



MINUTES

CAPITOLA PLANNING COMMISSION THURSDAY, MARCH 20, 2008 7:00 P.M. – COUNCIL CHAMBERS

Chairperson Harlan called the Regular Meeting of the Capitola Planning Commission to order at 7:06 p.m.

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

Present: Commissioners Burke, Newman, Norton and Chairperson Harlan
Absent: Commissioner Marlatt (excused)
Staff: Community Development Director Rebagliati
Senior Planner Bane
Associate Planner Akeman
Minute Clerk Uharriet

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda

NONE

B. Public Comments

NONE

3. APPROVAL OF MINUTES

A. March 6, 2008

Commissioner Newman clarified his comments: Page 4, second sentence, "...spoke with concern about the added plan preparation and plan check fees of approximately \$1,500.00 per project."

Commissioner Norton clarified his comments: Page 4, sixth sentence, "...in addition to an incentive to achieve a minimum of 50% permeable area."

Commissioner Burke clarified his comments: Page 3, beginning with the second sentence, "He supported from both an environmental and return on investment perspective and the inclusion of drainage, landscaping, etc. in the point system. He commented that the ordinance does not set a high construction standard and that some construction already meets the standards; he suggested the following additions: 1. Create financial incentives to encourage a higher green standard and raise the bar on minimum points required; 2. Recognize previously built green homes on a fee basis; 3. Work with other jurisdictions to refine the point values such that green certified projects would pay zero dollar fees, others on a sliding scale..."

Chairperson Harlan corrected two typos on Page 4.

A MOTION WAS MADE BY COMMISSIONER NEWMAN AND SECONDED BY COMMISSIONER BURKE TO APPROVE THE MINUTES OF MARCH 6, 2008.

MOTION PASSED 4-0, WITH CHANGES.

4. CONSENT CALENDAR

- A. **1441 A/B & 1443 A/B 38TH AVENUE - PROJECT APPLICATION #07-062**
REQUEST FOR APPROVAL OF A MINOR LAND DIVISION TO CONVERT FOUR APARTMENT UNITS TO CONDOMINIUMS IN THE RM-M (MULTIPLE FAMILY RESIDENCE: MEDIUM) ZONING DISTRICT. (APN 034-181-34) CATEGORICALLY EXEMPT. FILED 9/18/07
PROPERTY OWNER: JOSE I. MORENO
APPLICANT: LEILANI WILLIAMS

Commissioner Norton removed the item from the Consent Agenda.

Senior Planner Bane presented the staff report.

Commissioner Norton questioned staff if the original 16 units were approved and built under one subdivision map, subsequently subdivided into four individual lots with four units each, and now the request is to further subdivide the units into condominiums. He also questioned the status of the current parking access and configuration.

In response to Commissioner Norton's comments, Senior Planner Bane stated that the proposed minor land division is to convert four existing apartments into four condominiums, but the request is not subject to the City's condominium conversion ordinance. The original subdivision map indicates two parcels. The adjacent lots may have been constructed at the same time, but the lots have not been previously subdivided. The current parking access is by easements over each parcel. The current minimum width of a parking space is 8'-0". The existing parking space is 7'-6" and would be considered legal, non-conforming.

The public hearing was opened.

Leilani Williams, representative for the applicant, did not know the subdivision history of the property. The Title report specifies easements over the parcels for the purpose of access. The public hearing was closed.

Commissioner Norton commented that there was incomplete property history regarding the subdivision of the property. He made a motion to continue the item to the April 3, 2008 Planning Commission meeting for additional historical subdivision information.

Chairperson Harlan seconded the motion for the purpose of discussion. She stated that other similar properties were able to subdivide under the current ordinance standards. She also suggested that perhaps the subject units were built at the same time as the apartments.

Commissioner Norton stated his concern that the proposed land division will create a speculative market that sets up the loss of existing rental stock. There would be the transition of rental stock under one owner to speculative sole proprietorship.

A MOTION WAS MADE BY COMMISSIONER NORTON AND SECONDED BY COMMISSIONER HARLAN TO CONTINUE APPLICATION #07-062 TO THE APRIL 3, 2008 PLANNING COMMISSION MEETING.

MOTION PASSED 3-0, COMMISSIONER NEWMAN RECUSED.

