

City of Capitola

Planning Commission Meeting Agenda

Thursday, July 20, 2023 – 6:00 PM



City Council Chambers
420 Capitola Avenue, Capitola, CA 95010

Chairperson: Susan Westman

Commissioners: Courtney Christiansen, Paul Estey, Gerry Jensen, Peter Wilk

Please review the Notice of Remote Access for instructions on participating in the meeting remotely. The Notice of Remote Access is at the end of the agenda.

All correspondence received prior to 5:00 p.m. on the Wednesday preceding a Planning Commission Meeting will be distributed to Commissioners to review prior to the meeting. Information submitted after 5 p.m. on that Wednesday may not have time to reach Commissioners, nor be read by them prior to consideration of an item.

All matters listed on the Regular Meeting of the Capitola Planning Commission Agenda shall be considered as Public Hearings.

1. Roll Call and Pledge of Allegiance

Commissioners Susan Westman, Courtney Christiansen, Paul Estey, Gerry Jensen, Peter Wilk

2. New Business

3. Oral Communications

A. Additions and Deletions to the Agenda

B. Public Comments

Please review the Notice of Remote Access for instructions. This item is for short communications from the public concerning matters not on the Agenda. All speakers are requested to print their name on the sign-in sheet located at the podium so that their name may be accurately recorded in the Minutes. Members of the public may speak for up to three minutes, unless otherwise specified by the Chair. Individuals may not speak more than once during Oral Communications. All speakers must address the entire legislative body and will not be permitted to engage in dialogue.

C. Commission Comments

D. Staff Comments

4. Approval of Minutes

[A.](#) March 2, 2023 – Planning Commission Meeting Minutes

[B.](#) June 1, 2023 – Planning Commission Meeting Minutes

5. Consent Calendar

All matters listed under “Consent Calendar” are considered by the Planning Commission to be routine and will be enacted by one motion in the form listed below. There will be no separate discussion on these items prior to the time the Planning Commission votes on the action unless members of the public or the Planning Commission request specific items to be discussed for separate review. Items pulled for separate discussion will be considered in the order listed on the Agenda.

[A.](#) 201 Monterey Avenue #C

Permit Number: #22-0125

APN: 035-185-06

Revocation of a Conditional Use Permit for sidewalk dining at an existing restaurant (Castagnola Deli & Café) located within the Mixed-Use Village (MU-V) zoning district.

This project is in the Coastal Zone but is not appealable to the Coastal Commission.

Environmental Determination: Categorical Exemption 15321

Property Owner: Atlantis Properties

Representative: Daniel Castagnola Filed: 3.21.22

B. 4610 Crystal Street

Permit Number: #22-0396

APN: 034-193-03

Design Permit, for second-story additions to a single-family residence with a Minor Modification for the required covered parking dimensions. The project is located in the R-1 (Single-Family Residential) zoning district.

This project is in the Coastal Zone but does not require a Coastal Development Permit.

Environmental Determination: Categorical Exemption

Property Owner: Diedre McRobie

Representative: John Craycroft, Filed: 09.21.22

6. Public Hearings

Public Hearings are intended to provide an opportunity for public discussion of each item listed as a Public Hearing. The following procedure is as follows: 1) Staff Presentation; 2) Planning Commission Questions; 3) Public Comment; 4) Planning Commission Deliberation; and 5) Decision.

A. 111 Capitola Avenue

Permit Number: 23-0325

Location: 2 parking spaces in front of English Ales

Coastal Development Permit, Design Permit, and Major Encroachment Permit for Custom Street Dining Deck for English Ales at 111 Capitola Avenue in the Mixed-Use Village zoning district.

Environmental Determination: Categorically Exempt

Property Owner: John Kettman

Representative: Peter Blackwell, Business Owner

B. 103 Kennedy Drive

Permit Number: 22-0376

APN: 036-551-08

Design Permit and Conditional Use Permit Amendment to convert parking spaces to an outdoor tasting area, bike parking, and mobile food vending more than four times per year.

The project is not located within the Coastal Zone.

Environmental Determination: Categorically Exempt 15332

Property Owner: John McCoy

Representative: Adair Paterno, Filed: 08.31.2022

C. 1855 41st Avenue

Permit Number: #23-0041

APN: 034-261-38, -52

Conditional Use Permit to allow Capitola Mall food court restaurants to sell beer and wine within the designated food court area. The project is located within the C-R (Regional Commercial) zoning district.

The project is not located within the Coastal Zone.

Environmental Determination: Categorical Exemption

Property Owner: Merlone Geier

Representative: Brian Kirk, Filed: 02.03.23

7. Director's Report

8. Commission Communications

9. Adjournment

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- Spectrum Cable Television channel 8
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To Join Zoom Application or Call in to Zoom:

- Meeting link:
<https://us02web.zoom.us/j/84769092900?pwd=anpWVWIQamFzT3BGUm54QStJWtdwQT09>
- Or dial one of these phone numbers: **1 (669) 900 6833, 1 (408) 638 0968, 1 (346) 248 7799**
- Meeting ID: **847 6909 2900**
- Meeting Passcode: **379704**

To make a remote public comment:

- **Via Zoom Application:** Use participant option to “raise hand”. The moderator will unmute you
- **Via Zoom phone call:** Dial *9 on your phone to “raise your hand”. The moderator will unmute you

Appeals: The following decisions of the Planning Commission can be appealed to the City Council within the (10) calendar days following the date of the Commission action: Design Permit, Conditional Use Permit, Variance, and Coastal Permit. If the tenth day falls on a weekend or holiday, the appeal period is extended to the next business day.

All appeals must be submitted in writing on an official city application form, setting forth the nature of the action and the basis upon which the action is considered to be in error, and addressed to the City Council in care of the City Clerk. An appeal must be accompanied by a five hundred dollar (\$500) filing fee, unless the item involves a Coastal Permit that is appealable to the Coastal Commission, in which case there is no fee. If you challenge a decision of the Planning Commission in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this agenda, or in written correspondence delivered to the City at, or prior to, the public hearing.

Notice regarding Planning Commission meetings: The Planning Commission meets regularly on the 1st Thursday of each month at 6 p.m. in the City Hall Council Chambers located at 420 Capitola Avenue, Capitola.

Agenda and Agenda Packet Materials: The Planning Commission Agenda and complete Agenda Packet are available on the Internet at the City's website: www.cityofcapitola.org/meetings. Need more information? Contact the Community Development Department at (831) 475-7300.

Agenda Materials Distributed after Distribution of the Agenda Packet: Materials that are a public record under Government Code § 54957.5(A) and that relate to an agenda item of a regular meeting of the Planning Commission that are distributed to a majority of all the members of the Planning Commission more than 72 hours prior to that meeting shall be available for public inspection at City Hall located at 420 Capitola Avenue, Capitola, during normal business hours.

Americans with Disabilities Act: Disability-related aids or services are available to enable persons with a disability to participate in this meeting consistent with the Federal Americans with Disabilities Act of 1990. Assisted listening devices are available for individuals with hearing impairments at the meeting in the City Council Chambers. Should you require special accommodations to participate in the meeting due to a disability, please contact the Community Development Department at least 24 hours in advance of the meeting at (831) 475-7300. In an effort to accommodate individuals with environmental sensitivities, attendees are requested to refrain from wearing perfumes and other scented products.

Televised Meetings: Planning Commission meetings are cablecast "Live" on Charter Communications Cable TV Channel 8 and are recorded to be replayed on the following Monday and Friday at 1:00 p.m. on Charter Channel 71 and Comcast Channel 25. Meetings can also be viewed from the City's website: www.cityofcapitola.org.

City of Capitola

Planning Commission Meeting Minutes

Thursday, March 02, 2023 – 6:00 PM



City Council Chambers
420 Capitola Avenue, Capitola, CA 95010

Chairperson: Susan Westman

Commissioners: Courtney Christiansen, Paul Estey, Gerry Jensen, Peter Wilk

1. **Roll Call and Pledge of Allegiance** - *The meeting was called to order at 6:00 PM. In attendance: Commissioners Estey, Jensen, Wilk, Christiansen, and Chair Westman.*
2. **Oral Communications** - *None*
 - A. **Additions and Deletions to the Agenda** – *Item 5C will be continued to a future meeting date. Staff has received 54 public comments on Item 5D.*
 - B. **Public Comments** – *None*
 - C. **Commission Comments** – *None*
 - D. **Staff Comments** – *Community Development Director Herlihy reminded the Commission about the March 16th Housing Element Update Joint City Council and Planning Commission Workshop.*
3. **Approval of Minutes**
 - A. December 1, 2022 - Planning Commission Meeting Minutes
Chair Westman noted a correction to the December 1, 2022, Minutes.
Motion to approve the 12/1/2022 minutes: Commissioner Wilk
Seconded: Vice Chair Christiansen
Voting Yea: Commissioners Wilk, Christiansen, and Chair Westman
Voting Abstaining: Commissioners Estey, Jensen
 - B. January 19, 2023 - Planning Commission Meeting Minutes
 - C. February 2, 2023 - Planning Commission Meeting Minutes
Motion to approve the 1/19/2023 and 2/2/2023 minutes: Commissioner Estey
Seconded: Vice Chair Christiansen
Voting Yea: Commissioners Estey, Jensen, Wilk, Christiansen, Chair Westman
4. **Consent Calendar**
 - A. **203 Esplanade: Permit Number: 23-0046 (APN: 035-211-04)**
Coastal Development Permit and Historic Alteration Permit for window replacement at Zelda's Restaurant located at 203 Esplanade in the Mixed Used Village (MU-V) zoning district.
Environmental Determination: Categorical Exemption 15331
Property Owner & Representative: Jill Ealy, Zelda's Restaurant
Motion to approve the Consent Calendar: Commissioner Wilk
Seconded: Vice Chair Christiansen
Voting Yea: Commissioners Estey, Jensen, Wilk, Christiansen, Chair Westman

Conditions of Approval

1. The project approval is for a Coastal Development Permit and Historic Alteration permit for sliding glass windows on the rear façade of 203 Esplanade. No modifications to the Floor Area Ratio is proposed. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on March 2, 2023, 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 a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Santa Cruz County Environmental Health Department, Water District, and Central Fire Protection District.
7. 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
8. 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.
9. 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.

10. 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.

Historic Alteration Permit Findings:

- A. The historic character of a property is retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize the property is avoided.**

Community Development Staff and the Planning Commission have reviewed the proposed window modification and determined it will retain and preserve the historic character.

- B. Distinctive materials, features, finishes, and construction techniques or examples of fine craftsmanship that characterize a property are preserved.**

Community Development Staff and the Planning Commission have reviewed the proposed window modification and determined that distinctive design will be preserved by maintaining the window pattern along the rear façade.

- C. Any new additions complement the historic character of the existing structure. New building components and materials for the addition are similar in scale and size to those of the existing structure.**

Community Development Staff and the Planning Commission have reviewed the proposed window modification and determined that the proposed sliding windows are to scale and size of those previously and will complement the historic character of the existing structure.

- D. Deteriorated historic features are repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature matches the old in design, color, texture, and, where possible, materials.**

Community Development Staff and the Planning Commission have reviewed the proposed window replacement and the new sliding windows will maintain the pattern of previous windows.

- E. Archeological resources are protected and preserved in place. If such resources must be disturbed, mitigation measures are undertaken.**

Community Development Staff and the Planning Commission have reviewed the proposed window replacement and determined archeological resources will not be disturbed.

- F. The proposed project is consistent with the general plan, any applicable specific plan, the zoning code, and the California Environmental Quality Act (CEQA) and is subject to Section 753.5 of Title 14 of the California Code of Regulations.**

Community Development Staff and the Planning Commission have reviewed the proposed window replacement and determined the project is consistent with the general plan and the zoning code for historic preservation. Section 15331 of the CEQA Guidelines exempts rehabilitation projects of historic resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving,

Rehabilitating, Restoring, and Reconstructing Historic buildings. The proposed project is consistent with the Secretary of the Interior’s Standards and no adverse environmental impacts were discovered by Planning Staff during the review of the proposed project.

Coastal 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 private property at 203 Esplanade. 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 at 203 Esplanade. The modification to the windows will not impact the vegetation, natural habitats, and natural resources.

D. The project maintains or enhances low-cost public recreational access, including to the beach and ocean.

The project involves a window replacement at 203 Esplanade and will not negatively impact low-cost public recreational access. Public access is maintained along the exterior of the building with the sliding windows.

E. The project maintains or enhances opportunities for visitors.

The project involves a window replacement from fixed to sliding windows. The project will enhance the visitors experience as public access is maintained around the exterior of the building.

F. The project maintains or enhances coastal resources.

The project involves a window replacement and will not negatively impact coastal resources.

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 residential project complies with all applicable design criteria, design guidelines, area plans, and development standards. The operating characteristics are consistent with the Mixed-Use Village (MU-V) zone.

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 window replacement within a restaurant located on the Esplanade. The project is consistent with the LCP goals for appropriate coastal development and land uses. The use is an allowed use consistent with the MUV zoning district.

5. Public Hearings

A. 2000 Wharf Road – Park at Rispin Mansion. Permit Number: #23-0021 (APN: 035-371-01)

Conditional Use Permit, Historic Alteration Permit, and Coastal Development Permit for a public park located within the P/OS (Parks and Open Space) zoning district and VS (Visitor Serving) overlay 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: EIR Addendum

Property Owner: City of Capitola

Representative: Kailash Mozumder, Filed: 02.06.23

City Planner Sean Sesanto presented the staff report. Public Works Project Manager Kailash Mozumder spoke about the project specifications.

No commissioner comments.

Public Comments: None

Motion to approve the Conditional Use Permit, Historic Alteration Permit and Coastal Development Permit: Commissioner Wilk

Seconded: Vice Chair Christiansen.

Voting Yea: Commissioners Estey, Jensen, Wilk, Christiansen, Chair Westman

Conditions of Approval:

1. The project approval consists of a Conditional Use Permit, Coastal Development Permit, and Historic Alteration Permit for a public park located on the Rispin Mansion property. The proposed use and development is approved as indicated on the final plans reviewed and approved by the Planning Commission on the March 2, 2023, except as modified through the conditions imposed by the Planning Commission during the hearing.
2. 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. The Conditions of Approval shall be printed in full on the cover sheet of the construction plans.
4. All construction shall be done in accordance with Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP).
5. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any changes must be consistent with the Secretary of Interior’s Standards for the Treatment of Historic Properties.

Aesthetics/Visual Quality

6. All site improvements, including signs, fences, walls, entry gates, and other park features must be designed consistent with the character of the Mansion and the historic district.
7. Lighting must be designed to minimize off-site glare. The type, height, and spacing of lighting shall be approved by the City. Lighting must be directed downward and away from Soquel Creek and residences to the east. Lights must be of minimum intensity necessary for safety lighting. Light standards shall be a maximum of 15 feet high.

Air Quality

8. Require implementation of construction practices to minimize exposed surfaces and generation of dust that include the following measures, at a minimum:

- Exposed earth surfaces shall be watered during clearing, excavation, grading, and construction activities. All construction contracts shall require watering in late morning and at the end of the day.
- Grading and other earthmoving shall be prohibited during high wind.
- Cover all inactive storage piles.
- Maintain at least 2 feet of freeboard for all loaded haul trucks.
- Throughout excavation activity, haul trucks shall use tarpaulins or other effective covers at all times for off-site transport.
- Install wheel washers at the entrance to construction sites for all exiting trucks.
- Sweep streets if visible soil material is carried out from the construction site.
- Upon completion of construction, measures shall be taken to reduce wind erosion.
- Revegetation shall be completed as soon as possible.
- Post a publicly visible sign that specifies the telephone number and person to contact regarding dust complaints and who shall respond to such complaints, and take corrective action within 48 hours. The phone number of the Monterey Bay Unified Air Pollution Control District shall be visible to ensure compliance with Rule 402 (nuisance).

Biological Resources

9. Pre-construction surveys for nesting raptors shall be performed by a qualified biologist to be retained by the applicant. If raptor nests are located during pre construction surveys, a 300-foot buffer shall be established around each nest for the duration of the breeding season (August 1st, or until such time as the young are fully fledged as determined by a qualified biologist in coordination with the California Department of Fish and Game) to prevent nest harassment and brood mortality. Every effort shall be made to avoid removal of, or impact to, known raptor nests within project boundaries. If trees known to support raptor nests cannot be avoided, limbing or removal of these trees may only occur during the non-breeding season.
10. The applicant shall take proper measures to avoid damage to oaks, cypress and redwood trees. Specifically, grading or construction shall not occur within 15 feet of the base of all oak, cypress and redwood trees unless performed under the supervision of a qualified on-site arborist.
11. Prior to commencement of site preparation, a certified arborist shall be retained to review the construction plans and to provide recommendations to protect trees and their root zones from construction activities. Trees which are removed or mortally damaged during site preparation and construction activities shall be replaced with appropriate native species at a minimum 2:1 ratio.
12. Landscape and ground maintenance workers must be informed of conservation issues regarding overwintering monarch habitat. Leaf blowers shall not be used in monarch habitat areas or outside designated park areas.
13. Site preparation (e.g., tree trimming, tree removal, grading, excavation, and construction) on the project site shall not occur when monarchs are potentially present (October 1 through February 28) unless a qualified monarch biologist determines that monarchs are not present or that activities would not disturb overwintering populations.
14. Use of biological insecticides (including bacteria, viruses, protozoans and nematodes) that are effective in the control of all lepidoptera shall be prohibited throughout the habitat. Chemical insecticides shall not be applied during the overwintering season (October 1 through February 28). Use of chemical insecticide agents during the non-roosting season may be done only if approved by

the consulting butterfly expert. Grounds maintenance workers shall be made aware of monarch habitat conservation requirements as they pertain to grounds management.

15. The following measures, at a minimum, shall be implemented during the time when monarchs are potentially present in the habitat (October 1 through February 28, or as determined by the monarch biologist):
 - All pedestrians/visitors/guests shall be kept outside of the monarch roosting area by monarch biologist approved fencing.
 - Outdoor events will be limited to designated portions of the Mansion property (i.e., amphitheater and developed park areas) to avoid roosting area disruption.
 - Outside night-lighting shall utilize low wattage bulbs and fixtures that are mounted close to ground level and directed away from the roosts. In addition, lighting shall not be directed toward Soquel Creek or on-site riparian vegetation.
16. The removal of any riparian or upland trees on the Rispin site that provide shade to Soquel Creek shall not be allowed unless immediately replaced. The amount of shading within the creek currently supplied by Rispin property trees shall be established as a baseline, and any actions reducing this percentage shall require management to improve stream shading by a City approved forester/botanist. Such management shall include planting of native riparian tree species along the creek (i.e. big-leaf maple, sycamore, alder, cottonwood, box elder, willow), to provide shade and aid in cooling of the creek, and to enhance habitat.
17. Protect the eucalyptus grove and patches of redwood trees as valuable sources of shade to the stream, erosion prevention on the steep slope, and as monarch butterfly habitat.
18. The addition of impermeable surfaces at the Rispin Mansion site shall be accompanied with an effective drainage plan. This drainage plan shall ensure the capture of any increase in runoff on the bench (as much as is feasible), without additional overland movement of water down the steep slope toward the creek (to minimize erosion and sedimentation, and the introduction of pollutants).
19. Replace the fence above the retaining wall of the Rispin Mansion to exclude people from accessing the creek through created footpaths.
20. To avoid disturbance to steelhead (and other aquatic or semi-aquatic wildlife), nighttime lighting of the riparian habitat and/or Soquel Creek shall not be allowed. On-site lighting required for Mansion grounds shall not be oriented towards the creek.

Cultural Resources

21. In the event that any archaeological or paleontological resources or human remains are discovered during grading or construction anywhere on the site, work shall be ceased within 150 feet of the find until it can be evaluated by a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented in accordance with CEQA Section 15064.5. All identified archaeological sites should be evaluated using the California Register of Historical Resources criteria, established by the State Office of Historic Preservation. Any discoveries shall be reported to the City Planning Director.
22. In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps shall be taken:
 - 1) There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

- A. The coroner of the county in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required, and
- B. If the coroner determines the remains to be Native American:
 - 1. The coroner shall contact the Native American Heritage Commission within 24 hours.
 - 2. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent from the deceased Native American.
 - 3. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains, and any associated grave goods as provided in Public Resources Code Section 5097.98, or Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.
- C. The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the Commission.
- D. The descendent identified fails to make a recommendation; or
- E. The landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

Noise

- 23. 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. §9.12.010B
- 24. Events and entertainment provided on the property shall meet the following conditions:
 - Hours of operation for events and live entertainment must be restricted to 8:00 a.m. to 10:00 p.m. (consistent with Chapter 9.12 of the Municipal Code, the Noise Ordinance).
 - Hours of operation for amplified outdoor music use or microphones shall be restricted to 8:00 a.m. to 9:00 p.m.
 - Events shall be limited to four hours or less per day.
- 25. The City shall require that the construction contractor implement noise control measures (Best Construction Management Practices) during project construction, as outlined below:
 - Require use of construction equipment and haul trucks with noise reduction devices, such as mufflers, that are in good condition and operating within manufacturers' specifications.
 - Require selection of quieter equipment (e.g., gas or electric equipment rather than diesel-powered equipment), proper maintenance in accordance with manufacturers' specifications, and fitting of noise-generating equipment with mufflers or engine enclosure panels, as appropriate.
 - Prohibit vehicles and other gas or diesel-powered equipment from unnecessary warming up, idling, and engine revving when equipment is not in use and encourage good maintenance practices and lubrication procedures to reduce noise.
 - Construct temporary plywood barriers around particularly noisy equipment or activities at appropriate heights.

- Locate stationary noise sources, when feasible, away from residential areas and perform functions such as concrete mixing and equipment repair off-site.

Public Services

26. The applicant shall apply for water connection approval ("will serve" letter) from the SCWD.
27. The number and size of all water meters shall be determined by SCWD.
28. The final design shall satisfy all conditions for water conservation required by SCWD at the time of application for service (as detailed in their water efficiency checklist package), including the following:
- Plans for a water efficient landscape and irrigation system that meet SCWD's conservation requirements;
 - All interior plumbing fixtures shall be low-flow and all applicant-installed water-using appliances (e.g., dishwashers, clothes washers, etc.) shall have the EPA Energy Star label;
 - Inspection by SCWD staff of the completed project for compliance with all conservation requirements prior to commencing water service.

Stormwater & Drainage

29. The owner/developer/applicant shall obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity Construction General Permit Order 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading and disturbances to the ground such as stockpiling, or excavation.

The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP shall be developed and amended or revised by a Qualified SWPPP Developer (QSD). The SWPPP shall be designed to address the following objectives:

- All pollutants and their sources, including sources of sediment associated with construction, construction site erosion and all other activities associated with construction activity are controlled;
- All storm water discharges are identified and either eliminated, controlled, or treated;
- Site Best Management Practices (BMPs) are effective and result in the reduction or elimination of pollutants in storm water discharges and authorized non-storm water discharges from construction activity to the BAT/BCT(best available technology/best conventional technology) standard;
- Calculations and design details as well as BMP controls for site run-on are complete and correct, and;
- Stabilization BMPs installed to reduce or eliminate pollutants after construction are completed. To demonstrate compliance with requirements of this General Permit, the QSD shall include information in the SWPPP that supports the conclusions, selections, use and maintenance of BMPs. Section XIV of the Construction General Permit describes the elements that must be contained in the SWPPP.

30. 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). (Disconnect direct discharge of drainage). The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.

- 31. Grading during the rainy season (October 1 – April 30) shall be restricted to the approval, installation, and maintenance of an erosion and sediment control plan.
- 32. Graded slopes shall be revegetated with appropriate native plant species immediately following completion of grading.
- 33. The use of fertilizers and herbicides applied to the Rispin landscaping and gardens shall be minimized to the extent possible. Utilize slow-release chemical fertilizers and herbicides and avoid application prior to scheduled irrigation. The use of fertilizers and herbicides on-site must not conflict with the relevant mitigation intended to protect monarch butterflies.
- 34. The City of Capitola shall continue its efforts to implement the Soquel Creek Lagoon Enhancement project, and work with the County to ensure that other storm drain and water quality improvements are implemented to reduce cumulative watershed impacts.

Conditional Use Permit Findings:

- I. The proposed use is allowed in the applicable zoning district.**
The proposed public park is a principally permitted use within the P/OS (Parks and Open Space) zoning district and a conditionally allowed use within the VS (Visitor Serving) overlay district. The use is therefore allowed with the approval of a Conditional Use Permit.
- J. 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.**
Planning Commission have reviewed the proposed public park and determined it complies with all development standards and meets the intent and purpose of the P/OS (Parks and Open Space) zoning district and VS (Visitor Serving) overlay district zoning district.
- K. 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 Planning Commission reviewed the application and determined the improvements and planned use will be compatible with the surrounding neighborhood.
- L. The proposed use will not be detrimental to the public health, safety, and welfare.**
The Planning Commission reviewed the project and imposed conditions to ensure the construction and operation of the proposed park will not be detrimental to the public health, safety, or welfare.
- M. The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.**
The proposed park is located on the Rispin Mansion grounds along Wharf Road within the city and will be adequately served by existing services and infrastructure.

Historic Alteration Permit Findings:

- G. The historic character of a property is retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize the property is avoided.**
The Planning Commission reviewed the proposed park and determined that the proposed community park project requires minimal changes to distinctive materials, features, spaces, and

spatial relationships. Furthermore, the project enhances access and opportunity for interpretation on historic grounds.

H. Distinctive materials, features, finishes, and construction techniques or examples of fine craftsmanship that characterize a property are preserved.

The proposed project will preserve numerous character-defining features of the Rispin Mansion site, including but not limited to: A large portion of the full-height perimeter wall, the front entry arch and its side walls, the existing front entry gate will be removed and stored for display, the Overlook columns and base wall, the reflecting pool, the majority of the grand staircase.

I. Any new additions complement the historic character of the existing structure. New building components and materials for the addition are similar in scale and size to those of the existing structure.

The project has been designed to protect the historic fabric of the larger historic resource while replaced elements and new site elements/features are compatible and differentiated.

J. Deteriorated historic features are repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature matches the old in design, color, texture, and, where possible, materials.

Deteriorated historic features have been identified on drawings for repair and replacement, as appropriate for the condition of each element. Other historic materials and features are to be preserved.

K. Archeological resources are protected and preserved in place. If such resources must be disturbed, mitigation measures are undertaken.

Conditions and mitigation measures have been included to ensure adequate protections are afforded to discovered archeological resources.

Coastal Development Permit Findings:

N. 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.

O. The project maintains or enhances public views.

The proposed project is located at the Rispin Mansion property along Wharf Road. The project will enhance public views through site restoration, new improvements, and increased public access.

P. The project maintains or enhances vegetation, natural habitats and natural resources.

Conditions of approval and mitigation measures have been included to ensure the protection of vegetation, natural habitats, and natural resources. The project has been conditioned to avoid, minimize, and mitigate potential impacts to monarch butterfly habitat as documented in an Addendum to a previously certified Environmental Impact Report.

Q. The project maintains or enhances low-cost public recreational access, including to the beach and ocean.

The project will positively impact low-cost public recreational access through new and enhanced access and new amenities.

R. The project maintains or enhances opportunities for visitors.

The project involves a public park which is designed to enhance on-site visitor serving opportunities.

S. The project maintains or enhances coastal resources.

The property will remain open to the public as a public park. The project will not negatively impact coastal resources.

T. 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 project and operating characteristics are consistent with all applicable design guidelines, area plans, and development standards. The operating characteristics are consistent with the underlying zones.

U. 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 the restoration of the historic Rispin Mansion for use as a public park. The project is consistent with the LCP goals for appropriate coastal development and land uses. The use is a conditionally allowed use consistent with the P/OS (Parks and Open Space) zoning district and VS (Visitor Serving) overlay district.

CEQA Findings:

A. The proposed project is consistent with the general plan, any applicable specific plan, the zoning code, and the California Environmental Quality Act (CEQA) and is subject to Section 753.5 of Title 14 of the California Code of Regulations.

The Planning Commission reviewed the proposed park and determined the project is consistent with the general plan and zoning code. The proposed project will not result in any new or more severe environmental impacts than what was previously evaluated and reported in the certified Rispin Mansion EIR (September 2004) as documented in the attached EIR Addendum (2015) for the Rispin Park project.

B. 207, 209, 209A, 211 Esplanade. Permit Number: 23-0104 (APN: 035-211-03)

Guidance on Emergency Coastal Development Permit and future Historic Alteration Permit and Design Permit for façade modifications at 207, 209, 209A, and 211 Esplanade. Environmental Determination: N/A

Property Owner: Chuck Hammers

Representative: Dan Gomes, Fuse Architects

Vice Chair Christiansen recused herself. Community Development Director Herlihy presented the staff report.

Commissioner comments included clarification about piling reinforcement, outdoor seating for The Sand Bar, take-out windows, and individuality of businesses. Direction to the applicant included input on the business individuality and maintaining character within the Capitola Village.

Dan Gomes, Fuse Architects, spoke in favor of the project application.

Public Comments:

Matt Arthur, resident, spoke in favor of the project but recommended incorporating more individuality for each business front.

Steve Walsh, resident, spoke about the smell from garbage storage near the street.

C. 520 Riverview Drive. Permit Number: #22-0056 (APN: 035-081-10)

Design Permit and Accessory Dwelling Unit Permit to remodel a two-story residence, construct an attached ADU, and Variance request for the required minimum setbacks. 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 not appealable to the California Coastal Commission. Environmental Determination: Categorical Exemption

Property Owner: Tarra Gundersgaard

Representative: Martha Matson, Filed: 02.22.22

Motion to continue this item to April 6, 2023: Commissioner Estey

Seconded: Commissioner Jensen

Voting Yea: Commissioners Estey, Jensen, Wilk, Christiansen, Chair Westman

D. 4401 Capitola Road – Permit Number: #22-0244 (APN: 034-123-05 & 034-124-18)

Design Permit, Conditional Use Permit, Density Bonus, and Coastal Development Permit request for a 36-unit, 100% affordable housing project on an approximate 0.81-acre site on the northeast corner of Capitola Road and 44th Avenue. The project includes a mix of 1-bedroom, 2-bedroom and 3-bedroom apartment units, configured in two 3-story buildings. The project includes a density bonus request pursuant to California Government Code sections 65915 – 65918. Environmental Determination: Categorical Exemption 15332 - In-fill Development

Applicant: CRP Affordable Housing & Community California, LLC

Brian Froelich, City Planner, presented the staff report.

Garrett Bascom, CRP Affordable Housing & Community California, LLC, spoke as the applicant of the project.

Public Comments Received In Favor:

Lisa Johnson, Santa Cruz resident	Jim Weller, resident	Cathy Sarto, United Church COPA
Ryan Mickel, Santa Cruz resident	Elizabeth, Santa Cruz resident	Janine, resident
Kalisha Webster, Housing Choices	Paul Wagner, resident	Loni Faulkner, Equity Transit
Tim Willoughby, Affordable Housing Now	Carlos Romero, resident	Andrew Goldenkranz, Santa Cruz Community Health
John Mulry, resident	Reggie, Santa Cruz resident	

Public Comments Received In Opposition:

Stephanie Harlan, resident	Paula Bradley, resident	Melody Nickham, resident
Mick Routh, resident	Nadine Burke, resident	Resident
Cathy Howard, resident	Resident	Dominic Svenson, resident
Todd Bruce, resident	Jim Sherman, resident	Mike Achkar, resident
Rodger Shaheen, resident	Kim Howard, resident	Ralph Vernacchia, resident

Bob Lindley, Studio T-Square Architects, spoke as a part of the applicant presentation.

Commissioner commentary included a discussion of the parking exemption, availability of ADA accessible units and parking, building height, and a discussion of the impact that state-imposed housing requirements have had in Capitola. Commissioner Jensen noted general support of the project but asked the applicant to further address inconsistencies of measurements between the plans and traffic safety study related to the parking lot design, and consider concerns with EV parking spaces and Building Code standards.

***Motion to approve the project with the addition of the following conditions:
Commissioner Estey***

- Applicant will coordinate with City staff to plant larger sized trees (partially reimbursed by the Tree Fund), preferential clause for housing applicants within 1.5 miles of the project and obtain and provide a Landscaping Bond (\$5,000 for 5 years) to ensure landscaping is maintained on the project (if this is permissible).

Seconded: Vice Chair Christiansen

Voting Yea: Commissioners Estey, Wilk, Christiansen, Chair Westman

Voting Nay: Commissioner Jensen

Conditions of Approval

General Conditions

1. The project approval consists of a Conditional Use Permit, Design Permit, State Density Bonus and Coastal Development Permit for the construction of a multifamily at 4401 Capitola Road. The application #22-0244 was approved by Planning Commission on March 2, 2023.
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 the time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet or G sheets of the construction plans.
4. 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.
5. 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.
6. This permit shall expire 24 months from the date of issuance. The applicant shall have obtained an approved building permit commenced construction before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration.
7. 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.

8. The project applicant shall designate a “disturbance coordinator” who will be responsible for responding to any local complaints regarding construction noise or activity. The coordinator (who may be an employee of the general contractor) will determine the cause of the complaint and will require that reasonable measures warranted to correct the problem be implemented. A name and telephone number of the disturbance coordinator shall be conspicuously posted at the construction site fence and on any notifications sent to neighbors. The sign/banner must also list an emergency after-hours contact number for emergency personnel.
9. Green Waste is the City’s exclusive hauler for recycling and disposal of construction and demolition debris. For all debris boxes, contact Green Waste. Using another hauler may violate City Code Section 8.04 and result in Code Enforcement action.

Conditional Use Permit Conditions

10. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
11. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view and inside the trash enclosure on non-collection days.
12. Bicycle parking is required to be accommodated with 14 short term bike parking spaces and 36 long term bike parking spaces. The design and specifications of the bike parking spaces shall be further detailed in the plans for Building Permit plan check.
13. Amplified sound is limited to interior areas only.

