

**ADOPTED MINUTES**

**CAPITOLA PLANNING COMMISSION MEETING**

**THURSDAY, JUNE 5, 2014**

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

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

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

Commissioners: Ron Graves, Mick Routh, Linda Smith and TJ Welch

Absent: Gayle Ortiz

**2. ORAL COMMUNICATIONS**

### Additions and Deletions to Agenda - none

## Public Comment - none

1. Commission Comment - none

**D.** Staff Comments - none

**3. APPROVAL OF MINUTES**

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| **A.** | **May 1, 2014, Draft Planning Commission Minutes** |

**A motion to approve the May 1, 2014, meeting minutes was made by Commissioner Welch and seconded by Commissioner Graves.**

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

**4. CONSENT CALENDAR**

**A.** **138 Cabrillo St.       #14-071      APN: 036-182-08**

Fence Permit application with request for an exception to the required 5-foot setback for a 30-inch-tall fence on a corner lot located in the R-1 (Single-Family Residential) Zoning District.
This project is in the Coastal Zone but does not require a Coastal Development Permit.
Environmental Determination: Categorical Exemption
Property Owner: Austin Sherwood
Representative: Chris Chambers, filed: 5/9/14

**A motion to approve project application #14-071 for a fence setback exception with the following conditions and findings was made by Commissioner Welch and seconded by Commissioner Routh:**

### CONDITIONS

1. The project approval consists of construction of a 30 inch high fence. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on April 3, 2014, except as modified through conditions imposed by the Planning Commission during the hearing.
2. Prior to construction, a fence permit shall be secured for the construction of a fence authorized by this permit. Final fence permit 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 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.
5. Prior to issuance of fence permit, all Planning fees associated with permit #­14-071 shall be paid in full.
6. 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
7. 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.
8. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.

**FINDINGS**

1. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, 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. A setback exception for a front yard fence 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 in the R-1(Single Family Residential) zoning district, just north of the Cabrillo Street and Sir Francis Avenue intersection. The project received a setback exception to the corner lot fence setback standard to maintain the character and integrity of the neighborhood. The proposed fence compliments the existing mix of fences in the neighborhood.

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

 This project involves construction of a new fence in the R-1 zoning district. Section 15303 of the CEQA Guidelines exempts the construction of a fence in a residential zone.

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

**B.** **116 Stockton Ave.      #14-074      APN: 035-23-113**

Conditional Use Permit for a new market with prepared food (Restaurant) and Sale of Alcohol (beer and wine) at 116 Stockton Avenue in the CV (Central Village) Zoning District.
This project is located in the Coastal Zone but is exempt from a Coastal Development Permit.
Environmental Determination: Categorical Exemption
Property Owner: Rickey Felder
Representative: Sholeh K. Westfall, filed 5/20/2014

Attorney Ed Newman requested that this item be pulled from the Consent Agenda. It was heard as a public hearing immediately following.

Senior Planner Katie Cattan presented the staff report. She noted the applicant prepared a management plan for the type 41 liquor license and the conditions include specific items requested by the police chief related to this license. She presented amendments to conditions 21 and 22 that would allow a single beer or wine cooler to be sold for consumption onsite.

Applicant Sholeh Westfall assured the Commission that the sale of alcohol would be properly monitored, and reiterated her business plan. Commissioner Routh asked where food would be prepared offsite. She responded she is speaking with two facilities in downtown Santa Cruz currently, but she is seeking a closer location. Commissioner Routh expressed concern about take-out alcohol since it is not permitted on the beach.

Commissioner Smith confirmed the type of foods prepared. Ms. Westfall explained there would be some assembly of foods and sale of marinated meat to be grilled at another location. Her vision is a specialty food market.

Vice Chairperson Smith opened the public hearing. Mr. Newman expressed concern about sales of beer and wine to go that may end up on the beach or concerts. He noted there is no commercial parking onsite in a highly congested spot.

There was no other public comment and the public hearing was closed.

Commissioner Routh asked for clarification of the restaurant designation. Staff responded that preparation of food triggers the restaurant definition, which was deemed to have more potential development impact than the market.

Commissioner Graves noted the site’s most recent use as a wine bar with limited seats and asked why this was not an intensification of use. Planner Cattan clarified that code lists retail use or restaurant with 6 seats as comparable intensities.

Community Development Director Rich Grunow explained that intensification focuses on use classifications within the zoning code, rather than differentiation by specific use types, which is very difficult to quantify.

