

Capitola Planning Commission

Agenda Report



Meeting: December 5, 2024

From: Community Development Department

Address: 4855 Opal Street

Project Description: Application #24-0149. APN: 034-064-24. Design Permit and Accessory Dwelling Unit (ADU) Permit for the demolition of an existing residence and construction of a new single-family residence and attached ADU. The project is located within the R-1 (Single-Family Residence) 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 #24-0149 and **approve** the project based on the Conditions and Findings for Approval.

Property Owner: DRVO Builders

Representative: Cove Britton, Matson Britton Architects, Filed: 4/29/24

Background: On June 26, 2024, Development and Design Review Staff reviewed the application and provided the applicant with the following direction:

Public Works Representative, Erika Senyk: Discussed utilizing semi-pervious materials for driveways and walkways.

Building Official, Eric Martin: Discussed address assignments of a for the primary residence and ADU. Mr. Martin recommended planning for the construction material storage for both projects.

Associate Planner, Sean Sesanto: Discussed the recent incomplete letter items and noted the project requires existing overhead utilities to be placed underground. Conversation with staff focused on floor area calculation and when accessory dwelling units could exceed the maximum established floor area ratio. Mr. Sesanto noted the ADU had multiple inconsistencies with zoning standards related to floor area and the guaranteed allowance, including a height exceeding 16 feet and floor area exceeding 800 square feet.

Following the Development and Design Review meeting, the applicant submitted revised plans addressing numerous comments. Notably however, the revised design does not comply with the maximum floor area for a guaranteed-allowance accessory dwelling unit.

Development Standards: The following table outlines the zoning code requirements for development in the R-1 Zoning District. The project does not comply with all R-1 development standards as identified in the table and discussion below.

Development Standards		
Building Height		
R-1 Regulation	Proposed	
25 ft.	25 ft.	
Floor Area Ratio (FAR)		
	Proposed	
Lot size	3,280 sq. ft.	
Maximum Floor Area Ratio	56% (Max 1,837 sq. ft.)	
First Story Floor Area	SFD: 1,101 sq. ft. ADU: 432 sq. ft.	
Second Story Floor Area	SFD: 770 sq. ft. ADU: 399 sq. ft.	
Total FAR	82.4% (2,702 sq. ft.) Exceeds Max FAR by 865 sq. ft.	
Setbacks		
	R-1 regulation	Proposed
Front Yard 1 st Story	15 ft.	18 ft.
Front Yard 2 nd Story & Garage	20 ft.	Primary: 20 ft. Garage: 21 ft.
Side Yard 1 st Story	10% lot width Lot width 41 ft. 4 ft. 1 in. min.	East: 7 ft. West: 5 ft.
Side Yard 2 nd Story	15% of width Lot width 41 ft. 6 ft. 2 in. min.	East: 7 ft. West: 7 ft.
Rear Yard 1 st Story	20% of parcel depth Lot depth 80 ft. 16 ft. min.	17 ft.
Rear Yard 2 nd Story		31 ft. 9 in.
Encroachments	SFD staircase, bedroom 1 alcoves	
Attached Accessory Dwelling Unit		
	ADU Regulation	Proposed
Height	Attached to SFD: 25 ft.	23 ft. 6 in.
Front	Same as Primary	1 st : 48 ft. 3 in. 2 nd : 48 ft. 3 in.
Side 1 st Story	4 ft.	East: 4 ft. West: 20 ft. 6 in.
Side 2 nd Story		East: 4 ft. West: 20 ft. 6 in.
Rear 1 st Story		4 ft.
Rear 2 nd Story		4 ft.
Parking		
SFD: 2 spaces, 1 covered	Required	Proposed
	2 spaces total 1 covered, 1 uncovered	2 spaces total 1 covered, 1 uncovered
Underground Utilities: Required with 25% increase in area		Required

Discussion: The subject property is located within the Jewel Box neighborhood, surrounded by one- and two-story single-family residences. The lot shares its existing development with the abutting legal lot, which includes a single-family residence and detached garage. The structures are not identified as historic resources.

The proposal is one of two projects affecting the existing development: applications #24-0148 and #24-0149. The applications would demolish the existing structures and establish two separate developments, each with their own single-family dwelling and attached accessory dwelling unit (ADU).

