



MINUTES

CAPITOLA PLANNING COMMISSION THURSDAY, SEPTEMBER 4, 2008 7:00 P.M. – COUNCIL CHAMBERS

Chairperson Harlan called the Regular Meeting of the Capitola Planning Commission to order at 7:00 P.M.

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

Present: Commissioners Burke, Hale, Newman, Norton and Chairperson Harlan
Absent: None
Staff: Interim Community Development Director Carney
Senior Planner Bane
Associate Planner Akeman

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda

Senior Planner Bane requested that Public Hearing Item 5C 115/117 Lawn Way o be continued to the September 18, 2008 meeting.

B. Public Comments

3. APPROVAL OF MINUTES

August 7, 2008

A MOTION WAS MADE BY COMMISSIONER NORTON AND SECONDED BY COMMISSIONER HALE TO APPROVE THE MINUTES OF THE AUGUST 7, 2008 PLANNING COMMISSION MEETING.

MOTION PASSED 4-0, COMMISSIONER BURKE ABSTAINED.

4. CONSENT CALENDAR

A. **4055 CAPITOLA ROAD- PROJECT APPLICATION #08-042**
SIGN PERMIT FOR A WALL SIGN FOR AN EXISTING BANK (BANK OF AMERICA) IN THE CC (COMMUNITY COMMERCIAL) ZONING DISTRICT. (APN 034-261-14) CATEGORICALLY EXEMPT. FILED 8/6/08
PROPERTY OWNER: BANK OF AMERICA
APPLICANT: AKC SERVICES, INC

A MOTION WAS MADE BY COMMISSIONER HALE AND SECONDED BY COMMISSIONER BURKE TO APPROVE APPLICATION #08-042 WITH THE FOLLOWING CONDITIONS AND FINDINGS:

CONDITIONS

1. The project approval consists of two wall signs with illuminated channel letters for “Bank of America” located at 4055 Capitola Road.
2. If minor modifications to the signs are desired by the applicant (i.e. lettering, materials, colors, illumination, etc.), the changes may be approved by the Community Development Department. Any significant changes shall require Planning Commission approval.
3. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
4. Prior to building permit sign off, 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 and General Plan.**

The Planning Commission finds that the proposed wall signs comply with the Sign Ordinance regulations in terms of size, design and color.

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

The Community Development Department Staff and Planning Commission have reviewed the project and have determined that the proposed signage conforms to the applicable provisions of the *41st Avenue Area Design Guidelines* as well as the Sign Ordinance, which were developed to ensure projects maintain the character and integrity of the 41st Avenue commercial area of the City.

C. This project is categorically exempt under the Section 15311(a) 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 a wall sign for a retail use. Section 15311(a) exempts on-premise signs appurtenant to existing commercial facilities.

MOTION PASSED 5-0**B. 603 GILROY DRIVE - PROJECT APPLICATION #07-064**

COASTAL PERMIT AND ARCHITECTURAL AND SITE REVIEW TO DEMOLISH A ONE-STORY SINGLE-FAMILY HOUSE AND CONSTRUCT A NEW TWO-STORY SINGLE-FAMILY HOUSE WITH ATTACHED GARAGE IN THE R-1 (SINGLE-FAMILY RESIDENCE) ZONING DISTRICT. (APN 035-072-08). FILED 6/12/08 *1
PROPERTY OWNERS: JOHN & JANICE THEODOSI
APPLICANT: KARL GOEPFRICH

Commissioner Norton removed the item from the Consent Agenda. He ascertained that a landscape plan was submitted with the application. He questioned if the front yard area paving materials were proposed as permeable materials.

Karl Goepfrich, property owner, spoke in support of the application and stated that the pavers located adjacent to the concrete driveway are brick but can be designed to be permeable material.

Commissioner Norton suggested an additional condition requiring that the pavers will be a permeable material.

Commissioner Hale stated that the site design should be in compliance with the City's adopted Green Building Ordinance requirements.

