



**FINAL MINUTES  
CAPITOLA PLANNING COMMISSION MEETING  
THURSDAY, FEBRUARY 4, 2016  
7 P.M. – CAPITOLA CITY COUNCIL CHAMBERS**

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

**2. ORAL COMMUNICATIONS**

**A. Additions and Deletions to Agenda**

None. Staff noted additional materials were distributed and available to the public.

**B. Public Comments**

Arthur Kirby, resident, requested a crosswalk at Capitola Avenue and Riverview Drive.

**C. Commission Comments**

None

**D. Staff Comments**

None

**3. APPROVAL OF MINUTES**

**A. Planning Commission Regular Meeting of Jan. 21, 2016**

<b>RESULT:</b>	<b>ACCEPTED [4 TO 0]</b>
<b>MOVER:</b>	Linda Smith, Commissioner
<b>SECONDER:</b>	Susan Westman, Commissioner
<b>AYES:</b>	Smith, Newman, Welch, Westman
<b>ABSTAIN:</b>	Ortiz

**4. CONSENT CALENDAR**

Item pulled and heard as 5A.

**5. PUBLIC HEARINGS**

**A. 411 Beverly Avenue #16-006 APN: 035-093-41**

Major Revocable Encroachment Permit for a rock retaining wall in the public right-of-way 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: LaDon & Richard Detro

Representative: LaDon & Richard Detro, filed: 1/9/15

Commissioner Smith pulled the item from consent for a public hearing.

Commissioner Westman noted that staff followed up on the timing of a future sidewalk for Oak Drive that was referenced in a letter from Barbara Graves.

Assistant Planner Ryan Safty presented the staff report. He reviewed the history of use of the right-of-way for landscaping and shared images of the area. He noted a code complaint was received when construction of the rock wall began, which resulted in the application.

Arthur Kirby, neighbor, noted an unpermitted improvement on his property had to be removed and he feels the wall should have been removed.

Marge Hansen, neighbor, said her only complaint is that she would like to see consistent enforcement of encroachment rules.

Commissioner Westman explained that her concern about these encroachments in general is the potential elimination of parking and she feels it is less of an issue at a corner.

Commissioner Smith noted an encroachment permit provides information and history when a property is sold.

Commissioner Newman and others wanted assurance that the encroachment is recorded against the deed and added a condition to that effect.

Motion: Approve a Major Revocable Encroachment Permit with the following conditions and findings:

### **CONDITIONS**

1. The project approval consists of a rock wall structure permanently affixed to the ground within the right-of-way at 411 Beverly Avenue. A major revocable encroachment permit has approved within this application.
2. Per Capitola Municipal Code section 12.56.070, the major revocable encroachment permit for the rock wall shall be recorded against the property at 411 Beverly Avenue.
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 March 4, 2016, the applicant shall complete all submittal requirements to finalize the major revocable encroachment permit with the Public Works Department. The revocable encroachment permit shall be recorded within 90 days of the Planning Commission approval.
5. In any case where the conditions to the granting of a permit have not been or are not complied with, the community development director shall give notice thereof to the permittee, which notice shall specify a reasonable period of time within which to perform said conditions and correct said violation. If the permittee fails to comply with said conditions, or to correct said violation, within the time allowed, notice shall be given to the permittee of intention to revoke such permit at a hearing to be held not less than thirty calendar days after the date of such notice. Following such hearing and, if good cause exists therefor, the planning commission may revoke the permit.
6. Prior to issuance of revocable encroachment permit, all Planning fees associated with permit #16-006 shall be paid in full.

### **FINDINGS**

- A. **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. A major revocable encroachment permit for the rock wall will 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.

<b>RESULT:</b>	<b>APPROVED AS AMENDED [UNANIMOUS]</b>
<b>MOVER:</b>	Linda Smith, Commissioner
<b>SECONDER:</b>	Edward Newman, Commissioner
<b>AYES:</b>	Smith, Ortiz, Newman, Welch, Westman

**B. Pacific Gas and Electric - Community Pipeline Safety Initiative Presentation**

Community Development Director Rich Grunow introduced Joe Foster of PG&E, who presented information on gas transmission line safety efforts. This effort follows testing last year and replacement of valves. He explained the transmission line is a high-pressure line that brings gas into the community and distribution lines bring it to the consumer. New work is above ground and involves reviewing vegetation above the transmission pipeline for accessibility and threat of root intrusion. PG&E would like to see five feet clear on each side of the pipeline, including shrubs and trees. It has completed the survey on public property and will soon contact private property owners. Only trees that pose a serious risk need to be removed. Trees that are removed will be subject to the city ordinance.