Planning Department Conditions

14. 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.
15. Prior to issuance of building permit, all Planning fees associated with permit #22-0244 shall be paid in full.
16. Air-conditioning equipment or other roof top equipment shall be screened from view and fall within allowable city permitted decibel levels. Additional detail showing equipment heights and any mechanical screens shall be shown on the building permit plans.
17. The trash enclosure shall be covered, gated, and maintained to provide a clean and sanitary area. The trash enclosure construction shall be completed, prior to final inspection.
18. Outdoor luminaires shall be energy-efficient fixtures controlled by motion sensors and incorporate cut-off controls and outdoor lighting controls. All building and parking lot lighting shall be shielded to prevent light from shining in the neighboring properties and be Dark Sky compliant. The applicant shall provide a lighting plan and photometric plan with the submittal of plans for building permit plan check.
19. No rooftop 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.

20. 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.

21. The Applicant or permittee shall defend, indemnify, and hold harmless the City of Capitola, its agents, officers, and employees from any claim, action, or proceeding against the City of Capitola or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Planning Commission, City Council, Community Development Director, or any other department, committee, or agency of the City concerning a development, variance, permit, or land use approval; provided, however, that the Applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the Applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the Applicant's or permittee's defense of said claims, actions or proceedings.

22. Prior to issuance of building permits, the building plans must show that any existing overhead utility lines within the property and any new utility lines will be underground to the nearest utility pole.

23. Prior to occupancy, the Landscape Architect shall certify in writing that the landscaping and irrigation has been installed in accordance with all aspects of the approved landscape plans, subject to final approval by the Community Development Director.

24. If prehistoric or historic-period cultural materials are unearthed during ground-disturbing activities, it is recommended that all work within 100' of the find be halted until a qualified archaeologist and Native American representative can assess the significance of the find. Prehistoric materials might include obsidian and chert-flaked stone tools (e.g., projectile points, knives, scrapers) or tool-making debris; culturally darkened soil ("midden") containing heat-affected rocks and artifacts; stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and battered-stone tools, such as hammerstones and pitted stones. Historic-period materials might include stone, concrete, or adobe footings and walls; filled wells or privies; and deposits of metal, glass, and/or ceramic refuse. If the find is determined to be potentially significant, the archaeologist, in consultation with the Native American representative, will develop a treatment plan that could include site avoidance, capping, or data recovery.

25. In the event of the discovery of human remains during construction or demolition, there shall be no further excavation or disturbance of the site within a 50' radius of the location of such discovery, or any nearby area reasonably suspected to overlie adjacent remains. The Santa Cruz County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his/her authority, he/she shall notify the Native American Heritage Commission, which shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the landowner shall reinter the human remains, and items associated with Native American burials on the property in a location not subject to further subsurface disturbance. A final report shall be submitted to the City's Community Development Director prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and its results, including a description of the monitoring and testing resources analysis methodology and conclusions, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the City's Community Development Director.

26. In the event that a fossil is discovered during construction of the project, excavations within 50' of the find shall be temporarily halted or delayed until the discovery is examined by a qualified paleontologist, in accordance with Society of Vertebrate Paleontology standards. The City shall

include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. If the find is determined to be significant and if avoidance is not feasible, the paleontologist shall design and carry out a data recovery plan consistent with the Society of Vertebrate Paleontology standards.

27. To the extent practicable, tree removal shall be performed from September 1 through January 31 to avoid the general nesting period for birds. If tree removal cannot be performed during this period, precutting 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 tree cutting 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 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.
28. No signs are approved as part of this application. A Sign Permit application shall be submitted in compliance with Chapter 17.80 of the zoning ordinance and shall include all signage proposed for the project site.
29. Inspections by the Planning Department are required for the foundation, final framing, prefinal after application of exterior materials, and final inspection.
30. Separate containers for recyclables, organics, and waste shall be placed in all common areas, including all gathering areas, such as eating areas and community room.
31. A separate water service and water meter for irrigation will be required.
32. The applicant shall provide two electric vehicle charging stations with the plans for building permit plan check.
33. The property at 4401 Capitola Road shall be deed restricted to provide continued affordability of 100% low-income affordable housing rental units in the approved ratio and affordability categorized for a period of no less than 55 years. Low-income household cannot exceed 80% of the median family income level for Santa Cruz County as published by California Department of Housing and Community Development. The owner shall enter into an agreement with the City so as to assure compliance with the provisions of the State Density Bonus affordable housing requirement for all units on site to be deed restricted as a low-income rental as defined in Section 50053 of the Health and Safety Code. The deed restriction shall be in a form suitable for recordation as authorized by the Community Development Director and City Attorney.
34. Prior to issuance of building permits, parcels 034-123-05 & 034-124-18 shall be merged and all final documentation recorded with Santa Cruz County. The applicant shall, at their sole cost, diligently prepare plat maps, legal descriptions, grant deeds, and any other necessary documentation to execute the lot merger.

Public Works Department Conditions

35. Prior to filing an application for a building permit the applicant shall prepare and submit a plat map showing the original parcels (APN: 034-123-05 and APN: 034-124-18) and the parcel being

combined by the lot merger with pertinent supporting data. Said map shall be filed with the Public Works Department with the appropriate review fees for review by the City Surveyor. Said plat map shall be prepared by a licensed land surveyor who shall be responsible for responding to comments until the map is acceptable to the Public Works Department. The final accepted map shall be recorded with the Santa Cruz County Recorder.

36. Prior to the issuance of the building permit the applicant shall submit plans detailing all improvements or modifications that impact or interface with the public right of way. At a minimum these details will include the limits of any existing or proposed curb drains, ADA compliant driveway approach, signage and striping or any other modification to the curb/gutter/sidewalk. The extent of all improvements or modifications shall be limited to those areas fronting the property boundaries (44th Avenue and Capitola Road) and shall not impact the frontage of any adjacent parcels.
37. 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.
38. 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. The sidewalk along the Capitola Road frontage shall entirely be replaced eliminating all identified ADA barriers: cross slopes exceed 2%, lips greater than ¼ - ½ inch between sections, curb ramp cross/running/landing slopes, lack of minimum clearance at utility poles and signs. The driveway approach on 44th Avenue – north wing running slope shall be limited to those areas fronting the property boundary and shall not impact the frontage of any adjacent parcels.
39. Prior to issuance of a building permit the applicant shall incorporate the following design recommendations per the November 17, 2022, Dudek Traffic Analysis:
 - a. The relocated continental crosswalk on the west leg of the intersection shall be placed at a 90-degree angle with the roadway. The existing raised median on Capitola Road shall be modified to integrate the crosswalk. The crosswalk shall be designed per City and ADA standards.
 - b. A “no parking” area shall be striped for turnaround at the north end of the east parking lot so that vehicles can turn around on site instead of backing into the intersection.
40. Prior to issuance of building permits, the Public Works Standard Detail SMP STRM shall be printed in full and incorporated as a sheet into the construction plans.
41. Prior to issuance of building permits, the applicant shall submit a stormwater temporary construction sediment and erosion control plan, (BMPs) e.g., wattle location, storm drain protection, construction entrance, washout areas, contain trash/debris, stockpile protection and details, location of portable toilet and containment/protection, etc. All BMPs, sediment and erosion control measures shall be installed prior to the start of construction; and shall be maintained throughout project duration.
42. Prior to any land disturbance, applicant shall notify the Public Works Department 24 hours in advance for a pre-site inspection to be conducted by the grading official to verify initial compliance with the approved stormwater temporary construction erosion and sediment control plan. All temporary sediment and erosion control best management practices (BMPs) shall be maintained throughout the project duration.
43. No material or equipment storage may be placed in the road right-of-way.
44. Keep work site clear of debris & be aware of tracking mud, dirt, gravel into the street, and sweep daily, cover all stockpiles and excavation spoils. Practice good housekeeping BMPs.

45. Prior to issuance of building permits, the applicant shall submit a Stormwater Control Plan, Bioretention Construction Checklist, and detailed draft Stormwater Operation and Maintenance Plan prepared and certified by a Registered Civil Engineer as submitted on November 30, 2022, and conditionally approved by HydroScience Engineers on December 9, 2022, in accordance with the current Post Construction Requirements (PCRs) for a Tier 2 project for review and approval by the Public Works Director.
46. The Engineer of Record shall inspect and provide record drawings of construction of stormwater management improvements and certify to the City that the construction meets the intent of the approved design drawings, Stormwater Control Plan, and City Post Construction Requirements.
47. Prior to final occupancy approval the applicant shall submit a final Operation and Maintenance Plan including any revisions resulting from changes made during construction for review, approval and recorded in the Office of the County Recorder by the Public Works Director.
48. Prior to final occupancy approval the applicant shall enter into and record in the Office of the County Recorder, any agreements identified in the Stormwater Control Plan which pertain to the transfer of ownership, right-of-entry for inspection or abatement, and/or long-term maintenance of the stormwater treatment BMPs.
49. The drain within the dumpster enclosure shall be connected to the sanitary sewer with the review and approval of Santa Cruz County Sanitation.

Planning Commission Added Conditions:

50. Landscaping shall be added at the north side of the parking lot that is accessed from 44th Avenue between the paving and property line.
51. The landscaping plan shall comply with section 17.96.050 in order to maintain adequate sight distance at the proposed driveways. The applicant shall coordinate with Planning staff prior to installation of landscaping in the sight distance triangles defined in the noted code section.
52. The applicant shall provide annual reporting to the Community Development Director prior to April 1st of each year, for the prior year, documenting on-going compliance with the provisions of the State Density Bonus affordable housing requirement for all units on site as a low-income rental as defined in Section 50053 of the Health and Safety Code.
53. To the extent consistent with state and federal fair housing requirements and to the extent the Project relies on public and private funding sources, Developer or owner shall cause the affordable housing units to be marketed with preference given to households with at least one member who either works in Capitola or has accepted a job offer to work in Capitola. This condition implements the State’s goal to reduce VMT.
54. The applicant shall work with City staff to utilize, if allowed by City Ordinance, the use of Community Forest Program funds to ensure that all proposed trees are a minimum of 24 inch box size at installation.
55. A landscape maintenance deposit in the amount of \$5,000 shall be posted prior to final inspection to ensure compliance with Section 17.72.070. An inspection of the landscape to ensure adequate establishment and maintenance shall be made five years after the installation by the Planning Department. The deposit will be released at that time if the required plantings remain viable.

Conditional Use Permit Findings

- A. The proposed use is allowed in the applicable zoning district.**
Multifamily housing is a conditional use in the MU-N zone. The project complies with state law or local codes, as required, and provides needed affordable housing units in Capitola.

- 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 proposed use, as conditioned, is consistent with local long range and implementation planning documents as listed. The Project site has a General Plan land use designation that allows for residential uses. The Project is consistent with the local coastal program, and with the zoning code except for the allowable incentives and concessions under Density Bonus Law. The Project is not located within a Specific Plan. The Project meets Design Review criteria.

- 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 project will have a minimal effect on trip generation and improve the jobs to housing ratio in the region, which according to the Office of Planning and Research, will have a net beneficial effect on traffic and greenhouse gas emissions. In addition, surrounding land uses and structures include a mix of multi-family developments, a church, and professional offices. The proposed Project is a multi-family development, similar in size and scope to the surrounding land uses.

- D. The proposed use will not be detrimental to the public health, safety, and welfare.**
The building provides required affordable housing and RHNA units, will be fire sprinkled, and will be served by all necessary public utilities.

- E. The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.**
The proposed use is appropriately located and generally mitigated from impacts to adjacent residential uses. The project is within 0.75 miles of State Route 1 and within 200 feet of bus route 55. The property will be served by all utilities.

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, the Development and Design Review Committee, consultant RRM and the Planning Commission have all reviewed the project. The proposed project, as conditioned, is consistent with local long range and implementation planning documents. The Project site has a General Plan land use designation that allows for residential uses. The Project is consistent with the local coastal program, and with the zoning code except for the allowable incentives and concessions under Density Bonus Law. The Project is not located within a Specific Plan. The project meets the Design Review Criteria.

- B. The proposed project complies with all applicable provisions of the zoning code and municipal code.**
Community Development Staff, the Design and Development Review Committee, and the Planning Commission have all reviewed the project. The proposed 32,475 square foot multi-family development complies with all development standards of the MU-N zoning district and/or applicable state law, outside of those standards being waived by incentives or waivers pursuant to Density Bonus law.

- C. The proposed project has been reviewed in compliance with the California Environmental**

Quality Act (CEQA).

The Project has been reviewed in compliance with and found to be exempt from CEQA through a Class 32 Infill exemption.

- 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.**
The proposed multifamily development will not have an impact to public, health, safety, and welfare. The building will be fire sprinkled and will be served by all necessary public utilities.
- E. The proposed project complies with all applicable design review criteria in Section 17.120.070 (Design review criteria).**
Community Development Staff, the Design and Development Review Committee, design consultant RRM and the Planning Commission have all reviewed the project. The proposed 32,475 square foot multifamily development and supporting improvements comply with the applicable design review criteria and as described by RRM.
- F. For projects in residential neighborhoods, the proposed project maintains the character, scale, and development pattern of the neighborhood.**
The project site is in a mixed use zone with professional office, single family and multi family uses in nearby proximity. The design complies with local standards with the exception of state permitted concessions and waivers. The proposed use does not introduce any new or unusual impacts.

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 has no impact on coastal vegetation, habitats, or resources.
- 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 multifamily project has no negative impact on coastal resources.
- 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 multifamily project allows Capitola to produce needed affordable housing units in an area that is zoned for this type of use. The project is consistent with the LCP.

- 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. The project allows the city to produce affordable housing and deliver required RHNA units to the region.

Density Bonus Findings

Pursuant to Density Bonus Law, the Project qualifies for four incentives and concessions and unlimited waivers from development standards. The Project has requested incentives and concessions related to the required daylight plane, side setback, parking ratio, and percentage of compact parking spaces. The Project has requested waivers from building height, mitigation tree size, entry orientation, and massing breaks. Pursuant to Density Bonus Law, proposed concessions or incentives must be approved unless it can be established by written findings based on a preponderance of the evidence that the proposed concession or incentive does not result in identifiable and actual cost reductions, would cause a public health or safety problem, would cause an environmental problem, would harm historical property, or would be contrary to law.

6. Director's Report

Community Development Director Herlihy informed the Commission that the SB9 Ordinance was certified by the Coastal Commission last week.

7. Commission Communications

None

- 8. **Adjournment** – Adjourned at 9:29 PM to the next regularly scheduled meeting on April 6, 2023, at 6:00 PM.

ATTEST:

Austin Westly, Deputy City Clerk

City of Capitola Planning Commission Meeting Minutes Thursday, June 01, 2023 – 6:00 PM



City Council Chambers
420 Capitola Avenue, Capitola, CA 95010

Chairperson: Susan Westman

Commissioners: Courtney Christiansen, Paul Estey, Gerry Jensen, Peter Wilk

1. Roll Call and Pledge of Allegiance

The meeting was called to order at 6:00PM. In attendance: Commissioners Estey, Jensen, Wilk, Vice Chair Christiansen, and Chair Westman.

2. New Business - None

3. Oral Communications

A. Additions and Deletions to the Agenda - None

B. Public Comments

Anthony Kresge, owner of Reef Dog Deli, spoke about the positive impact that outdoor dining parklets have on his business and requested an extension to apply for a permit as well as conditional use of his outdoor dining space during that time.

C. Commission Comments

Commissioner Wilk suggested that Reef Dog Deli work with staff to come up with a solution to the matter that Mr. Kresge spoke about during Item 3B.

Commissioner Wilk requested he be allowed to attend the next meeting by Zoom.

D. Staff Comments - None

4. Approval of Minutes

A. May 4, 2023 - Planning Commission Meeting Minutes

Motion to approve the May 4, 2023 minutes: Vice Chair Christiansen

Seconded: Commissioner Jensen

Voting Yea: Commissioner Estey, Commissioner Jensen, Vice Chair Christiansen, Chair Westman

Abstaining: Commissioner Wilk

5. Consent Calendar - None

6. Public Hearings

A. 207, 209, 209A, 211 Esplanade

Permit Number: #23-0104

APN: 035-211-03

Consideration of alternative colors and materials for the Design Permit, Historic Alteration Permit, and Coastal Development Permit for façade modifications at 207, 209, 209A, and 211 Esplanade located in the Mixed-Use Village (MU-V) zoning district that was a previously approved by the Planning Commission on April 6, 2023.

Environmental Determination: Categorical Exemption 15331

Property Owner: Chuck Hammers

Representative: Dan Gomes, Fuse Architects

Community Development Director Herlihy presented a report on Item 6A regarding the history of the project and the ways in which the project has evolved over time as new information is discovered during development.

Commissioner Wilk questioned the validity of the concern regarding potential hazards of using Corten in the design of the building façade. Director Herlihy reported that not only is there a possible environmental concern, but also the concern of property damage due to rust.

Commissioner Estey inquired about the proposed reuse of the window and whether that would meet code requirements for windows. Herlihy commented that further analysis needs to be completed.

A member of the public spoke to comment on and approve the use of certain materials within this project.

Motion to approve permit #23-0104: Commissioner Wilk

Seconded: Commissioner Estey

Voting Yea: Commissioners Wilk, Estey, Jensen, and Chair Westman

Abstaining: Vice Chair Christiansen

Conditions of Approval:

1. The project approval consists of facade modifications to an existing commercial structure with four tenants at 207 – 211 Esplanade. The proposed project does not modify the existing FAR. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on April 6, 2023, 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. At time of submittal for building permit review, the applicant shall include a site drainage plan showing the location of all downspouts and the direction of flow.
6. 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.
7. Prior to issuance of building permit, all Planning fees associated with permit #23-0104 shall be paid in full.
8. 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.
9. 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.
10. 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).
11. 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.
12. 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
13. 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.
14. 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.
15. 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.

16. 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.
17. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
18. All new doors and windows shall not open or swing into the public right of way or beyond the exterior wall into the sidewalk pedestrian path.
19. The individual identity and design of the tenant spaces shall be maintained to reflect the historic pattern and character of the village.
20. The rollup window at 211 Esplanade shall be closed from 10pm to close of business and during live entertainment.

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, the Architectural and Site Review Committee, and the Planning Commission have reviewed proposed façade modifications and determined complies with the development standards of the MU-V (Mixed Use Village) zoning district.

- 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 facade modifications to a commercial structure and determined the project complies with all applicable provisions of the zoning code and municipal code.

- C. 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, the Architectural and Site Review Committee, and the Planning Commission have reviewed the project. The proposed facade modifications to a commercial structure will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

- D. The proposed project complies with all applicable design review criteria in Section 17.120.070 (Design review criteria).**

The Community Development Staff, the Architectural and Site Review Committee, a contracted architect, and the Planning Commission have reviewed the application. The proposed façade modifications to a commercial residence comply with all applicable design review criteria in Section 17.120.070.

- E. For projects in residential neighborhoods, the proposed project maintains the character, scale, and development pattern of the neighborhood. (Ord. 1017 § 2 (Exh. A) (part), 2018)**

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the application for the facade modifications. The project will maintain the character, scale, and development pattern along the Esplanade.

Historic Alteration Permit Findings:

- A. The historic character of a property is retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize the property is avoided.**

Community Development Staff and the Planning Commission have reviewed the proposed facade modifications and the proposed design maintain spatial relationships along the street façade.

- B. Distinctive materials, features, finishes, and construction techniques or examples of fine craftsmanship that characterize a property are preserved.**

Community Development Staff and the Planning Commission have reviewed the proposed design. The structure is only historic in terms of the location and fitting within the broad historical patterns of the village. The design maintains the scale of the historic pattern along the street.

- C. Any new additions complement the historic character of the existing structure. New building components and materials for the addition are similar in scale and size to those of the existing structure.**

No addition is proposed.

- D. Deteriorated historic features are repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature matches the old in design, color, texture, and, where possible, materials.**

Community Development Staff and the Planning Commission have reviewed the proposed design. The structure is only historic in terms of the location and fitting within the broad historical patterns of the village. The design maintains the scale of the historic pattern along the street.

- E. Archeological resources are protected and preserved in place. If such resources must be disturbed, mitigation measures are undertaken.**

No archeological resources exist within the 1950s structure.

- F. The proposed project is consistent with the general plan, any applicable specific plan, the zoning code, and the California Environmental Quality Act (CEQA) and is subject to Section 753.5 of Title 14 of the California Code of Regulations.**

Community Development Staff and the Planning Commission have reviewed the proposed façade modifications to the commercial structure. Section 15331 of the CEQA Guidelines categorically exempts rehabilitation projects of historic resources in a manner consistent with the Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic buildings. The proposed project is consistent with the Secretary of the Interior’s Standards and no adverse environmental impacts were discovered by Planning Staff during the review of the proposed project.

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 will not negatively impact public landmarks and/or public views.

C. The project maintains or enhances vegetation, natural habitats and natural resources.

Conditions of approval have been included to ensure compliance with established policies.

D. The project maintains or enhances low-cost public recreational access, including to the beach and ocean.

The project involves façade improvements and will not negatively impact low-cost public recreational access.

E. The project maintains or enhances opportunities for visitors.

The project involves façade improvements and will not negatively impact visitor serving opportunities.

F. The project maintains or enhances coastal resources.

The project involves façade improvements and will not negatively impact coastal resources.

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 project complies with all applicable design criteria, design guidelines, area plans, and development standards.

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 façade improvements. The project is consistent with the LCP goals for appropriate coastal development and land uses. The use is an allowed use consistent with the MUV zoning district.

B. Alternative Design for the Prototype Street Dining Deck in Central Village

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

Consideration of alternative railing, deck, and planter 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 15311

Property Owner: City of Capitola

Representative: Katie Herlihy, Community Development Director

Community Development Director Herlihy presented a report on Item 6B requesting approval of an alternative design to the prototype street dining deck in the Central Village.

Commissioner Wilk asked about the change from the original rectangular planters to the alternative planters which are of varied shapes and sizes. Director Herlihy and Associate Planner Sesanto responded that there are provisions in place to ensure that the alternative planters are suitable and sustainable options.

Commissioner Wilk wondered why hog wire was chosen specifically, and Director Herlihy replied that this material is the preferred choice after all factors were considered.

Vice Chair Christiansen asked about material choices and how they relate to the ease of this development process for business owners.

Commissioner Jensen asked for insight into the decision-making process for these alternative design proposals. Director Herlihy detailed the staff's intent to avoid cost and material availability concerns and give business owners more options in the development process.

Commissioner Jensen also asked about the deck and railing materials and Director Herlihy responded that the materials selected will aesthetically complement each other as much as possible.

Commissioner Jensen also asked about the impact that this process will have on coastal access. Director Herlihy replied that there is a 3 year evaluation process to assess this and other concerns.

Commissioner Jensen inquired about the permit process timelines and Director Herlihy offered clarification.

Peter Blackwell, representing local pub English Ales, spoke about his experience with building development materials and questioned the design choices within this project.

Commissioners discussed the history of this Item and commented about the inefficiencies of debating small-detail design choices in establishing a prototype instead of approving custom designs individually. Director Herlihy commented that the prototype is intended to offer flexibility and is necessary to ensure that the designs meet code.

The Commission agreed that more flexible, yet consistent, prototype design material options (such as planters of matching colors and sizes, redwood railing and hogwire, etc.), as well as expedient permit processes are in the best interest of the Village.

Motion to approve the alternative design prototype with the following conditions: Commissioner Jensen

Seconded: Commissioner Wilk

Voting Yea: Commissioners Estey, Jensen, Wilk, Vice Chair Christiansen, and Chair Westman

- 1. Provisional use of the dining deck will be permitted if the business can show proof of purchase and lead time of materials.***
- 2. A minimum number of planters must exist at specific locations on and around the dining deck but are no longer required to be part of the railing construction, and planters may vary in color and material as long as they are consistent with requirements, but must be of a minimum size of 30" in height and 14" in diameter.***

C. Citywide Housing Element Update

Permit Number: 23-0019

APN: Citywide

Housing Element Update 6th Cycle

Environmental Determination: Pending

Property Owner: City of Capitola

Representative: Bret Stinson, RRM Design and Veronica Tam, VTA, Inc.

Director Herlihy, VTA, Inc. Representative Veronica Tam, and RRM Design Representative Bret Stinson presented an update to the Citywide Housing Element.

Commissioner Jensen asked for context and clarification on several sections of the Housing Element.

Commissioner Estey asked for a clear statement of intent regarding the City's plan to redevelop the Capitola Mall. Director Herlihy confirmed that the City has allocated a portion of the next fiscal year budget towards conducting a redevelopment feasibility study at that site.

Commissioner Wilk expressed concerns regarding the conviction and effectiveness of the executive summary when it comes to State review of the Capitola Citywide Housing Element.

Commissioner Wilk commented on a concern regarding building height variance numbers within the report which may not encourage the development of high-density multi-family housing.

Chair Westman commented on the development fees included in the report.

7. Director's Report

Community Development Director Herlihy provided a Director's Update regarding the Urgency Rent Control Ordinance that was passed by the City Council on May 24, 2023, the Kaiser development project, and an SB9 project in the City. Herlihy also commented that on June 22, there will be a presentation to request funding regarding AB1098, and commented on other upcoming items on the July 20 calendar.

8. Commission Communications

Chair Westman spoke on the difficulty of being a Planning Commissioner due to the challenge of abiding by law, code and regulation, while also being respectful towards the concerns of the public.

9. Adjournment - *Adjourned at 8:34 to the next regularly scheduled meeting on July 20, 2023.*

Capitola Planning Commission Agenda Report

Meeting: July 20, 2023

From: Community Development Department

Topic: 836 Bay Avenue



Permit Number: #22-0438

APN: 036-011-17

Design Permit and Sign Permit to demolish and replace an existing gas station canopy structure with attached signage, located within the C-C (Community Commercial) zoning district. This project is not in the Coastal Zone.

Environmental Determination: Categorical Exemption

Property Owner: Akhtar Javed

Representative: K12 Architects, Filed: 10.11.22

Recommendation: Continue the item to the next Planning Commission meeting.

Capitola Planning Commission

Agenda Report

Meeting: July 20, 2023
From: Community Development
Address: 201 Monterey Avenue #C



Permit Number: #22-0125

APN: 035-185-06

Revocation of a Conditional Use Permit for sidewalk dining at an existing restaurant (Castagnola Deli & Café) located within the Mixed-Use Village (MU-V) zoning district. This project is in the Coastal Zone but is not appealable to the Coastal Commission.

Environmental Determination: Categorical Exemption 15321

Property Owner: Atlantis Properties

Representative: Daniel Castagnola Filed: 3.21.22

Background

On September 6, 2007, the Planning Commission approved CUP #07-018 for a take-out deli to expand into the adjacent tenant space within the building. The combination of these two units is now what comprises Castagnola Deli & Café.

In 2020, the applicant received a Covid-19 Temporary Use Agreement approval by city staff to use a portion of the public sidewalk along the frontage and the private property on the side patio as a Covid-19 relief measure.

On July 21, 2022, the Planning Commission approved a Conditional Use Permit Amendment, Coastal Development Permit, and Design Permit to allow sidewalk dining, outdoor dining on private property, and beer and wine service.

The Covid-19 Temporary Use Agreements expired for all businesses at the end of September 2022. Invoices had been sent monthly for the temporary program. Rent for the sidewalk had been \$90 per month.

Starting in the fourth quarter of 2022, the Finance Department began to invoice businesses with dining decks or sidewalk dining quarterly for the permanent program. There also was a raise in rates with permanent program. For the subject property, rent was increased to \$324 quarterly (\$108 per month). The owner did not pay the initial quarterly invoice.

Since the initial quarterly invoice in 2022, the business has been past due on sidewalk space rental and lacks a certificate of insurance. The CUP for the to-go deli, sale of beer and wine, and the outdoor dining on private property are in compliance.

Discussion

Over the course of the past 10 months, City staff has sent five written notices attempting to collect the debt and has met with the owner on multiple occasions (Attachment A: Timeline). Throughout this time, staff waived January rent due to the storms, waived all late fees, and offered to work

out a payment plan to prevent permit revocation. On June 29, 2023, the owner informed staff of the decision to remove the sidewalk dining. The sidewalk furnishings were removed the following day.

Per the Village Outdoor Dining Policy (I-36), right of way tenants must pay \$3,400 annually for parking spaces. This approximates to \$18 per square foot, which is the rate applied to sidewalk dining tenants. The business was leasing 72 square feet (\$1,296/year).

The account is carrying an overdue negative balance of \$1,312 (without late fees) and the owner has not provided a current certificate of insurance. The owner has provided a single partial payment of \$200 since September 2022. Space rent and certificates of insurance are requirements of the conditions of approval. Section 17.156.110 (Permit revocation) requires that the review authority that originally approved a permit is the authority that must revoke the permit if findings for revocation can be made. The sidewalk dining is currently under review for permit revocation.

The CUP for the to-go deli, sale of beer and wine, and the outdoor dining on private property are in compliance. These permits will remain active and not be impacted by the revocation of the sidewalk dining.

CEQA

The project is categorically exempt under Section 15321 of the California Environmental Quality Act. Actions to revoke a lease or permit by a regulatory agency are exempt from CEQA.

Recommendation

Staff recommends the Planning Commission revoke the sidewalk dining portion of the existing Design Review, Conditional Use Permit, Coastal Development Permit approvals based on the Findings below that the owner has not complied with conditions of approval.

Attachments

1. Timeline
2. Invoice Q4 – 2022
3. Delinquent Letter 12.09.2022
4. Invoice Annual – 2023
5. Courtesy Letter #1 – 03.10.2023
6. Courtesy Letter #2 – 03.24.2023
7. Email final direction – 05.31.2023

CONDITIONS

Conditional Use Permit Conditions of Approval

1. The project approval consists of a Coastal Development Permit, Conditional Use Permit and Design Permit for the sale of wine and beer, ~~sidewalk dining~~ and outdoor dining in the side patio dining. The original CUP application #07-048 was approved on September 6, 2007, by the Planning Commission. An amendment to the CUP application #22-0125 was approved by Planning Commission on July 21, 2022. The Planning Commission revoked the sidewalk dining portion of the permit on July 20, 2023.
2. There shall be no more than six seats provided inside the restaurant.
3. Outdoor dining is permitted in an eight foot by 11 foot space in the side patio located within 201 Monterey Avenue; ~~and three, two foot by two foot bistro tables immediately adjacent to~~

~~the building within the public sidewalk. The tables, chairs, and umbrellas shall not interfere with a required five-foot sidewalk clearance. The table nearest the north entrance shall be limited to two opposing chairs parallel to the sidewalk. Tables, chairs, and umbrellas are prohibited on the public sidewalk.~~

4. 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.
5. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
6. Outdoor dining may occur between 7 a.m. and 10 p.m. seven days a week.
7. The applicant shall maintain a current business license to operate the business.
8. Beer and wine consumption shall be limited to inside the restaurant and the patio area. No beer and wine consumption shall be allowed within the public right of way sidewalk dining.
9. Signage shall be maintained at the entry/exit to the restaurant and patio stating that "consumption of alcohol prohibited beyond this point ~~in sidewalk dining~~".
10. No new lighting or signs are approved with this permit.
11. Amplified sound is prohibited outside the building.
12. A restroom shall be available to customers at all times during business hours.

Sidewalk Dining Conditions of Approval

13. ~~The Covid-19 temporary use permit for outdoor dining expires on September 15, 2022. To utilize the sidewalk dining after September 15, 2022, 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 street right-of-way.~~
14. ~~Prior to use beyond September 15, 2022, 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.~~
15. ~~The sidewalk dining shall comply with all applicable requirements of Capitola Municipal Code Section 17.96, the Zoning Code, the revocable encroachment permit, and all other applicable laws, administrative policies, rules, and regulations.~~
16. ~~The outdoor dining shall be consistent with the Local Coastal Program and not adversely impact coastal resources, coastal access, and coastal views.~~
17. ~~Materials and Furniture. The sidewalk dining must utilize high quality, durable materials that are compatible with surrounding development and can withstand inclement weather. The~~

~~application included black wrought iron tables and chairs, as well as two commercial grade umbrellas. The tables, chairs, and umbrellas approved within this permit must be well maintained. Any visible signs of weathering (fading, rust, holes, etc.) shall be addressed immediately through replacement or maintenance. Faded umbrellas shall be replaced with a UV rated fabric and not include logos, labels, or advertising. Upon Planning Commission approval, the property owner will order new umbrellas to replace the existing faded umbrellas.~~

- ~~18. 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.~~
- ~~19. Signs. No new business signs are included in the application.~~
- ~~20. Stormwater Drainage. The sidewalk dining must allow for adequate stormwater drainage. Sidewalk dining areas shall not block the drainage flow along the gutter line. Sidewalk dining shall not block access into any drain inlet or other drainage/stormwater facility.~~
- ~~21. Utilities. The sidewalk dining shall not interfere with utility boxes, water hydrants, storm drains, and all other related facilities.~~
- ~~22. Trash and Maintenance. The outdoor dining 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~~
- ~~23. Sound. Music and amplified sound are not allowed in an outdoor dining area.~~
- ~~24. Hours of Operation. Outdoor dining may occur between 7 a.m. and 10 p.m. seven days a week.~~
- ~~25. 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.~~
- ~~26. 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.~~

Permit Revocation Findings

- 1. The applicant or property owner has altered the circumstances under which the permit was granted to a degree that one or more of the findings required to grant the original permit can no longer be made.**

The account has been passed due for ten months and the City has not received a current insurance certificate in 2023. Per Section 17.96.170 Outdoor Dining in the Public Right

of Way is available to businesses that are in “good standing”. Good standing is defined as the property has operated in compliance with city standards within the past 24 months. The business is not currently in “good standing”.

2. Permit issuance was based on misrepresentation by the applicant, either through the omission of a material statement in the application, or in public hearing testimony.

The owner understood the conditions of approval and the requirements. No misrepresentation was made by the applicant.

3. One or more conditions of approval have been violated or have not been complied with or fulfilled.

The owner has not completed and kept current with conditions #13 and #14. Maintenance of acceptable insurance and lease payments is a requirement of the Permanent Encroachment Permit.

4. The use or structure for which the permit was granted no longer exists or has been discontinued for a continuous period of at least twelve months.

This finding is not applicable.

5. The applicant or property owner has failed or refused to allow inspections for compliance.

This finding is not applicable.

6. Improvements authorized by the permit are in violation of the zoning code or any law, ordinance, regulation, or statute.

