



Agenda Item #: 07/0403.13

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Tell and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Richard Thompson, Director of Community Development
Daniel A. Moreno, Associate Planner

DATE: April 3, 2007

SUBJECT: Consideration of a Planning Commission Approval of a Coastal Development Permit and Variance to Allow Balcony Projections into a Required Front Yard to Exceed the Maximum Allowable Area in Conjunction with Construction of a New 3-Story Single Family Residence at 124-12th Place

RECOMMENDATION:

Staff recommends that the City Council **RECEIVE and FILE** this report.

FISCAL IMPLICATION:

There are no fiscal implications associated with the recommended action.

BACKGROUND:

At the February 28, 2007 Planning Commission meeting staff presented a proposal which consisted of a request to allow two balcony projections into the required front yard setback and located adjacent to an alley, to exceed the maximum allowable area. The subject property is located at 124-12th Place, zoned RH (Residential High Density) and is located in Area District III.

Manhattan Beach Municipal Code Section 10.60.040 (F) 5a, allows balcony projections in a required front or rear yard to provide private open space. The aggregate area of all proposed balcony projections for the entire lot within required yards shall not exceed three (3) times one-half (1/2) of the buildable width of the lot if all balcony projections are located in either the front or rear yard. The subject property is 30 feet in width and therefore provides 24 feet of buildable width (30 feet of width minus both required side yards of 3 feet). One half of this buildable width is 12 feet multiplied by 3 (maximum balcony projection) which equals 36 square feet (12' x 3' = 36 sq. ft.) total balcony area.

The subject property is substandard in size (30' x 45') and fronts on 12th Place. Like many portions of lots in Area District III and IV which front on an alley, 12th Place is considered the front of the property and therefore is required to conform to current projection restrictions into the required 5-foot front yard setback area.

The approved building plans show a three story 1,687 square foot building with an attached two-car enclosed area. The plans also show two conforming balcony projections in the front setback area at the second and third levels of the building (see floor and elevation plans). Each balcony projection is 1.5' in depth and 12 feet in width for a total square foot area of 36 square feet.

The applicant was seeking relief from MBMC Section 10.60.040 (F) 5a, requesting approval to double the balcony area to 72 square feet. This would be accomplished by extending both approved front balcony projections an additional 1.5 feet for a total of 3 feet into the required setback (3' wide x 12' long x 2 (both levels) = 72 square feet.

At the February 28, 2007 meeting, after opening the hearing and taking testimony, the Planning Commission approved the subject request on a 5-0-0 vote and continued the public hearing to the meeting of March 14, 2007 in order that staff may prepare a 'draft' resolution of approval.

At the Planning Commission meeting of March 14, 2007, the Commission voted (4-0-0) to approve the subject application. At both Planning Commission hearings no one spoke either in favor or in opposition to the subject request.

The Commission approved the subject Variance based on the following findings:

1. Because of special circumstances or conditions applicable to the subject property, strict application of the requirements of this title would result in peculiar and exceptional difficulties to, or exceptional and/or undue hardships upon, the owner of the property, *since the lot is substandard in size (30'x45')*, *the front yard is adjacent to an alley not a street and location of other properties surrounding it and the shadowing effect of the surrounding properties.*
2. The relief may be granted without substantial detriment to the public good; without substantial impairment of affected natural resources; and not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare, *since the two 3-foot deep by 12-foot wide balcony projections into the 5-foot front yard setback located adjacent to the alley are consistent with similarly allowed projections as the neighboring properties and would not create a negative impact. The scale of the deviation is minor and would deemphasize the massing and the bulk as the two balcony projections are designed as open railing.*
3. Granting the application is consistent with the purposes of this title and will not constitute granting of a special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district and area district, *since full size lots in the vicinity and zone are allowed a 3-foot living area projection on the upper two levels and the proposed balcony design provide open air and less density.*

Attached for Councils review is Resolution No. PC 07-01, as well as other pertinent materials including: excerpt from the Planning Commission minutes and Staff reports to the Commission dated February 28, 2007 and March 14, 2007, with more detailed background and analysis.

ALTERNATIVES

1. **REMOVE** this item from the Consent Calendar and **APPEAL** the decision of the Planning Commission and schedule for Public Hearing

Attachments: A Resolution No. PC 07-01 (available electronically)
B Planning Commission Minutes, Reports, attachments and plans, dated 2/28/07 and 3/14/07 (available electronically except plans)

cc: Frank and Carlyn Djie, Applicants
Peter De Maria, Project Architect

124-12 PlaceCCMemo 4-3-07

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A COASTAL DEVELOPMENT PERMIT AND VARIANCE TO ALLOW BALCONY PROJECTIONS INTO A REQUIRED FRONT YARD TO EXCEED THE MAXIMUM ALLOWABLE AREA, IN CONJUNCTION WITH THE CONSTRUCTION OF A NEW THREE-STORY SINGLE FAMILY RESIDENCE AT 124-12TH PLACE (Djie)

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Manhattan Beach hereby makes the following findings:

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing pursuant to applicable law on February 28, 2007 and March 14, 2007, to consider an application for a Coastal Development Permit and a Variance for the property legally described as Portion of Lot 9, Block 14, Manhattan Beach Division #2, in the City of Manhattan Beach.
- B. The public hearing was advertised pursuant to applicable law, testimony was invited and received.
- C. The applicants for the Variance are Frank and Carlyn Djie, property owners.
- D. The subject parcel is a 1,350 square foot portion of an original standard lot, and is legal nonconforming for required area (minimum 2,700 square feet) located in the "RH" zone, Area District III.
- E. The property fronts on the north side of 12th Place between Manhattan Avenue and Ocean Drive. Multiple properties within this neighborhood have less than 5-foot upper level projections along 12th Place.
- F. The applicants had originally received approval to extend two balcony projections on the second and third stories 1.5 feet deep by 12 feet wide within the 5-foot front setback area. These projections met the current maximum allowable balcony area of 36 square feet. The applicant's proposal would extend the depth of the balconies projections an additional 1.5 feet for a total of 3 feet which doubles the maximum allowable balcony area from 36 square feet to 72 square feet.
- G. The requested Variance would grant relief from Section 10.60.040 (F) 5a ("Balcony and Bay Windows") which restricts the maximum area for balcony projection located in either the front or rear yard setbacks in the "RH" zone, Area District III.
- H. Manhattan Beach Municipal Code Section 10.60.040 (F) 5a Balcony projections are allowed in both the required front and rear yard for each dwelling unit to provide private open space. The aggregate area of all balcony projections for the entire lot within required yards shall not exceed three (3) times one-half (1/2) of the buildable width of the lot if all balcony projections are located in either the front and rear yard, and three (3) times two-thirds (2/3) the buildable width of the lot if balconies are located in both the front and rear yards. Because the subject property utilizes 12th Place as a front yard, the above referenced provision would apply.
- I. The General Plan designation for the property is High Density Residential as are the properties to the north, south, east and west.
- J. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15061, (b) (3) based on staffs determination that the project is a minor development and will not have a significant impact on the environment.

- K. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- L. Pursuant to the Manhattan Beach Municipal Code, 10.84.060 B, Rear Yard Setback, the Planning Commission made the following findings regarding the Variance application:
1. Because of special circumstances or conditions applicable to the subject property, strict application of the requirements of this title would result in peculiar and exceptional difficulties to, or exceptional and/or undue hardships upon, the owner of the property, *since the lot is substandard in size (30'x45'), the front yard is adjacent to an alley not a street and location of other properties surrounding it and the shadowing effect of the surrounding properties.*
 2. The relief may be granted without substantial detriment to the public good; without substantial impairment of affected natural resources; and not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare, *since the two 3-foot deep by 12-foot wide balcony projections into the 5-foot front yard setback located adjacent to the alley are consistent with similarly allowed projections as the neighboring properties and would not create a negative impact. The scale of the deviation is minor and would deemphasize the massing and the bulk as the two balcony projections are designed as open railing.*
 3. Granting the application is consistent with the purposes of this title and will not constitute granting of a special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district and area district, *since full size lots in the vicinity and zone are allowed a 3-foot living area projection on the upper two levels and the proposed balcony design provide open air and less density.*
- M. This resolution upon its effectiveness constitutes the Variance for the subject property.

SECTION 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Variance subject to the following conditions:

1. The project shall be in conformance with the plans submitted to, and approved by the Planning Commission on March 14, 2007.
2. Maximum balcony projections of 3 feet deep by 12 feet wide in the front setback area adjacent to 12th Place shall be allowed for the second and third levels of the building as shown on the submitted plans.
3. The Variance shall expire two years after the date of approval, with the option for future extensions, in accordance with the Manhattan Beach Municipal Code (MBMC) Section 10.84.090 (A). The applicant or authorized agent prior to the expiration of the two-year period shall request said time extension in writing.
4. This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030 have expired.
5. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code Section 711.4(c), the project is not operative, vested or final until the required filing fees paid.
6. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions associated with the approval of this project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

SECTION 3. Pursuant to Government Code Section 65009 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution. The City Clerk shall send a certified copy of this resolution to the applicant, and if any, the appellant at the address of said person set forth in the record of the proceedings and such mailing shall constitute the notice required by Code of Civil Procedure Section 1094.6.

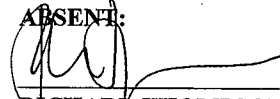
I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of **March 14, 2007** and that said Resolution was adopted by the following vote:

**AYES: Lesser, Powell, Schlager, Chairman
Bohner**

NOES:

ABSTAIN:

ABSENT:

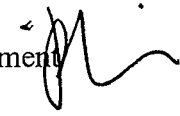


RICHARD THOMPSON,
Secretary to the Planning Commission

Sarah Boeschen
Recording Secretary

**CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT**

TO: Planning Commission

THROUGH: Richard Thompson, Director of Community Development 

FROM: Daniel A. Moreno, Associate Planner 

DATE: March 14, 2007

SUBJECT: Consideration of a Coastal Development Permit and Variance to Allow Balcony Projections, Into a Required Front Yard, to Exceed the Maximum Allowable Area in Conjunction with Construction of a New 3-Story Single Family Residence at 124-12th Place
(Djie)

RECOMMENDATION

Staff recommends that the Planning Commission **REOPEN** the public hearing, and **ADOPT** the attached "draft" Resolution **APPROVING** the subject request.

