




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

TO: Parking and Public Improvements Commission

FROM: Richard Thompson, Director of Community Development
Nhung Madrid, Management Analyst 

BY: Eric Haaland, Associate Planner  

DATE: July 26, 2012

SUBJECT: Consideration of an Encroachment Permit Appeal to Approve a Raised Yard in the Public Right-of-Way – 519 21st Street

RECOMMENDATION:

Staff recommends that the Commission **DENY** the request at 519 21st Street to construct a retaining wall and raised yard in the 21st Street public right of way (drive-street).

BACKGROUND:

A building permit was issued for an addition/remodel on the subject property on October 3, 2011, without any proposed encroachment work. The approved plan called for maintaining existing landscaping, walkway, and roadway curb within the public right-of-way abutting the property. During construction the applicant proposed a low retaining wall to extend a raised level yard into the right-of-way, which is not permitted. Subsequently, the applicant filed an encroachment permit appeal application to permit the raised grade. In accordance with Section 7.36.080 of Manhattan Beach Municipal Code, the Parking and Public Improvements Commission (PPIC) must review the appeal request and forward its recommendation to the City Council.

DISCUSSION:

The submitted appeal plan shows a new concrete wall, as much as 2 feet tall, supporting a raised front yard extending into the site's existing mildly sloped encroachment area (currently unused public right-of-way) with an entry walkway, including one step, toward the west side leading to the house. Section 7.36.150 of the Municipal Code permits fences and walls in encroachment areas at a maximum height of 3.5 feet in these areas, but does not permit changing the grade in drive-street encroachment areas (unlike walk-streets). This precludes the possibility of significantly raised grade for leveling-off the applicant's encroachment area. The plan does provide the required 2-foot clearance from the street curb to the proposed wall.

The applicant's attached request indicates the reasoning for the proposal is to make the front yard as private useable and functional area for the residence. The PPIC recently recommended approval of a right-of-way grade raising request at 301 28th Street, which was also approved by

the City Council. The purpose in that case was to create level decorative planter terraces on a long steep side-street slope, rather than a useable front yard area in this case.

The subject portion of 21st Street is characterized as a very narrow street in the Gaslamp District without sidewalks or high-volume traffic. Many encroachment fences (mostly non-retaining) exist in this area at the roadway curb, and are nonconforming to the 2-foot clearance requirement established in 2003. The abutting westerly property does have a leveled right-of-way grade similar to the applicant's proposal, however, that grade was pre-existing prior to the construction completed there in 2009.

Municipal Code Section 7.36.150 (D) states that "Significant alteration of the existing right of way grade is prohibited, unless determined to be necessary to accommodate a required public street improvement". Staff's understanding of the purpose of this requirement is to keep drive-street right-of-way in a manageable condition for future City street work, and to limit private reliance on public property.

Public Input

A notice of the Parking and Public Improvement Commission meeting was mailed to all property owners within a 300 foot radius from the subject encroachment property. Staff has received one (attached) response to the notice supporting the applicant's request.

CONCLUSION:

Staff does not support the request for the raised right-of-way grade and retaining wall because it is not consistent with the encroachment standards described above, and recommends that the PPIC recommend denial of the Encroachment Appeal request to the City Council.

Should the PPIC recommend approval of the raised grade, staff suggests conditions be imposed requiring restoration of the original grade, and removal of the retaining wall, whenever the existing building is demolished in the future, and that any City costs (future street work) that may result from the retaining wall be paid by the property owner.

