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File No. 79503

June 14, 2018

City Council
1400 Highland Avenue
Manhattan Beach, CA 90266

Re: Appeal of the Grant of the Minor Exception Amendment for 1208 The Strand

Dear Mayor Howorth and Honorable Members of the City Council:

This letter is to supplement information already transmitted to the City Council on May 4, 2018.

INTRODUCTION

The owners of the nonconforming building located at 1208 The Strand applied for an amendment to the Minor Exception granted in 2014. The approval granted by the Director of Community Development was appealed to the Planning Commission which denied the appeal on April 25, 2018. My client, 1200 Cherry Oca, LLC, the owner of a nearby home located at 1200 The Strand, has appealed the Commission's denial.

The basis for the current appeal is that: (1) there is no evidence that demonstrates that 10% of the existing structure, based on project valuation, is currently being maintained, a condition that must be satisfied to allow approval of the amendment; and (2) the evidence shows that a maximum of around 6.4% of the existing structure is currently being maintained – a figure well below the required minimum 10%.

A. THE CITY HAS NO EVIDENCE TO SUPPORT A FINDING OF COMPLIANCE WITH THE CONDITION WHICH REQUIRES THAT AT LEAST 10% OF THE VALUE OF THE BUILDING REMAIN BEFORE THE AMENDMENT TO THE MINOR EXCEPTION CAN BE APPROVED

The owners of the nonconforming building located at 1208 The Strand received building permits on February 27, 2017, for work having a value of \$382,811.35. A building permit for additional work was issued on June 1, 2017. However, the owners' contractor did extensive additional work – work not covered by either building permit – by removing all interior drywall, removing and replacing stud walls and adding shear walls without obtaining the required building permit. As a result, the City issued a stop work order on August 22, 2017. There was nothing in the staff report provided to the Commission that showed the value of the work done under the building permit issued in June or that of the additional unpermitted work.

The Director of Community Development stated in her approval of the amendment to the Minor Exception that the value of the building is \$840,514.98 with a valuation of the remaining portion of the building being \$126,000. There is nothing in the approval or in the staff report provided to the Commission that supports the \$840,514.98 existing valuation of the project; there is nothing that states whether the valuation was determined before or after the additional unpermitted work was done nor how the valuation was arrived at.

In order to justify the granting of the amendment to the Minor Exemption, Manhattan Beach Municipal Code § 10.84.120(G)(3) requires that a finding be made that "A minimum of ten percent (10%) of the existing structure, based on project valuation as defined in Section 10.68.030, shall be maintained." The staff report submitted to the Commission contained a statement by the Director that § 10.84.120(G)(3) had been complied with. There was nothing in the staff report provided to the Commission to support the Director's statement. A letter had been submitted to the Commission pointing this out and I stated the same thing to the Commission at the hearing. Neither Ms Ochoa, the Associate Planner who presented the appeal to the Commission, nor the Director, who was present at the hearing, provided any evidence to support the Director's statement.

Moreover, when we asked to see the file containing documents that might support the Director's statement, we were told that a Public Record Act request would be required. A request was submitted on April 26th, the day after the Commission hearing, asking for "[a]ny documents that support, refer to or concern the Director of Community Development's conclusion that the project at 1208 The Strand has a valuation of \$840,514.98." We received a response, a copy of which is attached as Exhibit A, stating that the City had "conducted an extensive search of its records and did not locate any information responsive to your request." This response shows that the City has no evidence or documentation that supports the conclusion that the existing value of the project is \$840,514.98.

Since no information was provided concerning the Director's finding of compliance with § 10.84.120(G)(3), and the Public Records Act response we received showed that there is, in fact, no evidence or documentation to support it, the Council should grant the appeal and reverse the approval of the amendment to the Minor Exception. Moreover, as shown below, the valuation of the structure prior to the commencement of the remodeling stated by the Director is low by over a million dollars.

B. THE REQUIREMENTS OF § 10.84.120(G)(3) ARE NOT SATISFIED SINCE NO MORE THAN 6.4% OF THE EXISTING STRUCTURE IS BEING MAINTAINED

Not only does the City lack any evidence that the existing valuation of the project is \$840,514.98, but that figure itself is grossly understated. Mark Palmer, an architect with 45 years of experience in California with high end residential and condominium projects like 1208 The Strand, reviewed all documents, correspondence, e-mails and construction documents related to the project. Mr. Palmer's declaration setting forth his background and the results of his review is attached as Exhibit B.

As set forth in his declaration, Mr. Palmer determined that the existing value of the project, based upon the current cost of remodeling construction for high-end residential and condominium projects would be around \$2,000,000 based on the generous assumption that the remodeled project would be worth no more than the cost of the remodeling. Using this valuation, the remaining percentage would be approximately 6.4%. If the valuation of the project prior to the start of the remodeling were based simply on the cost of construction, i.e., starting with a vacant lot and assuming that the value of the building would be no more than the cost of construction, then the value of the project would be approximately \$2,485,000, meaning that the remaining percentage of the project would be approximately 5.1%.

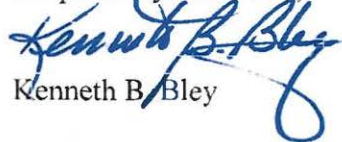
However, as noted above, these calculations are extremely generous because, as shown in the attached declaration, Exhibit C, of Robert Schumann, a real estate broker with extensive experience in Manhattan Beach, the value of the project before the remodeling was around \$10,850,000 leading to a remaining percentage of approximately 1.1%.

Thus, no matter how calculated, the remaining percentage of the existing structure is well below the minimum of 10% required under Section 10.68.030.

