

Capitola Planning Commission

Agenda Report



Meeting: March 03, 2022

From: Community Development Department

Address: Report on Upper-Floor Decks

Planning staff response to Planning Commission request for information on how other jurisdictions regulate upper-floor decks and how the City processed upper-floor decks under the prior version of the Zoning Ordinance

Background:

At the January 20, 2022 meeting, the Planning Commission requested information on how other communities regulate upper-floor decks and how the City processed upper-floor decks under the prior version of the Zoning Ordinance. Planning staff has prepared this report in response.

In May of 2021, the Capitola zoning code update was certified by the Coastal Commission and became applicable throughout the City. The updated zoning code modified the review of upper-floor decks. Since the updated took effect, multiple application for upper-floor decks have gone before Planning Commission and have been a topic of concern by neighbors and the Planning Commission. Setbacks, privacy, and neighborhood compatibility are the primary issues.

Discussion:

Under Capitola's previous zoning code, all upper floor decks required Planning Commission approval of a design permit and the area of the deck was counted toward the maximum floor area of the building.

Under current code, upper-floor decks on side or rear and all rooftop decks require Planning Commission review for a design permit. The current code does not require a design permit for upper-floor decks on the front of the home or adjacent to open space.

The current code no longer includes the area of upper-floor decks in floor area. Maximum floor area is a tool to limit massing a building. During the code update, decks were removed from the floor area calculation as they typically do not contribute to the massing of the building. In terms of design, a deck can add visual interest and assist in breaking up the massing of a façade. When the floor area was removed for decks, the City directed staff to ensure that all upper-floor decks be reviewed by Planning Commission, except when on the front of a building or adjacent to open space.

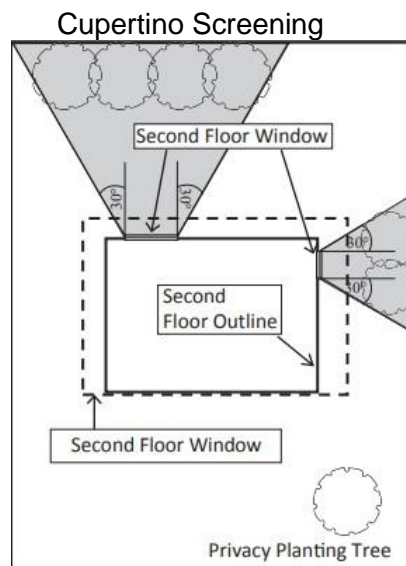
In both the previous code and the updated code, upper-floor decks have been subject to increased side setback of fifteen percent of lot width. No additional objective development standards apply to upper-floor decks within the Capitola code.

Since upper-floor decks are no longer counted toward floor area, the City is seeing a trend of more upper-floor decks included in applications. A new opportunity exists for homeowners to add upper-floor deck(s) to a home that has reached the maximum floor area ratio (FAR). The upper-floor deck applications tend to be controversial. Issues of privacy are, to varying degrees, subjective and often not known until the public hearing. The Planning Commission is tasked with reviewing the proposed decks for consistency with design permit criteria, weighing precedent, and making a qualitative determination for a final decision. An improved process would include more objective standards for staff to advise applicants early on and reduce the ambiguity of a case-by-case review.

Other Jurisdictions

Planning staff searched readily available Zoning Ordinances to find a range of ways to regulate and process upper-floor and rooftop decks. The following list includes the jurisdiction and a summary of their process and/or standards:

1. Menlo Park – Allowed on all sides. Building setbacks are 10 foot on the side and 20 foot rear setback. Upper floor decks and balconies are required to have a 20 foot side setback and 30 foot rear setback. This doubles the typically required side setback and 1.5 times the rear setbacks. *Increases setbacks.*
2. Cupertino – Only allowed on front or rear of the house. Mitigation plantings must be installed at the property line. The area to be screened is defined by projecting a 30 degree angle from each side of the deck attachment to the building and projecting toward the property line. Mitigation plantings must be a minimum of 12 foot tall screening plantings (see graphic). *Regulates placement and requires heavy mitigation and hearing.*



3. Los Altos Hills – Allowed on all sides. Deck surfaces 3 feet or more above grade shall not extend more than 6 feet from the building line. Allowed on all sides of the building. *Limits size and indirectly use.*

4. Santa Cruz County Pleasure Point Community Design Standards – Allowed on all sides. Decks/Walkways Allowed in Second Floor Setback: Decks or walkways are permitted in the second-floor setback area on top of the first-floor roof so long as the top of the hand railing does not exceed 15-feet in height from finished grade. *Contained within roofline and height of first floor.*
5. Coronado – Allowed on all sides. Public hearing required. Upper floor decks must be open on three sides (no solid walls, railings only) and have no roof. Must comply with daylight plane. Daylight plane is 18 feet vertical at the property and sloping toward the center of the property at a 45 degree angle. Also, reduces FAR by 0.01 (FAR Deduction). *Requires hearing. Not readily convertible to Floor Area with solid walls and roof and daylight plane serves as increased setback.*

Next Steps:

The Planning Commission has the following options regarding next steps:

1. Direct staff to focus the effort and prepare more research of other jurisdictions and return to the Planning Commission.
2. Accept staff presentation and direct staff to prepare draft code amendment with preference on example standards and return to the Planning Commission.
3. Accept staff presentation and direct staff not to pursue a code amendment related to upper-floor decks.

Attachment 1. Code Excerpts

See below for other jurisdiction direct code sections that are summarized above.

Menlo Park – 16.60.020 Balconies ...balconies and/or decks above the first floor on any side directly abutting a single family district shall be located twenty (20) feet or more from the side property lines and thirty (30) feet or more from the rear property line...

Cupertino - 19.28.090 K. Minimum setbacks for second story decks, patios, balconies, or any other similarly unenclosed features. Second story decks may only be located on the front and rear of the house. All new or expanded second story decks with views into neighboring residential side or rear yards shall file for a Minor Residential Permit in accordance with Chapter 19.12, in order to protect the privacy of adjoining properties. The goal of this permit requirement is not to require complete visual protection but to address privacy protection to the greatest extent while still allowing the construction and use of an outdoor deck.

Los Altos Hills - Grading Policy The height of the lowest finished floor(s) of a structure should generally not be set in excess of four feet six inches (4'6") feet above the existing grade, to assure that structures step with the slope. Supported decks shall generally not exceed three (3') feet above adjoining grade except where located within six (6') feet of a building.

Santa Cruz County Pleasure Point Community Design - 13.10.446(E) Decks/Walkways Allowed in Second Floor Setback: Decks or walkways are permitted in the second floor setback area on top of the first floor roof so long as the top of the hand railing does not exceed 15-feet in height from finished grade.

Coronado - 86.56.140 Roof decks and balconies above 14 feet.

A. A deck or balcony with a walking surface 14 feet or greater above "grade" shall be subject to the following requirements:

1. Design Review Commission approval shall be required;
2. Access to decks or balconies shall not be enclosed or covered unless the access is incorporated into the roof of the building, shall not be through a roof dormer, and shall not have the appearance of a separate structure;
3. No portion of decks or balconies shall be covered and shall be 100 percent permanently open;
4. No portion of decks or balconies or the top of structures or equipment placed on said decks or balconies (e.g., fireplaces and associated chimneys, spas, barbecues, storage cabinets, mechanical equipment, or similar) shall project beyond the daylight plane or exceed the allowable building height limit.