



MINUTES

CAPITOLA PLANNING COMMISSION THURSDAY, OCTOBER 16, 2008 7:00 P.M. – COUNCIL CHAMBERS

Chairperson Harlan called the Regular Meeting of the Capitola Planning Commission to order at 7:05 P.M.

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

Present: Commissioners Burke, Newman, Norton, and Chairperson Harlan
Absent: Commissioner Hale
Staff: Senior Planner Bane
Associate Planner Akeman
Minute Clerk Uharriet

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda

Senior Planner Bane requested that Item A - New Business: Planned Development Process be continued to the November 6, 2008 meeting.

B. Public Comments - NONE

3. APPROVAL OF MINUTES

September 18, 2008

A MOTION WAS MADE BY COMMISSIONER NORTON AND SECONDED BY COMMISSIONER NEWMAN TO APPROVE THE MINUTES OF THE SEPTEMBER 18, 2008 PLANNING COMMISSION MEETING.

MOTION PASSED 4-0

4. CONSENT CALENDAR

A. 904 SIR FRANCIS AVENUE – PROJECT APPLICATION #06-061

REQUEST FOR A PERMIT EXTENSION FOR A PREVIOUSLY APPROVED COASTAL PERMIT AND ARCHITECTURAL AND SITE REVIEW FOR THE REMODEL OF AN EXISTING SINGLE FAMILY RESIDENCE AND CONSTRUCTION OF A NEW SECOND-STORY IN THE R-1 (SINGLE-FAMILY RESIDENCE) ZONING DISTRICT. (APN 036-222-07) CATEGORICALLY EXEMPT. FILED 09/11/06 *1
PROPERTY OWNER: JUSTIN & LISA MAFFIA
REPRESENTATIVE: CHUCK BURKET

Commissioner Norton questioned if the Commission had the authority to approve a two-year extension. He commented that the Commission will likely be seeing more time extension requests and that it would be a more efficient use of staff time and provide a better benefit to applicants to permit a two-year time extension.

Commissioner Newman suggested that the Commission approve a two-year time extension with direction to staff to research the ordinance requirements.

A MOTION WAS MADE BY COMMISSIONER NORTON AND SECONDED BY COMMISSIONER BURKE TO APPROVE PROJECT APPLICATION #06-061 WITH THE FOLLOWING CONDITIONS AND FINDINGS:

CONDITIONS

1. The project approval consists of a remodeled first floor with a total of 1,526 square feet, a second story addition of 1,046 square feet and a 365 square foot garage for a total of 2,937 square feet.
2. The Planning Commission must approve any significant modifications to the size or exterior appearance of the structure.
3. A note shall be placed on the final building plans indicating that the utilities shall be underground to the nearest utility pole in accordance with Public Works Department requirements.
4. Curb and gutter 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. If any trees, large shrubs or significant landscaping are to be removed as a result of the project, the applicant shall provide a supplemental landscape plan to be submitted with the building permit application. The plan shall include the quantity, or specific number of plants for each plant type, their container size, special planting requirements and spacing between plants, subject to the approval of the Director of Planning.
6. 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.
7. Prior to granting of final occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director.
8. Construction hours shall be limited to Monday through Friday 7:30am to 9pm., Saturday 9:00am to 4:00pm, and prohibited on Sundays.
9. This permit shall be effective until December 7, 2009 unless additional time extensions are reviewed and approved per Section 17.81.160.E

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 15301(e)(2) of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

Section 15301(e)(2) of the CEQA Guidelines exempts additions to structures that are less than 10,000 square feet if the project is in an area where all public facilities are available to allow for the development and the project is not located in an environmentally sensitive area. This project involves an addition to a one-story single-family residence that is considered infill development. No adverse environmental impacts were discovered during review of the proposed project

- D. **A substantial change of circumstances has not occurred since Planning Commission approval of the permit on December 7, 2006. A one-year extension of the permit would not be detrimental to the purpose of the certified local coastal program and zoning ordinance.**

The Planning Commission finds that neither the physical characteristics of the lot nor the zoning ordinance has changed since approval of the permit on December 7, 2006. Therefore, a one-year extension of said permit is appropriate.

MOTION PASSED WITH CHANGES 4-0

5. PUBLIC HEARINGS

- A. **210 ESPLANADE- PROJECT APPLICATION #08-048**
COASTAL PERMIT AND CONDITIONAL USE PERMIT TO CONVERT AN EXISTING TAKE-OUT RESTAURANT INTO A HOTEL ROOM IN CONJUNCTION WITH AN EXISTING HOTEL USE IN THE CV (CENTRAL VILLAGE) ZONING DISTRICT. (APN 035-221-08, -09) CATEGORICALLY EXEMPT. FILED 9/19/08 2*
PROPERTY OWNER: MICHAEL HERBERG
REPRESENTATIVE: DON ANDRE, ARCHITECT

Senior Planner Bane presented the staff report.