CONCLUSION

Based on all of the foregoing, 1200 Cherry Oca asks that the Council grant the appeal and reverse the approval of the amendment to the Minor Exception.

Respectfully submitted,

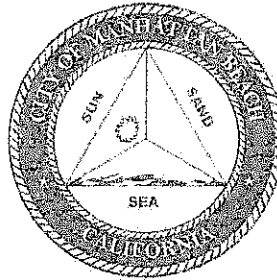

Kenneth B. Bley

CC: Lisa E. Kranitz, Esq.
Diana L. Courteau, Esq.

Mitchell, Alexander C.

From: Public Records Act Request <manhattanbeachca@mycusthelp.net>
Sent: Tuesday, June 05, 2018 4:13 PM
To: Mitchell, Alexander C.
Subject: Public Records Act Request :: W005373-051518
FilingDate: 6/5/2018 11:13:00 PM

--- Please respond above this line ---



06/04/2018

Alexander Mitchell
2029 Century Park East Suite 2100
Los Angeles CA 90067

Dear Alexander,

On , the City received your records request submitted on 5/15/2018.

According to your request, you wish to obtain the following information:

Community Development - Any documents that support, refer to or concern the Director of Community Development's conclusion that the project at 1208 The Strand has a valuation of \$840,514.98.

Date Range: No Dates Provided 1/1/2010 - 5/15/2018

The City has conducted an extensive search of its records and did not locate any information responsive to your request.

If you wish to modify or resubmit your request with more specificity, you may do so.

If you require any additional information or have any further questions, you may contact the City Clerk's Office at (310) 802-5056 or respond to this email.

Sincerely,

Martha Alvarez.

City Clerk's Office

To monitor the progress or update this request please log into the [Public Records Act System](#).

DECLARATION OF MARK J. PALMER

I, Mark J. Palmer, hereby declare:

1. All of the statements contained herein are based on own personal knowledge and, if called as a witness, I would so testify

2. I am an architect, licensed to practice in the State of California since 1968.

3. I have over 45 years' experience in the design and construction of high end residential homes and condominium projects in Beverly Hills and other affluent areas in the Los Angeles region.

4. My duties require that I have a continuing and up-to-date knowledge of construction costs.

5. I have been provided with, and have reviewed, the plans prepared by Michael Lee Architects, Inc., for the remodeling of the three unit condominium project located at 1208 The Strand in Manhattan Beach.

6. The plans show that the remodeling involves livable spaces, decks and a garage.

7. Based on my own experience and knowledge with similar projects, I have determined that the cost of the remodeling for the livable spaces will be between \$300 and \$500 per square foot; the cost of remodeling the decks will be between \$100 and \$150 per square foot; and the cost of remodeling the garage will be between \$75 and \$125 per square foot.

8. These costs represent those reasonably expected for high end residential and condominium projects based on new mechanical, plumbing and electrical installation, fire-sprinkler systems, interior and exterior finishes, amenities and the latest technology for home automation, security and green code compliance.

9. In order to determine the cost of the remodeling called for in the plans, I used an average of \$400 per square foot for the livable spaces, \$100 per square foot for the garage and \$125 per square foot for the decks.

10. Using the averages set forth in paragraph 9, I determined that the cost to remodel the entire building would be:

Unit A Livable Space		
1,190 square feet x \$400	\$	476,000
Unit A Deck		
183 square feet x \$125,000	\$	22,875
Unit B Livable Space		
1,190 square feet x \$400	\$	476,000
Unit B Deck		
161 square feet x \$125	\$	20,125

Unit C Livable Space		
2,080 square feet x \$400	\$	832,000
Unit C Deck		
374 square feet x \$125	\$	46,750
Garage for Units A, B and C		
1,081 square feet x \$100	\$	108,100
Total	\$	1,979,850

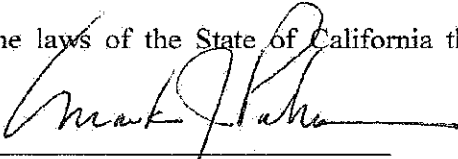
11. I also determined, based on my experience and knowledge, that the cost of construction of the entire building, assuming a vacant pad, would be between \$400 and \$600 per square foot for the livable spaces, between \$133 and \$200 per square foot for the decks and between \$100 and \$150 per square foot for the garage.

12. Using an average of \$500 per square foot for the livable spaces, \$167 per square foot for the decks and \$125 per square foot for the garage, I determined that the cost to construct the entire building would be:

Cost of livable spaces		
4,460 square feet x \$500	\$	2,230,000
Cost of decks		
718 square feet x \$167	\$	119,906
Cost of garage		
1,081 square feet x \$125	\$	135,125
Total	\$	2,485,031

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: June 12, 2018



 Mark J. Palmer

DECLARATION OF ROBERT W. SCHUMANN

I, Robert W. Schumann, hereby declare:

1. All of the statements contained herein are based on my own personal knowledge and, if called as a witness, I would so testify.
2. I obtained my California Real Estate Salesperson license in 1974 and my Real Estate Broker license in 1976.
3. In 1978 I established Real Estate West, Inc., a real estate brokerage located in Manhattan Beach that I continue to own and operate as the working and managing broker..
4. During my real estate career, I have sold 35 properties on Manhattan Beach's ocean front.
5. As a result of my experience, I am familiar with the market value of high end residential and condominium projects on Manhattan Beach ocean front.
6. I am familiar with the three unit condominium project located at 1208 The Strand in Manhattan Beach.
7. Based on my experience and knowledge, I believe that the fair market value of the building containing the three condominium units in 1208 The Strand prior to the commencement of remodeling was approximately \$10,850,000.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: June 13, 2018


Robert W. Schumann