

Agenda Report



MEETING DATE: Tuesday, January 7, 2025

TO: PLANNING COMMISSION

FROM: INTERIM COMMUNITY DEVELOPMENT DIRECTOR MEEK
INTERIM ASSISTANT CDD DIRECTOR MATT ORBACH

SUBJECT: APPEAL (#PP2024-8160) OF ZONING ADMINISTRATOR DENIAL OF AN ADMINISTRATIVE USE PERMIT FOR DEMOLITION OF A NONCONFORMING DETACHED GARAGE AND CONSTRUCTION OF A NEW EXPANDED GARAGE WITH A SECOND-STORY ACCESSORY DWELLING UNIT (#PP2024-7815) LOCATED AT 79 MONTE VISTA AVENUE (APN:018-521-01)

RECOMMENDED ACTION

Staff recommends Planning Commission deny Appeal #PP2024-8160 and uphold the Zoning Administrator denial of an Administrative Review Permit for demolition of an existing, nonconforming, detached two-car garage and construction of a new, three-car, detached garage with a new, detached, 754-square foot, second-story accessory dwelling unit (#PP2024-7815) located at 79 Monte Vista Avenue (APN: 018-521-01).

BACKGROUND

On July 10, 2022, the Zoning Administrator approved an Administrative Review Permit #PP2022-3712 to demolish an existing, nonconforming, detached, two-car garage and construct a new detached two-story structure with a two-car garage on the first floor and a 750-square-foot accessory dwelling unit (ADU) on the second floor. The Administrative Review Permit included a note stating that prior to submitting a building permit application, the plans would need to be revised to include the required four-foot side and rear yard setbacks if the ADU replacing the nonconforming garage exceeded the dimensions of the existing garage, and more specifically, if the building height exceeded 16 feet. Pursuant to WMC section 14-12.301(c), an Administrative Review Permit is valid for a period of 180 days from issuance and shall expire if not acted upon. The applicant did not submit a building permit for the structure entitled under Administrative Review Permit #PP2022-3712, which, therefore, expired on January 6, 2023.

On October 1, 2024, the applicant, Peter Odryna, submitted a new Administrative Review Permit application (#PP2024-7815) proposing reconstruction and addition to an existing detached garage and construction of a new second story 750 square-foot ADU over the

expanded garage on behalf of the property owner, Trina Coffman. The plans show the proposed structure located on the side and rear property lines and not set back four feet (Attachment 1).

On October 21, 2024, the Zoning Administrator denied Administrative Review Permit #PP2024-7815 (Attachment 2). The letter provided a description of how the proposed project did not comply with state ADU law in relation to setbacks and noted that the project did not qualify for the exemption from the required setbacks included in [Government Code section 66314\(d\)\(7\)](#), which states the following:

“No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.”

On October 29, 2024, the applicant provided City staff with a response letter to the October 21, 2024, Zoning Administrator determination letter (Attachment 3).

On October 30, 2024, City staff met with the property owner to discuss the denial of Administrative Review Permit #PP2024-7815. At the meeting, staff reviewed the contents of the October 21, 2024, denial letter and discussed the property owner's assertion that the project qualified for the exemption from the required setbacks included in Government Code section 66314(d)(7). The property owner contends that height is not a dimension that can be taken into consideration when reviewing a project under Government Code section 66314(d)(7). City staff disagrees and pointed out during the meeting that a three-dimensional object has three dimensions: length, width, and height.

On October 31, 2024, City staff emailed property owner with additional information related to Government Code section 66314(d)(7) that was not included in the original Administrative Review Permit denial letter (Attachment 4). Specifically, the email referenced page 16 of the 2022 California Department of Housing and Community Development Accessory Dwelling Unit Handbook, which states that, under Government Code section 66314(d)(7), the 'existing dimensions' of a nonconforming structure being converted into an ADU include the building height (Attachment 5).

