

**FINAL ADOPTED MINUTES**

**CAPITOLA PLANNING COMMISSION MEETING**

**THURSDAY, JUNE 4, 2015**

**7 P.M. – CAPITOLA CITY COUNCIL CHAMBERS**

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

**1. ROLL CALL AND PLEDGE OF ALLEGIANCE**

Commissioners: Ed Newman, Gayle Ortiz, TJ Welch, and Susan Westman and Chairperson Linda Smith.

**2. ORAL COMMUNICATIONS**

### Additions and Deletions to Agenda

## Public Comment

Doug Bowman, resident, noted that many adjacent neighbors oppose the proposed Monterey Park skate park. He asked that the project be scaled back to about 2,000 square feet and designed for younger skaters.

Richard Lippi, resident, said he has tried to find a comparable park to the Monterey skate park, but one suggested in Ojai near a school is in a commercial area. He also noted that Ojai has a specific noise ordinance that sets decibel levels.

Helen Bryce, resident, opposes the Monterey skate park for noise and other reasons.

1. Commission Comment
2. Staff Comments

**3. APPROVAL OF MINUTES**

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| **A.** | **May 7, 2015, Draft Planning Commission Minutes** |

**A motion to approve the May 7, 2015, meeting minutes was made by Commissioner Ortiz and seconded by Commissioner Westman.**

**The motion carried by the following vote: Aye: Commissioners Newman, Ortiz, Welch and Westman and Chairperson Smith. No: None. Abstain: None.**

**4. CONSENT CALENDAR**

**A.** **2185 41st Avenue      #15-083      APN: 034-192-02**

Sign Permit for a new awning with signs for a dentist’s office in the CC (Community Commercial) Zoning District.
This project is not in the Coastal Zone and thus does not require a Coastal Development Permit.
Environmental Determination: Categorical Exemption
Property Owner: Dr. Mike Raffo
Representative: Christian Nielsen, filed: 5/11/15

**A motion to approve application #15-083 for a Sign Permit was made by Commissioner Ortiz and seconded by Commissioner Welch with the following conditions and findings:**

**CONDITIONS**

1. The project approval consists of two wall signs and an awning located over the entrance of 2185 41st Ave. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on June 4, 2015, except as modified through conditions imposed by the Planning Commission during the hearing.
2. The applicant was granted a sign permit to construct a new sign awning over the entrance of 2185 41st Ave.  In any case where the conditions of the permit have not been or are not complied with, the community development director shall give notice thereof to the permittee, which notice shall specify a reasonable period of time within which to perform said conditions and correct said violation. If the permittee fails to comply with said conditions, or to correct said violation, within the time allowed, notice shall be given to the permittee of intention to revoke such permit at a hearing to be held not less than thirty calendar days after the date of such notice. Following such hearing and, if good cause exists therefore, the Planning Commission may revoke the permit.
3. Prior to installation, a building permit shall be secured for the new sign authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission.
4. Parking lot lights shall be pointed downward and use LED energy efficient bulbs and designed to prevent light and glare from spilling onto neighboring properties or public rights-of-way.
5. The two new wall signs are backlit. The backlighting shall not shine onto adjacent properties or distract motorists or pedestrians.
6. 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.
7. 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 shall require Planning Commission approval.
8. Prior to issuance of building permit, all Planning fees associated with permit #­15-083 shall be paid in full.
9. 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.
10. 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

**FINDINGS**

1. **The signage, as designed and conditioned, will maintain the character and aesthetic integrity of the subject property and the surrounding area.**

The backlit signs have a simple design that will complement the aesthetics of the Community Commercial zoning district along 41st Avenue.

1. **The signage, as designed and conditioned, reasonable prevent and reduce the sort of visual blight which results when signs are designed without due regard to effect on their surroundings.**

The signs are modern and clean and will enhance the exterior appearance of the office space.

**The motion carried by the following vote: Aye: Commissioners Newman, Ortiz, Welch and Westman and Chairperson Smith. No: None. Abstain: None.**

**B.** **3555 Clares Street Suite TT      #15-079      APN: 034-261-59**

Conditional Use Permit for sale of beer and wine at an existing restaurant (Roux Dat) in the Community Commercial (CC) zoning district.
This project is not in the Coastal Zone and thus does not require a Coastal Development Permit.
Environmental Determination: Categorical Exemption
Property Owner: Bob Rivers (Brown Ranch Properties)
Representative: Chad Glassley, filed: 4/30/15

Senior Planner Katie Cattan noted Condition #2 is related to business hours and staff recommends removing it.

