



AGENDA

CAPITOLA PLANNING COMMISSION

Thursday, October 3, 2013 – 7:00 PM

Chairperson Mick Routh
Commissioners Ron Graves
 Gayle Ortiz
 Linda Smith
 TJ Welch

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda

B. Public Comments

*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.*

C. Commission Comments

D. Staff Comments

3. APPROVAL OF MINUTES

A. September 5, 2013, Regular Meeting Minutes

4. 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. 812 Laurence Avenue #13-127 APN: 036-052-08

Design Permit for a 306-square-foot addition to an existing Single Family Home in the R-1 (Single Family) Zoning District.

Environmental Determination: Categorical Exemption

Property Owner: Paul Pashby, filed: 9/10/13

Representative: Ron Ragsdale

5. 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) Public Discussion; 3) Planning Commission Comments; 4) Close public portion of the Hearing; 5) Planning Commission Discussion; and 6) Decision.

A. 1900 41st Avenue #12-155 APN: 034-201-37

Amendment to existing Conditional Use Permit to incorporate a bar use and allow live entertainment in the CC (Community Commercial) Zoning District.
Environmental Determination: Categorical Exemption
Property Owner: R. Deane
Representative: Pedro Salazar, filed 11/21/2012

B. 100 Central Avenue #11-136 APN: 036-131-10

Plan revisions to a previously approved design permit for a new two-story single-family dwelling in the R-1 (Single-Family Residence) Zoning District.
Property Owner: Jill Caskey & Bruce Yoxsimer, filed 12/15/11
Representative: Derek Van Alstine

6. DIRECTOR'S REPORT

7. COMMISSION COMMUNICATIONS

8. ADJOURNMENT

Adjourn to the next Planning Commission on Thursday, November 7, 2013 at 7:00 PM, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

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: Conditional Use Permit, Variance, and Coastal Permit. The decision of the Planning Commission pertaining to an Architectural and Site Review can be appealed to the City Council within the (10) working days following the date of the Commission action. If the tenth day falls on a weekend or holiday, the appeal period is extended to the next business day.

All appeals must be in writing, 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 one hundred forty two dollar (\$142.00) 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 7:00 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.ci.capitola.ca.us. Agendas are also available at the Capitola Branch Library, 2005 Wharf Road, Capitola, on the Monday prior to the Thursday meeting. 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 at 12:00 Noon on the Saturday following the meetings on Community Television of Santa Cruz County (Charter Channel 71 and Comcast Channel 25). Meetings can also be viewed from the City's website: www.ci.capitola.ca.us

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**DRAFT MINUTES
CAPITOLA PLANNING COMMISSION MEETING
THURSDAY, SEPTEMBER 5, 2013
7 P.M. – CAPITOLA CITY COUNCIL CHAMBERS**

Chairperson Routh called the Regular Meeting of the Capitola Planning Commission to order at 7 p.m.

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

Commissioners: Ron Graves, Gayle Ortiz, and TJ Welch and
Chairperson Mick Routh. Absent: Commissioner Linda Smith

2. ORAL COMMUNICATIONS

- A. Additions and Deletions to Agenda - None
- B. Public Comments

Scott Muster, a resident of 1066 41st Avenue, expressed concern about the impact of four new businesses opening in his complex and nearby. He also noted that traffic calming projects are underway at the intersections of a number of residential streets in the same area. He has learned one building, 1030 41st Avenue, has been leased to a brewery and has only 12 parking spaces. He added that there are only 22 spaces total for the other three commercial locations in his building, which he also believes will not be adequate and fears customer parking will displace resident vehicles. He wished to bring these concerns to the Commission in case it has any recourse to mitigate the situation.

- C. Commission Comments - None
- D. Staff Comments - None

3. APPROVAL OF MINUTES

- A. August 1, 2013, Regular Planning Commission Meeting

A motion to approve the Aug. 1, 2013, meeting minutes was made by Commissioner Graves and seconded by Commissioner Ortiz.

The motion carried by the following vote: Aye: Commissioners Graves, Ortiz, and Welch and Chairperson Routh. No: None. Abstain: None.

4. CONSENT CALENDAR

No items.

5. PUBLIC HEARINGS

- A. **100 Central Avenue #11-136 APN:036-131-10**

Plan revisions to a previously approved design permit for a new two-story single-family dwelling in the R-1 (Single-Family Residence) Zoning District.
Property Owner: Jill Caskey & Bruce Yoxsimer, filed 12/15/11

Representative: Derek Van Alstine

Senior Planner Katie Cattan explained that this project was returning to the Planning Commission for review after she discovered on final site review that the home did not appear to match the approved plans. She noted the approval conditions called for Commission review of any significant changes. The new second-story materials and relocation of doors and windows constitute significant changes in her opinion.

She also offered an overview of department suggestions to catch such changes earlier in the building process. Commissioners indicated they would like to deal with those options separately from this review.

Chairman Routh opened the public hearing. Applicant Bruce Yoxsimer said the finished home adopted more of a storybook style than the initial application and acknowledged that his designer had warned him that changes may require new drawings. He said at the time the changes did not seem significant, but he now understands the process and the need for review.

No members of the public spoke and Chairman Routh closed the public hearing.

Commissioner Welch said he can empathize with the applicant. The City has a role in that the building inspector should notice changes to the plan and address concerns sooner, but Commissioner Welch acknowledged that recent planning staff transition could make coordination more difficult. He was not on the Commission when this project was approved, but feels that these finishes would have received approval.

Chairman Routh disagreed, and recalled a discussion of historical elements used in the design to grant an additional two feet in height to the home. The Tudor style was used as a reason.

Commissioner Ortiz agreed about the importance of historical elements in the discussion. She feels that in addition to the finishes, the relocated door and different style and apparent size of windows is another significant change.

Commissioner Graves expressed frustration that the changes were not caught by building inspection when doors and windows were framed. He said the changes do not enhance the design and the extra height was based on the design. He feels a penalty or corrections would be appropriate.

Commissioner Ortiz agreed that efforts should be made to bring the design closer to the original plan. In response to her question, the applicant said the window style was changed when the first choice was not available, but he did not believe the size of the second-story window was. She suggested continuing the item to allow time to check.

Chairperson Routh suggested the applicant could come back with new drawings incorporating some of the missing elements.

A motion to continue application #11-136 to the October 3, 2013, meeting and to request a submittal reflecting the previous historic design elements was made by Chairman Routh and seconded by Commissioner Ortiz.

The motion carried by the following vote: Aye: Commissioners Graves and Ortiz, and Chairperson Routh. No: Chairperson Welch. Abstain: None.

B. McGregor Drive #13-097 APN:036-341-02

Design Permit for a 700-square-foot structure and a tree removal permit in the PF-VS (Public Facilities/Visitor Serving) Zoning District.

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

Environmental Determination: Mitigated Negative Declaration

Property Owner: Soquel Creek Water District, filed 7/19/2013

Representative: Michael J. Wilson

Senior Planner Cattan presented the staff report. The project has a previously adopted mitigated negative declaration. She noted the commissioners received an amended list of conditions reflecting the fact that the water district as a public entity does not go through the building permit process and new conditions instead require final review with planning staff.

Chairperson Routh asked about the decision to accept in-lieu payment for trees removed rather than replanting. Senior Planner Cattan said records indicate it was to avoid disturbing existing vegetation in nearby seasonal wetlands. Commissioner Graves asked what necessitated the removal of a Monterey pine.

Chairman Routh opened the public hearing and Taj Dufour spoke on behalf of the applicant. He was uncertain why the tree was marked for removal, but thought perhaps fill against the retaining wall or footing may impact the drip line. He offered to try to preserve the tree, but could not guarantee it would survive.

Commissioner Ortiz asked how much money the City has in the urban tree account with the in-lieu payments, and staff will follow up.

A motion to approve project application #13-097 with the following conditions and findings was made by Commissioner Ortiz and seconded by Commissioner Welch:

CONDITIONS:

1. The project approval consists of construction of a 700-square-foot structure to enclose a new water pump station at 1510 McGregor Drive in the PF-VS (Public Facilities/Visitor Serving) zoning district. Approval of a Coastal Development Permit, a Design Permit, and a Tree Removal Permit are required prior to construction.
2. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on September 5, 2013, except as modified through conditions imposed by the Planning Commission at the time of the hearing. A set of construction documents will be submitted to the Community Development Department prior to commencement of construction for review of compliance with the Coastal Permit. Final construction plans shall reflect the set of plans approved by the Planning Commission. All construction shall be completed according to the construction plans.
3. Any modifications to approved plans must be specifically requested and approved in writing prior to execution. Minor modifications to the design permit (i.e. minor material change, color change) shall require Community Development Department approval. Any significant changes (increase in size, modification to massing) shall require Planning Commission approval.
4. At the time of construction plan review by the Community Development Department, compliance with all conditions of approval shall be demonstrated to the satisfaction of the

Community Development Director. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.

