

Capitola Planning Commission

Agenda Report



Meeting: December 4, 2025

From: Community & Economic Development Department

Address: 413 Capitola Avenue

Project Description: Application #25-0580. APN: 035-131-33. Variance to amend permit #23-0524 to waive the underground utility requirement for new construction. Original approval included the construction of a two-story single-family residence and attached JADU with a variance to reduce the number of required parking spaces.

The project is located within the MU-N (Mixed Use Neighborhood) zoning district.

This project is in the Coastal Zone and requires a Coastal Development Permit which is not appealable to the California Coastal Commission.

Environmental Determination: Categorical Exemption

Recommended Action: Consider application #25-0580 and **approve** the project based on the Conditions and Findings for Approval.

Property Owner and Representative: Ed Pearson, Filed: 11/20/25

Background: On March 7, 2024, the Planning Commission approved application #23-524 for the demolition of a commercial structure and the construction of a new single-family residence and attached junior ADU (JADU). The approval included a condition requiring all utilities be underground.

In September 2025, the owner informed City staff of difficulties securing approval by Pacific Gas & Electric for new underground service connections, as required by the City.

In October 2025, City staff communicated with Pacific Gas and Electric (PG&E) representatives to better understand the issue. Further discussion did not yield additional options for the owner to proceed with underground utilities.

Discussion: As mentioned above, the property owner is currently unable to proceed with new electrical service connection for the development at 413 Capitola Avenue. Direction from PG&E to the owner has been to:

1. Record a new easement in conjunction with the neighboring property owners of 411 Capitola Avenue, specifically naming PG&E and expanding the effective easement area, or
2. Obtain written authorization by the City allowing new overhead connection.

Pursuant to Capitola Municipal Code §17.96.120, "new construction of additions that increase existing floor area by twenty-five percent or more shall place existing overhead utility lines underground to the nearest utility pole." The original application included the complete demolition of an existing commercial structure and the construction of a new residence and JADU. Therefore, a condition of approval was included requiring compliance with the undergrounding requirement.

The issued building permit included designs to meet this requirement within an existing easement area, which received initially approval by PG&E, with engineering for new connection(s) typically occurring later in the construction process. However, PG&E determined there were deficiencies in the easement which necessitate amending the easement.

The owner kept City staff apprised of their efforts to try reaching an agreement with the owners of 411 Capitola Avenue, without success. The owner also demonstrated alternative locations were infeasible. Both Planning and Public Works staff have been in contact with PG&E. Despite these efforts, an acceptable solution could not be reached, and the owner is pursuing a variance to remove the zoning requirement and condition of approval.

Variance: The applicant is requesting a variance to waive §17.96.120, requiring new utility lines be placed underground to the nearest utility pole, thus allowing them to proceed with designs for an overhead connection. This would also include waiving the associated condition of approval #14 of the original approval (Attachment 6).

The Planning Commission may grant a variance based on the evidence submitted at the hearing when it makes concurring findings pursuant to §17.128.060, as follows in underline with staff analysis. Additionally, Public Works Director, Jessica Kahn, provided a memo (Attachment 5) corroborating the constraints faced by the owner.

- 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; 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 existing shared utility easement along the southern property line between the subject property and 411 Capitola Avenue cannot be utilized due to PG&E and CPUC standards for recorded easement language and clearances for new service connections. Amending the utility easement requires consent from the property owners of 411 Capitola Avenue which the applicant has been unable to obtain. There are no feasible alternatives within the small lot for another location to install the utilities underground.

- 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 zoning district continue to have overhead electrical service connections, as undergrounding is required only for new construction or major remodels. However, the strict application of the zoning code requirement would require the owner to obtain a new easement from the adjacent property owners, which the City cannot grant, nor can the subject property owner compel.

- 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: The project was designed and approved to comply with underground utility requirement via an existing utility easement area. However, after completing most construction, the property owner was informed by PG&E that a new easement is required with the adjacent property, which they are unable to obtain. Therefore, the variance is necessary for the completion of the subject property's project.

- 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. The variance allows overhead electrical connection in a manner similar prior development on the subject property. There are no current or foreseeable plans for removal of the affected power pole or other poles from this segment of Capitola Avenue.