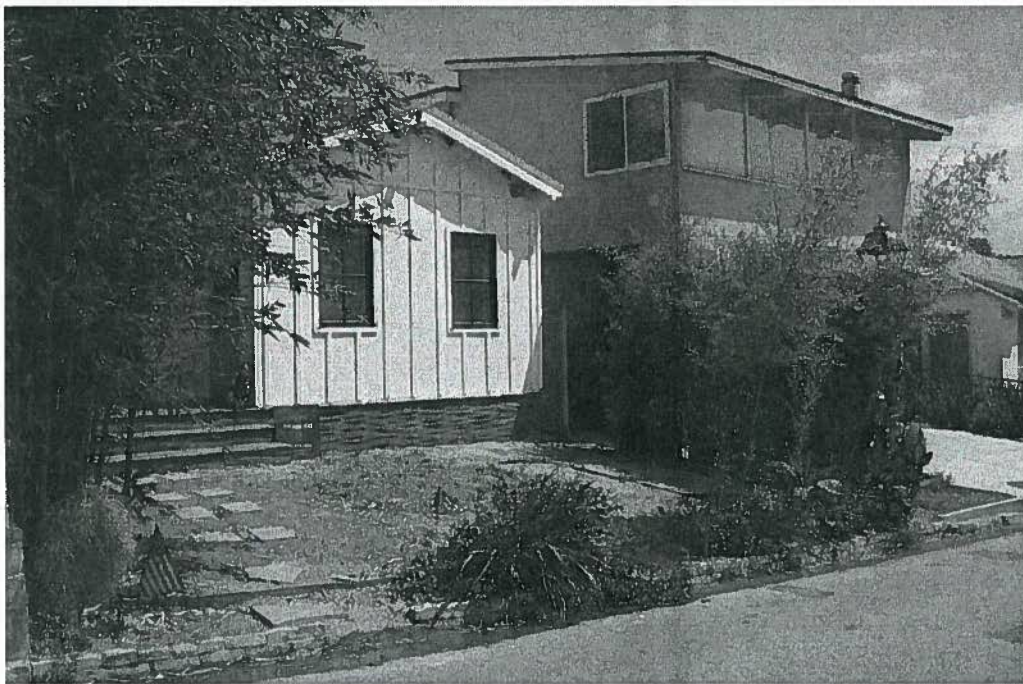
Attachments:

- A. Vicinity Map and Photos
- B. Encroachment Code excerpts
- C. Applicant Request
- D. Neighbor Input
- E. Encroachment Appeal plans (separate)