The owner has removed the sidewalk dining furniture and communicated an intent to abandon the sidewalk dining permit. No further violation exists at the property.

7. The use or structure is being operated or maintained in a manner which constitutes a nuisance.

The owner has removed the sidewalk dining furniture and communicated an intent to abandon the sidewalk dining permit. No nuisances exist at the property.

Report prepared by: Brian Froelich

Castagnola Deli Cafe– Sidewalk Dining Timeline

In 2020, the applicant received a Covid-19 Temporary Use Agreement approval by city staff to use a portion of the public sidewalk along the frontage and the private property on the side patio as a Covid-19 relief measure.

On July 21, 2022, the Planning Commission approved a Conditional Use Permit Amendment, Coastal Development Permit, and Design Permit to allow sidewalk dining, outdoor dining on private property, and beer and wine service.

The Covid-19 Temporary Use Agreements expired for all businesses at the end of September 2022. Invoices had been sent monthly for the temporary program. Rent for the sidewalk had been \$90 per month.

Starting in the fourth quarter of 2022, the Finance Department began to invoice businesses with dining decks or sidewalk dining quarterly for the permanent program. There also was a raise in rates with permanent program. For the subject property, rent was increased to \$324 quarterly (\$108 per month). The owner did not pay the initial quarterly invoice.

The owner was notified of the delinquency on December 9, 2022.

In January 2023, the Finance Department issued invoices for the first quarter of 2023. The City's collections policy is that lessee's that remain delinquent after notification will be billed annually rather than quarterly. The owner was issued an annual invoice and did not pay the annual invoice for 2023.

On January 31, 2023, the Finance Department mailed, and hand delivered a revised invoice deducting the month of January due to the recent storm events but added late charges to the past due Q4 2022 billing period. The owner did not pay the revised invoice.

In February 2023, the Finance Department notified the Planning Department of the past due invoices and attempts made to contact the owner.

On March 10, 2023, the Planning Department mailed a Courtesy Notice advising the owner of possible permit revocation.

On March 16, 2023, the owner made a partial payment through the city's website of \$200. The payment equaled approximately 1.85 months of rent.

On March 24, 2023, the Planning Department issued a second Courtesy Notice.

On April 17, 2023, the Planning Department contacted the owner via telephone. The owner stated that it had been a difficult year for business, and he wanted to maintain the sidewalk dining area permits. The owner asked for flexibility while he arranged for payment and to provide updated insurance information.

On May 15, 2023, the Planning Department, Public Works Department, and owner met at City Hall to discuss, in detail, the requirement for an insurance certificate and options for payment. City staff agreed to waive late fees and the owner agreed to provide an updated insurance certificate. The owner was non-committal on dates for additional payment. Planning staff

committed to following up with a formal payment deadline, so that all parties would have a clear outlook on expectations and consequences.

On May 31, 2023, the Planning Department followed up with an email to the owner requesting an updated insurance certificate and full payment by June 29, 2023.

On June 29, 2023, the owner came to City Hall and offered to make a partial payment. Planning staff declined to accept a partial payment. Later that day the owner emailed an expired insurance certificate to Planning staff. Staff informed the owner that the certificate had expired. The owner responded that he intended to abandon the effort and would remove the tables, chairs, and umbrellas from the sidewalk. The sidewalk furnishings were removed the following day.



INVOICE

City of Capitola
 420 Capitola Ave
 Capitola, CA 95010
 Phone: 831-475-7300

CUSTOMER NO: 10788
 DANIEL CASTAGNOLA
 CASTAGNOLA DELI & CAFE
 201 MONTEREY #C
 CAPITOLA, CA 95010

INVOICE DATE: 09/23/2022
 INVOICE NO: 2023-00000033
 DUE DATE: 10/14/2022
 TOTAL DUE: \$324.00

Please detach and return with payment

Oct - Dec quarterly outdoor dining

PAYMENT OPTIONS		
Online: www.e-billexpress.com/ebpp/Capitola Click on Pay Now tab	By Mail: Return stub with payment	City Hall: Drop off payment at City Hall

CUSTOMER #	BILLING DATE	DUE DATE	INVOICE NO.	CHARGES
10788	09/23/2022	10/14/2022	2023-00000033	\$324.00

Description	Quantity	UOM	Unit Price	Total Price
Space rent	1	EA	\$324.0000	\$324.00

TOTAL DUE: \$324.00



420 Capitola Avenue
Capitola, California, 95010
Telephone: (831) 475-7300
FAX: (831) 479-8879
Website: www.cityofcapitola.org

December 9, 2022

Daniel Castagnola
Castagnola Deli & Café
201 Monterey #C
Capitola, CA 95010
castagnola76@yahoo.com
castagnoladeli@gmail.com

RE: Delinquent Outdoor Dining Space Rent

Dear Mr. Castagnola,

The Outdoor Dining Space Rent in the amount of \$324.00 for the period of Oct. 2022 – Dec. 2022 which was sent to you on Sept. 23, 2022, was due on October 14, 2022, and is now approaching 60 days past due. On Dec. 2, 2022, I contacted you advising that payment was past due and needed to be received by the City no later than 5:00 PM Monday Dec. 5, 2022. We have not received any correspondence from you regarding either the original invoice or my follow-up requesting payment.

Per the terms of the Revocable Encroachment Agreement, late payments will be charged a ten percent late penalty and incur interest at a rate of one and one-half percent per month until payment is received. Accounts that become over 30 days delinquent will be charged an additional late penalty of twenty percent, continue to incur interest of one and one-half percent per month, and will be required to pay rent for one year in advance. Accounts that become 60 days delinquent will be charged an additional late penalty of twenty five percent, continue to incur interest of one and one-half percent per month, required to pay rent one year in advance, and be given notice to bring the account current or remove the improvements from the public right-of-way within 10 days.

In order to continue to participate in the Outdoor Dining Program please pay the enclosed invoice No Later December 30, 2022. Invoiced amounts include:

Outdoor Dining Space Rent Oct. – Dec. 2022	\$ 324.00
Late Penalty Oct. – Dec. 2022	259.20
Interest Oct. Dec. 2022	12.07
Outdoor Dining Space Rent Jan. – Dec. 2023	1,296.00
Total	<u>\$ 1,891.27</u>

If the City of Capitola is not in receipt of the full balance of \$1,891.27 by December 30, 2022, we will apply your \$500.00 deposit towards the Oct. – Dec. 2022 delinquent balance of \$595.27 and you will be required to remove the outdoor dining improvements from the public right-of-way.

Please let me know if you have any questions.

Sincerely,



Jim Malberg, Finance Director

cc: Jamie Goldstein, City Manager
Katie Herlihy, Community Development Director



INVOICE

City of Capitola
 420 Capitola Ave
 Capitola, CA 95010
 Phone: 831-475-7300

CUSTOMER NO: 10788
 DANIEL CASTAGNOLA
 CASTAGNOLA DELI & CAFE
 201 MONTEREY #C
 CAPITOLA, CA 95010

INVOICE DATE: 12/09/2022
 INVOICE NO: 2023-00000042
 DUE DATE: 12/30/2022
 TOTAL DUE: \$1,891.27

Please detach and return with payment

Annual Rent JAN-DEC

PAYMENT OPTIONS		
Online: www.e-billexpress.com/ebpp/Capitola Click on Pay Now tab	By Mail: Return stub with payment	City Hall: Drop off payment at City Hall

CUSTOMER #	BILLING DATE	DUE DATE	INVOICE NO.	CHARGES
10788	12/09/2022	12/30/2022	2023-00000042	\$1,891.27

Description	Quantity	UOM	Unit Price	Total Price
Space rent: Jan. – Dec. 2023	1	EA	\$1,296.0000	\$1,296.00
Space rent: Oct. – Dec. 2022	1	EA	\$ 324.0000	\$ 324.00
Late penalty: Oct. – Dec. 2022	1	EA	\$ 259.2000	\$ 259.20
Interest: Oct. – Dec. 2022	1	EA	\$ 12.0700	\$ 12.07

TOTAL DUE: \$1,891.27

Should the square footage of your space change during the quarter as you transition to the new program requirements, you will be given a prorated credit on your second quarter rent invoice.



COMMUNITY DEVELOPMENT DEPARTMENT
420 Capitola Avenue, Capitola, CA 95010
Web: www.cityofcapitola.org | Tel: (831) 475-7300
Katie Herlihy, Director

COURTESY NOTICE

March 10, 2023

Via Certified Mailed and First Class

Daniel Castagnola
Castagnolas Deli Cafe
201 Monterey Avenue Suite# C
Capitola, CA 95010

**RE: 201 Monterey Avenue #C
CMC Code 12.96.170**

Dear Mr. Castagnola,

This letter is intended as a courtesy to notify you as the Business Owner, that your improvements in the City sidewalk are now in violation of Municipal Code section 17.96.170 H.

At this time, the City of Capitola has verified that the property at 201 Monterey Avenue, #C is operating out of compliance with Conditional Use Permit #22-0125 condition of approval #12 and 17.96.170 H. Specifically, the use of the City sidewalk is subject to a current monthly fee of \$18 per square foot. The fee has not been paid since September 2022. The City of Capitola requests now that you pay the attached invoice, in full, or remove the sidewalk dining furniture by 5pm on March 20, 2023. Additionally, the City is requesting that you review and sign the enclosed Encroachment Agreement and return to the City for counter signagtures.

Please be aware that failure to address the noncompliance in a timely manner will result in the City of Capitola escalating enforcement, which may result in the issuance of a Notice of Violation and/or the City removing the dining furniture from the City sidewalk.

I am available to answer any questions you may have. I can be reached at (831) 475-7300 or bfroelich@ci.capitola.ca.us

I look forward to working with you to resolve this matter.

Respectfully,

Brian Froelich, AICP
Senior Planner



COMMUNITY DEVELOPMENT DEPARTMENT
420 Capitola Avenue, Capitola, CA 95010
Web: www.cityofcapitola.org | Tel: (831) 475-7300
Katie Herlihy, Director

SECOND COURTESY NOTICE

March 24, 2023

Via Certified Mailed and First Class

Daniel Castagnola
Castagnolas Deli Cafe
201 Monterey Avenue Suite# C
Capitola, CA 95010

**RE: 201 Monterey Avenue #C
CMC Code 12.96.170**

Dear Mr. Castagnola,

The City of Capitola Community Development Department has determined that Castagnolas Deli Café is continuing to operate in violation of the **Conditional Use Permit issued for 201 Monterey Avenue #C, CUP #22-0125** with regard to 1) delinquent sidewalk lease payments and 2) lack of filing a Revocable Encroachment Agreement and Lease Agreement. City Staff had previously notified you of these violations with a directive to bring the property into compliance by March 20, 2023. **No corrective action has been taken.**

The City of Capitola now requests that you abate the violations **immediately** and schedule a follow-up inspection with City staff for verification of compliance within **5 business days** of the date on this letter (**by Friday, March 31, 2023**). Failure to abate this confirmed violation by meeting these deadlines will result in the City of Capitola escalating enforcement, including seeking revocation of CUP #22-0125.

Possible Outcomes:

This is a second courtesy notice; no enforcement action has been taken at this time. However, please note that you will not receive an additional courtesy notice, and that this serves as the City community development director’s notice to the permittee to correct the violation within a reasonable period of time. A failure to correct said violation within the time allowed shall result in review of the conditional use permit by the Planning Commission for revocation. Please refer to Capitola Municipal Code Section 17.156.110, “Permit revocation,” for more information on permit revocation; our municipal code is available at <http://www.cityofcapitola.org>.

As part of the City’s Community Development Department, I am available to answer any questions you may have about this violation and how to remedy it. I can be reached at (831) 475-7300 or bfroelich@ci.capitola.ca.us. I look forward to working with you to resolve this matter.

Brian Froelich, AICP
Senior Planner

Froelich, Brian

From: Froelich, Brian
Sent: Wednesday, May 31, 2023 10:18 AM
To: Castagnola Deli & Cafe
Cc: Bennett, Shelon
Subject: RE: meeting - sidewalk lease and balance
Attachments: Castagnola - Sidewalk Use - Lease Agreement - Unsigned 5.15.23.pdf

Hi Daniel,

Thank you for meeting with us two weeks ago and please find the attached lease agreement. Please take note of the strikeouts and underlined sections that are specific to this your lease and let me know if you have any questions. The lease remains a draft until the city receives the insurance documentation and payment in-full for outstanding rent.

Next steps:

1. Please contact your insurance carrier and add the City of Capitola as an additionally insured party. Please email or have your agent email the updated Certificate of Insurance to Shelon and copy me.
2. The total outstanding balance is \$1,312.
3. Please make the payment in full by June 29, 2023.

A question came up during the meeting about the rate of \$90 vs. \$108 per month. During the COVID period the rate was \$90. With the permanent program it is now \$108. The change in rate took effect city-wide on September 22, 2022 when the temporary program expired. If the above items are not completed by June 29, 2023 a revocation hearing will be scheduled with the Planning Commission.

Thanks,

Brian

Brian Froelich, AICP
 Senior Planner
 City of Capitola
 831.475.7300 x 259
bfroelich@ci.capitola.ca.us

Planning Counter Hours: 1 p.m. - 4 p.m., Monday - Friday

From: Castagnola Deli & Cafe <castagnoladeli@gmail.com>
Sent: Friday, May 12, 2023 2:19 PM
To: Froelich, Brian <bfroelich@ci.capitola.ca.us>
Subject: Re: meeting - sidewalk lease and balance

Monday 1030 will work. Thank you Brian

On Fri, May 12, 2023, 1:36 PM Froelich, Brian <bfroelich@ci.capitola.ca.us> wrote:

Does Monday at 10:30 or Tuesday at 9:30am work?

Brian Froelich, AICP

Senior Planner

City of Capitola

831.475.7300 x 259

bfroelich@ci.capitola.ca.us

Planning Counter Hours: 1 p.m. - 4 p.m., Monday - Friday

From: Castagnola Deli & Cafe <castagnoladeli@gmail.com>

Sent: Thursday, May 11, 2023 4:39 PM

To: Froelich, Brian <bfroelich@ci.capitola.ca.us>

Subject: Re: meeting - sidewalk lease and balance

Okay. Do you have any morning times available?

On Tue, May 9, 2023, 1:19 PM Froelich, Brian <bfroelich@ci.capitola.ca.us> wrote:

Hi Daniel,

Are you available Friday at 2pm to come to the city office? Should be 20-30 minutes. Please let me know.

Thanks,

Brian

Brian Froelich, AICP

Senior Planner

City of Capitola

831.475.7300 x 259

bfroelich@ci.capitola.ca.us

Planning Counter Hours: 1 p.m. - 4 p.m., Monday - Friday

From: Castagnola Deli & Cafe <castagnoladeli@gmail.com>
Sent: Friday, May 5, 2023 2:27 PM
To: Froelich, Brian <bfroelich@ci.capitola.ca.us>
Subject: Re: meeting - sidewalk lease and balance

Good Afternoon Brian.

Thank you for your email and following back with me. Appreciate

You and finance dept working with me on this matter. Waiving the late fees is a big help. Thank you. I'm available anytime next week except Tuesday. I will get lease agreement signed and returned ASAP. Off the top I should be able to get caught up by end of June, if not sooner. Thanks again. Have a great weekend

On Mon, May 1, 2023, 4:42 PM Froelich, Brian <bfroelich@ci.capitola.ca.us> wrote:

Hello Daniel,

I am following up after our phone call several weeks ago. You were clear that you want to continue using the sidewalk for tables and chairs, so we need to resolve several issues in order to keep the permit active. The Finance Department has agreed to waive the late fees and interest. I am requesting a meeting with you to discuss and resolve the open items.

Open Items:

1. Public Works Department needs a lease agreement signed and proof of insurance.
2. We need to agree on a deadline to pay the outstanding balance.

Please let me know a day in the coming week that you can meet at City Hall and we can begin resolving the open items and discuss the path forward. I am available at 10:30am on Wednesday or Friday or let me know another time that works better for you.

Best,

Brian

Brian Froelich, AICP

Senior Planner

City of Capitola

831.475.7300 x 259

bfroelich@ci.capitola.ca.us

Planning Counter Hours: 1 p.m. - 4 p.m., Monday - Friday

Capitola Planning Commission

Agenda Report

Meeting: July 20, 2023
From: Community Development Department
Topic: 4610 Crystal Street



Permit Number: #22-0396

APN: 034-193-03

Design Permit, for second-story additions to a single-family residence with a Minor Modification for the required covered parking dimensions. The project is located in the R-1 (Single-Family Residential) zoning district.

This project is in the Coastal Zone but does not require a Coastal Development Permit.

Environmental Determination: Categorical Exemption

Property Owner: Diedre McRobie

Representative: John Craycroft, Filed: 09.21.22

Applicant Proposal:

The applicant is proposing to construct a 550 square-foot second-story addition to a single-family residence at 4610 Crystal Street within the R-1 (Single-Family Residential) zoning district. A minor modification is required to for the minimum covered parking dimensions.

Background:

On July 5, 2023, Development and Design Review Staff reviewed the application and provided the applicant with the following direction:

Public Works Department Representative: suggested a rain catchment barrel near the garage and if included, show it on the construction plans.

Building Department Representative, Eric Martin: inquired about the structural load of the second-story addition. The applicant informed staff that a structural engineer has been hired for the construction plans.

Senior Planner, Brian Froelich: noted the applicant incorporated staff recommendations and raised the sill height of most upper-story windows to five feet above top-of-floor.

No alterations were made to the plans following the Development and Design Review meeting.

Development Standards:

The following table outlines the zoning code requirements for development in the Single-Family (R-1) zoning district. The additions require a Minor Modification to the minimum required depth for covered parking spaces.

R-1 (Single Family Residential) Zoning District

Building Height				
R-1 Regulation	Existing		Proposed	
25 ft.	15 ft.		21 ft. 7 in.	
Floor Area Ratio (FAR)				
	Existing		Proposed	
Lot size	3,040 sq. ft.		3,040 sq. ft.	
Maximum Floor Area Ratio	57% (Max 1,733 sq. ft.)		57% (Max 1,733 sq. ft.)	
First Story Floor Area	1,314 sq. ft.		1,178 sq. ft.	
Second Story Floor Area	N/A		550 sq. ft.	
Exemptions	N/A		-39 sq. ft.	
Total FAR	43.2% (1,314 sq. ft.)		55.6% (1,689 sq. ft.)	
Setbacks				
Corner lot? If yes, update regulations for corner lots				
	R-1 regulation		Existing	Proposed
Front Yard 1st Story	15 ft.		20 ft. 1 in.	20 ft. 1 in.
Front Yard 2nd Story & Garage	20 ft.		2 nd Story: N/A Garage: 57 ft. 10 in.	2 nd Story: 40 ft. Garage: 57 ft. 10 in.
Side Yard 1st Story	10% lot width	Lot width 38 ft. 3 ft. 10 in. min.	West: 4 ft.7 in. East: 0 ft.	West: 4 ft. 7 in. East: 0 ft. Existing Nonconforming
Side Yard 2nd Story	15% of width	Lot width 38 ft. 5 ft. 8 in. min	N/A	West: 5 ft. 9 in. East: 8 ft. 9 in.
Rear Yard 1st Story	20% of parcel depth	Lot depth 80 ft. 16 ft. min.	2 ft.	2 ft. Existing nonconforming
Rear Yard 2nd Story	20% of parcel depth	Lot depth 80 ft. 16 ft. min.	N/A	16 ft.
Parking				
Up to <u>1,500</u> sq. ft.: 2 spaces required, neither of which must be covered.	Required		Existing	Proposed
	2 spaces total 0 covered 2 uncovered		2 spaces total 1 covered 1 uncovered	2 spaces total 1 covered* 1 uncovered One substandard space. See Minor Modification.
Underground Utilities: Required with 25% increase in area				Required

Discussion:

The property is located in the Jewel Box neighborhood, surrounded by one- and two-story single-family homes. The lot is developed with an existing one-story, single-family residence.

Design Permit

The project creates a new second-story with two bedrooms, for a total addition of 550 square feet. The proposal also removes an existing first-story bedroom located in the rear setback. The existing home has horizontal wood siding, which will be replaced to match the new wood shingle pattern of the upper-story addition. The design includes a second-story cross-gable roof with composition shingle roofing, a new metal seam roof accent over the covered porch. New windows will match the existing assortment of cottage-style windows. The garage will be refurbished with a new wooden garage door. Attachment 2 includes details of the front elevation in color with all exterior finishes.

When considering design permit applications, the Planning Commission evaluates applications to ensure that they satisfy the applicable design permit criteria of Zoning Code section 17.120.070.A-S, to ensure the proposed design satisfies the 19 listed criteria, to the extent the criteria apply. The design criteria to be considered are included as Attachment 4. The proposed single-family home satisfies all the applicable design criteria; therefore, the required findings to issue a design permit are included in the findings section at the report.

Non-Conforming Structure

The existing structure is located within the first-story side and rear setbacks to the east and south, respectively. The existing structure does not comply with the setback regulations of the zoning code and therefore is a legal non-conforming structure. Pursuant to Capitola Municipal Code (CMC) §17.72.070, if proposed structural alterations to an existing non-complying structure exceed 80% of the present fair market value of the structure, the proposed structural alterations may not be made. Staff reviewed the submitted construction cost breakdown and estimates the proposed structural alterations are approximately 66.5% of the present fair market value of the structure, so the alterations are permissible. The construction cost breakdown is included as Attachment 3.

Minor Modification

Pursuant to CMC §17.76.020(C)(2), if the floor area for a residential use is enlarged by more than ten percent, the full parking requirements must be met. The proposed additions are approximately 29 percent of the existing gross floor area, so parking must be brought into compliance. With the proposed addition, two parking spaces are required, neither of which must be covered. Although the project is not required to provide a covered parking space, one of the two proposed spaces is covered and therefore must comply with the covered parking standards. The existing driveway supports one 10-foot by 20-foot parking space. The applicant is proposing to keep the existing nonconforming garage space, which measures approximately 10 feet and 5 inches wide by 19 feet and 2 inches deep. Interior parking spaces are required to be a minimum of 10-feet by 20-feet. The Planning Commission may approve a minor modification up to ten percent of the required development standard. The deviation is within ten percent of the required standard space width and depth and is therefore eligible for consideration.

Pursuant to §17.136.060, the Planning Commission, on the basis of the evidence submitted at the hearing, may grant a minor modification when it finds:

A. The modification will be compatible with adjacent structures and uses and is consistent with the character of the neighborhood or district where it is located.

Staff Analysis: The modification allows the property to maintain the existing parking arrangement and capacity which is both compliant in terms of minimum parking spaces and similar to that of many properties of the neighborhood.

B. The modification will not adversely impact neighboring properties or the community at large.

Staff Analysis: The proposal maintains the existing parking capacity of the lot, which already complies in terms of minimum parking spaces.

C. The modification is necessary due to unique characteristics of the subject property, structure, or use.

Staff Analysis: The existing garage is located within the required side and rear setbacks. Modification of the existing garage to meet the depth requirement would not be possible without also meeting modern setback requirements, effectively requiring the complete demolition of the garage and partial demolition of the residence's habitable space.

D. The modification will be consistent with the purpose of the zoning district, the general plan, local coastal program, and any adopted area or neighborhood plan.

Staff Analysis: The proposed parking arrangement provides the required number of on-site spaces and does not exacerbate any existing nonconformities. Although the existing garage is substandard in terms of required depth and current industry practice for height, it can still accommodate most modern vehicles.

E. The modification will not establish a precedent.

Staff Analysis: A significant number of single-family residences in the Jewel Box neighborhood have nonconforming setbacks because much of the neighborhood was built prior to the city's incorporation and under different development standards. The Jewel Box neighborhood has a largely consistent size and shape of lots; however, the subject property is slightly narrower at 38 feet compared to the neighborhood average of 40-foot lot widths. The project also results in maintaining ideal functional parking opportunities.

F. The modification will not adversely impact coastal resources.

Staff Analysis: The subject property does not contain coastal resources. The proposed on-site parking arrangement will not adversely impact coastal resources in the area.

CEQA:

This project is categorically exempt under Section 15301 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations, which exempts minor additions and alterations of existing private structures that will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less. The project involves a net increase of 375 square feet to a single-family residence which will increase the net floor area by approximately 29%.

Recommendation:

Staff recommends the Planning Commission **approve** application #22-0396 based on the Conditions and Findings for Approval.

Attachments:

1. 4610 Crystal Street – Plan Set
2. 4610 Crystal Street – Color and Material Finishes
3. 4610 Crystal Street – Construction Cost Breakdown
4. Design Permit Design Review Criteria

Conditions of Approval:

1. The project approval consists of construction of a new 550 square-foot second-story addition. The maximum Floor Area Ratio for the 3,040 square foot property is 57% (1,732 square feet). The total FAR of the project is 55.6% with a total of 1,689 square feet, compliant with the maximum FAR within the zone. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on July 20, 2023, 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 a Certificate of Occupancy, the applicant shall complete landscape work to reflect the approval of the Planning Commission. Specifically, required landscape areas, all required tree plantings, privacy mitigations, erosion controls, irrigation systems, and any other required measures shall be addressed to the satisfaction of the Community Development Director.
8. Prior to issuance of building permit, all Planning fees associated with permit #22-0396 shall be paid in full.

9. Prior to issuance of building permit, the developer shall pay Affordable housing impact fees as required to assure compliance with the City of Capitola Affordable Housing Impact Fee 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, 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.
18. 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.

- 19. 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.
- 20. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
- 21. 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.
- 22. Outdoor lighting shall comply with all relevant standards pursuant to Municipal Code Section 17.96.110, including that all outdoor lighting shall be shielded and directed downward such that the lighting is not directly visible from the public right-of-way or adjoining properties.

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 proposed project. With the granting of a Minor Modification to the required dimensions for covered parking spaces, 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 proposed project. With the granting of a Minor Modification to the required dimensions for covered parking spaces, 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 15301(e) of the CEQA Guidelines exempts additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less. The project involves a net increase of 375 square feet to a single-family residence which will increase the net floor area by approximately 29%. 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 remodel of a single-family residence 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 project complies with all applicable design review criteria in Section 17.120.070.

F. 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 proposed project. The design of the home will fit nicely with the existing neighborhood. The project will maintain the character, scale, and development pattern of the neighborhood.

Minor Modification Findings:

G. The modification will be compatible with adjacent structures and uses and is consistent with the character of the neighborhood or district where it is located.

The Modification allows the property to maintain the existing parking arrangement and capacity which is both compliant in terms of minimum parking spaces and similar to that of many properties of the neighborhood.

H. The modification will not adversely impact neighboring properties or the community at large.

The proposal maintains the existing parking capacity of the lot, which already complies in terms of minimum parking spaces.

I. The modification is necessary due to unique characteristics of the subject property, structure, or use.

The existing garage is located within the required side and rear setbacks. Modification of the existing garage to meet the depth requirement would not be possible without also meeting modern setback requirements, effectively requiring the complete demolition of the garage and partial demolition of the residence's habitable space.

J. The modification will be consistent with the purpose of the zoning district, the general plan, local coastal program, and any adopted area or neighborhood plan.

The proposed parking arrangement provides the required number of on-site spaces and does not exacerbate any existing nonconformities. Although the existing garage is substandard in terms of required depth and current industry practice for height, it can still accommodate most modern vehicles.

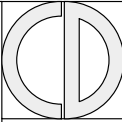
K. The modification will not establish a precedent.

A significant number of single-family residences in the Jewel Box neighborhood have nonconforming setbacks because much of the neighborhood was built prior to the city's incorporation and under different development standards. The Jewel Box neighborhood has a largely consistent size and shape of lots; however, the subject property is slightly narrower at 38 feet compared to the neighborhood average of 40-foot lot widths. The project also results in maintaining ideal functional parking opportunities.

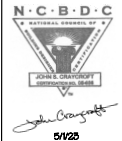
L. The modification will not adversely impact coastal resources.

The subject property does not contain coastal resources. The proposed on-site parking arrangement will not adversely impact coastal resources in the area.

Associate Planner



CRAYCROFT DESIGN
455 Happy Valley Way
Santa Cruz, CA 95065
831-427-3048



SURVEYOR
Kevin Smith, PLS
Kevin Smith
Land Surveying
111 Dellview Avenue
Santa Cruz, CA 95062
831-588-0154

PROJECT DATA

Address: 4610 Crystal Street, Capitola, CA
Parcel Number: 024-199-02
Parcel Size: 3040 sq. ft.
Occupancy Classification Group: R2, U Wood Frame
Construction Type: VB
Fire Sprinkler System not required, nor proposed.
Water Supply: Public
Waste Water: Sewer

PROJECT DESCRIPTION

Addition and Remodeling to an Existing Residence:
Existing: 1 story, 1094 sq. ft. heated w/ 3 bedrooms, 2 baths & 1 car garage (219 sq. ft.)
Proposed: 2 stories, 1510 sq. ft. heated w/ 3 bedrooms, 3 baths & 1 car garage (219 sq. ft.)

AREA CALCULATIONS

Existing Area Calculations	
Lot Area	3040 sq. ft.
First Floor	1094 sq. ft.
Second Floor	0 sq. ft.
Existing Total Heated	1094 sq. ft.
Garage	219 sq. ft.
Covered Porches	0 sq. ft.
Total Area for FAR	1313 sq. ft.
Existing FAR (57% Max.)	0.432 43.2%
Max. FAR = 3040 x 57%	1732.8 sq. ft.
Max. Additional FAR Sq. Ft.	419.8 sq. ft.

Proposed Area Calculations	
Lot Area	3040 sq. ft.
First Floor (Bedroom 1 Removed)	306 sq. ft.
Second Floor	354 sq. ft.
Proposed Total Heated	660 sq. ft.
Garage	219 sq. ft.
Cov. Porches 20' x 150' w/ except.	0 sq. ft.
Total Area for FAR	1729 sq. ft.
Proposed FAR	0.569 (57% max)

APPLICABLE CODES

ALL CONSTRUCTION REGARDLESS OF DETAILS ON PLANS, SHALL COMPLY WITH:
2022 CALIFORNIA RESIDENTIAL CODE
2022 CALIFORNIA FIRE CODE & DIST. AMEND.
2022 CALIFORNIA PLUMBING CODE
2022 CALIFORNIA MECHANICAL CODE
2022 CALIFORNIA ELECTRICAL CODE
2022 CALIFORNIA ENERGY CODE
2022 CALIFORNIA GREEN BUILDING STANDARDS

VICINITY MAP (n.t.s.)



CLIENT
Dee McRobie
4610 Crystal Street
Capitola, CA

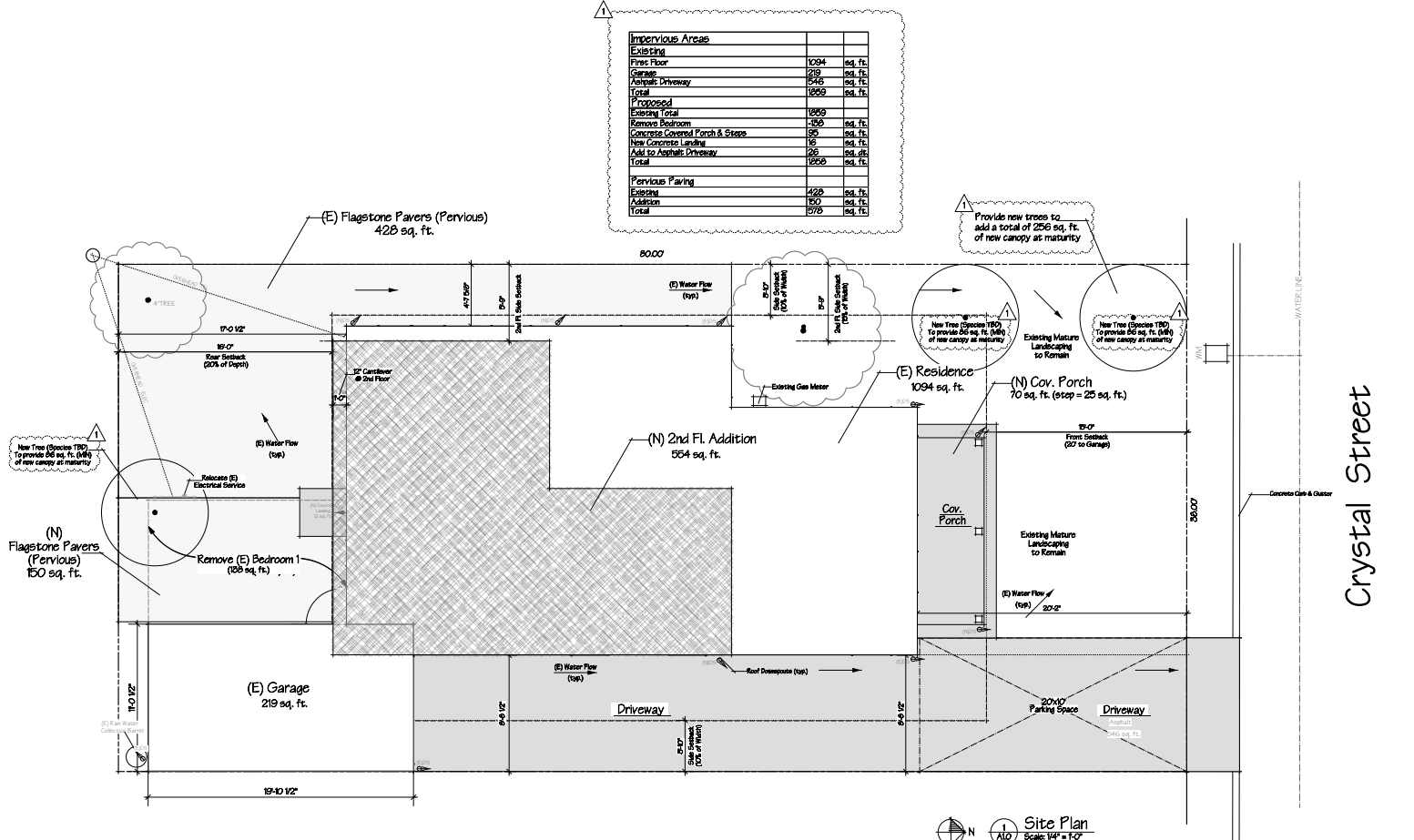
PROJECT
4610 Crystal Street
Capitola, CA
APN : 024-183-03

VERSION	date	remarks
	6/28/22	
5/1/23		Revised For Planning Comments

Coversheet & Site Plan

A1.0

Impervious Areas	
Existing	
First Floor	1094 sq. ft.
Garage	219 sq. ft.
Asphalt Driveway	546 sq. ft.
Total	1859 sq. ft.
Proposed	
Existing Total	1859
Remove Bedroom	-135 sq. ft.
Concrete Covered Porch & Steps	50 sq. ft.
New Concrete Landing	16 sq. ft.
Add to Asphalt Driveway	28 sq. ft.
Total	1923 sq. ft.
Permitted Paving	
Existing	428 sq. ft.
Addition	150 sq. ft.
Total	578 sq. ft.