A MOTION WAS MADE BY COMMISSIONER NORTON AND SECONDED BY COMMISSIONER HALE TO APPROVE APPLICATION #08-032 WITH THE FOLLOWING CONDITIONS AND FINDINGS:

CONDITIONS

1. The project approval consists of the demolition of a single-family residence a construction of a new 1,595 square foot two-story residence with attached garage at 603 Gilroy Drive.
2. The Planning Commission must approve any significant modifications to the size or exterior appearance of the structure.
3. A site drainage plan for the project showing site drainage collected and diverted away from neighboring properties shall be submitted as a part of the Building Permit application.
4. Curb, gutter and sidewalk that is currently deteriorated or is damaged during construction shall be repaired or replaced, as determined by and to the satisfaction of the Public Works Director.
5. Affordable housing in-lieu fees shall be paid as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance. Any appropriate fees shall be paid prior to building permit issuance.
6. Prior to granting of final occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director.
7. The irrigation system and landscaping shall be installed prior to final building occupancy.
8. The utilities shall be underground to the nearest utility pole in accordance with PG&E and Public Works Department requirements. A note shall be placed on the final building plans indicating this requirement.
9. An encroachment permit shall be acquired for any work performed in the right-of-way.
10. Hours of construction shall be Monday to Friday 7:30AM – 9:00PM, and Saturday 9:00AM – 4:00PM, per city ordinance.
11. The paving materials adjacent to the driveway shall be a permeable material.

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 conforms to the development standards of the R-1 (Single Family Residence) Zoning District, as well as the Guidelines for Single Family Residential Projects. 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 conforms to the development standards of the R-1 (Single Family Residence) Zoning District, as well as the Guidelines for Single Family Residential Projects. Conditions of approval have been included to ensure that the project maintains the character and integrity of the neighborhood.

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

This project involves construction of a new single-family residence in the R-1 (Single Family Residence) Zoning District. Section 15303 of the CEQA Guidelines exempts the construction of a single-family residence in a residential zone.

MOTION PASSED 5-0

Chairperson Harlan suggested that the Commission hold a separate discussion, perhaps with the City Council, regarding permeable surfacing.

Commissioner Norton stated that there should be consistency in the direction and application of the various requirements for the Green Building Ordinance. He noted that the majority of the City's Green Building Ordinance requirements are evaluated at the building permit stage.

Commissioner Newman commented that the issue is not about the type of pavers proposed, but rather staff can provide the information to the applicant to assist in the decision about the paving type and requirements.

Commissioner Hale stated that she would appreciate some education on the Green Building Ordinance.

Commissioner Burke stated that the paving materials are not a requirement of the Green Building Ordinance, but paving materials count to meet the point values in the ordinance.

- C. 200 KENNEDY DRIVE- PROJECT APPLICATION #07-004**
CONDITIONAL USE PERMIT AND ARCHITECTURAL AND SITE REVIEW TO CO-LOCATE ANTENNAS TO AN EXISTING POLE AND ADD AN ASSOCIATED EQUIPMENT AREA FOR WIRELESS PERSONAL COMMUNICATIONS SERVICE (T-MOBILE) IN THE IP (INDUSTRIAL PARK) ZONING DISTRICT. (APN 036-031-01) FILED 1/11/07
PROPERTY OWNER: JOHN MCCOY
REPRESENTATIVE: DANA AGUIRRE C/O T-MOBILE

Commissioner Norton removed the item from the Consent Agenda.

Associate Planner Akeman presented the staff report.

Commissioner Burke ascertained that the maximum allowable building height in the zoning district is 30'. He questioned if the City staff had a process to provide applicants with information about current construction, proposed applications and future applications of adjacent construction that may affect the wireless service.

Commissioner Hale ascertained that condition #4 addressed the issue of providing additional screening landscaping.

Commissioner Norton ascertained that the residents of Turner Lane Mobile Home Estates received notification of the hearing.

Senior Planner responded to Commissioner Burke's question pertaining to informing the applicant of adjacent construction that may affect the wireless service. He stated that staff informs applicants of projects that are adjacent to the wireless site. However, most applicants research the area prior to making an application.