Design Permit: The proposal is to replace the existing single-family development with a new 1,857 square-foot single-family dwelling unit and an attached 831 square-foot accessory dwelling unit. Both units are split between the first and second stories. The design exhibits a craftsman style with its use of materials, low-pitched gable roofs, covered porch, and hung windows. The residence utilizes grey stucco siding on the ground level, horizontal wood siding on the upper level and lower-level accents, and composition roof.

Design Review Criteria: When considering design permit applications, the city shall evaluate applications to ensure that they satisfy the design review criteria, comply with the development standards of the zoning district, conform to policies of the general plan, the local coastal program, any applicable specific plan, and are consistent with any other adopted policies or guidelines. To obtain design permit approval, projects must satisfy these criteria to the extent they apply. The complete list of Design Review Criteria is included as Attachment 2. Staff included criteria F (privacy) as it relates to objective design standards for ADUs.

- F. Privacy. The orientation and location of buildings, entrances, windows, doors, decks, and other building features minimize privacy impacts on adjacent properties and provide adequate privacy for project occupants.
Pursuant to §17.74.090(B)(2) objective design standards for ADUs, upper-story privacy impacts shall be mitigated by using clerestory or opaque windows within eight feet of a rear or interior property line. The two-story ADU has several upper-story windows; therefore, staff included condition #29 to address this standard.

Floor Area Ratio (FAR): As stated in the table above, the maximum floor area ratio of the lot is 1,837 square feet (56%). The proposed single-family home is 1871 square feet, which exceeds the maximum allowed FAR by 34 square feet.

The application also includes an ADU. The guaranteed allowance specifies that development standards, including the maximum FAR, may not prohibit an ADU provided it does not exceed 800 square feet in size and complies with maximum height and minimum setbacks. The attached ADU is 831 square feet, which exceeds the guaranteed allowance by 31 square feet. The ADU does not qualify for the guaranteed allowance without a 31-square-foot reduction in size. Staff is recommending approval of the application with Condition #2 which requires the building plans to be updated to reduce the size of the ADU by at least 31 square feet. Additional discussion on local code and state law follows.

In total, the project must be reduced by 65 square feet, with at least 31 square feet reduced from the ADU, to comply with the zoning standards for the guaranteed allowance and FAR. Please find additional discussion in the following sections. Staff recommend approval of the application with Condition #2 which requires the construction plans to be updated to reduce the size of the accessory dwelling unit by at least 31 square feet further reduce 34 square feet from either the accessory or primary dwelling, for a total of 65 square feet.

“Floor area” is calculated as the sum of horizontal areas of all floors of an enclosed structure, measured from the outside perimeter of the exterior walls as described in §17.48.040. Furthermore, floor area includes the entire area in all enclosed structures without deduction for features such as interior walls or

storage areas, pursuant to §17.48.040(B)(2). “Floor area ratio” means the gross floor area of all of the buildings on the parcel divided by the net parcel area. Staff consider applicable exclusions listed within the zoning code when reviewing applications, which are reflected in the calculations provided.

Accessory Dwelling Unit: The project includes an attached 831 square foot ADU. The ADU has a height of 23 feet, 6-inches, split between the first and second floors, internally accessible with a dedicated spiral staircase. The ADU exterior matches the primary dwelling in mass and composition and is indistinguishable from the primary dwelling.

ADU Guaranteed Allowance and Gov. Code §66321: Capitola established the *guaranteed allowance* provision to parallel with the similar guarantee in the Government Code. Although the State law was expanded to ensure greater flexibility in height, it still does not require local agencies to permit ADUs greater than 800 square feet if they do not comply with the maximum floor area ratio.

Pursuant to Capitola Municipal Code §17.74.040(H)

“Maximum building coverage, floor area ratio, and private open space standards in Section 17.74.080 (Development standards) shall not prohibit an accessory dwelling unit with up to eight hundred square feet of floor area, up to sixteen feet in height, and four-foot side and rear yard setbacks, provided the accessory dwelling unit complies with all other applicable standards. The guaranteed allowance of eight hundred square feet of floor area is in addition to the maximum floor area of a property.”

Pursuant to Gov. Code §66321(b)(3) A local agency may not establish:

“Any requirement for a zoning clearance or separate zoning review or any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.”

Gov. Code §66321(b)(4)(D) further specifies it must include ADUs up to:

“A height of 25 feet or the height limitation in the local zoning ordinance that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a primary dwelling.”