Commissioners confirmed the tree ordinance including the replacement requirement does apply and that PG&E will take financial responsibility. They also noted trees in the riparian corridor may require additional permits. Chairperson Welch suggested information on the project be included on the city website.

**C. 4980 Garnet St #15-181 APN: 034-043-16**

Design Permit and Variance request for a garage addition to be located in the front yard setback area of an existing residence 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: David Aaron

Representative: Chris Sandman, filed 11/4/15

Commissioner Smith recused herself since she owns property within 500 feet of the project and left the dais.

Assistant Planner Safty presented the staff report. He noted the project includes a reduction in the size of a nonconforming deck and that existing parking in the carport is nonconforming. The proposal creates two full-size covered spaces in exchange for additional encroachment into the front yard setback. The subject property has no special circumstances, but other properties in the area have a similar encroachment.

Dave Aaron, applicant, spoke on behalf of the project and offered images showing the impact of the additional encroachment.

Commissioner Ortiz confirmed that garbage cans will be screened behind the stairway.

Commissioner Newman confirmed the project will have four parking spaces with use of the right-of-way in the sidewalk exempt area.

Jan Caldarella, neighbor, noted that the original application notice did not include a variance. She does not feel that in the immediate neighborhood properties with encroachments are comparable and her family and others have remodeled subject to the required setback.

Commissioner Ortiz said this is a difficult application. When she considers a variance, she asks is it moderate and does it enhance the neighborhood? She also suggested if there are many nonconforming properties in this neighborhood, perhaps an ordinance change is appropriate. Commissioner Westman agreed and noted the large second-story rear deck is being reduced.

Commissioner Newman said he feels the project is positive, but has technical concerns about meeting variance standards. Properties two blocks away with encroachments are not in the immediate neighborhood.

Chairperson Welch said he looks at the impact on the neighborhood. In this case, he feels there has been compromise and the benefits outweigh the concerns.

Motion: Approve a Design Permit and Variance with the following conditions and findings:

#### **CONDITIONS**

1. The project approval consists of a garage enclosure, deck remodel, and variance to front yard setback requirements to an existing single-family home. The maximum Floor Area Ratio for the 3,200 square foot property is 57% (1,824 square feet). The total FAR of the project is 56.6% with a total of 1,813 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 February 4, 2016, 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 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 #15-181 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. Erosion and sediment control shall be installed prior to the commencement of construction and maintained throughout the duration of the construction project.
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**

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

The proposed garage addition at 4980 Garnet would not comply with the setback standards of the Zoning Ordinance, but special circumstances exist in relation with reduced front yard setbacks enjoyed by many surrounding properties, the presence of an additional 12 feet of unused right-of-way which provides additional separation from the street, and the predominance of enclosed garages in the neighborhood.

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

The proposed garage addition and enclosure will slightly modify the character of the neighborhood by bringing the garage closer to the street. However, the conversion from a carport to a garage will better complement the existing character and form of the neighborhood by eliminating the presence of carports within this block of Garnet Street.

**C. This project is categorically exempt under Section 15301-E of the California Environmental Quality Act and is subject to Section 753.5 of Title 14 of the California Code of Regulations.**

This project involves the addition to an existing single-family residence and a garage enclosure in the R-1 (Single-Family Residential) Zoning District. Section 15301-E of the CEQA Guidelines exempts additions to existing homes in a residential zone.

**D. Special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, exist on the site and the strict application of this title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification;**

There are special circumstances applicable to the property in relation with reduced front yard setbacks enjoyed by many surrounding properties, the presence of an additional 12-feet of unused right-of-way which provides additional separation from the street, and the predominance of enclosed garages in the neighborhood.

