

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

TO: Planning Commission

FROM: Marisa Lundstedt, Director of Community Development

THROUGH: Laurie B. Jester, Planning Manager

BY: Ted Faturos, Assistant Planner

DATE: March 23, 2016

SUBJECT: Variance for Construction of a New Single Family Residence with a Reduced Front Yard Setback and a Reduced Supplemental Second Story Setback at 3017 Elm Avenue (Cunha)

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT THE PUBLIC HEARING, APPROVE** the request, and **ADOPT** the attached Resolution. (Exhibit A)

APPLICANT/OWNER

Marcus Cunha
3017 Elm Avenue
Manhattan Beach, CA 90266

BACKGROUND

The subject site is a small substandard size triangular shaped lot located on Elm Avenue towards the tapered end of a non-rectangular block on the south side of Ardmore Avenue (see attached Location map- Exhibit B). The site currently has a home with a nonconforming front setback. The project proposes to demolish the existing nonconforming home and construct a new 2,420 square foot two-story single family residence that will have a reduced front yard setback in addition to a reduced supplemental second story setback. The proposed new structure will conform to all other code requirements.

LOCATION

<u>Location</u>	3017 Elm Avenue (See Location Map – Exhibit B)
<u>Legal Description</u>	Lot 24, Block 32, Tract No. 1638
<u>Area District</u>	II

story setback is 6% of the lot area, or 209.4 square feet; and the proposed plans provide 125 square feet, or 3.6%, of supplemental second story setback.

Variance Findings

Section 10.84.010 of the MBMC indicates that variances are intended to resolve practical difficulties or unnecessary physical hardships that may result from the size, shape, or dimensions of a site or the location of existing structures thereon; from geographic, topographic, or physical conditions on the site or in the immediate vicinity. The City's Zoning Code, Section 10.84.060 B is based upon State Law and requires that each of the following three findings must be met in order for a Variance to be approved.

These required findings are detailed below:

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 hardships 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 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; and
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.

Staff suggests the following findings in support of the project:

1. The lot is a small substandard sized triangle shape with 97.65 feet of frontage on Elm Avenue. Applying the strict application of the Code development standards to this irregular lot would result in a burdensome buildable envelope and an undue hardship in developing an adequately sized home on the property. A typical lot in this part of Area District II is 40 feet wide by 112 feet long, and the normal 20 foot setback would take up approximately 17.86% of the lot. A normal 20 foot setback applied to 3017 Elm Avenue, with the lot's long 97.65 feet of frontage along Elm Avenue, would create a situation where the area of the conforming front setback would take up approximately 42% of the lot with the assumption that the new easement would be subtracted from the lot area.

A conforming front setback takes up a tremendous portion of 3017 Elm Avenue's lot and denies the applicant the buildable floor area to create a functional floorplan that meets the needs of today's typical family. The first floor buildable envelope using the Zoning Code development standards would be about 1,409 square feet. The second story buildable envelope would be even smaller at about 1,120 square feet after applying the supplemental second story setback requirement. These setback requirements, coupled

with the two-car garage standard that would take away about 380 square feet, would create a dwelling with about 2,149 square feet of livable area. The maximum allowed buildable floor area, however, is 2,420 square feet, not 2,149 square feet. The lot's shape and orientation clearly present peculiar and exceptional difficulties that create an exceptional and undue hardship for the property owner in building a reasonably sized residence.

2. The relief may be granted without substantial detriment to the public good as the proposed nonconforming front yard setback is not substantially more nonconforming than the front setback of the existing structure. The proposed home is also compatible with neighboring properties, which range from small single story homes on smaller lots to large two-story homes on oversized lots. Furthermore, the architect has made significant efforts to provide modulation to the structure, using different depths, textures, and a roof opening on the second story deck to give the home architectural character that benefits the neighborhood.
3. Granting the application is consistent with the purposes of the Zoning Code, in particular Section 10.12.010 B and E, and will not constitute the granting of a special privilege because the setback standards are oriented toward more standard shape, size and depth properties. The proposed project will provide relative setback and bulk consistency with neighboring properties, will ensure adequate light, air, privacy and open space, protect neighboring residents from adverse impacts, and achieve design compatibility.

The proposed project is consistent with the following General Plan goals and policies:

Land Use Element:

Policy LU-1.2- Require the design of all new construction to utilize notches, balconies, rooflines, open space, setbacks, landscaping, or other architectural details to reduce the bulk of buildings and to add visual interest to the streetscape.