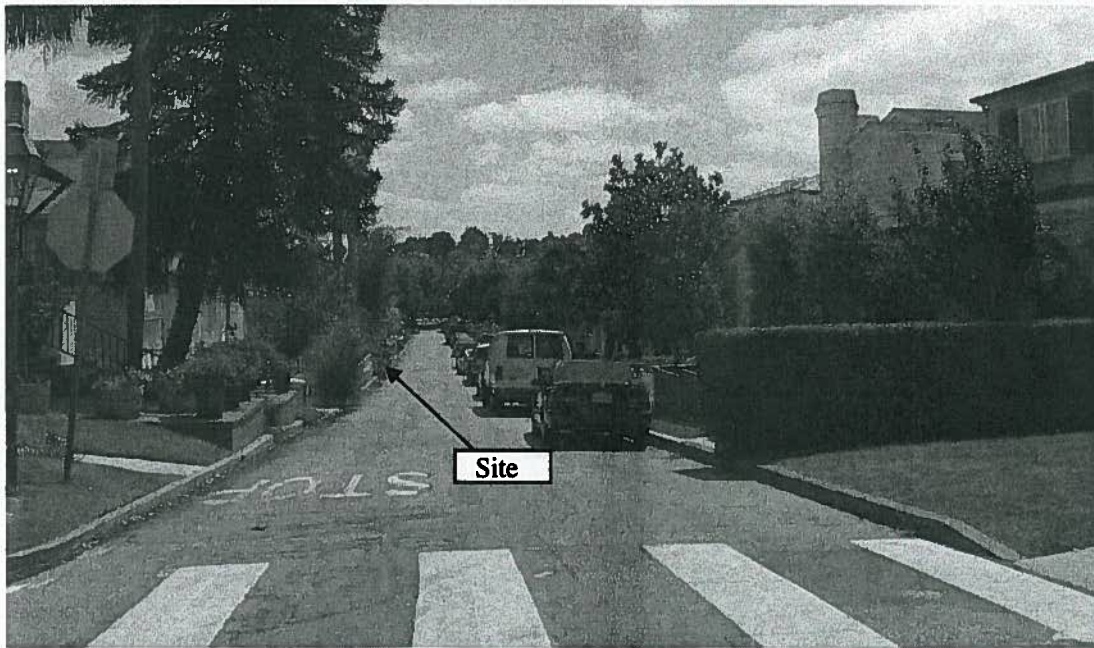
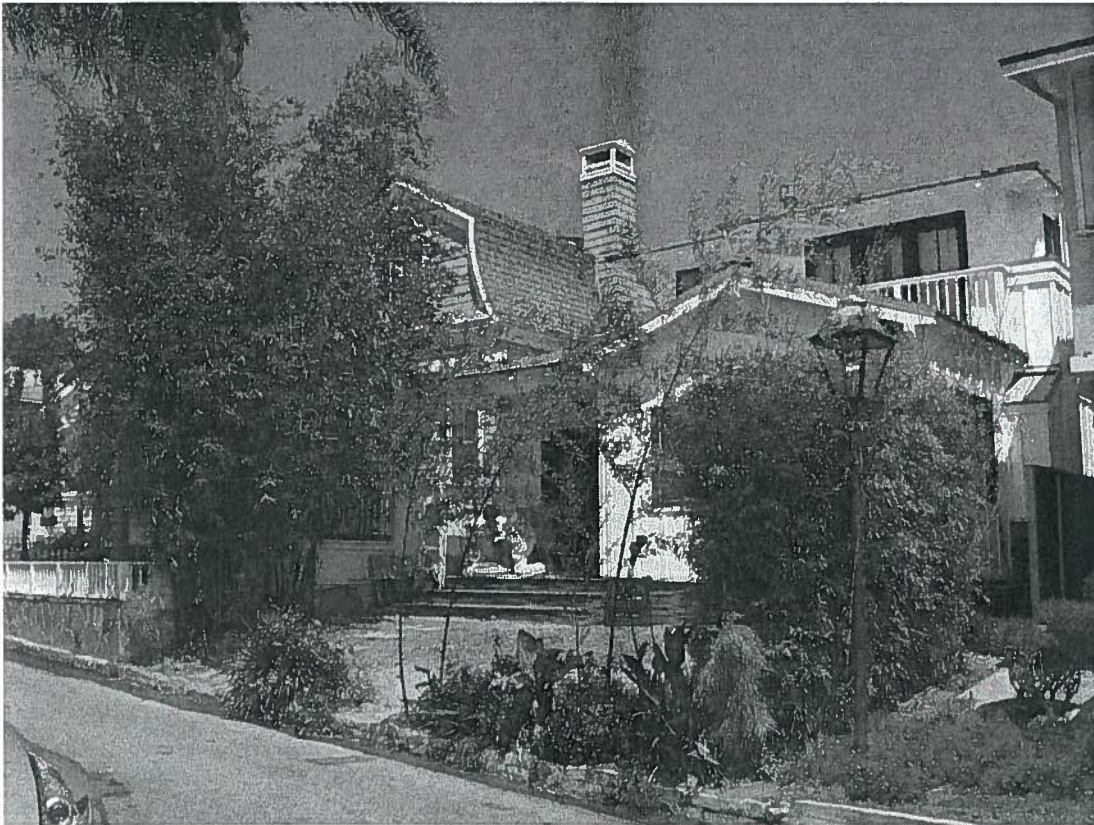
cc: Max & Cori Lagao, Applicant
David Watson, Architect

Vicinity
519 21st Street

EXHIBIT A



Vicinity
519 21st Street



M.B.M.C. Excerpts

7.36.080 - Appeals.

Applications which are inconsistent with the "Encroachment Standards" set forth in Section 7.36.150, including right of way frontage improvements required as a condition of approval by the Director of Public Works, must be appealed to and approved by the City Council with a recommendation from the Parking and Public Improvements Commission. A notice shall be sent to the property owners whose lots' front property lines are within three hundred feet (300') of the subject encroachment area site at least ten (10) calendar days prior to each body's consideration of the exception request. The notice will describe the proposed encroachment, make the plans available for review, and set a deadline for registering objections. Upon consideration of such an appeal application, the City Council may approve, modify, or disapprove the application for encroachment. The action of the City Council shall be final.