5. The construction of the plans as presented will require the removal of 5 trees, including 4 coast live oak and 1 Monterey pine. The in-lieu fee will be deposited into the community tree and forest management account. The in-lieu fee adopted by resolution 04-3332 is \$600 per tree. The applicant is required to replace 5 trees at a 2 to 1 ratio (10 trees total). The in-lieu fee for the project is \$6,000. The in-lieu fee must be deposited prior to the start of construction.
6. All work shall be completed per submitted construction plans and the erosion control plan shall be strictly followed. Erosion control and sediment management devices shall be installed by the applicant and inspected by City Public Works prior to initiating work.
7. Prior to initiating any construction activity during the nesting period (February 1 to August 31), a pre-construction nesting bird survey for the presence of raptors and Migratory Bird Treaty Act (MBTA) species shall be conducted by a qualified biologist within 30 days prior to construction activities to establish the status of these species on the project site and to identify any active nests within 200 feet of the project site. If ground-disturbing activities are delayed or suspended for more than 30 days after the preconstruction survey during the nesting period, the site shall be resurveyed. If occupied raptor nests or other nesting MBTA are observed within 200 feet of the proposed project site, the CDFW shall be consulted to develop measures, including establishing an appropriate buffer distance to avoid disturbance of nesting species, prior to the initiation of any construction activities.
8. Construction activities, involving major ground-disturbance, shall occur during the dry/low flow season between June 15 and October 15 in order to decrease the risk of sediment transport and erosion related to construction activities within the project area.
9. The District shall prevent any additional potential fill, erosion and sedimentation from entering the wetland area, other than the impact permitted for construction of the project, if any. Construction exclusion fencing shall be installed to separate the work area from the portion of the wetland not within the footprint of the proposed pump station. The District shall prevent erosion and sedimentation to the adjacent wetland habitats by installing construction fencing backed by silt fencing between the wetland and the work area. The boundary of the wetland will be staked by a qualified biologist and the biologist shall monitor the installation of the exclusion fence and silt fence materials. The fence and materials will be inspected and maintained throughout the construction period before being removed following the completion of construction.
10. The applicant shall conform to the following standards prior to and during project construction:
 - a. Existing vegetation not planned for removal and designated to remain shall be protected by using temporary barriers during grading, construction or related activities;
 - b. Off-pavement movement of heavy equipment and machinery shall be minimized to avoid unnecessary soil compaction; and
 - c. Grading or operation of heavy equipment within the drip line of any existing tree not planned for removal shall be prohibited to the extent feasible.
11. An inadvertent discovery clause for cultural resources shall be incorporated into the construction contract for the proposed project. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the District shall consult with a qualified

archaeologist to assess its significance as defined by Public Resources Code SS5024.1 Title CCR, Section 4852 or Public Resources Code section 21083.2. If any find is determined to be significant, representatives of the District and the qualified archaeologist would meet to determine the appropriate course of action. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and a report prepared by the qualified archaeologist according to current professional standards.

12. An inadvertent discovery clause for paleontological resources shall be incorporated into the construction contract for the proposed project. The District shall notify a qualified paleontologist of unanticipated discoveries, made by construction personnel and subsequently document the discovery as needed. In the event of an unanticipated discovery of a breas, true, and/or trace fossil during construction, excavation within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find.
13. If human remains of Native American origin are discovered during project construction, it is necessary to comply with the state laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (NAHC) (Public Resources Code Section 5097). If any human remains are discovered in any location on the project site, there will be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:
 - a. The Santa Cruz County coroner has been informed and has determined that no investigation of the cause of death is required; and
 - b. If the remains are of Native American origin:
 - i. The descendants of the deceased Native Americans have made a recommendation regarding the disposition of remains and any associated grave goods, as provided in Public Resources Code Section 5097.98; or
 - ii. The NAHC was unable to identify a descendant or the descendant failed to make a recommendation within 24 hours after being notified.
14. Prior to any construction activity, the project applicant shall incorporate all applicable recommendations of the design-level geotechnical study and comply with all applicable requirements of the most recent version of the California Building Standards Code. All onsite soil engineering activities shall be conducted under the supervision of a licensed Geotechnical Engineer or Certified Engineering Geologist.
15. Construction equipment shall be properly outfitted and maintained with noise-reduction devices to minimize construction-generate noise. Wherever possible, noise generating construction equipment shall be shielded from nearby residences by noise attenuating buffers, such as structures or trucks. Stationary construction equipment shall be centrally located on site at the greatest distance possible from nearby noise-sensitive receptors.
16. There shall be no staging of construction materials in the road right-of-way.
17. Hours of construction shall be Monday to Friday 7:30 a.m. – 9 p.m., and Saturday 9 a.m.– 4 p.m., per City ordinance.
18. Planning fees for project application #13-097 shall be paid in full prior to construction.
19. This permit shall expire 24 months from the date of issuance, unless an application for an extension is submitted prior to expiration pursuant to Municipal Code section 17.81.160.

FINDINGS**A. The application, subject to the conditions imposed, secures the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**

Community Development Department Staff and the Planning Commission have reviewed the project and have determined that the proposed 700-square-foot structure to enclose a new water pump station complies with the Public Facilities/Visitor Serving zoning district in that the new structure is a principle permitted use. The structure and subsequent utility improvements are located within the coastal zone and therefore subject to approval of a Coastal Development Permit by the Planning Commission. The development conforms to the certified Local Coastal Program as outlined in the Local Coastal Plan findings in Attachment C. A design permit is required for the new structure. The water pump station is oriented on the site to minimize site disturbance. The 12-foot high, simple design of the structure combined with a natural vegetative screen along the public right-of-way is appropriate for the use and intent of the property. A tree removal permit is required for the removal of 5 onsite trees. This impact will be mitigated through the collection of in-lieu fees into the Capitola Community Tree and Forest Management Account. The project conforms to the requirements of the Local Coastal Program and conditions of approval have been included to carry out the objectives of the Zoning Ordinance, General Plan, and Local Coastal Plan.

B. The project complies with the requirements of the California Environmental Quality Act.

A Mitigated Negative Declaration has been prepared based upon the findings of an Initial Study which identified that the project may have a significant effect on the environment. The Mitigated Negative Declaration was circulated for a 30 day public review period. The Mitigated Negative Declaration was adopted on February 5, 2013, within Resolution 13-05. Mitigation measures have been incorporated into the conditions of approval to ensure that impacts are reduced to a less than significant level.

The motion carried by the following vote: Aye: Commissioners Graves, Ortiz, and Welch and Chairperson Routh. No: None. Abstain: None.

C. 410 Bay Avenue #13-102 APN: 036-062-35

Design Permit to construct a single-family dwelling in the RM-M (Multiple Family) Zoning District.

Environmental Determination: Categorical Exemption

Property Owner: Gerry Jensen and Heather Haggerty, filed 7/29/2013

Representative: Gerry Jensen

This item was heard following item 5D. Commissioner Ortiz recused herself because she owns a business in proximity to the project.

Senior Planner Cattan presented the staff report. She noted commissioners received copies of an email opposing the driveway location to the back flag lot, but explained as a lot of record it cannot be addressed in this hearing. At Chairman Routh's request, she provided material samples for Commission review.

Chairman Routh opened the public hearing. Applicant Gerry Jensen described the location of the fourth parking space, which uses turf pavers, in front of the home. He noted that parking had been a topic of discussion at the Architectural and Site Commission review. Senior Planner Cattan explained that the home is 88 square feet over the limit for three spaces.

There was no public comment and Chairman Routh closed the hearing.

Commissioner Graves said he supports the project on the unusual lot. He added he would have supported a variance to parking to allow only three spaces.

Chairman Routh responded to the email, noting that the application conforms to zoning requirements, while the property owned by Mr. Reding does not, and Chairman Routh would not support changing a conforming project to accommodate a nonconforming structure.

A motion to approve project application #13-102 with the following conditions and findings was made by Commissioner Welch and seconded by Commissioner Graves:

CONDITIONS

1. The project approval consists of construction of a new 2,688-gross-square-foot, single-family home with an attached secondary dwelling unit. The maximum Floor Area Ratio for the property is 2,703 square feet. The FAR of the primary residence is 2,195 square feet. The secondary dwelling unit is 493 square feet. The secondary dwelling unit may not exceed 500 square feet.
2. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on September 5, 2013, except as modified through conditions imposed by the Planning Commission at the time of the hearing. A building permit shall be secured for any new construction or modifications to structures, including interior modifications, authorized by this permit. Final building plans shall reflect the set of plans approved by the Planning Commission. All construction shall be completed according to the approved plans on which building permits are issued.
3. Any modifications to approved plans after the issuance of any building permit must be specifically requested and approved in writing prior to execution. Minor modifications to the design permit (i.e. minor material change, color change) shall require Community Development Department approval. Any significant changes (increase in size, modification to massing) shall require Planning Commission approval.
4. Prior to building permit sign off, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Zoning Administrator or Community Development Director. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
5. Hours of construction shall be Monday through Friday 7:30 a.m. – 9 p.m., and Saturday 9 a.m. – 4 p.m., per city ordinance.
6. The utilities shall be underground to the nearest utility pole in accordance with PG&E and Public Works Department requirements. A note shall be placed on the final building plans indicating this requirement.
7. An encroachment permit shall be acquired for any work performed in the right-of-way.
8. The existing sidewalk will be cut for driveway access onto the property at 410 Bay Avenue. The sidewalk replacement shall be built to ADA standards.
9. A drainage plan or design shall be submitted with the final building plans, to the satisfaction of the Public Works Director.

10. The project shall implement Low Impact Development BMPs outlined in the *Slow it. Spread it. Sink it. Homeowner's Guide to Greening Stormwater Runoff* by the Resource Conservation District of Santa Cruz County. The applicant shall provide details on the BMPs implemented and with a goal of not allowing more than 25% of total impervious area from discharging directly from the site.
11. The final landscape plan shall be submitted with the building permit application and will include the specific number of plants of each type and their size, as well as the irrigation system to be utilized. Front yard landscaping and all trees shall be installed prior to final building occupancy.
12. Planning fees associated with permit #13-102 shall be paid in full prior to building permit issuances.
13. Affordable housing in-lieu fees shall be paid as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance. Any appropriate fees shall be paid prior to building permit issuance.
14. Prior to granting of final occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Zoning Administrator or Community Development Director.
15. This permit shall expire 24 months from the date of issuance, unless an application for an extension is submitted prior to expiration pursuant to Municipal Code section 17.81.160.

FINDINGS

A. The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.

Community Development Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project conforms to the development standards of the RM-M (Multi-family) and R-1 (Single Family Residence) Zoning Districts. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance, General Plan and Local Coastal Plan.

