

**FINAL ADOPTED MINUTES**

**CAPITOLA PLANNING COMMISSION MEETING**

**THURSDAY, JULY 16, 2015**

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

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

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

Commissioners: Ed Newman, Gayle Ortiz, TJ Welch, and Susan Westman and Chairperson Linda Smith.

**2. ORAL COMMUNICATIONS**

### Additions and Deletions to Agenda

Community Development Director Rich Grunow noted an errata for item 4B to include a coastal development permit.

## Public Comment

Chris Bowman, resident, expressed concern about noise for the proposed Monterey Avenue skate park, in part because of size and elevation. She would prefer a smaller size and design for younger skaters.

1. Commission Comment

Commissioner Welch noted ongoing concerns about vacation rentals in areas where they are not permitted, and passed along a zoning complaint. Director Grunow noted residents should contact staff and register a complaint if they observe short-term uses.

1. Staff Comments

Senior Planner Katie Cattan noted the distributed matrix with summaries from previous workshops for the zoning update, and asked commissioners to review the comments as it will guide discussion for the City Council.

**3. APPROVAL OF MINUTES**

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| **A.** | **June 4, 2015, Draft Planning Commission Minutes** |

**A motion to approve the June 4, 2015, meeting minutes was made by Commissioner Welch and seconded by Commissioner Westman.**

**The motion carried by the following vote: Aye: Commissioners Newman, Ortiz, Welch and Westman and Chairperson Smith. No: None. Abstain: None.**

**4. CONSENT CALENDAR**

Commissioner Ortiz recused herself from the vote on item 4B since she owns a business in proximity.

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| **A.** | **1801 42nd Avenue      #15-070      APN: 034-125-08** |
| Design Permit for an addition to an existing residence located in the R-1 (Single-Family Residential) Zoning District. This project is in the Coastal Zone, but is exempt from a Coastal Development Permit. Environmental Determination: Categorical ExemptionProperty Owner: Vicente RuelasRepresentative: Vicente Ruelas, filed: 4/17/15 (revised plans filed 6/4/15) |

Commissioner Westman asked if the parking area in front of the house would remain as existing dirt. The property owner responded that the plan is to use broken concrete from the deck filled with stones and rubble. Commissioner Westman asked for a condition describing that plan.

Commissioner Newman noted that this is one of two applications tonight which involve the non-conforming use calculation, which will be a point of discussion at the upcoming zoning update workshop.

**A motion to approve application #15-070 for a Design Permit was made by Commissioner Westman and seconded by Commissioner Newman with the following conditions and findings:**

**CONDITIONS**

1. The project approval consists of construction of a 412-square-foot addition to an existing 714-square-foot single-story residence. The maximum Floor Area Ration for the 5,384-square-foot property is 49% (2,638 square feet). The total FAR of the project is 21% with a total of 1,126 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 July 16, 2015, 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 building plans must show that the existing overhead utility lines will be underground to the nearest utility pole.
4. The applicant must prove that the finished addition will not constitute more than 80% of the existing valuation of the home. The Building Official will verify this calculation, pursuant to section 17.72.070 of the Capitola Municipal Code.
5. At time of submittal for building permit review, the applicant must submit a parking lot plan that shows materials and design of parking spaces.
6. 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.
7. At the time of submittal for building permit review, Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP) shall be printed in full and incorporated as a sheet into the construction plans.  All construction shall be done in accordance with Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP).
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. Prior to issuance of building permit, a final landscape plan shall be submitted and approved by the Community Development Department. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of irrigation systems.
10. Prior to issuance of building permit, all Planning fees associated with permit #­ 15-070 shall be paid in full.
11. Prior to issuance of building permit, Affordable housing in-lieu fees shall be paid as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance.
12. 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.
13. 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.
14. 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).
15. 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.
16. 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.
17. 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
18. 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.
19. 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.
20. 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.
21. 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.
22. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
23. In any case where the conditions to the granting of a permit have not been or are not complied with, the community development director shall give notice thereof to the permittee, which notice shall specify a reasonable period of time within which to perform said conditions and correct said violation. If the permittee fails to comply with said conditions, or to correct said violation, within the time allowed, notice shall be given to the permittee of intention to revoke such permit at a hearing to be held not less than thirty calendar days after the date of such notice. Following such hearing and, if good cause exists therefore, the Planning Commission may revoke the permit.