The architect has made a substantial effort to create articulation in the building's façade by creating different depths and using contrasting wall textures and design features including notches and other architectural details. The result is a unique building that adds to the eclectic architectural styles in the neighborhood and overall city.

Policy LU-2.2- Preserve and encourage private open space on residential lots citywide.

The proposed project maintains a proportionally large landscaped front yard, due to the width of the front property line which is more than double the minimum lot width in the zone, in addition to a functional rear yard that provides ample private open space.

LU-3.1- Continue to encourage quality design in all new construction.

The proposed project is an aesthetically interesting design that also provides a practical floor plan for the home's inhabitants.

Housing Element:

Policy 1. Preserve the scale of development in existing residential neighborhoods.

The proposed project’s size does not exceed the maximum buildable floor area, height, side or rear setbacks and is in line with neighboring properties’ size and scale.

Department comments

Any private use of the public right of way, such as a proposed wall or fence, requires an Encroachment Permit and must meet the requirements of the private use of public property (MBMC 7.36).

Based on review and input from the City Traffic Engineer and City Engineer, at least one public parking pad spot will be provided on Elm Avenue in the public right of way. The details of the right-of-way improvements along Elm Ardmore Avenue will be reviewed and refined during the plan check process.

No other Department comments were received.

Neighbor Response

Staff has received no comments in response to the project notice which was published in the paper on March 10, 2016 and mailed to surrounding property owners on March 2, 2016.

ENVIRONMENTAL REVIEW

The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15303 based on staff’s determination that the project consists of the new construction of a small structure consisting of one-single family residence that will not have a significant impact on the environment.

CONCLUSION

Staff supports the Variance request, subject to the recommended conditions, based on the Variance findings stated above, and that the project otherwise: (1) conforms to applicable zoning objectives and development standards, (2) is not expected to have a detrimental impact on nearby properties, and, (3) is consistent with the goals and policies of the General Plan.

Attachments:

- A. Draft Resolution No. PC 16-XX
- B. Location Map
- C. Applicant Material
- D. Proposed Plans dated November 11, 2015 (not available electronically)

- c: Marcus Cunha, Applicant
- Michael Lee, Project Architect

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RESOLUTION NO PC 16-XX

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
MANHATTAN BEACH APPROVING A VARIANCE TO ALLOW THE
CONSTRUCTION OF A NEW SINGLE FAMILY HOME WITH A REDUCED
FRONT YARD SETBACK AND A REDUCED SUPPLEMENTAL SECOND
STORY SETBACK AT 3017 ELM AVENUE
(Cunha)**

**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 March 23, 2016 to consider an application for a Variance for the property legally described as Lot 24, Block 32, Tract No. 1638, located at 3017 Elm Avenue in the City of Manhattan Beach.
- B. The public hearing was advertised pursuant to applicable law, testimony was invited and received.
- C. The applicant and property owner for the Variance is Marcus Cunha.
- D. The property is located within Area District II and is zoned RS Single-Family Residential. The surrounding Zoning and land uses consist of single-family residences.
- E. The General Plan designation for the property and surrounding area is Low Density Residential. The General Plan encourages the preservation, rehabilitation and upgrade of residential development, such as this. The project is specifically consistent with General Plan Policies as follows:

Land Use Element:

Policy LU-1.2- Require the design of all new construction to utilize notches, balconies, rooflines, open space, setbacks, landscaping, or other architectural details to reduce the bulk of buildings and to add visual interest to the streetscape.

The architect has made a substantial effort to create articulation in the building's façade by creating different depths and using contrasting wall textures and design features including notches and other architectural details. The result is a unique building that adds to the eclectic architectural styles in the neighborhood and overall city.

Policy LU-2.2- Preserve and encourage private open space on residential lots citywide.

The proposed project maintains a proportionally large landscaped front yard, due to the width of the front property line which is more than double the minimum lot width in the zone, in addition to a functional rear yard that provides ample private open space.

LU-3.1- Continue to encourage quality design in all new construction.

**ATTACHMENT A
PC MTG 3-23-16**

The proposed project is an aesthetically interesting design that also provides a practical floor plan for the home's inhabitants.

Housing Element:

Policy 1. Preserve the scale of development in existing residential neighborhoods.

The proposed project's size does not exceed the maximum buildable floor area, height, side or rear setbacks and is in line with neighboring properties' size and scale.

