square-foot basement. The project includes a remodel of an existing 280 square-foot detached garage, and variance for the primary structure setbacks and maximum floor area ratio. The maximum Floor Area Ratio for the 2,416 square foot property is 58% (1,401 square feet). The total FAR of the project is 60.1% with a total of 1,452 square feet, exceeding the maximum FAR by 51 feet. The application does comply with front, side, and rear yard setbacks. A variance for setbacks and floor area ratio was approved for the project. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on April 7, 2022, except as modified through conditions imposed by the Planning Commission during the hearing.
2. 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. All construction and site improvements shall be completed according to the approved plans

3. 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.
4. At 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.
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 the size or exterior appearance of the structure shall require Planning Commission approval.
6. Prior to issuance of building permit, a landscape plan shall be submitted and approved by the Community Development Department. The landscape plan can be produced by the property owner, landscape professional, or landscape architect. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of any proposed (but not required) irrigation systems.
7. Prior to issuance of building permit, all Planning fees associated with permit #21-0376 shall be paid in full.
8. Prior to issuance of building permit, the applicant shall provide a geotechnical report and demonstrate compliance with its recommendations to the satisfaction of the Building Department.
9. Prior to issuance of building permit, the developer shall pay Affordable housing in-lieu fees as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance.
10. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel Creek Water District, and Central Fire Protection District.
11. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, 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.
12. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).
13. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan.
14. 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.

15. 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
16. Prior to a project final, 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.
17. Prior to issuance of a Certificate of Occupancy, the applicant shall demonstrate compliance with the tree removal permit authorized by this permit for two trees to be removed from the property. Three replacement trees shall be planted or so as to meet fifteen percent canopy coverage and/or a replacement ratio of 2:1. Required replacement trees shall be of the same size, species and planted on the site as shown on the approved plans.
18. 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.
19. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.156.080.
20. The planning and infrastructure review and approval are transferable with the title to the underlying property so 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.
21. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
22. Prior to issuance of building permits, the building plans must show that the existing overhead utility lines will be underground to the nearest utility pole.
23. Prior to demolition of the existing structure, a pest control company shall resolve any pest issue and document that all pest issues have been mitigated. Documentation shall be submitted to the city at time of demolition permit application.
24. The garage doorway on the east (rear) elevation shall be of a sliding barn-door style or similar in such a way that no portion of the opening extends beyond the subject property and that vehicles may not pass through to the backyard.

25. Prior to issuance of a building permit, an archaeological survey report and monitoring plan shall be prepared for the development.
 - a. The archaeological survey report shall include, at a minimum, a field survey by an archaeologist, survey of available state resource information at the Northwest Regional Information Center of the California Archaeological Inventory, description of the site's sensitivity, and any identified archaeological resources. The city will initiate the preparation of the survey report at the applicant's expense utilizing a qualified archaeologist selected by the community development department.
 - b. The cultural resource monitoring plan shall, at a minimum:
 - i. Identify all areas of proposed grading or earth disturbing activities which have the potential to impact historic or prehistoric resources;
 - ii. Identify the qualified archaeological monitor assigned to the project;
 - iii. Describe the proposed monitoring program, including the areas to be monitored, the duration of monitoring, and monitoring protocols;
 - iv. Outline procedures to be followed if cultural resources are discovered, including requirements to stop work, consultation with the City and any Native American participation (as appropriate), resource evaluation, mitigation plan requirements, and protocols if human remains are encountered; and
 - v. Include post-monitoring reporting requirements and curation procedures.
26. Prior to issuance of a building or grading permit, the applicant shall submit evidence that a qualified archaeological monitor has been retained to oversee all earthwork activities.
27. The archaeological monitor shall attend a construction meeting to coordinate required grading monitoring activities with the construction manager and contractors.
28. If resources are encountered, the archaeological monitor shall have the authority to stop work until a significance determination is made.
29. If significant resources are discovered, work may remain halted at the archaeologist's discretion until such time that a mitigation plan has been prepared and implemented with the concurrence of the Community Development Department.
30. Following completion of archaeological monitoring, the archaeologist shall submit a summary and findings of the monitoring work.
 - a. If no resources are recovered, a brief letter report shall be completed that includes a site record update on a California Department of Park and Recreation form 523.
 - b. If significant resources are recovered, the report shall include a preliminary evaluation of the resources, a preliminary map of discovered resources, a completed California Department of Park and Recreation form 523, and recommendations for additional research if warranted.
31. If human remains are found at any time, the immediate area of the discovery shall be closed to pedestrian traffic along the Prospect Avenue street frontage and the Santa Cruz County Coroner must be notified immediately. If the Coroner determines that the remains are Native American, the Native American Heritage Commission shall be notified as required by law.
32. The archaeological monitor may discontinue monitoring with approval by the Community Development Director if he/she finds that site conditions, such as the presence of imported fill or other factors, indicates that significant prehistoric deposits are not possible.

33. The archaeologist shall prepare a grading monitoring letter report summarizing all monitoring work and any recovered resources. The letter report shall be submitted to the Community Development Department within 30 days following completion of grading activities.

Mover: Commissioner Christiansen

Seconded: Chair Wilk.

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

D. Preliminary Review of Prototype Street Dining Deck

Permit Number: 22-0140

APN: Village Eating Establishments

Preliminary design for future prototype street dining deck.

Environmental Determination: Categorically Exempt

Property Owner: City of Capitola

Representative: Katie Herlihy, Community Development Director

Director Katie Herlihy introduced the item.

Consultants Jennifer Colfer and Michael Arnone--- presented the report.

Public comments: Doug Conrad, (owner of Capitola Wine Bar), in a email read for the record noted that the city is still in recovery from covid-19. Therefore, extended temporary parking program is required to align with the State's Outdoor Dining Program.

Commission feedback:

The Commissioners accepted the report, with varying options of two dining decks.

5. DIRECTOR'S REPORT

None presented.

6. COMMISSION COMMUNICATIONS

None presented.

7. ADJOURNMENT

The meeting was adjourned at 9:56PM to the next Special Meeting of the Planning Commission on April 25, 2022, at 5PM.

ATTEST/Approved by the Planning Commission

Louis Osemwegie, Clerk to the Commission