BACKGROUND

At the February 28, 2007 Planning Commission meeting staff presented a proposal which consisted of a request to allow two balcony projections into the required front yard setback and located adjacent to an alley, to exceed the maximum allowable area. The subject property is located at 124-12th Place, zoned RH (Residential High Density) and is located in Area District III.

The submitted building plans show a three story 1,687 square foot building with an attached two-car enclosed area. The plans also show two conforming balcony projections in the front setback area at the second and third levels of the building (see floor and elevation plans). Each balcony projection is 1.5' in depth and 12 feet in width for a total square foot area of 36 square feet.

Manhattan Beach Municipal Code Section 10.60.040 (F) 5a, allows balcony projections in a required front or rear yard to provide private open space. The aggregate area of all proposed balcony projections for the entire lot within required yards shall not exceed three (3) times one-half (1/2) of the buildable width of the lot if all balcony projections are located in either the front or rear yard. The subject property is 30 feet in width and therefore provides 24 feet of buildable width (30 feet of width minus both required side yards of 3 feet). One half of this buildable width is 12 feet multiplied by 3 (maximum balcony projection) which equals 36 square feet (12' x 3' = 36 sq. ft.) total balcony area.

The subject property is a substandard lot area and fronts on 12th Place. Like many portions of lots in Area District III and IV which front on an alley, 12th Place is considered the front of the property and therefore must conform to current projection restrictions into the required 5-foot front yard setback area.

The applicant was seeking relief from MBMC Section 10.60.040 (F) 5a, requesting approval to double the balcony area to 72 square feet. This would be accomplished by extending both approved front balcony projections an additional 1.5 feet for a total of 3 feet into the required setback (3' wide x 12' long x 2 (both levels) = 72 square feet.

At this meeting, after opening the hearing and taking testimony, the Planning Commission approved the subject request on a 5-0-0 vote and continued the public hearing to the meeting of March 14, 2007 in order that staff may prepare a 'draft' resolution of approval.

The Commission approved the subject Variance based on the following findings:

1. Because of special circumstances or conditions applicable to the subject property, strict application of the requirements of this title would result in peculiar and exceptional difficulties to, or exceptional and/or undue hardships upon, the owner of the property, *since the lot is substandard in size (30'x45') and the front yard is adjacent to an alley, not a street and location of other properties surrounding it.*
2. The relief may be granted without substantial detriment to the public good; without substantial impairment of affected natural resources; and not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare, *since the two 3-foot deep by 12-foot wide balcony projections into the 5-foot front yard setback located adjacent to the alley are consistent with similarly allowed projections as the neighboring properties and would not create a negative impact. The scale of the deviation is minor and would deemphasize the massing and the bulk as the two balcony projections are designed as open railing.*
3. Granting the application is consistent with the purposes of this title and will not constitute granting of a special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district and area district, *since full size lots in the vicinity and zone are allowed a 3-foot living area projection on the upper two levels and the proposed balcony design provide open air and less density.*

At this meeting no one spoke in favor or in opposition to the subject proposal. However, prior to the meeting a fax was received by staff from the property owner to the east of the subject site with concerns regarding notification and potential blockage of view as a result of the subject request.

Attached for the Commission review is a 'draft' Resolution of approval and background information and minutes from the February 28, 2007 Planning Commission meeting.

Attachments:

Exhibit A – ‘Draft’ Resolution No. PC 07-

Exhibit B – Background Information, Staff Report, dated 2/28/07

Exhibit C – Planning Commission Minutes, dated 2/28/07

1214-12th PlacePCMemo 3-14-07

'DRAFT' RESOLUTION NO. PC 07-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A COASTAL DEVELOPMENT PERMIT AND VARIANCE TO ALLOW BALCONY PROJECTIONS INTO A REQUIRED FRONT YARD TO EXCEED THE MAXIMUM ALLOWABLE AREA, IN CONJUNCTION WITH THE CONSTRUCTION OF A NEW THREE-STORY SINGLE FAMILY RESIDENCE AT 124-12TH PLACE (Djie)

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Manhattan Beach hereby makes the following findings:

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing pursuant to applicable law on February 28, 2007 and March 14, 2007, to consider an application for a Coastal Development Permit and a Variance for the property legally described as Portion of Lot 9, Block 14, Manhattan Beach Division #2, in the City of Manhattan Beach.
- B. The public hearing was advertised pursuant to applicable law, testimony was invited and received.
- C. The applicants for the Variance are Frank and Carlyn Djie, property owners.
- D. The subject parcel is a 1,350 square foot portion of an original standard lot, and is legal nonconforming for required area (minimum 2,700 square feet) located in the "RH" zone, Area District III.
- E. The property fronts on the north side of 12th Place between Manhattan Avenue and Ocean Drive. Multiple properties within this neighborhood have less than 5-foot upper level projections along 12th Place.
- F. The applicants had originally received approval to extend two balcony projections on the second and third stories 1.5 feet deep by 12 feet wide within the 5-foot front setback area. These projections met the current maximum allowable balcony area of 36 square feet. The applicant's proposal would extend the depth of the balconies projections an additional 1.5 feet for a total of 3 feet which doubles the maximum allowable balcony area from 36 square feet to 72 square feet.
- G. The requested Variance would grant relief from Section 10.60.040 (F) 5a ("Balcony and Bay Windows") which restricts the maximum area for balcony projection located in either the front or rear yard setbacks in the "RH" zone, Area District III.
- H. Manhattan Beach Municipal Code Section 10.60.040 (F) 5a Balcony projections are allowed in both the required front and rear yard for each dwelling unit to provide private open space. The aggregate area of all balcony projections for the entire lot within required yards shall not exceed three (3) times one-half (1/2) of the buildable width of the lot if all balcony projections are located in either the front and rear yard, and three (3) times two-thirds (2/3) the buildable width of the lot if balconies are located in both the front and rear yards. Because the subject property utilizes 12th Place as a front yard, the above referenced provision would apply.
- I. The General Plan designation for the property is High Density Residential as are the properties to the north, south, east and west.
- J. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15061, (b) (3) based on staffs determination that the project is a minor development and will not have a significant impact on the environment.

EXHIBIT A

'DRAFT' RESOLUTION NO. PC 07-

- K. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- L. Pursuant to the Manhattan Beach Municipal Code, 10.84.060 B, Rear Yard Setback, the Planning Commission made the following findings regarding the Variance application:
1. Because of special circumstances or conditions applicable to the subject property, strict application of the requirements of this title would result in peculiar and exceptional difficulties to, or exceptional and/or undue hardships upon, the owner of the property, *since the lot is substandard in size (30'x45') and the front yard is adjacent to an alley, not a street and location of other properties surrounding it.*
 2. The relief may be granted without substantial detriment to the public good; without substantial impairment of affected natural resources; and not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare, *since the two 3-foot deep by 12-foot wide balcony projections into the 5-foot front yard setback located adjacent to the alley are consistent with similarly allowed projections as the neighboring properties and would not create a negative impact. The scale of the deviation is minor and would deemphasize the massing and the bulk as the two balcony projections are designed as open railing.*
 3. Granting the application is consistent with the purposes of this title and will not constitute granting of a special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district and area district, *since full size lots in the vicinity and zone are allowed a 3-foot living area projection on the upper two levels and the proposed balcony design provide open air and less density.*
- M. This resolution upon its effectiveness constitutes the Variance for the subject property.

SECTION 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Variance subject to the following conditions:

1. The project shall be in conformance with the plans submitted to, and approved by the Planning Commission on March 14, 2007.
2. Maximum balcony projections of 3 feet deep by 12 feet wide in the front setback area adjacent to 12th Place shall be allowed for the second and third levels of the building as shown on the submitted plans.
3. The Variance shall expire two years after the date of approval, with the option for future extensions, in accordance with the Manhattan Beach Municipal Code (MBMC) Section 10.84.090 (A). The applicant or authorized agent prior to the expiration of the two-year period shall request said time extension in writing.
4. This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030 have expired.
5. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code Section 711.4(c), the project is not operative, vested or final until the required filing fees paid.
6. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions associated with the approval of this project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

'DRAFT' RESOLUTION NO. PC 07-

SECTION 3. Pursuant to Government Code Section 65009 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution. The City Clerk shall send a certified copy of this resolution to the applicant, and if any, the appellant at the address of said person set forth in the record of the proceedings and such mailing shall constitute the notice required by Code of Civil Procedure Section 1094.6.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of **March 14, 2007** and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

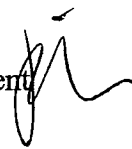
ABSENT:

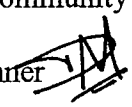
RICHARD THOMPSON,
Secretary to the Planning Commission

Sarah Boeschen
Recording Secretary

**CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

TO: Planning Commission

FROM: Richard Thompson, Director of Community Development 

BY: Daniel A. Moreno, Associate Planner 

DATE: February 28, 2007

SUBJECT: Consideration of a Coastal Development Permit and Variance Requesting Approval to Exceed the Maximum Allowable Balcony Area in a Required Front Yard, in Conjunction with the Construction of a New Single Family Residence at 124-12th Place (Djie)

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT THE PUBLIC HEARING, CONSIDER** the request, and **DIRECT** Staff as determined to be appropriate.

APPLICANTS/OWNERS

Frank and Carlyn Djie
3115 Warwood Road
Lakewood, Ca. 90712

BACKGROUND

On November 1, 2006, the applicants submitted a Variance application seeking approval to allow balcony projections into a required setback area to exceed the maximum allowable area. The application is part of a proposal to build a new single family residence which is currently under construction.