**FINDINGS**

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

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the addition to the single family home. The project conforms to the development standards of the R-1 (Single Family Residence) zoning district, except for the existing non-conforming rear yard setback. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance, General Plan and Local Coastal Plan.

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

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project conforms to the development standards of the R-1 (Single Family Residence) zoning district, except for the existing non-conforming rear yard setback. Conditions of approval have been included to ensure that the project maintains the character and integrity of the neighborhood. The proposed addition to the single-family residence compliments the existing single-family homes in the neighborhood. The surrounding neighborhood is characterized by one and two story single-family residences with large front-yard setbacks. The proposed project would involve a minor addition to an existing single-family residence. The finished home will be of comparable size and scale to other residences in the neighborhood.

1. **This project is categorically exempt under Section 15301(e) of the California Environmental Quality Act and is subject to Section 753.5 of Title 14 of the California Code of Regulations.**

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

**The motion carried by the following vote: Aye: Commissioners Newman, Ortiz, Welch and Westman and Chairperson Smith. No: None. Abstain: None.**

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| **B.** | **410 Bay Avenue      #15-092      APN: 034-062-45** |
| Design Permit to build a new 2,894-square-foot home on a vacant lot located in the RM-M (Multiple-Family Medium Density) Zoning District. This project is in the Coastal Zone and requires a Coastal Development Permit, which is not appealable to the Coastal Commission. Environmental Determination: Categorical ExemptionProperty Owner: John MacGregorRepresentative: Gerry Jensen, filed: 6/1/15 |

**A motion to approve application #15-092 for a Design Permit and Coastal Development Permit was made by Commissioner Westman and seconded by Commissioner Newman with the following conditions and findings:**

**CONDITIONS**

1. The project approval consists of construction of a 2,894-square-foot single-family home. The maximum Floor Area Ratio for the 6,673-square foot property is 48% (3,203 square feet). The total FAR of the project is 43% with a total of 2,894 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 July 16, 2015 except as modified through conditions imposed by the Planning Commission during the hearing.
2. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans
3. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
4. At the time of submittal for building permit review, Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP) shall be printed in full and incorporated as a sheet into the construction plans.  All construction shall be done in accordance with Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP).
5. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.
6. Prior to issuance of building permit, a final landscape plan shall be submitted and approved by the Community Development Department. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of irrigation systems. Native and/or drought tolerant species are recommended.
7. Prior to issuance of building permit, all Planning fees associated with permit #15-092 shall be paid in full.
8. Prior to issuance of building permit, Affordable housing in-lieu fees shall be paid as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance.
9. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel 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 section 17.81.160.
18. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.
19. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
20. In any case where the conditions to the granting of a permit have not been or are not complied with, the community development director shall give notice thereof to the permittee, which notice shall specify a reasonable period of time within which to perform said conditions and correct said violation. If the permittee fails to comply with said conditions, or to correct said violation, within the time allowed, notice shall be given to the permittee of intention to revoke such permit at a hearing to be held not less than thirty calendar days after the date of such notice. Following such hearing and, if good cause exists, the Planning Commission may revoke the permit.

**FINDINGS**

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

 Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project secures the purpose of the Zoning Ordinance, General Plan, and Local Coastal Plan.

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

 Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the new home. The new home compliments the existing residential neighborhood in character and scale. The design does not compromise the integrity of the existing neighborhood. .

1. **This project is categorically exempt under Section 15331 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 the construction of a single-family residence in a residential zone. This project involves construction of a new single-family residence in the R-1 (Single-Family Residential) Zoning District. No adverse environmental impacts were discovered during review of the proposed project.