- B. **ESPLANADE PARK BANDSTAND - PROJECT APPLICATION #08-009**
MINOR MODIFICATION TO PREVIOUSLY APPROVED APPLICATION #05-055 FOR A COASTAL PERMIT AND ARCHITECTURAL AND SITE REVIEW TO CONSTRUCT

A PERFORMANCE STAGE AND DUMPSTER ENCLOSURE, AND TO RELOCATE A PEDESTRIAN RAMP AT ESPLANADE PARK IN THE PF (PUBLIC FACILITY) ZONING DISTRICT. THE MODIFICATION IS TO INCOPORATE A NEW PUBLIC ART FEATURE IN THE SITE PLAN AND LANDSCAPE PLAN. (APN 035-262-07). FILED 2/29/08 *1
PROPERTY OWNERS/APPLICANT: CITY OF CAPITOLA

A MOTION WAS MADE BY COMMISSIONER NEWMAN AND SECONDED BY COMMISSIONER BURKE TO APPROVE APPLICATION #08-009 WITH THE FOLLOWING CONDITIONS AND FINDINGS:

CONDITIONS

1. The project consists of revised site and landscape plan improvements to Esplanade Park, including construction of a plaza area with new interlocking pavers, and a circular shaped medallion art feature with a diameter of 18 feet (option A) or 15 feet (option B).
2. The Planning Commission must approve any significant modifications to the size or exterior appearance of the structure.
3. Hours of construction shall be Monday to Friday 7:30AM – 9:00PM, and Saturday 9:00AM – 4:00PM, per city ordinance.
4. Prior to granting of final use or occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Zoning Administrator or Community Development Director.

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 project. The project conforms to the development standards of the PF (Public Facility) Zoning District. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance and General Plan.

- B. The application will maintain the character and integrity of the Central Village.**

Community Development Department Staff and the Planning Commission have reviewed the project. The project conforms to the development standards of the PF (Public Facility) Zoning District, as well as enhances the character and integrity of the Village by providing a venue for concerts and civic events.

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

Section 15303 of the CEQA Guidelines exempts structures that are limited in number, small in size of the structure and associated equipment. This project involves the construction of a 594 square foot covered performance stage. No adverse environmental impacts were discovered during review of the proposed project

APPROVED 4-0.

5. PUBLIC HEARINGS

- A. **1816 & 1820 WHARF ROAD- PROJECT APPLICATION #07-052 & #07-025**
COASTAL PERMIT AND ARCHITECTURAL AND SITE REVIEW FOR CONSTRUCTION OF A RETAINING WALL AND NEW TWO-STORY SINGLE FAMILY RESIDENCE WITH A REQUEST FOR VARIANCES TO THE FRONT YARD AND RIPARIAN HABITAT SETBACKS AND PARKING, IN THE AR/R-1 (AUTOMATIC REVIEW/SINGLE-FAMILY RESIDENCE) ZONING DISTRICT. (APN 035-111-17 & 035-111-08) FILED 4/30/07 *2
PROPERTY OWNER/APPLICANT: NEILS & JOANNE KISLING
REPRESENTATIVE: FRANK PHANTON

Associate Planner Akeman presented the staff report.

Commissioner Burke questioned staff if the floor area ratio (FAR) could be above 100% in a case where the FAR is based on the buildable lot area and in the case where the riparian area is excluded from the buildable land area. He ascertained that the property is not located in a sidewalk exempt area.

Commissioner Newman stated that based on the calculations, the applicant is requesting a FAR variance based on buildable land area. He noted that there is a plan discrepancy in that the plans in the packet indicate two covered parking spaces, but the flier on the property shows four parking spaces. He requested clarification of the parking configuration and requirements for the proposed home. He was unable to locate the property corners at his site visit, and concluded the proposed uncovered parking spaces would encroach over the sidewalk and into the roadway. He questioned how the City processes security agreement for future improvements. The access easement does not seem to be an issue. The ordinance pertaining to the setback of structures to the riparian area specifies that a structure should be designed to have a minimal impact on the riparian area. He did not support the proposed design, because it did not represent a minimum level of development for the parcel. He ascertained that the house will be redesigned to be move five feet closer to the riparian area to accommodate the parking in the front yard area, but the current plans being reviewed do not show the additional parking. In order for the parking to be to be reduced, the house must be under 2000 sq. ft., including covered parking and decks.