Manhattan Beach Municipal Code Section 10.60.040 (F) 5a states the following:

F. Balcony and Bay Windows

5. a **Exceptions for RM and RH districts:** *Balcony projections are allowed in both the required front and rear yard for each dwelling unit to provide private open space. The aggregate area of all balcony projections for the entire lot within required yards shall not exceed three (3) times one-half (1/2) of the buildable width of the lot if all balcony projections are located in either the front and rear yard, and three (3) times two-thirds (2/3) the buildable width of the lot if balconies are located in both the front and rear yards.*



The subject property is located at 124-12th Place, zoned RH (Residential High Density) and is located in Area District III. On May 16, 2006 the applicant received Coastal approval to demolish an existing nonconforming two-story single family residence constructed in 1935, and replace it with a new single family residence. Subsequently, on September 11, 2006, the applicants received a building permit (05-04048) to construct a three story single family residence with an attached 2-car garage. The permit was issued based on submitted plans that comply with all current zoning regulations including building height, allowable Buildable Floor Area, usable open space, parking, setbacks and permitted projections.

Before construction is completed the applicants are considering a revision to the approved plans which would increase the area of the balcony. Because MBMC Section 10.60.040 (F) 5a of the Manhattan Beach Municipal Code restricts the area of balcony projects into a required yard, a Variance application is required for relief from current code requirements.

PROJECT OVERVIEW

LOCATION

Location: 124-12th Place between Manhattan Avenue and Ocean Drive (See Site Location Map).

Legal Description: Portion of Lot 9, Block 14, Manhattan Beach Division #2.

Area District: III

LAND USE

General Plan: High Density Residential

Zoning: RH, Residential High Density

<u>Land Use:</u>	<u>Existing</u>	<u>Proposed</u>
	904 sq. ft. SFR	No Change

Neighboring Land Uses:

North, across 12 th Place	3-story SFR (full-lot), 122-13 th Street
South,	3-story SFR (half-lot), 125-12 Street
East,	2-story SFR (half-lot), 128-12 th Place
West,	3-story Duplex (full-lot), 121-12 St./120-12 th Place

PROJECT DETAILS

<u>Parcel Size:</u>	1,350 sq. ft. (30' x 45')
<u>Building Area:</u>	1,687 sq. ft.
<u>Building Height:</u>	30 feet (3-stories)
<u>Parking:</u>	418 sq. ft. (enclosed 2-car garage)
<u>Vehicle Access:</u>	12 th Place
<u>Building Setbacks:</u>	
Front (north)	5 ft.
Sides (east/west)	3 ft.
Rear (south)	5 ft.

DISCUSSION

The approved building plans show a three story 1,687 square foot building with an attached two-car enclosed area. The plans also show two conforming balcony projections in the front setback area at the second and third levels of the building (see floor and elevation plans). Each balcony projection is 1.5' in depth and 12 feet in width for a total square foot area of 36 square feet.

Per MBMC Section 10.60.040 (F) 5a, balcony projections are allowed in a required front or rear yard to provide private open space. The aggregate area of all proposed balcony projections for the entire lot within required yards shall not exceed three (3) times one-half (1/2) of the buildable width of the lot if all balcony projections are located in either the front or rear yard. The subject property is 30 feet in width and therefore provides 24 feet of buildable width (30 feet of width minus both required side yards of 3 feet). One half of this buildable width is 12 feet multiplied by 3 (maximum balcony projection) which equals 36 square feet (12' x 3' = 36 sq. ft.) total balcony area.

The subject property is a substandard lot area and fronts on 12th Place. Like many portions of lots in Area District III and IV which front on an alley, 12th Place is considered the front of the property and therefore must conform to current projection restrictions into the required 5-foot front yard setback area.

The applicant is seeking relief from MBMC Section 10.60.040 (F) 5a, requesting approval to double the balcony area to 72 square feet. This would be accomplished by extending both approved front balcony projections an additional 1.5 feet for a total of 3 feet into the required setback (3' wide x 12' long x 2 (both levels) = 72 square feet.

In order to grant a Variance request, Section 10.84.060 (B) of the zoning code requires that the Planning Commission must make required findings as follows:

1. Because of special circumstances or conditions applicable to the subject property, including narrowness and hollowness or shape, exceptional topography, or the extraordinary or exceptional situations or conditions, strict application of the requirements of this title would result in peculiar and exceptional difficulties to, or exceptional and/or undue hardship upon, the owner of the property.

2. The relief may be granted without substantial detriment to the public good; without substantial impairment of affected natural resources; and would not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare.
3. Granting the application is consistent with the purposes of this title and will not constitute granting of a special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district and area district.

MBMC Section 10.84.010, Purpose of a Variance, states that Variances may be granted for “yards” (setbacks), as well as other development standards. Additionally, this Code Section gives the Planning Commission authority to approve, conditionally approve, or disapprove findings for Use Permits and Variances provided that the project meets the required findings.

The applicant’s attached material (Exhibit B – Applicant’s Findings) states that variance approval is appropriate for the following reasons:

1. Hardship has been created due to misapplied regulations on the subject half lot amongst through lots.
2. Adjacent structures located on full lots dwarf the subject half lot resulting in a “close-in” effect.
3. The code requirement has affected their ability to find suitable outdoor balcony space.
4. The neighbor’s buildings have blocked all prevailing winds, sunshine and any view of the ocean.
5. The inconsistent setback requirement along 12th Place creates greater setback and massing requirements for smaller lots.
6. Where is the logic to the code and how it relates to specific unique properties? The balcony extension is not a life safety issue.
7. The subject half lot is unique in that there are only two half lots in the area and are oddities and cannot be compared fairly to half lots in other areas of town such as the El Porto area where most of the lots are half lots.

Staff Comments

While the subject property is not a full size lot and nonconforming for minimum lot area, it is not unique as there are many portions of lots located in Area District III and IV. Structures which front on a street (or alley) have projection restrictions that apply to all residential properties throughout the city including the larger lots in Area District I and II. In 1990, with the adoption of the current code requirements (Z.O.R.P), all projections including fireplaces, architectural features, bay windows, eaves, covered porches and decks, canopies and entry covers, were restricted to reduce the appearance of buildings designed closer to the required setbacks. When the code was adopted there was no distinction as to the size of property or area district. Since the adoption of the code requirements in 1990 no permits have been issued that allow excess balcony area. The balcony area restriction of 36 square feet applies to all lots in Area District III and IV and has not been misapplied as the applicant has indicated because had the subject property

been a full size lot the same balcony area restriction of 36 square feet would also apply. The applicants have stated that they desire to have a balcony project that preserves their view of the ocean. Staff points out that the city does not guarantee views as there is no view ordinance to enforce. Staff suggests that if the applicant feels that by extending the balcony an additional 1.5 feet preserves their view to the ocean they have the option to extend the upper level balcony to within 2 feet of the property line. However this would mean that the mid-level balcony must remain within the building envelope away from the setback area to comply with current code requirements. Additionally, they can create additional "suitable" open area within the building envelope by reducing the proposed habitable area. The property owners must decide whether they want more building area or open area, which is a common issue with portions of lots.

The Planning Commission has previously reviewed Variance applications requesting additional living area projections on half lots that front on an alley. In those cases the Commission has approved habitable area in these setback areas finding that the size of those parcels are small and constituted a hardship and special circumstance and that the projections would not be detrimental to the public good due to similar projections from surrounding properties and the request did not grant a special privilege, since all full size lots are allowed rear yard projections onto an alley.

While the subject application and those Variances approved by the Commission deal with setback projections, they are different in nature. Living area projections are a "setback issue" and are only permitted on through lots with an alley condition in Area Districts III and IV. A balcony area into a setback is a "projection" issues because it is only permitted in a front or rear yard and applies throughout the city.

Public Input:

A public notice for the project was mailed to the property owners within 500 feet of the site and published in the Beach Reporter newspaper. At the writing of this report, staff had not received any phone calls or correspondence regarding the subject applications. However the applicant submitted a petition of signatures (attached, Exhibit D) gathered from property owners living adjacent to the site, in support of the applicants Variance application.

CONCLUSION

Staff recommends that the Planning Commission conduct the public hearing, consider the information presented, and direct staff as determined to be appropriate. Specific determinations suggested to be made for the application include the following:

1. Determine whether the subject proposal meets the required findings per MBMC Section 10.84.060 (B), specifically if a hardship and special circumstance exists and would not be granting a special privilege to the property owners.
2. Determine if there are other alternatives to obtain suitable outdoor space as desired by the applicant.

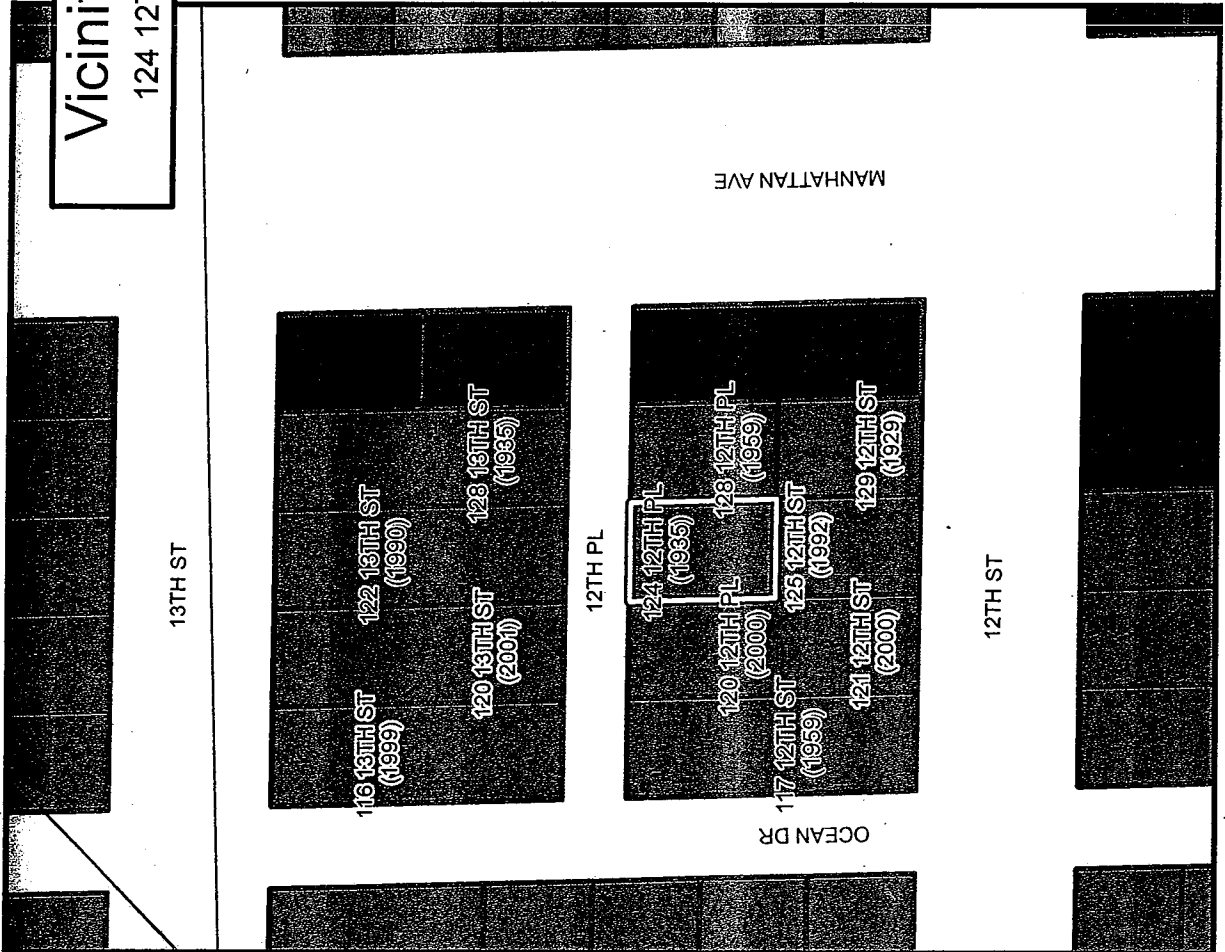
Attachments:

