



FINAL LOCAL ACTION NOTICE AND ZONING PERMIT

January 30, 2024

Dan Townsend and Dan Gomez – Fuse Architects Inc.
512 Capitola Avenue
Capitola, CA 95010

RE: Notice of Final Action on Application #23-0330

417 Capitola Avenue #23-0330 APN: 035-131-04

Design Permit to demolish an existing commercial building (Baash) and construct a new single-family dwelling with a Variance request for the floor area ratio of the garage, a Minor Modification request for the maximum driveway width, and exception requests to the rear and side setbacks. 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

Property Owner: Bombora LLC.

Representative: Fuse Architects Inc. Dan Townsend, Filed: 7.11.23

The above matter was presented to the Planning Commission on January 18, 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:

1. The project approval consists of construction of a new 1,700 square-foot single-family dwelling. The maximum Floor Area Ratio for the 1,700 square foot property is 100% (1,700 square feet). The total FAR of the project is 100% with a total of 1,700 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 January 18, 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. 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.
5. 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.
6. Prior to issuance of building permit, all Planning fees associated with permit #23-0330 shall be paid in full.
7. 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.
8. 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.
9. 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.
10. 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).
11. 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.
12. 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.
13. 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.

14. Prior to a project final, 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.
15. 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.
16. Prior to issuance of building permits, submit construction plans showing the area to be used for scaffolding etc. during construction of the 2nd and 3rd story to ensure necessary OSHA clearances from power lines are met.
17. 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.
18. 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.
19. 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.
20. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
21. 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.
22. 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.
23. 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.
24. 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.

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 the garage floor area, a Minor Modification for the maximum driveway width, 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 the garage floor area, a Minor Modification for the maximum driveway width, and exception requests for the rear and side setbacks, the proposed single-family residence will comply with, the project complies 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 contemporary design 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 417 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 417 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 commercial 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, closer to a half-lot in terms of floor area. The property is also irregular in shape with angled front, side, and rear lot lines. The property is also located within a flood zone, which limits new development of habitable space below the base flood elevation. The ground-floor hallway is located below the base flood elevation, and although counted as a part of the heated space and the floor area ratio, is prohibited from being habitable. Although the code exempts up to 250 square feet of garage area for small lots such as 417 Capitola Avenue, the subject property has a larger two-car garage to meet its full parking requirements.

- 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 have limited front setbacks but do not provide covered parking or the full amount of required parking. The subject property has limited adequate space for both parking and driveway access. Development standards and design considerations of the MU-N zone also suggest structures should be located along the street frontage with parking areas away from the public view and primary entrances should be oriented towards and visible from the street to support an active public realm and an inviting pedestrian environment. The applicant is seeking a variance to floor area for the enclosed second parking space in an effort to comply with zoning standards and design considerations.

- 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 limited front setbacks but do not provide covered parking or the full amount of required parking. The subject property has limited adequate space for both parking and driveway access. Development standards and design considerations of the MU-N zone also emphasize forward massing along the street with parking areas away from the public view. Granting a variance for the floor area enables the subject property to bring the structure massing towards the street, limit open parking area in the front yard, and still meet all parking requirements.

- 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 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: There are several R-1 and MU-N zoned properties in the vicinity that exceed the maximum allowed floor area ratio, even after accounting for garage floor area credits due to lot size. Several properties behind the subject property exceed their allowed FAR, including two on Blue Gum Avenue and another on Riverview Avenue. A mixed-use structure at 411 Capitola Avenue also exceeds the maximum allowed FAR.

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

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

Minor Modification Findings:

A. The modification will be compatible with adjacent structures and uses and is consistent with the character of the neighborhood or district where it is located.

Staff Analysis: The proposed 10-foot, seven-inch driveway is compatible with the immediate surroundings and provides a minimum necessary width for a functioning driveway.

B. The modification will not adversely impact neighboring properties or the community at large.

Staff Analysis: The proposed deviation will not reduce offsite parking and will improve vehicle movement and transition to and from the street.

C. The modification is necessary due to unique characteristics of the subject property, structure, or use.

Staff Analysis: The portion of Capitola Avenue is known for small, narrow properties that warrant additional flexibility regarding dimensional standards. Lot limitations along this portion of Capitola Avenue are already acknowledged in the zoning code, which allows reduced setbacks without the approval of a variance or minor modification. Driveway width limitations are directly related to unique lot dimensions and granting a deviation would enhance driveway function and traffic flow.

D. The modification will be consistent with the purpose of the zoning district, the general plan, local coastal program, and any adopted area or neighborhood plan.

Staff Analysis: The proposed minor modification allows for a driveway that is consistent with residential driveways in Capitola.

E. The modification is consistent with the general plan, local coastal program, and any applicable specific plan or area plan adopted by the city council.

Staff Analysis: The modification is consistent with the general plan and local coastal program.

F. The modification will not establish a precedent.

Staff Analysis: A 10-foot, seven-inch wide driveway will not establish a precedent or special privilege. The driveway is comparable to or narrower than many properties along Capitola Avenue that have driveways.

G. The modification will not adversely impact coastal resources.

Staff Analysis: The proposed driveway and minor modification will not impact 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 (January 30, 2026) unless otherwise indicated in conditions of approval. Should you have any questions on this matter, do not hesitate to call.

Respectfully,



Sean Sesanto
Associate Planner