B. The application will maintain the character and integrity of the neighborhood.

Community Development Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project conforms to the development standards of the RM-M (Multi-family district) and R-1 (Single Family Residence) Zoning District. Conditions of approval have been included to ensure that the project maintains the character and integrity of the neighborhood. The proposed single-family residence with a secondary dwelling unit compliments the existing mix of single-family and multi-family residential in the neighborhood in use, mass and scale, materials, height, and architecture.

- C. **This project is categorically exempt under Section 15303(a) of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

This project involves construction of a new single-family residence in the RM-M (multi-family residence) Zoning District. Section 15303 of the CEQA Guidelines exempts the construction of a single-family residence in a residential zone.

The motion carried by the following vote: Aye: Commissioners Graves, Ortiz, and Welch and Chairperson Routh. No: None. Abstain: None.

D. 1855 41st Avenue, E-1 #13-105 APN: 034-261-37

Design Permit to remodel an existing storefront (Chili's restaurant) located in the CC (Community Commercial) Zoning District.

Environmental Determination: Categorical Exemption

Property Owner: The Macerich Company, filed: 08/02/2013

Representative: Roger Nelson

This item was heard following 5B.

Senior Planner Cattan presented the staff report. She noted the project conforms to the 41st Avenue guidelines.

Commissioner Graves asked if the project required any changes to the ADA parking and was told none is proposed. Commission Ortiz confirmed the size of the new sign, 7'8" by 4'5". Commissioner Graves said he would also like to see the standard language requiring maintenance of awning materials included in conditions of approval.

Chairman Routh opened the public hearing. J.J. Jamadar of Brinker represented the applicant, explaining the redesign is part of a national effort. Approximately half of more than 800 Chili's locations have already undergone the redesign and it has been well received. There was no public comment and the public hearing was closed.

A motion to approve project application #13-105 with the following conditions and findings was made by Commissioner Graves and seconded by Commissioner Ortiz:

CONDITIONS

1. The project approval consists of a design permit for the exterior remodel to the siding and installation of a new awning for the Chili's Restaurant located in the Capitola Mall at 1855 41st Avenue.
2. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on September 5, 2013, except as modified through conditions imposed by the Planning Commission at the time of the hearing. A building permit shall be secured for any new construction or modifications to structures, including interior modifications, authorized by this permit. Final building plans shall reflect the set of plans approved by the Planning Commission. All construction shall be completed according to the approved plans on which building permits are issued.

3. Any modifications to approved plans after the issuance of any building permit must be specifically requested and approved in writing prior to execution. Minor modifications to the design permit (i.e. minor material change, color change) shall require Community Development Department approval. Any significant changes (increase in size, modification to massing) shall require Planning Commission approval.
4. Prior to building permit sign off, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Zoning Administrator or Community Development Director. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
5. Planning fees associated with permit #13-105 shall be paid in full prior to building permit issuance.
6. This permit shall expire 24 months from the date of issuance, unless an application for an extension is submitted prior to expiration pursuant to Municipal Code section 17.81.160.
7. The awning shall be maintained and replaced when it fails or materials begin to show significant signs of wear and tear.

FINDINGS

- A. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance and General Plan.**

The Planning Commission finds that the proposed exterior modifications comply with the zoning ordinance. The proposed modifications to the exterior elevations are limited to the exterior of the building with no changes in height, setbacks, and/or use. Updating existing commercial within commercial districts is reflective of the purposes of the General Plan.

- B. **The application will maintain the character and integrity of the neighborhood.**

The Community Development Department Staff and Planning Commission have reviewed the plans to ensure that the exterior modifications maintain the character and integrity of the Capitola Mall. The new materials complement the existing architecture of the mall and are appropriately located within existing horizontal bands of the building.

- C. **The new exterior materials, as designed and conditioned, are necessary and appropriate for the subject commercial site, in order to allow the site and the businesses located within it to be competitive with other businesses of a similar nature located elsewhere, and/or to be competitive with industry standards governing sale of the merchandise offered at the site.**

The new exterior materials are necessary and appropriate for the Capitola Mall, allowing it to be competitive with other regional malls. The proposed mix of new materials, including stucco panels, fabric awning, and fresh paint will modernize the existing, outdated façade.

- D. **The new exterior materials, as designed and conditioned, will not have a significant adverse effect on the character and integrity of the surrounding area.**

The new exterior materials are appropriate for a commercial retail center of this size, and will not have an adverse effect on the character and integrity of this commercial area.

- E. **This project is categorically exempt under the 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.**

This project involves the installation of new siding and a canopy on an existing commercial retail building. Section 15301(a) exempts existing facilities.

The motion carried by the following vote: Aye: Commissioners Graves, Ortiz, and Welch and Chairperson Routh. No: None. Abstain: None.

6. DIRECTOR'S REPORT

Community Development Director Rich Grunow reported that landscaping at Northcoast Orthodontics on 41st Avenue has been completed. He also noted staff followed up on Commission concerns about Orchard Supply outdoor merchandising. Management is cleaning the parking lot and will return with proposal to allow additional displays.

Upcoming meetings include the Monarch Cove Hotel EIR scoping on Sept. 16 and the General Plan Advisory Committee on Sept. 9 with the release of the draft General Plan revision. That document will be published on the website as well.

Director Grunow will be asking the City Council to consider an in-lieu parking fee allowing the City to dedicate a portion of the spots in the new Lower Pacific Cove. It would allow Village locations to purchase space and meet parking requirements off-site. He will also revisit the Village sandwich board sign trial, which received no applications since approval by Council.

Staff also wants to work with the Commission to develop standard conditions of approval that clarify expectations and processes for all involved.

In response to a question from Commissioner Welch, Director Grunow said the timing of the in-lieu program depends on whether the Coastal Commission does not require an amendment to the Local Coastal Plan to implement it.

7. COMMISSION COMMUNICATIONS

Commissioner Routh complimented staff efforts to enforce standards such as signs and temporary sales that have been of concern to the Commission.

8. ADJOURNMENT:

The Planning Commission adjourned the meeting at 8:21 p.m. to a Regular Meeting of the Planning Commission to be held on Thursday, Oct. 3, 2013, at 7 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

Approved by the Planning Commission on Oct. 3, 2013.

Linda Fridy, Minute Clerk

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STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: OCTOBER 3, 2013

SUBJECT: **812 Laurence Avenue #13-127 APN: 036-052-08**
Design Permit for a 306-square-foot addition to an existing Single Family Home in the R-1 (Single Family) Zoning District.
Environmental Determination: Categorical Exemption
Property Owner: Paul Pashby, filed 9/10/13
Representative: Ron Ragsdale

APPLICANT PROPOSAL

The applicant has submitted a Design Permit application for a 306 square-foot addition to an existing Single Family Home located at 812 Laurence Avenue. The project is located in the R-1 (Single Family) zoning district. The proposed addition is located on the front of the home and includes extending the front wall of the home 9 feet and the garage 3 feet toward the front property line. An addition to the front façade of an existing structure requires approval of a Design Permit by the Planning Commission.

BACKGROUND

On September 25, 2013, the Architectural and Site Review Committee reviewed the application.

- City Design Representative, Derek Van Alstine, approved of the overall design of the addition and supported the exception to the driveway length.
- City Landscape Architect representative, Susan Suddjian, was unable to attend the meeting.
- City Public Works Director, Steve Jesberg, reviewed the plans and did not request any changes.
- City Building Official, Mark Wheeler, reviewed the plans and did not request any changes.

Site and Structural Data

The project conforms with all R-1 (single family) zoning district standards, as follows:

Floor Area Ratio (FAR)		
Lot Size		6,000 sq. ft.
Maximum FAR Allowed	49%	2,940 sq. ft.
Proposed FAR	35%	2,103 sq. ft.
Proposed Square Footage		
Existing First Floor		1,433 sq. ft.
First Floor Addition		243 sq. ft.
	Total	1,676 sq. ft.
Existing Garage		367 sq. ft.
Garage Addition		63 sq. ft.
	Total Garage	430 sq. ft.
	Floor Area	2,106 sq. ft.
Set Back		
	R-1 District	Proposed
Front	15'	24'
Rear	20% depth of lot: 20'	27'
Side Yard	10% width of lot: 6'	5' *
*Section 17.15.120.C states Single-story additions to existing single-story residential units which do not exceed fifty percent of the length of the average of two sides of the structure may be constructed at the same setback as the existing structure, as long as a minimum four-foot setback remains.		
Building Height		
	R-1 District	Proposed
Residential	25'-0"	15'-4"
Parking		
	Required	Proposed
Residential (2,001 sq. ft. – 2,600 sq. ft.)	3 spaces total Minimum 1 covered 2 uncovered	4 spaces total 2 covered 2 uncovered

DISCUSSION

The proposed addition includes a nine foot extension of the front façade of the home toward the front property line. The front yard setback in the R-1 District on the first floor is 15 feet. The proposed addition is setback 36 feet from the property line. This portion of the addition will accommodate an interior remodel to enlarge the bedrooms and closets within the home. The living area will be increased by 243 feet.

Materials for the addition will match the existing materials on the home. The front façade of the home will be painted wood lap siding. The extended façade along the side of the home will be stucco to match existing. Two new dormers are proposed within the roof on the front façade of the structure.

Parking

The proposed 243 square foot addition is greater than 10% of the gross floor area of the existing home (1,433 sq. ft.). Per Capitola Municipal Code Section 17.15.130.A.9, “no additional square footage exceeding 10 percent of the existing gross floor area may be added to an existing single-family residential unit, unless minimum parking requirements are met.”

The new gross floor area of the home, including the garage, will be 2,106 square feet. Three parking spaces are required, including 1 interior space and 2 exterior. There is an existing substandard garage onsite with an interior space 20 feet wide by 17 feet 5 inches in length. Interior parking spaces are required to be a minimum of 10 feet wide by 20 feet deep. To bring the interior parking into compliance with the parking requirements, the application included an addition to the garage to extend the length by 3 feet. The applicant is proposing 2 interior parking spaces and 2 exterior parking spaces on the driveway. The driveway length is 19 feet measured to the property line. This is 1 foot less than the required 20 feet for exterior spaces. The applicant is requesting an exception to the 20 foot requirement. Staff supports this request due to the existing conditions of a 7 foot portion of the driveway extending from the property line to the curb and gutter, resulting in a total driveway length of 26 feet. There is no sidewalk along Laurence Avenue.