Dana Aguirre, representative for T-Mobile, spoke in support of the application. In response to the Commissioner's questions, she stated that if the approved building adjacent to the pole were to be constructed, the antenna coverage may be affected in one specific area, but not the entire pole. There are approximately 100 customers per pole and the next site is at Cabrillo Collage and Capitola Mall. Based on the desired coverage for a wireless carrier, the subject pole does not have sufficient space to accommodate additional carriers. Metro PCS is the only remaining carrier to locate on the pole. Each carrier has different specifications based on distances, site and height.

The public hearing was opened.

Frederick Kokland, representative for Cabrillo Mobile Home Estates, stated that no one in the park expressed opposition to the application. He commented that some type of screening landscaping would be desirable to lessen the visual impact of the cell tower.

The public hearing was closed.

A MOTION WAS MADE BY COMMISSIONER HALE AND SECONDED BY COMMISSIONER NORTON TO APPROVE APPLICATION #07-004 WITH THE FOLLOWING CONDITIONS AND FINDINGS:

CONDITIONS

1. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
2. Prior to final inspection, the antenna panels shall be painted (grey) to match the same color of the existing antennas and monopole, subject to the approval by the Community Development Director.
3. The applicant shall include adequate warning signs in both English and Spanish, to be posted at all access points and at the area where the equipment is located, which is visible from any angle of approach to persons who might need to work within the area, which are required by any applicable FCC adopted standards.
4. Additional landscaping shall be provided to ensure full screening of the existing facility, subject to the approval by the Community Development Director.
5. The wireless telecommunications service provider shall submit to the Director of Community Development, within 30 days after installation, and every two years thereafter, a certification by a licensed engineer that the emissions are within the current FCC standards.
6. The applicant shall remove the antenna assembly should it become obsolete or inoperable for 120 days or more.

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

Planning Staff and the Planning Commission have reviewed the application and determined that the proposed business is an allowable use in the IP (Industrial Park) Zoning District. The proposed antenna and equipment cabinets would improve the signal quality in the Capitola area. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance and General Plan.

B. 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.

The proposed project involves locating an antenna panel and equipment cabinets for providing cellular communication with no significant expansion of use beyond what has currently existed. No adverse environmental impacts were discovered during project review by either the Planning Department Staff or the Planning Commission.

MOTION PASSED 4-1, COMMISSIONER NORTON DISSENTING**5. PUBLIC HEARINGS**

- A. 207 MONTEREY AVENUE - PROJECT APPLICATION #08-032**
 REQUEST FOR APPROVAL OF A COASTAL PERMIT AND MINOR LAND DIVISION TO CONVERT A COMMERCIAL RETAIL SPACE AND TWO APARTMENT UNITS IN TO THREE CONDOMINIUM UNITS IN THE CV (CENTRAL VILLAGE) ZONING DISTRICT. (APN 035-185-23) CATEGORICALLY EXEMPT. FILED 5/29/08 *1
 PROPERTY OWNER/ APPLICANT: GI 112 CAPITOLA & 207 MONTEREY AVENUE, LLC

Senior Planner Bane suggested that Public Hearing Item A and B be reviewed together as they are both condominium conversion applications with the same property owners, but separate parcels, applications and buildings. Senior Planner Bane presented a staff report

Commissioner Burke ascertained that the condo conversion moratorium expired approximately one year ago.

Commissioner Hale noted that page 2 of the 207 Monterey Avenue staff report incorrectly states that there are four (4) units.

Commissioner Newman stated that the applications are a three-unit and two-unit conversion on contiguous parcels and that in total, this exceeds the state law four-unit threshold. He ascertained that the applicant was not circumventing any requirements since the buildings were constructed. He commented that current ordinance is unclear and forces applicants to circumvent the ordinance by subdividing units as tenancy in common.

Chairperson Harlan suggested that the Commission and Council review the condo conversion ordinance if it does not comply with State law.

The public hearing was opened.

Todd Gummow, property owner, spoke in support of the application.

Sandy Erikson, resident, spoke in opposition to converting the commercial portion of the property.

The public hearing was closed.

Commissioner Hale asked how the commercial space is defined on the final map.

Senior Planner Bane responded to Commissioner Hale's question stating that the commercial space can be specified on the final map. Additionally, the use permit for the properties define the property zoning and uses permitted. He suggested that Condition #1 be amended to specify that there are two residential units upstairs and one commercial space downstairs.

