



Agenda Item #: \_\_\_\_\_

# Staff Report

## City of Manhattan Beach

**TO:** Honorable Mayor Cohen and Members of the City Council

**THROUGH:** Geoff Dolan, City Manager

**FROM:** Richard Thompson, Director of Community Development  
Eric Haaland, Associate Planner

**DATE:** July 7, 2009

**SUBJECT:** Consideration of Planning Commission Approval of a Coastal Development Permit and Minor Exception to Allow an Addition to an Existing Duplex at 121 24<sup>th</sup> Street

---

**RECOMMENDATION:**

Staff recommends that the City Council receive and file the decision of the Planning Commission approving the project subject to certain conditions.

**FISCAL IMPLICATION:**

There are no fiscal implications associated with the recommended action.

**DISCUSSION:**

The Planning Commission, at its regular meeting of June 10, 2009, **APPROVED** (5-0) a 453 square foot addition to a 2-story duplex building on a standard walk street lot in the beach area. In addition to a Coastal Development Permit, a Minor Exception is proposed to reduce required useable open space. Most coastal permit applications involving single-family homes and duplexes successfully proceed administratively, but in this case, the City's Coastal Program requires Planning Commission approval due to the additional Minor Exception request.

The Planning Commission supported the project since it generally conforms to coastal program zoning requirements. The resulting 2,393 square feet of total floor area would be 52% of the site's allowable 4,590 square feet. The existing 2-story building height would remain, where a 3-story height is permitted. While the building's existing front yard setback is nonconforming, the rear portion being modified has conforming side yards and triple the minimum rear setback. Only two of the four required parking spaces exist, however, some surplus driveway area is available for parking. Since this project is considered a minor remodel, the code permits the building's nonconforming parking and front setback to remain.

The Planning Commission also found the Minor Exception request to be appropriate since it met the required findings, and is consistent with the intention of this specific type of Minor Exception as established by the city's "Mansionization" project of 2008, which is to encourage lower buildings rather than prompting property owners to add upper floor levels as a result of

open space requirements. The required amount of open space is 440 square feet, but the resulting amount would only be 204 square feet after replacing most of the existing rear deck area with living area. The Commission commented that the retention of the 2-story character of the existing building was a very desirable result for the neighborhood, in exchange for less useable open space within the building.

A public notice for the project was mailed to property owners within 100 feet of the site and published in the Beach Reporter newspaper. The Planning Commission received no comments or testimony from neighbors during the public hearing.

**ALTERNATIVES:**

The alternatives to the staff recommendation include:

1. **REMOVE** this item from the Consent Calendar, **APPEAL** the decision of the Planning Commission, and direct that a public hearing be scheduled.

Attachments:

Resolution No. PC 09- 06  
P.C. Minutes excerpt, dated 6/10/09  
P.C. Staff Report, dated 6/10/09  
Plans (separate/NAE)

(NAE) – not available electronically

C: Richard Ballew, Applicant/Owner, Applicant  
David Watson, Project Architect

1     Standard Conditions

- 2     1.     *Compliance.* All development must occur in strict compliance with the proposal as set  
3     forth in the application for said permit, subject to any special conditions set forth below.  
4     Any substantial deviation from the approved plans must be reviewed and approved by the  
5     Planning Commission.
- 6     2.     *Expiration.* The Coastal Development Permit shall be approved for a period of two years  
7     after the date of approval, with the option for future extensions, in accordance with the  
8     Manhattan Beach Municipal Code (MBMC) Section 10.84.090.
- 9     3.     *Interpretation.* Any questions of intent or interpretation of any condition will be resolved  
10    by the Planning Commission.
- 11    4.     *Inspections.* The Community Development Department Staff shall be allowed to inspect  
12    the site and the development during construction subject to 24-hour advance notice.
- 13    5.     *Assignment.* The permit may be assigned to any qualified persons subject to submittal of  
14    the following information to the Director of Community Development:
- 15         a.     a completed application and application fee as established by the City's Fee  
16         Resolution;  
17         b.     an affidavit executed by the assignee attesting to the assignee's agreement to  
18         comply with the terms and conditions of the permit;  
19         c.     evidence of the assignee's legal interest in the property involved and legal capacity  
20         to undertake the development as approved and to satisfy the conditions required in  
21         the permit;  
22         d.     the original permittee's request to assign all rights to undertake the development to  
23         the assignee; and,  
24         e.     a copy of the original permit showing that it has not expired.
- 25    6.     *Terms and Conditions are Perpetual.* These terms and conditions shall be perpetual, and it  
26    is the intention of the Director of Community Development and the permittee to bind all  
27    future owners and possessors of the subject property to the terms and conditions.
- 28    7.     *Effective Date.* This Resolution shall become effective when all time limits for appeal as  
29    set forth in MBMC Section 10.100.030, and the City of Manhattan Beach Local Coastal  
30    Program - Implementation Program Section A.96.160 have expired; and, following the  
31    subsequent Coastal Commission appeal period (if applicable) which is 10 working days  
32    following notification of final local action.

