

# Capitola Planning Commission

## Agenda Report



**Meeting:** June 5, 2025

**From:** Community Development Department

**Address:** 511 Escalona Drive

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**Project Description:** Application #25-0066. APN: 036-125-02. Design Permit amendment and Variance request to construct an upper-story deck that deviates from applicable design standards. Original project includes first- and second-story additions to a single-family dwelling and a conversion Accessory Dwelling Unit (ADU), located within the R-1 (Single-Family Residential) zoning district. The project is in the Coastal Zone but does not require a Coastal Development Permit. Environmental Determination: Categorical Exemption

**Recommended Action:** Consider application #25-0066 and **approve** the project based on the attached Conditions and Findings for Approval.

Property Owner: Christine Meserve

Representative: Valerie Hart, Filed: 5/9/25

**Background:** On July 18, 2019, the Planning Commission approved a design permit for a second story addition, ADU, and encroachment permit. In the original application, the approved plans included a flat roof above the garage facing Sacramento Avenue. No access onto the flat roof was proposed, as a second story deck would have exceeded the maximum allowable floor area ratio (FAR). The 2019 staff report noted a pending zoning code update, which would allow an exception to FAR for street facing second-story decks. The report also noted the applicant's intent to apply for a future change order if the proposed code change took effect. However, the owner did not apply for a modification to convert the flat roof to a deck.

On February 20, 2020, the Planning Commission approved modifications to the original approval relating to the ADU. At some point during construction, a door was installed providing access to the flat roof without the required amendment to the building permit.

On March 8, 2023, the Coastal Commission certified the City's amendment to the zoning code in which FAR exception for a second story deck was removed from the zoning code and replaced with a flat credit of up to 150 square feet.

On October 5, 2023, the Planning Commission approved modifications to the previously approved exterior materials. In its approval, the Commission required the door be removed prior to project final.

On May 8, 2025, the Coastal Commission certified the City's most recent zoning code amendments, including changes to upper-story deck standards which, among others, allow greater deck projections.

On May 9, 2025, the applicant submitted the current application to utilize the flat roof along Sacramento Avenue as an upper-story deck.

**Development Standards:** The following table outlines zoning code requirements related to Floor Area Ratio for development within the R-1 zoning district.

Development Standards	
Floor Area Ratio (FAR)	
R-1 Regulation	Proposed
Lot size	5,513 sq. ft.
Maximum Floor Area Ratio	49% (Max 2,701 sq. ft.)
Primary Dwelling Unit	1 <sup>st</sup> Story: 1,261 sq. ft. 2 <sup>nd</sup> Story: 1,438 sq. ft. <i>150 sq. ft. deck area exempt</i>
Accessory Dwelling Unit	1 <sup>st</sup> Story: 761 sq. ft.
Total FAR	62.8% (3,460 sq. ft.) <i>Guaranteed Allowance for 761 sq. ft. of ADU</i>

**Discussion:** The applicant and owner have continued discussions with staff for the past two years regarding ongoing zoning amendments and the goal of permitting a second-story deck. The most recent code amendments have brought the proposal closer to compliance, with only one setback standard necessitating a variance.

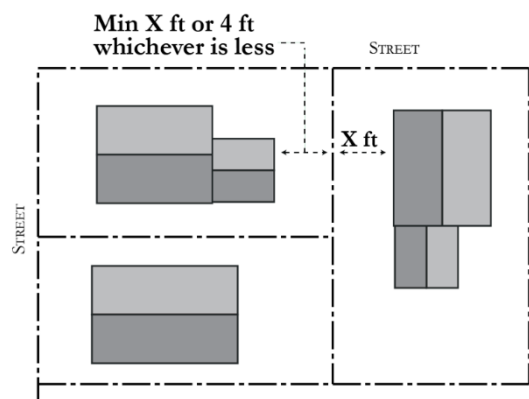
The property is located on a corner lot in the R-1 zone. Capitola Municipal Code §17.16.030(B)(5), outlines how development standards are applied on corner lots, as follows:

5. Corner Lots.

a. The minimum rear setback for reverse corner lots shall be the minimum interior side yard of the adjacent property, but no less than four feet. See Figure 17.16-2.

b. On a corner lot, the front line of the lot is ordinarily construed as the least dimension of the parcel facing the street. The community development director has the discretion to determine the location of the front yard based on existing conditions and functions.

Figure 17.16-2: Reverse Corner Lot Rear Setback



Capitola Municipal Code §17.16.030(B)(1), outlines the development standards for upper-story decks. Staff prepared analysis for the following upper-story deck standards. The applicant is seeking a variance to the minimum required rear yard setback.

a. An upper floor deck in excess of one hundred fifty square feet is included in the floor area ratio calculation.