Landscaping

The applicant is not proposing any new landscaping on the site. There are established landscape beds along the front and rear property lines.

CEQA REVIEW

Section 15301(e) of the CEQA Guidelines exempts the addition to existing structures provided that the addition will not result in an increase of more than 50% of the existing structure or more than 2,500 square feet, whichever is less. This project involves a 306 square foot addition to an existing home located in the single family residential (R-1) zoning district. No adverse environmental impacts were discovered during review of the proposed project.

RECOMMENDATION

Staff recommends the Planning Commission **approve** project application #13-127 based on the following Conditions and Findings for Approval.

CONDITIONS

1. The project approval consists of construction of a 306 square-foot addition to an existing single-family home. The maximum Floor Area Ratio of 49% for the property is 2,940 square feet. The FAR of the primary residence is 35% with a total of 2,105 square feet.
2. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on October 3, 2013, except as modified through conditions imposed by the Planning Commission at the time of the hearing. A building permit shall be secured for any new construction or modifications to structures, including interior modifications, authorized by this permit. Final building plans shall reflect the set of plans approved by the Planning Commission. All construction shall be completed according to the approved plans on which building permits are issued.
3. Any modifications to approved plans after the issuance of any building permit must be specifically requested and approved in writing prior to execution. Any significant changes shall require Planning Commission approval.
4. Prior to building permit sign off, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Zoning Administrator or Community Development Director. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
5. Hours of construction shall be Monday through Friday 7:30 a.m. – 9 p.m., and Saturday 9 a.m. – 4 p.m., per city ordinance.

6. An encroachment permit shall be acquired for any work performed in the right-of-way.
7. A drainage plan or design shall be submitted with the final building plans, to the satisfaction of the Public Works Director.
8. The project shall implement Low Impact Development BMP's outlined in the *Slow it. Spread it. Sink it. Homeowner's Guide to Greening Stormwater Runoff* by the Resource Conservation District of Santa Cruz County. The applicant shall provide details on the BMPs implemented and with a goal of not allowing more than 25% of total impervious area from discharging directly from the site.
9. Planning fees associated with permit #13-127 shall be paid in full prior to building permit issuances.
10. Affordable housing in-lieu fees shall be paid as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance. Any appropriate fees shall be paid prior to building permit issuance.
11. Prior to granting of final occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Zoning Administrator or Community Development Director.
12. This permit shall expire 24 months from the date of issuance, unless an application for an extension is submitted prior to expiration pursuant to Municipal Code section 17.81.160.

FINDINGS

A. The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.

Community Development Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project conforms to the development standards of the R-1 (Single Family Residence) Zoning Districts. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance, General Plan and Local Coastal Plan.

B. The application will maintain the character and integrity of the neighborhood.

Community Development Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project conforms to the development standards of the R-1 (Single Family Residence) Zoning District. Conditions of approval have been included to ensure that the project maintains the character and integrity of the neighborhood. The proposed addition to the single-family residence compliments the existing single-family homes in the neighborhood in use, mass and scale, materials, height, and architecture.

- C. **This project is categorically exempt under Section 15301(e) of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

This project involves an addition to an existing single-family residence in the R-1 (single family residence) Zoning District. Section 15301 of the CEQA Guidelines exempts minor additions to existing single-family residences in a residential zone.

ATTACHMENTS

- A. Project Plans

**Report Prepared By: Katie Cattan
Senior Planner**

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STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: OCTOBER 3, 2013

SUBJECT: **1900 41ST AVENUE #12-155 APN 034-201-10**
 Amendment to an existing restaurant Conditional Use Permit (*Capitola Diner*) to incorporate a bar use and allow live entertainment in the CC (Community Commercial) Zoning District.
 Environmental Determination: Categorical Exemption
 Property Owner: R. Deane, filed: 11/21/12
 Representative: Pedro Salazar

APPLICANT'S PROPOSAL

The applicant is requesting an amendment to an existing restaurant (*Capitola Diner*) Conditional Use Permit (CUP) to incorporate a bar use and allow live entertainment at 1900 41st Avenue in the CC (Community Commercial) Zoning District. The applicant is also requesting that the hours of operation be extended to 12:30 a.m. on Friday and Saturday nights.

BACKGROUND

The Planning Commission previously reviewed this application on January 1, 2013. During the January meeting, the Commission continued the application for 9 months due to concerns of recent police violations at 1900 41st Avenue. Since 2011, the police department has responded to three incidents at the restaurant involving live entertainment without a valid entertainment permit. These incidents involved a disc jockey (DJ) playing music, large crowds, and other live entertainment including strippers.

In preparation for the September 5, 2013, Planning Commission meeting, Community Development staff requested an update from Chief of Police Rudy Escalante. Chief Escalante reported that no repeat violations had occurred since January 17, 2013. In a memorandum to Community Development Staff, Chief Escalante restated his opposition to the CUP due to potential public nuisance activity and increased public safety concerns. In his memo, he outlined conditions that should be implemented to minimize neighborhood impacts and decrease criminal activity (Attachment A: Memo). All suggested conditions listed in the Chief's memo are conditions which are required for an entertainment permit at the time of issuance by the Police Department. Chief Escalante requested that the applicant create a management plan outlining how all the conditions would be met prior to review by the Planning Commission.

The Community Development staff contacted the applicant on August 13, 2013, requesting a management plan. The applicant requested that the application be heard at the October 3, 2013 Planning Commission meeting to have additional time to draft the management plan. Staff requested that the management plan be submitted by September 20, 2013, for the October meeting. On September 10, 2013, staff received a letter from the applicant's representative, Geoffrey Williams. A management plan was not included with the letter. (Attachment B: Letter

from Geoffrey Williams) Staff contacted Mr. Williams and discussed the requested management plan. Following this conversation, staff expected a management plan to be submitted by September 20, 2013. A management plan was not submitted.

DISCUSSION

The Capitola Diner is located at 1900 41st Avenue. The Capitola Diner has operated as a restaurant with a small bar area since June 18, 2009. The operating hours for the restaurant/bar are 8 a.m.-10 p.m. The existing restaurant has applied for an amendment to the Conditional Use Permit to allow live entertainment and extend the existing business hours to 12:30 a.m. on Friday and Saturday nights. The restaurant would continue to serve food, but the bar would also be open for customers.

The restaurant has had a small bar for many years which was recently updated, but not enlarged (Attachment C). It is approximately 5'x15' in size, and is still a small percentage of the overall square footage of the restaurant. The interior of the restaurant consists mostly of fixed bench seating and tables. No changes are proposed to the interior or exterior of the building as part of this application. A dance floor is not being proposed.

The Capitola Diner is located within the Community Commercial (CC) zoning district. Adjacent land uses include retail and office space along 41st Avenue and multi-family residential along the rear property line to the East. The properties to the east are located in the Residential Multiple Family (RM-M) zoning district.

Section 17.60.030 outlines the considerations in the review of a Conditional Use Permit application. The following underlined considerations are applicable to the current application and must be reviewed by the Planning Commission prior to approval of a CUP.

A. In considering an application for a conditional use, the planning commission shall give due regard to the nature and condition of all adjacent uses and structures. In issuing a conditional use permit, the commission may impose requirements and conditions with respect to location, design, siting, maintenance and operation of the use in addition to those expressly provided in this chapter for the particular use, as may be necessary for the protection of the adjacent properties and in the public interest.

Staff analysis: The restaurant is located adjacent to the Residential Multiple Family (RM-M) zoning district. There are existing multi-family residential structures located adjacent to the site along Viga Street and a single family residence on Pearson Court. Late night noise from the proposed commercial entertainment establishment is an ongoing concern with this application. The applicant has not provided any mitigation measures to address the impacts of additional noise and extended hours of operation.

B. In approving a use permit, the commission may include such conditions as the commission deems reasonable and necessary under the circumstances to preserve the integrity and character of the district and to secure the general purposes of this title, the general plan, and the local coastal program. Such conditions, without limiting the discretion and authority of the commission, may include time limitations, further architectural and site review, street dedication, and street and drainage improvements.

Staff analysis: Staff requested that the applicant create a management plan to address how each of the conditions required by the Chief of Police would be managed. The applicant did not provide staff with a management plan as requested.

Section 9.12.010 of the Capitola Municipal Code prohibits any person, firm or corporation from making any “loud, boisterous, irritating, penetrating, or unusual noise” through operation of a business within 200 feet of any residence or place regularly used for sleeping purposes in the city between the hours of 10 p.m. and 8 a.m. of any day or days. The Capitola Diner is located adjacent to multi-family residential dwelling units. The applicant is requesting that the hours of operation be extended on Friday and Saturday to 12:30 am. The extended hours combined with an entertainment permit may cause a nuisance to the adjacent residential properties. The applicant has not provided adequate mitigation to address the future impacts of the proposed use on adjacent properties.

The City of Capitola General Plan includes a noise element with specific goals and policies. The general plan states that “the overall goal of the Capitola Community is to preserve the quiet that exists in the City.” The goals within the noise element are as follows:

Goal 1: Minimize vehicular and stationary noise sources and noises emanating from temporary activities.

Goal 2: Ensure that land uses and the noise environment are compatible.

Staff analysis: The requested amendments to the CUP do not compliment the goals of the Capitola General Plan. The stationary noise sources would be increased and such noise is not compatible with the adjacent residential properties.