**A motion to approve application #15-079 for a Conditional Use Permit was made by Commissioner Ortiz and seconded by Commissioner Welch with the following conditions and findings:**

### CONDITIONS

1. The project approval consists of a Conditional Use Permit to allow onsite sale and consumption of beer and wine at the existing Roux Dat Restaurant located at 3555 Clares Street Suite TT, Capitola, CA. No modifications to the exterior or interior of the building are proposed. Parking requirements are not affected by this application.
2. ~~The restaurant is open 7 days a week from 11:30 to 8:00 Sunday through Thursday and 11:30 to 9:00 pm Friday and Saturday.~~
3. The establishment must maintain a valid license from the Alcohol Beverage Control. A copy of the approved Department of Alcoholic Beverage Control Permit must be filed with the Community Development Department prior to initiating beer and wine sales.
4. No live or amplified entertainment is approved within this permit (15-079). An Entertainment Permit is required for any entertainment that is audible outside of the structure. An Entertainment Permit may be applied for through the Capitola Police Department.
5. Patrons shall not be allowed to leave with open alcoholic beverage containers.
6. Permits are non-transferrable.
7. The applicant shall receive permission from ABC prior to June 4, 2017. The conditional use permit will expire in the case where the conditional [use](http://www.codepublishing.com/ca/capitola/cgi/defs.pl?def=17.03.690) permit has not been used within two years after the date of granting thereof. Any interruption or cessation beyond the control of the property owner shall not result in the termination of such right or privilege. A permit shall be deemed to have been “used” when actual substantial, continuous activity has taken place upon the land pursuant to the permit.
8. The applicant is 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.
9. The applicant is responsible for maintaining the area directly in front of the business free from litter and/or graffiti.
10. The applicant was granted a conditional use permit for the sale of beer and wine. In any case where the conditions of the permit have not been or are not complied with, the community development director shall give notice thereof to the permittee, which notice shall specify a reasonable period of time within which to perform said conditions and correct said violation. If the permittee fails to comply with said conditions, or to correct said violation, within the time allowed, notice shall be given to the permittee of intention to revoke such permit at a hearing to be held not less than thirty calendar days after the date of such notice. Following such hearing and, if good cause exists therefore, the Planning Commission may revoke the permit.

# FINDINGS

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

Community Development Staff and the Planning Commission have reviewed the project and determined that the proposed use is permitted in the CC (Community Commercial) Zoning District with a Conditional Use Permit. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance and General Plan.

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

 Community Development staff and the Planning Commission have reviewed the project and determined that the proposed beer and wine sales within the existing restaurant will not have a negative impact on the character and integrity of the commercial area. Conditions of approval have been included to ensure that the project maintains the character and integrity of the area.

1. **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 a conditional use permit to allow sale of beer and wine within an existing restaurant. No adverse environmental impacts were discovered during project review by either the Community Development staff or the Planning Commission.

**The motion carried by the following vote: Aye: Commissioners Newman, Ortiz, Welch, and Westman and Chairperson Smith. No: None. Abstain: None.**

**5. PUBLIC HEARINGS**

**A.** **429 Riverview Avenue      #13-179      APN: 035-121-034**

Design Permit, Conditional Use Permit, and Variance to setback requirements for an addition to an existing historic single family home in the R-1 (Single Family) zoning district.
This application requires a Coastal Development permit which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.
Environmental Determination: Exempt
Property Owner: Mike and Cindy Reardon
Representative: Derek Van Alstine, filed 12/19/13

Commissioner Westman confirmed that the Fair Political Practices Commission uses a 300-foot radius for officials’ homes in small jurisdictions, allowing herself and Commissioner Ortiz to consider this item.

Planner Cattan presented the staff report. She noted that an archway over the adjacent City walkway shown in the plans will come to City Council as a separate item and is not part of this application. The home is non-conforming due to its placement on the parcel, and the project exceeds the 80 percent additional value limit so it is requesting a variance. Variances are also needed for the proposed substandard sizes for parking spaces and existing setbacks. Staff supports a variance for this historic resource.

She noted the home was redesigned during the application process to meet Secretary of Interior standards. Staff asked for an additional condition for to address storm water.

