



FINAL MINUTES
CAPITOLA PLANNING COMMISSION MEETING
Thursday, June 3, 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

B. Public Comments

C. Commission Comments

D. Staff Comments

Community Development Director Herlihy updated the Commission on the Coastal Commission's scheduled certification of the zoning code. She also provided answers to the Commission following Commissioner Westman's request for information at the May 6, 2021, meeting regarding the installation of generator systems in residential neighborhoods. In response to Director Herlihy's comments, Commissioner Westman stated her questions were satisfactorily answered, and a discussion on additional regulations on the subject can be tabled until the next zoning code update.

3. CONSENT CALENDAR

A. 723 El Salto Drive

#21-0155

APN: 036-143-35

Coastal Development Permit for the construction of a fence on a residential property located within the R-1/VS (Single-Family Residential/Visitor Serving) zoning district.

This project is in the Coastal Zone and does not require a Coastal Development Permit.

Environmental Determination: Categorical Exemption

Property Owner: Doug Dodds

Representative: Jennifer Cosgrove, Filed: 04.16.21

MOTION: Approve the Coastal Development Permit with the following conditions and findings:

CONDITIONS

1. The project approval consists of a Coastal Development Permit for a new metal fence along the bluff at 723 El Salto Drive. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on June 3, 2021, except as modified through conditions imposed by the Planning Commission during the hearing.
2. 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.

3. There shall be no use of heavy machinery on the bluff. All work must be done manually or with hand-held tools. Any vegetation that is removed or irreparably harmed in the process of fence installation shall be replaced with new vegetation or mulch to prevent exposed soil and erosion.
4. Prior to construction, the defunct section(s) of fence located on the seaward side of the proposed fence shall be removed to the extent which is safely possible.
5. In the event blufftop erosion compromises the fence, all affected fencing shall be removed at the sole expense of the property owner.
6. Prior to construction, the applicant is required to submit an erosion control plan and maintenance plan which demonstrates that the project will not contribute to accelerated erosion or adversely impact bluff stability.
7. All work shall be completed per the plans approved by the Planning Commission and the erosion control plan shall be strictly followed. Erosion control and sediment management devices shall be installed and inspected by City Public Works prior to initiating work.
8. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official. §9.12.010B
9. 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.
10. This permit shall expire 24 months from the date of issuance. The applicant shall have 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.
11. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.

FINDINGS

A. The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.

Community Development Department Staff and the Planning Commission have all reviewed the project. The project secures the purposes of the R-1 (Single Family Residence) Zoning District. The Coastal Development Permit secures the purposes of the Zoning Ordinance, including Chapter 17.54 for fence standards, the General Plan and Local Coastal Plan.

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

Community Development Department Staff and the Planning Commission have reviewed the application for a new fence at 723 El Salto Drive. The project will maintain the character and integrity of the neighborhood.

C. This project is categorically exempt under Section 15303(e) of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.

This project involves construction of a new fence in the R-1 (single-family residence) Zoning District. Section 15303 of the CEQA Guidelines exempts new construction of small accessory structures including garages, carports, patios, swimming pools, and fences.

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 723 El Salto Drive. The fence is not located in an area with coastal access. The fence 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 723 El Salto Drive. 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 723 El Salto Drive. 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 the construction of a new fence 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 the construction of a new fence 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 the construction of a new fence 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 fence. 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;

- Not applicable.

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

- Not applicable.

12. Project complies with water and energy conservation standards;

- Not applicable.

13. Provision of park dedication, school impact, and other fees as may be required;

- Not applicable.

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;

- The proposed fence itself is lightweight, will not contribute to erosion, and has been situated further back from the cliff to be in line with the neighboring fence. The project will reestablish a barrier between the edge of the cliff and use of land, thereby mitigating risks to life from falling or standing in areas with heightened risk of slope failure. The project will also reduce risks of erosion and slope failure

by limiting human use, disturbance, and load. Conditions of approval have been included to ensure the project compliance with applicable erosion control measures and mitigate falling hazards.

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 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.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Susan Westman
SECONDER:	Ed Newman
AYES:	Courtney Christiansen, Ed Newman, Mick Routh, Susan Westman, Peter Wilk

4. PUBLIC HEARINGS

A. 1650 41st Avenue #21-0079 APN: 034-111-19

Conditional Use Permit Amendment to change the allowed retail alcohol sale of beer and wine to include the sale of distilled spirits for off-site consumption at a Chevron gas station located within the CC (Community Commercial) zoning district.