RECOMMENDATION

The Community Development staff shares the concerns expressed by the Chief of Police. The applicant has failed to provide staff with a management plan to address how the operations will be managed to mitigate impacts to surrounding residential areas. Due to the noise generated by a commercial entertainment permit and the close proximity of the Capitola Diner to the adjacent residential neighborhood, staff recommends denial of the application.

FINDINGS

A. **The application, subject to the conditions imposed, will not secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**

Community Development Department Staff, Police Department Staff, and the Planning Commission have reviewed the project. The project proposes an incompatible land use that cannot be mitigated without proper management by the applicant. Modifying the Conditional Use Permit to allow for live entertainment and extended hours of operation will cause impacts to the adjacent residential dwelling units. The application does not reflect the objectives of the Zoning Ordinance and General Plan.

B. **The application will not maintain the character and integrity of the neighborhood.**

Planning Department Staff, Police Department Staff, and the Planning Commission have reviewed the project. The project does not conform to the conditional use permit standards of the Capitola Municipal Code. As proposed, the conditional use threatens the existing character and integrity of the area due to increased noise at late hours of the night.

- C. **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.**

The proposed project involves an amendment to an existing use permit with no expansion of use beyond what has currently existed. No adverse environmental impacts were discovered during project review by either the Planning Department Staff or the Planning Commission.

ATTACHMENTS

- A. Memorandum from Capitola Police Chief Rudy Escalante
- B. September 10, 2013, Letter from Applicant's Representative, Geoffry Williams
- C. January 17, 2013, Planning Commission staff report (Floor Plans in Attachments)

**Report Prepared By: Katie Cattan
Senior Planner**



INTEROFFICE MEMORANDUM

TO: KATIE CATTAN, SENIOR PLANNER
FROM: RUDY ESCALANTE, CHIEF OF POLICE
SUBJECT: **1900 41ST AVENUE APPLICATION, CAPITOLA DINER**
REQUEST TO AMEND CONDITIONAL USE PERMIT (CAPITOLA
DINER) TO INCORPORATE A BAR USE AND ALLOW LIVE
ENTERTAINMENT
CAPITOLA PLANNING COMMISSION MEETING
DATE:

At its January 17th, 2013 meeting, the Capitola Planning Commission heard a request from the owners of Capitola Diner located at 1900 41st Avenue to amend their current conditional use permit to incorporate a bar use and allow live entertainment.

The Police Department opposed the proposed amendment and submitted the attached memorandum outlining the Department's concerns (Attachment 1). Parts of those concerns include unpermitted events, noise disturbances, and questionable business practices.

The Planning Commission continued the application for a 9 month period to monitor the management of the operation. Since the January meeting, the Police Department has not received additional reports of use permit violations.

The Police Department continues to express concerns over the proposed amendments and would oppose the application due to the potential public nuisance activity and increased public safety concerns. If approved, the following conditions would be implemented to minimize neighborhood impacts and increased criminal activity:

1. Hours of operation when entertainment is provided shall be determined by the City of Capitola.
2. The applicant will be required to adhere to all conditions set forth in the Regular Entertainment Permit Conditions.
3. A sound study is completed by a mutually agreed designer who is experienced in sound levels and impacts to condensed zoning areas.
4. The applicant will monitor noise levels during entertainment to minimize impacts to the residents.

Capitola Police Department, 422 Capitola Avenue, Capitola, CA 95010

5. All windows and doors are closed during amplified entertainment.
6. No sound is audible outside the building.
7. The applicant and all employees are required to complete and follow the Responsible Beverage Service (RBS) practices and procedures. Employees who serve alcoholic beverages are required to attend and complete L.E.A.D.S. training offered by the Capitola Police Department.
8. The applicant will obtain/maintain a valid Entertainment Permit from the Capitola Police Department.
9. A six month review of conditions shall be conducted. Additional conditions will be added as needed.
10. The business owners shall adopt a policy and procedure manual for security staff. Security staff shall be properly trained in anger management, conflict resolution, crowd management and first aid.
11. During entertainment operations and one half hour after termination of alcoholic beverage sales, the business owner(s) shall provide a minimum of at least two (2) properly identified security personnel on the premises and the rear and adjacent parking lot(s) to maintain order therein and prevent any activity which would interfere with nearby residents' quiet enjoyment of their property.
12. The business owner(s) are responsible for having the required number and type of security personnel at the site during all hours of live, amplified music and entertainment, which includes dancing and/or music. Security must be on-duty until one hour after entertainment ceases. If the business owner(s) do not have the required number of uniformed security on staff per their Entertainment Permit, or if sufficient licensed staff is unavailable, the business owner(s) shall contract with a State licensed security agency for the required number of uniformed State licensed security officers.
13. The perimeter, exits and entrances of the premises, and any adjacent walkways shall be equipped and maintained with sufficient lighting to illuminate and make easily discernible the appearance and conduct of all persons on or about these areas. All lighting shall be directed, positioned and shielded in such a manner so as not to unreasonably illuminate the window area of nearby residences.
14. Live and/or amplified entertainment must not be audible outside the premise. Complaints about entertainment sound level, received by the city, will be documented and may result in additional conditions placed on this Entertainment Permit or revocation of the permit.
15. Reduced price alcoholic beverage promotions shall not be permitted.
16. Business owner(s), management and staff will be responsible for inspecting the exterior of the premises, on a regular basis during entertainment hours, to keep control of open doors and windows that may be contributing to sound leaving the premises.
17. The permittee shall maintain and operate a video recording system that records activity at all entrances and exits during all business hours and adjacent parking lots. The video shall be of a quality suitable for later

identification of customers and staff. It will be recorded in a manner that may be retrieved and provided to police immediately upon demand. Video data shall be retained for a minimum of 72 hours.

18. The applicant shall adhere to all signage requirements as set forth by the Capitola Municipal Code.
19. All private events held within the establishment shall adhere to the conditions set forth in the Entertainment and Use Permit.

Respectfully Submitted,

Rudy Escalante
Chief of Police

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Dear Katie Cattar,

My name is Geoff Williams and, I am an employee at the Capitola Diner. I am writing this letter on behalf of my employer, Pedro Salazar.

RECEIVED
SEP 10 2013
CITY OF CAPITOLA

Mr. Salazar would like to be able to keep the kitchen and bar open to at least 12 or 12:30 a.m. on Friday and Saturday nights. He also is requesting a permit which would allow the restaurant to have d.j.s play music for late nights guests and private parties.

If the Planning Commission approves these changes, Mr. Salazar would hire more staff to be able to accommodate increased business. In regards to the letter addressed to Pedro following the January 17th meeting of the Commission, he has a question as to whether the city would provide someone to conduct a sound study of the restaurant or, if he would have to find someone to do this. In conclusion, Mr. Salazar has read and agrees to abide by the requirements listed in the aforementioned letter. Thank you for your consideration of these requests.

Respectfully Submitted,
Geoffrey L. Williams
(831) 477-9076
1831) 477-9076
cell: 431-9380

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STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: JANUARY 17, 2013

SUBJECT: **1900 41ST AVENUE #12-155 APN 034-201-10**
Amendment to an existing restaurant Conditional Use Permit (*Capitola Diner*) to incorporate a bar use and allow live entertainment in the CC (Community Commercial) Zoning District.
Environmental Determination: Categorical Exemption
Property Owner: R. Deane, filed: 11/21/12
Representative: Pedro Salazar

APPLICANT'S PROPOSAL

The applicant is requesting an amendment to an existing restaurant (*Capitola Diner*) Conditional Use Permit to incorporate a bar use and allow live entertainment at 1900 41st Avenue in the CC (Community Commercial) Zoning District. The use is consistent with the General Plan and Zoning Ordinance with the issuance of a Conditional Use Permit.

BACKGROUND

What had been a *Lions* restaurant for many years has changed ownership several times over the past few years. The *Capitola Diner* has continued to be a restaurant with a small bar area that has had fairly standard operating hours (8am-10pm). Over the past two years the police department has responded to at least three incidents within the restaurant where live entertainment was being provided without a valid entertainment permit. These incidents generally involved a disc jockey (DJ) playing music, large crowds, and other live entertainment such as strippers. A memo from City Police Chief Rudy Escalante (Attachment C) summarizes some of these events, and states that they cannot support the proposed amendment to the Conditional Use Permit.

DISCUSSION

As part of the amendment to the existing restaurant conditional use permit, the applicant is requesting to extend the business hours to stay open until 12:30am on Fridays and Saturdays. The restaurant would continue to serve food, but the bar would also be open for customers. They are also requesting permission to have live entertainment, such as a DJ. This would be to provide music for normal customers, as well as to celebrate special events such as birthdays, anniversaries, etc. A dance floor is not being proposed.

The restaurant has had a small bar for many years which was recently updated, but not enlarged (Attachment B). It is approximately 5'x15' in size, and is still a small percentage of the

PLANNING COMMISSION AGENDA REPORT: January 17, 2013 1900 41st Avenue

overall square footage of the restaurant. The interior of the restaurant consists mostly of fixed bench seating and tables. No changes are proposed to the interior or exterior of the building as part of this application.

RECOMMENDATION

The Community Development staff shares some of the same concerns expressed by the Police Department. But with appropriate conditions of approval incorporated into the Conditional Use Permit, staff could support some aspects of the requested amendment. While no complaints have been received from the neighboring residents, we want to make sure that allowing these amendments would not create a nuisance. Keeping the neighboring residents in mind, staff could support the restaurant/bar to remain open until possibly midnight, but would limit the entertainment to a DJ only, not permitting live bands or any other type of live entertainment. Also, an annual entertainment permit will be required to be obtained through the Police Department, who will enforce such issues such as security, noise, etc. If, the Planning Commission can support the requested CUP amendments, it is recommended that they be approved subject to the following conditions and based upon the following findings:

CONDITIONS

1. The project approval consists of an amendment to an existing restaurant (*Capitola Diner*) Conditional Use Permit to incorporate a bar use and allow live entertainment at 1900 41st Avenue.
2. The permitted hours of operation shall be Sunday – Thursday, 7am – 10pm, and Friday – Saturday, 7am – midnight.
3. Entertainment shall be limited to a disc jockey (DJ). No live bands or any other type of live entertainment (exotic dancing, strippers, etc.) shall be permitted.
4. An entertainment permit shall be obtained through the Capitola Police Department on an annual basis.
5. Air-conditioning equipment and other roof top equipment shall be screened from view and fall within the city permitted decibel levels.
6. Lighting shall be shielded to prevent light from shining on to neighboring properties.
7. Sandwich board and other movable freestanding signs are prohibited.
8. All landscaping must be maintained, and non-maintenance will be a basis for review by the Planning Commission.
9. Any significant modifications to the site or restaurant building must be approved by the Planning Commission. Similarly, any significant change to the use itself, must be approved by the Planning Commission.
10. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.

