



**FINAL MINUTES  
CAPITOLA PLANNING COMMISSION MEETING  
Thursday, August 19, 2021  
7 P.M. – CAPITOLA CITY COUNCIL CHAMBERS**

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

Chair Routh called the meeting to order at 7 P.M. Commissioners Christiansen, Newman, Westman, Wilk and Chair Routh were present remotely.

**2. ORAL COMMUNICATIONS**

**A. Additions and Deletions to Agenda**

Community Development Director Katie Herlihy stated additional public comments were received concerning items 4C and 4D.

**B. Public Comments**

Chair Routh accepted a general public comment regarding a proposed roundabout.

**C. Commission Comments**

**D. Staff Comments**

Director Herlihy continued item 4A to the October 7, 2021 Planning Commission meeting. She also stated an additional condition was added for item 4B, and clarified a noticing error for item 4C in that the permit is appealable, after all possible appeals have been exhausted through the City, to the Coastal Commission based on its location.

**3. APPROVAL OF MINUTES**

**1. Planning Commission - Regular Meeting - Jul 15, 2021 7:00 PM**

<b>RESULT:</b>	<b>ACCEPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Peter Wilk
<b>SECONDER:</b>	Courtney Christiansen
<b>AYES:</b>	Courtney Christiansen, Ed Newman, Mick Routh, Susan Westman, Peter Wilk

**4. CONSENT CALENDAR**

**A. Ordinance amending Capitola Zoning Code/LCP IP Section 17.96.170 Temporary Outdoor Dining**

Request to Continue Ordinance Amending the Capitola Zoning Code/Local Coastal Program Implementation Plan Section 17.96.170 for Temporary Outdoor Dining.

MOTION: Continue item 4A to the October 7, 2021 Planning Commission meeting.

<b>RESULT:</b>	<b>ACCEPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Ed Newman
<b>SECONDER:</b>	Susan Westman
<b>AYES:</b>	Courtney Christiansen, Ed Newman, Mick Routh, Susan Westman, Peter Wilk

**B. 523 Oak Drive #21-0032 APN: 035-082-03**

Design Permit for first- and second-story additions to an existing nonconforming single-family residence located within 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

Owner: James & Andrea Habing

Representative: Dennis Norton, Filed: 02.02.2021

Commissioner Westman recused herself due to proximity.

Commissioner Newman asked staff to clarify the application of the eighty percent rule from the old Code. Director Herlihy answered that the eighty percent rule still applies due to Coastal Commission certification issues. Commissioner Newman stated his concern that the rule is incorrectly implemented and expressed his disappointment in its continued application. Director Herlihy offered to provide additional information regarding the rule's formula at a future meeting.

MOTION: Approve the design permit with the following conditions and findings:

**CONDITIONS OF APPROVAL**

1. The project approval consists of construction of 98 square-feet of first- and second-story additions. The maximum Floor Area Ratio for the 2,800 square foot property is 57% (1,596 square feet). The total FAR of the project is 55.5% with a total of 1,555 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 August 19, 2021, 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 landscape plan shall be submitted and approved by the Community Development Department. The landscape plan can be produced by the property owner, landscape professional, or landscape architect. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of any proposed (but not required) irrigation systems.
7. Prior to issuance of building permit, all Planning fees associated with permit #21-0032 shall be paid in full.
8. Prior to issuance of building permit, the developer shall pay Affordable housing in-lieu fees 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. Prior to any work in the City 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 17.156.080.
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. At time of building permit submittal, the applicant shall submit a revised site plan demonstrating to the satisfaction of the Community Development Director that the siting of the accessory dwelling unit and carport reflects the Paul Jensen survey dated January 2021.

### **DESIGN PERMIT FINDINGS**

- A. **The proposed project is consistent with the general plan, local coastal program, and any applicable specific plan, area plan, or other design policies and regulations adopted by the city council.**  
Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The proposed 98-square-foot first- and second-story addition is consistent with the general plan and the local coastal program.
- B. **The proposed project complies with all applicable provisions of the zoning code and municipal code.**  
Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The proposed 98-square-foot first- and second-story addition complies with the development standards of the R-1 (Single-Family Residential) zoning district.
- C. **The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).**  
Section 15301(e) of the CEQA Guidelines exempts additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less. The proposed additions add 98 square feet (10%) of floor area, so this exemption applies. No adverse environmental impacts were discovered during review of the proposed project.
- D. **The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.**  
Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The proposed 98-square-foot first- and second-story addition will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

**E. The proposed project complies with all applicable design review criteria in Section 17.120.070 (Design review criteria).**

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The 98-square-foot first- and second-story addition complies with the applicable design review criteria as described in the staff report.