This project is in the Coastal Zone but does not require a Coastal Development Permit.

Environmental Determination: Categorical Exemption

Property Owner: Chevron USA

Representative: Steve Rawlings Filed: 04.26.21

Assistant Planner Sesanto presented the staff report.

Steve Rawlings, the applicant and Chevron Corporation's consultant, concurred with the staff recommendation and their conditions and findings. Mr. Rawlings stated that Chevron Corporation implemented policies and procedures in addition to investing in employee training to ensure proper operation of the business.

MOTION: Approve the Conditional Use Permit Amendment with the following conditions and findings:

CONDITIONS

1. The project approval consists of a second Amendment to a Conditional Use Permit for an existing self-service gas station and 2,945 square foot mini mart with the sale of alcohol at 1650 41st Avenue. The proposed amendment is approved as indicated on the final plans reviewed and approved by the Planning Commission on June 3, 2021, except as modified through conditions imposed by the Planning Commission during the hearing. The conditions of approval from the original 1988 Conditional Use Permit and the first amendment of the CUP approved 2004, continue to apply.
2. Any significant modifications to the size or exterior appearance of the structure (i.e. windows, materials, colors, etc.) must be approved by the Planning Commission. Similarly, any significant change to the use itself, or the site, must be approved by the Planning Commission.
3. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.

4. The mini mart and gas services shall be permitted to be open 24 hours a day, seven days a week.
5. The sale of alcohol shall be permitted for off-site consumption. The sale of alcoholic mini bottles is prohibited.
6. Final building plans shall indicate that the trash enclosure will be made of a sturdy solid masonry material, compatible with the building materials and colors and with trash receptacles screened from view. Receptacles shall be provided for recycled materials as well as trash or rubbish. The design of the trash enclosure shall be submitted to the Community Development Department prior to, or in conjunction with, building permit submittal.
7. No roof equipment is to be visible to the general public. Any necessary roof screening is to match the color of the building as closely as possible. Plans for any necessary screening shall be submitted to the Community Development Department prior to, or in conjunction with, building permit submittal.
8. 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.
9. 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.
10. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.

FINDINGS

- A. The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**

Community Development Department Staff and the Planning Commission have reviewed the application and determined that the applicant may be granted a Conditional Use Permit for the sale of distilled spirit alcohol within the CC (Community Commercial) Zoning District. The use meets the intent and purpose of the district. Conditions of approval have been modified to ensure that the use is consistent with the Zoning Ordinance and General Plan.
- B. The application will maintain the character and integrity of the neighborhood.**

Community Development Department Staff and the Planning Commission have reviewed the proposed use and determined that the use complies with the applicable provisions of the Zoning Ordinance and maintain the character and integrity of this area of the City. Conditions of approval have been included to carry out these objectives.
- C. This project is categorically exempt under Section 15301 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

This project involves an existing commercial space with the additional use of off sale distilled spirits. No adverse environmental impacts were discovered during project review by either the Community Development Department Staff or the Planning Commission.

D. The use is consistent with the General Plan and will not be detrimental to the health, safety, peace, morals, comfort and general welfare of the neighborhood and the City.

The applicant is not proposing an increase in the size of the existing gas station and retail area. The existing retail sale of beer and wine will remain with the addition of the sale of distilled spirits. With the restriction on the sale of alcoholic mini bottles, the sale of distilled spirits for retail sale will not be detrimental to the surrounding neighborhood or the City.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ed Newman
SECONDER:	Courtney Christiansen
AYES:	Courtney Christiansen, Ed Newman, Mick Routh, Susan Westman, Peter Wilk

5. DIRECTOR'S REPORT

Director Herlihy updated the Commission on the potential development of a new boutique hotel at 720 Hill Street, the City's progress on ADU prototypes and policies, the Inclusionary Housing Ordinance, and the City's enforcement of the sign ordinance.

6. COMMISSION COMMUNICATIONS

In response to an appellant's comments following a hearing at a previous meeting, Commissioner Newman stated that he had reviewed his previous statements and agreed with the appellant that the Commission has the ability to impose conditions when reviewing an appeal, but he did not believe that this would have changed the outcome of the vote to deny the appeal.

Chair Routh requested information regarding the Wharf project's proposed public bathrooms. Director Herlihy stated that she will provide further details after she confers with the Public Works department.

7. ADJOURNMENT

The meeting was adjourned at 7:27 P.M. to the next regular meeting of the Planning Commission on July 15, 2021. Approved by the Planning Commission

Edna Basa, Clerk to the Commission