

**ADOPTED MINUTES**

**CAPITOLA PLANNING COMMISSION MEETING**

**THURSDAY, OCTOBER 2, 2014**

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

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

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

Commissioners: Linda Smith, TJ Welch and Chairperson Gayle Ortiz.

Absent: Ron Graves and Mick Routh

**2. ORAL COMMUNICATIONS**

### Additions and Deletions to Agenda

Item 5B was continued (see agenda item).

## Public Comment

1. Commission Comment
2. Staff Comments

Senior Planner Katie Cattan followed up on Commission questions from the September meeting regarding the approval of a major revocable encroachment permit for 116 Grand Ave. She outlined the process and requirements, and presented before and after images of the project. A turnaround area had been requested during Arch and Site review by the Public Works Director. An onsite review showed that landscaping was set closer to the home than originally approved, slightly enlarging the turnaround. However, its use is not clear to the public and Public Works will be adding a “turnaround only no parking” sign. The Public Works Director also noted bollards must remain in place during project review. He inspected the site and confirmed that bollard spacing is adequate and he has no concerns. If the City wished to revoke the permit for street widening, the agreement calls for the property owner to be notified 45 days in advance and the improvements removed at the property owners’ expense. With no plan to widen the road, the Planning Commission would have to determine a public necessity and hold a noticed public hearing.

Commissioner Welch walked through his review process and noted that he did not understand how far the fence line was going to be moved based on the plans. He also confirmed that a vehicle parked in the turnaround can be ticketed once the new sign is in place.

Berna Bruzzone, 116 Grand Ave., explained that the property was overgrown and unlandscaped when her family began the project and she believes that the landscaping has helped with erosion. She supported plans for signage identifying the turnaround area and asked for a “no through traffic sign” near Cliff Drive.

Starley Moore, 114 Grand, Ave., questioned the effectiveness of the turnaround since it is relatively narrow. Her concern is to end the damage to her driveway gate that happens when drivers try to turn on her property. She also supported additional “no through traffic” signs.

Toni Moccia, Central Avenue, said the concern is consistency of the use of the city right-of-way throughout the neighborhood and how much of a benefit it is to the individual property owner versus the community. The overall issue should be an item of discussion.

Chairperson Ortiz noted that this issue has been raised regularly since at least the 1990s.

**3. APPROVAL OF MINUTES**

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| **A.** | **September 4, 2014, Draft Planning Commission Minutes** |

**A motion to approve the September 4, 2014, meeting minutes was made by Commissioner Smith and seconded by Commissioner Welch.**

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

**4. CONSENT CALENDAR**

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| **A.** | **Grand Avenue Bluff      #14-129      APN:036-114-11** |
| Coastal Development Permit for landscaping improvements on a vacant lot located on the Coastal Bluff in the R-1 (Single-Family Residential) Zoning District.  This project requires a Coastal Development Permit, which is appealable to California Coastal Commission after all possible appeals are exhausted through the City. Environmental Determination: Categorical Exemption Property Owner: Starley Moore, filed: 9/2/14 Representative: Ellen Cooper |

**A motion to approve project application #14-129 for a Coastal Development Permit with the following conditions and findings was made by Commissioner Smith and seconded by Commissioner Welch:**

**CONDITIONS**

1. The project approval consists of a coastal permit for landscaping with decomposed granite pathways, central seating area, and a game area on vacant cliff property.
2. The applicant submitted a completed coastal permit application and landscape plan. Prior to construction, the applicant is required to submit an erosion control plan and maintenance plan which demonstrates that the project will not contribute to accelerated erosion or adversely impact bluff stability.
3. All work shall be completed per the plans approved by the Planning Commission and the erosion control plan shall be strictly followed. Erosion control and sediment management devices shall be installed and inspected by City Public Works prior to initiating work.
4. The landscape plan must be strictly followed. Plants identified in the landscape plan shall be installed. Any changes to the approved landscape plan must be approved by staff prior to installation. All plants must be native, drought-resistant plants. Any significant modifications to the approved design must be approved by the Planning Commission.
5. Water is not located on the site. The landscaping must be hand-watered only so that irrigation does not contribute to bluff erosion.
6. There shall be no use of heavy machinery on the bluff. All compressed granite work must be done with a manual granite roller.
7. There shall be no staging of construction materials in the road right-of-way.
8. In the event of the blufftop eroding, all of the development would need to be removed at the sole expense of the property owner (LCP Policy VII-9: Shoreline structures to protect existing development only)
9. Hours of construction shall be Monday to Friday 7:30AM – 9:00PM, and Saturday 9:00AM – 4:00PM, per city ordinance.
10. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.