**F. For projects in residential neighborhoods, the proposed project maintains the character, scale, and development pattern of the neighborhood.**

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the application for the 98-square-foot first- and second-story addition. The design of the home, with a repeating gable roof pattern, vertical board on the first story and shingle siding on the second story, will fit in nicely with the existing neighborhood. The project will maintain the character, scale, and development pattern of the neighborhood.

<b>RESULT:</b>	<b>APPROVED [3 TO 1]</b>
<b>MOVER:</b>	Peter Wilk
<b>SECONDER:</b>	Mick Routh
<b>AYES:</b>	Courtney Christiansen, Mick Routh, Peter Wilk
<b>NOES:</b>	Ed Newman
<b>RECUSED:</b>	Susan Westman

**C. 106 Sacramento Avenue #21-0259 APN: 036-143-09**

Accessory Dwelling Unit Permit for a new 1,183-square-foot two-story Accessory Dwelling Unit (ADU) for a single-family residence located within the R-1 (Single-Family Residential) zoning district.

This project is in the Coastal Zone and requires a Coastal Development Permit which is not appealable to the California Coastal Commission after all possible appeals are exhausted through the City.

Environmental Determination: Categorical Exemption

Property Owner: Michael & Meghan Morrissey

Representative: Danielle Grenier, Filed: 06.03.2021

Chair Routh pulled item 4C for discussion to the Public Hearing section.

Assistant Planner Sean Sesanto presented the staff report. He stated that items on today's agenda were reviewed under the recently adopted Code.

Commissioner Wilk requested confirmation from staff that the project does not obstruct the view of the coastline. Director Herlihy responded that there is a public viewpoint at the end of Sacramento Avenue that is protected. However, private views are not protected by local ordinance.

Commissioner Westman stated the olive trees that were planted on the public right of way may block the public viewpoint in the future. She would like a condition on the encroachment permit that the City may require the owner to remove the trees if they begin to block the public's view of the bay.

Michael and Meghan Morrissey, the applicants and property owners, stated that they are willing to exclude the olive trees from the design if the Commission made that recommendation.

During public comment, owners of neighboring properties, Lee Lehman, and his wife Olivia Lehman and their neighbor Edward Beal, stated their opposition to the design permit for the following reasons: 1) the proposed design is an invasion of privacy as it provides a direct line of sight to neighboring properties; 2) the project sits on an unstable location which poses a threat to public safety; 3) the project sits on a portion of a cliff that recently collapsed; and 4) the project will eliminate their private views of Monterey Bay.

Director Herlihy confirmed with the Commission that they received written public comment from Edward Beal.

Commissioner Newman stated he appreciates the public's statements, but the Planning Commission has a long-established practice of not protecting private views from projects that comply with development standards.

Commissioner Westman believed that the application complies with all development standards.

Commissioner Wilk requested clarification from Commissioner Westman as to which trees she was concerned with. Commissioner Westman responded that the two trees planted on the public right of way may block public view in the future. Commissioner Wilk stated he would not object to the olive trees but would agree to Commissioner Westman's amendment should she chose to amend the permit. Commissioner Wilk addressed Mr. Lehman's concerns with staff and the Commissioners.

Chair Routh stated his concerns regarding the Architectural and Site Committee's relaxed review of details in the design of this project. Commissioner Christiansen agreed with Chair Routh.

MOTION: Approve the ADU permit with the following conditions and findings:

#### **CONDITIONS OF APPROVAL**

1. The project approval consists of construction of a new, 1,183-square-foot, two-story Accessory Dwelling Unit (ADU) for a single-family residence. The project is compliant with the development standards in CMC Chapter 17.74. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on August 19, 2021, 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 landscape plan shall be submitted and approved by the Community Development Department. The landscape plan can be produced by the property owner, landscape professional, or landscape architect. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of any proposed (but not required) irrigation systems.
7. 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.
8. 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.
9. 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).
10. 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.
11. 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.
12. 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
13. 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.
14. 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.

