

Capitola Planning Commission

Agenda Report



Meeting: February 2, 2023

From: Community Development Department

Topic: 117 Saxon Avenue

Permit Number: #22-0484

APN: 036-131-01

Design Permit to legalize an internal attic conversion located in the R-1 (single-family) zoning district.

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

Environmental Determination: Categorical Exemption 15301(a)

Property Owner: John Shenk

Representative: John Shenk, Filed: 10.18.22

Applicant Proposal:

The applicant is seeking permits for a 574 square foot attic space that was converted to habitable space without benefit of permits. The proposed project is entirely internal, however, requires Planning Commission review as a Design Permit per Section 17.120.030. The attic conversion was reported to city staff as a possible code violation in late 2021. The property owner has cooperated with staff and continued to work toward a remedy in preparing plans and submitting for permit review (Attachment 1 – Project Plans).

Background:

On December 17, 2021, the Planning Department received a written complaint noting that there appeared to be an attic that was converted to habitable space. The complainant further stated privacy concerns regarding a window in the attic.

On March 15, 2022, the Planning Department notified the property owner of the reported violation and that no permits or tax assessor documentation of the attic space were found in city or county records. City records from 1990 show that a prior owner had proposed an attic conversion in the same space and the subject project. That permit request was ultimately withdrawn. As part of the 1990 record, city staff at the time did acknowledge that the existing detached accessory dwelling unit (ADU) on the property was existing and was allowed to remain (Attachment 2).

On October 18, 2022, the applicant made a formal submittal for a Design Permit to remedy the complaint and obtain permits for the attic conversion.

On January 23, 2023, Development and Design Review Staff reviewed the application and provided the applicant with the following direction:

Public Works Representative, Kailash Mozumder: noted that there is no change to storm water conditions and that standard Public Works conditions would apply.

Building Official, Robin Woodman: noted that the prefabricated stairway would need to meet current code. Also noted was concern with ceiling height in the bathroom, door opening widths, and that there would likely need to be a selective demolition to open walls and inspect construction.

Senior Planner, Brian Froelich: had no comments.

Development Standards:

The following table outlines the zoning code requirements for development in the Single-Family Residential Zoning District.

Lot Standards			
	Existing		Proposed
Lot Size	4,000 sq. ft.		4,000 sq. ft.
Max Floor Area Ratio	54% (Max 2,160 sq. ft.)		54% (Max 2,160 sq. ft.)
Primary Dwelling Unit	1,691 sq. ft.		1,691 sq. ft.
Detached ADU	429 sq. ft.		429 sq. ft.
TOTAL FAR	53% (2,120 sq. ft.)		53% (2,120 sq. ft.)
Habitable Floor Area	1,546 sq. ft.		2,160 sq. ft.
Parking			
	Required	Existing	Proposed
Residential (Between 2,001-2,600 sq. ft.)	3 spaces total 1 covered 2 uncovered	0 spaces total 0 covered 0 uncovered	0 spaces total 0 covered 0 uncovered
Underground Utilities: required with 25% increase in area			No
Development Standards – Primary Residence			
	R-1 Regulation	Existing	Proposed
Maximum Height	25 ft.	25 ft. 5 in. (nonconforming)	No change
Front Yard 1st Story	15 ft.	5 ft. (nonconforming)	No change
Side Yard street	10 ft.	8 ft. (nonconforming)	No change
Side Yard interior	4 ft.	3 ft. 8 in. (nonconforming)	No change
Rear Yard 1st / 2nd Story	20 ft.	46 ft.	No change

Discussion:

The existing primary residence at 117 Saxon Avenue is a 1,691 square-foot, two story, single-family residence. The home is a cottage craftsman style with a low pitched dormer and offset recessed entry built in 1910. The residence is listed in the city’s 1986 Architectural Survey and 2005 Historic Structures List. The proposed project does not involve exterior changes and does not require a Historic Alteration Permit per Section 17.84.070.

Code Analysis

The proposed project is a remedy to an interior renovation project that involved converting an attic space to habitable area without permits. The project requires a Design Permit and Planning Commission review per Section 17.120.030. Additionally, the Zoning Code requires single-family zoned properties to bring parking into compliance when greater than 10% of floor area is added and the property currently provides no onsite parking. The difference with this project is that the

addition is not an addition of floor area, but rather, an addition of habitable space within existing floor area, which does not necessitate providing additional parking. This determination required an in-depth review of several sections of the Zoning Code. Please find the code sections and staff analysis below.

1. Process

17.120.030 When (a Design Permit is) required

A. Types of Projects. The types of projects that require a design permit, and the type of design permit for each project, are listed in Table 17.120-1.

- Upper-floor additions to an existing single-family home requires approval of a Design Permit by the Planning Commission.

17.160.020 Definitions

A 5. Addition” means any development or construction activity that expands the footprint or increases the habitable floor area of a building.

Staff Analysis: The proposed scope of work does not increase the footprint or volume of the existing structure but does increase the interior habitable floor area. A Design Permit is required.

2. Floor Area and Habitable Space

17.160.020 Definitions

F 4. “Floor area” means the sum of the horizontal areas of all floors of an enclosed structure, measured from the outside perimeter of the exterior walls as described in Section 17.48.040 (Floor area and floor area ratio).

H 1. “Habitable space” means an area within a building that is conditioned (heated or cooled) with a finished floor and a ceiling height of at least seven feet six inches. Excludes unfinished attics, cellars, crawl spaces, and other similar utility areas.

Staff Analysis: The Zoning Code Glossary distinguishes between Floor Area and Habitable Space. The original attic space would be included in the definition of floor area as originally constructed. The proposed project does not include any floor area additions by definition, but includes modification of existing floor area to be converted to habitable space.