Derek Van Alstine spoke on behalf of the applicant. He provided background on the challenging project and explained it is located in the floodway, not simply the floodplain. The newer section was placed near the street to preserve the historic view from the creek. The remodel will bring the home closer to the original than its current status.

He also corrected the existing square footage on condition #1.

Commissioner Ortiz clarified that board and bat is on the original structure and shingles on the new addition.

Commissioner Westman asked about the stairway and the extra entrance. She feels it looks like a second unit and suggested removing the exterior stairway. Because it would require interior changes, Mr. Van Alstine offered to deed restrict against a second unit.

Commissioner Ortiz asked to screen the garbage within the garage. She understands it must be open for floodway.

Commissioner Newman was concerned that the parking width is not adequate, but the applicant believes it will work since the garage does not have sidewalls.

Staff explained that a no-rise study is a FEMA requirement to determine that new construction will not create an increase in the flood height.

The commission discussed concerns about the exterior stairs. Staff noted that because of the lot size, a second unit would be illegal and the project would need a variance to FAR if the staircase were removed and the interior modified.

Commissioner Westman praised the preservation on the historic structure and view from the creek. She favors eliminating the staircase and allowing additional FAR.

Commissioner Welch is sympathetic to the time it has taken for the project to reach this point. He is not concerned about the staircase and doesn’t like assuming future illegal action.

Commissioner Newman prefers to rely on City ordinances to prohibit a second unit.

Commissioner Smith confirmed the home is outside of the vacation rental district. She appreciates the hardship of passing through a bedroom to reach another room and supports the stairs. She also praised the historic preservation.

**A motion to approve application #13-179 for a Design Permit, Coastal Development Permit and Variance was made by Commissioner Ortiz and seconded by Commissioner Welch with the following conditions and findings:**

**CONDITIONS**

1. The project approval consists of an addition to an existing historic resource located at 429 Riverview Avenue. The project approval consists of construction of a 606-square-foot addition to a ~~1,764~~ 1,158-square-foot single family home. The maximum Floor Area Ratio for the 3,096 square foot property with accessory dwelling is 57% (1,764 square feet). The total FAR of the project is 57% with a total of 1,764 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 June 4, 2015, 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, a no rise study must be submitted to the City at the satisfaction of the Building Official.
5. At time of building plan submittal, the plans shall include a language on the cover sheet referring to the intent of the Secretary of Interior Standards and specifically reference Standard #6. The plans shall identify specific repairs at the time of submittal of the building permit drawings.
6. At time of building plan submittal, the California State Historical Building Code shall be referenced in the architectural notes on the front page, in the event that this preservation code can provide support to the project design.
7. At the time of building plan submittal, all proposed preservation treatments (e.g., epoxy wood consolidant and paint preparation techniques), shall be identified on the plans.
8. At the time of submittal for building permit review, Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP) shall be printed in full and incorporated as a sheet into the construction plans.  All construction shall be done in accordance with Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP).
9. At the time of submittal for building permit review, the site plan on sheet E1 shall be updated to reflect the correct information on the Storm Water Permit Project Application.
10. 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 and potentially a review by the Historic Architect for continued conformance with the Secretary of Interior standards.
11. Prior to making any changes to the historic structure, the applicant and/or contractor shall field verify all existing conditions of the historic buildings and match replacement elements and materials according to the approved plans. Any discrepancies found between approved plans, replacement features and existing elements must be reported to the Community Development Department for further direction, prior to construction.
12. Prior to issuance of building permit, a final landscape plan shall be submitted and approved by the Community Development Department. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of irrigation systems, if proposed. Native and/or drought tolerant species are recommended.
13. Prior to issuance of building permit, all Planning fees associated with permit #­14-116 shall be paid in full.
14. 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.
15. 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 Water District, and Central Fire Protection District.
16. 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.
17. 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).
18. 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.
19. 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.
20. 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
21. Prior to a project final, all cracked or broken driveway approaches or street edge shall be replaced per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches shall meet current Accessibility Standards.
22. 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.
23. The applicant was granted a conditional use permit for the alteration to a historic structure. In any case where the conditions of the permit have not been or are not complied with, the community development director shall give notice thereof to the permittee, which notice shall specify a reasonable period of time within which to perform said conditions and correct said violation. If the permittee fails to comply with said conditions, or to correct said violation, within the time allowed, notice shall be given to the permittee of intention to revoke such permit at a hearing to be held not less than thirty calendar days after the date of such notice. Following such hearing and, if good cause exists therefore, the Planning Commission may revoke the permit.
24. 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 17.81.160.
25. 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.
26. Upon receipt of certificate of occupancy, garbage and recycling containers shall be shielded and placed out of public view on non-collection days. The applicant may add a pony wall to the plans to ensure the containers are not visible from the public right of way.