15. 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 17.156.080.
16. 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.
17. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
18. Before obtaining a building permit for an accessory dwelling unit, the property owner shall file with the county recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner and stating that:
  - a. The accessory dwelling unit may not be used for vacation rentals; and
  - b. The secondary dwelling unit shall not be sold separately from the primary dwelling.
19. If the City determines they have become a visual impairment to public coastal views, the City may require the owners of 106 Sacramento Avenue to remove the two proposed trees within the public right-of-way.

#### **ACCESSORY DWELLING UNIT DESIGN PERMIT FINDINGS**

- **The exterior design of the accessory dwelling unit is compatible with the primary dwelling on the parcel through architectural use of building forms, height, construction materials, colors, landscaping, and other methods that conform to acceptable construction practices.**

The proposed ADU utilizes a combination of stucco and wood siding with colors similar to the primary dwelling and has an identical 1.25/12 roof pitch. The exterior design is compatible with the primary dwelling on the parcel.
- **The exterior design is in harmony with, and maintains the scale of, the neighborhood.**

The proposed ADU utilizes materials and a two-story building form common throughout Depot Hill. Also, the ADU complies with the 22-foot maximum ADU height limit and is well within the zone height limit of 25. Therefore, the exterior design is in harmony with, and maintains the scale of the Depot Hill neighborhood.
- **The accessory dwelling unit will not create excessive noise, traffic, or parking congestion.**

Even with the proposed ADU, the structures on the large parcel are well below the maximum floor area ratio (FAR) of the lot and a parking space for the ADU is provided in the garage on the first story of the ADU. The ADU has a studio configuration of one combined bedroom and living space, and a garage. The ADU will not create excessive noise, traffic, or parking congestion.
- **The accessory dwelling unit has or will have access to adequate water and sewer service as determined by the applicable service provider.**



The proposed ADU is located on a developed lot in a residential neighborhood with adequate water and sewer service.

- **Adequate open space and landscaping have been provided that are usable for both the accessory dwelling unit and the primary residence. Open space and landscaping provide for privacy and screening of adjacent properties.**

The property is extremely large with a blufftop area of approximately 19,000 square feet and includes usable open space for the ADU and primary residence. The landscape plan includes fruitless olive trees and other shrubs both on the property and in the public right of way adjacent to the property that provide for privacy and screening of adjacent properties.

- **The location and design of the accessory dwelling unit maintain a compatible relationship to adjacent properties and do not significantly impact the privacy, light, air, solar access, or parking of adjacent properties.**

The proposed ADU is located along the street side yard. The nearest residential property is located approximately 50 feet way on the other side of Sacramento Avenue to the west. The location and design of the proposed ADU maintains a compatible relationship to adjacent properties and does not significantly impact the privacy, light, air, solar access, or parking of adjacent properties.

- **The accessory dwelling unit generally limits the major access stairs, decks, entry doors, and major windows to the walls facing the primary residence, or to the alley if applicable. Windows that impact the privacy of the neighboring side or rear yard have been minimized. The design of the accessory dwelling unit complements the design of the primary residence and does not visually dominate it or the surrounding properties.**

The external staircase to the proposed second-story ADU faces the interior of the lot and the primary residence and the entry door to the ADU is on the south side of the second story facing the ocean. There are no windows that impact the privacy of the neighboring side or rear yards. The design of the ADU, with siding materials similar to the primary residence and similar roof pitch, complements the design of the primary residence and does not visually dominate it or the surrounding properties.

- **The site plan is consistent with physical development policies of the general plan, any area plan or specific plan, or other city policy for physical development. If located in the coastal zone, the site plan is consistent with policies of the local coastal plan. If located in the coastal zone and subject to a coastal development permit, the proposed development will not have adverse impacts on coastal resources.**

The location of the proposed ADU complies with the development standards in CMC §17.74.080 and is located outside the 50-year geologic hazard setback from the coastal bluff, so the proposed site plan is consistent with the physical development policies of the general plan and zoning code and will not have adverse impacts on coastal resources.

- **The project would not impair public views along the ocean and of scenic coastal areas. Where appropriate and feasible, the site plan restores and enhances the visual quality of visually degraded areas.**

There is a public viewpoint at the end of Sacramento Avenue, but the seaward most point of the proposed ADU is located approximately 74 feet from the edge of the coastal bluff, so the project would not impair public views along the ocean or of scenic coastal areas.