- F. The applicant requests to demolish their existing residence and construct a new single family dwelling with a reduced front yard setback and reduced second story supplemental setback.
- G. The proposed front yard setback will be 12.63 feet at its closest point at the garage and 16.52 feet for most of the structure instead of the required 20 foot front yard setback. The supplemental second story setback provided will be 125 square feet instead of the required 209.4 square feet.
- H. The proposed construction complies with other applicable standards including maximum building height, maximum buildable floor area, rear yard setback, side yard setbacks, and parking requirements.
- I. The project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15303 based on staff's determination that the project consists of the new construction of a small structure consisting of one single family residence that will not have a significant impact on the environment.
- J. 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.
- K. The Planning Commission made the following findings with respect to the Variance application:

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 hardships upon, the owner of the property.**

The lot is a small substandard sized triangle shape with 97.65 feet of frontage on Elm Avenue. Applying the strict application of the Code development standards to this irregular lot would result in a burdensome buildable envelope and an undue hardship in developing an adequately sized home on the property. A typical lot in this part of Area District II is 40 feet wide by 112 feet long, and the normal 20 foot setback would take up approximately 17.86% of the lot. A normal 20 foot setback applied to 3017 Elm Avenue, with the lot's long 97.65 feet of frontage along Elm Avenue, would create a situation where the area of the conforming front setback would take up approximately 42% of the lot with the assumption that the new easement would be subtracted from the lot area.

A conforming front setback takes up a tremendous portion of 3017 Elm Avenue's lot and denies the applicant the buildable floor area to create a functional floorplan that meets the needs of today's typical family. The first floor buildable envelope using the Zoning Code development standards would be about 1,409 square feet. The second story buildable envelope would be even smaller at about 1,120 square feet after applying the supplemental second story setback requirement. These

setback requirements, coupled with the two-car garage standard that would take away about 380 square feet, would create a dwelling with about 2,149 square feet of livable area. The maximum allowed buildable floor area, however, is 2,420 square feet, not 2,149 square feet. The lot's shape and orientation clearly present peculiar and exceptional difficulties that create an exceptional and undue hardship for the property owner in building a reasonably sized residence.

- 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.**

The relief may be granted without substantial detriment to the public good as the proposed nonconforming front yard setback is not substantially more nonconforming than the front setback of the existing structure. The proposed home is also compatible with neighboring properties, which range from small single story homes on smaller lots to large two-story homes on oversized lots. Furthermore, the architect has made significant efforts to provide modulation to the structure, using different depths, textures, and a roof opening on the second story deck to give the home architectural character that benefits the neighborhood.

- 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.**

Granting the application is consistent with the purposes of the Zoning Code, in particular Section 10.12.010 B and E, and will not constitute the granting of a special privilege because the setback standards are oriented toward more standard shape, size and depth properties. The proposed project will provide relative setback and bulk consistency with neighboring properties, will ensure adequate light, air, privacy and open space, protect neighboring residents from adverse impacts, and achieve design compatibility.

M. This Resolution upon its effectiveness constitutes the Variance for the subject project.

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 substantial conformance with the plans submitted to, and approved by the Planning Commission on March 23, 2016. Any substantial deviation from the approved plans must be reviewed and approved by the Planning Commission.
2. If determined to be necessary by the City Traffic Engineer, a Construction Management and Parking Plan (CMPP) shall be submitted in conjunction with all construction and other building plans, to be approved by the Community Development Department prior to issuance of building permits. The plan shall provide for the management of all construction related traffic and operation during all phases of construction, including delivery and storage of materials and parking of construction related vehicles.
3. No discharge of construction wastewater, building materials, debris, or sediment from the site is permitted. Erosion control devices shall be provided as required by the Public Works Director.

4. A site landscaping plan utilizing drought tolerant plants shall be submitted for review and approval concurrent with the building permit application. All plants shall be identified on the plan by the Latin and common names. The current edition of the Sunset Western Garden Book contains a list and description of drought tolerant plants suitable for this area.
5. A low pressure or drip irrigation system shall be installed in the landscaped areas, which shall not cause any surface run-off. Details of the irrigation system shall be noted on the landscaping plans. The type and design shall be subject to the approval of the Public Works and Community Development Departments.
6. All defective or damaged curb, gutter, street paving, and sidewalk improvements shall be removed and replaced with standard improvements, subject to the approval of the Public Works Department.
7. The applicant must obtain an Encroachment Permit for any wall or fence, or other private use, in the right-of-way on Elm Avenue. All improvements shall meet the city's Encroachment standards for private use of public property.
8. The applicant will record a new vehicular easement that will provide the homeowner of 3100 N Ardmore Ave access to their rear garage. The easement will match the easement in the submitted plans approved by the Planning Commission. The Building Permit for the project will not be issued until the easement documentation has been submitted to the Planning Division for review and approval, and the building permit shall not be finalized till the new easement has been recorded with the County Recorder's Office.