7.36.150 - Encroachment standards. (A & D)

A.

General Standards:

1.

Structures as defined by the City's Building Code or other encroachments are prohibited from encroaching within the public right of way unless in compliance with these standards or approved by the City Council.

2.

Landscaping is permitted without an encroachment permit in accordance with an approved landscape plan pursuant to Chapter 7.32 of the Municipal Code. Artificial landscape materials are prohibited.

3.

Utility obstructions shall be avoided so as to maintain access to underground utilities. A minimum of thirty inches (30") of clearance is required on each side of all water and sewer mains, unless otherwise approved by the Director of Public Works.

4.

Drainage from a private collection system that discharges a concentrated flow shall be directed to a vehicular street or alley pursuant to Public Works Department construction standards and shall be prohibited from flowing onto a public pedestrian walkway or sidewalk. A drainage plan shall be provided with an application for an Encroachment Permit.

5.

All encroachments shall be in conformance with Title 5, Chapter 5.84 of the Municipal Code pertaining to storm water pollution control.

6.

Obstructions to neighboring resident's scenic views shall be avoided.

7.

Steps and Stairs, other than risers between four and seven inches (4" to 7") in height and spaced a minimum of three feet (3') apart, are not permitted in the public right of way.

Exception. One set of steps comprised of three (3) consecutive risers is permitted provided a condition does not result that requires installation of a guardrail or handrail.

8.

Existing improvements which do not conform to current standards must be removed or brought into conformance if the related structure on the adjoining property is significantly remodeled or reconstructed or if any new significant construction is proposed in the public right of way. Existing permitted improvements that have been made non-conforming by changes to these standards may otherwise remain provided any nonconforming element is not increased or expanded. The intent is to cause nonconforming encroachments to be brought into conformity concurrent with major alterations or entirely new structures constructed on adjoining private property.

9.

Routine maintenance and repair may be performed on a nonconforming encroachment structure or improvement and replacement with a comparable improvement is permitted upon demonstration that the encroachment is deteriorated and creating an unsafe condition.

D. Vehicular Street Standards:

1.

Street improvements, including (but not necessarily limited to) sidewalks, curbs, gutters, parking pads and paving may be required by the Public Works Department for the purpose of maintaining or improving conditions related to drainage, visibility, access, maneuverability or public parking, and, if required, shall be constructed in compliance with City standards.

2.

Fences and walls are permitted as follows:

a.

Location. Compliance is required with Public Works Department standards established in MBMC 9.72.015. A minimum set back of two feet (2') is required behind existing or required street improvements.

b.

Height. Fences and walls may not exceed a maximum height of forty-two inches (42"), measured from the existing public right of way grade at the fence or wall location. Open-design fences or guard rails required by the Building Official to exceed the forty-two inch (42") maximum height are allowed on top of retaining walls if necessary to retain a neighbor's grade at a side property line. Fences and walls located near the intersection of streets or driveways may be subject to lower height requirements to ensure traffic visibility.

3.

Ground cover such as pavement (including brick or other decorative surfaces) and landscaping is permitted on the existing right of way grade. Decks or similar structures are prohibited.

4.

Street Corner Visibility. To ensure visibility at street corners a thirty-six inch (36") maximum height is applicable to all fences, walls or landscape plantings within a distance of fifteen feet (15') from the street corner as per MBMC 3.40.010 (Traffic Sight Obstructions). A height less than thirty-six inches (36") may be applicable due to unusual slope conditions.

5.

Significant alteration of the existing right of way grade is prohibited, unless determined to be necessary to accommodate a required public street improvement.

6.

Loose gravel and similar material as determined by the Public Works Department is not permitted.

7.

Drainage from a private collection system that discharges a concentrated flow shall be directed to a public vehicular street right of way location via a non-erosive device pursuant to Public Works Department standards subject to review and approval of the City Engineer.