FINDINGS

1. The application, subject to the conditions imposed, secures 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 secures the purpose of the Zoning Ordinance, General Plan, and Local Coastal Plan. The integrity of the historic resource will be maintained with historic resource contributing to a historic district with the proposed design. A variance has been granted to preserve the location of the historic structure and allow the non-conforming structure to continue.

1. 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 addition to the historic resource. The new addition will not overwhelm the historic structure. The home is located within the Old Riverview Historic District and will continue to be a contributing structure within the district. The design does not compromise the integrity of the historic resource.

1. This project is categorically exempt under Section 15331 of the California Environmental Quality Act and is subject to Section 753.5 of Title 14 of the California Code of Regulations.

Section 15303(a) of the CEQA Guidelines exempts the construction of a single-family residence in a residential zone. This project involves construction of a new single-family residence in the R-1 (Single-Family Residential) Zoning District. No adverse environmental impacts were discovered during review of the proposed project.

**COASTAL FINDINGS**

***D. Findings Required. A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program, including, but not limited to:***

* The proposed development conforms to the City’s certified Local Coastal Plan (LCP). The specific, factual findings, as per CMC Section 17.46.090 (D) are as follows:

***(D) (2) Require Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (D) (2) (a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the adverse effects which have been identified will be alleviated or mitigated by the dedication. As used in this section, “cumulative effect” means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.***

***(D) (2) (a) Project Effects on Demand for Access and Recreation. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project’s effects upon existing public access and recreation opportunities. Analysis of the project’s cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative build-out. Projection for the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project’s cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities;***

* The proposed project is located at 429 Riverview Avenue. The home is not located in an area with coastal access. The home will not have an effect on public trails or beach access.

***(D) (2) (b) Shoreline Processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;***

* The proposed project is located along Riverview Avenue. No portion of the project is located along the shoreline or beach.

***(D) (2) (c) Historic Public Use. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use);***

* There is not history of public use on the subject lot.
1. ***(2) (d) Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;***
* The proposed project is located on private property on Riverview Avenue. The project will not block or impede the ability of the public to get to or along the tidelands, public recreation areas, or views to the shoreline.

 ***(D) (2) (e) Other Adverse Impacts on Access and Recreation. Description of the development’s physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public’s use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.***

* The proposed project is located on private property that will not impact access and recreation. The project does not diminish the public’s use of tidelands or lands committed to public recreation nor alter the aesthetic, visual or recreational value of public use areas.

 ***(D) (3) (a – c) Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F) (2) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:***

***a. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;***

***b. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;***

***c. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.***

* The project is not requesting a Public Access Exception, therefore these findings do not apply

***(D) (4) (a – f) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:***

***a. Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;***

* The project is located in a residential lot.

 ***b. Topographic constraints of the development site;***

* The project is located on a flat lot.

 ***c. Recreational needs of the public;***

* The project does not impact recreational needs of the public.

 ***d. Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;***

***e. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;***

***f. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.***

***(D) (5) Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);***

* No legal documents to ensure public access rights are required for the proposed project

***(D) (6) Project complies with visitor-serving and recreational use policies;***

 *SEC. 30222*

 *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

* The project involves a single family home on a residential lot of record.

 *SEC. 30223*

 *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

* The project involves a single family home on a residential lot of record.

***c) Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.***

* The project involves a single family home on a residential lot of record.

 ***(D) (7) Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;***

* The project involves the construction of a single family home. The project complies with applicable standards and requirements for provision for parking, pedestrian access, alternate means of transportation and/or traffic improvements.

***(D) (8) Review of project design, site plan, signing, lighting, landscaping, etc., by the city’s architectural and site review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;***

* The project complies with the design guidelines and standards established by the Municipal Code.

***(D) (9) Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola’s shoreline;***

* The project will not negatively impact public landmarks and/or public views. The project will not block or detract from public views to and along Capitola’s shoreline.

***(D) (10) Demonstrated availability and adequacy of water and sewer services;***

* The project is located on a legal lot of record with available water and sewer services.