Procedural

9. This Resolution shall become effective when all time limits for appeals have been exhausted as provided in MBMC Section 10.100.010.
10. The Variance shall be approved for a period of two years after the date of approval, with the option for future extensions, in accordance with the MBMC Section 10.84.090 (A).
11. 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 are paid.
12. The applicant must submit in writing to the City of Manhattan Beach acceptance of all conditions within 30 days of approval of the Variance.
13. *Indemnity, Duty to Defend and Obligation to Pay Judgments and Defense Costs, Including Attorneys' Fees, Incurred by the City.* The applicant shall defend, indemnify, and hold harmless 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") from and against any claims, damages, actions, causes of actions, lawsuits, suits, proceedings, losses, judgments, costs, and expenses (including, without limitation, attorneys' fees or court costs) in any manner arising out of or incident to this approval, related entitlements, or the City's environmental review thereof. The 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. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall reasonably cooperate in the defense. If the City fails to promptly

notify the applicant of any claim, action, or proceeding, or it if the City fails to reasonably cooperate in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City or the Indemnitees. The City shall have the right to select counsel of its choice. The 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. Nothing in this Section shall be construed to require the 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 approval, the City shall estimate its expenses for the litigation. The applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

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 23, 2016** and that said Resolution was adopted by the following vote:

- AYES:**
- NOES:**
- ABSTAIN:**
- ABSENT:**

Marisa Lundstedt,
Secretary to the Planning Commission

Rosemary Lackow
Recording Secretary

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ATTACHMENT TO VARIANCE APPLICATION
3017 ELM AVENUE

The application is submitted on behalf of the Cunha family who desire to build a new home for their young family . The existing 960 sf home was built in 1948 and is not suitable for remodeling because of its age and various non-conformities. The Cunha's hope to build a new home with a contemporary living environment that will accommodate a growing family over the years.

THE PURPOSE of the variance application is to allow construction of the proposed residence with a front yard encroachment that ranges from 12' at the garage face, to 16' along the 1st floor building face and stepping back to 16' along the 2nd floor building face (in lieu of required 20' set back). All other aspects of the proposed development are Code compliant. The proposed living area would be less than permitted per Code for Area District II.

EXISTING STRUCTURE

Front yard	17.3'	Side yard	4' to 4.8'
Rear yard	2.9' to 5' to 20'		

THE SUBJECT PROPERTY is a triangle with a 97.65' street frontage along Elm Avenue. Because of the triangular shape, a substantial portion of the site cannot be used for structural elements of the building and forces the buildable area to the widest part of the triangle which is the street-facing portion of the lot.

Most zoning standards, especially setback requirements, are based on a conventional, rectangular lot. Strict application of the Code in this very unique situation will diminish the owners reasonable use of their property.

1. UNIQUE CIRCUMSTANCES- In this situation, the special circumstance is the irregular, triangular shape of the property which creates a shallow depth and results in a low proportion of area available to build outside the required setbacks. Standard setback requirements would impose a severe constraint on functionality of the property and reduce ability of owners to derive the same reasonable use of their property as neighbors with a more conventional setting.

2. PUBLIC GOOD

Proposed site development MEETS INTENT OF CODE which is to provide a spacious and open front yard separation from the street which is further enhanced by the 8' parkway between the property line and the street.

ARCHITECTURAL INTEREST The proposed building design presents an interesting architectural character with a high quality visual interest. The building modulation incorporates a tiered presence along the street elevation with a substantial portion of the residence stepping away from the street from 16' to 18' (to the building face). The setback at proposed garage entry is a very small portion of the over-all front elevation and the second floor above is also slightly recessed. Additionally, the architectural design utilizes glass elements along both the first and second floors as well as clear deck railings, all of which contribute to an open and bright front elevation.

SUBSTANTIAL LANDSCAPED FRONT YARD Proposed construction would still retain a spacious and open front yard area with excellent neighborhood visibility and separation from the street.

Therefore, there will be no detriment to the public good and the neighborhood will benefit from the proposed residence.