Commissioner Burke ascertained that any fence higher than 42" throughout the City must be reviewed and approved by the Planning Commission.

Commissioner Norton ascertained that the easement agreement between the hotel and the restaurant would not be affected by the change of use.

The public hearing was opened.

Michael Herberg, owner/applicant, spoke in support of the application.

Chairperson Harlan verified the existing front door would remain as currently configured, and that double-pane windows sufficiently reduce noise for the guests. She questioned the applicant if the gate and fence are for privacy for the new room.

Commissioner Burke questioned the applicant about the use of the second story area, the location of breakfast service, and the need for a 6' fence across the front of the unit.

Mr. Herberg responded to the Commissioner's questions: the gate and fence are for privacy and security, the second story area an attic space accessed from the interior of the proposed room and is used for dry storage; the hotel does not serve breakfast, and the need for the 6' fence is to provide both security and privacy for the hotel guests.

The public hearing was closed.

Commissioner Norton supported the project as proposed. He suggested an additional condition ensuring the design of the new fence match the existing fence.

Commissioner Burke spoke with concerns about the harsh impact of a 6' fence along the street and suggested an additional condition to require vines or landscaping to lessen the impact of the fence on the street.

A MOTION WAS MADE BY COMMISSIONER BURKE AND SECONDED BY COMMISSIONER NORTON TO APPROVE PROJECT APPLICATION #08-048 WITH THE FOLLOWING CONDITIONS AND FINDINGS:

CONDITIONS

1. The project approval consists of a Conditional Use Permit to convert an existing 270 square foot take-out restaurant structure into a hotel room to be used in conjunction with the Capitola Hotel, expanding the existing hotel use from nine rooms to ten rooms at 210 Esplanade.
2. Any significant modifications to the size or exterior appearance of the structure must be approved by the Planning Commission. Similarly, any significant change to the use itself, or the site, must be approved by the Planning Commission.
3. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
4. The design of the 6' fence shall match the existing fence of the hotel.
5. A landscape plan shall incorporate vines to lessen the impact of the fence along the street.

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 project and determined that the proposed business is an allowable use in the CV Zoning District with a Conditional Use Permit. 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 and the Planning Commission have reviewed the project and determined that the proposed conversion will provide a much-needed service to Capitola and will not have a negative impact on the character and integrity of the village. Conditions of approval have been included to ensure that the project maintains the character and integrity of the area.

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

The proposed project involves minor alterations of an existing commercial building with no 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 4-0

- B. **410 ESCALONA DRIVE- PROJECT APPLICATION #08-052**
REQUEST FOR A VARIANCE TO THE REAR YARD SETBACK FOR A PREVIOUSLY APPROVED SECONDARY DWELLING UNIT IN THE R-1 (SINGLE-FAMILY RESIDENCE) ZONING DISTRICT. (APN 036-121-24). FILED 9/29/08 *2
PROPERTY OWNERS: T.J. & CONNIE WELCH
APPLICANT: DEREK VAN ALSTINE

Associate Planner Akeman presented the staff report.

Commissioner Norton questioned the location of the structure in relationship to the property line, fence, and the area beyond the property line. He stated that although there are private improvements in the right-of-way and easement area, there is the possibility that this area could become public lands and encroachments should be corrected. He questioned the ownership of the 10' and 6' area adjacent to the railroad.

Commissioner Newman stated that he would like to see the plans that reflect the project before the Commission, not the working drawings.

The public hearing was opened.

Derek van Alstine, applicant, spoke in support of the application.

Commissioner Newman asked if the tree roots had been mapped in relationship to the foundation for the purpose of the variance application. The proposed design appears to encroach more on the tree root system rather than alleviating the issue.

Mr. van Alstine stated that the design of the structure had changed to remove the concrete foundation system and incorporate a deck to lessen the impact of the structure on the root system.

The public hearing was closed.

Commissioner Burke asked staff the intent of a rear yard setback.

Associate Planner Akeman responded that the rear yard setback is to provide space between neighboring properties.

Commissioner Norton supported that application with the requirement that an arborist evaluate and approve the location of the building. He stated that the problem is the difficulty determining the location of the rear property line. He wants consistency in the setbacks and location of fences and buildings along the railroad corridor.

Chairperson Harlan stated that the property adjacent to the railroad is overgrown and steep, making it difficult to envision a public trail on the slope. She supported the application as proposed since it will keep a greater distance from the adjacent neighbor.

Commissioner Newman stated that this is an opportunity to bring property into conformance. He suggested that there be some recorded document acknowledging the applicant's willingness to move the fence when the required by the railroad, public rail trail, or other entity requires removal. He stated that every application for either Planning or Building permits on Escalona Drive be evaluated for any encroachment and treated similarly.

