



**FINAL MINUTES
CAPITOLA PLANNING COMMISSION MEETING
Thursday, May 6, 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 Herlihy stated additional materials were added on item 4b.

B. Public Comments

C. Commission Comments

Commissioner Newman stated the Taqueria on the Esplanade has not complied with the conditions of their conditional use permit. Director Herlihy stated staff will send a courtesy warning letter noting the conditional use permit could be brought for review by the Planning Commission if they do not comply.

D. Staff Comments

3. APPROVAL OF MINUTES

A. Planning Commission - Regular Meeting - Apr 1, 2021 7:00 P.M.

MOTION: Approve the minutes.

RESULT:	APPROVED [4 TO 0]
MOVER:	Peter Wilk
SECONDER:	Courtney Christiansen
AYES:	Ed Newman, Peter Wilk, Mick Routh, Courtney Christiansen
ABSTAIN:	Susan Westman

4. PUBLIC HEARINGS

A. 2110 41st Avenue

#21-0149

APN: 034-221-16

Application for a Monument Sign, Design Permit, and Conditional Use Permit amending application #20-0460 for the Master Car Wash, a car washing facility, located at 2110 41st Avenue in the C-R (Regional Commercial) Zoning District.

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

Environmental Determination: Categorical Exemption

Property Owner: David Karsan

Representative: Bill Kempf, Architect, Filed: 04.15.2021

Associate Planner Matt Orbach presented the staff report.

Todd Creamer, the project's engineer, explained the drainage plan in response to questions from the Commission.

Susan Walton, a nearby resident, stated her concerns regarding her quality of life once the business reopens. Specifically, she was concerned about privacy, increased load on the

retaining wall, trash, lighting, and remedies in the event of the business' non-compliance with the conditions of approval.

Bill Kempf, the project's architect, addressed Ms. Walton's concerns. Commissioner Routh stated the Commission's role in addressing future non-compliance.

Assistant Planner Sean Sesanto read an email from La Walton in which she stated her concern of the proposed trees blocking sunlight to her property.

The Commission discussed hours of operation and the possibility of the business owner working with neighbors to determine the appropriate tree species for tree screen in rear landscape area.

MOTION: Approve the application for a sign, design permit, and conditional use permit with the following conditions and findings:

CONDITIONS

1. The project approval consists of an updated Conditional Use Permit, Design Permit, and Sign Permit at 2110 41st Avenue (Master Car Wash). The previously approved permit #20-0460 will become void upon approval of #20-0149. The maximum Floor Area Ratio for the 25,090-square-foot property is 1.5 (37,635 square feet). The total FAR of the project is 0.12 with a total of 3,088 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 May 6, 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, all Planning fees associated with permit #21-0149 shall be paid in full.
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, Santa Cruz Water Department, 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. Property owner shall install a 6-foot-tall solid wood fence along the rear property line.
19. The applicant, property owner(s), and their successors (as applicable, Indemnitor) shall defend, indemnify, and hold harmless the City and its agents, officers, and employees from any third-party claim, action, or proceeding against the City or its, agents, officers

or employees arising from or related to Conditional Use Permit #21-0149 for 2110 41st Avenue, including but not limited to an action to attack, set aside, void or annul Conditional Use Permit #21-0149 for 2110 41st Avenue. Such indemnification shall include, but not be limited to, an award of costs and attorney's fees incurred by the City in its defense. The City shall promptly notify Indemnitor of any such challenge.

20. Property owner shall work with City Staff and the neighboring property owners at 2109 and 2113 Derby Avenue to identify appropriate tree species for tree screen in rear landscape area.

CONDITIONAL USE PERMIT FINDINGS

A. The proposed use is allowed in the applicable zoning district.

The use is not listed in Table 17.24-1 under CMC §17.24.020. However, the use has been approved multiple times under conditional use permit #87-116, #03-087, #06-050, and #20-0460.

B. The proposed use is consistent with the general plan, local coastal program, zoning code, and any applicable specific plan or area plan adopted by the city council.

With a CUP and the proposed conditions of approval, the proposed use is consistent with the general plan, local coastal program, and zoning code.

C. The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and planned land uses in the vicinity of the property.

Upon compliance with the following conditions of approval, the use is compatible with the existing land uses in the vicinity of the property. Condition of Approval #19 requires a 6-foot-tall solid wood fence along the rear property line between the subject property and the residential development at 2109 and 2113 Derby Avenue to mitigate potential negative noise impacts from the car wash use.

D. The proposed use will not be detrimental to the public health, safety, and welfare.

City Staff, the Architecture and Site Review Committee, and the Planning Commission have all reviewed the project. The applicant provided engineering analysis which demonstrates the revised circulation system does not result in increased surcharge loads to the existing wall. Furthermore, the analysis concludes the additional mitigation of removing an existing shed and stormwater improvements will reduce the current load and hydrostatic pressure. The proposed use will not be detrimental to the public health, safety, and welfare.

E. The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.

The proposed use is located along the 41st Avenue commercial corridor, which is within the City of Capitola and adequately served by existing services and infrastructure.

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 reviewed the project. The proposed modifications to the site layout and building design comply with the development standards of the C-R (Regional Commercial) District. The project secures the purpose of the General Plan, and Local

Coastal Program, and design policies and regulations adopted by the City Council.

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 reviewed the application for modifications to the site layout and building design. The project complies with all applicable provisions of the zoning code and municipal code.

C. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

Section 15301 of the CEQA Guidelines exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The proposed project involves site modifications for an existing car wash involving a negligible expansion of the existing use within the C-R (Regional Commercial) zoning 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.

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have reviewed the project. The proposed modifications to the site layout and building design 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 Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have reviewed the application. The proposed modifications to the site layout and building design comply with all applicable design review criteria in Section 17.120.070.