DAVID WATSON
ARCHITECT

EXHIBIT C

June 13, 2012

The City of Manhattan Beach
Planning Department

Re: Permit appeal to PPIC regarding improvements to existing right-of-way @ 519 21st Street.

Dear Planning Department,

Max and Cori Lagao, property owners at 519 21st Street, would like to modestly level-out their front yard, including a portion of the City right-of-way area, as part of the addition/remodel they are currently completing on their home. Because their front yard is their only real, usable, functioning yard area, the idea is to make this area as user-friendly for as many outdoor activities as possible, i.e. kids playing, dining, etc.

In order to modestly level-out the yard, while still allowing slope for drainage, we are requesting to raise the grade in the right-of-way approx. 11" at the westerly end of the property. 21st street slopes downhill, west to east, in front of their home, so, the grade would need to be raised approx. 21" at the lower, easterly end of the property as well.

Attached, please a photograph of the property prior to construction commencing last year. Please do not hesitate to follow-up with any questions or requests for additional information and thank you for taking the time to review this correspondence.

Sincerely,

David E. Watson, Architect



Eric Haaland

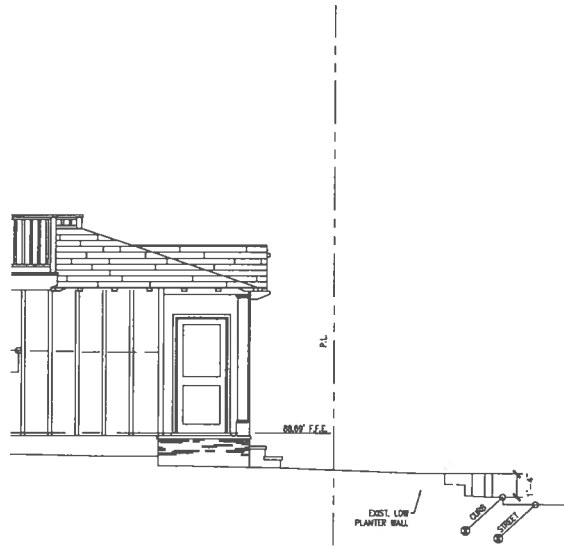
From: Dana McFarland <danamcf@adelphia.net>
Sent: Monday, July 16, 2012 11:56 AM
To: Eric Haaland
Subject: 519 21st Street



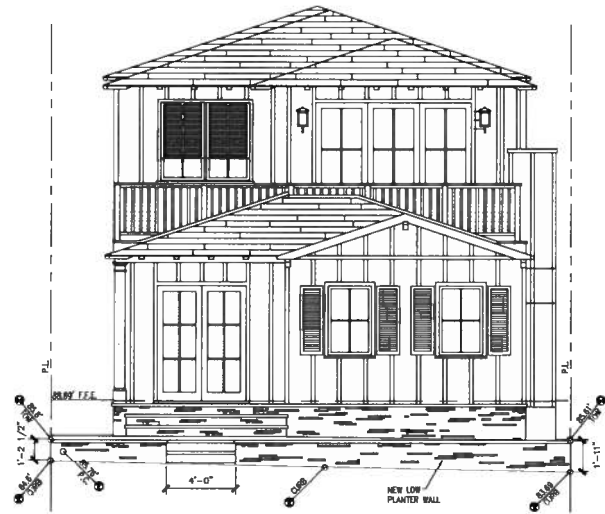
To whom it may concern,

I live at 508 Marine Ave. just up the street from 519. I think Max should be allowed to have the encroachment and don't think it would harm our neighborhood in any way.