Exhibit A	Site Location Map
Exhibit B	Applicants Narrative and Findings
Exhibit C	Applicant's Petition of Signatures
Exhibit D	Architectural Plans
Exhibit E	Applicants Photo's/Site Plan




cc: Frank and Carlyn Djie, Applicants
Peter De Maria, Project Architect

Vicinity Map

124 12TH PLACE



Legend

-  Subject Property
-  Zoning CD
-  Parcels
-  Zoning RH



City of Manhattan Beach
Community Development

ARCHITECTURE

DE MARIA DESIGN
ASSOCIATES INC.

941 MANHATTAN BEACH BLVD.
MANHATTAN BEACH, CA 90266
PHONE: 310.802.1270
FAX: 310.802.1260
info@demariadesign.com

Date: January 25, 2007
Project Address: 124 12th Place
Manhattan Beach, CA 90266
Owners: Frank Djie & Carlyn Kinneson Djie
124 12th Place
Manhattan Beach, CA 90266
To: Manhattan Beach Planning Commissioners

Attached you will find our Required Findings and additional support information related to our Variance application. Please feel free to contact our office at 310 802-1270 for any clarifications.

Required Findings

1. Because of special circumstances and conditions to the subject property, strict application of the requirements of this title would result in peculiar and exceptional difficulties to, or exceptional and/or hardships upon, the owner of the property.

The hardship that has been created on this property is due to the misapplied regulations on this half lot amongst through lots. The hardship here has been created by the development of adjacent structures that have now dwarfed this half-lot in a neighborhood of through lots and commercial buildings. The resultant "closed in" effect that has been created by neighboring structures affords our client only the ability to encroach upon the front setback to find any suitable outdoor balcony space. We have already integrated open area along the side of the property at each of the upper floors. The neighboring residence to the west is approximately 6' away and it projects out towards 12th Place, well beyond our front setback line. That neighboring house blocks all prevailing winds, afternoon sunshine, and any alley views of the ocean that once existed for our client. Our proposed expanded balconies create an opportunity for the homeowners to capture the late afternoon sun, a potential view of the ocean and the ocean breezes. None of this is possible in the side or rear yard as those "open areas" are surrounded by neighboring bathrooms or bedrooms. The inconsistent setbacks requirements along 12th Place create greater setback and massing requirements for homeowners on smaller lots.

Of the other seven homes on the 12th Place, all of them are closer to the property line than we are proposing. Upon further and a more detailed inspection, we have found that balcony and fireplace setbacks on these adjacent buildings are as little as 1'-9" on up to 5'-0" away from the property line. Two houses on the block have 1'-9" set backs to their balconies, another home has a 2'-0" setback, another is at 2'-6", and another is at 3'-0. (See attached)



Required Findings continued...

- 2. The relief may be granted without substantial detriment to the public good; without substantial impairment of affected natural resources; and not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare.**

We have met and corresponded with representatives from the Planning Dept. on a few occasions to discuss this project. Our Planning Dept. here in Manhattan Beach is excellent and their explanation of the code was clearly communicated to us. As a team, we analyzed the relevant code sections and tried to apply some logic to the code and how it relates to our specific and unique property. The question that continuously resurfaced when we encountered this regulation that ran counter to existing neighborhood conditions was, "...what is the intent of this section of the code?" The code usually focuses on safety issues first; for example, dictating the setbacks that enable firefighters to access properties and to prevent the potential spreading of a fire from property to property. Beyond safety, we have found that Manhattan Beach Planning is deeply committed to the prevention on "mansionization" projects. The regulation of building size, setbacks, massing and bulk are major issues. The expansion of these balconies does not encroach upon any neighboring property views. In addition, neither unsafe conditions nor increased bulk results from the proposed design and thus no part of the application is in any way detrimental to the public good. The proposed balcony expansion does it substantially impair any natural resources, neither does it create any conditions that are detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare.

- 3. Granting the application is consistent with the purposes of this title and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district and area district.**

The project is a single-family residence that is zoned RH in District III. We can understand the need for different setbacks for half lots such in other RH zones in town. The majority of homes in those districts are on half lots, however only our home and the house next door are on half lots on 12th Place. These homes are surrounded by large through lot homes and commercial buildings and thus our property is much different than a half lot located let's say, in the El Porto area. The City of Manhattan Beach no longer approves the creation of these half lots and the presence of these two lots surrounded by through lots is rare in this area. The approval of this variance is not setting precedence for setbacks on all half lots such as those located in El Porto. The half lots like those in El Porto, while they may be classified with the same zoning designation as this property on 12th Place, are surrounded by context that is just the opposite of 12th Place. Approval of this variance does not constitute a grant of special privilege inconsistent with limitation on other properties in the vicinity and in the same zoning district and area district. We have surveyed the Planning Dept. Map at the Public Counter and we have found that only two half lots, (ours and the lot next door), exist from as far south as 8th Place all the way up to south side of 15th Street. These seven city blocks, bound by Highland Avenue to the east and the Strand to the west contain well over 100 residences and commercial buildings. Basically our property and the property next door are oddities and cannot be compared fairly to half lots in other areas of town. The Planning Dept. has confirmed that in the past no variances such as the small balcony expansion in the required setback we are proposing have been approved on half lots. Planning also confirmed that in the past, variances to allow enclosed habitable space within the front yard setback on similar lots and within the front yard setback have been approved.

Additional Supporting Information/Statement

The Variance Request:

The project is a single-family residence that is zoned RH in District III. The home is currently under construction and is already permitted. We are requesting that a variance be approved for an increase of balcony area in the front yard setback regulated by Manhattan Beach Planning and Zoning Code, Section 10.60.040 F5(a):

a. Exceptions for RM and RH Districts. Balcony projections are allowed in both the required front and rear yard for each dwelling unit to provide private open space. The aggregate area of all balcony projections for the entire lot within required yards shall not exceed 3 times one-half of the buildable width of the lot if all balcony projections are located in either the front or rear yard, and 3 times two-thirds the buildable width of the lot if balconies are located in both the front and rear yards.

This section of the code limits 30' wide lots (24' buildable) to an aggregate balcony area of 3 times one half of the buildable width (12'). That amounts to 36 sq. ft. of balcony area in the front yard setback. Our variance requests that the Planning Commission allow the current and code compliant balcony design to be expanded at the upper two floors for to total of 72 sq. ft., not the required 36 sq. ft. The expansion of these balconies is required because of the "closed in" effect that has been created by neighboring structures. The proposed balconies comply with all other regulations governing balconies and will be 2'-0" clear of the front property line. The requested overall area of the encroachment is 1'-6" deep x 12'-0" wide at each floor and will not impact any of the neighboring properties.

The Hardship, the History of the Site and Design Solution

The property owners have had this piece of land in their family since the 1930's. The owners did not purchase the property knowing that the lot was small and that the surrounding large structures were just part of the context. The Kinneson's house was the first on the block. Carlyn can tell you how as a child she remembers nothing but sand between the original house on this site and where the waves broke. These homeowners did not buy into a potential headache having their lot dwarfed by other larger lots, the headache was created long after they owned the property and it consumed the entire neighborhood. The original home that was on the property was a two-story structure. The bottom floor was within 1'-8" from the front property line. The cantilevered 2nd floor was on the property line with no setback. We had detailed discussions regarding whether to keep the original house and maintain the 2nd floor which enabled the house to peek out from the neighboring structures on the east and west sides. Ironically, although the 2nd floor wall of the original house was on the property line, the current code allowed us to keep it if we so desired. My clients decided that a new house should be more properly scaled back and the original solid front wall be replaced by an open-air balcony and glass. Our proposed design finds the partial balconies set back 2'-0" from the property line as opposed to the original solid wall which was on the property line. The wall at the front of the new house is located at least 5'-6" from the front property line. The allowable front setback is 5'-0" and we are set back an additional 6" to help minimize the bulk of the building. The entire front of the building, with the exception of the lower garage, is transparent glass, reducing the bulk and massiveness of a more solid material such as stucco, wood siding, brick, etc.

Half Lot Setbacks vs. Through Lot Setbacks

Please note that although our home is located in a RH zone in District III, the property is classified as a "half-lot". Only two of the eight houses on the block are half lots, all the others are through lots. Even though they are side by side, half lots and through lots have different setback requirements. Herein lies the portion of the code that is misdirected and thus is the primary reason why my clients suffer a hardship with regard to setbacks and open area requirements.