**E. The grant of a variance would not constitute a grant of a special privilege inconsistent with the limitation upon other properties in the vicinity and zone in which subject property is situated.**

The grant of a variance permit to front setbacks would not constitute the grant of a special privilege. There are at least 12 other properties on Garnet Street that similarly do not meet current front-yard setback requirements.

<b>RESULT:</b>	<b>APPROVED [4 TO 0]</b>
<b>MOVER:</b>	Gayle Ortiz, Commissioner
<b>SECONDER:</b>	Susan Westman, Commissioner
<b>AYES:</b>	Ortiz, Newman, Welch, Westman
<b>RECUSED:</b>	Smith

**D. 115 San Jose Avenue #15-188 APN: 035-221-17**

Conceptual Review of a proposed Master Use Permit with 11 new residential units and a parking management plan for the Capitola Mercantile located in the CV (Central Village) Zoning District.

This project is in the Coastal Zone but does not require a Coastal Development Permit at the conceptual review stage.

Environmental Determination: N/A

Property Owner: Southstar PM

Representative: Thacher & Thompson Architects

Senior Planner Katie Cattan presented the staff report. She reviewed current uses, presented images for the proposal, and reviewed the master use permit proposal. She noted that although it is a rare property in Capitola Village with onsite parking, a new parking study is required for many prospective tenants. The application included a parking study that supported 4000 square feet of restaurant use with the remaining retail, but it did not include residential or paid public parking.

Commissioner Newman confirmed that the proposed master use permit would mean a restaurant would not require a hearing but only administrative review.

Commissioner Westman expressed concerns that the master use is based on a highly flawed parking study.

Matthew Thompson, architect, spoke on behalf of the project. The Mercantile's boutique shops with no frontage have proven difficult to fill and it is time for a new vision. The owner would like a food and beverage anchor, but that needs parking. Valet service reflects a trend of onsite management and the owner would like to continue the success of residential use on top of commercial. Mr. Thompson acknowledged the plan is very conceptual for both parking and master use.

Nels Westman, traffic and parking commission, said the proposal looks like basically a condo hotel with onsite restaurant. He likes the architecture, but not the parking plan, which seems to cut in half the requirement for a restaurant use. He is skeptical of shared parking through lifts.

Marge Hansen, resident and local business owner, suggested that vacancy problems in the Mercantile are due to management, pricing, and a lack of follow-through on promises made in the past.

Commissioner Smith is concerned about access and space for garbage, and confirmed there is no gap between the buildings.

Commissioner Ortiz asked whether all parking would be valet, and was told that is not the plan.

Commissioner Newman likes the architecture but feels there are a lot of unknowns with parking. For the master use permit, he does not like the idea of giving away a conditional use review.

Commissioner Ortiz shares the CUP concern and asked what the plan is doing with the existing building? She would like to see a plan that addresses the whole site. In her experience, lift parking only works when someone is at a location all day, and that is not the Village pattern.

Commissioner Westman does not feel that the new units are truly residential condos but instead vacation rentals. She also wants a plan that incorporates the whole site.

Commissioner Smith believes the existing Mercantile building can be repurposed and wants more open space.

Chairperson Welch agrees the proposal appears more like a hotel than residences. While he can support shared parking, he does not feel basing future parking needs on the current patterns is appropriate.

This review was for applicant information only and did not require a vote.

### **E. Zoning Code Update - Initiation of Public Review**

Planner Cattan announced the first complete draft of the updated zoning code is now available in print and online, and provided an overview of the format. Significant changes and new sections are clearly highlighted with a graphic element. It reflects the direction received from the Planning Commission and City Council last year. Planning Commission discussion will begin on March 3 and a special meeting March 17.

## **6. DIRECTOR'S REPORT**

The California Environmental Quality Act (CEQA) presentation will be at the March 3 meeting.

The cell antenna project on 41<sup>st</sup> Avenue approved in January has been appealed. A City Council hearing date is pending.

## **7. COMMISSION COMMUNICATIONS**

Commissioner Ortiz requested that applicants show garbage enclosures on plans.

## **8. ADJOURNMENT**

Approved by the Planning Commission on March 3, 2016

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Linda Fridy, Minutes Clerk