Commissioner Newman suggested that the CC & R's be amended to require a statement specifying the commercial space cannot be converted without the consent of the City.

A MOTION WAS MADE BY COMMISSIONER NORTON AND SECONDED BY COMMISSIONER NEWMAN TO APPROVE APPLICATION #08-032 WITH THE FOLLOWING CONDITIONS AND FINDINGS:

CONDITIONS

1. The project approval consists of a Tentative Map to convert a mixed-use (commercial/residential) building into three condominium units (Two residential units on the second floor and two garage spaces on the first floor; and one commercial space on the first floor). The existing building located at 207 Monterey Avenue and uses will remain unchanged.
2. Any significant modifications to the size or exterior appearance of the structure must be approved by the Planning Commission.
3. The subdivider shall comply with all of the provisions of the approved Tentative Map and all pertinent provisions of the Municipal Code.
4. A Homeowner's Association CC&R document shall be prepared by the developer and subject to the approval of the Community Development Director, Public Works Director, and City Attorney. The CC&Rs shall be prepared and approved prior to recordation of the Parcel Map and all costs associated with the creation of the documents will be the responsibility of the applicant.
5. The owner/applicant shall comply with the Inclusionary Housing Ordinance.
6. The owner/applicant shall include a provision in the CC & R's that prohibits the conversion of the first floor commercial space without the consent of the City.

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 Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project and determined that the project, subject to the conditions and with the Planned Development Zoning designation, is consistent with the development standards of the CV (Central Village) Zoning District. 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.

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project and determined that the proposed project will maintain the character and integrity of the neighborhood. Conditions of approval have been included to ensure that the project maintains the character and integrity of the neighborhood.

C. The application is consistent with the Subdivision Map Act and local Subdivision Ordinance.

The subdivision was designed in accordance with the Subdivision Map Act and local ordinances enacted pursuant thereto. Per the Subdivision Map Act, the proposed map is consistent with the General Plan and Local Coastal Plan, is physically suited for the proposed type and density of development, will not likely cause substantial environmental damage, or substantially and avoidably injure fish, wildlife or their habitats, will not cause serious public health problems, and will not conflict with public easements for access through, or use of, property within the proposed subdivision.

D. This project is categorically exempt under Section 15315 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.

Section 15315 of the CEQA Guidelines exempts minor land divisions in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and Zoning.

MOTION PASSED 5-0**B. 112 CAPITOLA AVENUE - PROJECT APPLICATION #08-033**

REQUEST FOR APPROVAL OF A COASTAL PERMIT AND A MINOR LAND DIVISION TO CONVERT A COMMERCIAL RETAIL SPACE AND AN APARTMENT UNIT IN TO TWO CONDOMINIUM UNITS IN THE CV (CENTRAL VILLAGE) ZONING DISTRICT. (APN 035-185-24) CATEGORICALLY EXEMPT. FILED 5/29/08 *1
PROPERTY OWNER/ APPLICANT: GI 112 CAPITOLA & 207 MONTEREY AVENUE, LLC

A MOTION WAS MADE BY COMMISSIONER NORTON AND SECONDED BY COMMISSIONER NEWMAN TO APPROVE APPLICATION #08-033 WITH THE FOLLOWING CONDITIONS AND FINDINGS:**CONDITIONS**

1. The project approval consists of a Tentative Map to convert a mixed-use (commercial/residential) building into two condominium units (One residential unit on the second floor and one garage space on the first floor; and one commercial space on the first floor). The existing building located at 112 Capitola Avenue and uses will remain unchanged.
2. Any significant modifications to the size or exterior appearance of the structure must be approved by the Planning Commission.
3. The subdivider shall comply with all of the provisions of the approved Tentative Map and all pertinent provisions of the Municipal Code.

4. A Homeowner's Association CC&R document shall be prepared by the developer and subject to the approval of the Community Development Director, Public Works Director, and City Attorney. The CC&Rs shall be prepared and approved prior to recordation of the Parcel Map and all costs associated with the creation of the documents will be the responsibility of the applicant.
5. The owner/applicant shall comply with the Inclusionary Housing Ordinance.
6. The owner/applicant shall include a provision in the CC & R's that prohibits the conversion of the first floor commercial space without the consent of the City.