- **The project deviation (if applicable) is necessary due to special circumstances applicable to subject property, including size, shape, topography, location, existing structures, or surroundings, and the strict application of this chapter would deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zoning classification.**

Not applicable. The project does not include deviations.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS**

- A. This project is categorically exempt under Section 15303(a) of the California Environmental Quality Act and is subject to Section 753.5 of Title 14 of the California Code of Regulations.**

Section 15303(a) of the CEQA Guidelines exempts one single-family residence, or a second dwelling unit in a residential zone. The project involves the construction of a second dwelling unit in a residential zoning district. No adverse environmental impacts were discovered during review of the proposed project.

### **COASTAL FINDINGS**

#### **D. Findings Required.**

- 1. 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:**
  - a. A statement of the individual and cumulative burdens imposed on public access and recreation opportunities based on applicable factors identified pursuant to subsection (D)(2) of this section. The type of affected public access and recreation opportunities shall be clearly described;
  - b. An analysis based on applicable factors identified in subsection (D)(2) of this section of the necessity for requiring public access conditions to find the project consistent with the public access provisions of the Coastal Act;
  - c. A description of the legitimate governmental interest furthered by any access conditioned required;
  - d. An explanation of how imposition of an access dedication requirement alleviates the access burdens identified.
    - 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:
- 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.**

- 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 buildout. 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 106 Sacramento Avenue. The ADU is not located in an area with coastal access. The ADU will not have an effect on public trails or beach access.
  
- 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 Sacramento Avenue. The project is located along a coastal bluff above the shoreline and beach. There is a public viewpoint at the end of Sacramento Avenue, but the seaward most point of the proposed ADU is located approximately 74 feet from the edge of the coastal bluff, so the project would not impair public views along the ocean or of scenic coastal areas.
  
- 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 a history of public use on the subject lot.
- 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 Sacramento 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.
- 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.
- 3. 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 accessway on the subject land.
- The project is not requesting a Public Access Exception, therefore these findings do not apply.
- 4. 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 the 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.
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 17.44.130 (coastal access requirements);**
- No legal documents to ensure public access rights are required for the proposed project.

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 new two-story accessory dwelling unit 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 new two-story accessory dwelling unit 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 new two-story accessory dwelling unit on a residential lot of record.

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 new two-story accessory dwelling unit. The project complies with applicable standards and requirements for provision for

parking, pedestrian access, alternate means of transportation, and/or traffic improvements.

**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.

**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. There is a public viewpoint at the end of Sacramento Avenue, but the seaward most point of the proposed ADU is located approximately 74 feet from the edge of the coastal bluff, so the project would not impair public views along the ocean or of scenic coastal areas. The project will not block or detract from public views to and along Capitola's shoreline.

**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.

**11. Provisions of minimum water flow rates and fire response times;**

- The project is located 0.7 miles from the Central Fire Protection District Capitola Station. Water is available at the location.

**12. Project complies with water and energy conservation standards;**

- The project is for a new two-story accessory dwelling unit. 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.

**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.

**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.

**15. Project complies with natural resource, habitat, and archaeological protection policies;**

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

**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.

**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.

**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.

**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.

**20. Project complies with shoreline structure policies;**

- The proposed project is not located along a shoreline.

**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 R-1 (Single-Family Residential) zoning district.

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

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

**23. Project complies with the Capitola parking permit program as follows:**

- a. The village area preferential parking program areas and conditions as established in Resolution No. 2596 and no permit parking of any kind shall be allowed on Capitola Avenue.
- b. The neighborhood preferential parking program areas are as established in Resolution Numbers 2433 and 2510.
- c. The village area preferential parking program shall be limited to three hundred fifty permits.

- d. Neighborhood permit areas are only in force when the shuttle bus is operating except that:
    - i. The Fanmar area (Resolution No. 2436) program may operate year-round, twenty-four hours a day on weekends,
    - ii. The Burlingame, Cliff Avenue/Grand Avenue area (Resolution No. 2435) have year-round, twenty-four hour per day “no public parking.”
  - e. Except as specifically allowed under the village parking program, no preferential residential parking may be allowed in the Cliff Drive parking areas.
  - f. Six Depot Hill twenty-four minute “Vista” parking spaces (Resolution No. 2510) shall be provided as corrected in Exhibit A attached to the ordinance codified in this section and found on file in the office of the city clerk.
  - g. A limit of fifty permits for the Pacific Cove parking lot may be issued to village permit holders and transient occupancy permit holders.
  - h. No additional development in the village that intensifies use and requires additional parking shall be permitted. Changes in use that do not result in additional parking demand can be allowed and exceptions for onsite parking as allowed in the land use plan can be made.
- The project site is not located within the area of the Capitola parking permit program.