By code the "through lot" rear yard faces 12th Place. The setbacks for these rear yards has resulted in habitable space/solid walls to be located as close as 2'-6" from the rear property line and balconies as close as 1'-9" from the rear property line. Our property is a half-lot and the minimum set back from the same 12th Place property line is 5'-0". Our building on the half lot, is forced to be located at least 2'-6" further back from the same property line as a through lot. With this in mind, these rules make no sense when it comes to regulating bulk and reducing the mass of a building at the street. While a strong argument could be made that the half lot is entitled to have a setback that is consistent with that of the through-lot, we are not seeking to increase habitable floor area or the massiveness and bulk of the building but merely asking that we be able to project our open rail balcony an additional 18" beyond what has been approved. The balcony would still be further away from the property line than the balconies on at least three other houses on 12th Place.

The neighboring structures project out and closer to the street than this home is allowed to. While they are not Planners or Architects, Frank and Carlyn feel that it simply isn't fair that every other home on the block is allowed to be closer to the property line than they are, especially when their home has been dwarfed by the adjacent structures. Their new proposed home can actually be made larger, with more square footage and thus command a larger deck area, yet they made the decision to demolish the original house and follow the true spirit of the code by pushing the bulk of their project well behind the setback line and reducing the allowable size.

Important Notes Regarding the Project Design

- The proposed building size is smaller than the allowed square footage.
- We demolished the original home that clearly violated our current zoning regulations but could have been left intact via grandfather clause.
- We have mitigated massing/bulk issues for our proposed project by setting the front wall of the habitable structure back 5'-6" from the front property line with only open rail balconies projecting into the front yard setback. A setback of 5'-0" is required for habitable space for our site, but nearly all of our neighbors can project a 3'-0" balcony into the required 5'-0" setback. The neighboring structure directly to the west has legally projected 2'-6" of habitable area into the 5'-0" setback.
- By design, our open rail balconies along with the glass facade creates a project that is light open and airy as opposed to a bulky solid stucco, wood, or brick wall.

Neighbor Support

Our design has been discussed with, and supported by, the neighbors on 12th Place and the surrounding streets (see attached letter). Our design decisions have supported the reduction of habitable space, and in turn reduced massing and bulk. Such actions show the clear intention and good will of these property owners. Frank and Carlyn visited each home on the block with their set of drawings, the house model and a drafted "Letter of Support" for the neighbors. Eight neighbors have positively endorsed the letter, everyone they met with voiced only support for their variance request.

Conclusion

In light of:

- 1) the removal of the original building which was located on the property line,
- 2) the design of the new home and its habitable space set back at least 6" beyond the required 5'-0" setback and
- 3) the neighboring structures surrounding the project all with habitable and balcony space as close as 1'-9" from the property 12th Place property lines, that results in our building with a cramped/squeezed side, front and rear yard,

we believe that our proposed application is not asking for any type of benefit but only that we are treated equitably on 12th Place.

In addition, any denial of this variance request sends a message that provides incentive to other homeowners to keep non-complying "grandfather clause" conditions that run counter to citywide massing and bulk concerns.

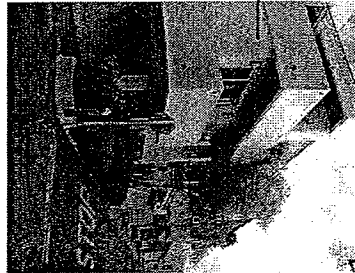
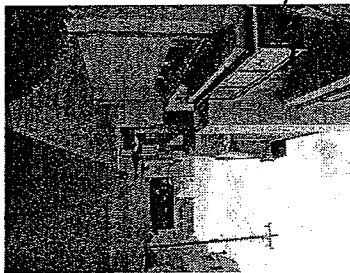
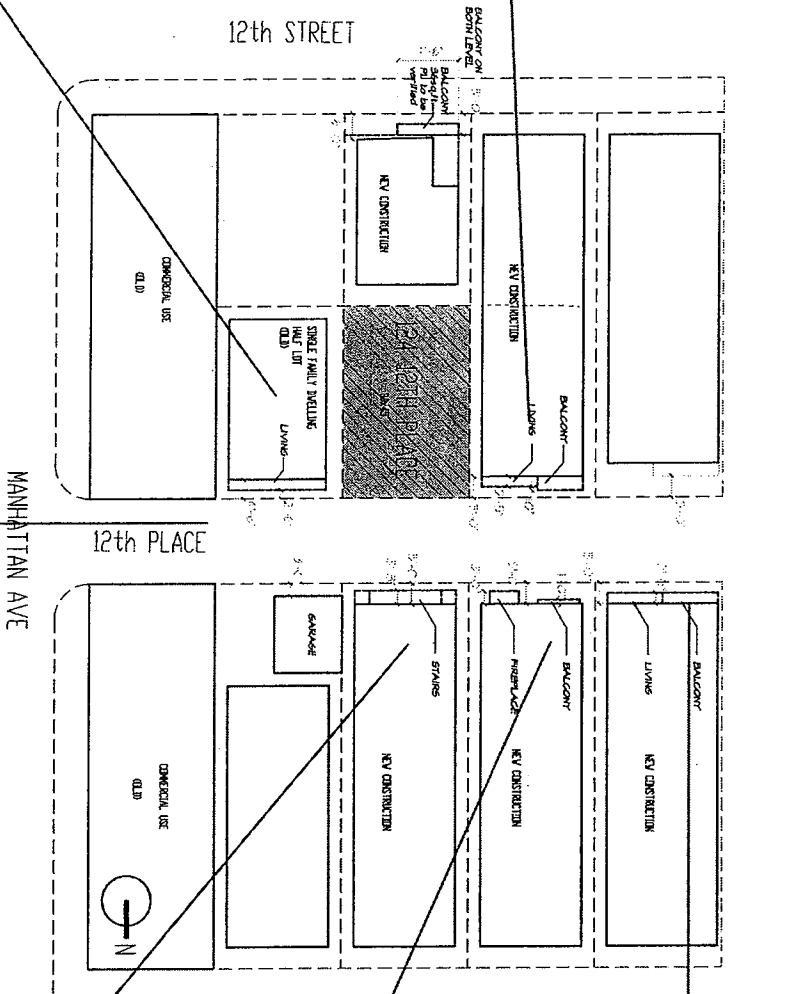
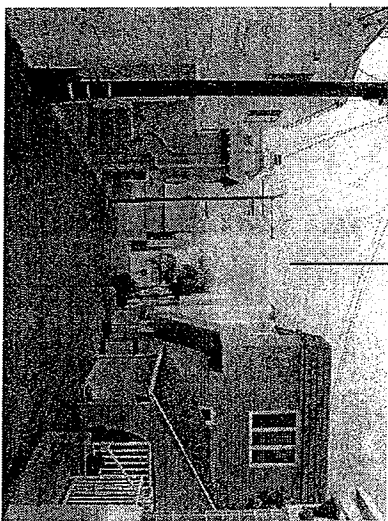
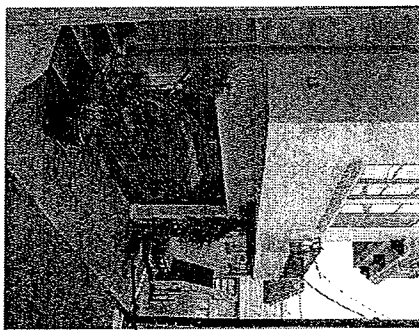
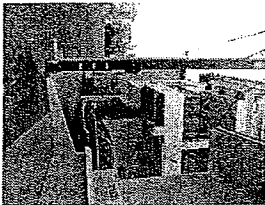
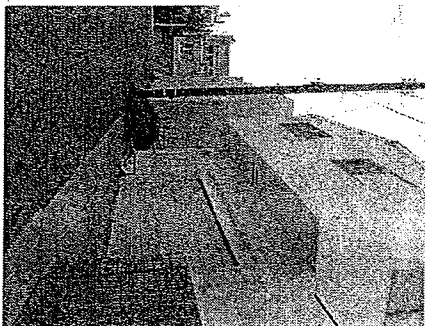
This project is unique and deserves to be treated as such. We respectfully ask for the Planning Commission to grant an approval of this variance application. Both the Djie Family and I thank you for your time, assistance and consideration of this important issue.