PLANNING COMMISSION AGENDA REPORT: January 17, 2013 1900 41st Avenue

FINDINGS

- A. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**

Community Development Department Staff and the Planning Commission have reviewed the project. The project conforms with the development standards of the CC (Community Commercial) Zoning District and the 41st Avenue Design Guidelines. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance and General Plan.

- B. **The application will maintain the character and integrity of the neighborhood.**

Planning Department Staff and the Planning Commission have reviewed the project. The project conforms with the development standards of the CC (Community Commercial) Zoning District and the 41st Avenue Design Guidelines. Conditions of approval have been included to ensure that the project maintains the character and integrity of the area.

- C. **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.**

The proposed project involves an amendment to an existing use permit with no expansion of use beyond what has currently existed. No adverse environmental impacts were discovered during project review by either the Planning Department Staff or the Planning Commission.

ATTACHMENTS

- A. Letter from the applicant Pedro Salazar, dated November 4, 2012
- B. Photos and a floor plan of the existing bar
- C. Memo from Capitola Police Chief Rudy Escalante, dated January 9, 2013

**Report Prepared By: Ryan Bane
Senior Planner**

November 4, 2012

To whom it may concern;

My name is Pedro Salazar my business is:

Capitola Diner Bar & Grill at 41st Ave, Capitola CA 95010

Phone # (831)477-9076

I am requesting a permission for extending my business hours Friday's and Saturday's to stay open till 12:30am I will be serving food and having the bar open till that time. I want to extend the hours because during the weekends people are looking for a place that's open late to

get some food and also a drink. *My location has a full bar that I want it to be use for what will bring me*
I am also requesting permission for a "noise permit" to be able to have *more* customers

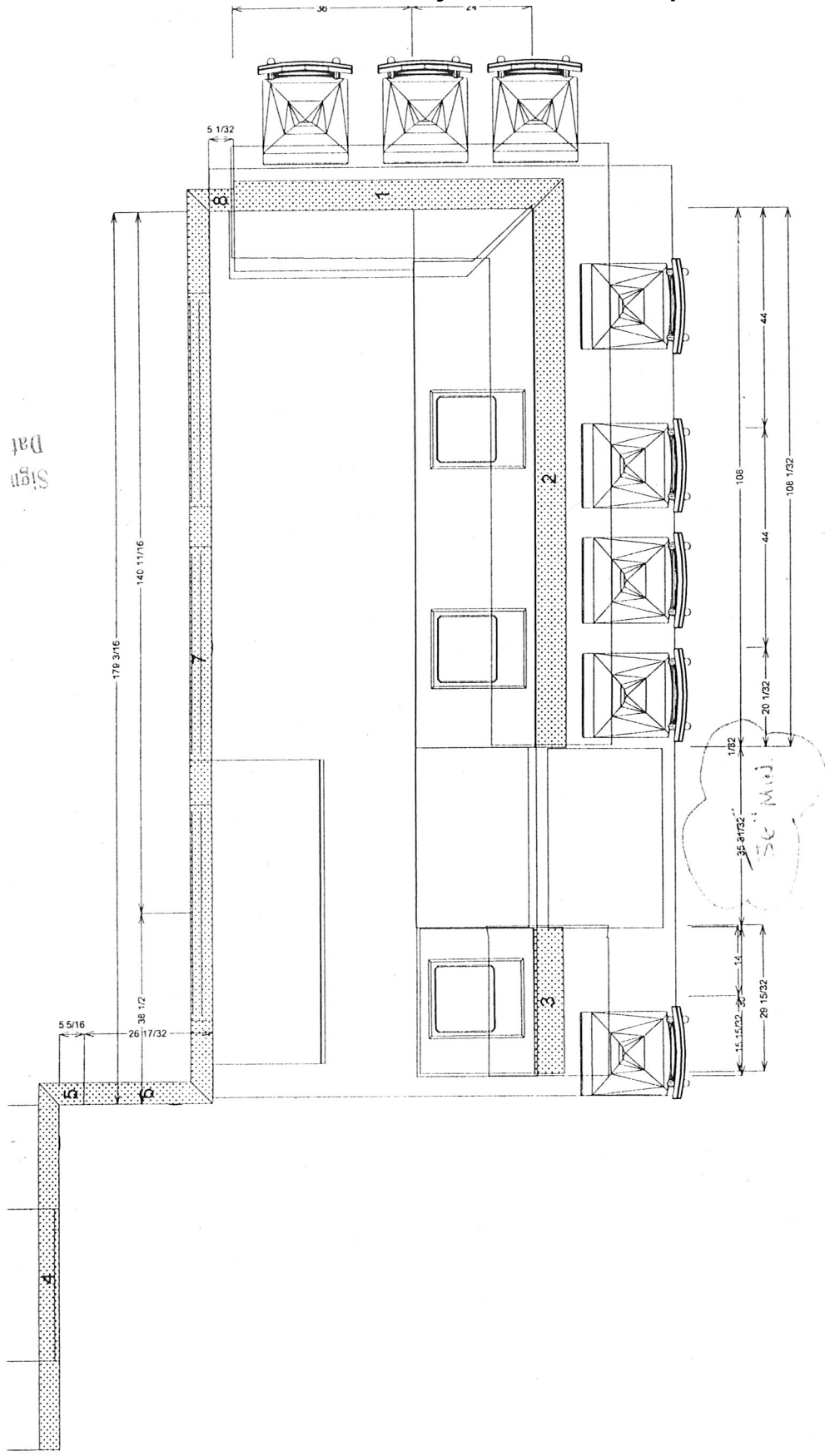
a DJ play at my business location the reason being I have lost a lot a business because people want to celebrate special events such as a birthday, anniversary est... They want to be able to have a DJ at such events.

By you letting me extend my hours of business and also be able to have a DJ at my business will help my business a lot especially with this hard times with the economy.

Thanks for taking your time to read this.

Pedro Salazar





Sign
Pat

Code Compur
Signed
Date 6/11
Permit No. 2



INTEROFFICE MEMORANDUM

TO: RYAN BANE, SENIOR PLANNER
FROM: RUDY ESCALANTE, CHIEF OF POLICE
SUBJECT: 1900 41ST AVENUE PROJECT APPLICATION, #12-155
CAPITOLA PLANNING COMMISSION MEETING
JANUARY 17, 2013
DATE: JANUARY 9, 2013

I am writing in response to the proposed amendment to an existing restaurant Conditional Use Permit (Capitola Diner) to incorporate a bar use and allow live entertainment at 1900 41st Avenue. After reviewing the proposed application coupled with concerns over [public safety and](#) repetitive entertainment use violations by the applicant, the police department is unable to support the proposed amendment for this type of use.

Over the past two years the police department has responded to at least three incidents within the restaurant where live entertainment was being provided without a valid entertainment permit.

On July 10, 2011, at approximately 1:08 a.m., officers responded to a cell phone caller from inside the business who was reporting that he was a customer and employees were not allowing him to leave. The reporting party indicated the employees were getting lap dances from strippers and they were intoxicated. When officers arrived, they found several cars in the rear parking lot and scantily clad women leaving the business. The windows were covered with plastic and people could not see inside.

While contacting the reporting party, officer(s) discovered a dance area set up inside the business as if entertainment was being provided. A disc jockey was inside the business but no music was playing at the time the officer(s) arrived.

On March 18th, 2012, at approximately 1:09 a.m., officer(s) found music being played by a disc jockey inside the business. There was a large crowd inside and several cars parked in the parking lot. Officer(s) made contact with the applicant and through translation informed him that an entertainment permit was required before he could have the type of entertainment he was providing.

Capitola Police Department, 422 Capitola Avenue, Capitola, CA 95010

On December 21, 2012, at approximately 11:30 p.m. officer(s) again discovered entertainment (disc jockey music) being provided inside the business. A notification letter was sent to the owner outlining the entertainment and use permit requirements under 5.24 of the Capitola Municipal Code. (Letter Attached)

After reviewing the current application for the proposed amendment, the Police Department has significant concerns. There is no mention of a dance floor which typically occurs when live entertainment is being proposed. This would require a sketch outlining where the proposed entertainment would reside and how the change in occupancy would affect the business and surrounding areas.

Additionally, there is no mention of the presence of security, LEADS training for staff, lighting concerns, signage, drink specials, and how they would address additional noise concerns from the impacts of the proposed use.

Lastly and more significantly, we are unable to support the applicant's request when they continue to have non-permitted activity even after they have been notified both verbally and in writing to cease the activity.

As a licensed business in the City of Capitola, it is the responsibility of the licensee to conduct business that is not injurious to the public morals, health, convenience, or safety. We feel it is important that all businesses within the City of Capitola continue to provide successful and professional service.

It is for these reasons that we are unable to support the proposed entertainment by the applicant at the requested location.

