

# Capitola Planning Commission

## Agenda Report



**Meeting:** May 05, 2022

**From:** Community Development Department

**Address:** 504 Oak Drive

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**Permit Number:** #22-0142

**APN:** 035-09-325

Design Permit for an upper floor deck, landing, and spiral stairway in the rear yard of an existing nonconforming single-family residence located within the R-1 (Single-Family Residential) zoning district.

Environmental Determination: Categorical Exemption

Property Owner: Lori Mahan

Representative: Dennis Norton, Filed: 03.23.2022

### **Applicant Proposal**

The applicant is requesting a Design Permit to construct a 30 square-foot upper floor deck, landing, and spiral stairway to the rear of the single-family residence located at 504 Oak Drive in the R-1 (Single-Family Residential) zoning district.

### **Background**

On April 13, 2022, Development and Design Review Staff reviewed the application and provided the applicant with the following direction:

Public Works Representative, Danielle Uharriet: No comments.

Building Official, Robin Woodman: Asked the applicant to clarify tread and riser dimensions/details for the Building Permit submittal.

Senior Planner, Brian Froelich: Advised that the City is reviewing policy and development standards for upper floor decks.

### **Development Standards**

The following table outlines the zoning code requirements for development in the Single-Family Residential Zoning District. The proposed deck, landing, and stairway comply with all development standards of the R-1 zone.

<b>Building Height</b>			
<b>R-1 Regulation</b>	<b>Existing</b>		<b>Proposed</b>
25 ft.	21 ft. 6 in.		21 ft. 6 in.
<b>Floor Area Ratio (FAR)</b>			
	<b>Existing</b>		<b>Proposed</b>
<b>Lot size</b>	2,000 sq. ft.		2,000 sq. ft.
<b>Maximum Floor Area Ratio</b>	58% (Max 1,160 sq. ft.)		58% (Max 1,160 sq. ft.)
First Story Floor Area	676 sq. ft.		676 sq. ft.
Second Story Floor Area	286 sq. ft.		286 sq. ft.
<b>Total FAR</b>	51.1% (1,022 sq. ft.)		51.1% (1,022 sq. ft.)
<b>Setbacks</b>			
	<b>R-1 regulation</b>	<b>Existing</b>	<b>Proposed</b>
<b>Front Yard 1<sup>st</sup> Story</b>	15 ft.	16 ft. 4 in.	16 ft. 4 in. <b>No Change</b>
<b>Front Yard 2<sup>nd</sup> Story</b>	20 ft.	46 ft.	46 ft. <b>No Change</b>
<b>Side Yard 1<sup>st</sup> Story</b>	10% lot width, 3 ft. min	Lot width 20 ft. 3 ft. min	North: 3 ft. South: 1 ft. 8 in. <b>Existing nonconforming</b>
<b>Side Yard 2<sup>nd</sup> Story</b>	15% of width	Lot width 20 ft. 3 ft. min	North: 3 ft. South: 3 ft.
<b>Rear Yard 1<sup>st</sup> Story</b>	20% of parcel depth	Lot depth 100 ft. 20 ft. min.	41 ft.
<b>Rear Yard 2<sup>nd</sup> Story</b>	20% of parcel depth	Lot depth 100 ft. 20 ft. min.	36 ft.
<b>Parking</b>			
Under 1,500 sq. ft.: 2 per unit,	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
	2 spaces total 0 covered 2 uncovered	0 spaces total 0 covered 0 uncovered	0 spaces total 0 covered 0 uncovered
<b>Underground Utilities: Required with 25% increase in area</b>			No

### Discussion

The existing residence located at 504 Oak Drive is a nonconforming, two-story, single-family residence. The lot is located in the Riverview neighborhood and is surrounded by a mix of one- and two-story single-family homes.

The applicant is proposing to construct a 30 square-foot upper floor deck, landing, and spiral stairway as a means of secondary egress from the upper floor. The applicant notes concerns of

safety as the primary purpose for the installation (Attachment #2 – Owner’s Statement). The proposed deck, landing, and stairway will be metal with a black, power coated finish.

Planning staff visited the site to assess visual and privacy impacts. The lot is narrow at 20 feet wide but has a depth of 100 feet. The second floor has a front setback of 46 feet and the rear wall of the second floor is 36 feet from the rear property line. The upper floor’s deep front setback results in the rear wall of the upper floor being behind the adjacent neighboring buildings to either side with no views toward or into either residence from the proposed deck and landing. Additionally, the upper floor has an increased 36-foot rear setback and views toward the rear property line are obscured by mature trees and with the nearest building being 66 feet away.