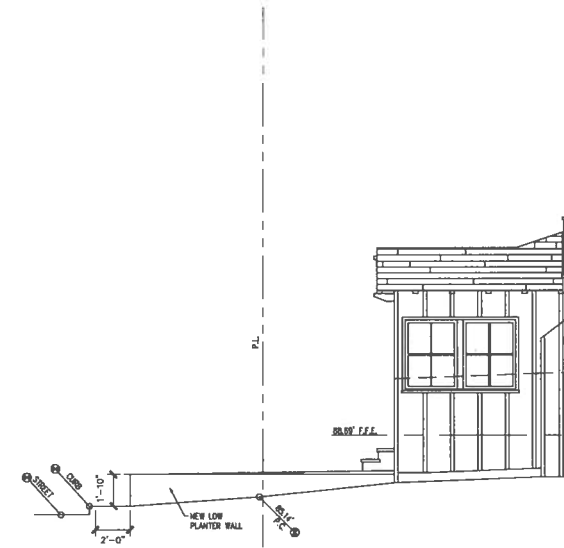
Thank you, Dana McFarland (Owner)



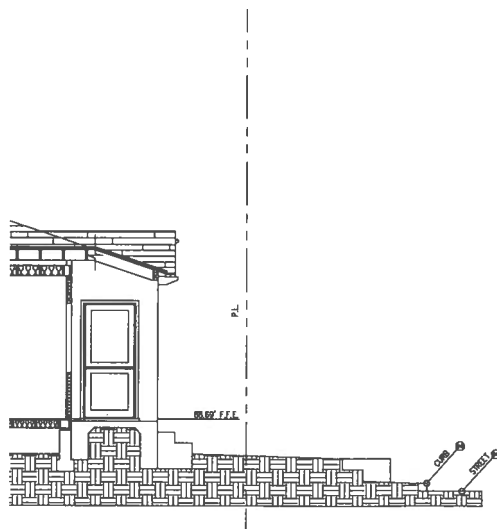
SIDE (WEST) ELEVATION
1/4" = 1'-0"



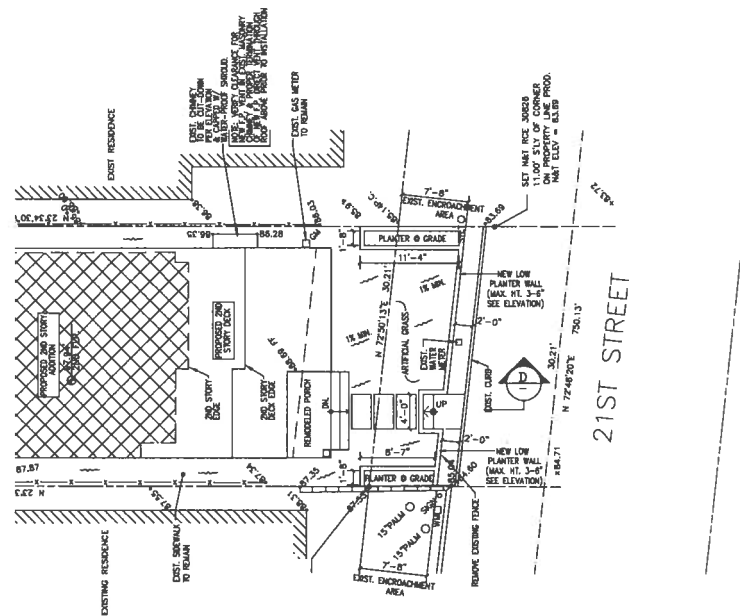
FRONT ELEVATION
1/4" = 1'-0"



SIDE (EAST) ELEVATION
1/4" = 1'-0"



SECTION - (D)
1/4" = 1'-0"



SITE PLAN NORTH
1/8" = 1'-0"

| Revisions |
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| |
| |

PROJECT:
MAX & CORI LAGAO
519 21ST STREET
MANHATTAN BEACH, CA.



DAVID WATSON
ARCHITECT

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SHEET TITLE:
ENCROACHMENT PLANS

PRINT DATE:
PERMIT DATE:
DRAWN BY:

SHEET NO:
A-1b
OF SHEETS

EXHIBIT E

David Watson, Architect hereby certifies that encroachment plans shown hereon are true and correct to the best of his knowledge and belief, and that he is a duly licensed architect in the State of California. These plans are not to be reproduced, changed or copied in any form or manner whatsoever, nor are they to be employed in any third party without first obtaining the express written permission and consent of David Watson, Architect.