On November 14, 2024, City staff received an appeal application (#PP2024-8160) for the Zoning Administrator denial of Administrative Review Permit #PP2024-7815 (Attachment 6).

PROCESS

Administrative Review Permit

The purpose of the Administrative Review Permit is to assure, prior to the establishment of an otherwise principally permitted use within an existing facility or new construction not requiring Design Review, that the provision of the Watsonville Municipal Code and other appropriate State and local regulations are met ([WMC § 14-12.300](#)). An Administrative Review Permit can be approved over the counter where the Zoning Administrator is the final decision-maker.

STANDARD OF REVIEW

The decision to approve or deny an Administrative Review Permit is a ministerial decision. A ministerial decision is a matter that must be approved if certain specific standards are met. In the City of Watsonville, ministerial decisions are made by the Zoning Administrator.

The decision on an appeal of a decision of a Zoning Administrator approval is an adjudicative or quasi-judicial decision. Adjudicative or quasi-judicial decisions apply already adopted policies or standards to individual cases. Adjudicative/quasi-judicial decisions are based on evidence and must always be supported by findings for approval or denial that are supported by substantial evidence.

For more information, see the [Standard of Review and Process Overview](#) on the City website.

APPEALS

Zoning Administrator

Appeals of the decisions of the Zoning Administrator, or any other administrative official or advisory body in taking any of the actions authorized by this title shall be made to the Planning Commission through its Secretary, pursuant to the process described in [WMC Chapter 14-10 Part 11: Appeals](#).

Per [WMC § 14-10.1106\(a\)](#), the Planning Commission, at the conclusion of the hearing, may sustain, modify, or overrule the action of the Zoning Administrator. The decision of the Planning Commission shall be final unless an appeal to the City Council is filed pursuant to [WMC § 14-10.1101](#). Unless otherwise determined by the Planning Commission, the hearing shall not be “de novo” but shall be limited to the issues identified in the notice of appeal.

Planning Commission

If the Planning Commission’s decision is appealed, the City Council will consider whether the action taken by the Planning Commission was erroneously taken and may sustain, modify, or overrule Planning Commission’s action. In order for the Planning Commission’s decision to be overturned on appeal, the City Council must find that the action taken by the Planning Commission was erroneous and inconsistent with the intent of the Zoning District regulations that regulate the proposed action ([WMC §14-10.1106](#)).

DISCUSSION

Existing Site

The project site is an 11,195-square-foot lot located at 79 Monte Vista Avenue (APN: 018-521-01). It has a General Plan land use designation of Residential Low Density and is zoned Single Family-Low Density (R-1). The site is currently occupied by a single-family home and an existing nonconforming, one-story, 569-square-foot, two-car, detached garage. The detached garage is nonconforming because it is located directly on the side and rear lot lines. It is also located approximately four feet from the single-family residential structure on the adjacent parcel at 75 Monte Vista Avenue. The parcel has two driveways: a 97-foot-long driveway off of Monte Vista Avenue and a 77-foot-long driveway off of Stanford Street.



FIGURE 2 Aerial view of the project site and surrounding area

Source: Santa Cruz County GIS, 2020

Proposed Project

The proposed project would involve demolition of an existing, nonconforming, one-story, 569-square-foot, two-car, detached garage and construction of a new, detached, 860-square-foot, three-car garage with a new, second-story, 754-square-foot, detached ADU

with a 249-square-foot deck over the new garage expansion area. The stairway providing access to the second story ADU would be located behind the new garage expansion area on the rear property line within the required setback area.

The existing nonconforming garage appears to be located directly on the side and rear lot lines at the south corner of the parcel. The proposed project includes a new 860-square-foot detached garage, a portion of which would be located on the footprint of the existing nonconforming garage. The new 290-square-foot garage expansion area, designed as an additional attached one-car garage, is located six feet eight inches from the property line.

The majority of the proposed ADU would be located above the existing nonconforming garage with no setbacks from the side and rear lot lines.

