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RESOLUTION NO. PC 14-10

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
MANHATTAN BEACH APPROVING AN AMENDMENT TO A COASTAL
DEVELOPMENT PERMIT AND MINOR EXCEPTION TO ALLOW
CONSTRUCTION OF A ROOF DECK ON THE THIRD FLOOR OF AN EXISTING
SINGLE FAMILY RESIDENCE WITH A NON-CONFORMING FRONT YARD
SETBACK ON THE PROPERTY LOCATED AT 121-20th STREET (Plache)

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. On July 10, 2013, the Planning Commission approved Resolution No. PC 13-08 approving a Coastal Development Permit and Minor Exception converting the existing duplex to a single family residence, remodeling, and adding 374 square feet to the existing 1,747 square-foot residence. The total buildable floor area is 2,121 square feet, or 49 percent of the maximum allowed square footage. The Minor Exception allows the project to maintain an existing non-conforming front yard setback as well as build an addition that projects into the required setback, matching the existing legal non-conforming setback. The existing front setback varies between 4 feet ½ inch and 4 feet 11 ¼ inches at the first story and between 2 feet ½ inch and 2 feet 8 inches at the second story (5 feet minimum) plus non-conforming eaves which varies between 1 foot and 1 foot 9 inches (2 feet minimum).
- B. The applicant proposes to amend the approved Coastal Development Permit (CDP) to construct a 3rd story roof deck matching the existing non-conforming front setback. Staff administratively approved a plan check revision to change the pitched roof to a flat roof. Staff is processing a separate Administrative CDP to demolish the detached garage and replace it with a new two car garage with a guest suite above. The proposed garage and guest suite is not part of this Resolution and will be processed separately as an administrative application as it does not require a Minor Exception or a public hearing. Including the guest suite, the total proposed buildable floor area is 2,604 square feet, or 60.3 percent of the maximum allowed buildable floor area (BFA).
- C. The Planning Commission of the City of Manhattan Beach conducted a public hearing pursuant to applicable law on July 9, 2014 to consider an application for a Coastal Development Permit and Minor Exception for the property legally described as Lot 24, Block 7, North Manhattan Beach Tract, located at 121-20th Street in the City of Manhattan Beach.
- D. The public hearing was advertised pursuant to applicable law, testimony was invited and received.
- E. The applicants for the Coastal Development Permit and Minor Exception are Stephen and Cindi Plache, the property owners.
- F. The property is located within Area District III and is zoned RM Medium Density Residential. The surrounding land uses consist of single- and multiple-family residences.
- G. The General Plan designation for the property is Medium Density Residential, and the Local Coastal Program/Land Use Plan designation is Medium Density Residential.
- H. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15301 and 15332 based on staff's determination that the project is a minor development/infill project.
- I. 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.
- J. The Planning Commission made the following findings with respect to the Minor Exception application:

1. *The proposed project will be compatible with properties in the surrounding area, including, but not limited to, scale, mass, orientation, size and location of setbacks, and height.*

The proposed project will be only 60.3 percent of the total allowed square footage, will not exceed the maximum allowed height, and, with the exception of the front yard, will comply with setback requirements. The building will remain two stories with a 3rd story roof deck in a three-story district.

2. *There will be no significant detrimental impact to surrounding neighbors, including, but not limited to, impacts to privacy, pedestrian and vehicular accessibility, light, and air.*

The existing non-conforming setback to remain is along 20th Street and any significant detrimental effects are therefore minimized as the building faces a public right-of-way. The residence meets all the open space, parking, and other development standards as required by the zoning code.

3. *There are practical difficulties which warrant deviation from Code standards, including, but not limited to, lot configuration, size, shape, or topography, and/or relationship of existing building(s) to the lot.*

There are practical difficulties which warrant deviation from Code standards, including demolition of a portion of the existing building adjacent to the front yard setback to tie in the proposed roof deck and eaves into the existing residence.

4. *That existing non-conformities will be brought closer to or in conformance with Zoning Code and Building Safety requirements where deemed to be reasonable and feasible.*

With the exception of the front yard setback, the project will conform to all applicable zoning code standards.

5. *That the proposed project is consistent with the City's General Plan, the purposes of this title and the zoning district where the project is located, the Local Coastal Program, if applicable, and with any other current applicable policy guidelines.*

The proposed project was previously approved as a single family residence which is consistent with the General Plan and Zoning Code.