***(D) (11) Provisions of minimum water flow rates and fire response times;***

* The project is located within close proximity of the Capitola fire department. Water is available at the location.

 *(D) (12) Project complies with water and energy conservation standards;*

* The project is for a single family home. The GHG emissions for the project are projected at less than significant impact. All water fixtures must comply with the low-flow standards of the Soquel Creek Water District.

***(D) (13) Provision of park dedication, school impact, and other fees as may be required;***

* The project will be required to pay appropriate fees prior to building permit issuance.

***(D) (14) Project complies with coastal housing policies, and applicable ordinances including condominium conversion and mobile home ordinances;***

* The project does not involve a condo conversion or mobile homes.

***(D) (15) Project complies with natural resource, habitat, and archaeological protection policies;***

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

***(D) (16) Project complies with Monarch butterfly habitat protection policies;***

* The project is outside of any identified sensitive habitats, specifically areas where Monarch Butterflies have been encountered, identified and documented.

***(D) (17) Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;***

* Conditions of approval have been included to ensure compliance with applicable erosion control measures.

***(D) (18) Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project complies with hazard protection policies including provision of appropriate setbacks and mitigation measures;***

* Geologic/engineering reports have been prepared by qualified professionals for this project. Conditions of approval have been included to ensure the project applicant shall comply with all applicable requirements of the most recent version of the California Building Standards Code.

***(D) (19) All other geological, flood and fire hazards are accounted for and mitigated in the project design;***

* Conditions of approval have been included to ensure the project complies with geological, flood, and fire hazards and are accounted for and will be mitigated in the project design.

***(D) (20) Project complies with shoreline structure policies;***

* The proposed project complies with shoreline structure policies.

***(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;***

* This use is a conditional use consistent with the Single Family zoning district.

***(D) (22) Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures;***

* The project conforms to the requirements of all city ordinances, zoning requirements and project development review and development procedures.

***(D) (23) Project complies with the Capitola parking permit program as follows:***

* The project site is located within the area of the Capitola parking permit program.

**The motion carried by the following vote: Aye: Commissioners Newman, Ortiz, Welch, and Westman and Chairperson Smith. No: None. Abstain: None.**

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| **B.** | **1601 41st Avenue      #15-067      APN: 034-151-20** |
| Design Permit and Conditional Use Permit for expansion of nursery, exterior remodel,  permanent and seasonal outdoor displays, and height exception for a 16-foot high fence for Orchard Supply Hardware in the Community Commercial (CC) zoning district. This project is not in the Coastal Zone and does not require a Coastal Development Permit.  Environmental Determination: Categorical ExemptionProperty Owner: Ow TrustsRepresentative: Nicholas De Torres, filed 4/16/15 |

Planner Cattan noted modified plans were submitted and made available earlier in the day. She presented the staff report. The permanent display area now ends in front of the applicant’s portion of the building and does not extend to adjacent frontages. In the parking area, 12 spots would be lost to seasonal displays. The revised plans add a corral for shopping carts. Staff has concerns with the scale of proposed posts and noted the 41st Avenue design guidelines call for human scale. She recommended adding a condition that trash enclosures are covered as required by storm water regulations.

Commissioner Newman asked how the display area addresses problems of unsightly seasonal display. Staff said the use has been subject to code enforcement and this portion of the application allows the City to apply conditions.

Nicolas De Torres spoke on behalf of Orchard Supply.

Commissioner Westman clarified how many shopping carts could be accommodated and asked for it to be extended. Mr. De Torres also noted some cart corral in the seasonal display area will remain.

Commissioner Ortiz confirmed that some carts are stored indoors.

Commissioner Newman asked what guarantees the City has that the business will not continue to abuse the outdoor display. Mr. De Torres acknowledged it has been a concern in other jurisdictions and there is an awareness within the company.

Commissioner Westman agreed that the column width does not meet guidelines. She researched front columns and found variations at other Orchard locations. Commissioners Ortiz and Welch also supported reducing the width. They praised the overall project.

Commissioner Smith asked if the seasonal display location would vary and was told it may shift slightly.

Commissioner Ortiz said she wants to support business, but is concerned that the seasonal display is not available to other businesses and she wants to be fair. She prefers seasonal permits until the new code is developed and a sunset or review period on the outdoor display.

Commissioner Westman supports the idea of a CUP for outdoor displays.