Commissioner Norton concurred with Commissioner Newman's comments. He asked if staff had recorded any document referencing an applicant's acknowledgement of an encroaching improvement. He was supportive of allowing the fence to remain in the current location if some type of document could be recorded on the property title.

Associate Planner Akeman stated that a "no objection" letter was recorded for private improvements on public lands for a project on Lawn Way.

Commissioner Norton made a motion to approved the application with the addition of the following conditions:

1. The property owner record a document, prepared and approved by the city, acknowledging the use of public land for the fence and that the property owner will cooperate and remove or move the fence when required by the railroad or other legal entity.
2. An arborist evaluate and recommend how trenching shall occur around the tree for the foundation work.

Under discussion, Commissioner Newman asked staff to bring the "no objection" letter or acknowledging document back to the Commission at the next meeting for review.

A MOTION WAS MADE BY COMMISSIONER NORTON AND SECONDED BY COMMISSIONER BURKE TO APPROVE PROJECT APPLICATION #08-052 WITH THE FOLLOWING CONDIITONS AND FINDINGS:

CONDITIONS

1. The project approval consists of the relocation of a previously approved 400 square foot Secondary Dwelling Unit with a variance to allow a 3-foot rear yard setback at 410 Escalona Drive.
2. The Planning Commission must approve any significant modifications to the size or exterior appearance of the structure.
3. Prior to granting of final occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Zoning Administrator or Community Development Director.
4. The property owner shall file a deed restriction with the County Recorder prior to building permit issuance. The deed restriction shall include the following restrictions:
 - The secondary dwelling unit shall not be sold separately.
 - The unit is restricted to the approved size.
 - The administrative review or the architectural and site review permit, whichever applies, for the secondary dwelling unit shall be in effect only so long as the owner of record occupies either the main residence or the secondary dwelling unit.
 - The above declarations are binding upon any successor in ownership of the property. Lack of compliance shall be cause for code enforcement and/or revoking the administrative review or the architecture and site review permit, whichever applies.

- The deed restrictions shall lapse upon removal of the secondary dwelling unit
5. Hours of construction shall be Monday to Friday 7:30AM – 9:00PM, and Saturday 9:00AM – 4:00PM, per city ordinance.
 6. The landscape plan shall be submitted with the building permit application and shall include the specific number of plants of each type and their size, as well as the irrigation system to be utilized. The landscaping shall be installed prior to final building occupancy.
 7. 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.
 8. 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.
 9. Prior to issuance of a building permit the property owner shall record, with the County Recorder, a document, prepared and approved by the city, acknowledging the use of public land for the existing fence and that the property owner will cooperate and remove or move the fence when required by the railroad or other legal entity.
 10. Prior to issuance of a building permit an arborist shall evaluate and recommend how trenching shall occur around the tree for the foundation work.

FINDINGS

- A. **The Variance to the rear yard 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.**

The redesign and relocation of the 400 square foot Secondary Dwelling Unit will help to avoid damage to the exposed surfacing roots of the established Fir Tree and will help create privacy between the unit and the nearby single-family homes. The granting of a variance will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity, as there is an established pattern of detached structures to the rear of properties on the north side of Escalona Drive.

- B. **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 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 4-0

6. NEW BUSINESS

- A. Planned Development Process

Senior Planner Bane requested that this item be continued to the November 6, 2008 meeting.

B. Condominium Conversion Discussion

In response to the Commission's request to hold a joint meeting with the Senior Planner Bane recommended that the meeting be held after the election. In order to provide adequate information to both the Council and the Commission, Senior Planner Bane asked the Commission to specify the concerns about the ordinance, and what information the Commission wishes to discuss with the Council.

Commissioner Newman requested staff to research the need for the ordinance.

Chairperson Harlan questioned the City's ordinance conformity with State law; discussion regarding the conversion of rental units to ownership units and the housing balance of rental units vs. ownership units; provide statistics of the number of rental units and the number of ownership units throughout the city and how many properties may become condo conversions.

Commissioner Norton questioned what type of building code changes occur with a condo conversion and how are these implemented and enforced. The building code for apartments cannot apply to ownership condos. There must be some degree of upgrade with condo conversion. Provide a map showing the location of existing condos.

7. ORAL COMMUNICATIONS**A. Director's Report**

Senior Planner Bane stated the Architectural and Site Review Committee would be reviewing an application for a new 82-room hotel on 41st Avenue.

B. Commission Comments - NONE**8. ADJOURNMENT**

Adjourned at 8:30 P.M. to a Regular Meeting of the Planning Commission to be held on Thursday, November 6, 2008, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

Adopted by the Planning Commission on November 6, 2008

Approved by Ryan Bane, Senior Planner _____