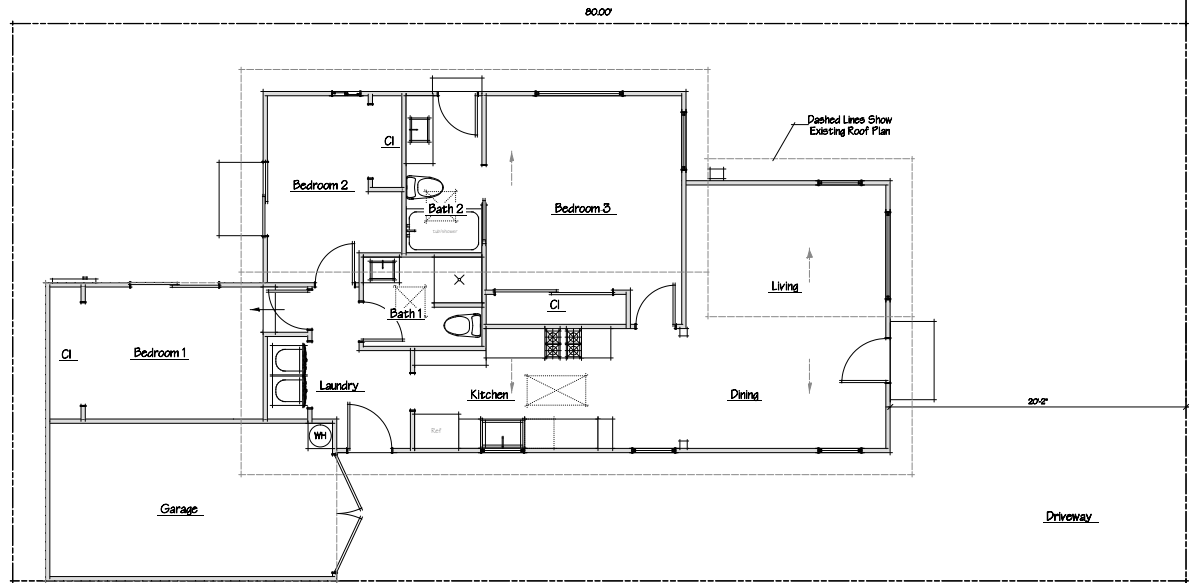
Site Plan
Scale: 1/4" = 1'-0"



Proposed Perspective View
Scale: Actual Size

- Grading, Drainage and Erosion Control Notes**
- Grading:**
 - No grading in excess of 100 cu. yards is proposed.
 - No unnecessary grading and disturbing of soil.
 - No fill greater than 2 feet in depth.
 - No fill placed on slopes greater than 20%.
 - No cut slopes greater than 3 feet.
 - No structure to be placed on fill slopes.
 - Drainage:**
 - In finish grading create slopes away from the foundation.
 - Install gutters and downspouts @ all roof eaves. Discharge from rain gutters to be directed splash blocks, drainage swales for dispersal into existing percolation into landscaping or to existing drainage features to streets.
 - Swales and impervious surfaces all be sloped a minimum of 1 percent.
 - Erosion Control:**
 - Erosion to be controlled at all times although specific measures shown are to be implemented at a minimum by October 15th.
 - Unless specific measures are shown or noted on this plan, all collected runoff shall be carried to drainage courses in lined-conduits. Discharge shall be in the locations shown on the plans.
 - The desired end-result of these measures is to control into erosion and prevent sediment transport off the site. It shall be the developer's responsibility to see that any additional measures necessary to meet the goal are implemented. If failed inspections by city staff show this goal is not being met, additional measures may be required.
 - All disturbed areas not currently being used for construction shall be seeded with the following seed mixture: winter barley 24# per acre.
 - After seeding, straw mulch will be applied in 1.5" minimum layers on exposed soil surfaces. If possible, use aged, stabilized, non-flotting mulch.
 - Mulch stockpiles: mulch should be located and stored in such a manner that there is no discharge to the storm drain system.
 - Silt barriers shall be placed end to end and staked down along the bottom of all graded slopes.

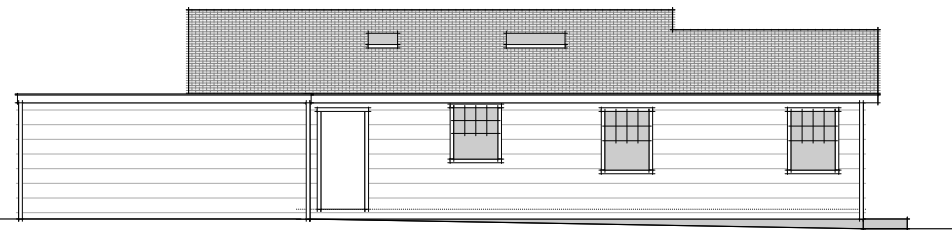
Crystal Street



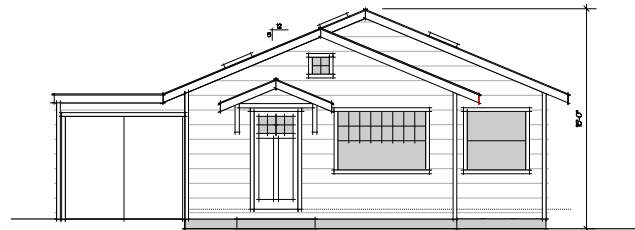
Crystal Street

Existing Area Calculations	
Lot Area	5040 sq. ft.
First Floor	1294 sq. ft.
Second Floor	0 sq. ft.
Existing Total Heated	1294 sq. ft.
Garage	269 sq. ft.
Covered Porches	0 sq. ft.
Total Area for FAR	1563 sq. ft.
Existing FAR (50% Max)	04320 = 45.2%
Max. FAR = 2040 x 5%	102 sq. ft.
Max. Additional FAR Sq. Ft.	489 sq. ft.

Existing Floor Plan on Site
Scale: 1/4" = 1'-0"



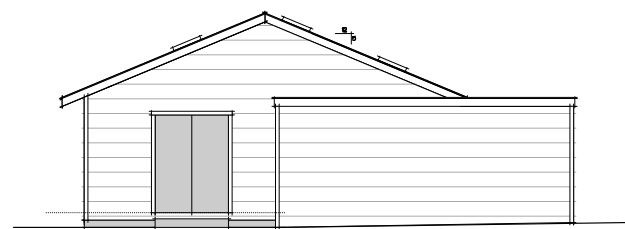
East Elevation
Scale: 1/4" = 1'-0"



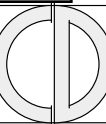
North Elevation
Scale: 1/4" = 1'-0"



West Elevation
Scale: 1/4" = 1'-0"



South Elevation
Scale: 1/4" = 1'-0"



CRAYCROFT DESIGN
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831-427-3048



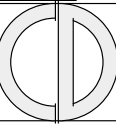
SURVEYOR
Kevin Smith, PLS
Kevin Smith
Land Surveying
111 Dellview Avenue
Santa Cruz, CA 95062
831-588-0154

CLIENT
Dee McRobie
4610 Crystal Street
Capitola, CA

PROJECT
4610 Crystal Street
Capitola, CA
APN : 024-183-03

VERSION	date	remarks
1	6/28/22	
2	5/1/23	Revised For Planning Comments

Existing Plans
A2.0



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 Santa Cruz, CA 95065
 831-427-3048



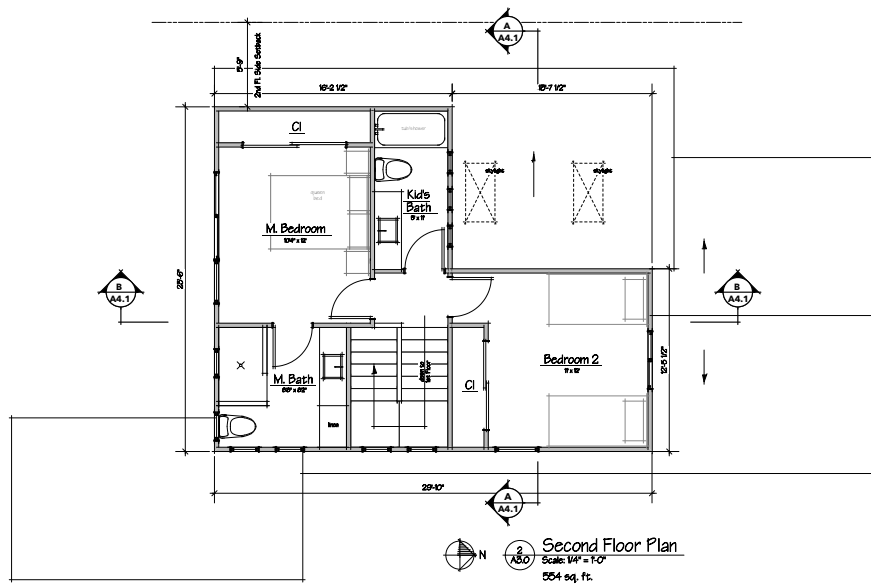
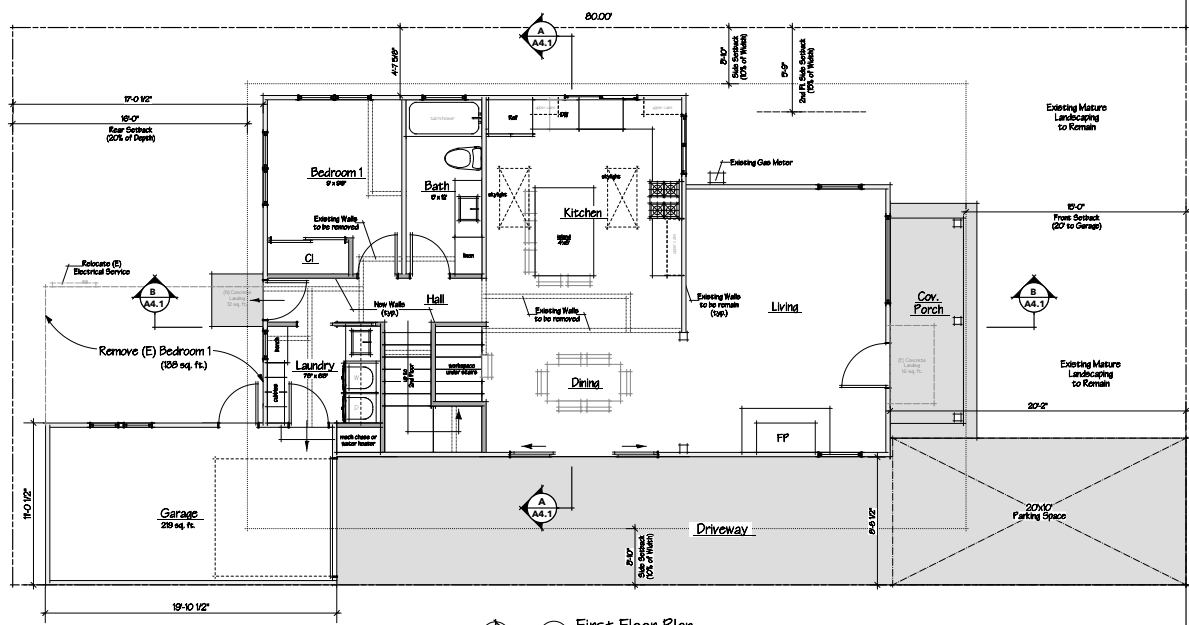
SURVEYOR
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 111 Dellview Avenue
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2	5/1/23	Revised For Planning Comments

Proposed Floor Plans
A3.0



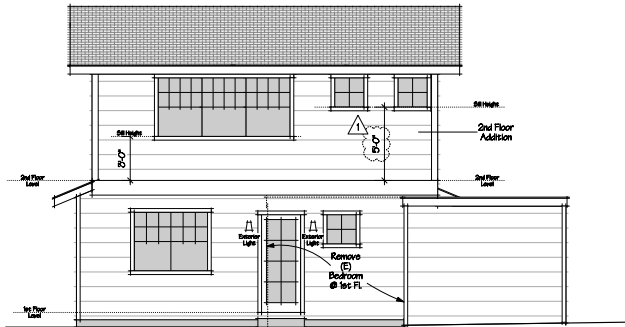
Crystal Street

Existing Area Calculations

Lot Area	3040 sq. ft.
First Floor	1294 sq. ft.
Second Floor	0 sq. ft.
Existing Total Heated	1294 sq. ft.
Garage	219 sq. ft.
Covered Porches	0 sq. ft.
Total Area for FAR	1513 sq. ft.
Existing FAR (50% Max)	0.432 - 43.2%
Max. FAR = 3040 x 5%	152 sq. ft.
Max. Additional FAR Sq. Ft.	481 sq. ft.

Proposed Area Calculations

Lot Area	3040 sq. ft.
First Floor (Bedroom 1 Removed)	964 sq. ft.
Second Floor	554 sq. ft.
Proposed Total Heated	1518 sq. ft.
Garage	219 sq. ft.
Cov. Porches 80' x 150' w/ excep.	0 sq. ft.
Total Area for FAR	1737 sq. ft.
Proposed FAR	0.572 (57.2% max)



1 South Elevation
Scale: 1/4" = 1'-0"

Outdoor Lighting Notes

17.96.10 Outdoor Lighting
A. Purpose: This section establishes standards for outdoor lighting to minimize light pollution, maintain enjoyment of the night sky, and reduce light impacts on adjacent properties.
B. Applicability: The standards in this section apply to all outdoor lighting in Capitola except for:
 1. Lighting installed and maintained by the City of Capitola or other public agency; 9610 SUPPLEMENTAL STANDARDS 17.96
 2. Athletic field lights used within a school campus or public or private park;
 3. Temporary construction and emergency lighting; and
 4. Seasonal lighting displays related to cultural or religious celebrations.
C. Maximum Height: Lighting standards shall not exceed the maximum heights specified in the Table 17.96-1.
TABLE 17.96-1 MAXIMUM LIGHT STANDARDS HEIGHT
 Zoning Districts
 Residential Zoning Districts
 Mixed Use and Commercial Zoning Districts
 Industrial Zoning Districts
 Community Facility and Parks/Open Space Zoning Districts
Maximum Height:
 15 ft.
 15 ft. within 100 ft. of any street frontage or residential property line; 20 ft. in any other location
 15 ft. within 100 ft. of any street frontage or residential property line; 25 ft. in any other location
 20 ft., or as necessary for safety and security
D. Prohibited lighting: The following types of outdoor lighting are prohibited:
 1. Exposed bulbs and/or lenses;
 2. Mercury vapor lights; and
 3. Searchlights, laser lights, or any other lighting that flashes, blinks, alternates, or moves.
E. Fixture Types: All lighting fixtures shall be shielded so the lighting source is not to produce disruptive glare onto the directly visible from the public right-of-way or adjoining properties. All luminaires fixtures shall meet the International Dark Sky Association's (IDA) most recently adopted criteria of the Illuminating Engineering Society of North America (IESNA) for cutoff or full cutoff luminaire requirements for reducing waste of ambient light ("dark sky compliant").
F. Light trespass: Light trespass is defined as light directed downward and/or sideways from adjacent lots and public streets, and to prevent adverse interference with the normal operation or enjoyment of surrounding properties.
 1. Direct or sky-reflected glare from floodlights shall not be directed into any other parcel or street.
 2. No light or activity may cast light exceeding one foot-candle onto a public street, with the illumination level measured at the centerline of the street.
 3. No light or activity may cast light exceeding one-half foot-candle onto a residentially zoned parcel or any parcel containing residential use.
 9611
17.96 SUPPLEMENTAL STANDARDS
G. Required Documentation: Prior to issuance of building permits, project applicants shall submit to the City photometric data from lighting manufacturers demonstrating compliance with the requirements of this section.

Outdoor Lighting Wall Sconce Specification
SEE ELEVATIONS FOR LOCATIONS

Trans
Globe Lighting



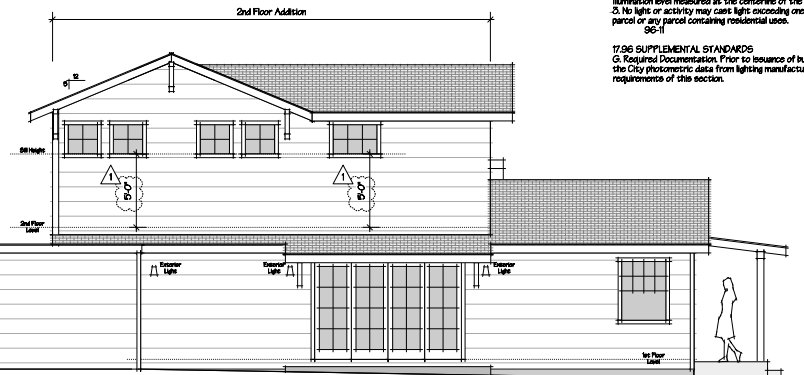
51331



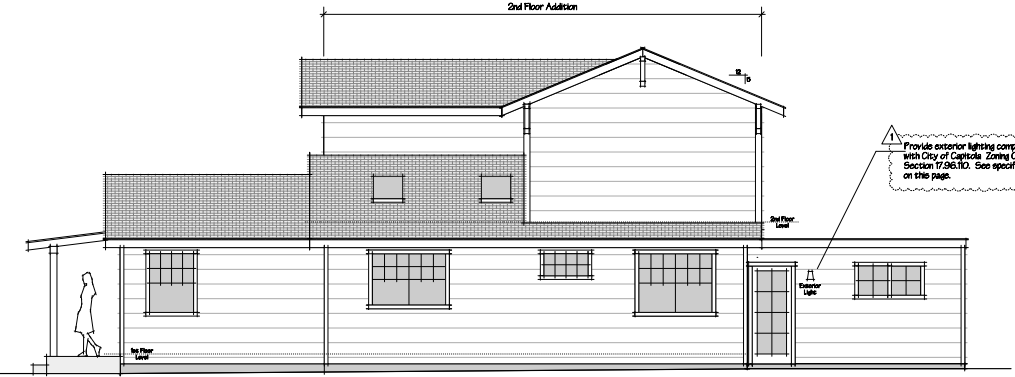
Wall Light
 Width (in): 5
 Height (in): 6.25
 Depth (in): 4
 Glass Type: No glass
 Bulb Type: Medium Base
 Number of Bulbs: 1
 Wattage: 60
 Finish Shown: Matte Black (MB)
 Available Finishes: Matte Black (MB)
 UL Listed: Wet
 Country of Origin: China
 Material: Aluminum, Electrical

Job Name: Job Type: Contact:
 Fixture Location: Quantity: Additional Notes:

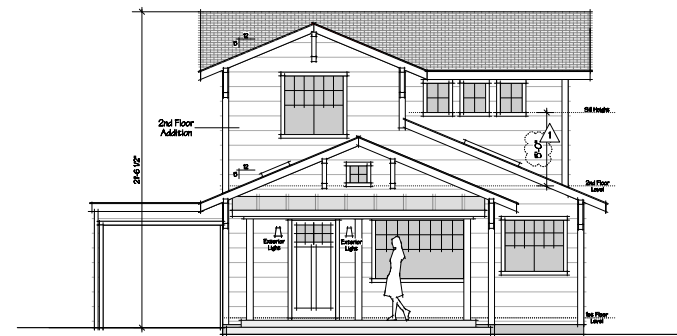
Shipping Box	Width	Height	Depth	Ship Wt	Method	Oversize	Case QTY
28104 Witherspoon Pkwy Valencia, CA 91355 TEL (818) 768-5511 FAX (818) 768-2326 www.iglighting.com							



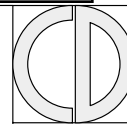
2 East Elevation
Scale: 1/4" = 1'-0"



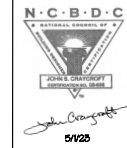
3 West Elevation
Scale: 1/4" = 1'-0"



4 North Elevation
Scale: 1/4" = 1'-0"



CRAYCROT DESIGN
 455 Happy Valley Way
 Santa Cruz, CA 95065
 831-427-3048



SURVEYOR
 Kevin Smith, PLS
 Kevin Smith
 Land Surveying
 111 Dellview Avenue
 Santa Cruz, CA 95062
 831-588-0154

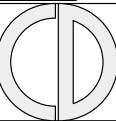
CLIENT
 Dee McRobie
 4610 Crystal Street
 Capitola, CA

PROJECT
 4610 Crystal Street
 Capitola, CA
 APN : 024-183-03

VERSION	date	remarks
4/28/22		
5/1/23		Revised For Planning Comments

Proposed Elevations

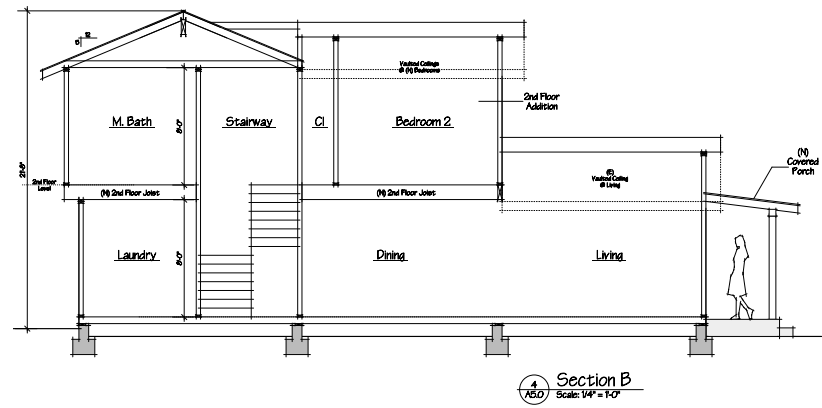
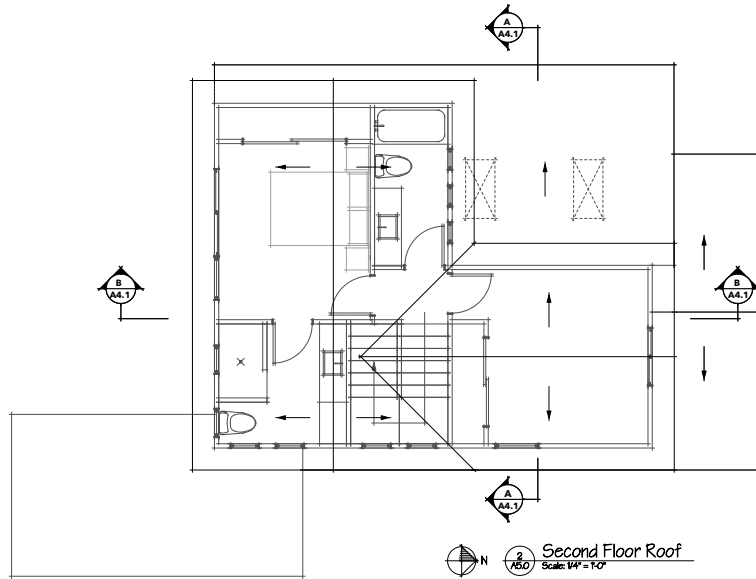
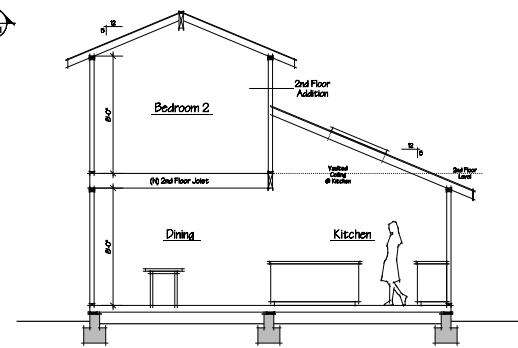
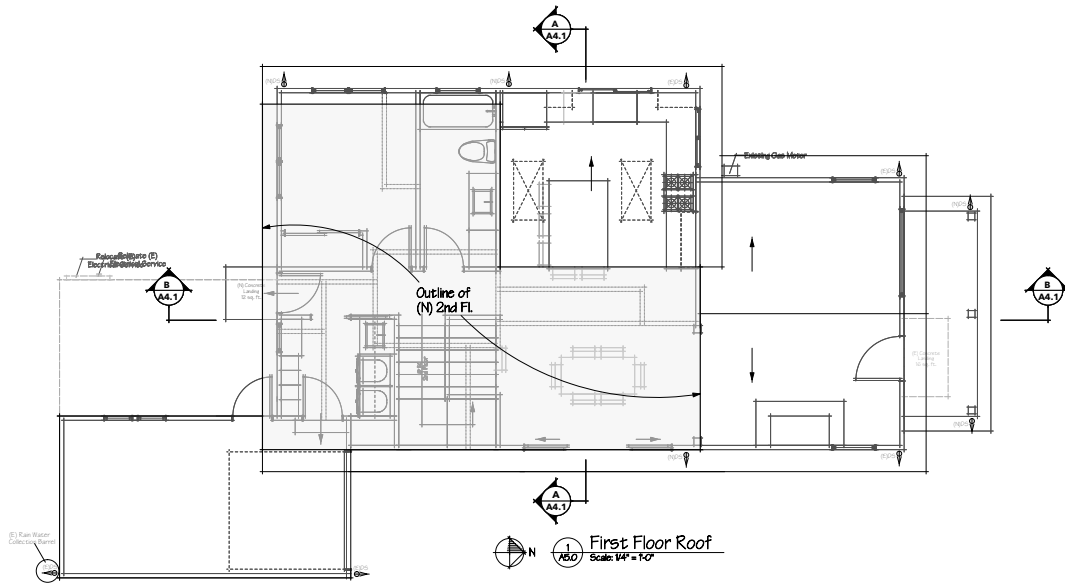
A4.0



CRAYCROFT DESIGN
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 Santa Cruz, CA 95065
 831-427-3048



SURVEYOR
 Kevin Smith, PLS
 Kevin Smith
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CLIENT
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 4610 Crystal Street
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 APN : 024-183-03

VERSION	date	remarks
1	6/28/22	
2	5/1/23	Revised For Planning Comments

Roof Plan & Section

A5.0



Kevin M. Smith
KEVIN M. SMITH, P.E. 8037

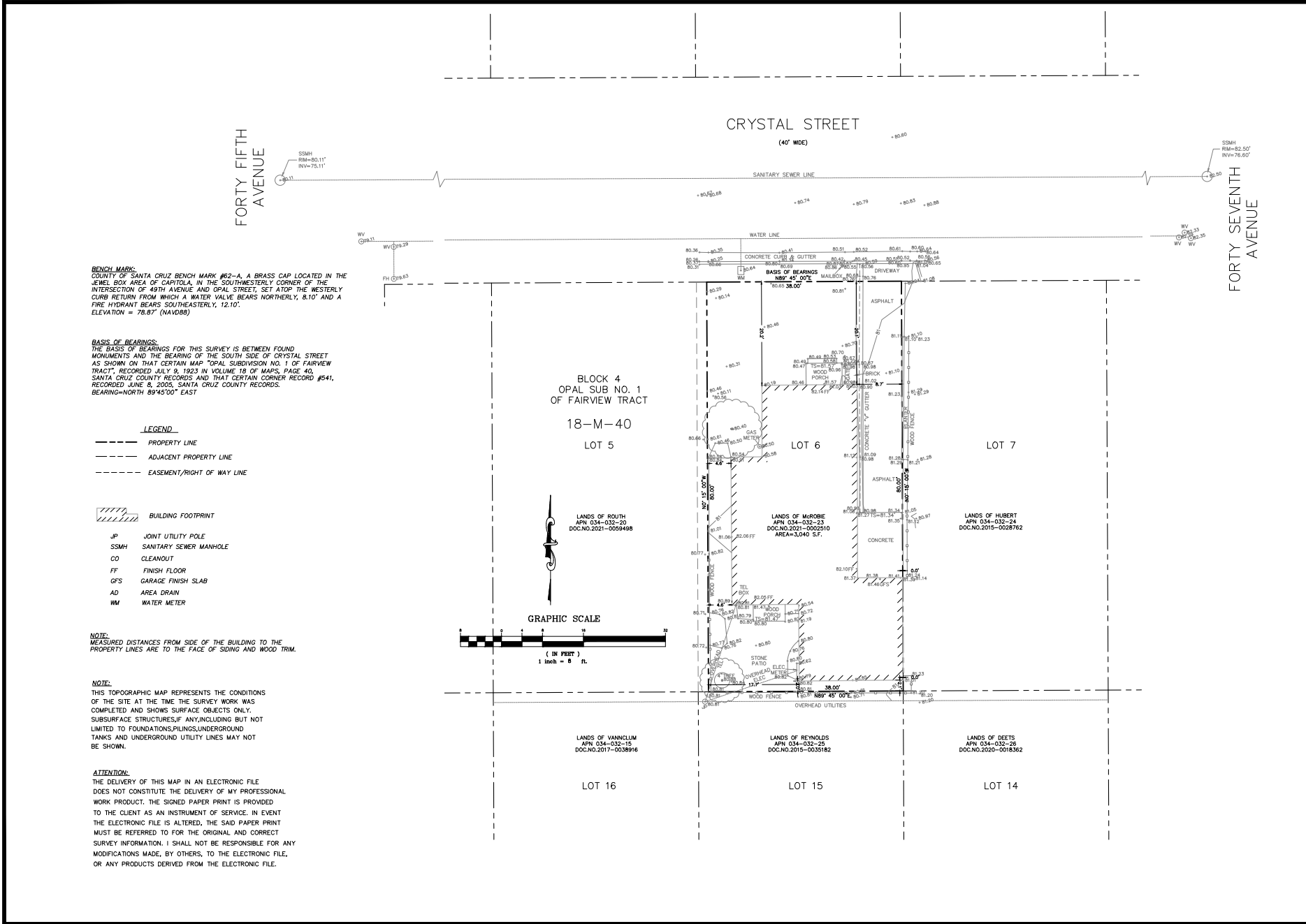
03/18/22
DATE

KEVIN SMITH
LAND SURVEYING
111 DELVIEW AVENUE
SANTA CRUZ, CA 95062
(831) 588-0154



TOPOGRAPHIC SURVEY
FOR: DIDRE McROBIE
4610 CRYSTAL STREET, CAPITOLA, CA 95010
APN 034-032-23

SHEET
1
OF
1
DATE
MARCH
2022
JOB NO.
K22011



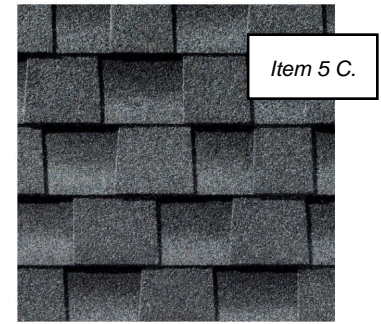
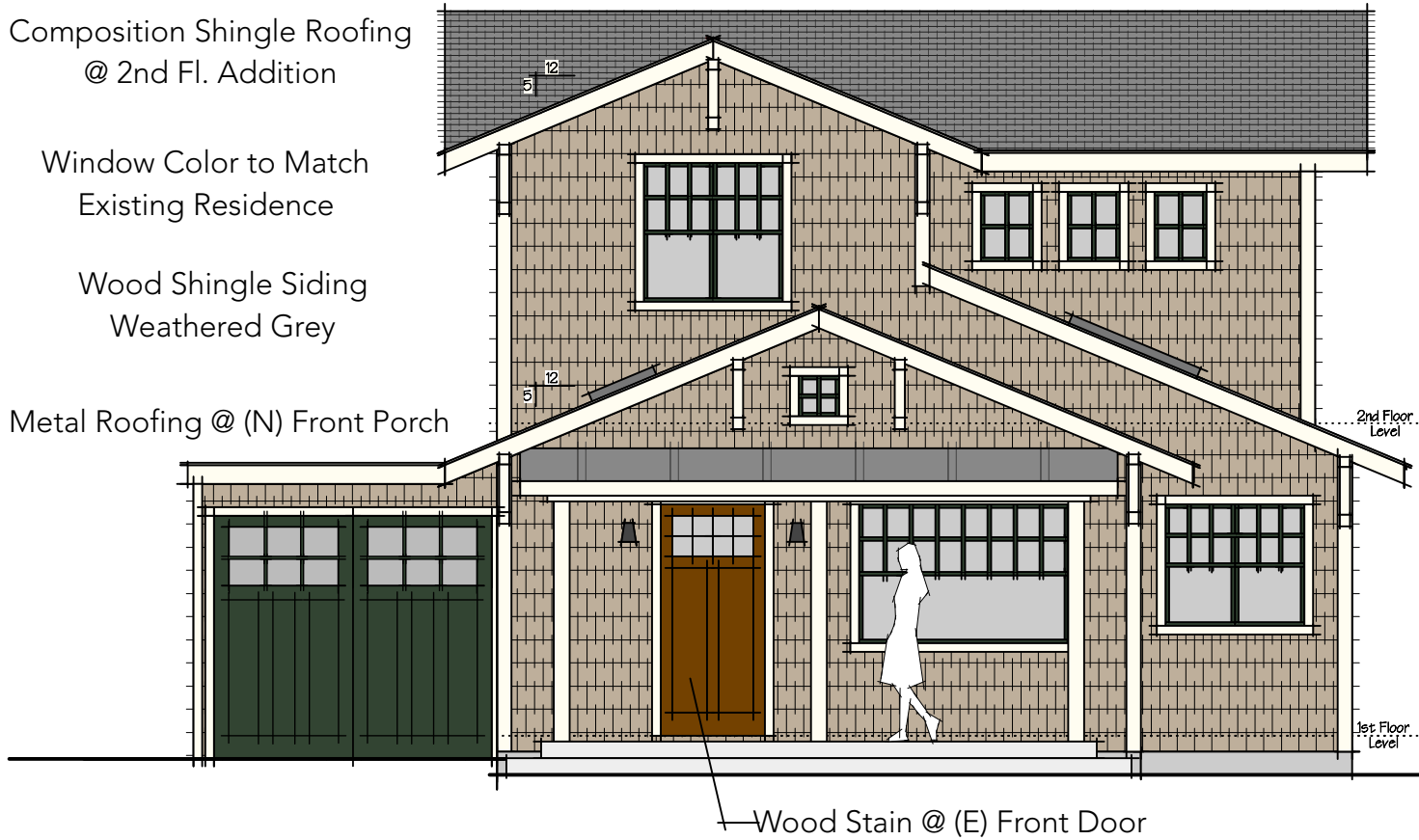
Exterior Materials and Finishes

Composition Shingle Roofing
@ 2nd Fl. Addition

Window Color to Match
Existing Residence

Wood Shingle Siding
Weathered Grey

Metal Roofing @ (N) Front Porch



Item 5 C.