Director Grunow noted that currently parking lot sales are not codified, but staff has a process it has used for permitting based on previous guidance.

Commissioner Newman likes much of the project but does not like the parking lot use. He feels the description is too vague.

**A motion to approve application #15-067 for a Design Permit and Conditional Use Permit was made by Commissioner Westman and seconded by Commissioner Ortiz with the following conditions and findings:**

### CONDITIONS

1. The project approval consists of a Conditional Use Permit to expand the Orchard Supply Hardware Store, allow outdoor display, ~~allow seasonal outdoor displays~~, an exception to fence height, and allow new signs at 1601 41st Avenue within Kings Plaza. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on June 4, 2015 except as modified through conditions imposed by the Planning Commission during the hearing. Seasonal outdoor displays were denied within this application.
2. The Planning Commission approved the outdoor display area at the entrance of the store on a temporary basis. The current Zoning Code does not include specific standards for outdoor displays. The conditional use permit for outdoor display will expire six months from the time outdoor display standards are adopted within the zoning ordinance by the City.
3. The application included 6 feet wide posts under the new truss system. The design must be modified to comply with the 41st Avenue design guideline #7 and relate to human scale. The post may not exceed 3 feet in width. The Community Development Director or his designee will review the final design and determine if the revised post maintains human scale along the entrance.
4. Pavers or stamped concrete must be included in the building plan submittal to clearly delineate/identify the area permitted within the conditional use permit for outdoor display. ~~The two outdoor display areas are permitted at a maximum of 6.5 feet by 47.5 feet on each side of the front entry way.~~ The outdoor display areas are limited to the footprint presented to the Planning Commission during the June 4, 2015, meeting. The exterior cart collection area on the front façade of the building will be extended an additional 5 feet to accommodate more carts onsite. No goods or materials utilized for the display may be located outside the delineated area. The area may only be expanded with the approval of a modification to the CUP by the Planning Commission.
5. The outdoor display merchandise shall be the merchandise of the Orchard Supply Hardware only. The outdoor display area shall be managed by the Orchard Supply Hardware. The outdoor display conditional use permit is not transferable between properties or businesses.

1. All outdoor display merchandise shall only be displayed during business hours.
2. The outdoor display shall not obstruct pedestrian, bicycle, vehicular, or emergency services access and shall maintain four (4) feet of unobstructed access provided, however, that the width of the clear area shall in all events meet all applicable state and federal regulations and building codes, including all barrier-free and ADA requirements.
3. Outdoor vending machines and drop boxes or donation bins shall be prohibited.
4. The outdoor displays shall not contain any information which would routinely be placed on a business sign located on the building such as the name or type of business, hours of business operation, business logo, brand name information, etc. The outdoor display may include a sign which indicates the price of the display item(s) or simply indicates a "sale" on the item(s) limited to 8.5” x 11”.
5. All outdoor displays shall be continuously maintained in a state of order, security, safety and repair. The display surface shall be kept clean, neatly painted, and free of rust, corrosion, protruding tacks, nails and/or wires. Any cracked, broken surfaces, or other unmaintained or damaged portion of a display shall be repaired or replaced or removed within thirty (30) days.

1. All outdoor displays shall be tasteful and assist in creating a top quality shopping environment. No display shall contain obscene, indecent or immoral matter.
2. The outdoor displays must be self-supporting, stable and weighted or constructed to withstand being overturned by wind or contact. The display shall not be permanently affixed to any object, structure or the ground including utility poles, light poles, trees or any merchandise or products displayed outside permanent buildings.
3. ~~The seasonal display area is allowed between the hours of 9 am and 9 pm. Lighting for the seasonal display area shall only light the area within the display. The lighting must be terminated at 9 pm each evening.~~
4. 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
5. 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.
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 shall require Planning Commission approval.
7. Prior to issuance of building permit, all Planning fees associated with permit #­15-067 shall be paid in full.
8. 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
9. Parking for the proposed hardware store expansion must be accommodated within the onsite parking.
10. Prior to granting of final occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director.
11. The applicant was granted a conditional use permit for the outdoor displays. In any case where the conditions of the permit are not complied with, the community development director shall give notice thereof to the permittee, which notice shall specify a reasonable period of time within which to perform said conditions and correct said violation. If the permittee fails to comply with said conditions, or to correct said violation, within the time allowed, notice shall be given to the permittee of intention to revoke such permit at a hearing to be held not less than thirty calendar days after the date of such notice. Following such hearing and, if good cause exists therefore, the Planning Commission may revoke the permit.
12. The conditional use permit will expire in the case where the conditional [use](http://www.codepublishing.com/ca/capitola/cgi/defs.pl?def=17.03.690) permit has not been used within two years after the date of granting thereof. Any interruption or cessation beyond the control of the property owner shall not result in the termination of such right or privilege. A permit shall be deemed to have been “used” when actual substantial, continuous activity has taken place upon the land pursuant to the permit.
13. The applicant shall install a permanent rain barrel display in the garden section of the store.
14. The applicant shall incorporate a roof structure to cover the trash and recycling area.  A detail of the roof structure shall be included in the building permit plans.
15. The owner/applicant shall implement Best Management Practices for the ongoing maintenance of the trash and recycling area.
16. At the time of submittal for building permit review, Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP) shall be printed in full and incorporated as a sheet into the construction plans.  All construction shall be done in accordance with Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP).
17. 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.
18. 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.  Erosion and sediment control shall be maintained throughout the duration of the construction project.