- K. The Planning Commission determined that the project is consistent with the following applicable Minor Exception Criteria:

1. New construction must conform to all current Code requirements except as permitted by MBMC Section 10.84.120.
2. Structural alterations or modifications, as regulated by Chapter 10.68, to existing non-conforming portions of structures shall only be allowed as follows:
 - a. To comply with Building Safety access, egress, fire protection and other safety requirements (i.e., stairs, windows) as determined to be significant by the Building Official.
 - b. For architectural compatibility (i.e., roof pitch and design, eave design, architectural features design) as determined to be necessary by the Director of Community Development.
 - c. Minor alterations to integrate a new 2nd or 3rd floor into an existing 1st and/or 2nd floor, as determined to be necessary by the Director of Community Development.
 - d. Architectural upgrades, including those associated with construction of new square footage, as determined to be necessary by the Director of Community Development.
 - e. Other minor alterations or modifications as determined to be necessary by the Director of Community Development.
3. A minimum of ten percent (10%) of the existing structure, based on project valuation as defined in Section 10.68.030, shall be maintained.
4. All existing parking, required in accordance with Chapter 10.64, or by the provisions of this Section, shall be retained and shall not be reduced in number or size.
5. Projects two thousand (2,000) square feet in area and up to two thousand eight hundred (2,800) square feet per dwelling unit shall provide a minimum two (2) car off-street parking with one (1)

- 1 fully enclosed garage and one (1) unenclosed parking space per dwelling unit, which may be
2 located in a required yard subject to Director of Community Development approval.
- 3 6. All development on the site which is existing legal non-conforming development for zoning
4 regulations may remain, however non-conformities shall be brought closer to or in conformance
5 with current zoning requirements to the extent that it is reasonable and feasible.
- 6 7. The existing legal non-conforming portions of the structure that remain shall provide a minimum
7 of fifty percent (50%) of the required minimum setbacks, unless there is an unusual lot
8 configuration and relationship of the existing structure to the lot lines for minor portions of the
9 building, then less than fifty percent (50%) of the minimum required setback may be retained.
- 10 8. All development on the site which is existing legal non-conforming for Building Safety regulations
11 shall be brought into conformance with current regulations to the extent feasible, as determined
12 by the Building Official.
- 13 9. After completion of the project(s) that is subject to the Minor Exception approval(s), no further
14 addition(s) shall be permitted unless the entire structure is brought into conformance with the
15 current Code requirements. This shall not preclude the submittal of multiple Minor Exceptions
16 that meet the Code established criteria.
- 17 L. The General Plan of the City of Manhattan Beach poses certain goals and policies which reflect the
18 expectations and wishes of the City with respect to land uses. Specifically, the project is consistent
19 with the following Goals and Policies of the General Plan:
- 20 Goal LU-1: Maintain the low-profile development and small-town atmosphere of Manhattan
21 Beach.
- 22 Goal LU-2: Encourage the provision and retention of private landscaped open space.
- 23 Goal LU-3: Achieve a strong, positive community aesthetic.
- 24 Goal LU-4: Preserve the features of each community neighborhood, and develop solutions
25 tailored to each neighborhood's unique characteristics.
- 26 Housing Policy 1.1: The City of Manhattan Beach will continue to maintain and conserve the
27 character of its existing residential neighborhoods.
- 28 M. The project is in accordance with the objectives and policies of the Manhattan Beach Coastal
29 Program, as follows:
- 30 1. The proposed structure is consistent with the building scale in the coastal zone neighborhood
31 and complies with the applicable standards of the Manhattan Beach Coastal Zone Zoning Code.
- 32 2. The proposed structure is consistent with building density standards of the Local Coastal
Program in that it proposes a floor area ratio factor less than the allowable.
3. The proposed structure will be consistent with the 30-foot Coastal Zone residential height limit.
This is consistent with the residential development policies of the Land Use Plan, Policy II.B.1-3
as follows:
- a. Maintain building scale in coastal zone residential neighborhoods.
- b. Maintain residential building bulk control established by development standards.
- c. Maintain Coastal Zone residential height limit not to exceed 30'.
- N. The project is consistent with the public access and recreation policies of Chapter 3 of the California
Coastal Act of 1976, as follows;
- Section 30212 (a) (2): The proposed structure does not impact public access to the shoreline,
and adequate public access is provided and shall be maintained along 20th Street.
- Section 30221: Present and foreseeable future demand for public or commercial recreational
activities that could be accommodated on the property is already adequately provided for in the
area.
- O. This Resolution upon its effectiveness constitutes the amendment to the Coastal Development
Permit and Minor Exception approval for the subject project.
- SECTION 2.** The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject
amendment to the Coastal Development Permit and Minor Exception, and this Resolution supercedes
and replaces Resolution No. PC 13-08 subject to the following conditions:

