



November 21, 2019

***Draper City Planning Division
Administrative Interpretation***

RE: Suncrest Decks – Van Noord Interpretation

This letter is in regards to a question that has arisen regarding the minimum required deck setback for the property located at 15149 South Heather Stone Cir., Lot 225 Eagle Crest Number 1 Subdivision. This subdivision is part of the larger Suncrest development area. The property owner has applied for a building permit to rebuild a deck that is approximately 10-feet from the rear property line, building permit number BLDR-1222-2019. The original deck was presumably built without a permit, but was also located 10-feet from property line. The proposed deck is 12-foot wide and 8.6-feet above the ground.

Per Draper City Municipal Code (DCMC) Section 9-1-170(A) the Suncrest development is exempt from the Title 9 Land Use and Development standards.

Current Code: 9-1-170: EXEMPTIONS FROM THIS TITLE:

A. The following projects, approved prior to the effective date of this title and subject to one or more development agreements with the city, are exempt from the provisions of this title:

1. SunCrest.
2. Traverse Mountain planned unit development.
3. South Mountain.

Per the development agreement for the Suncrest development, the property is under the 1999 Zoning Code, also Title 9, and specific design guidelines. The current DCMC requires decks with a height over 3-feet, or that contain a roof or are enclosed on two or more sides to conform to the minimum rear yard setback. The 1999 code did not contain specific setback standards for decks like the current code does. In fact, the language for exceptions to yard obstructions is virtually identical between the two codes, except for the standard on decks. The two code sections are below for reference.

Current Code: 9-27-140: LOTS AND YARDS:

F. Setback; Decks And Patios: Any part of a deck or patio covered with a roof or enclosed on two (2) or more sides, or which exceeds three feet (3') in height at any point above finished, shall conform to applicable yard setback requirements.

I. Yards To Be Unobstructed; Exceptions: Every part of a required yard shall be open to the sky, unobstructed except for:

1. Accessory buildings in a rear yard;



2. The ordinary projections of window bays, roof overhangs, skylights, sills, belt courses, cornices, chimneys, flues and other ornamental features, which shall not project into a yard more than two and one-half feet (2¹/₂);
3. Open or lattice enclosed fire escapes, fireproof outside stairways and balconies open upon fire towers projecting into a yard not more than five feet (5'); or
4. Any part of an uncovered deck or patio less than three feet (3') in height, excluding nonopaque railings.

1999 Code: Section 9-3-030 Supplementary and Qualifying Regulations.

(b) Lots and Yards.

(6) Yards to be Unobstructed - Exceptions -Every part of a required yard shall be open to the sky, unobstructed except for accessory buildings in a rear yard, the ordinary projections of skylights, sills, belt courses, cornices, chimneys, flues and other ornamental features shall not project into a yard more than two and one half (2 1/2) feet, and open or lattice enclosed fire escapes, fireproof outside stairways and balconies open upon fire towers projecting into a yard not more than five (5) feet.

The Suncrest Development Guidelines are silent on decks, it does, however; require all plot plans for residential lots to obtain approval from the Design Review Board prior to building permit applications being submitted to the City, see section 4.2.4 below. The property owner has obtained approval for the proposed deck design from the Suncrest Owners Association.

4.2.1 Height and Setback Restrictions -Single-Family Detached Residential

All plot plans for residential lots shall be approved by the Design Review Board prior to building permit applications to the City and shall conform to the height and setback requirements set forth in Table I.

After reviewing the 2019 aerial for the neighborhood, it appears to be a common occurrence to have a deck encroach into the rear yard setback.

It is the Zoning Administrators position that the 1999 code did not require decks to comply with the minimum rear yard setback and that the standard was specifically added to the current Title 9 code with its adoption in 2001. Decks in the Suncrest development do not have to comply with the minimum setback standards. That said, the International Residential Code (IRC) does consider a deck to be a structure. Decks will be required to obtain a building permit and meet any property line separation standards contained in the IRC.

There are a couple options available to you if you believe this interpretation has been made in error. You may seek a text amendment in order to change the code, or you may appeal this determination. An appeal is subject to DCMC Section 9-5-180 and 9-6-140 and shall be made within 14 days of the decision which is appealed. Applications for both options can be found on the city's website.



If you have further questions, please contact me at jennifer.jastremsky@draper.ut.us or at 801-576-6328.

Respectfully,

A handwritten signature in black ink, appearing to read "Jennifer Jastremsky", is written over the typed name.

Jennifer Jastremsky, AICP
Senior Planner/Zoning Administrator
Community Development Department

Cc File