The project plans are included as Attachment 1.

Administrative Review Permit

Per [WMC § 14-12.300](#), the purpose of the Administrative Review Permit is to assure, prior to establishment of an otherwise principally permitted use (i.e., use by right) within an existing facility or new construction not requiring Design Review, that the provisions of the zoning code and other appropriate State and local regulations are met. Previously, applications for ADUs would be reviewed for compliance with [WMC Chapter 14-23 Accessory Dwelling Units and Junior Accessory Dwelling Units](#). Presently, however, due to recent legislative changes to state ADU law, staff will review ADU applications for compliance with governing statutes, as codified in [Government Code sections 66314-66332](#). Per [Government Code section 66316](#), “if a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this article, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this article for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this article.” As a result, the project was reviewed for compliance with the provisions of [Government Code sections 66314-66332](#).

Government Code Sections 66314-66332

The Government Code includes objective standards for ADUs as well as several project-specific options for permitting new detached ADUs on residentially zoned parcels with existing single-family dwelling units.

Government Code § 66314(d) lists twelve objective standards for ADUs that a city can require an ADU to comply with, including: the ADU shall not be sold separately from the primary residence, the lot is zoned to allow single-family residential uses and includes a proposed or existing dwelling, the total floor area for the detached accessory dwelling unit shall not exceed 1,200 square feet, and that a setback of no more than four feet from the side and rear lot lines shall be required for an ADU that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as the existing structure.

For projects that involve the conversion of an existing accessory structure into an ADU, Government Code § 66314(d)(7) states that “no setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit.” This allows the conversion of existing structures with nonconforming setbacks into ADUs or for a nonconforming structure to be demolished and rebuilt as an ADU in the same nonconforming location as long as the structure has the same dimensions as the structure that was demolished.

Government Code § 66323(a)(2) allows for ministerial approval of a detached, new construction, ADU with a floor area of up to 800 square feet and a height of up to 16 feet ([Gov. Code § 66321\(b\)\(4\)\(A\)](#)) that does not exceed four-foot side and rear yard setbacks for a lot with an existing single-family dwelling.

Analysis

In order to retain the nonconforming setbacks of the existing nonconforming garage, the project applicant for 79 Monte Vista Avenue invoked [Government Code § 66314\(d\)\(7\)](#). However, the proposed project does not qualify for review under that section for the following reasons:

1. The existing nonconforming garage is not being converted into an ADU or a portion of an ADU.

Staff Analysis: The proposed plans indicate that the existing nonconforming two-car garage structure would be replaced with a new three-car garage (a two-car garage attached to a one-car garage) with a new ADU above. The two-car garage structure would continue to provide covered parking for the primary residence.

2. Even if the existing garage were proposed to be converted into an ADU, the proposed building dimensions differ from the dimensions of the existing garage structure.

Staff Analysis: To qualify for the setback exemption in Government Code § 66314(d)(7), the project would need to be rebuilt in the same location and to the same dimensions as the existing, nonconforming, 569-square-foot, one-story (~9 feet tall, but no elevation provided), detached garage structure. The proposed structure, with a new ADU above a new garage, exceeds the height (18 feet) and floor area (754 square feet) of the existing structure, so it does not qualify for the setback exemption.

Because the project does not qualify for the setback exemption in Government Code § 66314(d)(7), it is subject to the four-foot side and rear yard setback requirements in that same section.

On October 21, 2024, based on the supportive evidence above, the Zoning Administrator denied Administrative Review Permit #PP2024-7815. In the determination letter, the

Zoning Administrator also identified the completeness issues that would need to be resolved for the application to be approved. Those issues included the need for the rebuilt garage and the second-story ADU to meet the required side and rear yard setbacks.

APPEAL

On November 14, 2024, City staff received an appeal application (#PP2024-8160) for the Zoning Administrator denial of Administrative Review Permit #PP2024-7815 (Attachment 4) requesting that the Planning Commission overrule and rescind the Zoning Administrator's denial. The appellant identified seven reasons for overruling and rescinding the Zoning Administrator's denial, which are listed below with staff analysis.