Commissioners discussed the specialty market use with the applicant and acknowledged the difficulty of defining primary use.

**A motion to approve project application #14-074 for a Conditional Use Permit with the following conditions and findings was made by Commissioner Welch and seconded by Commissioner Routh:**

### CONDITIONS

1. The project approval consists of a Conditional Use Permit to allow a market/restaurant with the sale of beer and wine within the existing commercial space located at 116 Stockton Avenue. No modifications to the exterior of the building are proposed.
2. Seating is limited to a maximum of 6 seats.
3. A copy of the approved Department of Alcoholic Beverage Control Permit must be filed with the Community Development Department prior to initiating beer and wine sales.
4. The applicant shall receive permission from ABC prior to selling beer and wine. The conditional use permit will expire in the case where the conditional [use](http://www.codepublishing.com/ca/capitola/cgi/defs.pl?def=17.03.690) permit has not been used within two years after the date of granting thereof. Any interruption or cessation beyond the control of the property owner shall not result in the termination of such right or privilege. A permit shall be deemed to have been “used” when actual substantial, continuous activity has taken place upon the land pursuant to the permit.
5. Sales and service of alcoholic beverages shall be permitted only between the hours of 7:00 a.m. and 7:00 p.m. seven days a week.
6. The sale of distilled spirits is prohibited.
7. There be no amplified audible entertainment inside the business that can be audible outside to the attached curb line in front of the business.
8. There shall be no live entertainment of any type, including but not limited to live music, disc jockey, karaoke, topless entertainment, male or female performers or fashion shows.
9. No dancing on the premises.
10. The applicant is required to complete and follow the Responsible Beverage Service (RBS) practices and procedures. Employees who serve alcoholic beverages are required to attend and complete L.E.A.D.S. training offered by the Capitola Police Department.
11. The establishment must maintain a valid license from the Alcohol Beverage Control.
12. The applicant is responsible for maintaining the area directly in front of the business free from litter and/or graffiti.
13. Loitering will not be allowed on or in front of the premise.
14. A six month review of conditions shall be conducted. Additional conditions will be added as needed.
15. No happy hour type of reduced price alcoholic beverage promotion shall be allowed.
16. At all times when the premises are open for business the sale of alcoholic beverages shall be made only in conjunction with the sale of food to the person ordering the beverage.
17. Sales, delivery and consumption of alcoholic beverages will be restricted to and within the confines of the building portion of the premises and sales or delivery of alcoholic beverages through any pass-out window is prohibited.
18. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period.  The licensee shall at all times maintain records which reflect separately the gross sale of food and the gross sales of alcoholic beverages of the licensed business.  Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Department on demand.
19. The petitioner(s) shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control.
20. Trash shall not be emptied later than 8 pm. Trash collection times must be consistent with hours established for the Village.
21. The sales of beer or malt beverages in quantities of quarts, 22 oz., 32 oz., 40 oz., or similar size containers is prohibited. No beer or malt beverages shall be sold in quantities of less than six per sale,with the exception of single beverages to be consumed onsite with food.
22. Beer, malt beverages, and wine coolers in containers of 16 oz. or less cannot be sold by single containers, but must be sold in manufacturer pre-packaged multi-unit quantities, with the exception of single beverages to be consumed onsite with food.
23. The licensee shall keep the property, adjacent to the licensed premises and under the control of the licensee(s) clear of newspaper racks, benches, pay telephones, bicycle racks, and any

other objects which may encourage loitering.

1. The licensee shall not sell and/or offer for sale or display any magazine, video,or other printed material which contains pictures depicting:

•     Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

•     Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.

•     Scenes wherein a person displays the vulva or the anus or the genitals.

•     Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any other prohibited activities described above.

1. 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, will secure the purposes of the Zoning Ordinance and General Plan.**

Community Development Department Staff and the Planning Commission have reviewed the application and determined that the business owner may be granted a conditional use permit for a market/restaurant with sale of beer and wine within the CV Zoning District. The use meets the intent and purpose of the Central Village Zoning District. Conditions of approval have been included to ensure that the use is consistent with the Zoning Ordinance and General Plan.

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

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

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

The proposed project involves an new grocery/restaurant with the sale of beer and wine. No adverse environmental impacts were discovered during project review by either the Planning Department Staff or the Planning Commission.