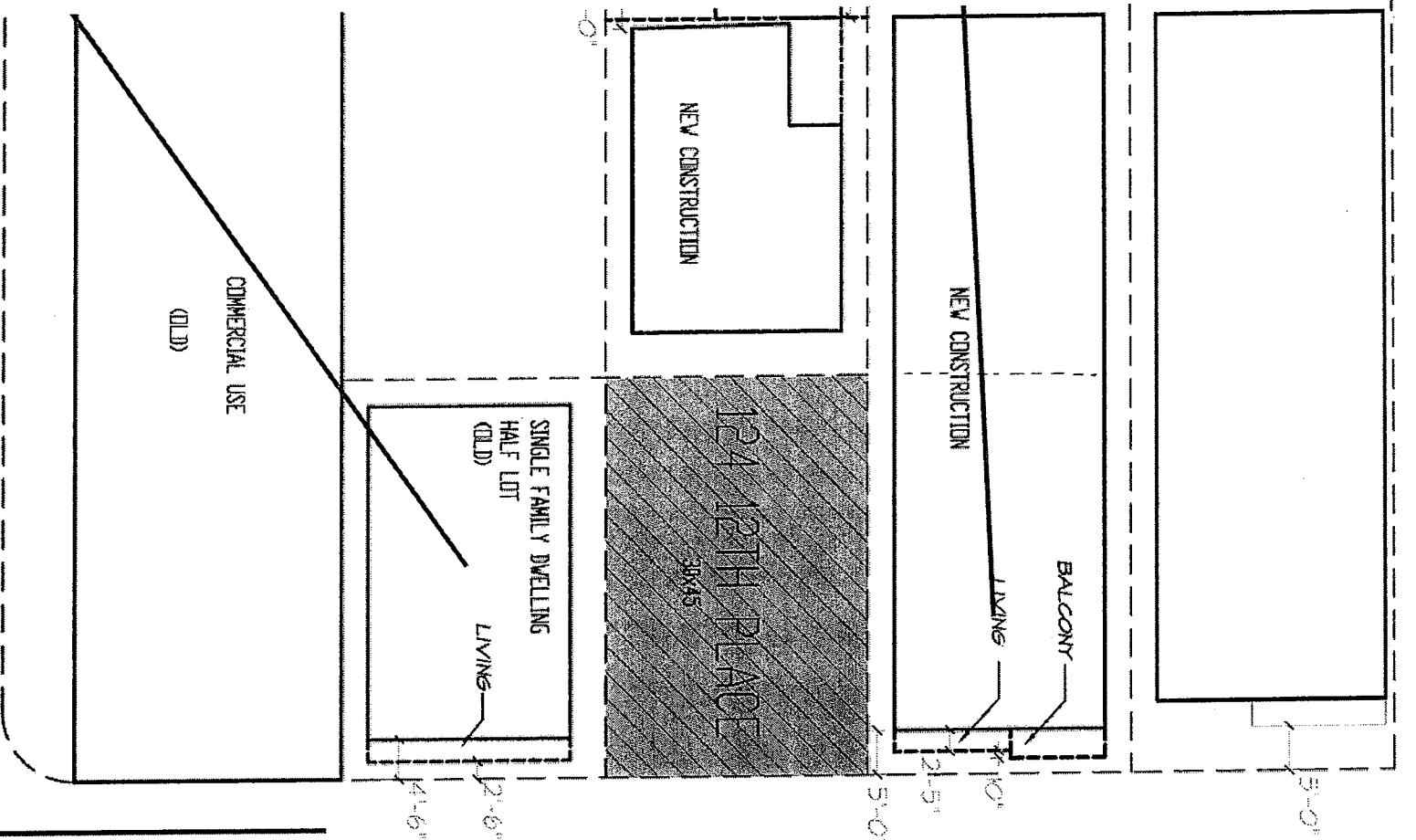
Kindest Regards,

A handwritten signature in black ink, appearing to read "Peter DeMaria", with a large, sweeping flourish at the end.

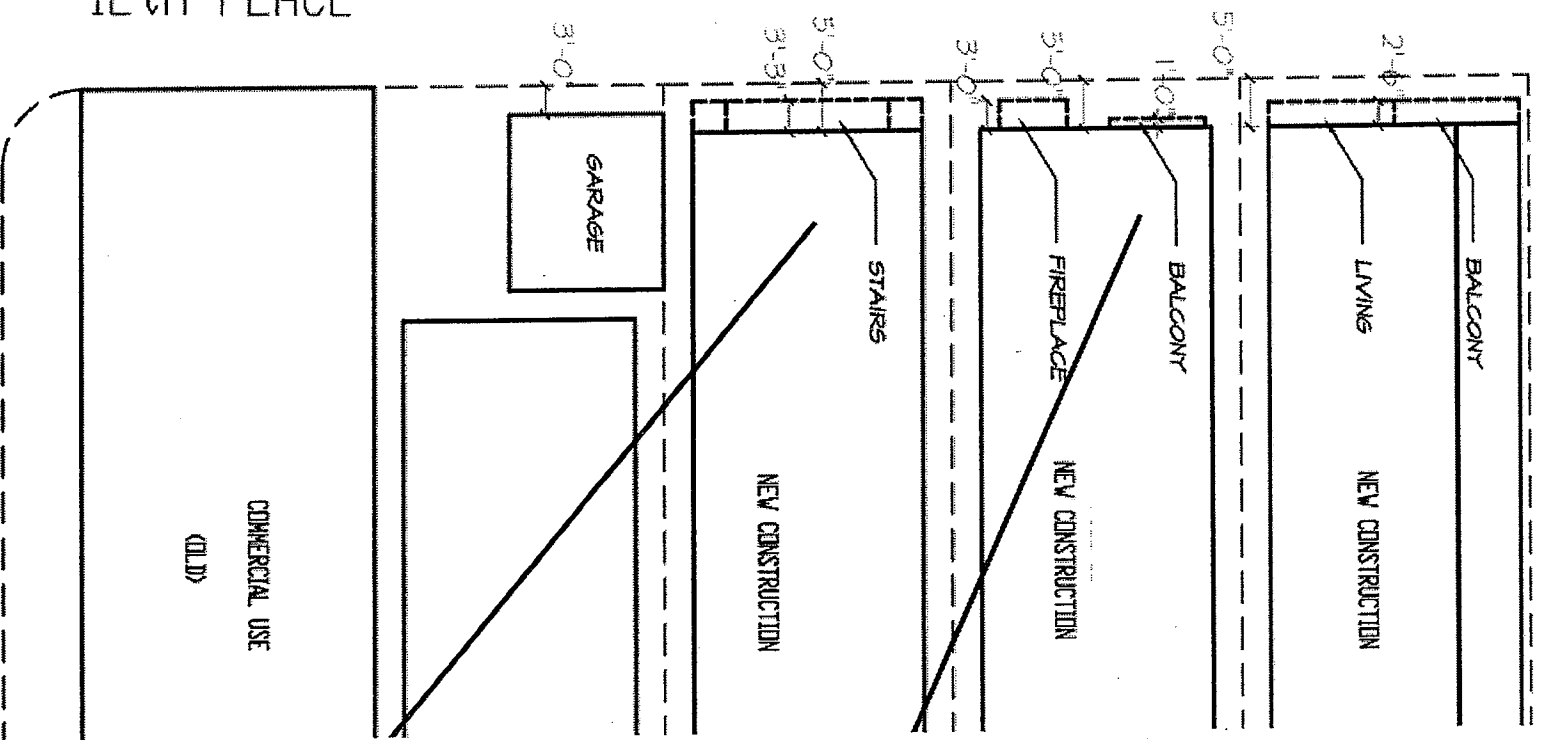
Peter DeMaria AIA
Architect

attachments: 12th Place block plan
neighbor support letter





12th PLACE





January 20, 2007

Hi Neighbors,

Our home at 124 12th Place is progressing; however, we have applied for a variance to conform to our existing neighbors' overhangs and set-backs, having asked for nothing else.

We need your support to get our variance approved. Please call us anytime with your questions and concerns At (562) 429-1345 or Peter, architect at (310)802-1270.

Thank you in advance for your help and concern regarding our wonderful neighborhood.

Sincerely, Frank and Carlyn

Please sign, print your name and address, and return in the self addressed envelope.

GREG & MELANFE ZWERNEMANN
120 12TH PLACE
MANHATTAN BEACH, CA 90266

MIKE BALES
116 13TH ST NB, 90266

JORGE BIRNBAUM.
1209 MANHATTAN AVE.
MANHATTAN B.C.H. CA 90266.

Kate Cliebe
120 12th Place
Manhattan Beach, CA 90266

JOE REITMEIER
128 12TH PLACE
MANHATTAN BEACH, CA 90266

January 20, 2007

Hi Neighbors,

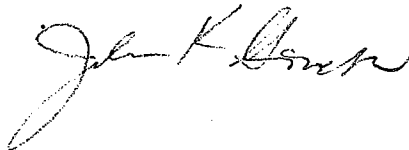
Our home at 124 12th Place is progressing; however, we have applied for a variance to conform to our existing neighbors' overhangs and set-backs, having asked for nothing else.


We need your support to get our variance approved.
Please call us anytime with your questions and concerns
At (562) 429-1345 or Peter, architect at (310)802-1270.

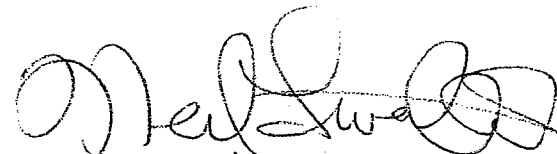
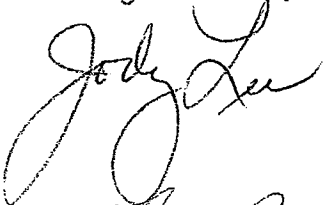
Thank you in advance for your help and concern regarding our wonderful neighborhood.


Sincerely, Frank and Carlyn

Please sign, print your name and address, and return in the self addressed envelope.

 Julia K. Gorella
120 13th St. MB. 90266

 JANET HILTON
122 - 13th St MB 90266

 NEIL LEVENTHAL
128 13th St MB 90266
 128 Pistoria St. MB 90266

 1308 Manhattan Ave
MB 90266

CITY OF MANHATTAN BEACH

****DRAFT****

**MINUTES OF THE REGULAR MEETING OF THE PLANNING COMMISSION
FEBRUARY 28, 2007**

1 A regular meeting of the Planning Commission of the City of Manhattan Beach was held on
2 Wednesday, February 28, 2007, at 6:35p.m. in the City Council Chambers, City Hall, 1400
3 Highland Avenue.

4
5 **ROLL CALL**

6
7 Chairman Bohner called the meeting to order.

8
9 Members Present: Cohen, Lesser, Powell, Schlager, Chairman Bohner
10 Members Absent: None
11 Staff: Richard Thompson, Director of Community Development
12 Daniel Moreno, Associate Planner
13 Sarah Boeschen, Recording Secretary
14

15 **APPROVAL OF MINUTES**

16
17 Commissioner Lesser requested that page 9, line 7 of the February 14 minutes be revised to read:

18
19 “Commissioner Lesser indicated that he is reviewing the application solely as a minor exception
20 and is concerned with the scale of the existing structure, with the narrowness of the setbacks, and
21 the height of 3.88 feet above the permitted minimum. As to the issue of mansionization, he said
22 that restricting property rights is taking takes away from the marketability of properties. . .”
23

24 Commissioner Powell requested that the spelling be corrected from “Shuman” to “Schumann” on
25 page 7, line 39 and page 8, lines 17 and 22 of the minutes.

26
27 A motion was MADE and SECONDED (Lesser/Powell) to **APPROVE** the minutes of February
28 14 2007, as amended.