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 Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project and determined that the project, subject to the conditions and with the Planned Development Zoning designation, is consistent with the development standards of the CV (Central Village) Zoning District. 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.**

Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project and determined that the proposed project will maintain the character and integrity of the neighborhood. Conditions of approval have been included to ensure that the project maintains the character and integrity of the neighborhood.

- C. **The application is consistent with the Subdivision Map Act and local Subdivision Ordinance.**

The subdivision was designed in accordance with the Subdivision Map Act and local ordinances enacted pursuant thereto. Per the Subdivision Map Act, the proposed map is consistent with the General Plan and Local Coastal Plan, is physically suited for the proposed type and density of development, will not likely cause substantial environmental damage, or substantially and avoidably injure fish, wildlife or their habitats, will not cause serious public health problems, and will not conflict with public easements for access through, or use of, property within the proposed subdivision.

- D. **This project is categorically exempt under Section 15315 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

Section 15315 of the CEQA Guidelines exempts minor land divisions in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and Zoning.

MOTION PASSED 5-0

Commission Norton expressed his concern about condo conversion ordinance. He noted that there have been three condo conversion applications this year and there are a significant number of

qualifying properties within the City. He stated that the City Council should consider putting a moratorium into effect as soon as possible and amend the ordinance.

Chairperson Harlan suggested that the study session with the City Council cover the list of items that have been pending i.e. variances, construction hours, and condo conversions.

Commissioner Hale suggested that a broad range discussion be held with the Council after the election and that the discussion regarding the condo conversion ordinance be held as soon as possible.

Commissioner Burke suggested that the meeting be a maximum of two hours and attempt to discuss the issues on the Commissions list, but place the condo conversion ordinance at the top of the list.

There was consensus from the Commission to hold a joint meeting as soon as is practical within the next month for a maximum of two hours.

- C. **115 & 117 LAWN WAY – PROJECT APPLICATION #08-002**
 ARCHITECTURAL AND SITE REVIEW AND COASTAL PERMIT FOR INTERIOR REMODEL, EXTERIOR MODIFICATIONS AND A NEW FOUNDATION FOR A DUPLEX IN THE CV (CENTRAL VILLAGE - LAWN WAY RESIDENTIAL OVERLAY) ZONING DISTRICT. (APN 035-251-02) *2
 PROPERTY OWNER: HOWARD DEMERA
 REPRESENTATIVE: DALE MEYER

A MOTION WAS MADE BY COMMISSIONER HALE AND SECONDED BY COMMISSIONER BURKE TO CONTINUE THIS APPLICATION TO THE SEPTEMBER 18, 2008 PLANNING COMMISSION MEETING.

MOTION PASSED 5-0

6. NEW BUSINESS

NONE

7. ORAL COMMUNICATIONS

A. Director's Report

Acting Community Development Director Carney gave a brief update of the Community Development Director recruitment. He advised that staff would be sending out an informational memo to the Commission regarding the Planned Development process.

B. Commission Comments

Commissioner Burke, announced that the Commission on the Environment is hosting a water festival on October 4th.

Commissioner Norton suggested that prior to the study session with the Council, staff send a memo to the Council regarding the Commissions concerns about the condo conversion ordinance. He also suggested that the drive-thru ordinance be reviewed.

Commissioner Newman and Chairperson Harlan questioned the timeline for the general plan update process. Acting Community Development Director Carney stated that the City Manager did not want

to proceed with the General Plan process until the new planning director was hired. He anticipated that perhaps the general plan process may start up in spring of 2009.

Commission Hale requested that the monument sign at the First Horizon Mortgage be removed.

Commissioner Newman requested that the signs at the New Leaf Market center be enforced. He suggested that business owners should be educated on the sign requirements. The sign regulations are as effective as the enforcement.

Chairperson Harlan stated that staff should send a letter to remove illegal signs and then proceed with fining with each repeated violation.

8. ADJOURNMENT

Adjourned at 8:18 P.M. to a Regular Meeting of the Planning Commission to be held on Thursday, September 18, 2008, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

Adopted by the Planning Commission on September 18, 2008

Approved by Ryan Bane, Senior Planner _____