# FINDINGS

1. **The application, subject to the conditions imposed, 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 and support the project due to the use of native, draught tolerant plants and creation of an aesthetically pleasing landscape as viewed from the Grand Avenue. The coastal permit for a landscaping 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**. **This project is categorically exempt under Section 15304 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

Section 15304 of the CEQA Guidelines exempts minor alterations to land. 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 on a privately-owned, slightly sloped lot located on the Coastal Bluff. The project will not directly affect public access and coastal recreation areas as it involves the landscaping of a private cliff-side lot which has no affect on public trail 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 adjacent to the coastal cliff, approximately 50 feet from the shoreline. No portion of the project is located directly 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);***

* The privately owned site has previously been vacant. There is no evidence of use of the site by members of the public for coastal access.

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 a piece of privately owned property on the coastal cliff. 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. There is no access to the shore from the property.

***(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 south of Grand Ave, directly on the coastal cliff. 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. There is no access to the shore from the property. The project does not involve any significant built structures; it mostly involves a native landscape plan and minor hardscaping.

***(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;***

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

***c. 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.***

* No Management Plan is required; therefore these findings do not apply

***(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 landscape plan and low-impact game court on a vacant piece of private property. There is an existing fence around the property to restrict public access. No new use or change in use is proposed.

*SEC. 30223*

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

* The project involves a landscape plan and low-impact game court on a vacant piece of private property. There is an existing fence around the property to restrict public access. No new use or change in use is proposed.

***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 landscape plan and low-impact game court on a vacant piece of private property. There is an existing fence around the property to restrict public access. No new use or change in use is proposed.

***(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 a landscape plan and low-impact game court on a vacant piece of private property. There is an existing fence around the property to restrict public access. No new use or change in use is proposed.

***(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 involves a landscape plan and low-impact game court on a vacant piece of private property located on the coastal cliff. The proposal will not detract from public views. The property is going from vacant to lightly landscaped.

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

* The project involves a landscape plan and low-impact game court on a vacant piece of private property located on the coastal cliff. No water or sewer services will be affected.

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

* The project involves a landscape plan and low-impact game court on a vacant piece of private property located on the coastal cliff with no change in use.

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

* The project involves a landscape plan and low-impact game court on a vacant piece of private property located on the coastal cliff with no change in use.

***(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 through 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. The existing lot is vacant, and will not be built upon.

***(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;***

* The project will comply with all applicable erosion control measures. The entire project is composed of permeable surfaces.

***(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 will be prepared by qualified professionals for this project which is located in a geologic hazard zone. Conditions of approval have been included to ensure the project complies with hazard protection policies.

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

* Geologic/engineering reports will be prepared by qualified professionals for this project which is located in a geologic hazard zone. 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 is not located along a shoreline.

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

* The project involves a landscape plan and low-impact recreational area on a vacant piece of private property located on the coastal cliff with no change in use.

***(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 vacant cliff-side property is owned by an adjacent neighboring property. There will be no new introduced vehicular traffic from this project.

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

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| **B.** | **1740 Wharf Road      #14-131      APN:035-111-14** |
| Design Permit modification for a previously approved new single-family residence in the R-1/AR (Single Family/Automatic Review) Zoning District. This project requires a Coastal Development Permit which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City. Environmental Determination: Categorical Exemption Owner: Bruce Golino Representative: Courtney Hughes, William Fisher Architecture, filed: 9/2/2014 |

**A motion to approve project application #14-131 for a Coastal Development Permit, Variance, and Design Permit with the following conditions and findings was made by Commissioner Smith and seconded by Commissioner Welch:**