Roofing:
GAF Timberline HD Shingles
Color: Pewter Gray or sim.
to Match Existing Residence

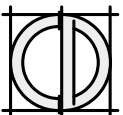


Siding:
Wood Shingle Siding
Weathered Grey



Windows:
Pella Lifestyle Series
Wood Casement Window
'Hartford Green' or sim.
to Match Existing Residence

Proposed Addition
4610 Crystal Street, Capitola, CA
May 1, 2023



CONSTRUCTION COST BREAKDOWN PER Section 17.92.070

Existing Building Costs:

STAFF

Existing Residence:	1095 square feet	=	\$ 219,000.00
	\$ 200.00 square foot		
Existing Garage:	219 square feet	=	\$ 19,710.00
	\$ 90.00 square foot		
Existing Deck:	80 square feet	=	\$ 2,000.00
	\$ 25.00 square foot		
<u>Total Existing Value:</u>			<u>\$ 240,710.00</u>
80% of Total Existing Value			\$ 192,568.00

New Construction Costs:

New Conditioned Space:	550 square feet	=	\$ 110,000.00
	\$ 200.00 square foot		
New Garage:	0 square feet	=	\$ -
	\$ 90.00 square foot		
New deck/porch:	0 square feet	=	\$ -
	\$ 25.00 square foot		
<u>Total New Construction Value:</u>			<u>\$ 110,000.00</u>

Remodel Costs: (50% of "new construction" costs)

Remodel Conditioned Space:	500 square feet	=	\$ 50,000.00
	\$ 100.00 square foot		
Remodel Garage:	0 square feet	=	\$ -
	\$ 45.00 square foot		
Remodel Deck:	0 square feet	=	\$ -
	\$ 12.50 square foot		
<u>Total Remodel Value:</u>			<u>\$ 50,000.00</u>
<u>Total Construction/Remodel Cost</u>			<u>\$ 160,000.00</u>
% of Existing Value			66.5%

Design Permit Design Review Criteria

17.120.070 Design review criteria. When considering design permit applications, the city shall evaluate applications to ensure that they satisfy the following criteria, comply with the development standards of the zoning district, conform to policies of the general plan, the local coastal program, and any applicable specific plan, and are consistent with any other policies or guidelines the city council may adopt for this purpose. To obtain design permit approval, projects must satisfy these criteria to the extent they apply.

- A. **Community Character.** The overall project design including site plan, height, massing, architectural style, materials, and landscaping contribute to Capitola's unique coastal village character and distinctive sense of place.
- B. **Neighborhood Compatibility.** The project is designed to respect and complement adjacent properties. The project height, massing, and intensity is compatible with the scale of nearby buildings. The project design incorporates measures to minimize traffic, parking, noise, and odor impacts on nearby residential properties.
- C. **Historic Character.** Renovations and additions respect and preserve existing historic structure. New structures and additions to non-historic structures reflect and complement the historic character of nearby properties and the community at large.
- D. **Sustainability.** The project supports natural resource protection and environmental sustainability through features such as on-site renewable energy generation, passive solar design, enhanced energy efficiency, water conservation measures, and other green building techniques.
- E. **Pedestrian Environment.** The primary entrances are oriented towards and visible from the street to support an active public realm and an inviting pedestrian environment.
- F. **Privacy.** The orientation and location of buildings, entrances, windows, doors, decks, and other building features minimizes privacy impacts on adjacent properties and provides adequate privacy for project occupants.
- G. **Safety.** The project promotes public safety and minimizes opportunities for crime through design features such as property access controls (e.g., placement of entrances, fences), increased visibility and features that promote a sense of ownership of outdoor space.
- H. **Massing and Scale.** The massing and scale of buildings complement and respect neighboring structures and correspond to the scale of the human form. Large volumes are divided into small components through varying wall planes, heights, and setbacks. Building placement and massing avoids impacts to public views and solar access.
- I. **Architectural Style.** Buildings feature an architectural style that is compatible with the surrounding built and natural environment, is an authentic implementation of appropriate established architectural styles, and reflects Capitola's unique coastal village character.
- J. **Articulation and Visual Interest.** Building facades are well articulated to add visual interest, distinctiveness, and human scale. Building elements such as roofs, doors, windows, and

porches are part of an integrated design and relate to the human scale. Architectural details such as trim, eaves, window boxes, and brackets contribute to the visual interest of the building.

- K. **Materials.** Building facades include a mix of natural, high quality, and durable materials that are appropriate to the architectural style, enhance building articulation, and are compatible with surrounding development.
- L. **Parking and Access.** Parking areas are located and designed to minimize visual impacts and maintain Capitola's distinctive neighborhoods and pedestrian-friendly environment. Safe and convenient connections are provided for pedestrians and bicyclists.
- M. **Landscaping.** Landscaping is an integral part of the overall project design, is appropriate to the site and structures, and enhances the surrounding area.
- N. **Drainage.** The site plan is designed to maximize efficiency of on-site drainage with runoff directed towards permeable surface areas and engineered retention.
- O. **Open Space and Public Places.** Single-family dwellings feature inviting front yards that enhance Capitola's distinctive neighborhoods. Multifamily residential projects include public and private open space that is attractive, accessible, and functional. Nonresidential development provides semi-public outdoor spaces, such as plazas and courtyards, which help support pedestrian activity within an active and engaging public realm.
- P. **Signs.** The number, location, size, and design of signs complement the project design and are compatible with the surrounding context.
- Q. **Lighting.** Exterior lighting is an integral part of the project design with light fixtures designed, located, and positioned to minimize illumination of the sky and adjacent properties.
- R. **Accessory Structures.** The design of detached garages, sheds, fences, walls, and other accessory structures relates to the primary structure and is compatible with adjacent properties.
- S. **Mechanical Equipment, Trash Receptacles, and Utilities.** Mechanical equipment, trash receptacles, and utilities are contained within architectural enclosures or fencing, sited in unobtrusive locations, and/or screened by landscaping.

Capitola Planning Commission

Agenda Report

Meeting: July 20, 2023
From: Community Development Department
Subject: 111 Capitola Avenue



Permit Number: 23-0325

Location: 2 parking spaces in front of English Ales

Coastal Development Permit, Design Permit, and Major Encroachment Permit for Custom Street Dining Deck for English Ales at 111 Capitola Avenue in the Mixed-Use Village zoning district.

Environmental Determination: Categorically Exempt

Property Owner: John Kettman

Representative: Peter Blackwell, Business Owner

Applicant Proposal:

English Ales is pursuing approval of Design Permit, Coastal Development Permit (CDP), and Major Encroachment Permit for a custom street dining deck. The street dining deck is proposed in two public parking spaces in front of English Ales at 111 Capitola Avenue in the Mixed-Use Village zoning district.

Background:

On December 9, 2021, the City Council approved an Outdoor Dining Ordinance which establishes a permitting process for street and sidewalk dining within the village. The ordinance was certified by the Coastal Commission on July 14, 2022.

On July 21, 2022, the Planning Commission approved a Blanket CDP for Prototype Street Dining Decks which create a standard design available to all businesses subject to a building permit only.

On December 1, 2022, the Planning Commission reviewed a custom dining deck application for 111 Capitola Avenue and denied the application by a vote of 2-1.

In January 2023, Capitola's Village and Wharf were significantly impacted by winter storms. Local business facilities were damaged, and tourism slowed. A secondary impact was a slow roll out of the city's Outdoor Dining Program.

On June 1, 2023, the Planning Commission modified the [Capitola Prototype Street Dining Deck Design](#) in an effort to reduce cost and simplify constructability of the dining decks.

On July 7, 2023, the City received a new custom dining deck application for 111 Capitola Avenue.

Analysis:

English Ales is proposing a custom street dining deck which incorporates some elements from the prototype design. The composite deck platform, stainless steel heaters, rope and stanchions, and ceramic planters flanking the entrance are elements of the prototype design. The custom design elements include a fully enclosed wall of wooden planters around the periphery to match

the business storefront, black aluminum chairs and tables, red umbrellas with LED light and solar, and concrete umbrella bases.

Pursuant to Capitola Municipal Code (CMC) §17.96.170, the following Operating and Development Standards apply to street dining decks:

- 1. One Facility Only. An eating establishment may have either sidewalk dining or a street dining deck. An eating establishment may not have both sidewalk dining and a street dining deck.

Staff Analysis: The applicant is proposing a street dining deck only.

- 2. Location within Eating Establishment Frontage. Street dining decks are allowed on parking spaces that are wholly or partially located in the right-of way directly adjacent to the eating establishment. The City may allow an outdoor dining area to extend beyond the frontage if (1) Due to the road and parking space layout, the outdoor dining area cannot be designed without extending the area beyond immediately adjacent parking spaces; (2) Extending the outdoor dining area will not have significant impact on adjoining businesses as determined by the permit review authority; and (3) Extending the outdoor dining area will not adversely impact coastal access.

Staff Analysis: The street dining deck is located primarily in front of 111 Capitola Avenue with a limited portion of the deck in front of 109 and 115 Capitola Avenue where the parking spaces overlap property lines. The proposed extension will not have a significant impact on adjoining businesses or coastal access.

- 3. Signs. Limited to one business identification sign and one menu sign each not to exceed two square feet.

Staff Analysis: The application does not include any signs. Condition of approval #10 is included limiting the business to one business identification sign and one menu sign each not to exceed two square feet.

- 4. Stormwater Drainage. All street dining decks must allow for adequate stormwater drainage.
 - a. Dining decks shall not block the drainage flow along the gutter line.
 - b. Dining decks shall not block access into any drain inlet or other drainage/stormwater facility.

Staff Analysis: There are no storm drain inlets along the curb at this location. The plans show use of a wire screen at the ends of the deck along the curb to allow water to pass. The plan also shows tread plates above the gutter that can be removed to maintain and clear debris that gets under the deck. The Public Works Director reviewed the proposed application and found it to comply with the standard. Condition of approval #11 requires final review for compliance at time of building permit to the satisfaction of the Public Works Director.

- 5. Utilities. All outdoor dining shall not interfere with utility boxes, water hydrants, storm drains, and all other related facilities.

Staff Analysis: The Public Works Director reviewed the proposed application and found it to comply with the standard. Condition of Approval #4 requires final review for compliance at time of building permit. There are two utility boxes in the sidewalk (AT&T and water meter) that are not impacted by the proposed street dining deck.

6. 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:
- All trash shall be picked up and properly disposed of.
 - All flower boxes and planters shall contain live, healthy vegetation.
 - All tables, chairs, equipment, and structures must be kept clean and operational.

Staff Analysis: Condition of approval #13 requires this standard be met.

7. Sound. Music and amplified sound are not allowed in an outdoor dining area.

Staff Analysis: Condition of approval #14 requires this standard be met.

8. Bicycle Parking for Street Dining Decks. Bicycle parking is required for street dining decks.
- 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 City may allow an applicant to pay an in-lieu fee which fee shall be deposited into the City's in-lieu bike fund to create a central bicycle parking location.

Staff Analysis: Four bicycle parking spaces are required. The applicant is proposing to pay the in-lieu fee rather than create onsite bike parking. (Condition #20)

9. Hours of Operation. Outdoor dining decks may only operate during specific hours.
- Outdoor dining in the public right-of-way 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.

Staff Analysis: Condition of approval #15 requires this standard be met.

10. 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 allow customers to use the outdoor dining area when the establishment is open for business.

Staff Analysis: Condition of approval #16 requires this standard be met.

11. Materials. Allowed materials include finished or painted wood, glass, ornamental steel or iron, and decorative masonry. Street dining decks where the primary visible material is plastic, fabric, woven bamboo, or chain link/wire fencing are discouraged.

Staff Analysis: The applicant is proposing to reutilize and repaint the existing wood planters to match the building. The planters have been in use since Spring of 2021 as part of the Covid-19 temporary permits. The applicant is proposing a mix of prototype items and requesting design approval of custom items as follows:

Prototype Items

- New stainless steel heaters
- Rope and stanchion
- Ceramic planters

Custom Items

- Black aluminum chairs
- Black aluminum tables
- Red umbrella with LED lights
- Concrete umbrella bases

The proposed custom tables and chairs are commercial grade black aluminum. The applicant deployed these items and they are of a quality and durability comparable with the prototype tables and chairs.

The proposed umbrella is a retail grade product with LED lights under the umbrella canopy and a small solar collector at the top. The LED lights are cool in color and in direct contrast to the warm lights on the village street posts. Additionally, the umbrellas are nine feet wide which is wider than the eight-foot six-inch deck width and will encroach into the drive lane or sidewalk area creating a safety issue. Lastly, the proposed umbrella bases appear worn and present a higher profile that may be a tripping hazard. Condition of approval #24 requires the applicant to modify the plan to include a prototype umbrella with a maximum spread of eight foot six inches, a prototype umbrella bases, and the prototype string lighting.

To ensure ongoing quality and maintenance, condition of approval #17 requires the street dining deck to have high-quality, durable materials that can withstand inclement weather. All approved items and structures shall be maintained including but not limited to tables, chairs, umbrellas, lights, heating equipment, planters, etc. If signs of weathering (fading, rust, holes, etc.) are visible, the item(s) shall be replaced in-kind immediately. Faded umbrellas shall be replaced with a UV rated fabric and may not include logos, labels, or advertising. Overtime, if the applicant would like to modify the tables, chairs, umbrellas, lights, or heating equipment, they must first receive written approval from the Community Development Director.

12. Good Standing. An applicant must be in good standing to apply for a permit for outdoor dining. For purposes of this section, "good standing" shall mean that within the twenty-four months directly preceding submission of a complete application for an Administrative Permit or Design Permit, the applicant has not been issued a notice of abatement, violation, or been subject to any code enforcement proceedings related to an ABC license, entertainment permit, or use permit by the City or any other regulatory or permitting agency. Any courtesy code enforcement notices received by the applicant was corrected by the applicant within the date specified on the courtesy notice retains the applicants good standing.

Staff Analysis: The applicant is in good standing.

13. CDP Recertification. All CDPs issued for outdoor dining permits require recertification by the City Council within three years of CDP issuance, 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.

Staff Analysis: Condition of approval #9 includes the requirement for recertification. The RTC currently anticipates the two segments of the rail trail which go through Capitola to be constructed in 2026/2027. With increased cyclists and pedestrians anticipated through the village, the City may require the street dining deck at 111 Capitola Avenue to be removed, as it could be an impediment to coastal access.

Major Revocable Encroachment Permit

The planning commission may issue permits for private improvements in the right of way that go beyond the standards of minor permits. The Commission’s decision as to whether to issue such permit shall be made by evaluating the following considerations:

1. The expense and difficulty that will be entailed in removing the improvement in the event of street widening;
2. Whether the proposed improvements are in conformity with the size, scale, and aesthetics of the surrounding neighborhood;
3. Preservation of views; and
4. Whether granting the permit would tend to result in the granting of a special privilege, in the sense that granting this permit would tend to preclude granting similar permits to neighboring property.

If the benefit to the applicant and community is determined to exceed the detriment to the community, the permit shall be approved.

Staff Analysis: The City has determined that street dining decks, in a limited implementation, are a net benefit to the Capitola Village. The loss of parking is mitigated by increased bike parking and enhanced visitor and resident opportunities to enjoy the unique and charming Village and beach area. The City has the ability to revoke the major revokable encroachment permit should the two spaces be needed for a public use.

The proposed access ramp to the dining deck encroaches two feet six inches into the sidewalk. Section 17.96.170(G)(3) limits dining deck locations to the parking spaces immediately in front of the store frontage. The Planning Commission may allow extensions beyond the designated area if the extension will not have an impact on adjacent businesses or coastal access. In this case, the extension is needed due to the relatively steep slope toward the crown of the roadway and the need to accommodate of an accessible ramp entrance. The sidewalk along the frontage of the property is over 10 feet wide, which allows ample clearance width to accommodate the access ramp and minimum sidewalk passage with a remainder of over three feet of additional clearance. The Public Works Department has reviewed the proposal and does not have any concerns with coastal access or sidewalk clearances.

Recommendation:

Review the Custom Street Dining Deck Design and approve the Design Permit, CDP, and Major Revokable Encroachment Permit consistent with the conditions of approval and findings.

Conditions of Approval:

1. The project approval consists of a Coastal Development Permit, Design Permit, and Major Revokable Encroachment Permit for a custom street dining deck. The proposed custom 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. The Design Permit, Coastal Development Permit, and Major Revocable Encroachment Permit is transferable between owners so an approved street dining deck design 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 custom 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 and provide a Certificate of Insurance, 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 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 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.
9. 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.

10. Signs. A maximum limit of one business identification sign and one menu sign each not to exceed two square feet are allowed per street dining deck.
11. Stormwater Drainage. At time of building permit, the custom street dining deck must be amended to include drainage above the gutter and a hatch above the storm drain to allow for adequate stormwater drainage and access to the inlet. 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.
12. Utilities. All outdoor dining shall not interfere with utility boxes, water hydrants, storm drains, and all other related facilities.
13. 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.
14. Sound. Music and amplified sound are not allowed in an outdoor dining area.
15. 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.
16. 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.
17. Materials and Furniture. The street dining deck shall have high-quality, durable materials that can withstand inclement weather. All approved infrastructure shall be maintained including but not limited to tables, chairs, umbrellas, lights, heating equipment, etc. If signs of weathering (fading, rust, holes, etc.) are visible, the item(s) shall be replaced in-kind immediately. Faded umbrellas shall be replaced with a UV rated fabric and may not include logos, labels, or advertising. Overtime, if the applicant would like to modify the tables, chairs, umbrellas, lights, or heating equipment, they must first receive written approval from the Community Development Director or Planning Commission.
18. Stanchions. The portable stanchions and ropes shall not encroach into the sidewalk. They must be located on the street dining deck. Capitola Prototype Street Dining Deck. The portable stanchions and ropes shall not encroach into the sidewalk. They must be located on the street dining deck.
19. 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.

20. The applicant shall provide the required (four) bike parking spaces via the in-lieu fee option. The in-lieu bike fee requires a one time \$200 per bike parking space fee and an ongoing annual \$300 per bike space annual fee. The annual fee is subject to increase as authorized by the City Council. The applicant shall make the initial payment prior to issuance of Building Permits for the dining deck.
21. Planters. The custom planters shall be repainted to match the building, prior to certificate of occupancy for the dining deck.
22. 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.
23. The applicant shall modify the plans for Building Permit plan check to replace the proposed umbrellas and umbrella bases with prototype umbrellas with a maximum spread of eight foot six inches wide, prototype umbrella bases, and prototype string lights.
24. The plans submitted for Building Permit plan check shall show that the gutter is to remain clear for drainage and remove the portion of the fascia board that crosses the gutter.

Design Permit Findings

- A. **The sidewalk dining area or street dining deck complies with all applicable requirements of this section, the Zoning Code, and all other applicable laws, administrative policies, rules, and regulations.**
The proposed dining deck complies with all applicable standards of the Zoning Code and CDP. Conditions of approval have been added to ensure ongoing compliance.
- B. **If located in the coastal zone, the sidewalk dining area or street dining deck is consistent with the Local Coastal Program, will not adversely impact coastal resources, coastal access, and coastal views, and has been authorized through a valid coastal development permit.**
The CDP applies to this proposal and the limited use of Village street parking for dining decks. The applicant is providing four bike parking spaces to offset the use of street parking.
- C. **The design of the sidewalk dining area or street dining deck supports a safe, inviting, and lively public realm consistent with the purpose of the MU-V zoning district as provided in Section 17.20.040 (Purpose of the Mixed Use Zoning Districts).**
The proposed dining deck provides an inviting and active place for guests and visitors to enjoy Capitola Village.
- D. **The sidewalk dining area or street dining deck materials include high-quality, durable materials that are compatible with surrounding development and can withstand inclement weather.**
The applicant has proposed all weather materials and items. The dining deck will maintain a quality aesthetic with regular maintenance, as conditioned to remove the proposed umbrellas and umbrella stands.

E. 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.

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 within public parking spaces (maximum 25) in 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 street dining deck maintains coastal access. The 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 street dining deck will not negatively impact low-cost public recreational access. For each parking space utilized for the street dining deck, four bicycle parking spaces are required, and the applicant has agreed to the in-lieu fee option.

E. The project maintains or enhances opportunities for visitors.

The project involves a 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.

F. The project maintains or enhances coastal resources.

The project involves a custom 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 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 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.

Major Revocable Encroachment Permit Findings

A. The project's benefit to the applicant and community exceed the detriment to the community.

The City has determined that street dining decks, in a limited implementation, are a net benefit to the Capitola Village. The loss of parking is mitigated by increased bike parking and enhanced visitor and resident opportunities to enjoy the unique and charming Village and beach area.

Attachments:

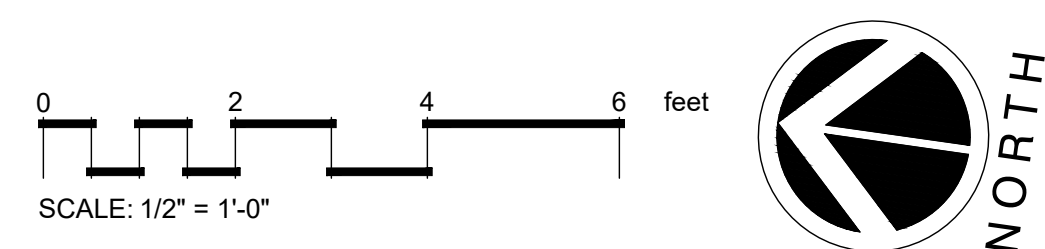
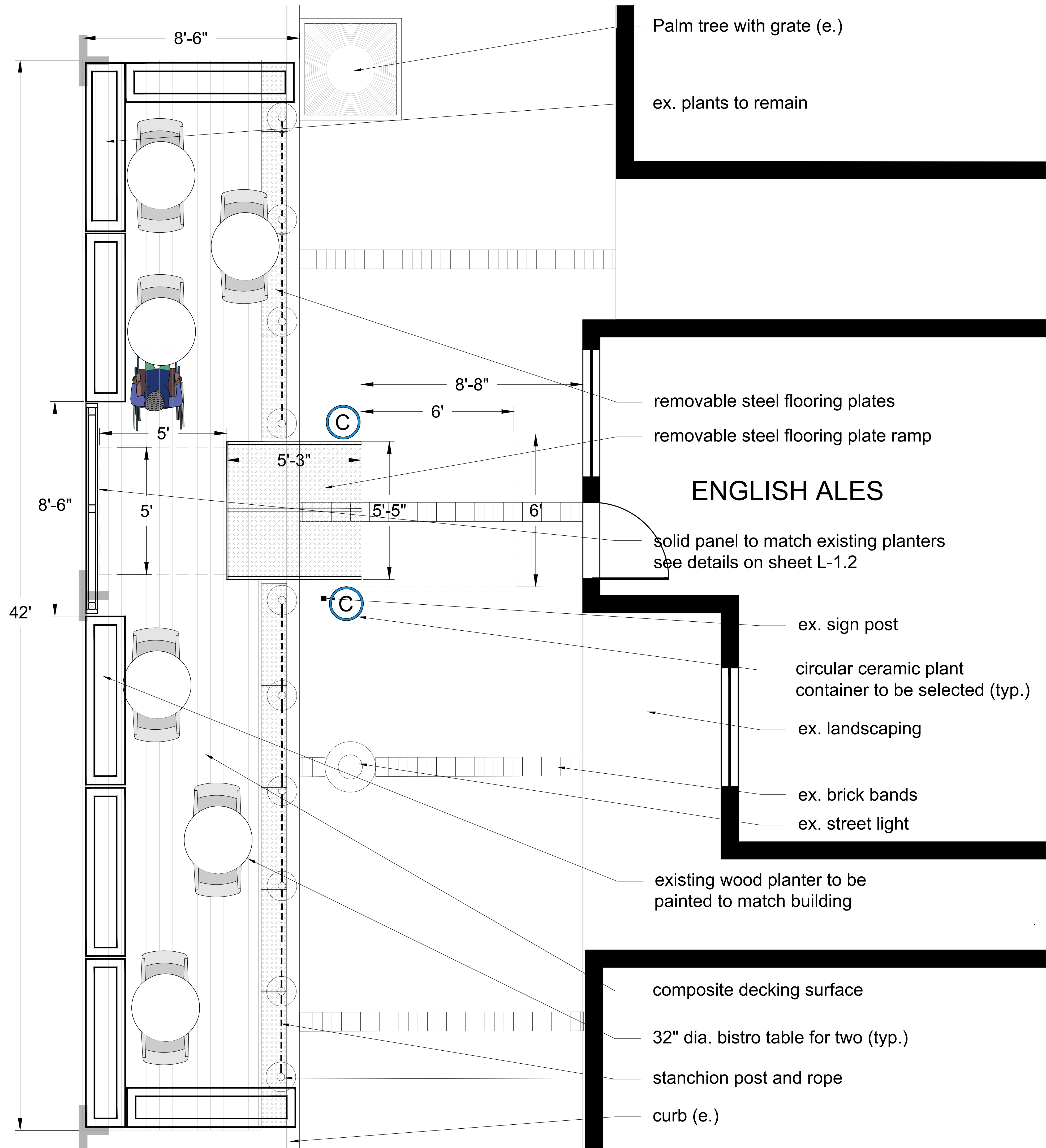
1. Custom Street Dining Deck plan set

Report prepared by: Brian Froelich
Senior Planner

ENGLISH ALES
111 CAPITOLA AVENUE
CAPITOLA, CALIFORNIA

CONSTRUCTION NOTES:

- Contractor shall notify Underground Service Alert (USA) at 811 to verify the location and depth of all existing utilities prior to any demolition, trenching or excavation.
- Contractor shall take care not to damage in any way, any existing elements to remain. Such damage is the responsibility of the contractor and shall be replaced or repaired to match the original at no additional cost to the owner.
- All dimensions and elevations shall be verified in the field and chalked, flagged or string lined prior to any construction. If any discrepancies occur, notify Landscape Architect immediately before proceeding.
- CONTRACTOR SHALL CLEARLY LAYOUT ENTIRE HARDSCAPE DESIGN USING CHALK, FLAGS, OR PAINT TO DEFINE ALL NEW LANDSCAPE ELEMENTS. CONTRACTOR SHALL RECEIVE APPROVAL FROM OWNER PRIOR TO START OF INSTALLATION.
- Use BOLT HOLD asphalt anchors (or equal product) with epoxy grout to connect 2" x 6" PT Doug Fir to street as shown in detail on this sheet L-1.1. and for anchoring bike racks to asphalt. Available at https://www.asphaltanchors.com/all_products
- All support structures shall be constructed using pressure treated Doug. Fir. Joists for the deck and the perimeter supports will have to be cut to conform to the slope of the street.
- Deck surface shall be composite material (TimberTech, Trex or equal product). The manufacturer, color and style shall be selected by owner and approved by city prior to installation. See photo examples on sheet L-1.2. Contractor shall review and install the deck as per the installation manual for the selected decking product.
- Recommended joist spacing for most composite decking is 12" on center, to a maximum spacing of 16" on center. Joist spacing shown on deck plan is 12" o.c.
- Steel ramp shall connect new dining deck to existing walkway. See photo example on sheet L-1.1. Available from American Metals or equal product. The slope of the ramp from curb/sidewalk to dining deck elevation shall not exceed 1:12, the allowable slope for ADA compliance (.083). The ramp shall comply with all current ADA standards. A 5' x 5' clear space at the top of ramp shall be provided. A 6' x 6' clear space at the bottom of the ramp shall be provided.
- Owner shall pay in lieu fee to City of Capitola for bike parking as per agreement.



PLAN VIEW
scale: $\frac{1}{2}$ " = 1' - 0"

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 OWNER SHALL ASSUME RESPONSIBILITY FOR COMPLIANCE WITH ALL EASEMENTS, SETBACK REQUIREMENTS AND PROPERTY LINES. OWNER SHALL ACQUIRE ALL NECESSARY PERMITS REQUIRED TO PERFORM WORK SHOWN ON PLANS. BASE INFORMATION HAS BEEN PROVIDED BY THE OWNER. MICHAEL ARNONE LANDSCAPE ARCHITECTURE ASSUMES NO LIABILITY FOR THE ACCURACY OF SAID PROPERTY LINE BOUNDARIES, FENCE LINES OR PROPERTY CORNERS.