**COASTAL FINDINGS**

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

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

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

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

* The proposed project is located at 410 Bay 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.

***(D) (2) (b) Shoreline Processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;***

* The proposed project is located along Bay Avenue. No portion of the project is located along the shoreline or beach.

***(D) (2) (c) Historic Public Use. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use);***

* There is not history of public use on the subject lot.
1. ***(2) (d) Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;***
* The proposed project is located on private property on Bay Avenue. The project will not block or impede the ability of the public to get to or along the tidelands, public recreation areas, or views to the shoreline.

 ***(D) (2) (e) Other Adverse Impacts on Access and Recreation. Description of the development’s physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public’s use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.***

* The proposed project is located on private property that will not impact access and recreation. The project does not diminish the public’s use of tidelands or lands committed to public recreation nor alter the aesthetic, visual or recreational value of public use areas.

 ***(D) (3) (a – c) Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F) (2) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:***

***a. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;***

***b. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;***

***c. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.***

* The project is not requesting a Public Access Exception, therefore these findings do not apply

***(D) (4) (a – f) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:***

***a. Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;***

* The project is located in 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 recreational needs of the public.

 ***d. Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;***

***e. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;***

***f. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.***

***(D) (5) Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);***

* No legal documents to ensure public access rights are required for the proposed project

***(D) (6) Project complies with visitor-serving and recreational use policies;***

 *SEC. 30222*

 *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

* The project involves a single family home 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 single family home 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 single family home on a residential lot of record.

 ***(D) (7) Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;***

* The project involves a single family home. The project complies with applicable standards and requirements for provision for parking, pedestrian access, alternate means of transportation and/or traffic improvements.

***(D) (8) Review of project design, site plan, signing, lighting, landscaping, etc., by the city’s architectural and site review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;***

* The project complies with the design guidelines and standards established by the Municipal Code.

***(D) (9) Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola’s shoreline;***

* The project will not negatively impact public landmarks and/or public views. The project will not block or detract from public views to and along Capitola’s shoreline.

***(D) (10) Demonstrated availability and adequacy of water and sewer services;***

* The project is located on a legal lot of record with available water and sewer services.

***(D) (11) Provisions of minimum water flow rates and fire response times;***

* The project is located within close proximity of the Capitola fire station. Water is available at the location.

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

* The project is for a single family home. The GHG emissions for the project are projected at less than significant impact. All water fixtures must comply with the low-flow standards of the soquel creek water district.

***(D) (13) Provision of park dedication, school impact, and other fees as may be required;***

* The project will be required to pay appropriate fees prior to building permit issuance.

***(D) (14) Project complies with coastal housing policies, and applicable ordinances including condominium conversion and mobile home ordinances;***

* The project does not involve a condo conversion or mobile homes.

***(D) (15) Project complies with natural resource, habitat, and archaeological protection policies;***

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

***(D) (16) Project complies with Monarch butterfly habitat protection policies;***

* The project is outside of any identified sensitive habitats, specifically areas where Monarch Butterflies have been encountered, identified and documented.

***(D) (17) Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;***

* Conditions of approval have been included to ensure compliance with applicable erosion control measures.

***(D) (18) Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project complies with hazard protection policies including provision of appropriate setbacks and mitigation measures;***

* Geologic/engineering reports are not required for this application. 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.

***(D) (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.

***(D) (20) Project complies with shoreline structure policies;***

* The proposed project is not located along a shoreline.

***(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;***

* This use is an allowed use consistent with the Single Family zoning district.

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

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

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

* The project site is located outside the area of the Capitola parking permit program.