In response to the Commission's questions, Associate Planner Akeman stated that the ordinance allows for the consideration of the entire lot to calculate FAR and does not exclude the riparian area. There are four parking spaces required for the home as designed and the home will move five feet closer to the riparian area to accommodate the uncovered parking in the front yard area. The City records a security agreement and holds funds in a deposit account for future improvements.

Public hearing opened. Frank Phanton, project architect, presented several graphics to demonstrate the justification for the variances requested. He highlighted that the applicant is not asking for a variance to the house size. The redesign of the floor plan will accommodate the required parking and avoid moving closer to the riparian area.

Niels Kisling, property owner, spoke in support of the application. He stated that the property to the south is located within the sidewalk exempt area, but his property is not. The issue would be discontinuous sidewalk along Wharf Road. He commented that the home he has proposed is similar to the surrounding neighborhood and what has been approved in the past. He was not asking for anything beyond what his neighbors currently enjoy.

Commissioner Burke stated that the proposed garage is large enough to accommodate three vehicles. He asked if it would be possible to redesign the garage or garage entry to accommodate three vehicles with one car in the driveway. He ascertained that the erosion control blankets will be 8-10 feet down the hillside; the 6" corrugated drainage pipe will end with a diffuser to slow drainage from

rushing into the creek; the deck railing materials will be tension wire. He asked if there was any problem adding a condition specifying a 20' setback to the bluff. Public hearing was closed.

Commissioner Newman was concerned that Commission was not reviewing the final design plans. He supported the retaining wall, lot line adjustment and the sidewalk as conditioned, but he had concerns with the variances requested, especially the variance to the riparian setback. He stated that the ordinance specifies that a variance to the riparian setback may be supported in the instance of a minimal development, but he did not support the design as a minimal development. He stated that parking is an issue, and he could not support the front yard setback variance. He did not support the applicant's argument that other properties in the surrounding neighborhood don't meet the front yard setbacks. He supported a redesign of a smaller home that did not require variances and did not require four parking spaces. He stated that if you have a vacant residential lot, then you should design and build to the current building standards without variances.

Commissioner Burke supported the lot line adjustment, retaining wall, and variance to the riparian area if the setback could be conditioned at 20'. He specified that the rear yard lawn should be drought tolerant. He was concerned with the front yard variance. He supported the installation of the sidewalk and a redesign of the parking configuration to accommodate three parking spaces. He stated that he would like to see the ordinance revised to clarify the way FAR is calculated on a riparian sloped site.

Chairperson Harlan stated when you have a vacant lot, then your should build to the requirements and not ask for variances. She supported a redesign without variances and favored the installation of required improvements at the time the lot is developed.

Senior Planner Bane suggested the Commission consider continuing the project for a redesign and directing the applicant to design to eliminate parking variances and front yard variances, but allow for a 15' setback to the riparian area.

Niels Kisling stated that if they were to redesign without variances, even with the 15' setback to the riparian area, the home would be 750 sq.ft.

Frank Phanton requested the Commission deny the application.

A MOTION WAS MADE BY COMMISSIONER NEWMAN AND SECONDED BY CHAIRPERSON HARLAN TO DENY APPLICATION #07-052.

MOTION PASSED 3-0, COMMISSIONER NORTON RECUSED.

A MOTION WAS MADE BY COMMISSIONER NEWMAN AND SECONDED BY COMMISSIONER BURKE TO APPROVE APPLICATION #07-025 WITH THE FOLLOWING CONDITIONS AND FINDINGS:

Conditions and Findings for Approval for the Retaining Wall at 1816 & 1820 Wharf Road, (APN 035-111-07 & 08), Application #07-025.

CONDITIONS

1. The project approval consists of the construction of a new retaining wall at 1820 and 1816 Wharf Road.
2. Any significant modifications to the design or size of the retaining wall must be approved by the Planning Commission.

Cultural Resources Mitigations Measures

3. A qualified archaeologist, satisfactory to the Community Development Department, shall be on site during the excavation or other construction activities into native soils. The archaeologist shall have the authority to monitor subsurface construction and watch for and evaluate artifacts, resources or human remains that may be uncovered, and temporarily halt excavation and construction activities in the immediate vicinity (fifty-meter radius).
4. If significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations, the project shall be stopped, the Community Development Department notified, and archaeological recovery and mitigation carried out.
5. If human remains are accidentally discovered during construction, work shall be halted on the site of the find until the archaeologist can evaluate it in consultation with the coroner's office and/or a representative of the appropriate Native American's Cultural Council, and a decision can be made on the disposition of the remains.
6. All cultural materials recovered as part of the monitoring program would be subject to scientific analysis, professional museum curation, and a report prepared according to current professional standards.