<b>RESULT:</b>	<b>APPROVED AS AMENDED [4 TO 1]</b>
<b>MOVER:</b>	Peter Wilk
<b>SECONDER:</b>	Susan Westman
<b>AYES:</b>	Courtney Christiansen, Ed Newman, Susan Westman, Peter Wilk
<b>NOES:</b>	Mick Routh

- D. 1485 47th Avenue #21-0295 APN: 034-034-10**  
 Design Permit for demolition of an existing nonconforming single-family residence and construction of a new single-family residence located within the R-1 (Single-Family Residential) zoning district.  
 This project is in the Coastal Zone and requires a Coastal Development Permit which is not appealable to the California Coastal Commission.  
 Environmental Determination: Categorical Exemption  
 Property Owner: Smitty & Tambi Harwood  
 Representative: John Hofacre, Filed: 06.29.2021

Chair Routh and Commissioner Newman recused themselves due to proximity.

Commissioner Westman requested that item 4D be pulled for discussion to the Public Hearing section.

Assistant Planner Sesanto presented the staff report.

During public comment, Ron Burke, a neighboring resident, stated his list of design concerns regarding the lighting and materials that he hoped would be used in the project.

John Hofacre, the representative for the project, addressed Mr. Burke’s comments, and clarified details of the design and materials.



Commissioner Wilk requested clarification from Mr. Hofacre to ensure the light fixtures do not pose a hazard to the public. Mr. Hofacre agreed with Commissioner Wilk's concerns.

Commissioner Westman stated she was prepared to make a motion to approve the permit with the following conditions: (1) the porch posts shall be 6 inches x 6 inches, (2) all exterior lighting shall be downfacing, and (3) the shed roof shall include brackets over doors located on the north elevation.

Commissioner Wilk stated that he trusted the Architect's design, and that he found it inappropriate for the Commission to request specific details in the design of the applicant's property. Commissioner Wilk asked Commissioner Westman if she was willing to remove her proposed amendments. She responded that she opposed removing the amendments. Commissioner Christiansen stated a duplicate provision regarding the lighting is included in the plans. Commissioner Westman agreed to remove her amendment regarding the lighting fixtures.

MOTION: Approve the design permit with the following conditions and findings:

### **CONDITIONS OF APPROVAL**

1. The project approval consists of demolition of an existing nonconforming, 921-square-foot, two-story, single-family residence and construction of a 1,824-square-foot single-family residence. 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 57% with a total of 1,824 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 August 19, 2021, 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 landscape plan shall be submitted and approved by the Community Development Department. The landscape plan can be produced by the property owner, landscape professional, or landscape architect. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of any proposed (but not required) irrigation systems.

7. Prior to issuance of building permit, all Planning fees associated with permit #21-0295 shall be paid in full.
8. Prior to issuance of building permit, the developer shall pay Affordable housing in-lieu fees 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. 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 §17.156.080.

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.
20. Prior to issuance of building permits, the building plans must show that the existing overhead utility lines will be underground to the nearest utility pole.
21. Prior to demolition of the existing structure, a pest control company shall resolve any pest issues and document that all pest issues have been mitigated. Documentation shall be submitted to the city at time of demolition permit application.
22. The porch posts shall be 6"x6" beams, outdoor lighting shall be downward facing, and the shed roof over the north elevation doors shall include supporting brackets.

### **DESIGN PERMIT FINDINGS**

- A. **The proposed project is consistent with the general plan, local coastal program, and any applicable specific plan, area plan, or other design policies and regulations adopted by the city council.**

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The proposed demolition of an existing nonconforming, 921-square-foot, two-story, single-family residence and construction of a 1,824-square-foot single-family residence is consistent with the general plan and the local coastal program.
- B. **The proposed project complies with all applicable provisions of the zoning code and municipal code.**

The proposed demolition of an existing nonconforming, 921-square-foot, two-story, single-family residence and construction of a 1,824-square-foot single-family residence complies with all applicable provisions of the zoning code for the R-1 (Single-Family Residential) District.
- C. **The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).**

Section 15303(a) of the CEQA Guidelines exempts one single single-family residence, or a second dwelling unit in a residential zone. The project involves the construction of a new single-family residence in the R-1 (Single-Family Residential) District. No adverse environmental impacts were discovered during review of the proposed project.
- D. **The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.**

The proposed demolition of an existing nonconforming, 921-square-foot, two-story, single-family residence and construction of a 1,824-square-foot single-family residence will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.
- E. **The proposed project complies with all applicable design review criteria in Section 17.120.070 (Design review criteria).**

The proposed demolition of an existing nonconforming, 921-square-foot, two-story, single-family residence and construction of a 1,824-square-foot single-family residence

complies with the applicable design review criteria in Section 17.120.070 of the zoning code.