**The motion carried by the following vote: Aye: Commissioners Newman, Welch, and Westman and Chairperson Smith. No: None. Abstain: None.**

**5. PUBLIC HEARINGS**

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| **A.** | **616 Sunset Drive      #15-060      APN: 035-07-217** |
| Design Permit for a second story addition and Variance request to the parking requirement for a home located in the R-1 (Single-Family Residential) Zoning District.This project is in the Coastal Zone, but is exempt from a Coastal Development Permit. Environmental Determination: Categorical ExemptionProperty Owner: Cesar CastilloRepresentative: Stroy Kaiser, filed: 4/2/15 |

Assistant Planner Ryan Safty presented the staff report. The applicant property is non-conforming for both setbacks and parking. He noted the neighbor to the south provided a letter in support of the proposed second-floor deck. As part of the “special privilege” variance review he conducted a survey of remodels or rebuilds in the neighborhood. Several properties that were granted variances for parking in the past now meet current requirements. An alternate perpendicular parking option for the application would impact front landscaping and is likely to be impractical. Based on these factors, staff could not make findings for the parking variance.

Commissioner Ortiz commended the background research.

Chairperson Smith noted that in the example of 619 Gilroy, the variance was for space size and not a reduction in the number of spaces.

John Plecque, neighbor, supports a variance because the project remains within the footprint of the home.

Applicant Caesar Castillo and designer Stroy Kaiser acknowledged challenges of the project, which aims to add square footage on the second floor. The applicant noted his family is growing and wants to stay in the neighborhood. He is not planning to add vehicles.

Commissioner Westman asked if the utilities will be housed in the existing one-car garage. Mr. Kaiser replied that laundry would likely be there but they were considering a tankless water heater.

Kate Arrieta, resident, said applications such as this are a perfect time to fix neighborhood parking problems. Although the applicant is an excellent neighbor, others in the neighborhood are not as considerate and abuse street parking.

Commissioner Westman explained she would vote to deny the project. One of the commission’s goals is to prevent making a situation worse and there’s already a parking problem in the area. The commission supported maintaining adequate parking as part of the zoning update. Commissioner Newman saw many similar shallow driveways in the area and worried that if the commission allows this two-story intensification without more parking, then there are potentially more projects coming that could expect the same variance. Commissioner Ortiz said that although people may intend to stay in their homes for years, situations change and commissioners have to consider the application and not the applicant. Commissioner Welch agreed that while the applicant’s reasoning was compelling, the precedent would be ill-advised. Chairperson Smith echoed the others’ sentiments and noted that other expansions provided at least two parking spaces. She suggested going out the back to get required parking.

**A motion to deny application #13-060 for a Design Permit and Variance was made by Commissioner Westman and seconded by Commissioner Ortiz based on the following findings:**

**FINDINGS**

1. **The application, subject to the conditions imposed, does not secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**

The proposed remodel and addition at 616 Sunset Drive does not conform to the development standards of the Zoning Ordinance. Recent redevelopment applications for an addition to a single- family home in this neighborhood have complied with required R-1 parking regulations. The applicant can modify the design to extend the garage and meet parking standards with two spaces on-site or reduce the size of the proposed addition.

1. **The application will not maintain the character and integrity of the neighborhood.**

There is an existing on-street parking shortage in the Riverview/Sunset Avenue neighborhood. The applicant currently has one on-site space, but is required by the Zoning Code to have two. The variance to reduce the required parking standard will further perpetuate the neighborhood’s parking problem and will not maintain the character and integrity of the neighborhood. The proposed “optional” onsite parking located parallel to Sunset Avenue will most likely not be used for parking and will not maintain the character and integrity of the neighborhood. Staff has concerns with the proposed alternative because the design is impractical and will disrupt the front yard aesthetic along the street and sidewalk. The streetscape will also be impacted by the proposal.

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

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

**The motion carried by the following vote: Aye: Commissioners Newman, Ortiz, Welch, and Westman and Chairperson Smith. No: None. Abstain: None.**

**B.** **1855 41st Avenue, E-1      #15-096      APN: 034-261-37**

Design Permit for exterior modifications and Sign Permit for a new Five Guys restaurant in the previous Carl’s Jr. located in the CC (Community 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: Macerich
Representative: Malav Patel, filed 6/5/15

Planner Cattan presented the staff report. Five Guys is occupying a portion of the former Carl’s Junior location on the 41st Avenue frontage of the Capitola Mall. The 41st Avenue design guidelines call for variety of interest in the facades. She offered images of recent work by Ulta and Chili’s as positive examples.