### CONDITIONS

1. The project approval consists of construction of a 2,598 square-foot new single family home. The maximum Floor Area Ratio for the 8,860 square foot property is 48% (4,252 square feet). The total FAR of the project is 44% with a total of 2,598 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 October 2, 2014, 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 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).
5. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes shall require Planning Commission approval.
6. 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.
7. Prior to issuance of building permit, all Planning fees associated with permit #­14-131 shall be paid in full.
8. Prior to issuance of building permit, Affordable housing in-lieu fees shall be paid as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance.
9. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel Creek Water District, and Central Fire Protection District.
10. 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.
11. 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).
12. 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.
13. To avoid the potential for accelerated erosion and sedimentation of the habitat area during the construction phase, all land alteration and construction activities should occur during the non-rainy season of April 15 – October 15.
14. To avoid sedimentation of habitat area during construction, the owner/contractor shall install a silt fence barrier at the eastern edge of the construction zone (development envelope) to capture any material (e.g. dislodged soil, construction debris) that is discharged down the slope. The silt fence shall be installed according to best management practices, including embedding the bottom of the silt fence in native soil at least 6 inches. The owner/contractor shall clean debris from the upslope side of the silt fence each day debris is collected. The silt fence shall be maintained in good operable condition during the entire construction phase of the project.
15. To avoid the potential for accelerated erosion and sedimentation of the habitat area during the post-construction phase, a licensed civil engineer shall prepare a storm water drainage plan that collects all storm runoff and conveys it in a manner that will not disturb the stability of the slope at the eastern 60% of the parcel. If the civil engineer determines collected runoff must be conveyed in a pipe that discharges at the bottom of the slope, the pipe(s) shall be located above ground to minimize site disturbance and facilitate maintenance. The pipe(s) shall be effectively anchored to prevent movement.
16. 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.
17. 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 six 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
18. 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.
19. Prior to issuance of a Certificate of Occupancy, the applicant shall demonstrate compliance with the tree removal permit authorized by this permit for 2 trees to be removed from the property. Replacement trees shall be planted at a 2:1 ratio. Required replacement trees shall be 24’” box and shall be planted as shown on the approved plans.

1. 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.
2. 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.
3. 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.
4. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
5. A management plan is required to maintain street access along Wharf Road during construction. The management plan must be approved by the Public Works Director.
6. All vegetation on the green roof must be maintained in a healthy state.
7. The new home is located adjacent to the Visitor Serving zoning district.  There is an existing restaurant with an operating trolley located on the adjacent property.  The trolley and restaurant are established uses, both of which generate noise which is audible to residents within the neighborhood.  Prior to the sale of the new home or property, the owner of the property must disclose the potentially significant noise impacts of the adjacent use to all prospective buyers.
8. The current application #14-131 will replace design permit application #14-016. Application #14-016 shall be void with the approval of this application.

**FINDINGS**

1. **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 secures the purposes of the R-1 (Single Family Residence) Zoning District, the AR (Automatic Review) Zoning Districts, and the Soquel Creek Riparian Riparian Corridor. A Variance for the side yard setback has been granted by the Planning Commission to carry out the objectives of the Zoning Ordinance, General Plan and Local Coastal Plan.

1. **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 is located adjacent to the Shadowbrook Restaurant with the cable car one foot off the north property line. The Shadowbrook Cable Car is a local landmark. The project received a variance to the required side yard setback to protect the local landmark on the adjacent property. The applicant also acknowledged the noise that exists from the trolley and restaurant which is audible to residents within the neighborhood. Conditions of approval have been included to ensure that the project maintains the character and integrity of the neighborhood and allows the continued operation of the adjacent restaurant. The proposed single-family residence compliments the existing mix of single-family and commercial in the neighborhood in use, mass and scale, materials, height, and architecture. The home has been designed to not impact the riparian corridor of the Soquel Creek.

1. **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 R-1/AR (Single Family/Automatic Review) Zoning District. Section 15303 of the CEQA Guidelines exempts the construction of a single-family residence in a residential zone.

**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 1740 Wharf Road. The rear property line is located along the Soquel Creek. There is an existing 10 foot wide pedestrian easement at the foot of the hill adjacent to the Soquel creek. More than half of the property is a scenic easement that cannot be built upon. No development is allowed within the scenic easement or the pedestrian easement. The new home will be located directly off Wharf Road. The project will not directly affect public access and coastal recreation areas as it involves a single family home located along the frontage of Wharf Road. 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 Wharf Road. 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);***

* The privately owned site has a ten foot wide pedestrian easement along the rear property line located at the bottom of the hill along the Soquel Creek. This easement may be utilized by members of the public to walk along the creek. The development will not impact access to the pedestrian easement.

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 adjacent to Wharf Road. 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. The ten foot pedestrian easement along the rear property line will not be impacted by the new home.