**The motion carried by the following vote: Aye: Commissioners Routh, Smith, and Welch. No: Commissioner Graves. Abstain: None.**

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

**A.** **203 Sacramento Avenue      #14-064       APN: 036-125-03
205 Sacramento Avenue      #14-065       APN: 036-125-15**

 Design Permit Amendment to modify exterior materials for two new single-family homes located in the R-1 (Single-Family Residential) Zoning District.
Environmental Determination: Categorical Exemption
This application does not require an amendment to the previously issued Coastal Development Permits.
Property Owner of 203 Sacramento: Anna Cierkosz
Property Owner of 205 Sacramento: Nick Cierkosz
Representative: Anna Cierkosz, filed 5/2/14

Commissioner Welch recused himself since he owns property in the project vicinity and left the dais. Assistant Planner Ryan Safty presented the staff report including the timeline and images for changes requested by new owners of the as-yet-unfinished, new single-family homes.

Commissioner Routh thanked the applicant for following proper procedure to make façade changes.

There was no comment for the public hearing.

Commissioner Graves asked when construction may be completed if the plans are approved this evening. The applicant responded that the families hope to complete work by the end of summer.

**A motion to approve project applications #14-064 and #14-065 for Design Permit Amendments with the following conditions and findings was made by Commissioner Routh and seconded by Commissioner Graves:**

**CONDITIONS**

1. All previous conditions of approval of Design Permit #12-014 for 203 Sacramento Avenue and Design Permit #12-013 for 205 Sacramento Avenue continue to apply.
2. The applicant shall construct the single-family homes at 203 Sacramento Avenue and 205 Sacramento Avenue as approved by the Planning Commission on June 5, 2014, including any additional exterior modifications deemed necessary by the Planning Commission during the meeting. Prior to Certificate of Occupancy the Community Development Director or his designee must find that the buildings reflect the design permit, as amended by the Planning Commission on June 5, 2014.

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

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

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

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

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

**The motion carried by the following vote: Aye: Commissioners Graves, Routh, and Smith. No: None. Abstain: None.**

**B.** **401/403 Capitola Avenue      #13-082      APN: 035-131-11**

Design Permit, Variance, Sign Permit, and Coastal Development Permit to demolish the existing duplex and construct a new two-story commercial building in the CN (Neighborhood Commercial) Zoning District and Floodplain District.
This project requires a Coastal Development Permit which is not appealable to the California Coastal Commission.
Environmental Determination: Categorical Exemption
Property Owner: Starley Moore, filed: 6/17/13
Representative: Derek Van Alstine

Commissioner Graves recused himself since he owns property in the project vicinity and left the dais. Senior Planner Cattan presented the staff report. She noted the requested setback variances reflect no change to the existing rear setback and an increased setback to existing conditions in the front, although not the level required by the zoning ordinance. Additionally, since there is currently no parking onsite, the request for a variance for parking does not increase intensity of the existing non-conformity. She noted that the applicant attempted to lease nearby parking, but was unsuccessful.

She also outlined the process and criteria for historic consideration.

Derek Van Alstine spoke on behalf of the applicant. He said that the intended commercial use with walking patrons is likely a less intense use than a residential duplex. He also noted the cost of rehabilitation is prohibitive due to the building’s dilapidated state. The design reflects the reality of neighboring setbacks and uses. He acknowledged the building’s location in front of the trestle sets the tone of the entrance to the Village from Capitola Avenue.

Commissioner Smith asked for details of the proposed windows and roof. Mr. Van Alstine said the simulated divided lights maintain the aesthetic of the historic era. The roofing material is corrugated metal and is correct to the period of the existing building.

Owner Starley Moore confirmed that the design presented is what she desired and intends to build, and is aware of the cost of materials.

Vice Chairperson Smith opened the public hearing.

Bob Henry of 402 Riverview, the neighbor behind the proposed building, spoke in support of the project. He called the back of the existing building “a joke.”

Dunn Silvey of Fanmar Way said it is a great project, but expressed concern about the impact with no onsite parking. He worries that employees will seek free parking in neighborhoods in spite of the City’s new parking lot and would like to encourage the City to consider options such as offsets to mitigate those problems.

The public hearing was closed.

Commissioner Routh noted he once rented the home 46 years ago and it was not well maintained even then, so does not support historic status. He agreed that the location sets the tone for the Village and believes the train depot appearance does not reflect the Village historical style, which to him has a more European feel. He would support a continuance for design.