**FINDINGS**

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

Community Development Department Staff, the Architecture and Site Review Committee, and the Planning Commission have reviewed the application and determined that the proposed expansion of the business, outdoor displays, and signs may be granted a design permit and conditional use permit within the CC Zoning District. The use meets the intent and purpose of the Community Commercial Zoning District. Conditions of approval have been included to ensure that the use is consistent with the Zoning Ordinance and General Plan.

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

Community Development Department Staff, the Architecture and Site Review Committee, and the Planning Commission have reviewed the proposed use and determined that the use complies with the applicable provisions of the Zoning Ordinance and therefore maintain the character and integrity of this area of the City. Conditions of approval have been included to carry out these objectives.

**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 the expansion of the existing hardware store within an existing commercial space. No adverse environmental impacts were discovered during project review by either the Planning Department Staff or the Planning Commission.

**The motion carried by the following vote: Aye: Commissioners Newman, Ortiz, Welch, and Westman and Chairperson Smith. No: None. Abstain: None.**

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| **C.** | **809 Bay Avenue      #15-074      APN: 035-021-43** |
| Design Permit and Conditional Use Permit for a private outdoor seating area and onsite sale and consumption of beer and wine for the Nob Hill grocery store located in the CC (Community Commercial) Zoning District. This project is not in the Coastal Zone and thus does not require a Coastal Development Permit.Environmental Determination: Categorical ExemptionProperty Owner: Redtree PropertiesRepresentative: Michael Gates, filed: 4/22/15 |

Planner Safty presented the staff report. The proposed live amplified music raised concerns with planning staff and the police department. He outlined new recommended conditions that limit dining times and alcohol service, and denies amplification and stage.

Commissioner Newman confirmed there is a sufficient path around the seating area for those walking from Bay Avenue.

Mike Gates spoke on behalf of the applicant. This proposal comes after much discussion of how to use the outdoor area. He believes the music is part of the ambiance and would accept some conditions. He asked if alcohol sales and consumption could continue inside later.

Kate Arietta, resident, expressed concerns about noise. She does not support the television and sound system. She asked there be no amplification including musicians’ portable systems. She supports the police recommendation.

Commissioner Welch shares concerns about the sound system and TV, but also applauds effort to use the space. He supports the police recommendation.

Commissioner Westman agrees, but would be OK with extending alcohol service inside. Upon discussion, commissioners felt it would be difficult to enforce indoor only.

Commissioner Newman praised the project as consistent with themes in the General Plan to enhance the area as a gateway. He thinks TVs could be appealing for large sporting events.

Chairperson Smith likes the use and wishes alcohol service did not require the separation fence. She noted the location is within an already distracting intersection. In addition there is a sleep center across the parking lot and nearby residences, so she worries TVs and amplified music would invite noise enforcement issues.

