



FINAL LOCAL ACTION NOTICE AND ZONING PERMIT

March 20, 2024

Ed Pearson
239 Thurston Street
Los Gatos, CA 95030

RE: Notice of Final Action on Application #23-0524

413 Capitola Avenue #23-0524 APN: 035-131-33

Design Permit to demolish an existing small office building and construct a new two-story, single-family residence with an attached JADU; located within the MU-N (Mixed Use Neighborhood) zoning district. The proposal includes a request for a Parking Variance to provide one parking space where two are required.

This project is in the Coastal Zone and requires a Coastal Development Permit which is **not** appealable to the California Coastal Commission after all possible appeals are exhausted through the City.

Environmental Determination: Categorical Exemption

Property Owner: Ed Pearson

Representative: Ed Pearson, Filed: 11.22.23

The above matter was presented to the Planning Commission on March 7, 2024, and was **approved**, with the following findings and conditions. Any modifications to the conditions and findings are indicated below in ~~strikeout~~ and underline notation.

Conditions of Approval:

Planning

1. The project approval consists of construction of a new 1,384 square-foot single-family dwelling. The maximum Floor Area Ratio for the 1,456 square foot property is 100% (1,456 square feet). The total FAR of the project is 95% with a total of 1,384 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 March 7, 2024, 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 #-23-0524 shall be paid in full.
6. Prior to issuance of building permit, the developer shall pay Affordable housing impact fees as required to assure compliance with the City of Capitola Affordable Housing Impact Fee Ordinance.
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, Soquel Creek Water District, and Central Fire Protection District.
8. 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.
9. Prior to issuance of building permits, submit construction operation plans showing the area to be used for scaffolding, debris box, and port-o-john during construction of the 2nd and 3rd story to ensure necessary OSHA clearances from power lines are met.
10. 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.
11. 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 17.156.080.
12. 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.

13. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
14. Prior to issuance of building permits, the building plans must show that the existing overhead utility lines will be underground to the nearest utility pole.
15. Outdoor lighting shall comply with all relevant standards pursuant to Municipal Code Section 17.96.110, including that all outdoor lighting shall be shielded and directed downward such that the lighting is not directly visible from the public right-of-way or adjoining properties. Please provide all exterior lighting manufacturer's specifications on the plans for Building permit plan check.
16. At the time of building permit application for construction within the floodplain or floodway, the applicant shall provide a No Rise Study, performed by a licensed engineer, in which verification of the structure's impact on the floodplain or floodway is provided.
17. Elevation certificates shall be provided at the following stages of construction: 1) prior to building permit issuance; 2) at the time of rough frame inspection; and 3) prior to the finalization of the building permit. The certificates shall be prepared by a licensed engineer or surveyor. The certificate shall document that all residential occupancies are constructed above the Base Flood Elevation (BFE) as per the latest edition of the FEMA Flood Insurance Rate Map.
18. Plans submitted for Building Permit plan check shall replace the concrete with permeable pavers at the north side walkway.
19. The proposed pittosporums to be installed in the rear yard shall be a tree subspecies. Please provide additional species information on the plans for Building Permit plan check.
20. Prior to issuance of Building Permits for an accessory dwelling unit, the property owner shall file with the county recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner and stating that:
 - a. The accessory dwelling unit may not be used for vacation rentals; and
 - b. The accessory dwelling unit shall not be sold separately from the primary dwelling.
 - c. The property owner must occupy either the primary dwelling unit or the junior accessory dwelling unit on the property.

Public Works

21. Prior to a project final inspection, 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.
22. Prior to issuance of building permits, submit a utility plan and sidewalk improvement plan that shows the location of utility vaults, proposed curb cut, cross slope, running slope and elevation of the driveway.
23. 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.

24. 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).
25. Applicant shall notify the Public Works Department 24 hours in advance of the commencement of work. A pre-construction inspection must be conducted by the grading official, or appointed staff to verify compliance with the approved erosion and sediment control plan. All BMPs, sediment and erosion control measures shall be installed prior to the start of construction and shall be maintained throughout project duration.
26. 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.
27. 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.

Planning Commission Added Conditions

28. The applicant shall work with Planning staff to modify the interior floor plan to allow a 10-foot by 20-foot clear parking space in the garage. The final plans shall be accepted by the Community Development Director, prior to submittal of plans for Building Permit plan check.
29. The plans submitted for Building Permit plan check shall demonstrate compliance with the minimum landscaping requirements per section 17.72.050.

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 and the Planning Commission have reviewed the project. With approval of a Variance for reduction of one parking space and exception requests for the rear and side setbacks, the proposed single-family residence complies with the applicable development standards of the MU-N (Mixed Use Neighborhood) zoning district.

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

Community Development Staff and the Planning Commission have reviewed the application for a single-family residence. With approval of a Variance for reduction of one parking space and exception requests for the rear and side setbacks, the proposed single-family residence will comply with all applicable provisions of the zoning code and municipal code.

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

Section 15303(a) of the CEQA Guidelines exempts the construction of small facilities or structures, including a single-family residence in a residential zone, or up to three single-family residences in an urbanized area, and is subject to Section 753.5 of Title 14 of the California Code of Regulations. This project involves a new single-family residence in an urbanized area, located within the MU-N (Mixed Use Neighborhood) 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 and the Planning Commission have reviewed the project. The proposed single-family residence 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).