#### Non-Conforming Structure

The existing single-story residence was granted variances for parking and for side setbacks with the upper floor addition in 2004. Pursuant to code section 17.92.070, structural alterations to an existing non-conforming structure may not exceed 80 percent of the present fair market value of the structure. Staff has estimated that alterations to the primary structure represent less than one (1) percent of the present fair market value of the structure, so the alterations are permissible. Staff waived the requirement that the applicant prepare the calculation in this case due the project valuation being so far below the 80 percent threshold.

#### Design Permit–

Upper-floor decks and balconies on the side or rear of a home that are not adjacent to public open space require a Design Permit. When considering design permit applications, the Planning Commission must evaluate the design review criteria listed in Section 17.120.070 of the Capitola Municipal Code. (Attachment 4) Of the 19 criteria, the criteria for privacy should be considered by the Commission in the review of the application, as follows.

*Criteria 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 total footprint of the deck, landing, and spiral stairway is 30 square feet. Half of the area is the deck and landing while the other half is the spiral stairway. Additionally, the deck and landing project 30 inches from the exterior building wall. Planning staff mocked up the 6 foot by 2.5 foot deck and landing area in the Planning office and concluded that it is not large enough to accommodate extended use or activity. Planning staff also performed a site visit and found that the views to adjacent rear yards are screened by mature landscaping, mitigated by building siting, and there is not a direct view into other buildings.

#### **CEQA**

Section 15303 of the CEQA Guidelines exempts the construction of a single-family residence and accessory structures in a residential zone. This project involves a new egress installation for an existing single-family residence within the R-1 (single-family residence) Zoning District. No adverse environmental impacts were discovered during review of the proposed project.

#### **Recommendation**

Staff recommends the Planning Commission approve application #22-0142 based on the following Conditions and Findings of Approval.

## **Attachments**

1. Plan Set
2. Owner's Statement
3. Design Permit Design Review Criteria

## **Conditions of Approval**

1. 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 on May 5, 2022. All construction and site improvements shall be completed according to the approved plans.
2. 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.
3. Construction activity shall be subject to a 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

## Planning

4. The project approval consists of construction of a 30 square foot upper floor deck, landing, and spiral stairway to an existing nonconforming single-family residence. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on May 5, 2022, except as modified through conditions imposed by the Planning Commission during the hearing.
5. 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.
6. 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 17.156.080.
7. 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.
8. 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.

9. Prior to issuance of building permit, all Planning fees associated with permit #22-0142 shall be paid in full.
10. Exterior lights for the second story deck area shall comply with CMC Section 17.96.110 and be limited to the Building Code required minimum. Fixtures shall be shielded and directed downward to meet the International Dark Sky Association's (IDA) requirements for reducing waste of ambient light and prevent light trespass on adjacent lots.

### **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, the Design and Development Review Committee, and the Planning Commission have all reviewed the project. The proposed 30 square foot upper floor deck, landing, and stairway are consistent with the general plan and the local coastal program.

- B. The proposed project complies with all applicable provisions of the zoning code and municipal code.**

Community Development Staff, the Design and Development Review Committee, and the Planning Commission have all reviewed the project. The proposed 30 square foot upper floor deck, landing, and stairway comply with all development standards of the R-1 (Single-Family Residential) zoning district.

- C. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).**

Section 15303 of the CEQA Guidelines exempts the construction of a single-family residence and accessory structures in a residential zone. This project involves a new egress installation for an existing single-family residence within the R-1 (single-family residence) 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, the Design and Development Review Committee, and the Planning Commission have all reviewed the project. The proposed 30 square foot upper floor deck, landing, and stairway 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).**

Community Development Staff, the Design and Development Review Committee, and the Planning Commission have all reviewed the project. The proposed 30 square foot upper floor deck, landing, and stairway comply with the applicable design review criteria as described in the staff report.

- F. For projects in residential neighborhoods, the proposed project maintains the character, scale, and development pattern of the neighborhood.**

Community Development Staff, the Development and Design Review Committee, and the Planning Commission have all reviewed the application for a landing, deck and stairway and have determined that the project is compatible with the existing neighborhood.

Prepared By: Brian Froelich