Responsible Party: Applicant to hire a qualified archaeologist, satisfactory to the Community Development Department, for on site observation during the excavation or other construction activities.

Timing: Prior to building permit issuance.

Geology and Soils Mitigation Measures

7. The applicant shall provide evidence that a qualified geologist has certified that the plans have been prepared in accordance with the recommendation contained in the geological report prepared for the project.
8. The applicant shall submit documentation confirming that a qualified geotechnical consultant has been retained to ensure that the recommendations contained in the geotechnical report have been properly implemented.
9. Prior to final inspection of the retaining wall, the applicant shall provide certification that development has occurred in accordance with the geotechnical report prepared for the project.

Responsible Party: Applicant to hire a qualified geologist, satisfactory to the Community Development Department, to certify that the plans have been prepared in accordance with the recommendations contained in the geological report and that the project has been properly implemented.

Timing: Prior to building permit issuance and final approval and sign off by Planning Department.

Biological Resources

10. During project construction, erosion control measures (e.g., silt fencing, straw wattles) should be placed immediately downslope of the work area to intercept any sediment flowing toward riparian habitat and Soquel Creek. Erosion control measures should remain in place until project construction is complete and disturbed areas have been revegetated.
11. High visibility orange construction fencing shall be placed around the downslope limits of the work area. No construction personnel, equipment, debris, or side cast material should enter

riparian habitat outside of this fenced boundary (other than for installation of drainage pipe down the slope).

12. Vegetation removal in riparian habitat should be minimized during construction, and only vegetation necessary to implement the project should be removed or otherwise disturbed.
13. After project construction is complete, all areas of bare soil in and adjacent to riparian habitat should be replanted and/or reseeded with native species growing in similar coastal scrub or riparian habitats in Santa Cruz County. Species for planting/seeding may include, but are not limited to: California blackberry, blue elderberry, California beeplant, California coffee berry (*Rhamnus californica*), coyote bush (*Baccharis pilularis*), arroyo willow (*Salix lasiolepis*), blue wildrye (*Elymus glaucus*), California Brome (*Bromus carinatus*), meadow barley (*Hordeum brachyantherum*), and California poppy (*Escholzia californica*). Any erosion control mix used should consist entirely of native species appropriate to the habitat.

Responsible Party: Applicant shall include the above mitigations on the set of building plans for city review and approval.

Timing: Prior to building permit issuance.

14. Hours of construction shall be Monday to Friday 7:30AM – 9:00PM, and Saturday 9:00AM – 4:00PM, per city ordinance.

FINDINGS

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

Planning Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project generally conforms to the development standards of the R-1/AR (Single Family Residence/ Automatic Review). Conditions of approval have been included to carry out the objectives of the Zoning Ordinance, General Plan and Local Coastal Plan.

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

Planning Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project generally conforms to the development standards of the R-1/AR (Single Family Residence/ Automatic Review) Zoning District. Conditions of approval have been included to ensure that the project maintains the character and integrity of the neighborhood.

The Variance to the riparian setback will better serve the intent of the Zoning Ordinance and Residential Development guidelines than will the literal enforcement of the requirements of the Ordinance.

Special circumstances exist such that the strict application of the Zoning Ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. The granting of a variance would not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity. The following justification supports a variance based on the following special circumstances:

Riparian setback: As per the Riparian Assessment, construction of the wall at the edge of the bluff top adjacent to the riparian habitat is may be conducted without significant negative

impact to the sensitive riparian habitat area. The mitigation will ensure protection of the riparian habitat and will reduce any potentially significant impacts. The property owner has a right to protect his property from erosion and loss. Other neighbors in the vicinity along Soquel Creek have the same privilege.

C. A Negative Declaration has been prepared for this project based upon the completion of an Initial Study, which identified impacts that can be reduced to a less than significant level in the areas of biotic, cultural resources and geology/soils.