***(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. There is a scenic easement that covers more than half the length of the lot. No development is allowed within the scenic easement. 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;***

* Several conditions have been included to protect the riparian habitat along the rear (downhill) portion of the lot. A riparian delineation was completed by a professional to locate the edge of the riparian habitat. The following conditions were added to ensure proper controls are in place during construction.

1. To conserve the riparian area for habitat purposes, the City of Capitola shall delineate a development envelope on the site to show where structural development and outdoor use area (yard) will be located as part of the Coastal Zone Permit process for site development. The development envelope shall be based on the riparian vegetation delineation and the City’s required 35 foot setback from the outer edge of the vegetation.
2. To avoid the potential for accelerated erosion and sedimentation of the habitat area during the construction phase, all land alteration and construction activities should occur during the non-rainy season of April 15 – October 15.
3. To avoid sedimentation of habitat area during construction, the owner/contractor shall install a silt fence barrier at the eastern edge of the construction zone (development envelope) to capture any material (e.g. dislodged soil, construction debris) that is discharged down the slope. The silt fence shall be installed according to best management practices, including embedding the bottom of the silt fence in native soil, at least, 6 inches. The owner/contractor shall clean debris from the upslope side of the silt fence each day debris is collected. The silt fence shall be maintained in good operable condition during the entire construction phase of the project.
4. To avoid the potential for accelerated erosion and sedimentation of the habitat area during the post-construction phase, a licensed civil engineer shall prepare a storm water drainage plan that collects all storm runoff and conveys it in a manner that will not disturb the stability of the slope at the eastern 60% of the parcel. If the civil engineer determines collected runoff must be conveyed in a pipe that discharges at the bottom of the slope, the pipe(s) shall be located above ground to minimize site disturbance and facilitate maintenance. The pipe(s) shall be effectively anchored to prevent movement.

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

* #3 above states: To avoid the potential for accelerated erosion and sedimentation of the habitat area during the construction phase, all land alteration and construction activities should occur during the non-rainy season of April 15 – October 15.

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

* Access to the pedestrian easement will not be impacted.

***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 result 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 a ½ mile of the Central Fire District fire station. 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 is not located along a shoreline.

***(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 an allowed use consistent with the Single Family/Automatic Review 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 not located within the area of the Capitola parking permit program.

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

|  |  |
| --- | --- |
| **C.** | **111 Central Avenue      #14-099      APN: 036-112-08** |
| Design Permit for a second story addition to the existing Single Family Residence in the R-1 (Single-Family Residential) Zoning District.  This project requires a Coastal Development Permit which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City. Environmental Determination: Categorical Exemption Property Owner: Anh Do Representative: Devlin Jones, filed 6/24/14 |

This item was pulled from the consent agenda by a member of the audience. Assistant Planner Ryan Safty presented the staff report for the application, which had been continued to this meeting to allow design changes in response to pubic and Commission comment.

Chairperson Ortiz opened the public hearing.

John Glina, 113 Central Ave., likes the changes but questioned the calculations and believes the size is still over the 2,000-square-foot limit that would trigger additional parking. He still has some concerns about massing as well.

The public hearing was closed. In response to questions, Director Grunow said if the square footage numbers are off, it appears to be by about 20 feet.

Commissioner Smith said she wants the project to fall within 2,000 square feet, but she supports the changes.

Chairperson Ortiz appreciates the efforts made by the applicant to address concerns and noted that with the city’s many small lots, changes to adjoining properties will have an impact on neighbors not all of which can be mitigated.

Commissioner Welch said he was comfortable with the project subject to staff review to confirm the square footage is as indicated.

**A motion to approve project application #14-099 for a Design Permit and Coastal Development Permit with the following conditions and findings was made by Commissioner Welch and seconded by Commissioner Smith:**

### CONDITIONS

1. The project approval consists of construction of a 445 square-foot addition to an existing single family home. The maximum Floor Area Ratio for the 4,000 square foot property is 53% (2,120 square feet). The total FAR of the home with new addition is 50% with a total of 2,000 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 October 2, 2014, 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. Prior to any fence construction and repair, a fence permit shall be obtained by the applicant or homeowner from the Community Development Department.
5. 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).
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, 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.
8. Prior to issuance of building permit, all Planning fees associated with permit #­14-099 shall be paid in full.
9. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel Creek Water District, and Central Fire Protection District.
10. 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.
11. 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).
12. 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.
13. 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.
14. 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
15. 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.
16. 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.
17. 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.
18. 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.
19. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.