**A motion to approve application #15-074 for a Design Permit and Conditional Use Permit was made by Commissioner Ortiz and seconded by Commissioner Westman with the following conditions and findings:**

**CONDITIONS**

1. The project approval consists of a Conditional Use Permit to allow beer and wine sales and Design Permit to construct and operate an outdoor dining area at 809 Bay Avenue. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on June 4, 2015, minus the outdoor TV, outdoor speakers, and outdoor stage, except as modified through conditions imposed by the Planning Commission during the hearing.
2. The establishment must maintain a valid license from the Alcohol Beverage Control.  A copy of the approved Department of Alcoholic Beverage Control Permit must be filed with the Community Development Department prior to initiating beer and wine sales.
3. The applicant was granted a Conditional Use Permit to allow the serving of beer and wine and construction and operation of an outdoor seating area.  In any case where the conditions of the permit have not been or are not complied with, the community development director shall give notice thereof to the permittee, which notice shall specify a reasonable period of time within which to perform said conditions and correct said violation. If the permittee fails to comply with said conditions, or to correct said violation, within the time allowed, notice shall be given to the permittee of intention to revoke such permit at a hearing to be held not less than thirty calendar days after the date of such notice. Following such hearing and, if good cause exists therefore, the Planning Commission may revoke the permit.
4. No amplified entertainment is approved within this permit (#15-074).  An Entertainment Permit is required for any music or entertainment that is audible outside of the structure.  An Entertainment Permit may be applied for through the Capitola Police Department.
5. Patrons shall not be allowed to leave with open alcoholic beverage containers.
6. Permits are non-transferrable.
7. The establishment must maintain a valid license from the Alcohol Beverage Control.
8. The applicant is responsible for maintaining the area directly in front of the business free from litter and/or graffiti.
9. Operational hours of the outdoor dining area are limited to 8:00am – 9:00pm on weekdays, and 8:00am – 11:00pm on weekends. Sale of beer and wine for outdoor dining is limited to 10:00am – 8:00pm, 7 days a week. The sale of alcohol beverages can only occur when food services are open.
10. The applicant shall receive permission from ABC to serve alcoholic beverages prior to June 4, 2017. The Conditional Use Permit will expire in the case where the Conditional Use Permit has not been used within two years after the date of granting thereof. Any interruption or cessation beyond the control of the property owner shall not result in the termination of such right or privilege. A permit shall be deemed to have been “used” when actual substantial, continuous activity has taken place upon the land pursuant to the permit.
11. 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.
12. The applicant is 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.
13. 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.
14. At the time of submittal for building permit review, Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP) shall be printed in full and incorporated as a sheet into the construction plans.  All construction shall be done in accordance with Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP).
15. 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.
16. Prior to issuance of building permit, all Planning fees associated with permit #­15-074 shall be paid in full.
17. 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 Water District, and Central Fire Protection District.
18. 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.
19. 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).
20. 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.
21. 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
22. 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.
23. 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 17.81.160.
24. 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.

**FINDINGS**

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

Community Development Department Staff and the Planning Commission have reviewed the application and determined that the proposed business may be granted a conditional use permit for the sale of alcohol and dining area within the CC Zoning District. The use meets the intent and purpose of the Community Commercial Zoning District. Conditions of approval have been included to ensure that the use is consistent with the Zoning Ordinance and General Plan.

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

Community Development Department Staff and the Planning Commission have reviewed the proposed use and determined that the use complies with the applicable provisions of the Zoning Ordinance and maintains the character and integrity of this area of the City. This area of the City is a mix of commercial and residential uses. Conditions of approval have been included to carry out these objectives.

1. **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 existing retail area with the additional use of beer and wine sales and a dining area. No adverse environmental impacts were discovered during project review by either the Planning Department Staff or the Planning Commission.

**The motion carried by the following vote: Aye: Commissioners Ortiz, Welch, and Westman and Chairperson Smith. No: Commissioner Newman. Abstain: None.**

1. **DIRECTOR’S REPORT**

Director Grunow reported that on June 15 there will be a community workshop on non-conforming residential uses. On June 23 there is a workshop regarding the possible City Hall/Pacific Cove redevelopment. June 30 there will be a public scoping meeting for the Monterey Skate Park EIR.

**7. COMMISSION COMMUNICATIONS**

Commissioner Westman will not be able to attend the August meeting.

Commissioner Ortiz asked staff to check on the use of breezeway between Zelda’s and Mr. Kabob for storage. Staff noted it is already in discussion about trash enclosures and sidewalks there.

Commissioner Welch reminded everyone that the Safety Foundation’s car show is this weekend.

**8. ADJOURNMENT**

Chairperson Smith adjourned the meeting at 8:56 p.m. to a special meeting of the Planning Commission to be held on Monday, June 22, 2015, at 6 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

Approved by the Planning Commission on July 16, 2015.

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Linda Fridy, Minutes Clerk