29
30 AYES: Cohen, Lesser, Powell, Chairman Bohner
31 NOES: None
32 ABSENT: None
33 ABSTAIN: Schlager
34

35 **AUDIENCE PARTICIPATION** None

36
37 **PUBLIC HEARINGS**

38
39 **06/0726.1 Consideration of a COASTAL DEVELOPMENT PERMIT and VARIANCE**
40 **Requesting Approval to Exceed the Maximum Allowable Balcony Area in a**



PLANNING COMMISSION [DRAFT] MINUTES

February 28, 2007

Page 2

Required Yard, in Conjunction With the Construction of a New Three-Story Single Family Residence at 124 12th Place

Commissioner Lesser commented that the architect for the subject project has done work for him and his wife. He commented that the project architect has also recently attended a Cultural Landmarks Committee meeting on which he serves. He stated, however, that he has no financial interest in the subject project and feels he can participate and consider the issue fairly.

Associate Planner Moreno summarized the staff report. He commented that a fax was received after the staff report was written from the property owner to the east of the subject property which has been provided to the Commissioners with concerns regarding notification and potential view blockage resulting to their property from the project. He indicated that the applicants have received a Building Permit and Coastal Development Permit to build a three story single family residence with a two car enclosed garage. He indicated that the with approval that was granted, the building will meet all current zoning requirements including building height, open space, garage area, setbacks, and projection requirements. He commented that since the Code was revised in 1990, no permits have been issued for balcony projections over the allowable maximum area. He said that two balconies on the second and third level off of the alley are designed to extend out 1 ½ feet and 12 feet wide, with a total area of 36 square feet for both balconies. He indicated that the request is to extend the balconies an additional 1.5 feet and maintain the 12 foot width of the projections for a total of 72 square feet of balcony area. He said that alternative designs would be to provide all of the balcony area on the top level or making the balconies much more narrow and provide some projection on the top and bottom.

Associate Planner Moreno indicated that there is a minimum amount of usable open space required, and most of the open space for the subject project is within the rear yard setback. He said that the proposed projections are not included as part of usable open space. He commented that the variances that have been considered previously by the Commission have been regarding habitable area and are an issue regarding setbacks, which is included in a different section of the Code than balcony projections. He indicated that the property is in a 20 foot wide alley. He commented that there are approximately 300 half lots of less than 1,400 square feet in District III and 180 half lots in the El Porto area. He stated that the hearing was noticed within a radius of 500 feet of the site, and staff received no comments in writing prior to the preparation of the staff report. He commented that the owner has provided a petition of signatures in support of the project from the neighbors.

In response to a question from Commissioner Lesser, Associate Planner Moreno indicated that the Council felt that balcony projections should be limited because they give the impression that buildings are closer into the setback than is actually the case.

PLANNING COMMISSION [DRAFT] MINUTES

February 28, 2007

Page 3

1 Commissioner Powell asked whether the 904 square feet listed under existing should be changed
2 to 1,687 square feet under Proposed in the section under Land Use on page 2 of the staff report.

3
4 Associate Planner Moreno said that the intent in the staff report was to show that the home is not
5 changing from a single family residence to a multi zone building.

6
7 Chairman Bohner opened the public hearing.

8
9 **Carlyn Kennisan Djie**, the applicant, said that she intends to live on the property, and they want
10 to have a residence which has air flow and sunlight. She pointed out that they did not design to
11 the maximum allowable buildable floor area. She indicated that she does think they have a
12 hardship because there is no yard space between their property and the adjacent structures. She
13 commented that they feel the proposed design is compatible with the neighborhood. She
14 indicated that the adjacent neighbor to the east has a concern that their window not be blocked.
15 She commented, however, that the neighbor's property extends to within 2 feet of the property
16 line, and the subject structure would not block their view. She commented that there are very
17 few half lots in the area around the subject property.

18
19 In response to a question from Commissioner Lesser, **Ms. Djie** said that the subject design would
20 provide a greater balcony area and would provide additional light.

21
22 In response to a question from Commissioner Cohen, Associate Planner Moreno said that the
23 subject structure would be allowed to have 2,300 square feet of buildable floor area. He said,
24 however, that it would not be possible to build to that amount because of the restrictions for open
25 space.

26
27 Commissioner Powell commented that he assumes the projection outward on the top level would
28 presumably be desirable in order to provide an ocean view. He asked whether the applicant had
29 given any thought to moving the lower balcony into the building envelope which would allow for
30 the upper level balcony to project outward.

31
32 **Ms. Djie** said that they do not foresee being able to obtain an ocean view from the balcony
33 because the rear of the adjacent condominium units is within 2 feet of the property line. She
34 stated that the intent is to have an equal balcony on both levels to be used by their family.

35
36 Commissioner Powell asked if there was any consideration of providing a further setback on the
37 building that would provide additional open space and provide for a wider balcony.

38
39 **Ms. Djie** said that a hardship is created because they are closed in between the surrounding
40 buildings. She indicated that providing the balcony is the only means of providing additional

PLANNING COMMISSION [DRAFT] MINUTES

February 28, 2007

Page 4

1 sunlight and air flow to the home.

2
3 **Peter De Maria**, the project architect, said that the hardship exists because the surrounding
4 through lots have created a cavern around the subject property. He pointed out that half lots are
5 required to have back yard space, which impacts that amount of permitted livable area; however,
6 full lots are not required to have the same rear yard space. He said that the rear yard setback
7 requirements for full lot is not consistent with the front yard setback for half lots. He commented
8 that nearly 90 percent of the lots in the El Porto and sand section area are half lots, but there are
9 no half lots in the Tree Section. He indicated that on the subject block, all of the lots are full lots
10 with the exception of two. He said that there are no other half lots for maybe seven or eight
11 blocks, which constitutes a unique situation for the subject property. He said that it is not fair
12 that the full lots are able to be built out so close to the property line, but the subject half lot must
13 maintain the setback. He indicated that they do not feel they are making setback and bulk
14 conditions any worse than exist currently.

15
16 **Mr. De Maria** pointed out that he does not believe anyone has previously applied for a Variance
17 to have additional square footage for a balcony beyond the maximum allowable. He said that it
18 is difficult to understand why additional area for livable open space would be approved by a
19 Variance as has been done in the past but not an additional open air balcony area as is being
20 requested by the applicant. He commented that language in the Code needs to be addressed for
21 the specific situation of half lots. He stated that cutting in further into the building to
22 accommodate the balcony would amplify the cavernous effect, and the only relief is to extend out
23 toward the street. He indicated that because their setbacks are different than the surrounding
24 properties, the structures to the west are pushed out further and block off the subject property.
25 He commented that denying the Variance would encourage property owners of half lots to
26 maintain their nonconforming structures close to the property line. He indicated that allowing
27 the Variance would send a message that the City is receptive to modifications for these unique
28 situations that would bring properties more in compliance with the Code. He stated that they do
29 not feel the project would set a precedent because it is a unique situation.

30
31 Commissioner Cohen commented that she is not certain if the request is really for a Variance or
32 asking for a deviation from the Code because a building that is built through on a full lot has a
33 rear yard setback that is not in conformity with the front setback for a half lot. She said that she
34 is not certain if the Commission has the jurisdiction to go against the Code. She said that
35 recognizing the inconsistency of the applicant's property would apply to all half lots because the
36 rules are similar to all high density districts, and the request is calling the rule for half lots into
37 question.

38
39 Associate Planner Moreno commented that there are 392 half lots in District III, and 220 in the El
40 Porto area. He said that the same rule for half lot setbacks would apply if the property were on a

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1 street rather than an alley.

2

3 **Mr. De Maria** commented that most of the El Porto lots are half lots; however, he is certain that
4 only about 10 percent of the half lots in the remainder of the City have a similar situation of
5 being bounded by through lots.

6

7 Director Thompson commented that staff cannot make a conclusion regarding the number of half
8 lots that are bound between through lots without further study. He said that staff would provide
9 additional information regarding the number of similar situations within the City if it is important
10 to the Commissioners.

11

12 Commissioner Powell commented that he found two similar situations to the subject site when he
13 walked the surrounding blocks, and he does not believe it is as unique a situation as has been
14 represented. He indicated that the layout of the home is unique with a kitchen and dining area
15 and master bedroom and bathroom on the upper level and a living room with two bedrooms on
16 the lower level.

17

18 **Mr. De Maria** commented that the design is based upon the lifestyle of the applicants and how
19 they plan to live.

20

21 In response to a question from Commissioner Powell, **Mr. De Maria** commented that the
22 original intention was to request the larger balcony. He indicated that they decided to request
23 approval for the project and then apply for the Variance secondarily after the building permit was
24 received in order to speed up the construction process. He indicated that the building is designed
25 to support the larger balcony. He said that they felt the larger balconies was a very important
26 issue, but they did not want it to stop the entire construction process.

27

28 Chairman Bohner closed the public hearing.

29

30 Director Thompson commented that the issue of the lot pattern of half lots in certain areas could
31 help to support the applicant's position, and staff would be happy to bring back further
32 information regarding the pattern of half lots if it is important to the Commission.

33

34 In response to a question from Commissioner Schlager, Director Thompson said that it would be
35 a stronger case for being a special circumstance if it were true that the subject site is one of only a
36 handful of half lots located between full lots.

37

38 Commissioner Schlager commented that he lives in a home in the Sand Section on a full lot, and
39 it is difficult to imagine living in a lot enclosed by two adjacent larger structures. He said that he
40 feels further information regarding the issue of half lots being surrounded by full lots would be

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1 helpful.

2
3 Commissioner Powell said that he likes the design and recognizes that the home could have been
4 made larger, and the appearance of bulk has been reduced by the windows and open railing. He
5 stated that he would be open to a more specific survey of the pattern of half lots within the City.
6 He indicated, however, that he does feel a precedent could be set by approving the subject
7 application. He commented that special circumstances are typically where there are issues of
8 terrain, topography or irregular lot size that would make it difficult for a balcony to meet the
9 Code requirements. He said that it is a unique circumstance with regard to the amount of air
10 flow being limited, but the same situation is also true in Area Districts I and II with the larger lot
11 sizes. He said that he has difficulty arriving at special circumstances for granting of the subject
12 Variance. He stated that granting the Variance would set a precedent for other property owners
13 in the same zoning district and area district who want to build out their balconies. He said that
14 granting the particular Variance would be an open invitation for the next property owner who
15 wishes to build out their balcony. He pointed out that the intent of the Ordinance as to lot
16 projections was to limit the appearance of building out of structures further than the required
17 setbacks. He commented that particularly in locations next to an alley, extra square footage of a
18 balcony brings it closer to the balcony on the adjacent side, which is detrimental to the public
19 good. He commented that the Variance must meet the required standards, and not meeting the
20 standards does set a precedent. He said that he would have difficulty in approving the Variance
21 request.