The Community Development Staff and the Planning Commission have reviewed the application. The proposed single-family residence complies with all applicable design review criteria in Section 17.120.070.

F. The proposed project maintains the character, scale, and development pattern of the neighborhood.

Community Development Staff and the Planning Commission have all reviewed the application for the single-family residence. The coastal Mediterranean design is unique and still maintains the character of the neighborhood, which has a variety of traditional and modern architectural styles. The project complies with height standards for the zone and is similar in scale to nearby developments on Capitola Avenue.

Coastal Development Permit Findings:

A. The project is consistent with the LCP land use plan, and the LCP implementation program.

The proposed development conforms to the City's certified Local Coastal Plan (LCP) land use plan and the LCP implementation program.

B. The project maintains or enhances public views.

The proposed project is located on private property at 413 Capitola Avenue. The project will not negatively impact public landmarks and/or public views.

C. The project maintains or enhances vegetation, natural habitats and natural resources.

The proposed project is located at 413 Capitola Avenue. The home is not located in an area with natural habitats or natural resources. The project will maintain or enhance vegetation consistent with the allowed use and will not have an effect on natural habitats or natural resources.

D. The project maintains or enhances low-cost public recreational access, including to the beach and ocean.

The project involves a single-family residence and will not negatively impact low-cost public recreational access.

E. The project maintains or enhances opportunities for visitors.

The project involves a single-family residence and will not negatively impact visitor serving opportunities.

F. The project maintains or enhances coastal resources.

The project involves a single-family residence and will not negatively impact coastal resources.

G. The project, including its design, location, size, and operating characteristics, is consistent with all applicable design plans and/or area plans incorporated into the LCP.

The proposed residential project complies with all applicable design criteria, design guidelines, area plans, and development standards. The operating characteristics are consistent with the MU-N (Mixed Use Neighborhood) zoning district.

H. The project is consistent with the LCP goal of encouraging appropriate coastal development and land uses, including coastal priority development and land uses (i.e., visitor serving development and public access and recreation).

The project involves a new single-family residence on an existing mixed-use zoned lot. The proposed project is consistent with the LCP goals for appropriate coastal development and land uses. The residential use is consistent with allowed uses of the MU-N (Mixed Use Neighborhood) zoning district.

Variance Findings:

A. There are unique circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, that do not generally apply to other properties in the vicinity or in the same zone as the subject property.

Staff Analysis: The lot is small by Capitola standards, which is acknowledged by section 17.20.040[3] that allows the Planning Commission to reduce setbacks for lots between the Trestle and 431 Capitola Avenue without requiring a Variance. This specific area of the City includes 15 lots that average 1,594 square feet and the subject property is 1,384 square feet. The property is also irregular in shape with angled front, side, and rear lot lines, and several jogs on the south side property line. The property is located within a flood zone, which limits new development of habitable space below the base flood elevation. On a typical small to medium sized lot (2,800-4,000 sf) two parking spaces account for 10-14% of the lot size. In this case, two standard parking spaces would account for 29% of the lot area.

B. The strict application of the zoning code requirements would deprive the subject property of privileges enjoyed by other property in the vicinity or in the same zone as the subject property.

Staff Analysis: Numerous properties within the vicinity and/or same zoning district provide no parking or less than required. Several have received parking variances while others are long-standing nonconforming properties. The subject property has limited space for parking, driveway access, setbacks, and accommodating a reasonable development. The applicant is seeking a reduction for one parking space in an area that has many properties with a similar parking deficiency condition.

C. The variance is necessary to preserve a substantial property right possessed by other property in the vicinity or in the same zone as the subject property.

Staff Analysis: Numerous properties within the vicinity and/or same zoning district have less than the required parking. The subject property has limited adequate space to provide parking, a driveway, and accommodate setbacks. Granting a variance for one parking space enables the subject property to develop a two-bedroom home with a JADU.

D. The variance will not be materially detrimental to the public health, safety, or welfare, or be injurious to the properties or improvements in the vicinity or in the same zone as the subject property.

Staff Analysis: The project involves a single-family residence and JADU and will not negatively impact the public, properties, or improvements in the vicinity or in the same zone as the subject property.

E. The variance does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity or in the same zone as the subject property.

Staff Analysis: Most of the R-1 and MU-N zoned properties in the vicinity have some parking deficiency relative to the current standard. Several of the properties were issued variances while others are long standing conditions. Mitigating this existing condition in the area is that this block has the unique option of the City's largest public parking facility within 500 feet.

F. The variance will not have adverse impacts on coastal resources.

Staff Analysis: The property will not impact nearby coastal resources.

This permit is issued to the owner of the property. In executing this permit, owner agrees to comply with all terms of permit, including conditions of approval, if any. Permit must be exercised within 24 months of date of issuance (March 20, 2026) unless otherwise indicated in conditions of approval. Should you have any questions on this matter, do not hesitate to call.

Respectfully,

A handwritten signature in black ink, appearing to read "B. Froelich", with a stylized flourish at the end.

Brian Froelich
Senior Planner