**F. For projects in residential neighborhoods, the proposed project maintains the character, scale, and development pattern of the neighborhood.**

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the application for the demolition of an existing nonconforming, 921-square-foot, two-story, single-family residence and construction of a 1,824-square-foot single-family residence. The design of the two-story home with stucco siding, white painted wood trim at the doors and windows, a pitched roof with composition shingles, and covered entryways, will fit in nicely with the existing neighborhood. The project will maintain the character, scale, and development pattern of the neighborhood with entrances oriented toward 47<sup>th</sup> Avenue and Garnet Street.

## **COASTAL PERMIT FINDINGS**

### **D. Findings Required.**

1. **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:**
  - a. A statement of the individual and cumulative burdens imposed on public access and recreation opportunities based on applicable factors identified pursuant to subsection (D)(2) of this section. The type of affected public access and recreation opportunities shall be clearly described;
  - b. An analysis based on applicable factors identified in subsection (D)(2) of this section of the necessity for requiring public access conditions to find the project consistent with the public access provisions of the Coastal Act;
  - c. A description of the legitimate governmental interest furthered by any access conditioned required;
  - d. An explanation of how imposition of an access dedication requirement alleviates the access burdens identified.
    - 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:
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.**
  - 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 buildout. 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 1485 47<sup>th</sup> 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.
- 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 47<sup>th</sup> Avenue. No portion of the project is located along the shoreline or beach.
- 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 a history of public use on the subject lot.
- 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 47<sup>th</sup> 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.
- 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.
3. **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 accessway on the subject land.
- The project is not requesting a Public Access Exception, therefore these findings do not apply.
4. **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 the 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.
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.

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 new single-family residence 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 new single-family residence 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 new single-family residence on a residential lot of record.

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 residence. The project complies with applicable standards and requirements for provision for parking, pedestrian access, alternate means of transportation, and/or traffic improvements.

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.

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.
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.
11. **Provisions of minimum water flow rates and fire response times;**
  - The project is located 0.7 miles from the Central Fire Protection District Capitola Station. Water is available at the location.
12. **Project complies with water and energy conservation standards;**
  - The project is for a new single-family residence. 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.
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.
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.
15. **Project complies with natural resource, habitat, and archaeological protection policies;**
  - Conditions of approval have been included to ensure compliance with established policies.
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.
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.



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.
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.
20. **Project complies with shoreline structure policies;**
  - The proposed project is not located along a shoreline.
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 R-1 (Single-Family Residential) zoning district.
22. **Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures; and**
  - The project conforms to the requirements of all city ordinances, zoning requirements, and project development review and development procedures.
23. **Project complies with the Capitola parking permit program as follows:**
  - a. The village area preferential parking program areas and conditions as established in Resolution No. 2596 and no permit parking of any kind shall be allowed on Capitola Avenue.
  - b. The neighborhood preferential parking program areas are as established in Resolution Numbers 2433 and 2510.
  - c. The village area preferential parking program shall be limited to three hundred fifty permits.
  - d. Neighborhood permit areas are only in force when the shuttle bus is operating except that:
    - i. The Fanmar area (Resolution No. 2436) program may operate year-round, twenty-four hours a day on weekends,
    - ii. The Burlingame, Cliff Avenue/Grand Avenue area (Resolution No. 2435) have year-round, twenty-four hour per day “no public parking.”
  - e. Except as specifically allowed under the village parking program, no preferential residential parking may be allowed in the Cliff Drive parking areas.
  - f. Six Depot Hill twenty-four minute “Vista” parking spaces (Resolution No. 2510) shall be provided as corrected in Exhibit A attached to the ordinance codified in this section and found on file in the office of the city clerk.

- g. A limit of fifty permits for the Pacific Cove parking lot may be issued to village permit holders and transient occupancy permit holders.
- h. No additional development in the village that intensifies use and requires additional parking shall be permitted. Changes in use that do not result in additional parking demand can be allowed and exceptions for onsite parking as allowed in the land use plan can be made.
  - The project site is not located within the area of the Capitola parking permit program.