Respectfully Submitted,

Rudy Escalante
Chief of Police



STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: OCTOBER 3, 2013

SUBJECT: **100 CENTRAL AVENUE # 11-136 APN: 036-131-10**
Plan revision to a previously approved Design Permit for a new two-story single-family dwelling in the R-1 (Single-Family Residence) Zoning District.
Property Owner: Jill Caskey & Bruce Yoxsimer, filed 12/15/11
Representative: Derek Van Alstine

BACKGROUND

The Planning Commission approved a Design Permit for a single-family dwelling located at 100 Central Avenue during the April 5, 2012 public hearing. At the time of final review of construction, staff determined that the exterior building elevations and materials had not been built to the approved set of plans. The Planning Commission reviewed the changes during the September 6, 2013 meeting. The Planning Commission continued the item to October 3, 2013, hearing and directed the applicant to work with an architect to identify and incorporate design modifications which would more closely resemble the originally approved project.

DISCUSSION

During the onsite final inspection of the single family home at 100 Central Avenue, Community Development Department staff identified modifications to the exterior materials that had not been approved by staff or the Planning Commission. The Planning Commission Condition #2 for the approval of the single family home states "The Planning Commission must approve any significant modifications to the size or exterior appearance of the structure."

The original design, approved by the Planning Commission, was a Tudor style home with steep roof pitches, cross gables, cement plaster on the first floor, and board and batt on the second story exterior. The applicant explaining that they had made changes to the exterior in an effort to bring the design closer to their desired storybook Tudor style and clarified that board and batt are not standard elements of design in this style of architecture. The modifications made by the applicant include utilizing stucco on both stories of the home, introducing half timbers on the second story, and modifications to window and door styles and locations.

In response to the Planning Commission direction, the applicant submitted revised exterior elevations which include additional half timbers to the second story to add additional ornate elements while keeping with the storybook Tudor design. Half timbers were introduced around all windows on the second story and within the gables. One additional half timber was added within the cantilevered section of the west elevation. Shutters and decorative corbel were added to the entry on the west elevation. Hanging baskets and flower boxes were added to the west and south elevations. The applicant's representative will present proposed modifications to the design during the October 3, 2013 meeting. Published references to storybook and Tudor architecture have been included within Attachment C.

RECOMMENDATION

The Planning Commission should consider the applicant's proposed modifications and determine if they have adequately addressed the Commission's concerns. If the Commission is satisfied with the changes, staff recommends that the Planning Commission approve application # 11-136 subject to the following conditions and findings of approval:

CONDITIONS

1. All previous conditions of approval of Permit #11-136 continue to apply.
2. The applicant shall construct any exterior modifications deemed necessary by the Planning Commission during the October 3, 2013 Planning Commission meeting to conform with the original approval. The changes must be constructed by December 3, 2013. The financial guarantee held by the City will be released upon completion of all Planning Commission required modification.

FINDINGS

- A. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project conforms to the development standards of the R-1 (Single Family Residence) Zoning District. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance, General Plan and Local Coastal Plan.

- B. **The application will maintain the character and integrity of the neighborhood.**

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the exterior modifications to the project. The exterior material is similar to other newer residences in the area therefore, the project's overall design will maintain the character and integrity of the neighborhood.

- C. **A Mitigated Negative Declaration has been prepared for this project based upon the completion of an Initial Study which identified less than significant impacts.**

A Mitigated Negative Declaration has been prepared and adopted based upon the findings of an Initial Study which identified that the project may have a significant effect on the environment due to the project site being located in geologic hazard, environmentally sensitive habitat, and archaeological sensitive zones. The Mitigated Negative Declaration was circulated for a 30 day public review period. Mitigation measures have been incorporated into the conditions of approval to ensure that impacts are reduced to a less than significant level.

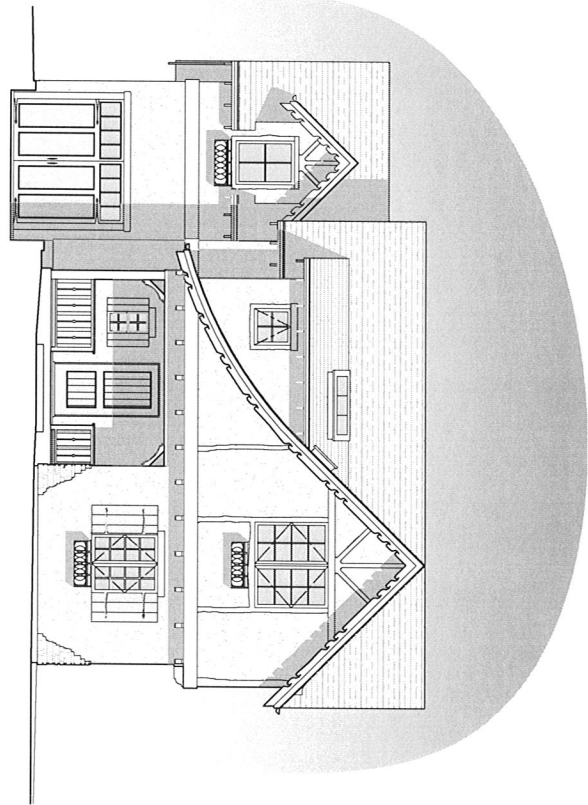
ATTACHMENTS

- A. Modification proposed by Applicant
- B. Approved, As-Built, Proposed Elevation Comparison
- C. Published References to Storybook/Tudor Architecture

Report Prepared By: Katie Cattan, Senior Planner

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 DEREK VAN ALSTINE
 RESIDENTIAL DESIGN INC.

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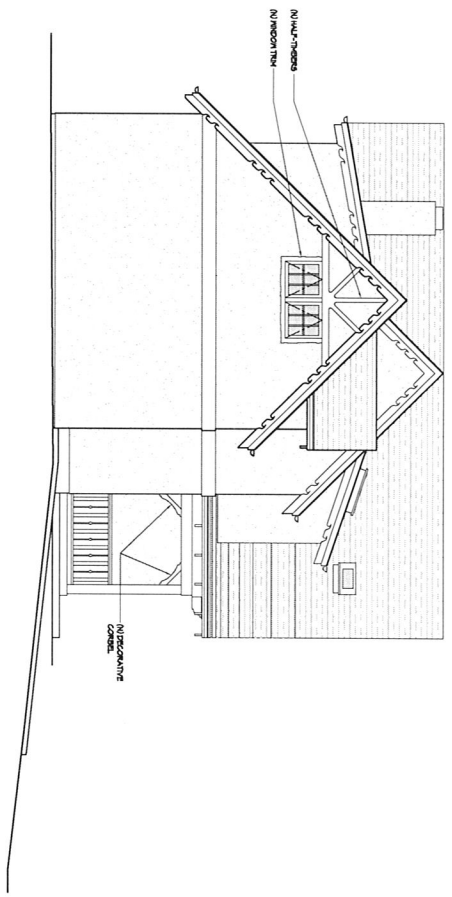
CASKEY-YOXSIMER RESIDENCE
 100 CENTRAL AVE
 CAPITOLA, CA 95010

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 RESIDENTIAL DESIGN INC.

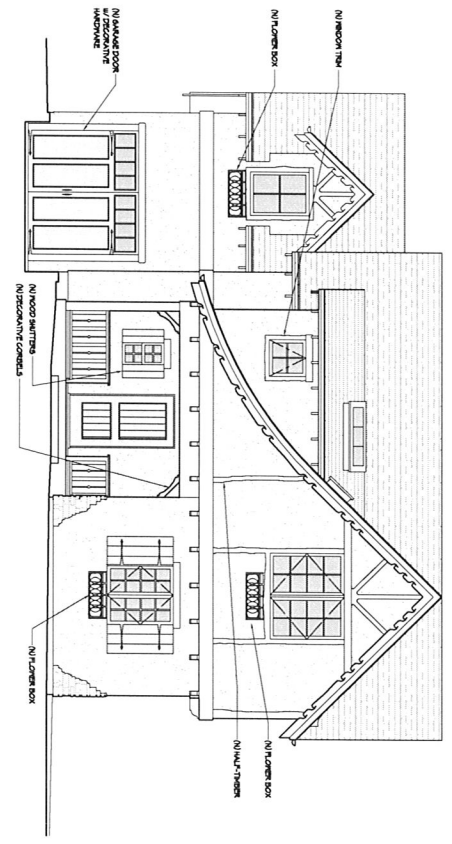
DEREK VAN ALSTINE
RESIDENTIAL DESIGN INC.
 716 SOQUEL AVENUE SUITE A, SANTA CRUZ, CALIFORNIA
 (531)426-5440 PHONE (531)426-4446 FAX

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2 NORTH ELEVATION
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1 WEST ELEVATION
SCALE: 1/8" = 1'-0"



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CASKEY-YOXSIMER RESIDENCE
100 CENTRAL AVE
CAPITOLA, CA 95010

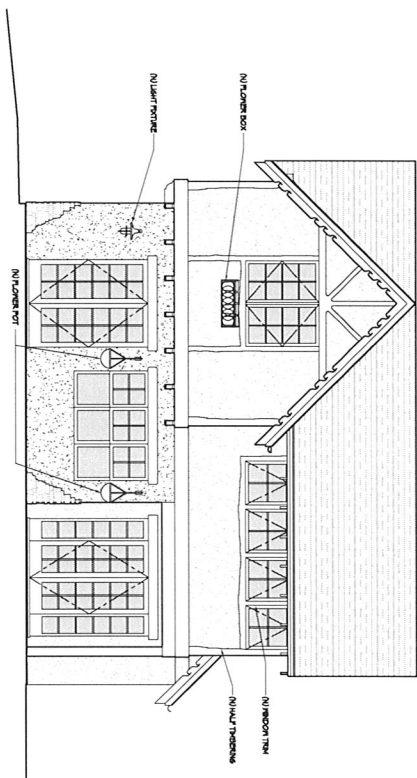
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DEREK VAN ALSTINE
RESIDENTIAL DESIGN INC.
716 SOQUEL AVENUE SUITE A, SANTA CRUZ, CALIFORNIA
(531) 426-8400 PHONE (531) 426-8446 FAX