Staff Analysis: The project is credited with 150 square feet for the deck.

b. A second-story deck or balcony may not face an interior side parcel line abutting a lot with a single-family dwelling.

Staff Analysis: The deck predominantly faces the street side property line along Sacramento Avenue. There is a single-family home abutting the rear property line at 205 Sacramento Avenue.

c. A second-story deck or balcony must comply with the minimum parcel line setback requirements as shown in the following table:

<b>R-1 Upper Story Deck Setbacks</b>		
	<b>Minimum Setback</b>	<b>Proposed Setback</b>
<b>Front</b>	15 ft.	54 ft. 2 in.
<b>Interior Side</b>		
Decks located further than 25 ft. from front property line	10 ft.	28 ft. 8 in.
<b>Street Side</b> (Sacramento)	10 ft.	12 ft.
<b>Rear</b>	25% parcel depth 27 ft. 8 in.	11 ft. 6 in. <b>Variance Requested</b>

Staff Analysis: A variance is requested for the minimum rear setback. The second story deck standards do not include specific standards for corner lots. The rear setback on a corner lot is equal to the minimum interior side yard of the adjacent property, but no less than four feet. For 511 Escalona Drive, the minimum rear yard setback is four feet. The second story deck has a required rear yard setback of 27 feet, 8 inches. The second story deck is 11 feet, 6 inches from the rear property line.

d. To address neighbor privacy impacts, the Planning Commission may require permanent privacy screening (e.g., opaque glass, solid materials, vegetation) for an upper floor deck or balcony.

Staff Analysis: The deck is adjacent to the front corner of the home at 205 Sacramento Avenue. Staff did not recommend screening along 205 Sacramento.

e. A second-story deck or balcony facing the rear of the parcel may not project further than ten feet from the exterior upper-story building wall to which it is attached.

Staff Analysis: The deck faces the street side property line.

f. The area of a second-story deck shall not exceed the habitable second-story floor area of the building to which it is attached.

Staff Analysis: The deck area is less than the habitable second-story floor area.

g. Roof decks are prohibited in the R-1 zoning district.

Staff Analysis: The deck is connected to the second floor of the building and is not considered a roof deck.

h. The elevation of a freestanding deck or platform not attached to a building may not exceed thirty-five inches above the adjoining grade.

Staff Analysis: The deck is not freestanding.

Design Review Criteria: When considering design permit applications, the city shall evaluate applications to ensure that they satisfy the Design Review Criteria listed in 17.120.070, comply with the development standards of the zoning district, conform to policies of the general plan, the local coastal program, and any applicable specific plan, and are consistent with any other policies or guidelines the city council may adopt for this purpose. To obtain design permit approval, projects must satisfy these criteria to the extent

they apply. Staff prepared analysis for the following Design Review Criteria directly applicable to the proposed project. The complete list of Design Review Criteria is included as Attachment #3.

- 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.

The deck location is located along a street frontage, with the adjacent residence at 205 Sacramento Avenue having exposure only along its front corner. The deck is designed and situated to provide adequate privacy.

Variance: The applicant is requesting a variance to convert a portion of the first-story roof along Sacramento Avenue to an upper-story deck. Upper-story decks have a minimum rear setback of 25% of the average lot depth, or 27-feet, 8-inches. The applicant is requesting a variance to reduce the rear setback to 11-feet, six-inches. The primary justification for the variance is due to the property being a reverse corner lot.

Pursuant to §17.128.060, the Planning Commission may grant a variance when it makes all of the following underlined 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: Compared to regular lots, corner lots have a more restrictive 10-foot street side setback and relaxed rear setback, in this case four feet. However, rear setbacks for upper-story decks are not differentiated for corner lots. Therefore, the difference between setbacks requirements of the habitable space and upper-story deck pose a unique circumstance in that the home can be located four feet from the rear property line but the second story deck must be located 27 feet, 8 inches from the property line.

- 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: Rear and side setbacks on corner lots are adjusted in response to having multiple street frontages, with increased setbacks on the street side and reduced setbacks along the rear property line. However, the strict application of zoning code requirements does not provide similar relaxed rear setback for decks on corner lots; therefore, the requirements would deprive the subject property of comparable privileges enjoyed by other properties in the vicinity and within the R-1 zone.