ADU Law Background: When the City adopted standards for accessory dwelling units, State law required local agencies to permit, at minimum, an ADU up to 800 square feet, sixteen feet in height, and with four-foot side and rear setbacks. The City-adopted standards were in accordance with those minimum requirements. Since local adoption, the State law has since broadened relating to height, requiring local agencies to include ADUs over 16 feet in height, such as an attached ADU up to 25 feet tall or maximum permitted by the zoning district, whichever is less.

In November of this year, the City Council adopted revisions to the Zoning Code addressing inconsistencies with ADUs allowed under the guaranteed allowance. However, amendments to the zoning code are typically not operative until receiving certification from the Coastal Commission.

For years, the City has followed the Coastal Commission’s interpretation that local agencies with a certified Local Coastal Program (LCP) are not immediately superseded by State housing laws which include Coastal Act provision stating, “*Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act...*”. Instead, local agencies like Capitola have continued to apply existing zoning until they are able to recertify an LCP with updated zoning code with the Coastal Commission.

Owing to recent court challenges and legislative changes related to the Coastal Act and housing laws, staff sought interim guidance from the city attorney’s office on how to process the two similar Opal Street

applications. Based on feedback received, staff are advising that the City could approve an ADU prior to the zoning code amendments being certified, provided all the following are met:

- A. Approval of the ADU would not have a negative impact on Coastal Act resource protection policies.

Staff Comment: No negative impacts to coastal access or resources were identified with the application, including the accessory dwelling unit.

- B. A local agency would otherwise be required to approve the ADU based on State law, except that the agency is within the Coastal Zone and has a certified LCP.

Staff Comment:

State law now requires local agencies to permit an attached ADU that is at least 800 square feet in size and a height up to 25 feet or the zoned height limitation for the primary dwelling. Although inconsistent with existing zoning regulations, staff are recommending the Planning Commission support a two-story ADU as required by State law.

- C. The project otherwise complies with all applicable zoning code and municipal code.

Staff Comment:

As proposed, the ADU exceeds the maximum size eligible for the guaranteed allowance, which is 800 square feet. The ADU does not qualify for the guaranteed allowance without a 31-square-foot reduction in size.

To advance new housing in a manner that maximizes harmony with local zoning, ADU law and the Coastal Act, staff are recommending approval of the project with conditions to reduce the size of the ADU and primary dwelling, thus resolving the issues of the Guaranteed Allowance and permissibly exceeding the FAR. Condition #2 states “At time of submittal for building permit review, the construction plans shall reduce the size of the accessory dwelling unit by at least 31 square feet further reduce 34 square feet from either the accessory or primary dwelling, for a total of 65 square feet, compared to the submitted plans dated September 4, 2024. The reduction shall be consistent with Chapter 17.48, to the satisfaction of the Community Development Director or their designee.”

Without the proposed conditions, the application would also require approval of an ADU Deviation to exceed the Limited Standards size, a Variance to exceed the maximum Floor Area Ratio. Should the Planning Commission consider approval of the current design without Condition #2, the item must be continued to a date certain with direction to the applicant to submit the required Deviation and Variance. A Variance requires additional public notice and a fee. The required findings for a Deviation and Variance include unique circumstances associated with the property and that the granting would not constitute a special privilege.

Garage Setback: In addition to a 20-foot front setback, garages must be setback five feet from the front building wall. The applicant is proposing a reduced three-foot setback from the front building wall instead. Pursuant to §17.16.030(B)(4)(a), the Planning Commission may reduce the minimum setback to three feet without any specific findings, provided the project is in a sidewalk-exempt area. The property is exempt from sidewalk requirements; therefore, the Commission can approve a reduction to the standard.

Parking: The primary dwelling includes one garage space and one driveway space, which meets the parking requirement for the primary dwelling. Accessory dwelling units subject only to limited standards are not required to provide additional parking.

Trees: The application includes the removal of two trees in the rear yard and are located close to the proposed ADU footprint. The applicant is proposing to plant a forest pansy redbud and ornamental pistache. At maturity, the proposed trees will secure the 15% canopy coverage requirements for new construction, pursuant to CMC §12.12.190(C)

CEQA: §15303(a) of the CEQA Guidelines exempts a single-family residence and secondary dwelling unit in a residential zone. The project includes the construction of a new single-family residence and accessory dwelling unit. No adverse environmental impacts were discovered during review of the proposed project.