4/29/2015 12:08 PM



3 EAST ELEVATION
SCALE: 1/4" = 1'-0"



4 SOUTH ELEVATION
SCALE: 1/4" = 1'-0"

A3 <small>GRAPHIC ELEVATION</small>	CASKEY-YOXSIMER RESIDENCE 100 CENTRAL AVE CAPITOLA, CA 95010	DVRD <small>DEREK VAN ALSTINE RESIDENTIAL DESIGN INC.</small>	DEREK VAN ALSTINE RESIDENTIAL DESIGN INC. <small>716 SOQUEL AVENUE SUITE A, SANTA CRUZ, CALIFORNIA (531) 426-5400 PHONE (531) 426-8446 FAX</small>
	<small>DATE: 04/13/15 SHEET NO: 13-1-10 SITE DESCRIPTION: PROJECT NO: DESIGNER: DRAWN BY: CHECKED BY: DATE: 04/13/15 SCALE: 1/4" = 1'-0" PROJECT NO: SHEET NO: DATE: 04/13/15</small>	<small> 1. ALL DIMENSIONS ARE IN FEET AND INCHES. 2. FINISHES TO BE SPECIFIED. 3. MATERIALS TO BE SPECIFIED. 4. ALL WORK TO BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODES AND ALL APPLICABLE LOCAL ORDINANCES. 5. ALL WORK TO BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL MECHANICAL AND ELECTRICAL CODES AND ALL APPLICABLE LOCAL ORDINANCES. 6. ALL WORK TO BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL PLUMBING AND MECHANICAL CODES AND ALL APPLICABLE LOCAL ORDINANCES. 7. ALL WORK TO BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL FIRE AND SAFETY CODES AND ALL APPLICABLE LOCAL ORDINANCES. 8. 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WEST ELEVATION

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1 WEST ELEVATION
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PROPOSED REVISION



SOUTH ELEVATION

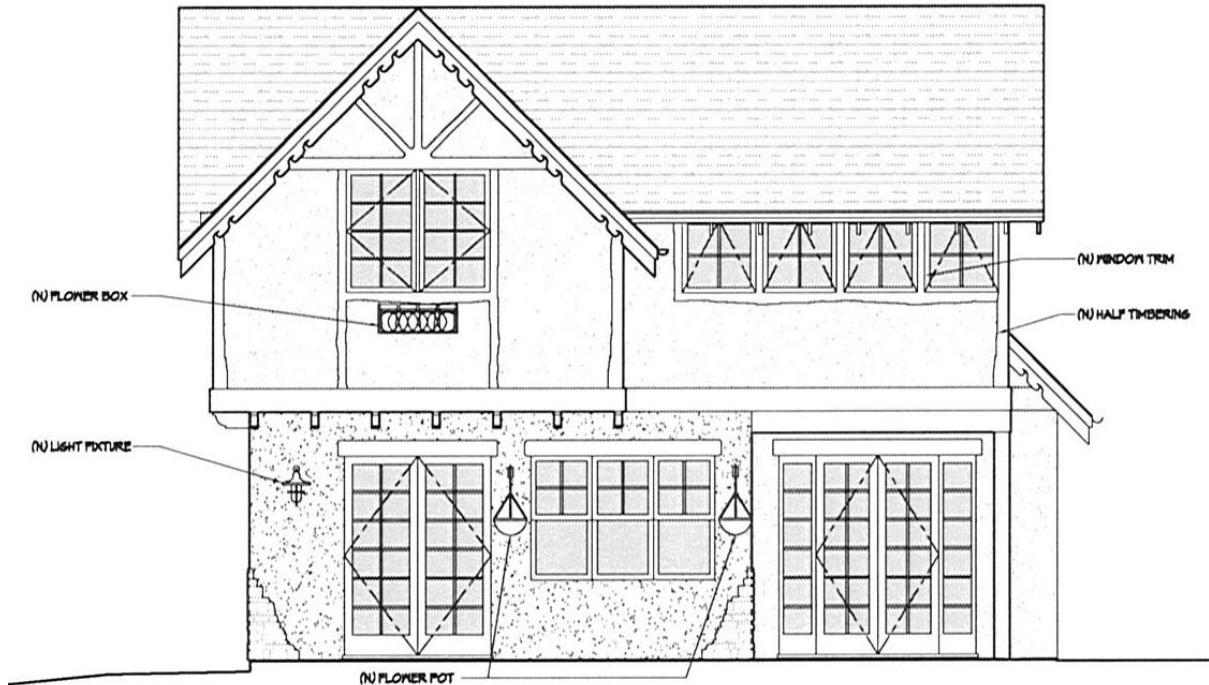
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PROPOSED REVISION



NORTH ELEVATION

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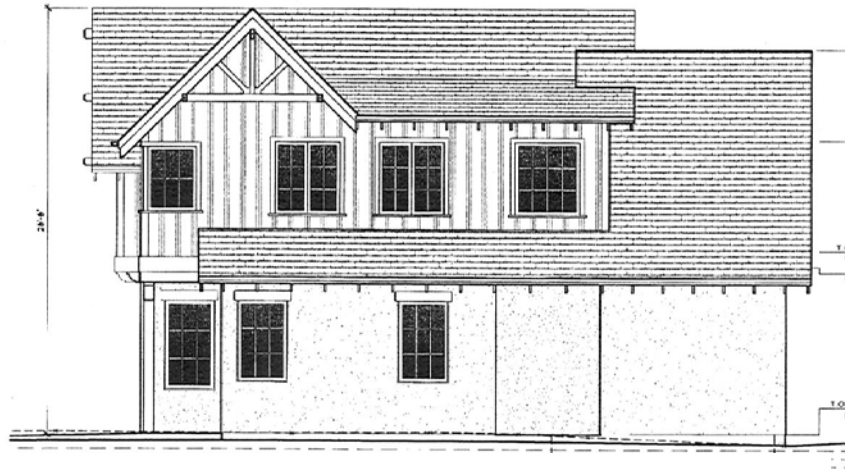


PROPOSED REVISION



EAST ELEVATION

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AS BUILT



PROPOSED REVISION





20TH CENTURY REVIVAL PERIOD
circa 1920-1940

Tudor/English Cottage Revival Style

- Asymmetrical with irregular plan and massing
- Steeply pitched roof with little or no eave extension, sometimes with rolled edges on roofing to imitate thatch
- Gable or cross-gable roof
- Stucco walls, sometimes with brick or wood accents
- Decorative half-timbering (Tudor)
- Decorative masonry on exterior walls or gables, primarily brick
- Recessed entry, usually under a primary front facing gable but sometimes under small gable-roof portico
- Groupings of tall, narrow casement windows, often with leaded, diamond panes



This Tudor Revival house has decorative half-timbering and a steeply pitched roof.

Similar buildings without the decorative half timbering are also seen through out Pasadena. These variations are considered English Cottage Revival houses.



TUDOR REVIVAL (1920-1940)

As with many styles during the 20th Century Revival Period, the Tudor Revival does not adhere to the source of its inspiration--16th century English architecture--but instead is a mixture of elements from an American image of medieval forms that resulted in something "quaint." Some Tudor Homes in Campbell are representative of the **Storybook style**, which are characterized by dramatic expression and fine craftsmanship (i.e., Fairy Tale or Hansel and Gretel homes).

The development of the Tudor Revival style was associated with the Arts and Crafts movement, in which medieval architecture and crafts were valued as a rejection of the industrialized age. The J. C. Ainsley Mansion completed in 1926, is an excellent example of the Tudor Revival style found in Campbell.

Architectural Details¹

- Asymmetrical with irregular plan and massing
- Steeply pitched roof
- Gabled or Cross-gabled roof
- Decorative **masonry** on exterior walls or gables
- Recessed entry, usually under a front facing gable or small gable-roof portico
- Groupings of tall, narrow casement windows, often with leaded, diamond panes
- Rolled edges on wooden roofing to imitate thatch
- Combined use of stucco and brick



Tudor Revival.

This Tudor Revival home in the Historic District on Alice Avenue was built in 1922, and shows many of the distinguishing features of that style. Known as the Saunders-Maxwell house, it was first lived in by Lee Saunders, a foreman for the J. C. Ainsley Packing Company. Later it became the home of Campbell's Fire Chief, George Maxwell.



Tudor Revival.

This graceful Tudor home on White Oaks Road shows many classic details of the style such as the front entry shown here. Built in 1928, and known as the Young-Sartorette House, it is one of Campbell's Landmark homes.

Asymmetrical
with irregular
plan and massing.



Sketch of Tudor Revival showing architectural details of style.



These buildings have several features that are characteristic of the Tudor style. Key features include multi-lite grouped casement windows, plaster, steep gable roofs and gable-roofed porticos.

Tudor Revival

As with many styles, the Tudor Revival does not adhere to the source of its inspiration—sixteenth-century English architecture—but instead is a mixture of elements from an American image of medieval forms that resulted in something “quaint.” The development of the Tudor Revival style was associated with the Arts and Crafts movement, in which medieval architecture and crafts were valued as a rejection of the industrialized age. Ironically, the popularity of the style was in large part owing to its exposure through mail-order catalogues such as Sears Roebuck, in which all of the parts of the house were pre-assembled and shipped by rail anywhere in the United States.

Character-defining features:

- Asymmetrical with irregular plan and massing
- Steeply pitched roof
- Gable or Cross-gabled roof
- Decorative half-timbering
- Decorative masonry on exterior walls or gables
- Recessed entry, usually under a front-facing gable or small gable-roof portico
- Groupings of tall, narrow casement windows, often with leaded, diamond panes
- Rolled edges on roofing to imitate thatch
- Combined use of stucco and brick

Character-defining features:

- Chimney
- Decorative timbering
- Mult-lite window
- Plaster



The influence of the Tudor style is visible on this residence.