3. Parking

17.76.020 Applicability

This chapter establishes parking requirements for three development scenarios: establishment of new structures and uses, replacement of existing uses, and expansion and enlargement of existing structures and uses.

C. Expansions and Enlargements.

2. Residential Use. For an existing structure with a residential use, the full amount of parking to serve the use is required when the floor area is increased by more than ten percent. (Ord. 1043 § 2 (Att. 2), 2020)

Staff Analysis: The proposed project does not add floor area and is not required to provide the full amount of parking.

Parking

The proposal requires no parking upgrades or improvements based on the cited code sections.

Window and Privacy

The original code complaint noted concern with privacy from a single window in the attic space located on the South façade. Planning staff researched property records to understand if the subject window was part of the original construction or other records and could not verify when the window was installed. Mitigation of second story windows where there could be a privacy impact is within Planning Commission purview during review of Design Permits. Specifically, Section 17.120.070 F states:

Privacy. The orientation and location of buildings, entrances, windows, doors, decks, and other building features minimizes privacy impacts on adjacent properties and provides adequate privacy for project occupants.

The window is the primary source of natural light in the attic space and the only standard size window in that space. However, regardless of whether the window existed originally or not, the proposed conversion to habitable space activates the area with potential for new privacy impacts creating a nexus to require mitigation of the impact. Additionally, the building wall with the window has a nonconforming setback from the property line. For these reasons, planning staff is recommending that the attic window at the South elevation be frosted or etched from the sill to the check rail (bottom half). This will address both the known privacy concern and allow for natural light in the room (condition 13).

The applicant has communicated to planning staff disagreement with this condition and plans to provide exhibits prior to the Planning Commission meeting demonstrating that several other two story properties in the area have clear second story windows.

CEQA:

Section 15301(a) of the CEQA Guidelines exempts interior alterations to existing structures such as partition walls, plumbing, and electrical. This project involves an interior conversion of an existing attic space in the R-1 (Single-Family Residential) zoning district. No adverse environmental impacts were discovered during review of the proposed project.

Recommendation:

Staff recommends the Planning Commission **approve** application #22-0484 with the following Conditions and Findings for Approval.

Attachments:

1. Project Plans
2. Memo acknowledging the ADU - 1990

Conditions of Approval

General

1. 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.

2. 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.
3. 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

Planning

4. The project approval consists of conversion of a 574 square-foot attic space to habitable area within the single-family residence. The maximum Floor Area Ratio for the 4,000-square-foot property is 54% (2,160square feet). The total FAR of the project is 53% with a total of 2,120 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 February 2, 2022, except as modified through conditions imposed by the Planning Commission during the hearing.
5. 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.
6. 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 17.156.080.
7. 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.
8. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
9. 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.
10. Prior to issuance of building permit, all Planning fees associated with permit #22-0484 shall be paid in full.

11. The applicant may be required to perform demolition work associated with bringing the attic conversion up to current Building Code standards. This includes but is not limited to door openings, fenestration, stairways, walls and ceilings.
12. Plans submitted for Building Permit plan check shall include a reflected ceiling plan or sufficient section drawings to determine ceiling heights within the attic space.
13. The permanent attic window at the South elevation shall be frosted, etched or similar opaque treatment acceptable to the Community Development Director from the sill to the check rail (bottom half). This condition shall be completed prior to final inspection. Prior to the permanent attic window being installed, a opaque film shall be affixed to the glass of the existing window from the sill to the check rail (bottom half) by February 9, 2023.

Public Works

14. Submit a temporary construction sediment and erosion control plan (construction bmp's), including The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
15. Site runoff shall not drain onto the adjacent parcels.
16. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work.
17. No material or equipment storage may be placed in the road right-of-way.

Design Permit Findings

A. The proposed project is consistent with the general plan, local coastal program, and any applicable specific plan, area plan, or other design policies and regulations adopted by the city council.

Community Development Staff, the Design and Development Review Committee, and the Planning Commission have all reviewed the project. The proposed 574 square-foot attic conversion and it is consistent with the general plan and the local coastal program.

B. The proposed project complies with all applicable provisions of the zoning code and municipal code.

Community Development Staff, the Design and Development Review Committee, and the Planning Commission have all reviewed the project. The proposed 574 square-foot attic conversion and it complies with all development standards of the R-1 (Single-Family Residential) zoning district.

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

Section 15301(a) of the CEQA Guidelines exempts interior alterations to existing structures such as partition walls, plumbing, and electrical. This project involves an interior conversion of an existing attic space in the R-1 (Single-Family Residential) zoning district. No adverse environmental impacts were discovered during review of the proposed project.

D. The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

Community Development Staff, the Design and Development Review Committee, and the Planning Commission have all reviewed the project. The proposed 574-square-foot attic conversion, as conditioned, will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

E. The proposed project complies with all applicable design review criteria in Section 17.120.070 (Design review criteria).

Community Development Staff, the Development and Design Review Committee, and the Planning Commission have all reviewed the project. The 574 square-foot attic conversion complies with the applicable design review criteria as described in the staff report. A project specific condition was added to address potential privacy impacts.

F. For projects in residential neighborhoods, the proposed project maintains the character, scale, and development pattern of the neighborhood.

Community Development Staff, the Development and Design Review Committee, and the Planning Commission have all reviewed the application for the 574 square-foot attic conversion. The exterior design of the home remains unchanged and maintain an unchanged aesthetic in the neighborhood. The project has no impact on character, scale, and development pattern of the neighborhood.

Prepared by: Brian Froelich