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. The proposed single-family residence complies with the development standards of the R-1 (Single-Family Residential) zoning district. The proposed project is inconsistent with zoning standards related to accessory dwelling units (ADU) and the maximum allowed floor area ratio. The project approval includes a condition requiring the project to be reduced in size by at least 65 square feet, of which 31 square feet must be reduced from the ADU. Therefore, the project has been conditioned to secure the purpose of the General Plan, and Local Coastal Program, and design policies and regulations adopted by the City Council.

- 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 the proposed residence and attached accessory dwelling unit (ADU). The subject property has a maximum allowed floor area ratio (FAR) of 56% (1,837 square feet). The proposed project includes a Limited Standards ADU, which may exceed the allowed FAR, provided the ADU does not exceed 800 square feet in size and complies with height and setback standards. The project includes a 1,870 square foot primary dwelling and a 831 square foot ADU, for a proposed FAR of 82.3% (2,698 square feet). As proposed, the ADU exceeds the allowed size under a Limited Standards ADU by 31 square feet and with the primary dwelling, the project exceeds the allowed FAR by 865 square feet. The project approval includes a condition requiring the project to be reduced in size by at least 65 square feet, of which 31 square feet must be reduced from the ADU. Therefore, the project has been conditioned to 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 a single-family residence and is subject to Section 753.5 of Title 14 of the California Code of Regulations. The project involves the demolition and construction of a single-family. The project is located within 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 and the Planning Commission have reviewed the project. The proposed single-family residence will not be detrimental to 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 and determined the proposed 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 new single-family residence. The project incorporates numerous elements of a classic craftsmen design. As proposed, the project exceeds the scale and development pattern of the neighborhood due to the previously identified inconsistencies with zoning standards relating to accessory dwelling units and the maximum allowed floor area ratio. The project has been conditioned to reduce the scale of the project to comply with code. Therefore, the project has been conditioned to maintain the overall character and scale of the neighborhood.

Limited Standards Accessory Dwelling Unit (ADU) Permit Findings:

A. The ADU provides a minimum rear and side setback of four feet.

The proposed ADU is four feet from rear and side property lines.

B. The ADU does not exceed eight hundred square feet in size.

The proposed ADU is 831 square feet in size, which exceeds the allowed size under a Limited Standards ADU. The project approval includes a condition requiring the ADU to be reduced in size by at least 31 square feet. Therefore, the project has been conditioned to comply with this finding.

C. The ADU has a maximum height of sixteen feet.

The proposed attached ADU is 23 feet and 6 inches in height. However, State law requires local agencies to permit an attached ADU up to 800 square feet in size and up to 25 feet in height, or the zoned height limit for the primary dwelling, whichever is less. The project is located within the R-1 zoning district, which allows a primary dwelling up to 25 feet in height.

Coastal Development Permit Findings:

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

As proposed, the project has inconsistencies with zoning standards relating to accessory dwelling units and the maximum allowed floor area ratio, which are detailed in findings for the Design Permit and Accessory Dwelling Unit Permit. FAR and ADU standards are part of the Local Coastal Plan (LCP). The project approval includes a condition requiring the project to be reduced in size by at least 65 square feet, of which 31 square feet must be reduced from the ADU. Therefore, the proposed development has been conditioned to conform to the City's certified 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 4855 Opal Street. 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 site 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 negatively affect natural habitats or natural resources.

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

The residential project will not negatively impact low-cost public recreational access.

E. The project maintains or enhances opportunities for visitors.

The residential project will not negatively impact visitor serving opportunities.

F. The project maintains or enhances coastal resources.

The project 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.

As proposed, the project has inconsistencies with zoning standards relating to accessory dwelling units (ADU) and the maximum allowed floor area ratio (FAR), which are detailed in findings for the Design Permit and Accessory Dwelling Unit Permit. The project approval includes a condition requiring the project to be reduced in size by at least 65 square feet, of which 31 square feet must be reduced from the ADU. Therefore, the proposed single-family residence and ADU have been conditioned to comply with all applicable design criteria, design guidelines, area plans, and development standards. The operating characteristics are consistent with the R-1 (Single-Family Residential) zone.

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 and attached accessory dwelling unit on a residential lot of record. The project has been conditioned for consistency with the LCP goals for appropriate coastal development and land uses. The use is an allowed use consistent with the R-1 zoning district.