1. The Zoning Administrator's denial of ARP #2024-7815 is based on outdated guidance not in alignment with current State legislation.

Staff Analysis: The denial of Administrative Review Permit #2024-7815 was based on the fact that the proposed project does not meet the required 4-foot rear and side yard setbacks and does not qualify for the setback exemption in Government Code § 66314(d)(7). The applicant was provided with guidance from the 2022 HCD ADU Handbook as a courtesy to illustrate that the State of California considers height as a dimension under Government Code § 66314(d)(7). However, the 2022 HCD ADU Handbook is a guidance document prepared by the State on the subject of ADUs and was specifically referenced in the HCD technical assistance email provided to the City on December 5, 2024 (Attachment 7).

2. The City is imposing the maximum standards for the development of housing within the city limits, which is counterproductive with the State's intent and incentives to create housing.

Staff Analysis: Government Code sections 66314-66332 make multiple references to the four-foot setback requirement. Government Code § 66314(d)(7) refers to "a setback of no more than four feet from the side and rear lot line," Government Code § 66321(b)(3) refers to "four-foot side and rear yard setbacks," Government Code § 66323(a)(2) references a detached ADU that "does not exceed four-foot side and rear yard setbacks," and Government Code § 66323(a)(4)(A) references "rear yard and side setbacks of not more than four feet." In addition, Watsonville Municipal Code Chapter 14-23, which was adopted in 2020 and is the most recent adopted City ordinance establishing setback requirements for ADUs, lists four feet as the minimum side and rear yard setback distance for ADUs and JADUs in Table 3 in [WMC § 14-23.030\(c\)](#) and states that the minimum setback distances "shall not be less than shown in Table 3." While this code section is no longer applicable, it illustrates the City's most recent adopted requirements for side and rear yard setbacks are the same as State requirements.

3. The project should qualify for the exemption described in Government Code § 66314(d)(7).

Staff Analysis: The proposed project does not qualify for review under Government Code § 66314(d)(7) for the following reasons:

- a) The existing nonconforming garage is not being converted into an ADU or a portion of an ADU.

Supportive Evidence: The proposed plans indicate that the existing nonconforming two-car garage structure would be replaced with a new three-car garage (a two-car garage attached to a one-car garage) with a new ADU above. The two-car garage structure would continue to provide covered parking for the primary residence.

- b) Even if the garage were being converted into an ADU, the proposed building significantly exceeds the dimensions of the existing garage structure.

Supportive Evidence: To qualify for the setback exemption in Government Code § 66314(d)(7), the project would need to be rebuilt in the same location and to the same dimensions as the existing, nonconforming, 569-square-foot, one-story (~9 feet in height, but no elevation provided), detached garage structure. The proposed structure exceeds the height (18 feet) and floor area (754 square feet) of the existing structure, so it does not qualify for the setback exemption.

4. The current State legislation does not address height in its definition. “If the legislatures intended to include height in their definition of dimension, then it would validate your decision for denial.”

Staff Analysis: The applicable State legislation does not define the term ‘dimension.’ However, all three-dimensional objects including the ‘structures’ referenced in Government Code § 66314(d)(7) have the following three dimensions: length, width, and height. Structures lacking the third dimension of height would by definition be two-dimensional and could not form a three-dimensional structure needed for human habitation. In addition, the State’s ADU Handbook refers to a structure’s dimensions as including height (Attachment 5). Therefore, staff disagrees that there is a possible interpretation of the term ‘dimension’ in Government Code § 66314(d)(7) that does not include building height as a dimension.

HCD staff also confirmed that height “is a dimension under Government Code section 66314(d)(7)” and noted that the State’s ADU Handbook “explicitly mentions height as a dimension that cannot expand in order to preserve the ability to disregard setback requirements” (Attachment 7).