Commissioner Welch does not believe the building meets historic preservation requirements and likes the new design. He said the Village has an eclectic style and noted some well-received new projects such as the “lighthouse” building are not European/Mediterranean design. He feels this project is fitting for the area.

Commissioner Smith spoke to the question of the City’s historic features preservation and acknowledged gaps in the current ordinance. She believes Capitola’s citizens do care about preserving historic character, but in this case the building structure itself is more historical than historic, and therefore does not qualify for additional CEQA review. As a gateway location, the design would optimally reflect Capitola or the existing building’s style, but she also believes people have a right to build the style they desire as long as it is well done. For this proposal, the quality of the construction and materials are paramount. Capitola’s character reflects a lot of different styles and although she would have liked a different design, she will not deny it for that reason.

**A motion to approve project application #13-082 for a Design Permit, Variance, Sign 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 new 1,115 square-foot commercial building. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on June 5, 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 time of submittal for building permit review, Public Works Standard Detail SMP STRM shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with the Public Works Standard Detail BMP STRM.
5. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.
6. Prior to issuance of building permit, a 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 #­13-082 shall be paid in full.
8. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel Creek Water District, and Central Fire Protection District.
9. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, shall be submitted to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
10. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).
11. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan.
12. 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.
13. 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 9 p.m. and 7:30 a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between 9 a.m. and 4 p.m. or emergency work approved by the building official. §9.12.010B
14. 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.
15. 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.
16. 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.
17. 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.
18. 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 plans for the new commercial building. The project conforms to the development standards of the CN (Neighborhood Commercial) Zoning Districts with the granting of a variance for setbacks and parking. 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 application for the new commercial building. The Planning Commission has granted a variance for setbacks and height to maintain the character and integrity of 400 block of Capitola Avenue within the CN Zoning District. This block is defined by commercial and residential properties with limited parking and setbacks. Conditions of approval have been included to ensure that the project maintains the character and integrity of the neighborhood. The proposed design compliments the existing streetscape in the neighborhood in use, mass and scale, materials, height, and architecture. The Planning Commission finds that the existing structure at 401/403 Capitola Avenue is not a local historic feature and may be demolished.

1. T**his 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.**

 Section 15303(c) of the CEQA Guidelines exempts the construction of a commercial building within an urbanized area under 10,000 sf. This project involves construction of a new commercial building within the CN (Neighborhood Commercial) Zoning District. No adverse environmental impacts were discovered during review of the proposed project.

**COASTAL FINDINGS**

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

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

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

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

* The proposed project is located at 401/403 Capitola Avenue. The business is not located in an area with coastal access. The business 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 at 401/403 Capitola 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 no 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 at 401/403 Capitola 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 an existing commercial building. There are no sensitive habitat areas on the property.

 ***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 commercial use within an existing neighborhood commercial zone.

 *SEC. 30223*

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

* The project involves a commercial use within an existing neighborhood commercial 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 commercial use within an existing neighborhood commercial 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 a commercial use within an existing neighborhood commercial lot of record. 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 standards established by the Municipal Code with the granting of a variance from the Planning Commission.

***(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 Central Fire District. Water is available at the location.

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

* The project is a commercial use within an existing neighborhood commercial lot of record. 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;***

* There are no impacts to natural resource, habitat, and archaeological resources.

***(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 drainage and erosion and control measures as conditions.

***(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;***

* The project is not located in a geologically unstable area.

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

* All geological, flood, and fire hazards are accounted for and 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 neighborhood commercial 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 with the granting of a variance by the Planning Commission.

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

* The parking demand is not increased through this application.

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

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**6. DIRECTOR’S REPORT**

City Council will resume consideration of the General Plan adoption June 26. Council members expressed interest in having some Planning Commissioners present to discuss their views and FAR.

On May 22 the Council accepted the work plan for the Zoning Ordinance update.

The draft EIR for Monarch Cove is currently in public review with comments due July 14. Staff will then respond to comments before a hearing is set, and Director Grunow does not anticipate it will come to the Planning Commission before September.

**7. COMMISSION COMMUNICATIONS - None**

**8. ADJOURNMENT**

Vice Chair Smith adjourned the meeting at 8:08 p.m. to the regular meeting of the Planning Commission to be held on Thursday, July 17, 2014, at 7 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

Approved by the Planning Commission on July 17, 2014.

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Linda Fridy, Minute Clerk