Conditions of Approval:

1. The submitted plans, dated September 4, 2024, and reviewed by Planning Commission on December 5, 2024, do not comply with development standards related to accessory dwelling units (ADU) and the maximum FAR. The Design Permit, ADU permit, and Coastal Development Permit are conditionally approved as outlined herein, and as modified through conditions imposed by the Planning Commission during the hearing.
2. The maximum allowed FAR for the 3,280 square foot property is 56% (1,837 square feet). The proposed primary dwelling is 1,870 square feet, which exceeds the maximum FAR by 34 square feet. The applicant is also seeking to apply the ADU guaranteed allowance to the project, however an ADU subject to the guaranteed allowance may not exceed 800 square feet. The submitted plans include a 831 square foot ADU, which exceeds the maximum floor area allowed under the guaranteed allowance by 31 square feet. The plans reviewed by the Planning Commission on December 5, 2024, shall be revised to comply with the maximum FAR in addition to a guaranteed allowance ADU. At time of submittal for building permit review, the construction plans shall reduce the project size by at least 65 square feet, of which at least 31 square feet must be reduced from the ADU. Floor area revisions shall be consistent with Chapter 17.48, to the satisfaction of the Community Development Director, or their designee.
3. At time of submittal for building permit review, the construction plans must show all upper floor windows serving the accessory dwelling unit as clerestory or opaque, unless they are located at least eight feet from all interior side and rear property lines.
4. At time of submittal for building permit review, the construction plans shall include cross-section(s) of the living area noted on the architectural plans demonstrating it does not have an internal height exceeding sixteen feet. Any changes or inconsistencies to internal heights that increase floor area must be offset by equal amount and may be subject to Planning Commission approval.
5. At time of submittal for building permit review, the construction plans shall show the location of all required parking spaces, and their minimum required dimensions are required by the zoning code.
6. Prior to issuance of a building permit, construction plans shall demonstrate the driveway does not exceed 40 percent of the width of the lot at the street line, unless otherwise authorized under Capitola Municipal Code Chapter 12.32.

7. 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 and conditioned by the Planning Commission. All construction and site improvements shall be completed according to the approved plans.
8. 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.
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. 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.
11. Prior to issuance of building permit, a landscape plan shall be submitted and approved by the Community Development Department. The landscape plan can be produced by the property owner, landscape professional, or landscape architect. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of any proposed (but not required) irrigation systems.
12. Prior to issuance of a Certificate of Occupancy, the applicant shall complete landscape work to reflect the approval of the Planning Commission. Specifically, required landscape areas, all required tree plantings, privacy mitigations, erosion controls, irrigation systems, and any other required measures shall be addressed to the satisfaction of the Community Development Director.
13. Prior to issuance of a Certificate of Occupancy, the applicant shall demonstrate compliance with the tree removal permit authorized by this permit. Replacement tree(s) shall, at maturity, provide 15% canopy coverage as required for new construction. Required replacement trees shall be of the same size, species and planted on the site as shown on the approved plans, unless modified consistent with condition #5.
14. Prior to issuance of building permit, all Planning fees associated with permit #24-0149 shall be paid in full.
15. 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.
16. 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.
17. 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. Site runoff shall not drain onto adjacent parcels or over sidewalks.

18. Prior to issuance of building permits, the applicant shall submit a site plan that includes temporary construction sediment and erosion control measures (e.g. access to the construction site, equipment and material storage locations and duration of placement, stockpile protection location and detail, wattle locations and detail, inlet protection detail, containment of trash/debris, location of portable toilet and containment/protection, etc.). The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
19. Prior to issuance of a building permit, 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).
20. The applicant shall notify the Public Works Department 24 hours in advance of the commencement of work. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan.
21. 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.
22. 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
23. 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.
24. 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.
25. 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.
26. 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.
27. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
28. 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.

29. Prior to demolition of the existing structure, a pest control company shall resolve any pest issue and document that all pest issues have been mitigated. Documentation shall be submitted to the City at time of demolition permit application.
30. 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.
31. Prior to a Building Department final and/or issuance of a Certificate of Occupancy, final inspections by the Planning and Public Works Departments are required.
32. Prior to a issuance of a Certificate of Occupancy, 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; and
 - c. The deed restriction shall lapse upon removal of the accessory dwelling unit.

Attachments:

1. 4855 Opal Street – Plan Set
2. 4855 Opal Street – Floor Area Diagram
3. Design Review Criteria

Report Prepared By: Sean Sesanto, Associate Planner

Reviewed By: Rosie Wyatt, Acting Deputy City Clerk

Approved By: Katie Herlihy, Community Development Director