Standard Conditions

1. *Compliance.* All development must occur in strict compliance with the proposal as set forth in the application for said permit, subject to any special conditions set forth below. Any substantial deviation from the approved plans must be reviewed and approved by the Planning Commission.
2. *Expiration.* The Coastal Development Permit shall be approved for a period of 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.
3. *Interpretation.* Any questions of intent or interpretation of any condition will be resolved by the Planning Commission.
4. *Inspections.* The Community Development Department Staff shall be allowed to inspect the site and the development during construction subject to 24-hour advance notice.
5. *Assignment.* The permit may be assigned to any qualified persons subject to submittal of the following information to the Director of Community Development:
 - a. A completed application and application fee as established by the City's Fee Resolution;
 - b. An affidavit executed by the assignee attesting to the assignee's agreement to comply with the terms and conditions of the permit;
 - c. Evidence of the assignee's legal interest in the property involved and legal capacity to undertake the development as approved and to satisfy the conditions required in the permit;
 - d. The original permittee's request to assign all rights to undertake the development to the assignee; and,
 - e. A copy of the original permit showing that it has not expired.
6. *Terms and Conditions are Perpetual.* These terms and conditions shall be perpetual, and it is the intention of the Director of Community Development and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.
7. *Effective Date.* This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030, and the City of Manhattan Beach Local Coastal Program - Implementation Program Section A.96.160 have expired; and, following the subsequent Coastal Commission appeal period (if applicable) which is 10 working days following notification of final local action.

Special Conditions

8. The subject Coastal Development Permit will be implemented in conformance with all provisions and policies of the Certified Manhattan Beach Local Coastal Program (LCP) and all applicable development regulations of the LCP - Implementation Program.
9. The plans shall be in substantial conformance with the plans and project description submitted to the Planning Commission on July 9, 2014.
10. The project shall comply with all requirements of the RM zoning district except for the existing front yard setback.
11. After completion of the project(s) that is subject to the Minor Exception approval(s), no further addition(s) shall be permitted unless the entire structure is brought into conformance with the current Code requirements. This shall not preclude the submittal of multiple Minor Exceptions that meet the Code established criteria.
12. Applicant shall defend, indemnify, and hold the City, its elected officials, officers, employees, volunteers, agents, and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees") free and harmless from and against any and all claims (including, without limitation, claims for bodily injury, death, or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs, and expenses (including, without limitation, attorneys' fees, consequential damages, disbursements, and court costs) of every kind and nature whatsoever (individually, a "Claim," collectively, "Claims"), in any manner arising out of or incident to: (i) this approval and related entitlements, (ii) the City's environmental review of this project, (iii) any construction related to this

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approval, or (iv) the use of the property that is the subject of this approval. Applicant shall pay and satisfy any judgment, award or decree that may be rendered against City or the other Indemnitees in any such suit, action, or other legal proceeding arising out of or incident to this approval, any construction related to this approval, or the use of the property that is the subject of this approval. The City shall have the right to select counsel of its choice. Applicant shall reimburse the City, and the other Indemnitees, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Applicant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Applicant or Indemnitees. This indemnity shall apply to all Claims and liability regardless of whether any insurance policies are applicable. Nothing in this Section shall be construed to require Applicant to indemnify Indemnitees for any Claim arising from the sole negligence or willful misconduct of the Indemnitees. In the event such a legal action is filed challenging the City's determinations herein or the issuance of the coastal permit, 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 July 9, 2014 and that said Resolution was adopted by the following vote:

AYES: Chairperson Ortmann, Conaway, Hersman


NOES: None

ABSTAIN: None

ABSENT: Andreani, Bordokas



Richard Thompson,
Secretary to the Planning Commission



Rosemary Lackow
Recording Secretary 