This project is not categorically exempt because the project site is located in geologic hazard, environmentally sensitive habitat, and archaeological/paleontological zones. An Initial Study was prepared and circulated per CEQA requirements, and a mitigated Negative Declaration with mitigation measures addressing potential impacts to cultural resources, environmentally sensitive habitat and geology/soils was adopted based on the determination that the project will not have a significant effect on the environment. Mitigation measures have been incorporated as conditions of approval to the project.

MOTION PASSED 3-0, COMMISSIONER NORTON RECUSED.

- B. 210 STOCKTON AVENUE- PROJECT APPLICATION #07-066
COASTAL PERMIT AND ARCHITECTURAL AND SITE REVIEW FOR DEMOLITION OF A TWO-CAR CARPORT AND CONSTRUCTION OF A NEW TWO-CAR GARAGE AND SECOND FLOOR DECK FOR AN EXISTING DUPLEX IN THE CV (CENTRAL VILLAGE) ZONING DISTRICT. (APN 035-183-23) CATEGORICALLY EXEMPT. FILED 11/19/07 *1
PROPERTY OWNER: TEDDRA LAPID
REPRESENTATIVE: DARYL V. WOODS**

Chairperson Harlan acknowledged that the Commission had received an email from the Shirley Allen. Senior Planner Bane presented the staff report.

Chairperson Harlan asked if there was a landscape plan that the Commission will be reviewing. Commissioner Burke clarified various dimensions on the plans. Senior Planner Bane explained that there is minimal landscaping area available on the site and a landscape plan was not submitted for review. The public hearing opened.

Daryl Woods, architect and representative, spoke in support of the application.

Commissioner Burke questioned the design of the deck all the way out to the street without stepping back, similar to other decks in the surrounding neighborhood. He also requested clarification on the drainage from the deck area.

Commissioner Norton questioned the material of the garage door.

In response to the Commissioner's questions, Daryl Woods stated that the design was simple and streamlined to be minimally intrusive on the neighborhood. The clear rail panels give a stepped-back impression from the street. The garage door will be either a wood or metal sectional panel roll up type door. He stated that the project is designed to enhance the streetscape and provide security for the resident.

Shirley Allen, neighbor at 212 Stockton Avenue, supported the enclosed garage design, but had several concerns regarding the proposed deck. She stated that the deck, as designed will be directly overlooking her home and that the occupants could lean on the railing and look into her home. She

requested the Commission to consider reducing the size of the deck and stepping it back from the northern property line. Ms. Allen commented about a neighbor who has a small deck with a few chairs and a BBQ that is in scale with the neighborhood and does not impact the surrounding neighborhood. The public hearing closed.

Commissioner Newman ascertained the deck railing height will be 42” and the garage height is ~8’6”. He stated that the Commission should not use planning rules to regulate people’s behavior. He supported the purpose of a coastal use, but was concerned that there are too many vacation rentals.

Commissioner Burke supported the garage enclosure and the deck, but would like to see the deck redesigned to be smaller and set back from the edge of the garage with some articulation between the roof of the garage and the deck. The deck should fit into the surrounding neighborhood scale.

Commissioner Norton supported the garage enclosure and the deck, but would like to see the deck redesigned to lessen the impact on the property to the north, lessen the mass on the street and the neighbors. He suggested redesigning an adequate size deck that is set back from the front and side to show relief on the street and north side, keeping a proportional relationship with the neighborhood.

Chairperson Harlan stated that decks are a privacy issue, especially in the Village neighborhoods. She supported the garage enclosure, but had concerns about the deck size and impact on the neighbors, and the potential for noise that could be an intrusion on the surrounding neighborhood.

A MOTION WAS MADE BY COMMISSIONER NORTON AND SECONDED BY COMMISSIONER NEWMAN TO CONTINUE APPLICATION #07-066 FOR REDESIGN AND SUBMISSION OF A LANDSCAPE PLAN.

MOTION PASSED 4-0.

6. NEW BUSINESS

NONE

7. ORAL COMMUNICATIONS

- A. Director’s Report
- B. Commission Comments

Commissioner Burke asked staff about the status of changing the ordinance pertaining to building construction hours.

8. ADJOURNMENT

Chairperson Harlan adjourned the meeting at 9:20 P.M. to a Regular Meeting of the Planning Commission to be held on Thursday, April 3, 2008, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

Adopted by the Planning Commission on April 3, 2008

Approved by Juliana Rebagliati, Community Development Director _____