5. SB 897 prohibits a local agency from rejecting an application for an accessory dwelling unit because the existing multifamily dwelling exceeds applicable height requirements or has a rear or side setback of less than 4 feet.

Staff Analysis: SB 897 (Wieckowski, 2022) enacted a number of changes to ADU law, and involved amending section 65852.22 and adding section 65852.23 of the Government Code. The changes were wide-ranging, addressing a variety of issues, from objective standards to occupancy to height limits. The Government Code sections regulating ADUs were amended further by legislation in 2023 and 2024, which were codified as Government Code sections 66314-66332.

While no specific section of the Government Code is cited in item #5 of the appeal, based on the language provided, it appears to be in reference to [Government Code § 66323\(a\)\(4\)\(B\)](#). Under that section, "if the existing multifamily dwelling has a rear or side yard setback of less than four feet, the local agency shall not require any modification of the existing multifamily dwelling a condition of approving the application to construct an accessory dwelling unit that satisfies the requirements of this paragraph." The subject parcel at 79 Monte Vista Avenue does not contain any existing multifamily dwellings-it is a single-family residential dwelling unit, so the reference to regulations relating to multifamily dwellings is not relevant nor would it be applicable to the proposed project.

6. Nor can local agencies deny an application to create an ADU solely because corrections are needed to address nonconforming zoning conditions.

Staff Analysis: Administrative Review Permit #2024-7815 was denied because the proposed project does not meet the required four-foot rear and side yard setbacks and does not qualify for the setback exemption in Government Code § 66314(d)(7).

7. The City is obligated to provide a full set of comments listing the specific items that are defective or deficient. These comments must also describe how the applicant can remedy the deficiencies. We have not received such materials nor guidance. This makes for an incomplete denial process for this application.

Staff Analysis: In the October 21, 2024, determination letter, the Zoning Administrator identified the completeness issues that would need to be resolved for the application to be approved. Those issues included the need for the rebuilt garage and the second-story ADU to meet the required side and rear yard setbacks. In addition, on October 30, 2024, City staff met with the property owner to review the information provided in the determination letter for Administrative Review Permit #PP2024-7815. At the meeting, staff reiterated to the applicant that the project could be approved if the design was modified to comply with the required 4-foot rear and side yard setbacks.

HCD Technical Assistance

On Wednesday, December 4, 2024, City staff requested technical assistance from the California Department of Housing and Community Development (HCD) on whether or not the term 'dimensions' in [Government Code § 66314\(d\)\(7\)](#) includes the height of the structure. HCD is the state agency charged with administering, interpreting, and enforcing state housing law in California.

On Thursday, December 5, 2024, City staff received a response from a HCD representative "confirming that 'height' is a dimension under Government Code Section 66314(d)(7)." The representative went on to state that "the handbook guidance does explicitly mention height as a dimension that cannot expand in order to preserve the ability to disregard setback requirements."

ALTERNATIVE ACTION

If the Planning Commission makes findings that the Zoning Administrator's denial of Administrative Review Permit #2024-7815 was erroneous and inconsistent with the intent of Government Code sections 66314-66332, the Planning Commission could uphold Appeal #PP2024-8160. If the appeal is upheld, the Planning Commission would need to provide specific facts supporting the approval of the project and direct staff to return with a resolution upholding the appeal.

ATTACHMENTS AND/OR REFERENCES

Attachment 1 – Project Plan Set – 09.23.2024

Attachment 2 – Zoning Administrator Determination Letter – 10.21.2024

Attachment 3 – Applicant Response Letter – 10.29.2024

Attachment 4 – Zoning Administrator Email – 10.31.2024

Attachment 5 – HCD Accessory Dwelling Unit Handbook, p. 16 – July 2022

Attachment 6 – Appeal Application Letter – 11.14.2024

Attachment 7 – HCD Technical Assistance Email – 12.05.2024