<b>RESULT:</b>	<b>APPROVED AS AMENDED [2 TO 1]</b>
<b>MOVER:</b>	Susan Westman
<b>SECONDER:</b>	Courtney Christiansen
<b>AYES:</b>	Susan Westman, Courtney Christiansen
<b>NAYS:</b>	Peter Wilk
<b>RECUSED:</b>	Ed Newman, Mick Routh

## 5. PUBLIC HEARINGS

### A. 208 Magellan Street #21-0057 APN: 036-194-04

Design Permit for a second-story addition to a nonconforming single-family residence with a Minor Modification for a reduced second-story side setback located within 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: Kent & Julie Cramer

Representative: Daryl Woods, Filed: 02.16.2021

Director Herlihy presented the staff report.

Commissioner Newman requested clarification from staff regarding the different standards that would have applied under the old Code. Director Herlihy responded that under the previous code a variance would have been required, but the new code allows limited deviations from the code through the less stringent minor modification.

MOTION: Approve the design permit with the following conditions and findings:

### CONDITIONS OF APPROVAL

- A. The project approval consists of construction of a 438-square-foot second-story addition to an existing nonconforming single-family residence with a minor modification for a reduced second-story side setback. The maximum Floor Area Ratio for the 6,273-square-foot property is 48% (3,011 square feet). The total FAR of the project is 41.7% with a total of 2,621 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 August 19, 2021, except as modified through conditions imposed by the Planning Commission during the hearing.
- B. 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

- C. 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.
- D. 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.
- E. 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.
- F. Prior to issuance of building permit, all Planning fees associated with permit #21-0057 shall be paid in full.
- G. Prior to issuance of building permit, the developer shall pay Affordable housing in-lieu fees as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance.
- H. 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.
- I. 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.
- J. 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).
- K. 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.
- L. 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.
- M. 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
- N. 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.

- O. 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.
- P. 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 §17.156.080.
- Q. 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.
- R. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
- S. Prior to issuance of building permits, applicant shall incorporate a curb drain per city standard at the southwest corner of the property.

#### **DESIGN PERMIT FINDINGS**

- A. The proposed project is consistent with the general plan, local coastal program, and any applicable specific plan, area plan, or other design policies and regulations adopted by the city council.**

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The proposed 438-square-foot second-story addition with a minor modification for a reduced second-story side setback is consistent with the general plan and the local coastal program.
- B. The proposed project complies with all applicable provisions of the zoning code and municipal code.**

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The proposed 438-square-foot second-story addition with a minor modification for a reduced second-story side setback complies with the development standards of the R-1 (Single-Family Residential) zoning district.
- C. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).**

Section 15301(e) of the CEQA Guidelines exempts additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less. The proposed additions add 438 square feet (19.9%) of floor area, so this exemption applies. No adverse environmental impacts were discovered during review of the proposed project.
- D. The proposed development will not be detrimental to the public health, safety, or**

**welfare or materially injurious to the properties or improvements in the vicinity.**

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The proposed 438-square-foot second-story addition with a minor modification for a reduced second-story side setback will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

**E. The proposed project complies with all applicable design review criteria in Section 17.120.070 (Design review criteria).**

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The 438-square-foot second-story addition with a minor modification for a reduced second-story side setback complies with the applicable design review criteria as described in the staff report.

**F. For projects in residential neighborhoods, the proposed project maintains the character, scale, and development pattern of the neighborhood.**

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the application for the 438-square-foot second-story addition with a minor modification for a reduced second-story side setback. The design of the home, with a Dutch hip roof with Class “B” asphalt shingle roofing and horizontal cement lap board siding, will fit in nicely with the existing neighborhood. The project will maintain the character, scale, and development pattern of the neighborhood.

**MINOR MODIFICATION FINDINGS****A. The modification will be compatible with adjacent structures and uses and is consistent with the character of the neighborhood or district where it is located.**

Within the Cliffwood Heights neighborhood, many of the homes have nonconforming side yard setbacks. The adjacent structure at 212 Magellan Street is one example of a home in close proximity which is non-conforming in terms of side yard setbacks.

**B. The modification will not adversely impact neighboring properties or the community at large.**

The addition is proposed within nine feet of the south property line. The proposed project includes two windows along the proposed second story on the south elevation. The windows are adjacent to the single-story structure and not directly next to the backyard of the neighboring property.