22
23 Commissioner Lesser commended the applicant for trying to work with staff. He stated that the
24 applicant has filed its applications to move the project forward and has gone through the
25 legitimate steps in seeking a Variance. He said that the proposal would be formalizing a
26 nonconformity. He indicated that there have been no similar Variances granted in the past, and
27 there is difficulty making the required findings. He stated, however, that he does not see the
28 Code as being so rigid that the findings may not be made in this case, particularly if the clustering
29 of half lots exists as has been suggested by the applicant. He commented that the project
30 architect has noted that the project is a victim of circumstance, as the property is on a half lot
31 with the open space requirement that applies to it and not the surrounding full lots. He indicated
32 that the structure would be permitted to project further if it were a full lot. He said that the
33 former property was off of the street level, and the subject project is not. He indicated that the
34 subject proposal would result in less density. He said that the City wants to encourage
35 homeowners to remodel older homes to be consistent with the current Code requirements and
36 deemphasize the massing and the bulk close to the roadway. He indicated that the scale of the
37 deviation is not extremely great, and the requested protrusion is minor. He stated that there is
38 neighborhood support for the proposal. He commented that the objective is to provide more
39 open air and less density, which would be accomplished by the balcony. He said that while it
40 would be helpful for him to review the layout of other half lots within other area districts, he

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1 feels the findings can be made that there are special circumstances of a peculiar difficulty to the
2 applicant.

3
4 Commissioner Schlager indicated that he agrees with the comments of Commissioner Lesser, and
5 he would be open to moving the proposal forward. He commended the architect and applicant
6 for the design of the project, and he thinks the open space provided does deemphasize the
7 appearance of bulk. He said that he does not feel the Code was intended to restrict buildings
8 such as the subject project. He said that he feels the finding can be made that there is a special
9 circumstance in this situation; that the relief granted would not be a detriment to the public good;
10 that granting the application is consistent with the intent of the Code title; and that it would not
11 constitute granting of a special privilege. He said that he would support moving forward with the
12 proposal.

13
14 Commissioner Cohen also commended the applicant and architect on the design of the proposal,
15 and it does emphasize the open space, light, and air. She said that she would have denied the
16 project for the same reasons stated by Commissioner Powell that there is a hard and fast rule, and
17 she was also concerned about creating a special privilege that could not be denied to other half
18 lots. She indicated, however, that there is a special circumstance created for the subject property
19 if the other half lots in the area are not located between two full lots in the same manner as the
20 subject property. She said she is happy to grant the proposed Variance request if it is determined
21 that the lot pattern of the subject property is indeed unique.

22
23 Chairman Bohner indicated that he would agree with the majority of the Commissioners that the
24 unique location of the subject half lot does create a special circumstance. He said that the City
25 does want to encourage remodeling of homes, and the scale of the deviation being requested is
26 minor. He indicated that the design does emphasize open space and open air, which is important.
27 He stated that he would support the proposal.

28
29 Director Thompson commented that in looking at the map of lot patterns in the City, the subject
30 property is adjacent to a full lot but is also adjacent to three half lots. He stated that staff's
31 research may not arrive at a conclusion as favorable to the applicant's argument as was first
32 thought.

33
34 Commissioner Schlager commented that the purpose of the Code is to minimize the appearance
35 of bulk, and the intent of addressing the mansionization issue is to determine the look and feel of
36 the residential homes that is intended for the future. He said that, however, that there are many
37 half lots in the Sand Section built before the new Code requirements, which is probably the
38 reason why there have not been any requests for balcony projections. He stated that the Code
39 does not necessarily need to be changed. He commented that the pace of similar requests for
40 balcony projections coming before the Commission in the future will be very slow, and each

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1 should be considered individually and uniquely. He said that the proposed design is in line with
2 the vision of the General Plan and would not create bulk and creates additional open space. He
3 said that the request is minor in nature. He said that the cave like effect of the structure being
4 enclosed by two larger structures is significant and does create a special circumstance.

5
6 A motion was made (Lesser/Powell) to direct staff to draft a Resolution to **APPROVE** a Coastal
7 Development Permit and Variance requesting approval to exceed the maximum allowable
8 balcony area in a required yard, in conjunction with the construction of a new three-story single
9 family residence at 124 12th Place and **CONTINUE** the public hearing to the meeting of March
10 14, 2007.

- 11
- 12 AYES: Cohen, Lesser, Powell, Schlager, Chairman Bohner
- 13 NOES: None
- 14 ABSENT: None
- 15 ABSTAIN: None

16
17 Director Thompson said that staff will return with a draft Resolution approving the project at the
18 next meeting as directed by the Commission.

19
20 **DIRECTOR'S ITEMS** None

21
22 **PLANNING COMMISSION ITEMS**

23
24 **TENTATIVE AGENDA: March 14, 2007**

- 25
- 26 A Variance request for construction of two condominium units on a site without the
- 27 required vehicular access from a rear alley, at 308-318 Gull Street
- 28
- 29 B. Zoning Code Amendment and Local Coastal Program Amendment regarding
- 30 mansionization/lot mergers

31
32 **ADJOURNMENT**

33
34 The meeting of the Planning Commission was **ADJOURNED** at 8:00 p.m. in the City Council
35 Chambers, City Hall, 1400 Highland Avenue, to Wednesday, March 14, 2007, at 6:30 p.m. in the
36 same chambers.

37
38
39 _____
40 RICHARD THOMPSON
Secretary to the Planning Commission

37
38
39 _____
SARAH BOESCHEN
Recording Secretary

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1 ~~Commissioner Schlager and Chairman Bohmer indicated that they echo the comments of~~
2 Commissioner Lesser.

3
4 Commissioner Powell presented Council Member Cohen with a plaque on behalf of the
5 ~~Commission in recognition of her service.~~

6
7 **PUBLIC HEARINGS, CONTINUED**

8
9 **02/28/07.1-1 Consideration of a COASTAL DEVELOPMENT PERMIT and VARIANCE**
10 **to Allow a Balcony Projection, Into a Required Front Yard, to Exceed the**
11 **Maximum Allowable Area in Conjunction With the Construction of a New**
12 **Three-Story Single Family Residence at 124 12th Place**
13

14 Director Thompson indicated that staff has prepared a draft Resolution according to the direction
15 of the Commission at the previous meeting. He commented that the public hearing was
16 continued to this meeting, and the Commissioners may make changes to the draft Resolution as
17 they feel appropriate. He said that staff does not have a formal presentation.

18
19 Commissioner Lesser said that the project architect has done work for him and his wife. He said
20 that he has no financial interest in the project and feels he can consider the item fairly.

21
22 Director Thompson commented that staff's understanding is that the applicant is satisfied with
23 the language of the draft Resolution.

24
25 Commissioner Powell said that the reason that the Commission had determined the lot was
26 atypical and presents a hardship is the shadowing and blocking in effect of the adjacent structures
27 which distinguishes it from other half lots that front an alley way, and such language was not
28 included in the draft Resolution. He suggested that the end of Item L(1) on page 2 of the
29 Resolution include language stating: ". . . since the lot is substandard in size (30' by 45') and the
30 front yard is adjacent to an alley, not a street and location of other properties surrounding it and
31 further because of the resulting shadowing and blocking in effect or bulk effect of the
32 surrounding structures."
33

34 In response to a question from Commissioner Schlager, Director Thompson stated that it is
35 always good practice to put as much information in the findings included in the Resolution as
36 possible. He indicated that the language of the subject Resolution summarizes the reasoning for
37 approving the Variance, and it may help in evaluating similar requests in the future. He said that
38 it would be appropriate to include language as suggested by Commissioner Powell if the
39 Commission feels it is consistent with the previous discussion.
40

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1 Commissioner Bohner suggested wording the language: “. . . since the lot is substandard in size
2 (30’ by 45’) and the front yard is adjacent to an alley, not a street and location of other properties
3 surrounding it and because of the resulting shadowing and bulk effect of the surrounding
4 property.”

5
6 Chairman Bohner closed the public hearing.

7
8 A motion was MADE and SECONDED (Powell, Lesser) to **ADOPT** the draft Resolution to
9 **APPROVE** a Coastal Development Permit and Variance to allow a balcony projection, into a
10 required front yard, to exceed the maximum allowable area in conjunction with the construction
11 of a new three-story single family residence at 124 12th Place as amended.

- 12
- 13 AYES: Lesser, Powell, Schlager, Chairman Bohner
- 14 NOES: None
- 15 ABSENT: None
- 16 ABSTAIN: None

17
18 Director Thompson explained the 15 day appeal period and stated that the item will be placed on
19 the City Council’s Consent Calendar for their meeting of April 3, 2007.

20
21 **PUBLIC HEARINGS, NEW**

22
23 **03/14/07.2 Consideration of a VARIANCE to Allow Demolition of Existing Structures**
24 **and Construction of Two Condominium Units on a Site Without the**
25 **Required Vehicular Access From a Rear Alley at 308-318 Gull Street**
26 **(Savikas)**

27
28 Associate Planner Haaland summarized the staff report. He stated that the proposal is for a
29 condominium development on a property without rear alley access in Area District IV, where
30 such access is required for such a development. He stated that front and rear vehicle access is
31 generally required for beach area condominiums in order to provide for adequate parking. He
32 stated that some exceptions along The Strand and for corner lots are permitted, but none are
33 provided for Area District IV. He commented that the Code specifically states that Area District
34 IV is not eligible for any corner lot condominium development exceptions for front and rear
35 vehicle access. He stated that the subject site is a relatively large corner lot, and the plans
36 conform with the Zoning and Coastal Development standards. He indicated that the project
37 would have adequate access to achieve parking for two condominium units due to the corner side
38 alley. He commented that the arguments provided for approving the request are that the lot is
39 unusually long at 120 feet in length and is fairly steeply sloped; the subject block is located in the
40 ~~northern corner of the City and has an unusual lot pattern due to Highland Avenue curving~~