**FINDINGS**

1. **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 addition to the single family home. 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.

1. **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 addition to the single family home. 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.

1. **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.

**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 111 Central 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 Central 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 Central 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 area without sensitive habitat areas.

***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 is not located along a shoreline.

***(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 an allowed 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 Smith and Welch and Chairperson Ortiz. No: None. Abstain: None.**

**5.** **PUBLIC HEARINGS**

|  |  |
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| **A.** | **100 Oakland Avenue      #14-135      APN:036-133-09** |
| Major Revocable Encroachment Permit and Variance application for a bench and fireplace located within the front yard and right-of-way of 100 Oakland Avenue located in the R-1 (Single-Family Residential Zoning District).  This project requires a Coastal Development Permit which is appealable to California Coastal Commission after all possible appeals are exhausted through the City. Environmental Determination: Categorical Exemption Property Owner: James Castellanos Representative: Margarita Jimenez, filed: 9/11/14 |

Senior Planner Cattan presented the staff report. She noted the fire pit does not have gas and the applicant plans to burn manufactured fire logs to decrease smoke. The recommended approval conditions include an item to address noise and smoke. In response to a Commission question, she explained the type of logs is not in the conditions due to difficulty of enforcement.

Chairperson Ortiz opened the public hearing.

Toni Moccia of Central Avenue thinks the fire pit is beautiful, but is concerned that the permit was requested after the fact.

Applicant Margarita Jimenez explained they put up a landscaping bond and thought at that time the final plan was approved and the structures were within the allowed area. She said the change from a gas fire pit was a last-minute debate about the type of fuel. She checked with neighbors to confirm there were not issues.

The public hearing was closed.

Commissioner Smith said she visited the site. She has been concerned about wood-burning appliances in the past and the impact of the smoke, but feels this location is appropriate for such use. She also observed the hedge which screens the bench and pit is long-established. These structures may someday be removed to preserve the Grand Avenue walking path, but at this time the encroachment permit appears appropriate.

Commissioner Welch agreed that the preexisting hedge and rock wall have already established an encroachment and that there is precedent for this permit.

**A motion to approve project application #14-135 for a Coastal Development Permit and Major Revocable Encroachment Permit with the following conditions and findings was made by Commissioner Smith and seconded by Commissioner Welch:**

**CONDITIONS**

1. The project approval consists of two structures (fire pit and bench) permanently affixed to the ground within the front yard setback and right-of-way at 100 Oakland Avenue. A coastal development permit, variance, and major revocable encroachment permit have been approved within this application.
2. The City of Capitola noise ordinance §9.12.010 prohibits any loud noise within two hundred feet of any residence, hotel, apartment house, cabin, cottage, cottage court, lodging facility or any building 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 use of the fire pit shall not result in loud noise beyond 10 p.m. If the City receives complaints regarding noise associated with the fire pit, the permit may be revoked by the Community Development Director or Planning Commission.
3. There shall be no additional permanent structures located within the right of way without the issuance of a major permit by the Planning Commission.
4. Prior to building permit issuance, the applicant shall contact the Public Works Department to complete the revocable encroachment permit process. A revocable encroachment permit shall be required to be recorded.
5. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.

# FINDINGS

1. **The application, subject to the conditions imposed, 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 coastal development permit conforms to the requirements of the Local Coastal Program and conditions of approval have been included for the variance and major revocable encroachment permit to carry out the objectives of the Zoning Ordinance, General Plan and Local Coastal Plan.

**B**. **This project is categorically exempt under Section 15304 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

Section 15304 of the CEQA Guidelines exempts minor alterations to land. 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 on a privately-owned lot located on the Coastal Bluff. The project will not directly affect public access and coastal recreation areas as it involves a fire pit and bench located within the enclosed yard of a private residence and portion of the street right-of-way. The structures have no affect on public trail 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 adjacent to the coastal cliff, approximately 50 feet from the shoreline. 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 no evidence of use of the site by members of the public for coastal access.

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 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. There is no access to the shore from the property.

***(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 north of Grand Ave within 50 feet of the coastal bluff. 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. There is no access to the shore from the property. The project is within the privately utilized yard and not within the public trail area.