**C. The modification is necessary due to unique characteristics of the subject property, structure, or use.**

The applicant is requesting the minor modification to construct the second-story wall on top of the existing wall on the first story as it can sustain more weight and will require less structural improvements. The first story is setback eight feet ten inches from the property line, almost three feet more than the required six feet by code.

**D. The modification will be consistent with the purpose of the zoning district, the general plan, local coastal program, and any adopted area or neighborhood plan.**

Under Capitola Municipal Code §17.16.010, the purpose of residential zoning districts is “to support attractive, safe, and friendly neighborhoods consistent with Capitola’s intimate small-town feel and coastal village charm.” Development should “feature high-quality design that enhances the visual character of the community” and the “mass, scale, and design of new homes shall be compatible with existing homes in neighborhoods and carefully designed to minimize impacts to existing homes.” The

main purpose of the increased second-story side setback is to reduce second-story massing along the side lot lines. As stated within finding C, the first floor is setback almost three feet more than the required first floor setback. This provides increase spacing between the homes than is typical and required. The modification would permit an 18 and a half feet tall, two-story wall one foot closer than required by code.

**E. The modification is consistent with the general plan, local coastal program, and any applicable specific plan or area plan adopted by the city council.**

General Plan Policy LU-5.3 states that the mass, scale, and height of new development should be compatible with existing homes within residential neighborhoods. There are many homes within the Cliffwood Heights neighborhood with nonconforming first-story side setbacks and a few two-story properties with existing nonconforming second-story side setbacks.

**F. The modification will not establish a precedent.**

The majority of single-family residences in the Cliffwood Heights neighborhood have nonconforming first-story side setbacks because they were built many years ago under a different zoning code. The subject property, however, has a first-story side setback that exceeds the required first-story setback by a large enough amount that it comes within ten percent of the required second-story side setback. Most properties in the neighborhood with nonconforming side setbacks would not be able to construct second-story additions at the same setback as the nonconforming first-story walls because they are not within ten percent of the required second-story side setback. Therefore, this modification would not establish a precedent.

**G. The modification will not adversely impact coastal resources.**

The subject property is not located in an area with coastal resources, therefore the modification will not adversely impact coastal resources.

<b>RESULT:</b>	<b>ACCEPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Courtney Christiansen
<b>SECONDER:</b>	Peter Wilk
<b>AYES:</b>	Courtney Christiansen, Ed Newman, Mick Routh, Susan Westman, Peter Wilk

**B. 1855 41st Avenue #21-0320 APN: 034-261-07, -37, -38, -40, & -52**

Six Month Review of Conditional Use Permit #21-0023 for Mobile Food Vendors located at 1855 41<sup>st</sup> Avenue at the Capitola Mall within the C-R (Regional Commercial) zoning district. This project is not in the Coastal Zone and does not require a Coastal Development Permit. Environmental Determination: Categorical Exemption  
 Property Owner: Merlone Geier Management, LLC  
 Representative: Brian Kirk, Merlone Geier Management, LLC, Filed: 7/19/2021

Director Herlihy presented the staff report.

Chair Routh asked staff if the Commission will have an opportunity to review the permit in six months. Commissioner Newman stated the permit expires 24 months from the date of issuance so there is an opportunity to revisit the permit if the need arises.

Commissioner Wilk stated that he visited the site and found evidence that businesses were complying with the conditions of their permit, specifically Capitola Municipal Code Section 8.36.040.

MOTION: Provide direction and allow businesses to operate within the Conditions of Approval.

<b>RESULT:</b>	<b>ACCEPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Ed Newman
<b>SECONDER:</b>	Susan Westman
<b>AYES:</b>	Courtney Christiansen, Ed Newman, Mick Routh, Susan Westman, Peter Wilk

## 6. DIRECTOR'S REPORT

## 7. COMMISSION COMMUNICATIONS

Commissioner Newman commented on an article he submitted to Director Herlihy via email, and noted it contained information that may be useful to the Commission. Director Herlihy responded that she will forward the article to the Commissioners.

Chair Routh stated that the Architectural and Site Committee must address various aspects of the design features in the plans. Director Herlihy stated that the updated zoning Code removed the requirement of Architectural and Site review for single family homes. Rather, only multi-family residential and commercial property designs will be reviewed by a third party.

## 8. ADJOURNMENT

The meeting was adjourned at 8:20 P.M. to the next regular meeting of the Planning Commission on September 2, 2021.

Approved by the Planning Commission

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Edna Basa, Clerk to the Commission