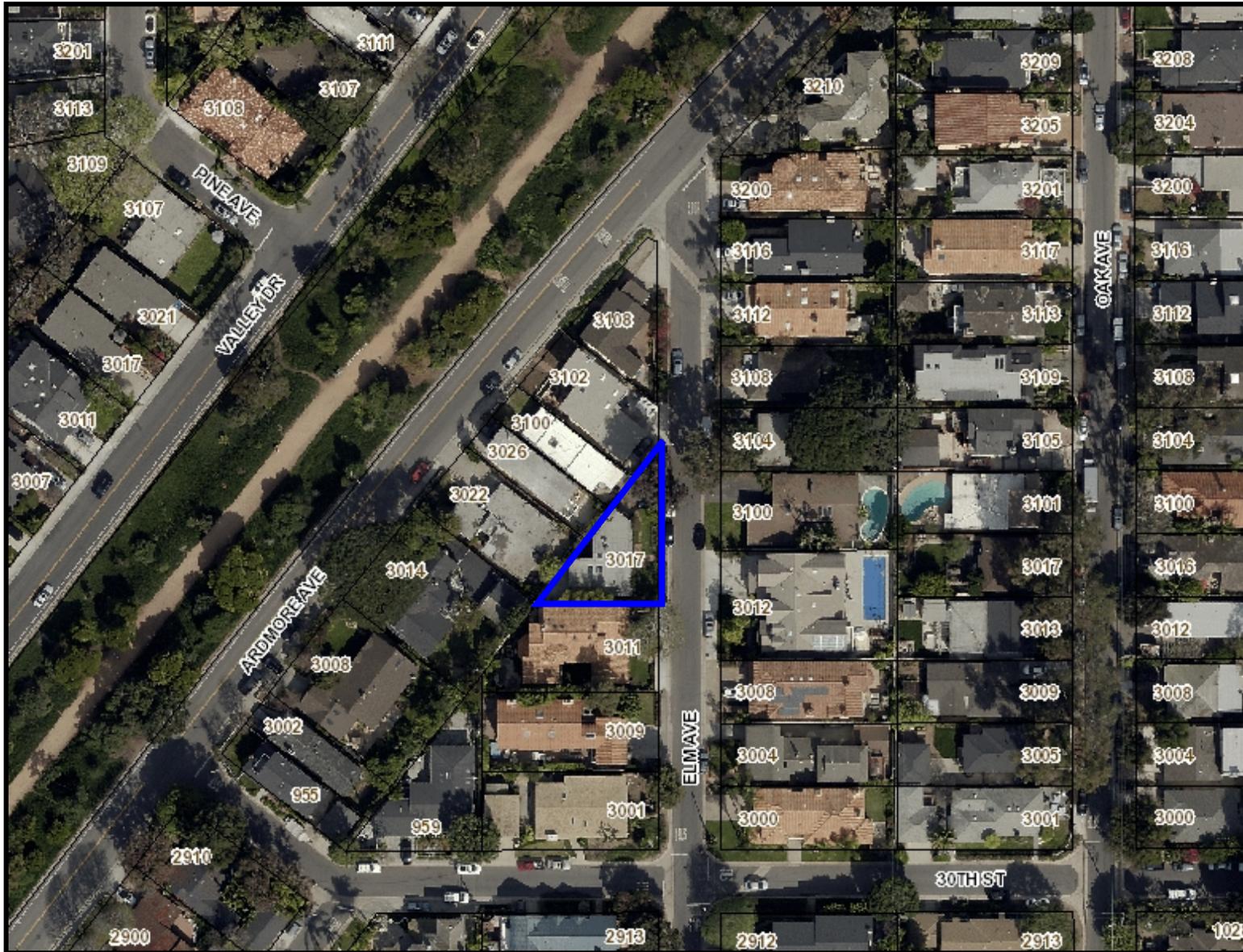
3. CONSISTENCY WITH CODE The extent of proposed development is well within range of development anticipated for the area. The proposed over-all building scale is within parameters permitted for the area - elevations are very nicely articulated and provide visual interest and architectural presence for Elm Avenue.

Approval of this application is CONSISTENT WITH THE ZONING CODE and does not result in grant of special privilege as setback standards are oriented toward conventional rectangular lots. Approval of the application will not compromise ability of the City to apply required standards in other situations.

This property is a classic example for consideration of a variance. The encroachment is not a major deviation from the Code and allows the owners to enjoy similar amenities as enjoyed by others in the neighborhood. Proposed development does not result in any negative impacts, and the findings and circumstances support approval of the variance.



City of Manhattan Beach



234.1 0 117.05 234.1 Feet

This map is a user generated static output from the "MB GIS Info" Intranet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

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Notes



Legend

Parcels

**ATTACHMENT C
PC MTG 3-23-16**



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