Commissioner Ortiz said the City is trying to make 41st Avenue more appealing and she does not like the simplicity of the proposal.

Merrie Ann Millar, mall property manager, said the proposal fits the mall’s overall plan for the future. The sign criteria is coming from the mall. For this application the challenge is creating two spaces, one of which is not yet leased. The mall is considering outdoor seating in that area as well. She shared with the commission an image representing a preliminary concept for that frontage. The mall is looking to relocate the Metro bus transfer station in the future.

Commissioner Westman confirmed that at present there will be a smaller red awning over the second space. Commissioner Newman thanked Ms. Millar for sharing the upcoming vision. Chairperson Ortiz said the presented image seems a bit different from proposal and Ms. Millar explained additional improvements will come with the second location tenant. Starbucks is also planning to come in with a façade change.

Chairperson Smith confirmed the railing/fence along the sidewalk is the mall’s responsibility and will remain for the short term. She asked about ADA compliance and applicant Malav Patel explained the sidewalk meets the requirement to reach the bus station.

Commissioner Westman suggested a greater depth of the applicant’s awning over the sidewalk may create more interest. Ms. Millar noted that can impact security lighting and cameras.

Commissioner Ortiz said that while she would like to see more variety and interest on the frontage, she is enthusiastic about the new tenant and does not wish to hold up its opening. Chairperson Smith shares the concerns and desire for architectural interest and feels the frontage as proposed is not adequate. Ms. Millar said she could come back with seating and plantings.

Upon further discussion, commissioners agreed that they would be comfortable adding a condition creating more frontage interest through the awning, planters, and a bench to allow the application to move forward.

**A motion to approve application #15-096 for a Design Permit and Sign Permit was made by Commissioner Ortiz and seconded by Commissioner Westman with the following conditions and findings:**

**CONDITIONS**

1. The project approval consists of a sign permit and design permit for the exterior remodel for a new Five Guys restaurant located in the Capitola Mall at 1855 41st Avenue. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on July 16, 2015, 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. 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.
5. Prior to issuance of building permit, all Planning fees associated with permit #­15-096 shall be paid in full.
6. Parking for the proposed restaurant must be accommodated within the onsite parking.
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 District, and Central Fire Protection District.
8. 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
9. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, shall be submitted to the City and approved by Public Works.  The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
10. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).
11. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan.  Erosion and sediment control shall be maintained throughout the duration of the construction project.
12. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
13. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of 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
14. Prior to granting of final occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director.
15. The applicant was granted a design permit and sign permit for the new Five Guys restaurant. In any case where the conditions of the permit are not complied with, the community development director shall give notice thereof to the permittee, which notice shall specify a reasonable period of time within which to perform said conditions and correct said violation. If the permittee fails to comply with said conditions, or to correct said violation, within the time allowed, notice shall be given to the permittee of intention to revoke such permit at a hearing to be held not less than thirty calendar days after the date of such notice. Following such hearing and, if good cause exists therefore, the Planning Commission may revoke the permit.
16. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.
17. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.
18. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
19. The applicant shall include additional design elements adding to the interest of the frontage while creating a softer aesthetic. Design elements shall include a deeper awning that is appropriate for the mall security and the tenant, plant materials, and public seating (bench), and the existing maroon band must be painted to match the exterior wall therefore blending into the front façade.

**FINDINGS**

1. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance and General Plan.**

The Planning Commission finds that the proposed exterior modifications comply with the zoning ordinance. The proposed modifications to the exterior elevations are limited to the exterior of the building with no changes in height, setbacks, and/or use. Updating existing commercial within commercial districts is reflective of the purposes of the General Plan.

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

The Community Development Department Staff and Planning Commission have reviewed the plans to ensure that the exterior modifications maintain the character and integrity of the Capitola Mall. The new materials complement the existing architecture of the mall and are appropriately located within existing horizontal bands of the building.