- 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: The subject property is irregularly shaped with limited frontage. The recent development was designed, approved, and constructed in good faith with expectation of complying with the underground electrical requirement by utilizing the existing utility corridor between 411 and 413 Capitola Avenue. As the project neared completion, it was discovered that plans previously accepted by PG&E were deficient and the only means of meeting PG&E specifications was to obtain a new recorded easement over 411 Capitola Avenue, which is separately owned. The variance does not constitute a grant of special privilege owing to the lack of feasible alternatives to compliance with this standard, which has distinct constraints by comparison to properties in the vicinity and in the same zone as the subject property.

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

Staff Analysis: The property does not contain existing coastal resources or public coastal access and will not have an adverse impact on nearby coastal resources.

CEQA: Section 15303 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. The previously approved project includes the construction of a new residential structure which includes one JADU in the MU-V (Mixed-Use Village) zoning district. The proposed amendment is a Variance to allow the electric utility connection to remain overhead rather than placed underground. The proposed amendment is also consistent with Section 15303 of the CEQA Guidelines.

Findings and Conditions of Approval:

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; 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 existing shared utility easement along the southern property line between the subject property and 411 Capitola Avenue cannot be utilized due to PG&E and CPUC standards for recorded easement language and clearances for new service connections. Amending the utility easement requires consent from the property owners of 411 Capitola Avenue which the applicant has been unable to obtain. There are no feasible alternatives within the small lot for another location to install the utilities underground.

- 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 zoning district continue to have overhead electrical service connections, as undergrounding is required only for new construction or major remodels. However, the strict application of the zoning code requirement would require the owner to obtain a new easement from the adjacent property owners, which the City cannot grant, nor can the subject property owner compel.

- 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: The project was designed and approved to comply with underground utility requirement via an existing utility easement area. However, after completing most construction, the property owner was informed by PG&E that a new easement is required with the adjacent property, which they are unable to obtain. Therefore, the variance is necessary for the completion of the subject property's project.

- 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. The variance allows overhead electrical connection in a manner similar prior development on the subject property. There are no current or foreseeable plans for removal of the affected power pole or other poles from this segment of Capitola Avenue.

- 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: The subject property is irregularly shaped with limited frontage. The recent development was designed, approved, and constructed in good faith with expectation of complying with the underground electrical requirement by utilizing the existing utility corridor between 411 and 413 Capitola Avenue. As the project neared completion, it was discovered that plans previously accepted by PG&E were deficient and the only means of meeting PG&E specifications was to obtain a new recorded easement over 411 Capitola Avenue, which is separately owned. The variance does not constitute a grant of special privilege owing to the lack of feasible alternatives to compliance with this standard, which has distinct constraints by comparison to properties in the vicinity and in the same zone as the subject property.

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

Staff Analysis: The property does not contain existing coastal resources or public coastal access and will not have an adverse impact on nearby coastal resources.

California Environmental Quality Act (CEQA)

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

Section 15303 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. The previously approved project includes the construction of a new residential structure which includes one JADU in the MU-V (Mixed-Use Village) zoning district. The proposed amendment is a Variance to allow the electric utility connection to remain overhead rather than placed underground. The proposed amendment is also consistent with Section 15303 of the CEQA Guidelines.

Conditions of Approval:

1. The project approval consists of a permit amendment of #23-0523 for a Variance to the utility underground requirement. The amendment does not modify the original scope of work. 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 December 4, 2025, except as modified through conditions imposed by the Planning Commission during the hearing.
2. The project shall adhere to all original conditions of approval, except for Condition #14 (underground utility requirement), which is waived.
3. Prior to issuance of building permit, all Planning fees associated with permits #23-0524 and #25-0580 shall be paid in full.

Attachments:

1. 413 Capitola Avenue – Variance Application
2. 413 Capitola Avenue – Approved Site Plan
3. 413 Capitola Avenue – Applicant Documentation
4. 413 Capitola Avenue – Site Photos
5. 413 Capitola Avenue – Public Works Director Memo
6. 413 Capitola Avenue – 2024 Final Local Action Notice (Permit Letter)

Report Prepared By: Sean Sesanto, Associate Planner

Reviewed By: Rosie Wyatt, Deputy City Clerk

Approved By: Katie Herlihy, Community and Economic Development Director