SIGN PERMIT FINDINGS

A. The proposed signs are consistent with the general plan, local coastal program, zoning code, and any applicable specific plan or area plan adopted by the city council.

Community Development Staff and the Planning Commission have reviewed the project. The proposed monument sign complies with the development standards of the C-R (Regional Commercial) zoning district.

B. The proposed signs comply with all applicable standards in Chapter 17.80 (Signs).

Community Development Staff and the Planning Commission have reviewed the application for the new monument sign. The proposed monument sign complies with the standards in Chapter 17.80 (Signs).

C. The proposed sign will not adversely impact the public health, safety, or general welfare.

Community Development Department Staff and the Planning Commission have reviewed the sign application and determined that the proposed monument sign will not have adverse impact on public health, safety, or general welfare.

D. The number, size, placement, design, and material of the proposed signs are compatible with the architectural design of buildings on the site.

Community Development Department Staff and the Planning Commission have reviewed the sign application and determined that the proposal is compatible with the architectural design of the buildings on the site.

E. The proposed signs are restrained in character and no larger than necessary for adequate identification.

Community Development Department Staff and the Planning Commission have reviewed the sign application and determined that the proposed monument sign is restrained in character and no larger than necessary for adequate identification.

F. This project is categorically exempt under Section 15311(a) of the California Environmental Quality Act and is subject to Section 753.5 of Title 14 of the California Code of Regulations.

Section 15311(a) of the CEQA Guidelines exempts the construction of on-premise commercial signs. This project involves a new monument sign within the C-R (Regional Commercial) zoning district. No adverse environmental impacts were discovered during review of the proposed project.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS**A. 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.**

Section 15301 of the CEQA Guidelines exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The proposed project involves site modifications for an existing car wash involving a negligible expansion of the existing use. No adverse environmental impacts were discovered during project review by Planning Staff or the Planning Commission.

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

B. 527 Capitola Avenue #21-0126 APN: 035-093-02

Appeal of an administrative approval of a tree removal application located within the CN (Neighborhood Commercial) zoning district.

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

Environmental Determination: Categorical Exemption

Property Owner: Shelly Lawrie

Appellant: Robert Edgren, Filed: 03.24.2021

Assistant Planner Sean Sesanto presented the staff report.

Shelly Lawrie, the property owner and respondent, stated her opposition to the appeal because of the danger the tree poses to her, people on neighboring properties and the public sidewalk, and the structure on the neighboring property.

Emily Buchbinder, the neighboring property owner at 525 Capitola Avenue, stated that her office and employees were at risk from tree failure, her elderly clients were at risk from the sidewalk damage caused by the tree roots, and the arborist she hired had recommended the tree be removed.

Robert Edgren, the appellant, stated his arguments in support of appeal: (1) he personally felt the tree was healthy; (2) he solicited verbal feedback from an arborist who felt there were feasible alternatives to removal; (3) the Commission should table the item until an independent arborist is hired to assess the tree; and (4) the tree provides public benefit and is an asset to the community.

Lilane Molda, a co-owner of the subject property at 525 Capitola Avenue, stated that she feels the tree should be removed for safety reasons and to protect public and private property.

Commissioner Newman stated he felt this tree was near the end of its expected natural life and that its removal seemed appropriate with the planting of a new tree.

Commissioner Westman concurred with Commissioner Newman's assessment, except that she felt the replacement tree should be a larger variety than the proposed crepe myrtle. Commissioner Westman also felt the cost of administrative tree appeals should be lower and that the public notice signs should be larger.

Commissioner Wilk felt the City should create a heritage tree list, but that the proposed removal and replacement tree was reasonable based on the tree removal ordinance.

Chair Routh expressed concern regarding tree removals in recent years and suggested the City hire an arborist prior to a decision.

MOTION: Deny the appeal and uphold the administrative approval based on the following conditions and findings:

FINDINGS

A. The removal of the tree is in the public interest with respect to the condition of the tree.

The tree has poor structure, with three co-codominant leaders rather than one main stem which could lead to the failure of one or more leads. The tree shows evidence of a boring-insect infestation, which weakens the structural integrity of the tree.

B. The tree poses a safety concern without mitigation.

The tree poses safety concerns with respect to the failure of one or more co-dominant leaders.

C. The removal of the tree is in the public interest with respect to unreasonable existing and potential property damage.

The removal of the tree is in the public interest due to significant root damage to the properties of 527 Capitola Avenue and 525 Capitola Avenue. The tree has the potential to cause further unreasonable property damage or interference with existing power lines should one or more of the co-dominant leaders fail.

D. There are no feasible alternatives to tree removal that secure the purposes of the Community Tree and Forest Management Ordinance.

The Planning Commission reviewed the application and staff review and found that there are no feasible alternatives to tree removal that could be implemented that would stop existing property damage or reduce risk to life and property without seriously harming or killing the tree.

RESULT:	APPROVED [3 TO 2]
MOVER:	Ed Newman
SECONDER:	Peter Wilk
AYES:	Courtney Christiansen, Ed Newman, Peter Wilk,
NAYS:	Mick Routh, Susan Westman

5. DIRECTOR'S REPORT

Community Development Director Herlihy updated the Commission on the Coastal Commission's revisions to the zoning code/Local Coastal Plan update, the SB2 grant, and the Inclusionary Housing Ordinance update.

6. COMMISSION COMMUNICATIONS

Commissioner Westman requested information on the requirements for the installation of generator systems in residential neighborhoods.

7. ADJOURNMENT

The meeting was adjourned at 8:43 P.M. to the next regular meeting of the Planning Commission on June 3, 2021.

Approved by the Planning Commission

Edna Basa, Clerk to the Commission

APPROVED JULY 15, 2021