- 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 minimum side yard setback for decks is 10 feet. The applicant is requesting an 11-foot, 6-inch rear setback. Rear yards of reverse corner lots are treated similar to the side yards of typical lots. The requested variance requests a setback that is comparable to an interior side setback which is necessary to preserve opportunities afforded properties in the vicinity and within the R-1 zone.

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

Staff Analysis: The proposed deck faces a public street with minimal impacts to adjacent properties. Approval of the variance 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: Staff identified at least three corner lots within the Depot Hill neighborhood that have non-conforming upper-story decks with respect to the rear setback, side setback, or both. Non-conforming upper-story decks on typical lots are more numerous with examples along all property sides. Therefore, the granting of a variance for the rear yard setback would not constitute a grant of special privilege.

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

Staff Analysis: The project does not impact coastal resources.

**CEQA:** Section 15301 of the CEQA Guidelines exempts minor alterations to existing private structures involving negligible or no expansion of existing or former use.

**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 the granting of a variance, the proposed deck complies with development standards of the R-1 zoning district. The project secures 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 upper-story deck. With the granting of a variance, 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 15301 of the CEQA Guidelines exempts minor alterations to existing private structures involving negligible or no expansion of existing or former use. This approval is a modification to prior 2019, 2020, and 2023 approvals, which are cumulatively exempt under Section 15301(e). The modified approval involves aesthetic alterations which do not result in an expansion of use 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.**

The Planning Commission reviewed the project and determined that the proposed deck 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 deck 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 reviewed the application for the upper-story deck. The proposed deck blends with the overall design of the home with cement fiber shingle and is located along a street frontage. The project will maintain the character, scale, and development pattern of the neighborhood.

**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.**

Compared to regular lots, corner lots have a more restrictive 10-foot street side setback and relaxed rear setback, in this case four feet. However, rear setbacks for upper-story decks are not differentiated for corner lots. Therefore, the difference between setbacks requirements of the habitable space and upper-story deck pose a unique circumstance in that the home can be located four feet from the rear property line but the second story deck must be located 27 feet, 8 inches from the property line.

**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.**

Rear and side setbacks on corner lots are adjusted in response to having multiple street frontages, with increased setbacks on the street side and reduced setbacks along the rear property line. However, the strict application of zoning code requirements does not provide similar relaxed rear setback for decks on corner lots; therefore, the requirements would deprive the subject property of comparable privileges enjoyed by other properties in the vicinity and within the R-1 zone.

**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.**

The minimum side yard setback for decks is 10 feet. The applicant is requesting an 11-foot, 6-inch rear setback. Rear yards of reverse corner lots are treated similar to the side yards of typical lots. The requested variance requests a setback that is comparable to an interior side setback which is necessary to preserve opportunities afforded properties in the vicinity and within the R-1 zone.

**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.**

The proposed deck faces a public street with minimal impacts to adjacent properties. Approval of the variance 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 identified at least three corner lots within the Depot Hill neighborhood that have non-conforming upper-story decks with respect to the rear setback, side setback, or both. Non-conforming upper-story decks on typical lots are more numerous with examples along all property sides. Therefore, the granting of a variance for the rear yard setback would not constitute a grant of special privilege.

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

The property will not impact nearby coastal resources.

**Conditions of Approval:**

1. The project approval includes a design permit amendment to convert a first-story roof to an upper-story deck, modifying the previously approved second-story addition and internal conversion ADU (approved ministerially). The permit amendment does not affect the floor area of the previous application. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on June 5, 2025, 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, 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.
7. Prior to issuance of building permit, all Planning fees associated with permit #25-0066 shall be paid in full.
8. Prior to issuance of building permit, Affordable housing in-lieu fees shall be paid as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance.
9. 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.
10. 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.
11. 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).
12. 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.

13. 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.
14. 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
15. 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.
16. 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.
17. 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 17.81.160.
18. 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.
19. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
20. 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.
21. At time of submittal for building permit review, a water will serve letter for the second dwelling unit must be submitted to the City.
22. 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.
23. Before obtaining a building permit for a secondary dwelling unit, the property owner shall file with the county recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner and stating that:
  - a. The accessory dwelling unit may not be used for vacation rentals; and
  - b. The secondary dwelling unit shall not be sold separately from the primary dwelling.



**Attachments:**

1. 511 Escalona Drive – Plan Set
2. 511 Escalona Drive – Variance Application Letter
3. 511 Escalona Drive – Owner Statement
4. Design Permit Design Review Criteria
5. 511 Escalona Drive - Comments in Support

Report Prepared By: Sean Sesanto, Associate Planner

Reviewed By: Rosie Wyatt, Deputy City Clerk

Approved By: Katie Herlihy, Community Development Director