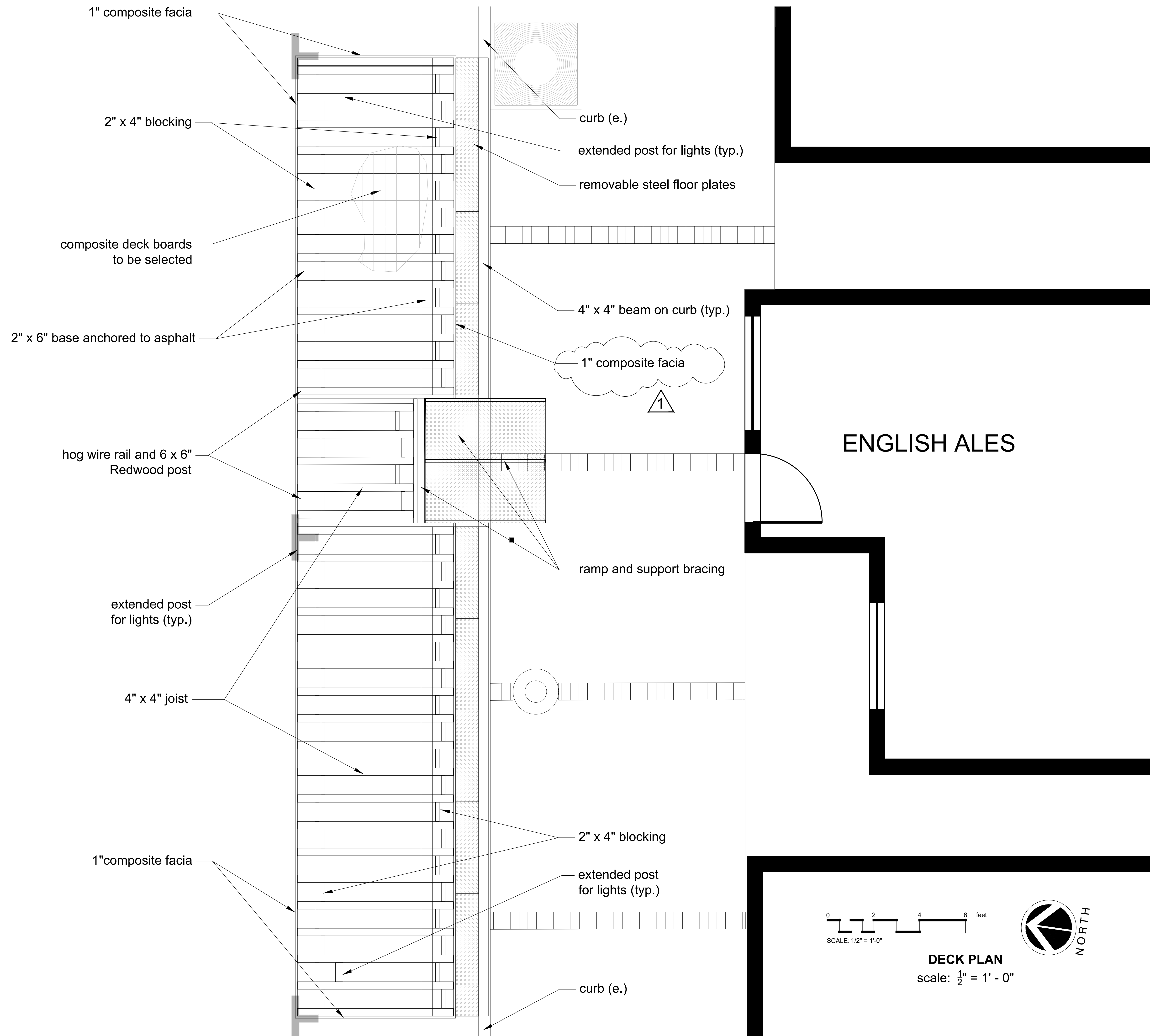
REVISIONS

**OUTDOOR DINING
SITE LAYOUT PLAN**

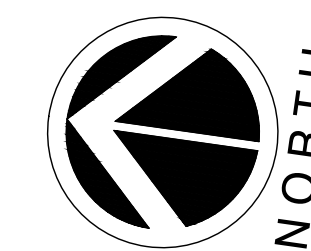
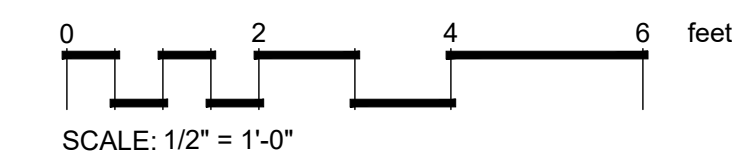
JOB NO. 202223
SCALE as noted
DRAWN MA
DATE 7.12.23

**SHEET
L-1.1**

ENGLISH ALES
111 CAPITOLA AVENUE
CAPITOLA, CALIFORNIA



ENGLISH ALES



DECK PLAN
scale: 1/2" = 1' - 0"

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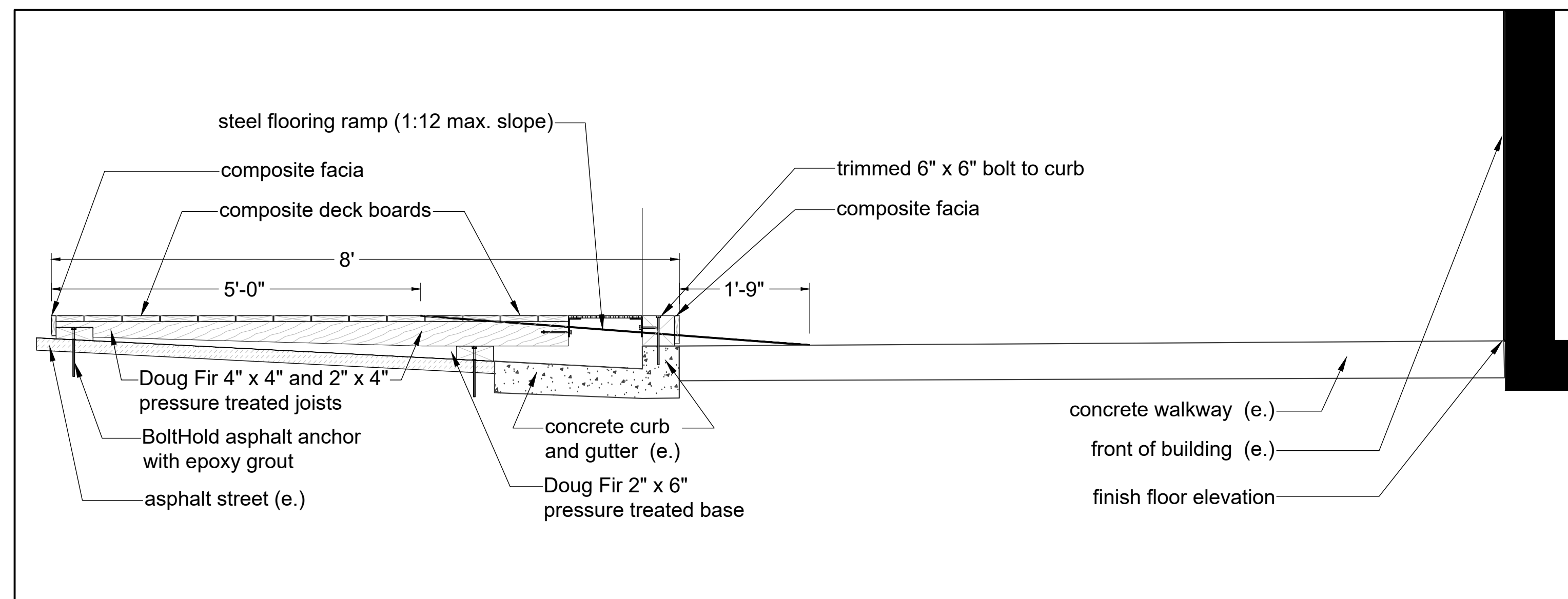
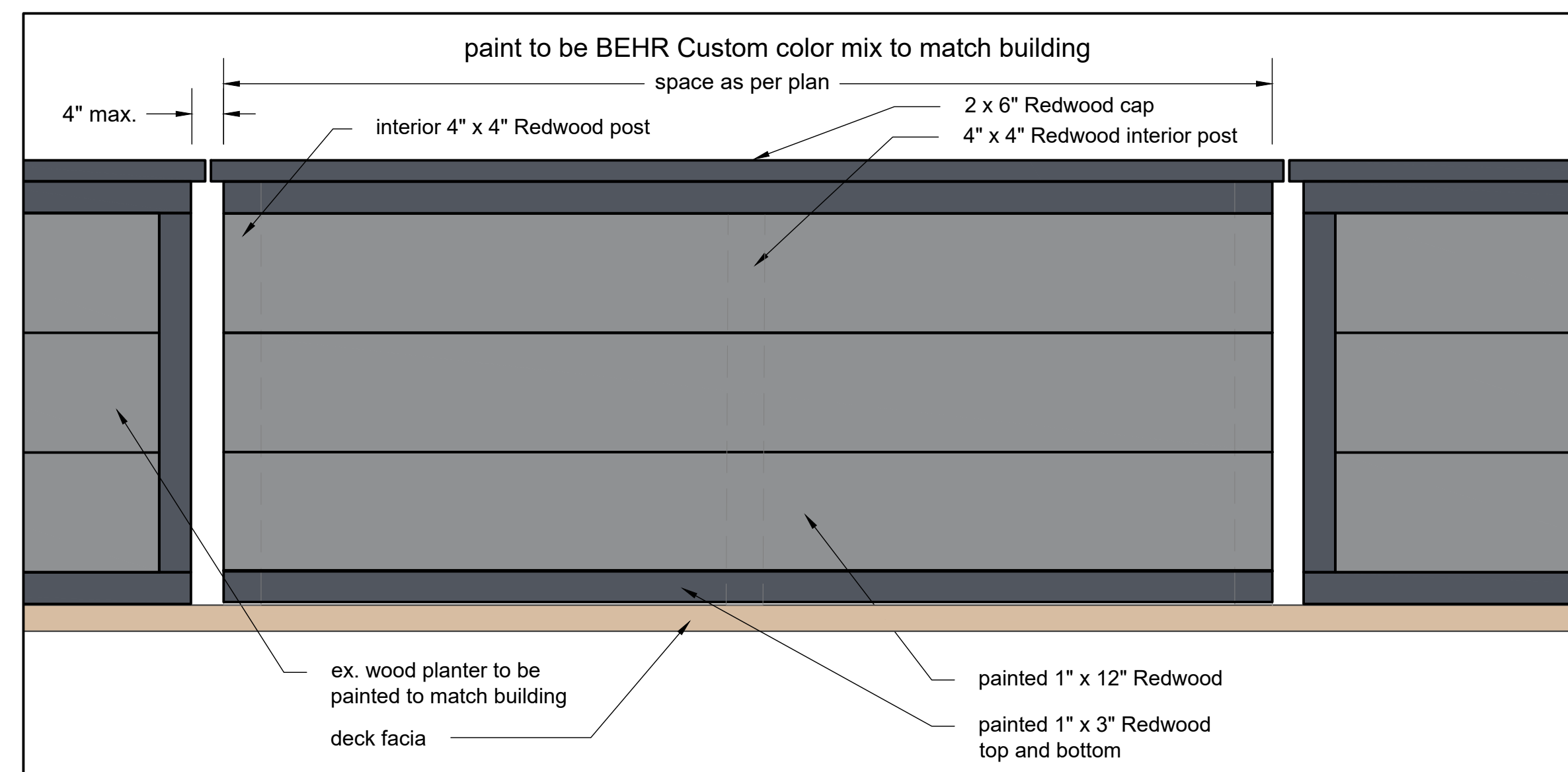
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REVISIONS	
1	7.12.23 correct location of deck fascia board

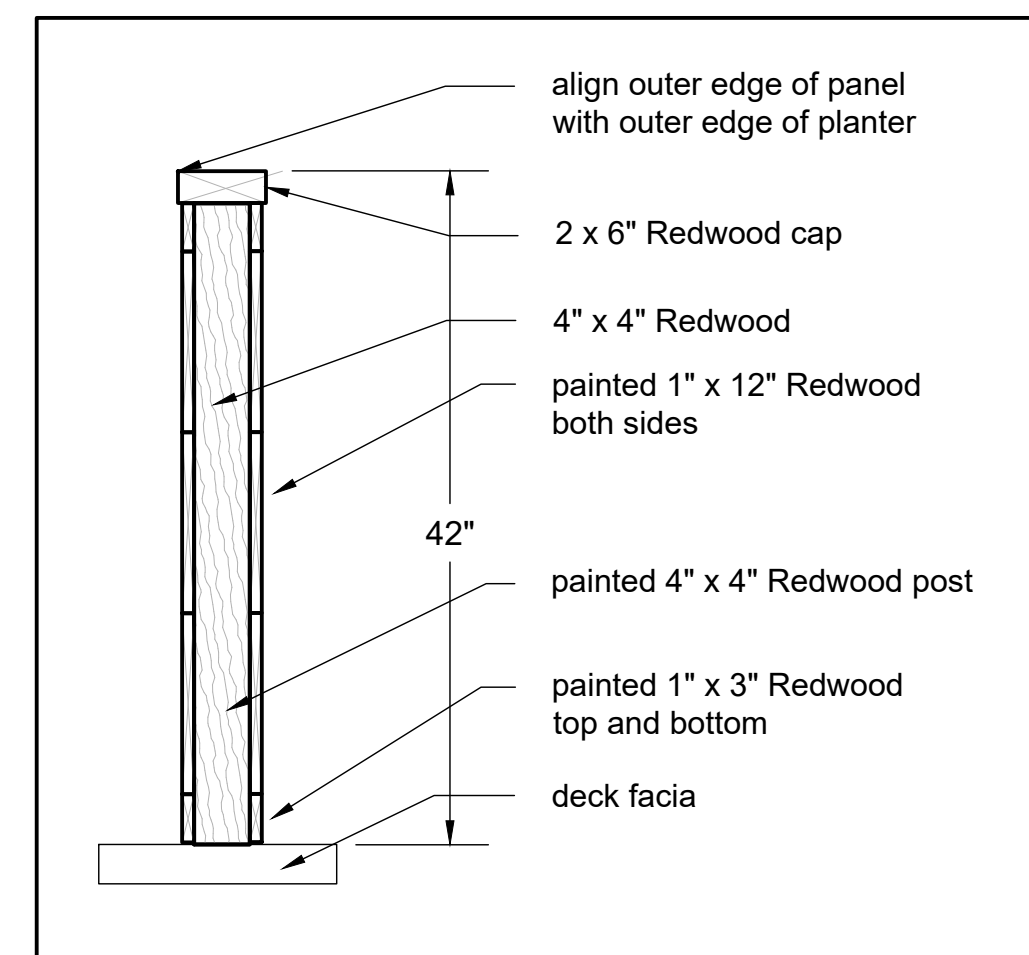
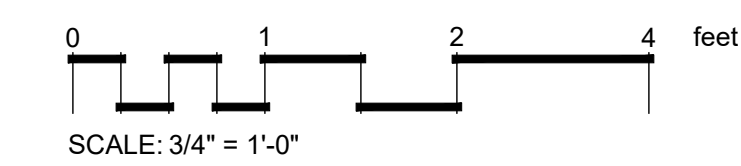
OUTDOOR DINING
DECK PLAN

JOB NO. 202223
 SCALE as noted
 DRAWN MA
 DATE 7.12.23

SHEET
L-1.1

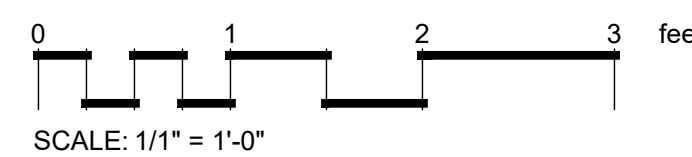


SECTION VIEW
scale: 3/4" = 1' - 0"



WOOD PANEL SECTION
scale: 1" = 1' - 0"

WOOD PANEL BETWEEN PLANTERS
scale: 1" = 1' - 0"

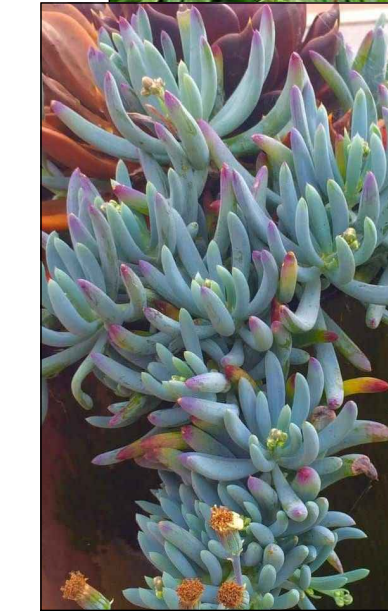


ceramic pot
approx. 36" high x 16" diameter
color to be selected

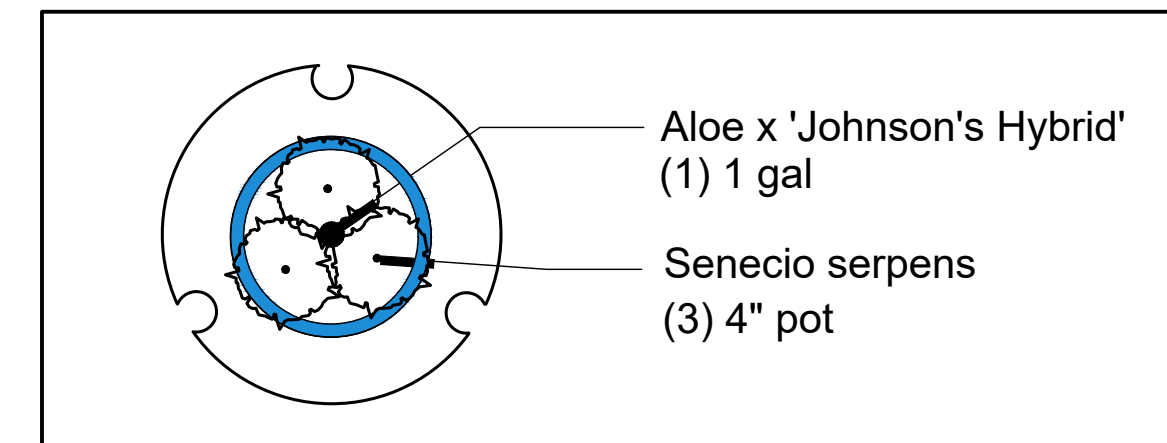
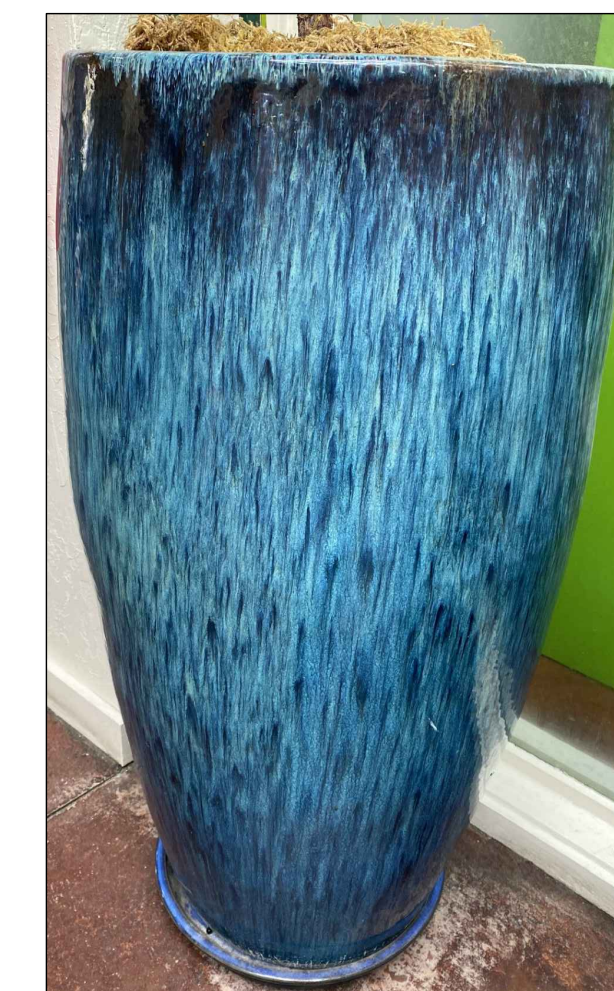
Container Planting



Aloe 'Johnson Hybrid'



Senecio serpens

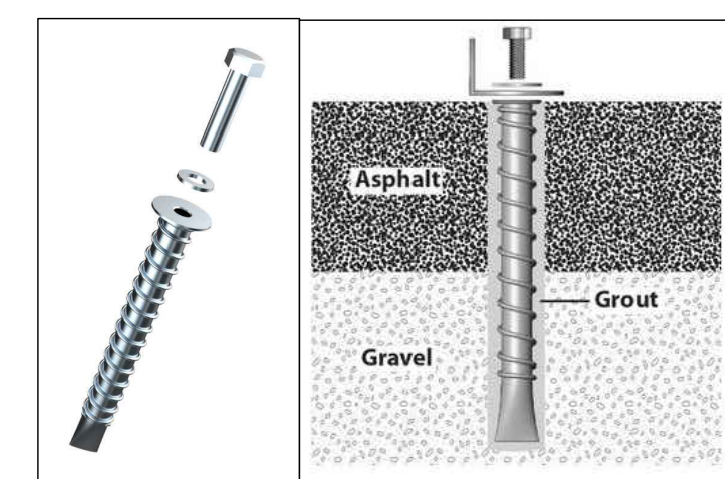


RESIDENTIAL (MAX 6' OC)	INTERIOR	EXTERIOR	
	36"	3" MIN. LAG PENETRATION 3-1/2" LAG SCREWS, PART #7277	4" MIN. LAG PENETRATION 4-1/2" LAG SCREWS, PART #6565
36"-42"	3-1/2" MIN. LAG PENETRATION 4-1/2" LAG SCREWS, PART #6565	4-1/2" MIN. LAG PENETRATION 5" LAG SCREWS, PART #7280	
COMMERCIAL (MAX 5' OC)	42"	4-1/2" MIN. LAG PENETRATION 5" LAG SCREWS, PART #7280	5-5/8" MIN. LAG PENETRATION 6" LAG SCREWS, PART #7278

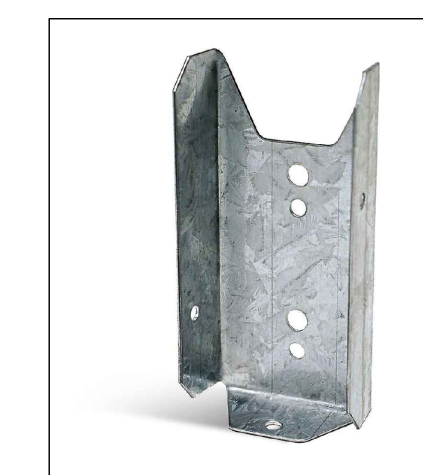
DesignRail® Reference Drawing:
Base Mount with Lag Screws

DATE: 06/10/15
PAGE: 1 OF 1
REV:
BY: BWA
CHK:

feeney
2603 Union St., Oakland, CA 94607
P: 800-888-2418 F: 510-883-9484
www.feeneyinc.com



asphalt anchor and grout



Simpson FB24Z



steel flooring plate
1/4" x 12" x 4"



Castle Gate AZEK

TimberTech decking examples

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REVISIONS

DETAILS, MATERIALS, ELEVATIONS & CONTAINER PLANTING

JOB NO. 202223
SCALE as noted
DRAWN MA
DATE 7.12.23

SHEET

L-1.2

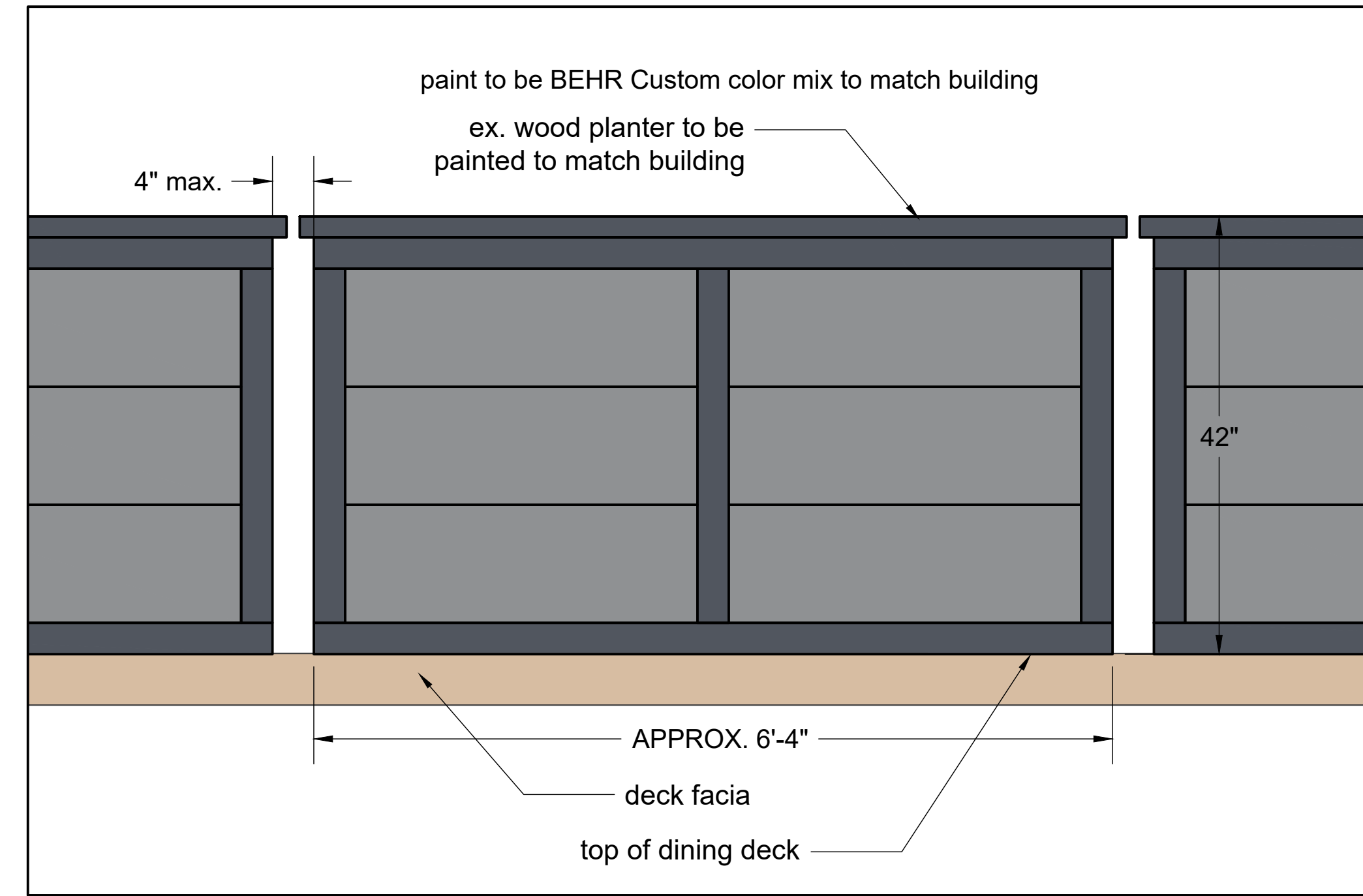
ENGLISH ALES
111 CAPITOLA AVENUE
CAPITOLA, CALIFORNIA



(4) Costway 9' Patio umbrella with solar lights in RED



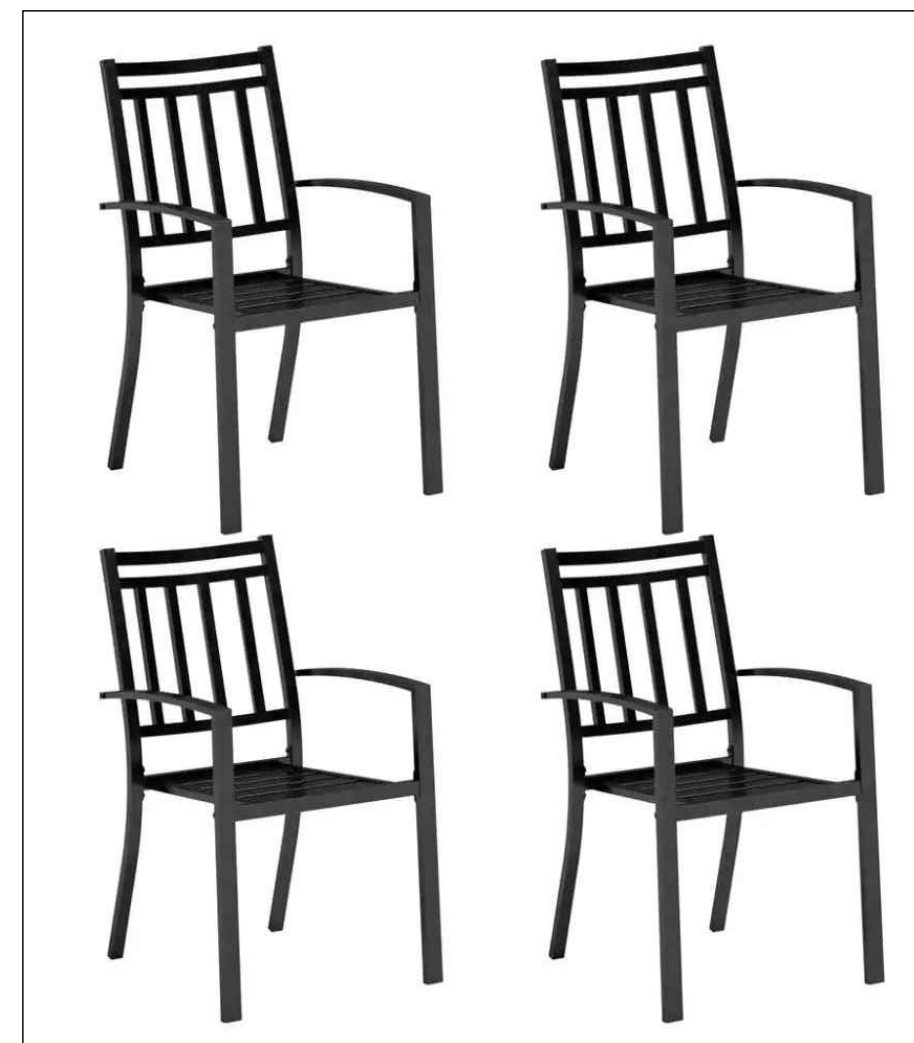
75lb. concrete umbrella base with metal hood



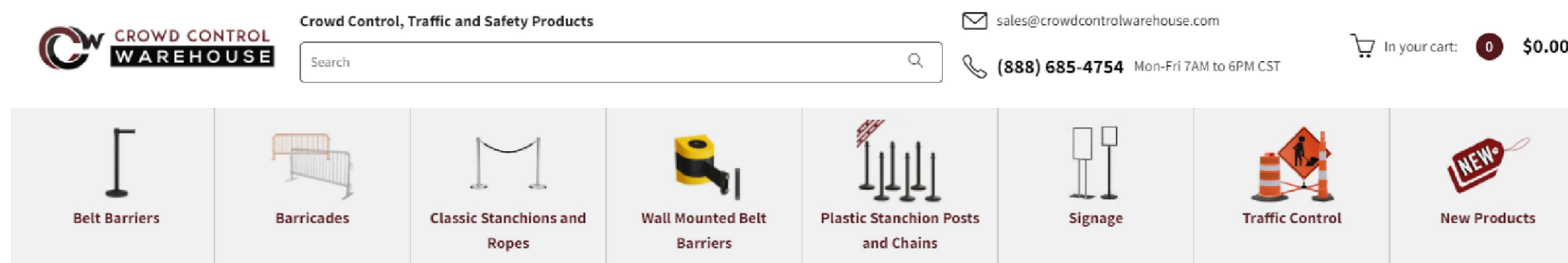
EXISTING WOOD PLANTER
scale: 1" = 1' - 0"



(6) Black Round Cast Aluminum Outdoor Dining Table made by Sunnydaze



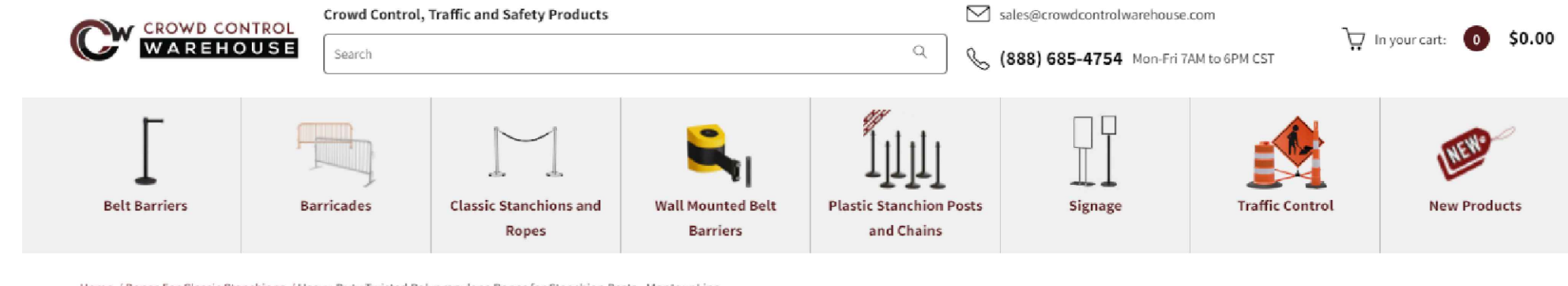
(12) Black Stackable Stripe Metal Patio Outdoor Dining Chair made by Phi Villa



Home / Classic Stanchions / Flat Top Rope Stanchion with Sloped Base - Montour Line CLine

Product page for 'Flat Top Rope Stanchion with Sloped Base - Montour Line CLine'. It features a large image of the stanchion, a list of features (SKU CCW-01-018-00161, 2 reviews, Flat Top Stanchion, Sloped Base, Multiple finishes available, Ropes sold separately), a color selection dropdown set to 'BLACK', an 'Optional Tapped Top' dropdown set to 'NO', and pricing information: 'In Stock', '27% OFF', '\$65.00 \$48.00'. There are 'Add to Cart' and 'Request A Quote' buttons.

Black metal stanchion



Home / Ropes For Classic Stanchions / Heavy-Duty Twisted Polypropylene Ropes for Stanchion Posts - Montour Line

Product page for 'Heavy-Duty Twisted Polypropylene Ropes for Stanchion Posts - Montour Line'. It features a large image of the black rope, a list of features (SKU CCW-01-018-00410, 6 reviews, Heavy Duty Polypropylene Rope, Multiple rope lengths available, Choose color to suit your style, Variety of rope end finishes), and a color selection dropdown set to 'BLACK'. Pricing information includes 'In Stock', '24% OFF', '\$65.00 \$50.00'. There are 'Add to Cart' and 'Request A Quote' buttons.

Black rope



(2) Fire Sense Commercial Series 46,000 BTU Propane Gas Patio Heater With Electronic Ignition - Stainless Steel - 1775

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REVISIONS

FURNISHINGS & PRODUCT CUT SHEETS

JOB NO. 202223
SCALE as noted
DRAWN MA
DATE 7.12.23

SHEET
L-1.3

Capitola Planning Commission

Agenda Report



Meeting: July 20, 2023
From: Community Development Department
Subject: 103 Kennedy Drive

Permit Number: 22-0376

APN: 036-551-08

Design Permit and Conditional Use Permit Amendment to convert parking spaces to an outdoor tasting area, bike parking, and mobile food vending more than four times per year.

The project is not located within the Coastal Zone.

Environmental Determination: Categorically Exempt 15332

Property Owner: John McCoy

Representative: Adair Paterno, Filed: 08.31.2022

Applicant Proposal:

The applicant is requesting a Conditional Use Permit (CUP) Amendment for a permanent outdoor tasting area and mobile food vending at 103 Kennedy Avenue in the I (Industrial) zoning district. The applicant's business, Sante Adairius Brewery, occupies the entire building at 103 Kennedy Drive, but shares the underlying lot with the building at 200 Kennedy Drive. The Conditional Use Permit applies to both addresses.

Background:

On February 10, 2011, the City Council approved a Conditional Use Permit for a small winery, microbrewery, and bakery at the subject property. Sante Adairius was the microbrewery and has since acquired the tenant spaces of the other specialty manufacturers. The approval specifically allowed for retail sales and consumption of food and beverages on the property for tasting. Conditions of approval prohibited meal service and outdoor seating.

On April 28, 2016, the City Council approved an Encroachment Permit for Sante Adairius to widen two portions of the Kennedy Drive shoulder to provide 16 on-street parking. This effort was in response to parking demand that existed at the time because of the brewery's initial rapid growth and success. Sante Adairius now has other locations in the county that serve customers and demand at the Capitola location has reportedly stabilized. There are no open or recent complaints about parking in the immediate area.

Analysis:

The applicant is proposing an outdoor tasting area located within six parking spaces on private property within the Industrial zoning district. This request requires an amendment to the existing conditional use permit. The City's Outdoor Dining Program is only applicable to dining within the right-of-way and limited to the Mixed-Use Village zoning district; therefore, the proposed outdoor tasting area is not subject to the street and sidewalk dining standards. Additionally, since the location is on private property, an Encroachment Permit is not required. Project review and code analysis is oriented toward operational practices, review of parking compliance, Design Review

for the new structures associated with the outdoor use area and amending the existing Conditional Use Permit.

Mobile Food Vending

Table 17.24-1 in Capitola Municipal Code (CMC) §17.24.020 – Land use regulations, indicates that mobile food vending may be permitted under an administrative temporary use permit or a discretionary conditional use permit.

CMC §17.96.180(C)(6) allows mobile food vendors to operate in one location four times or less per year with an administrative temporary use permit. This section also notes that mobile food vendors in one location more than four times per year require a conditional use permit.

The applicant is applying for a Conditional Use Permit to allow mobile food vending on the subject property more than four times per year. The applicant submitted a management plan that includes information related to the operation and management plan (Attachment 2). The Planning Commission may consider the information in relation to the considerations as outlined in the analysis below and include conditions of approval. A site plan indicating the proposed areas for mobile food vending is included as Attachment 1. The primary location is at the end of the drive aisle in front of the trash enclosure.

The applicant is proposing a CUP Amendment to allow mobile food vendors to operate up to seven days a week from 12 p.m. to 8 p.m. The mobile food vending at this location is expected to be primarily internally facing, meaning that it will operate as an additional offering to customers visiting the brewery for tasting. It will also be operated entirely on private property and overseen directly by permanent staff that can manage trash, noise, and issues that may arise. The applicant's management plan satisfactorily addresses potential impacts (Attachment #2).

Special Events

The existing conditional use permit limits hours from 7:30 a.m. to 8 p.m. The applicant is requesting the ability to stay open until 10 p.m. up to six times per year for special events. The request is consistent with outdoor dining standards in the Mixed-Use Village which allows operation between the hours of 7 a.m. and 10 p.m. Planning staff is recommending that special events be restricted to Friday and Saturday to prevent midweek noise impacts on the adjacent residential mobile home park (Condition #13).