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

This project involves the installation of new siding and a canopy on an existing commercial retail building. Section 15301(a) exempts existing facilities.

**The motion carried by the following vote: Aye: Commissioners Newman, Ortiz, Welch, and Westman and Chairperson Smith. No: None. Abstain: None.**

**C.** **Housing Element Update**

Consider authorizing staff to initiate public review and to refer the draft Housing Element Update to the California Department of Housing and Community Development.
Environmental Determination:  Addendum to the General Plan EIR
Applicant:  City of Capitola
Representative:  Rich Grunow

Director Grunow explained the process and requirements. The last element was approved in 2010 and must be updated by December 2015. This version reflects policy and legislative changes. Capitola still meets the state stock requirements, which allows for a streamlined update. The city has added 98 new or replacement units and the approved opportunity sites remain adequate to meet state requirements. Changes in this version include updated demographics, housing projects, and constraints based on new ordinances.

Two substantial changes since the 2010 version are the repeal of rent control and a private request to eliminate or modify the condo conversion prohibition. The current housing element echoes the municipal code language preventing conversions. If the City Council chooses to remove or modify this language within the housing element, it will have no effect on the ordinance. Owners of the Antiqua and Crest complexes submitted a conceptual review of an ordinance amendment in 2012, but the city declined the request due to timing with the General Plan and zoning update. Last March an application was submitted by Antigua for a condominium conversion and a request to waive onsite affordable units. This application is still incomplete. The project would require a coastal development permit and Director Grunow noted that the Coastal Commission is requesting a minimum 75-year life without seawalls for structures on the bluffs. A change to housing element language could address one portion of what the Antigua application requires. If recommended the element will go to the City Council and then on to public review. This schedule anticipates adoption hearings in the fall and certification in early 2016.

Commissioner Newman asked if the pending zoning update will impact the accuracy of the housing element if changes are made or not. Director Grunow replied that the language generally calls for consideration, rather than requiring implementation.

Commissioner Westman would like to see chapter 6, page 6, modified to “consider” shared parking for mixed use rather than “allow” should there be concern about conflicts with retail and residential use. She also believes a condo conversion ordinance is vital but, for example, the date range in the existing ordinance could be removed.

There was commission consensus for more general language supporting a condo conversion ordinance to preserve rental apartment stock.

**A motion to recommend that the City Council initiate public review was made by Commissioner Newman and seconded by Commissioner Westman.**

**The motion carried by the following vote: Aye: Commissioners Ortiz, Welch, and Westman and Chairperson Smith. No: Commissioner Newman. Abstain: None.**

1. **DIRECTOR’S REPORT**

Director Grunow reported that the Architectural and Site Review Committee will review the Monterey Avenue skate park proposed design on July 22. The approval for a planned development on 38th avenue for senior housing has expired, but a new application for an11-unit residential project has come in for conceptual review to be heard this fall. He also offered information on a privately sponsored workshop for gray water.

**7. COMMISSION COMMUNICATIONS**

Commissioner Ortiz noted second-story decks in residential neighborhoods historically have not been supported. Staff and fellow commissioners noted some guidance had come out of previous zoning update workshops, but the discussion will continue July 20.

Commissioner Westman noted the new FPPC boundaries and requested maps for conflict-of-interest to 500 feet. Commissioner Ortiz asked if the city attorney was joining advocacy to reinstate the 300-foot limit for small cities. Director Grunow said the topic was expected to be discussed by the League of California Cities.

Commissioner Newman again praised the staff report for the Sunset variance, but he would prefer staff to present factors with a less forceful conclusion. Other commissioners said they appreciated the firm denial from the staff’s professional analysis especially when facing a sympathetic applicant.

**8. ADJOURNMENT**

Chairperson Smith adjourned the meeting at 8:48 p.m. to a special meeting of the Planning Commission to be held on Monday, July 20, 2015, at 6 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

Approved by the Planning Commission on September 3, 2015.

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Linda Fridy, Minutes Clerk