***(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;***

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

***c. 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.***

* No Management Plan is required; therefore these findings do not apply

***(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.*

* No new use or change in use is proposed.

*SEC. 30223*

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

* The project is not located within the residential lot and the city right-of-way. It is not within the coastal recreational use. There is a trail system adjacent to the residential property that is not impacted by the fire pit and bench.

***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 bench and fire pit are located within the residential lot and the City right-of-way.

***(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 area is not utilized for parking or circulation. The property has traditionally been utilized as a private yard associated with a residential development.

***(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 complies with the LCP policies.

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

* No water or sewer services will be affected.

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

* No water services are affected by the application.

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

* The project complies with water and energy conservation standards.

***(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 through 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 will not impact 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;***

* The project complies with all 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 were prepared by qualified professionals for the updates to the home which are located in a geologic hazard zone. The fire pit and bench were installed during the improvements to the home.

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

* Geologic/engineering reports have been prepared by qualified professionals for this project which is located in a geologic hazard zone during the original review of the updates to the home. Conditions of approval were included with the original permit to ensure the project complies with geological, flood, and fire hazards.

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

* The proposed project is located on the bluff.

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

* The project involves a bench and fire pit which requires a variance due to the location within the front yard of the property.

***(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:***

* There will be no new introduced vehicular traffic from this project.

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

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| **B.** | **124 Central Avenue      #14-116      APN: 036-122-13** |
| Design Permit and Conditional Use Permit for an addition to a Historic Single Family home located in the R-1 (Single-Family Residential) Zoning District.  This project is in the Coastal Zone and requires a Coastal Development Permit, which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City. Environmental Determination: Categorical Exemption Property Owner: Douglas Edwards  Representative: Derek Van Alstine (filed 7/21/2014) |

This item was addressed during 2A, Additions and Deletions to the Agenda. No one asked to speak to the application.

**A motion to continue project application #14-116 to the meeting of Thursday, Nov. 6, 2014, was made by Commissioner Welch and seconded by Commissioner Smith.**

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

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| **C.** | **Green Building Ordinance Amendment** |
| Ordinance to amend §17.10.080 of the green building ordinance. This amendment does not require an amendment to the Local Coastal Plan. Environmental Determination: Categorical Exemption Applicant: City of Capitola |

Director Grunow presented the staff report and proposed update to the May 2008 Green Building Ordinance. The original version created a green building education fund with restricted uses. To date, $122,000 has been collected and restrictions made using funds difficult. Staff feels storm water and climate action measures could benefit, as well as water conservation. The proposed changes would expand allowable uses to include incentives and the materials and supplies for such programs.

Commissioner Welch said he is not a fan of this fee as it does not benefit the applicants and makes residential development more expensive. He asked how funds are currently being spent and was told building staff has attended related trainings and created informational brochures. He would like to see the fee eliminated or a more direct benefit to applicants.

Chairperson Ortiz asked how added incentives may benefit applicants. Programs could reduce costs for items that help meet requirements. Director Grunow noted as an example that the City Council recently agreed to subsidize a lower cost for rain barrels to help with storm water management.

The public hearing was opened and closed without comments.

Commissioners expressed strong support for prioritizing incentives with the revision.

**A motion to recommend approval of the Green Building Ordinance by the City Council was made by Commissioner Smith and seconded by Commissioner Welch.**

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

1. **DIRECTOR’S REPORT**

Director Grunow noted the online zoning update survey has been extended to Oct. 15. Housing Element consultants will be interviewed next week. Staff is working on the Climate Action Plan, which was recently presented to the Commission on the Environment.

Regarding the proposed Monarch Cove expansion, the project has been suspended. He believes that a potential buyer has withdrawn.

Staff is considering attempting a streamlined version for the Housing Element as allowed by the state, but he acknowledged that the City would need to first adopt provisions to allow transitional and supportive housing by-right and that previous attempts to make this change were not supported.

**7. COMMISSION COMMUNICATIONS**

Commissioner Smith and Chairperson Ortiz praised Arch and Site for vetting the project at 124 Central to assure it was ready for Commission review.

**8. ADJOURNMENT**

Commissioner Ortiz adjourned the meeting at 8:07 p.m. to the regular meeting of the Planning Commission to be held on Thursday, November 6, 2014, at 7 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

Approved by the Planning Commission on November 6, 2014.

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Linda Fridy, Minute Clerk