Outdoor Tasting

The primary request for this application is to amend the CUP to allow the temporary Covid-19 outdoor tasting area to become a permanent part of the operation. The proposal not only removes parking spaces but replaces parking with a use that requires parking. Since the original CUP in 2011, much of the retail space from the previous specialty manufacturers has converted to custom manufacturing space for the brewery, which has a lower parking requirement. The applicant and Planning staff worked to breakdown the various functions of the property to assess parking demand and concluded that the proposal is compliant with required parking standards:

Use	Square Feet	Ratio	Required Parking Spaces
Tasting	1,374	1:60	23
Warehousing	4,800	1:1,500	3
Custom Manufacturing	7,702	1:2,000	4
Total Required			30
Onsite Parking			30

*Parking Ratios from CMC table 17.76-2.

The property provides 30 total parking spaces, and the proposal requires 30. As mentioned previously, the applicant also worked directly with the City in 2016 and improved 16 off-site parking spaces. Adequate parking exists on and off-site to serve the proposed uses. The property currently provides nine bike parking spaces, more than the code required three bike parking spaces.

CUP Amendment

The existing CUP was approved in 2011 and includes several conditions of approval that required specific amendments to approve the project. Additionally, the property's use has evolved since 2011. Staff is recommending updated conditions of approval in strikeout and underline format in the Conditions of Approval section below. A summary of the edits are as follows:

- Revise tenant mix to reflect current conditions
- Add outdoor seating/use
- Add mobile food vending
- Modify hours of operation
- Add special events

When evaluating a CUP application, the Planning Commission is required to consider the following characteristics of the proposed use:

A. Operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).

Staff Analysis: The applicant is proposing to make their Covid-19 outdoor tasting area permanent, add the ability to host mobile food vendors operating seven days a week between the hours of 12 p.m. and 8 p.m. with up to six Special Event use until 10 p.m. The area proposed for mobile food vending is on private property and in the backup area of the parking spaces that are converted to the outdoor tasting area. Proposed lighting is limited to string lights within the tasting area and existing exterior lighting on the mobile food vendor area. The proposed use is not expected to generate any amplified noise, objectionable odor, dust, or other external impacts.

Staff has included a condition of approval limiting the site to one mobile food vendor at a time. (Condition #22)

Additional conditions of approval have been added to address Americans with Disabilities Act (ADA) access, protection of fire lanes, refuse collection and disposal, lighting, and operation of any loudspeaker or sound amplification.

B. Availability of adequate public services and infrastructure.

Staff Analysis: The proposed uses will not utilize any permanent infrastructure and the proposed location has readily available public services.

C. Potential impacts to the natural environment.

Staff Analysis: As the proposed uses would be located in an existing parking lot on private property, there will be no impacts to the natural environment.

D. Physical suitability of the subject site for the proposed use in terms of design, location, operating characteristics, shape, size, topography.

Staff Analysis: The use is being proposed over excess parking spaces in a paved parking lot. The operating characteristics of mobile food vendors and beer tasting have been ongoing during the Covid-19 temporary business relief period. The business has demonstrated an ability to manage both uses simultaneously without complaints or code enforcement.

Design Permit

Accessory structures in the I (Industrial) zoning district require Planning Commission review of a Design Permit. The proposal includes an outdoor tasting patio. The patio covers six existing parking spaces. The perimeter of the area is defined by wood planters, barrels, and string lights. The interior includes standard wood picnic tables and propane heaters. All of these items were deployed as a Covid-19 business relief measure and remain in good condition. The plants are well maintained and the reclaimed wood clad planters fit the business's identity and offering of "Rustic" Ales. None of the structures require a Building Permit with the possible exception of ADA access. Condition of approval #32 requires the applicant to the work with the Building Department to secure any require permits for ramps, handrails, access, and clearances.



California Environmental Quality Act (CEQA):

Section 15332 of the CEQA Guidelines exempts project characterized as in-fill development when: the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; the project site has no value as habitat for endangered, rare, or threatened species; the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities and public services. The proposed project is consistent with the in-fill development exemption and no adverse environmental impacts were discovered by Planning Staff during review of the proposed project.

Recommendation:

Staff recommends the Planning Commission review and **approve** project application #22-0376 based on the following Conditions and Findings for Approval.

Attachments:

1. Site/Floor Plan
2. Management and Mobile Food Vendor Plan
3. Parking Calculation Plan
4. Owner's Statement

Conditions of Approval:

1. The current application is for an amendment to the 2011 Conditional Use Permit. Amendment is approved as reviewed by the Planning Commission on July 20, 2023, with the allowed modifications shown in strikeout and underline. The project approval consists of a Conditional Use Permits for a ~~small winery with retail sales and a tasting room (Pelican Ranch Winery), one small microbrewery with retail sales, and a tasting room, outdoor tasting area, and mobile food vending (Santa Adairius), and one small bakery or food producer with retail sales and a tasting room for the light industrial buildings~~ located at 100-200 Kennedy Drive. The above mentioned uses shall allow the sale and consumption of food and beverages, ~~products manufactured on site. Food and wine tasting shall be limited to the quantity to enable a retail customer to develop an appreciation of the food or beverage product. In no case shall food and wine tasting constitute a meal.~~ No restaurant or table service is permitted without a separate conditional use permit, ~~nor will any outdoor seating be allowed.~~
2. Any significant modifications to the size or exterior appearance of the structure must be approved by the Planning Commission.
3. ~~Delivery truck~~ loading and unloading hours shall be limited to 7:30 a.m. – 8.p.m. Monday through Friday, and 8:00 a.m. – 8:00 p.m. Saturday, Sunday, and holidays in order to minimize noise impacts to neighboring residents.
4. All signs shall be consistent with the master sign program. The approved sign program shall permit tenants signage along the north elevation of the new building where the main entrances to the office areas will be located. Each of the five tenant spaces will be permitted one wall sign, with a maximum height of 20" and a maximum length of 8'. Signs are to be of wood or metal construction with vinyl graphics. These sign requirements will also apply to the existing building when new tenants are incorporated and the existing nonconforming signs are removed.
5. All businesses shall obtain a sign permit from the Community Development Department.
6. 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, building permit submittal.

7. All lighting shall be focused downward and away from adjacent properties. The ~~Planning Commission~~ Community Development Department shall review lighting upon receipt of a legitimate complaint.
8. All uses shall be conducted wholly within an enclosed building, except for off-street parking and loading facilities, mobile food vending, and tasting in the designated outdoor tasting area. ~~and no~~ merchandise shall be displayed outside the building without an individual Conditional Use Permit being issued for the business.
9. All businesses within the center shall obtain a business license and shall comply with all local and state regulations prior to commencing business.
10. Manufacturing and industrial processes shall use only gas or electricity as a fuel; provided, however, that equipment using other fuel may be installed for standby purposes only.
11. No owner or invitee shall use or permit any sound system including, but not by way of limitation, loudspeakers, public address, systems, sound amplifiers, radio or broadcast within the project in such a manner that any sounds reproduced, transmitted or produced shall be directed beyond the interior of the building towards the residential areas.
12. No vehicle used regularly on site and under control of a business owner or invitee shall be equipped with back up noise devices audible more than twenty feet from vehicle and owner and invitee shall encourage delivery vehicles outside of their control to approach the facility in such a way to minimize noise.
13. Hours of normal operation on site shall be 7:30AM until 8PM, ~~unless a Conditional Use Permit has been obtained, and any activity outside of these hours shall be confined to quiet indoors activity not audible outside of the building.~~ The business may remain open until 10PM a maximum of six times per calendar year for special events. Special events shall only take place on Fridays or Saturdays. Vehicles coming and going at any non-business hours shall be quiet and conform to normal sound levels.
14. Equipment or machinery regularly used in the production of goods or services on site that produces audible at the property boundaries, including but not limited to sawing, cutting, grinding, shall require a Conditional Use Permit. Air compressors shall be of a quiet type and enclosed inside the building in sound containing enclosures.
15. Trash enclosures shall be covered, gated, and maintained to provide a clean and sanitary area.
16. Any outdoor washdown of equipment shall be prohibited.
17. The gate along Rosedale Avenue will be closed after business hours or by 9:00 p.m.
18. Signage will be placed on 100-200 Kennedy Drive. at the entrance to the mobile home park stating. **"Not a Through-Street- Resident Traffic Only."**
19. Prior to exercising the conditional use permit, the applicant must provide documentation of plan approval by the Central Fire Protection District.

20. Mobile food vendors shall obtain a Capitola Business License and any required county and state licenses prior to commencing business in Capitola.
21. Only one mobile food vendor shall operate at the property at a time.
22. Placement of food vendor vehicles or trailers shall not obstruct fire lane access, as determined by the Fire Marshal.
23. Placement of food vendor vehicles or trailers shall not obstruct vehicular right of way.
24. Mobile food vendors shall supply their own bird deterrent trash receptacles and empty them in the refuse collection areas when full and upon leaving the premises daily.
25. Mobile food vendor lighting shall be limited to lighting located on the food vendor vehicle or trailer. Lighting shall be in compliance with the Capitola Municipal Code.
26. Mobile vendor may not discharge any liquids including wash water onto the ground.
27. Mobile vendor must clean up any spills caused by their operation or customers.
28. Mobile food vendors shall be responsible for maintaining ADA access to the vendor vehicle or trailer.
29. Mobile food vendors shall comply with all sign standards in CMC Chapter 17.80. Specifically, mobile food vendors shall comply with the prohibition of portable signs in CMC §17.80.060(A)(2) and flag signs in CMC §17.80.060(A)(5). Signs will be limited to signage on the mobile food vendor vehicle and/or trailer.
30. Mobile food vendors shall not put out seating or tables for customers.
31. Mobile food vendors shall not utilize a loudspeaker or other amplified sound.
32. The applicant shall obtain a Building Permit for any ADA accessibility ramps, handrails, or other requirements for the proposed outdoor tasting area.

Conditional Use Permit Findings

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

Outdoor uses and mobile food vending are allowed in the I (Industrial) zoning district with Planning Commission approval of a conditional use permit.

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 outdoor use and mobile food vending use is consistent with the 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.

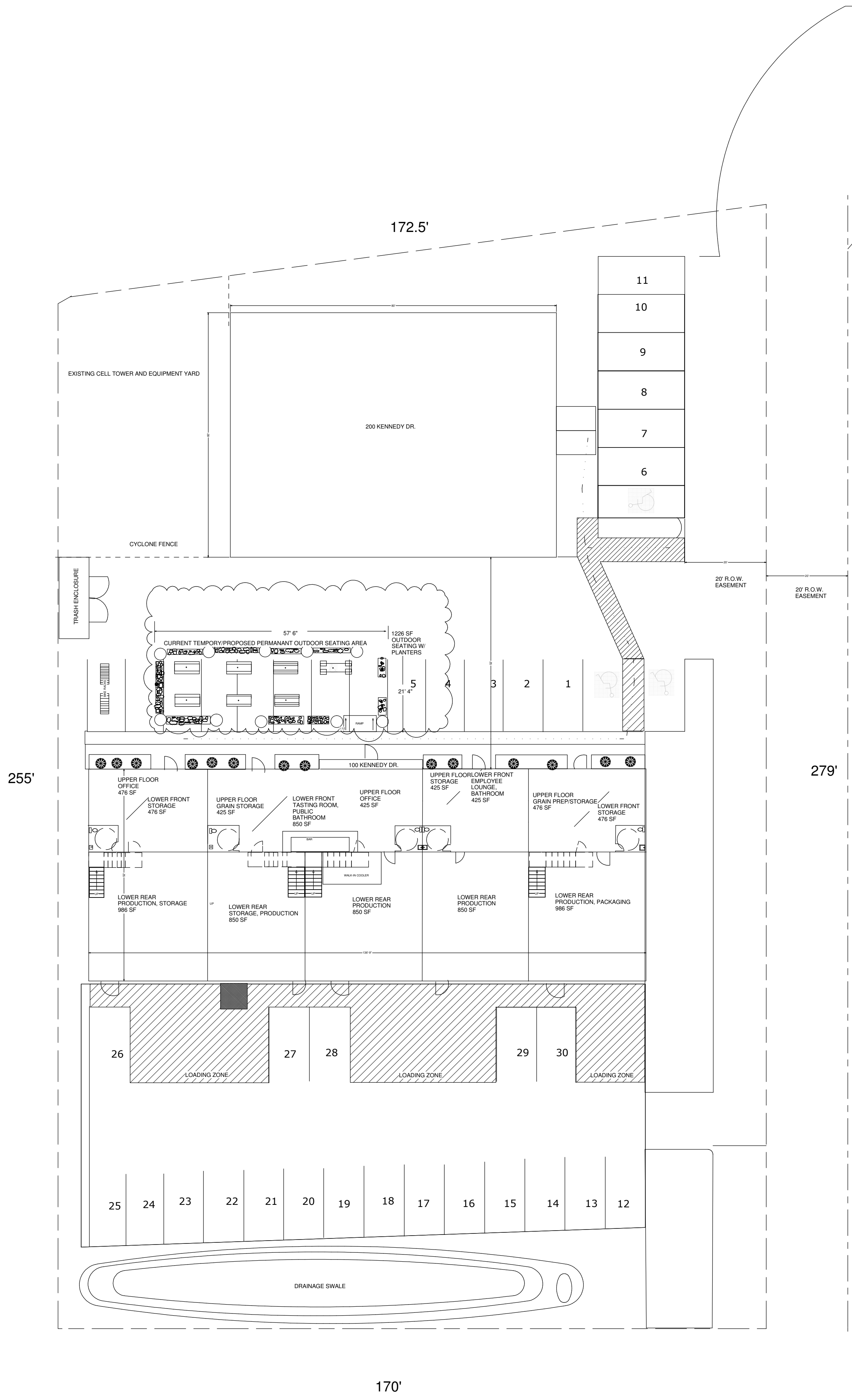
The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and planned land uses in the vicinity of the property.

- D. The proposed use will not be detrimental to the public health, safety, and welfare.**
Community Development Department Staff, Public Works Staff, Police Department, Central Fire Protection District, and the Planning Commission have reviewed the project and determined that it will not be detrimental to the public health, safety, and welfare.
- E. The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.**
The proposed use is located within the City of Capitola and is adequately served by existing services and infrastructure.

Design Permit Findings:

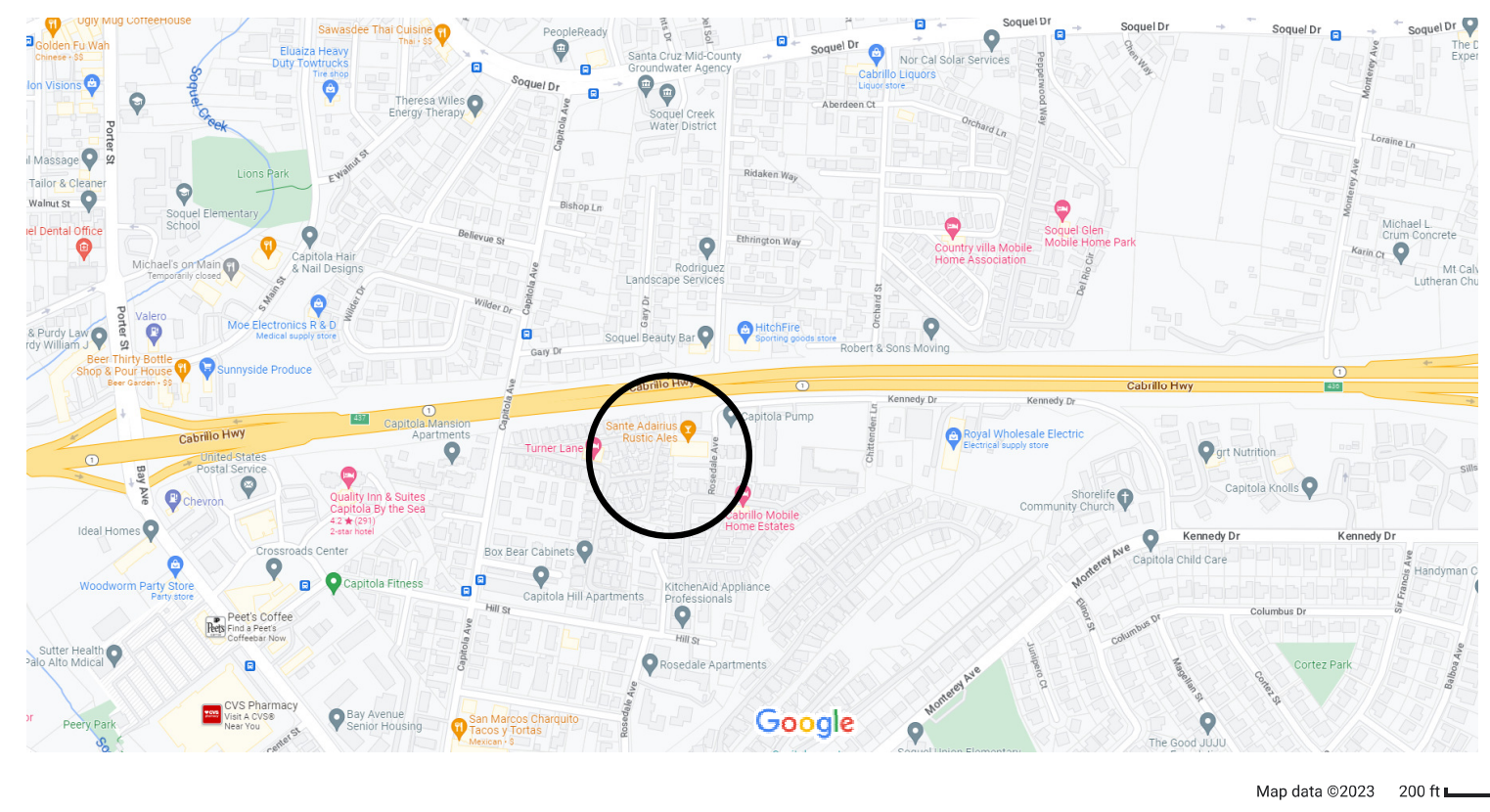
- A. The proposed project is consistent with the general plan, local coastal program, and any applicable specific plan, area plan, or other design policies and regulations adopted by the city council.**
Community Development Staff, the Development and Design Review Committee, and the Planning Commission have reviewed proposed outdoor tasting area and determined complies with the development standards of the I (Industrial) zoning district.
- 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 outdoor tasting area and determined the project complies with all applicable provisions of the zoning code and municipal code.
- C. 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, the Development and Design Review Committee, and the Planning Commission have reviewed the project. The proposed outdoor tasting area will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.
- D. The proposed project complies with all applicable design review criteria in Section 17.120.070 (Design review criteria).**
The Community Development Staff, the Development and Design Review Committee, and the Planning Commission have reviewed the application. The proposed outdoor tasting area comply with all applicable design review criteria in Section 17.120.070.
- E. For projects in residential neighborhoods, the proposed project maintains the character, scale, and development pattern of the neighborhood.**
Community Development Staff, the Development and Design Review Committee, and the Planning Commission have all reviewed the application for the facade modifications. The project will maintain uses and operations that have been ongoing without complaint or issue.

Prepared By: Brian Froelich
Senior Planner

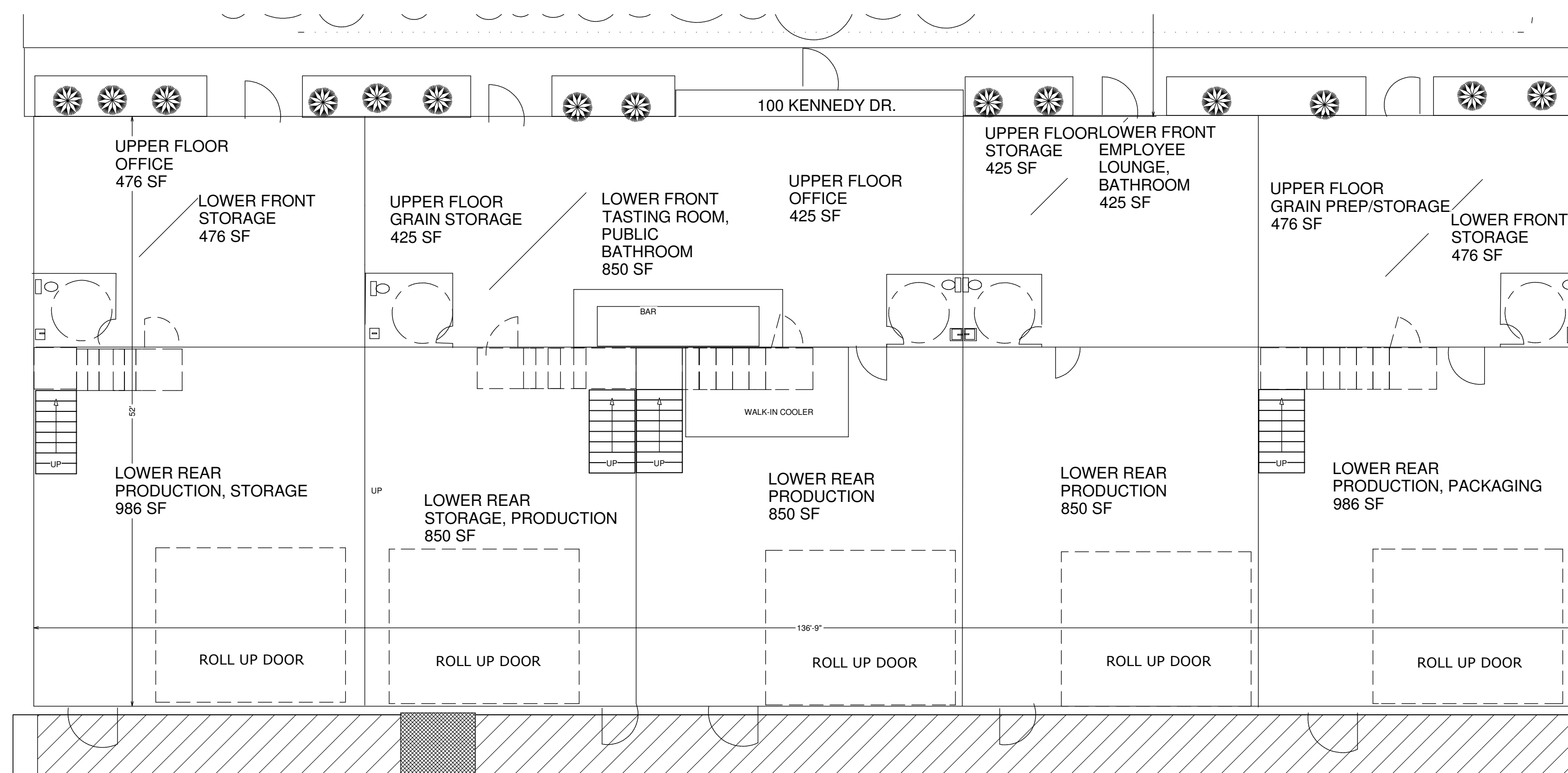


PROJECT DESCRIPTION:
 WE WOULD LIKE TO MAKE THE TEMPORARY OUTDOOR SEATING AREA A PERMANENT ADDITION TO BOLSTER THE LIMITED INDOOR SEATING AREAS.
 THE CURRENT OUTDOOR SEATING AREA IS IN FRONT OF THE EXISTING TAP ROOM AREA AND HAS 6, SIX FOOT LONG PICNIC STYLE TABLES AND 1 SIX FOOT LONG ADA ACCESSIBLE TABLE. THE PERIMETER OF THE SEATING AREA IS ENCLOSED ON FOUR SIDES WITH PLANTERS AND BARRELS, WITH TWO OPENINGS THAT ACCESS TO AND FROM THE TAP ROOM, ONE OF WHICH HAS A WOOD RAMP WITH A NON-SLIP COATING AND ONE ENTRANCE TO ALLOW ACCESS TO AND FROM THE PARKING LOT.

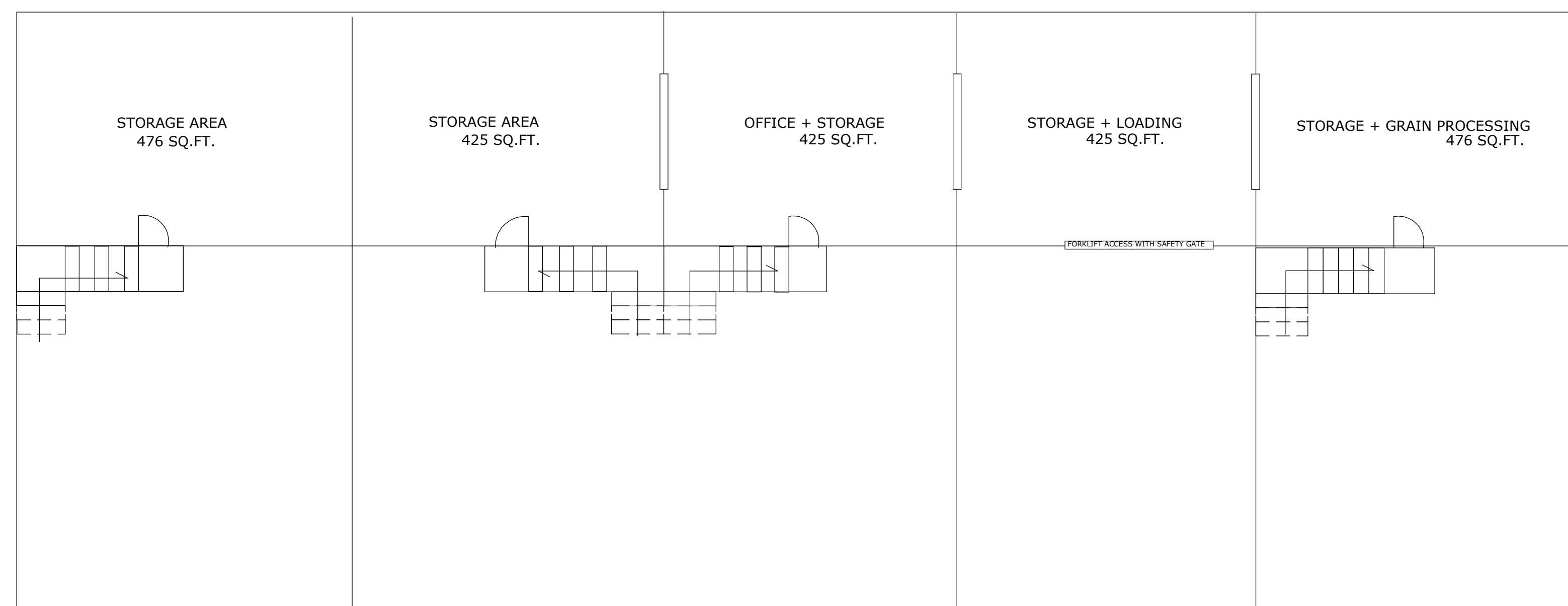
PROJECT DATA:
 GROSS SITE AREA
 45,725 S.F.
 RELEVANT EXISTING ADJACENT BUILDING A 7,072 S.F.
 BUILDING A SECOND FLOOR 2,448 S.F.
 EXISTING ADJACENT BUILD B 4,803 S.F.
 OCCUPANCY - B,F1,S1
 SPRINKLERED
 CONSTRUCTION - V-B
 TOTAL EXISTING PARKING AREA 43 STALLS (41 STANDARD, 2 ACCESSIBLE)
 TOTAL AFFECTED STANDARD PARKING SPACES 9 (8 FOR SEATING, 1 FOR BICYCLE PARKING) AT FRONT OF BUILDING A.



NO.		DESCRIPTION	BY	DATE
SHEET TITLE: PROJECT DESCRIPTION SITE MAP PROJECT DATA PROPOSED SITE PLAN				
PROJECT DESCRIPTION: SANTE ADARIUS PARKING GARDEN 100 KENNEDY DRIVE CAPITOLA, CA 95010				
DRAWINGS PROVIDED BY: DOUGLAS McCLOSKEY CONSTRUCTION p.o. box 783 santa cruz, ca 95061 8312472687				
DATE: 5/14/2023				
SCALE: 1/16"=1'				
SHEET: A-1				



1st Floor



2nd Floor

<p>APN 036-031-01</p>			
NO.	DESCRIPTION	BY	DATE
<p>SHEET TITLE: UPPER AND LOWER FLOOR PLANS</p>			
<p>PROJECT DESCRIPTION: SANTE ADARIUS PARKING GARDEN 100 KENNEDY DRIVE CAPITOLA, CA 95010</p>			
<p>DRAWINGS PROVIDED BY: DOUGLAS MCCLOSKEY CONSTRUCTION p.o. box 783 santa cruz, ca 95061 8312472687</p>			
<p>DATE: 5/14/2023</p>			
<p>SCALE: 1/8"=1'</p>			
<p>SHEET: A-2</p>			



PATIO AREA MANAGEMENT PLAN

Description: Sante Adairius Rustic Ales, located at 101-105 Kennedy Dr., Capitola, requests the continued use of the existing outdoor patio it built during the coronavirus pandemic. The patio area has been in use for more than two years, and the business has not received any complaints or calls for service related to the use.

Hours of Operation: 12pm-8pm daily, corresponding with the hours of operation for the indoor space. Request permission to utilize the outdoor patio until 10pm up to six times per year for private and special events.

Table Service: No table service will be provided. Customers will obtain their beverages from the inside bar area.

Lighting: Lighting will consist of existing parking lot lighting and outdoor patio lighting.

Staffing: There will be at least two Sante Adairius staff members on the premises during public open hours.

Permits: Sante Adairius maintains all necessary permits to operate a brewery taproom in the State of California for its existing premises. Once approved by the City of Capitola, Sante Adairius will file forms ABC 244 and ABC 257 with California Alcoholic Beverage Control to permanently expand the licensed premises into the patio area.

MOBILE FOOD VENDOR PLAN

Description: Request to host a mobile food vendor at Sante Adairius Rustic Ales, located at 101-105 Kennedy Dr., Capitola, CA during regular business hours and for special events.

Days/Times: Monday-Sunday, 12pm-8pm.

Disabled Access: Proposed location maintains accessibility for disabled persons.

Fire Lane Access: We will ensure that vendors do not obstruct fire lane access.

Traffic Circulation: Proposed location will not impact the flow of parking lot traffic.

Parking Impact: Proposed use will not impact on-site parking capacity.

Lighting: Lighting will consist of existing parking lot lighting, outdoor patio lighting, and exterior food vendor vehicle lighting.

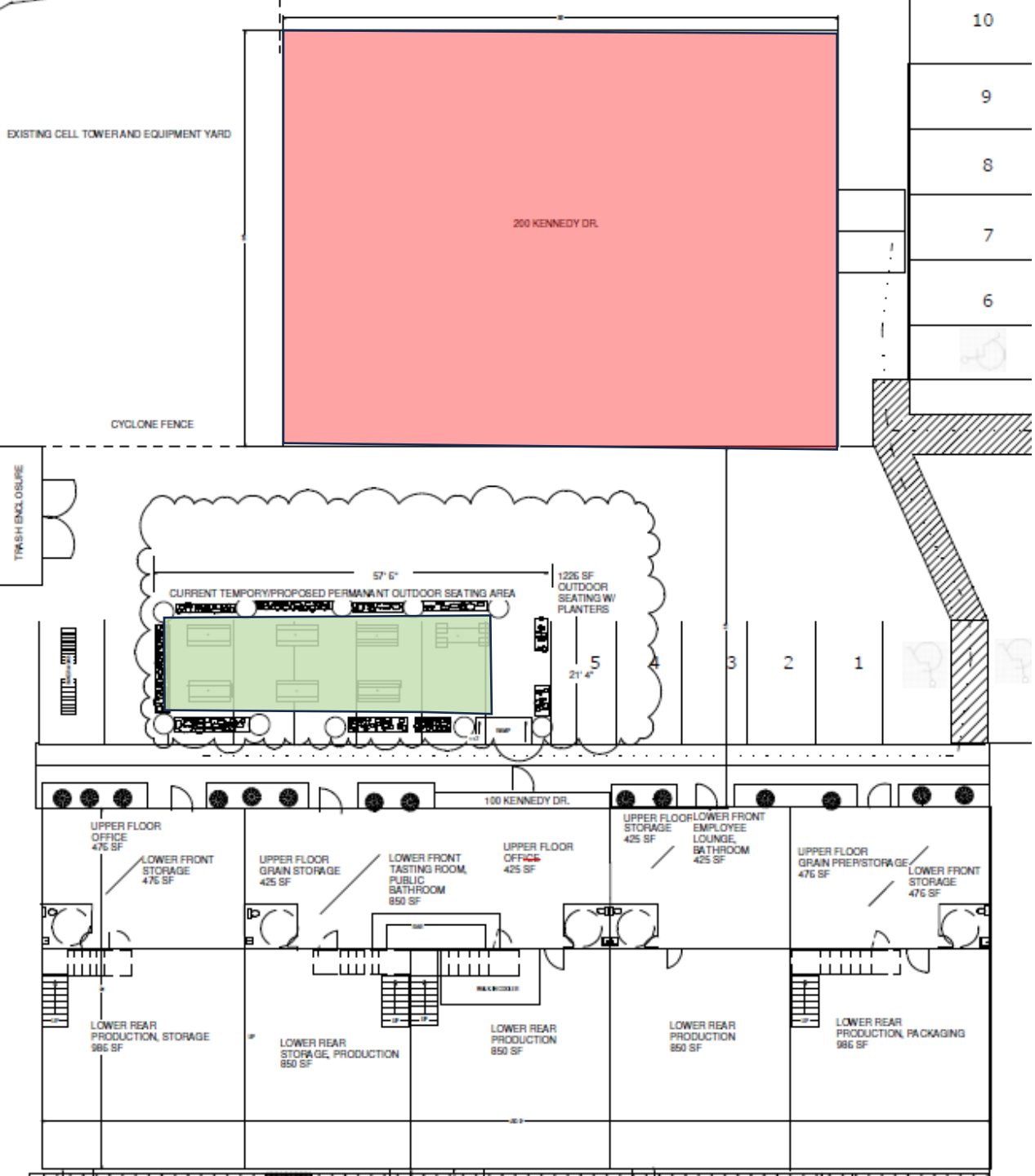
Trash: Vendors will utilize dumpsters and recycling containers provided by Sante Adairius Rustic Ales.

Sound Amplification: None

Seating: Customers will utilize existing indoor and outdoor seating.

Vendors: Will vary.

Restrooms: Sante Adairius has two gender-neutral restrooms available for public use, and an additional three gender-neutral restrooms for staff and vendor use.

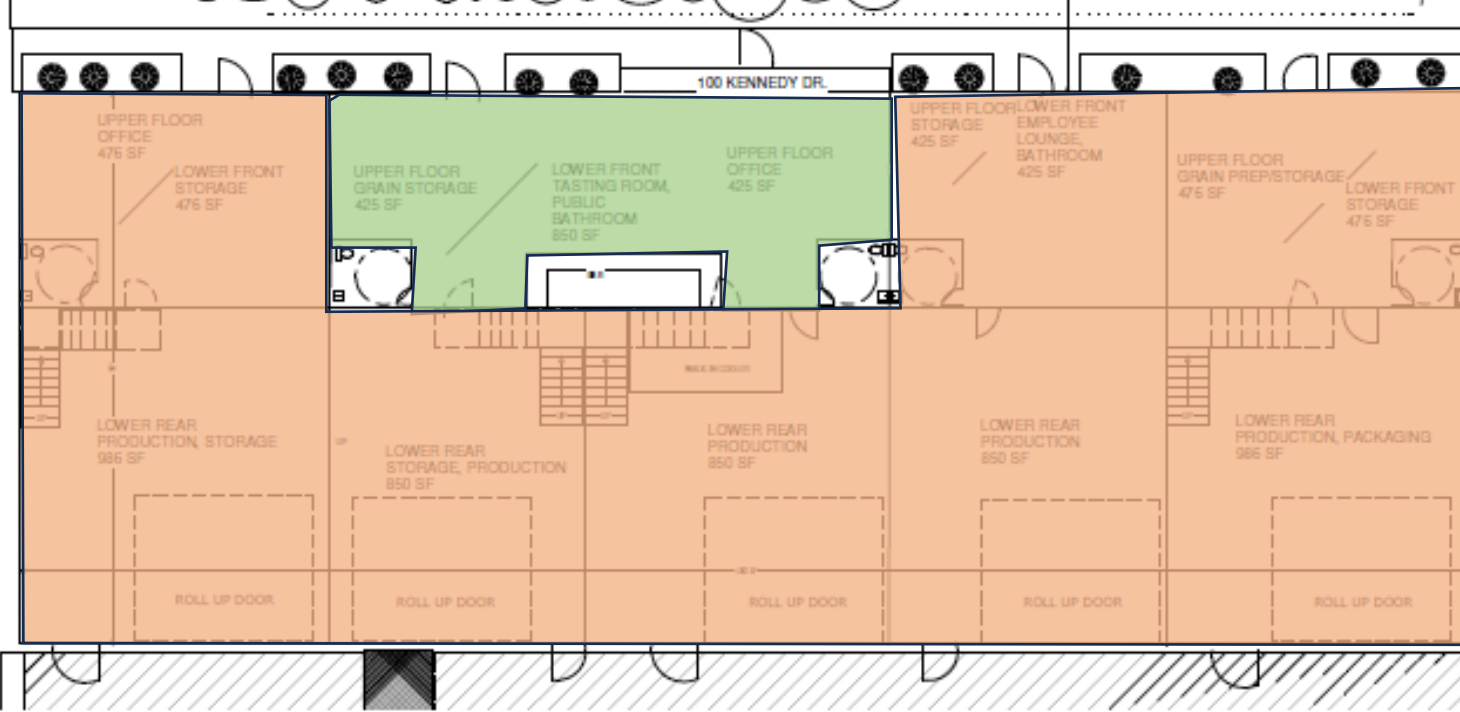


■ Tasting = 575 SF

■ Warehousing = 4,800 SF

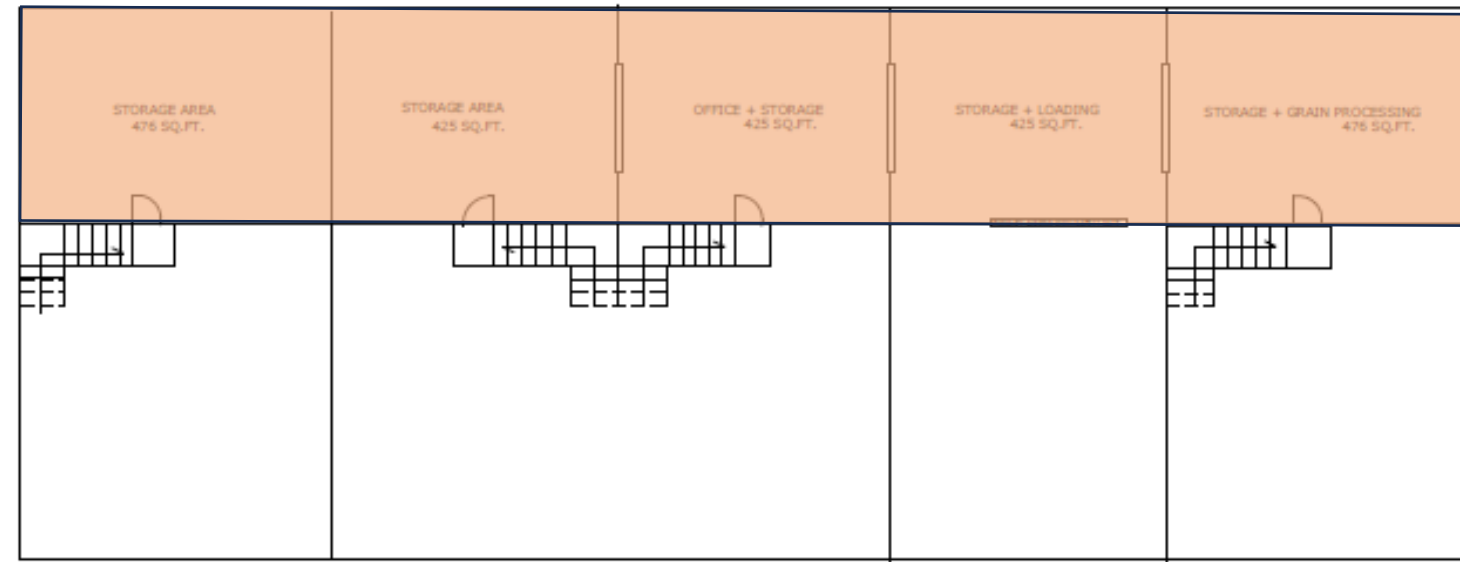
Outdoor Tasting Area and Warehouse

Use	Square Feet	Ratio	Parking Spaces Req'd
Tasting	1,374	1:60	23
Warehousing	4,800	1:1,500	3
Custom Manufacturing	7,702	1:2,000	4
Total Required			30
Onsite Parking			30



- Tasting = 799
 - Custom Manufacturing = 5,474
- Ground Floor**

1st Floor



- Custom Manufacturing = 2,228
- Mezzanine**



August 31, 2022

Brian Froelich
Capitola Planning Department
420 Capitola Ave.
Capitola, CA 95010

Re: Use Permit Modification, 101-105 Kennedy Dr.

Mr. Froelich:

The purpose of this letter is to request a new use permit or use permit modification that will allow my brewery business, Sante Adairius Rustic Ales (“Sante Adairius”), to maintain an existing outdoor seating area located at 101-105 Kennedy Drive (the “Premises”) within the City of Capitola (the “City”).

In the summer of 2021, Sante Adairius applied for and received outdoor dining permits from the City and California Alcohol Beverage Control (“ABC”), and proceeded to erect an outdoor area completely within the confines of the Premises’ privately-owned parking area. Sante Adairius spent more than \$15,000 to construct the outdoor dining area, and contracts with a landscaper \$1,000 per month to maintain it. This outdoor space has been instrumental to the brewery’s continued survival and success throughout the pandemic, and it seeks to continue to utilize it permanently. While the Master Use Permit for the Premises (which includes 100 Kennedy Dr.) currently permits at least two tasting room on the Premises (and thus the use is permitted), a modification or new use permit is necessary to serve people outdoors.

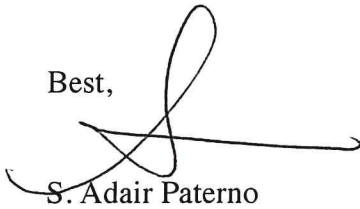
As currently constructed, Sante Adairius’ outdoor service area is approximately 21ft wide by 59ft long. It consists of eight picnic-style tables, two of which are specifically designed for access by persons in wheelchairs. The area is “enclosed” by planter boxes full of live plants that are professionally maintained, and there is an access ramp for persons in wheelchairs. Please see the enclosed photos for reference. While the outdoor service area utilizes seven of the property’s parking spaces, there is still adequate parking for staff and customers, both onsite and adjacent to

the property along Kennedy Drive. Sante Adairius constructed additional parking for its staff and customers along Kennedy Dr. at the City's request in 2016.

Sante Adairius operates seven days per week (making and packaging beer, marketing and selling beer to wholesale accounts, etc.), but is currently open to the public from 2pm-8pm Tuesday-Thursday, and 12pm-8pm Friday-Sunday. There are eight full-time, benefitted employees who work at the Premises, and at least seven part-time employees. The part-time employees also work at the brewery's Santa Cruz taproom, the Sante Adairius Santa Cruz Portal, located at 1315 Water Street.

The outdoor seating area is of great benefit to Sante Adairius, but it also provides the community with additional outdoor space to enjoy beverages on a nice afternoon. And given the early closing hours of the business, continuing the use of Sante Adairius' outdoor seating area would not be detrimental to public health or safety. Please contact me with any questions or concerns. Thank you very much.

Best,



S. Adair Paterno

Adair Paterno
Co-Owner, Sante Adairius Rustic Ales
101-105 Kennedy Dr.
Capitola, CA 95010

Santa Cruz Portal
1315 Water St.
Santa Cruz, CA 96062

Oakland Arbor
460 8th St.
Oakland, CA 94607

Capitola Planning Commission

Agenda Report



Meeting: July 20, 2023
From: Community Development Department
Topic: 1855 41st Avenue

Permit Number: #23-0041

APN: 034-261-38, -52

Conditional Use Permit to allow Capitola Mall food court restaurants to sell beer and wine within the designated food court area. The project is located within the C-R (Regional Commercial) zoning district.

The project is not located within the Coastal Zone.

Environmental Determination: Categorical Exemption

Property Owner: Merlone Geier

Representative: Brian Kirk, Filed: 02.03.23

Applicant Proposal:

The applicant is proposing a Conditional Use Permit (CUP) to allow the sale and consumption of beer and wine within the Capitola Mall Food Court by food court restaurants. The permit would allow restaurants to utilize the interior quasi-public seating area as a shared premises for consumption of alcohol.

Background:

In early 2021, Capitola Planning and Police met with the applicant onsite to discuss the possibility of alcohol sales and consumption in the shared premises of the food court and understand the site layout. An official application was submitted to the City on February 3, 2023.

Discussion:

The Capitola Mall food court is located at 1855 41st Avenue on western side of the mall with frontage on Clares Street. The food court is a small part of the larger multi-tenant structure with a current capacity for ten food establishments. Of the ten tenant spaces, eight are included for potential alcohol sales.

The applicant is proposing to include the sale and consumption of beer and wine (onsite) in the food court and for to-go sales. In the Regional Commercial zoning district, the sale of alcoholic beverages for on- or off-site consumption from a restaurant requires a conditional use permit (CUP). The site is also located in a high crime area and/or a census tract with an over-concentration of retail alcohol establishments, therefore the Chief of Police must provide a letter of Public Necessity and Convenience (PCN) in order for establishments to obtain new or different ABC licenses.

The shared premises is approximately 7,000 square feet and includes eight eligible tenant spaces (Attachment 3). Currently, five of the tenant spaces are occupied. Early input in 2021 from Police and ABC Licensing staff indicated that support would only be given to a shared alcohol premises

within the boundaries of the existing food court area as it would be too difficult to regulate the whole interior of the mall. The application identifies the proposed alcohol consumption area (Attachment 1), which is slightly smaller than the whole food court and excludes the two inner-most court tenant spaces on the north side, currently occupied by Wetzel's Pretzels and one of the two tenant spaces occupied by Sugary Bakery. Businesses wishing to utilize the 'shared premises' seating areas would apply for an ABC license, presumably a Type 41 license for *On Sale Beer and Wine Eating Place*.

Conditional Use Permit for Alcohol

Pursuant to §17.124.060, when evaluating a CUP, the Planning commission must consider the following characteristics of the proposed use:

- A. Operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).
- B. Availability of adequate public services and infrastructure.
- C. Potential impacts to the natural environment.
- D. Physical suitability of the subject site for the proposed use in terms of design, location, operating characteristics, shape, size, topography.

The Planning Commission may attach conditions of approval to a use permit to achieve consistency with the general plan, local coastal program, and zoning code.

Chief of Police Andy Dally reviewed the application, conducted a site visit, and made findings that support the approval of the CUP for alcohol sales. Support is provided with the condition that each prospective business must obtain its own PCN letter from Capitola Police prior to obtaining an ABC License. Businesses must also participate in employee alcohol training and workshops, to the satisfaction of the Police Department. These requirements are outlined in Condition #6 and 7.

The proposed hours for alcohol sale and consumption would be the same as primary mall operating hours, which may vary by season, holiday, or day of the week. Currently, mall operating hours are 10am to 7pm Monday through Saturday and 11am to 6pm Sunday. Alcohol beverages will be sold in containers that are easily distinguishable from containers use in the sale of non-alcoholic beverages.

In addition to restaurant staff training and monitoring, mall security will be directed to increase monitoring of the food court and increase staffing on weekends and forecasted increases to mall foot traffic and/or alcohol sales. All licensees would be responsible for the shared premises, including any violations of the law occurring on the licensed premises.

Planning staff considered but did not include a limiting the total number of active licenses to a number less than the total number of eligible tenant spaces.

Parking

The proposal does not include modifications to existing parking. Areas utilized in the application are already permitted for restaurant uses and therefore is not considered an intensification of parking demand.

CEQA:

This project is categorically exempt under Section 15301 of the California Environmental Quality Act. The proposed project involves a Conditional Use Permit for potential future uses occupying an existing commercial structure with no expansion of use. No adverse environmental impacts were discovered during project review by Planning Staff.

Recommendation:

Staff recommends the Planning Commission **approve** application #23-0041 to allow mall food court tenants to serve beer and wine as conditioned and based upon the findings below.

Attachments:

1. 1855 41st Avenue – Food Court Site Plan
2. 1855 41st Avenue – Alcohol Management Plan
3. Food Court Tenant Suites
4. Police Letter of Support

Conditions of Approval:

1. The project approval consists of a Conditional Use Permit for the sale and consumption of beer and wine by Capitola Mall food court restaurants within the designated shared seating area. The project is located within the C-R (Regional Commercial) Zoning District. Eligible tenant spaces and the designated alcohol area is limited to the areas indicated on the final plans reviewed and approved by the Planning Commission on July 20, 2023, except as modified through conditions imposed by the Planning Commission during the hearing.
2. No open alcoholic containers may leave the designated area.
3. Alcohol sales are permitted during primary mall operating hours unless the California Department of Alcoholic Beverage Control places stricter requirements.
4. In order to be eligible, businesses must be considered a restaurant (bona fide eating place) by the Capitola Planning Director and the California Department of Alcoholic Beverage Control (ABC). All uses that sell or dispense alcoholic beverages shall require an ABC license.
5. Prior to obtaining an ABC license, each participating business shall obtain a letter from the Chief of Police either a Letter of Public Necessity and Convenience or written determination that a PCN is not required.
6. Businesses seeking ABC licenses shall participate in an employee program, with curriculum that includes not only business-related activities but also a section on ABC laws. Businesses must show ongoing commitment to training employees and agree to take part in future ABC LEADS (Licensee Education on Alcohol and Drugs) workshops.
7. The applicant shall install visible signage at all exits from the Food Court stating that “no alcoholic beverages beyond this point” and any additional signage required by local, state, or federal law or code.
8. Alcoholic beverage supplies, including kegs, and unsold alcohol products shall be kept indoors and in secure locations and at all times.

9. The Planning Department shall perform a final inspection, prior to initiating beer and wine sales for each tenant. Prior to the Planning Department final inspection, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director.
10. 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.
11. 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.
12. Upon evidence of non-compliance with conditions of approval, applicable municipal or ABC 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 in the manner provided in CMC §17.156.110.

Conditional Use Permit Findings:

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

Community Development Staff and the Planning Commission have reviewed the project use and determined the proposed alcohol use is consistent with Conditionally permitted uses within the C-R (Regional Commercial) 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.

Community Development Staff and the Planning Commission have reviewed the proposed Conditional Use Permit and determined it complies with all development standards and meets the intent and purpose of the C-R (Regional Commercial) zoning district.

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.

Community Development Staff and the Planning Commission have reviewed the proposed use and determined it fits well with the existing food court and commercial center.

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

The Community Development Department, Police Department, and the Planning Commission have reviewed the proposed use and determined it will not be detrimental to the public health, safety, or welfare. Conditions of approval have been included to carry out these objectives.

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

The proposed use is located along within the Capitola Mall shopping center and is adequately served by existing services and infrastructure.

California Environmental Quality Act (CEQA) Findings:

- A. 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 permitting, licensing, and minor alterations to existing private facilities. This project involves an existing commercial space with the addition of alcohol sales within the C-R (Regional Commercial) zoning district. No adverse environmental impacts were discovered during review of the proposed project.

Prepared By: Sean Sesanto
Associate Planner

City of Capitola – Capitola Mall Master Conditional Use Permit

Submitted by Brian Kirk as Agent for MGP XI Capitola, LL – 05/23/23

Please see the below details regarding the request for a Master Conditional Use permit by MGP XI Capitola, LLC (Capitola Mall/Merlone Geier Management) for alcohol sales (Type 41 beer/wine) in the food court (*referred to as “Food Hall” on included maps*) of the Capitola Mall.

Description: Application request for a Type 41 permit for sales and consumption of beer and wine (onsite) in the food court of the Capitola Mall and for to go sales (offsite) as permitted by law.

Location:

- Alcohol to be sold by food court tenants only and consumed in the interior food court dining area only, as designated on the attached site plan highlighted in yellow.
- Referenced consumption area is ± 7,000 square feet with seating for ± 70 patrons.
- Alcohol consumption or open containers will not be permitted in the restroom area, mall common area, or in the exterior area of the mall.

Participating Tenant Spaces:

- All food court spaces that sell food within the permitted area, units R01 – R09, excluding R04 (8 spaces total/ 5 currently leased), shall be included in the request. Please see spaces highlighted in green on the site plan.
- All participating tenants shall be required to obtain an ABC license for their individual premises.
- All participating tenants shall be required to have food available to purchase.
- Currently, 2 tenants have expressed their intent to move forward with sales, if permitted:
 - R06 - Ramen Kaito (883 Sq Ft) and R01 - Taquizas Gabriel (572 Sq Ft).

- Remaining Tenant Spaces Information:
 - R02 – Terra Superfoods – 420 Sq Ft
 - R03 – Festa Coffee – 420 Sq Ft
 - R04 – *UNAVAILABLE TO LEASE*
 - R05 – Vacant – 710 Sq Ft
 - R07 – Vacant – 1,297 Sq Ft (Enclosed Inline Space)
 - R08 – Vacant – 737 Sq Ft
 - R09 – Sugar Bakery – 589 Sq Ft
 - R10 – Sugar Bakery – 533 Sq Ft – (outside of permitted area)
 - R11 – Wetzel’s Pretzel – 594 Sq Ft - (outside of permitted area)

Days/Time of Permitted Sales:

- Alcohols sales will only be permitted during mall operating hours, which may vary due to holidays or changes to the mall operating hours.

Current Mall Operating Hours:

Monday – Saturday: 10am – 7pm

Sunday: 11am – 6pm

Security:

- All participating tenants will complete ABC’s LEAD Program, or similar training programs, to be educated on selling alcoholic beverages safely, responsibly, and legally, with emphasis on preventing sales to minors and obviously intoxicated persons.
- All participating tenants will be required to check the customer’s identification and verify that the customer is over 21 years of age prior to purchasing alcohol.
- All alcoholic beverages shall be sold and served in containers that are distinct in design and color and are easily distinguishable from containers used in the service of non-alcoholic beverages.
- Security officers will increase their daily focus of the food court area during operating hours, with specific focus on the tenants that are permitted to sell alcohol and the customers consuming alcohol on premises.
- Additional security staffing will be added, as needed, to weekend shifts and special events depending on any forecasted increases in mall foot traffic and/or alcohol sales.

- Security officers will increase their daily communication with all participating food court tenants to ensure that all regulations are being followed, and that alcohol consumption is limited to customers 21 years or older and only in the designated food court area.
- No “to go” sales will be permitted to be consumed on premises.
- Security officers will have contact information for available travel options (Taxi, Uber, Lyft, etc.) for people who are unable to safely drive off property.

Signage:

- Permitted and prohibited areas to be designated by floor signage throughout the food court area, restrooms, and exits.
- Floor signs (below, *example only*) shall be posted in a conspicuous space at the entrance/exit point of the food court area, which shall state, “**NO ALCOHOL BEYOND THIS POINT**”.
- Utilizing floor signage will ensure that signs stay in place and will draw more attention than traditional, free-standing signage, which is prevalent throughout the mall.



EXAMPLE ONLY

Mall Address:
CAPITOLA MALL
 1855 41st Avenue
 Capitola, CA 95010
 Phone: (831) 476-9616
 Fax: (831) 476-9760

Merlone Geier Partners
 425 California Street
 10th Floor
 San Francisco, CA 94104
 Phone: (415) 362-9216
 Fax: (415) 693-0480

Brian Kirk
 bkirk@merlonegeier.co
 m Merlone Geier Partners
 1855 41st Ave
 Management Office
 Capitola, CA 95010
 Phone: (831) 476-9616
 Fax: (831) 476-9760

Note:
 This is a schematic plan only
 intended to show the general layout
 of the shopping center or part
 thereof. This plan is not to be scaled.

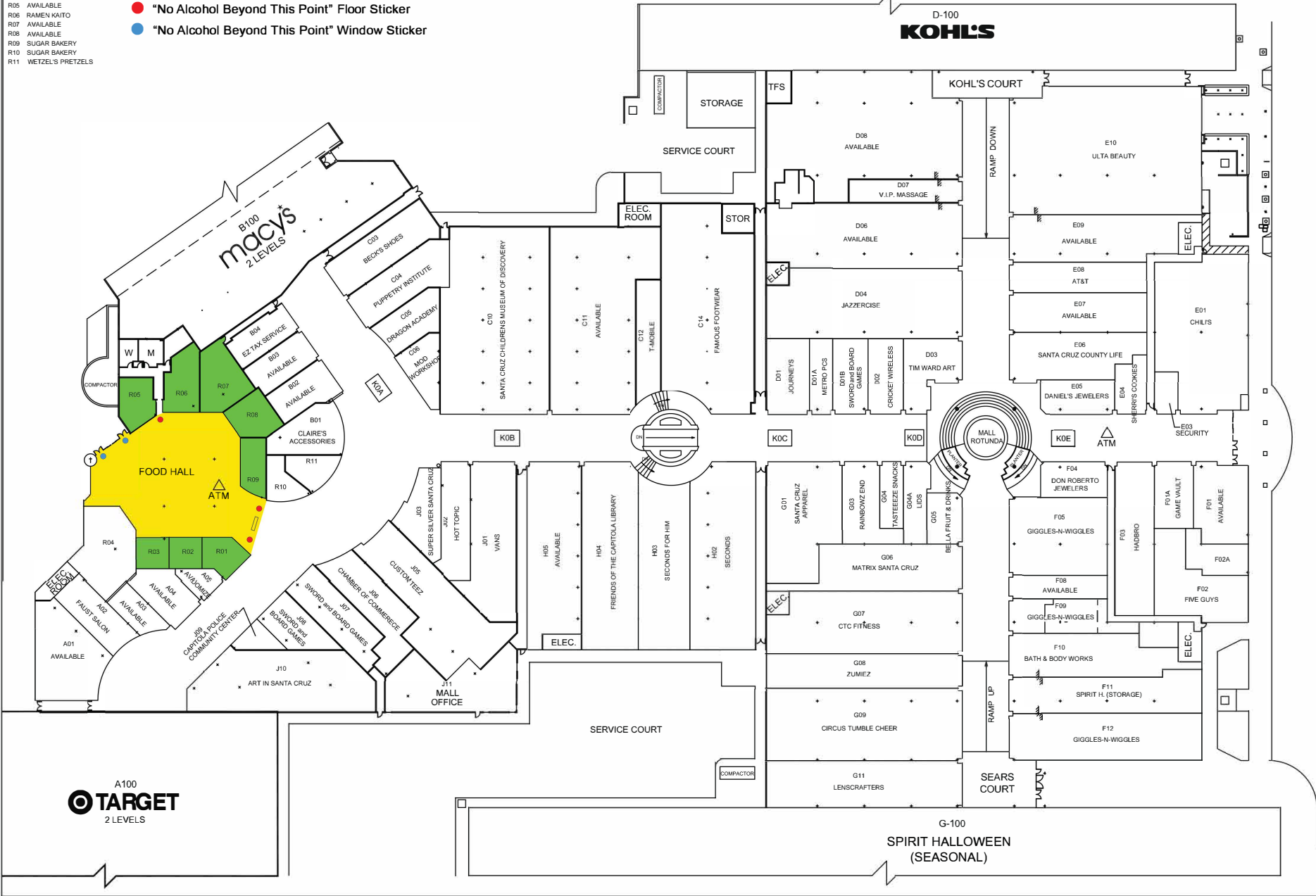
LAST UPDATED: 2-14-23
 BY: DU

Site Plan



- R01 TAQUIZAS GABRIEL
- R02 FESTA COFFEE
- R03 TERRA SUPERFOODS
- R04 AVAILABLE
- R05 AVAILABLE
- R06 RAMEN KAITO
- R07 AVAILABLE
- R08 AVAILABLE
- R09 SUGAR BAKERY
- R10 SUGAR BAKERY
- R11 WETZEL'S PRETZELS

- Proposed Beer and Wine Consumption Area
- Proposed Spaces Permitted to Sell
- "No Alcohol Beyond This Point" Floor Sticker
- "No Alcohol Beyond This Point" Window Sticker



A100
TARGET
 2 LEVELS

B100
macy's
 2 LEVELS

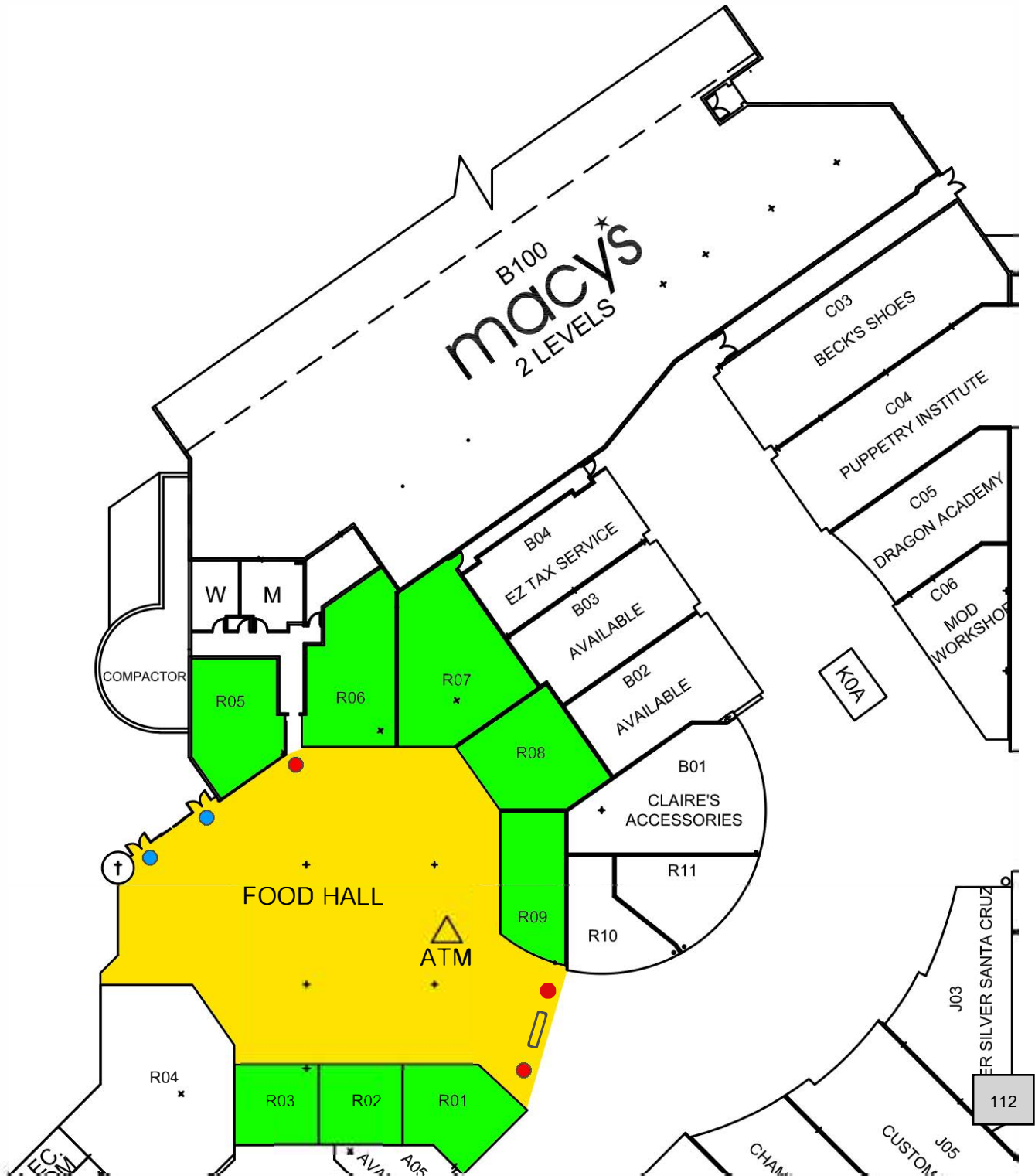
D-100
KOHL'S

G-100
SPIRIT HALLOWEEN
 (SEASONAL)

Food Hall

- R01 TAQUIZAS GABRIEL
- R02 FESTA COFFEE
- R03 TERRA SUPERFOODS
- R04 AVAILABLE
- R05 AVAILABLE
- R06 RAMEN KAITO
- R07 AVAILABLE
- R08 AVAILABLE
- R09 SUGAR BAKERY
- R10 SUGAR BAKERY
- R11 WETZEL'S PRETZELS

- Proposed Beer and Wine Consumption Area Item 6 C.
- Proposed Spaces to be Permitted to Sell
- "No Alcohol Beyond This Point" Floor Sticker
- "No Alcohol Beyond This Point" Window Sticker



Food Court Tenant Spaces and Eligibility for Obtaining an Alcohol License

Tenant Suite	Current Tenant	Alcohol Eligibility
R01	Taquizas Gabriel	Yes
R02	Festa Coffee	Yes
R03	Terra Superfoods	Yes
R04	UNAVAILABLE TO LEASE	No
R05	Vacant	Yes
R06	Ramen Kaito	Yes
R07	Vacant	Yes
R08	Vacant	Yes
R09	Sugar Bakery	Yes*
R10*	Sugar Bakery	No
R11	Wetzel's Pretzels	No

*Sugar Bakery currently occupies two tenant spaces, with one of space located within the eligible alcohol premises area. The business could obtain a license provided all front-end activity (sales and customer service of alcohol) take place within the appropriate tenant space.



422 CAPITOLA AVENUE
CAPITOLA, CALIFORNIA 95010
TELEPHONE (831) 475-4242
FAX (831) 479-8881

ANDREW J. DALLY
CHIEF OF POLICE

July 11, 2023

District Administrator
California Department of Alcoholic Beverage Control
1137 Westridge Parkway
Salinas, CA 93907

Reference: Capitola Mall Food Court
1855 41st Avenue, Capitola, CA 95010 (Proposed location)
Conditional Use Permit – Tenant Beer & Wine Sales

Dear Administrator,

The applicant, Merlone Geier Partners, applied to the City of Capitola on February 2, 2023, to allow Capitola Mall food court restaurants to obtain ABC licenses, authorizing the sale of beer and wine at their businesses located at 1855 41st Avenue in the city of Capitola.

The shared facility is in police responsibility area 4401 and U.S. census tract number 1217.02. The site is in a high-crime area and the census tract is over-concentrated (23 active retail licenses) with alcohol establishments, thus any new or modified alcohol use would require a Letter of Necessity and Convenience.

Although this application does not directly require a Letter of Necessity and Convenience, the Chief of Police has considered the application for future alcohol uses that could be applied under its framework.

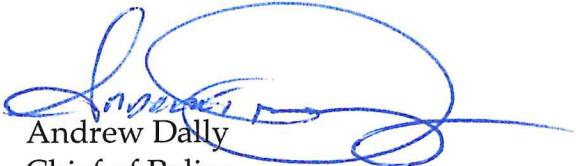
This letter of support is provided with the understanding that conditions placed by the City of Capitola on the businesses' special use permit are incorporated in subsequent licenses issued by the ABC. Such conditions shall include:

1. Businesses seeking ABC licenses shall participate in an employee training program, with a curriculum that includes not only business-related activities but also a section on ABC Laws. Businesses show commitment to training employees and agree to take part in future ABC LEADS (Licensee Education on Alcohol and Drugs) workshops.

2. Prior to obtaining an ABC license, each participating business shall be required to obtain a Letter of Necessity and Convenience from the Chief of Police, reviewed on a case-by-case basis.

In summary, the Capitola Mall and food court establishments have been beneficial business partners to our city, and I believe they will continue to provide positive economic vitality with very few public safety concerns should the application be approved.

Sincerely,



Andrew Dally
Chief of Police

cc: Sean Sesanto, Associate Planner, Community Development Department

AD/AJD