25     Special Conditions

- 26     8.     The subject Coastal Development Permit will be implemented in conformance with all  
27     provisions and policies of the Certified Manhattan Beach Local Coastal Program (LCP)  
28     and all applicable development regulations of the LCP - Implementation Program.
- 29     9.     The plans shall be in substantial conformance with the plans submitted to the Planning  
30     Commission on June 10, 2009.

ABSTAIN: Andreani

**C. AUDIENCE PARTICIPATION**

None.

**D. PUBLIC HEARINGS**

**06/10/09-1 Consideration of a Coastal Development Permit and Minor Exception to Allow an Addition to an Existing Duplex at 121 24<sup>th</sup> Street**

Associate Planner Haaland summarized the staff report. He stated that the project includes a 453 addition to the second floor unit of an existing walk-street duplex. He said that the proposal would replace some of the existing deck area with living area. He indicated that the useable open space for the site would be reduced to 204 square feet as proposed, and the requirement is 440 square feet total for the two units. He stated that the project is in compliance with the standards of the Zoning Code except for the open space minor exception request. He commented that the Code does provide for minor exception approval of reduced open space for a two story building in an area where three stories are permitted. He indicated that the minor exception process is designed to encourage retention of lower two story buildings in situations when a project might otherwise need to include three levels in order to provide the required amount of open space. He commented that reduced open space minor exception have been approved by staff at 1807 Highland Avenue and 325 18<sup>th</sup> Street for existing two story buildings. He indicated that staff is recommending that the Commission approve the minor exception application.

In response to a question from Chairperson Seville-Jones, Associate Planner Haaland stated that staff feels there are practical difficulties which warrant deviation from the Code standards, in that complying with the open space requirement and providing the desired living area would require more extensive construction with a third level.

In response to a question from Commissioner Lesser, Associate Planner Haaland indicated that a 4,590 square foot structure could be built on the site with new construction. He stated that it is typical that projects do not reach the maximum allowable; however, some designs have come close to the maximum allowable while complying with open space requirements.

**Richard Ballew**, the applicant, said that the proposed addition would complete his home. He pointed out that the home would still have a 200 square foot deck with the proposal, and it would be an improvement to the neighborhood.

Chairperson Seville-Jones opened the public hearing.

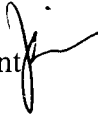
There being no one wishing to speak, Chairperson Seville-Jones closed the public hearing.


Commissioner Fasola commented that as much as he supports providing open space, he feels the proposal is a great use of the site. He said that he feels the proposal is well designed and would be an improvement to the neighborhood. He said that he is pleased that two units would be provided on the site without the structure appearing large and imposing. He said that he supports the proposal.

Commissioner Paralusz said that she supports the proposal and commended the applicant on a design that would help to beautify the neighborhood. She pointed out that it is below the 4,500

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

**TO:** Planning Commission

**FROM:** Richard Thompson, Director of Community Development 

**BY:** Eric Haaland AICP, Associate Planner 

**DATE:** June 10, 2009

**SUBJECT:** Consideration of a Coastal Development Permit and Minor Exception to Allow an Addition to an Existing Duplex at 121 24<sup>th</sup> Street.

**RECOMMENDATION**

Staff recommends that the Planning Commission **CONDUCT** the Public Hearing and **APPROVE** the subject request

**APPLICANT /OWNER**

Richard Ballew  
121 24<sup>th</sup> Street  
Manhattan Beach, CA 90266

**LOCATION**

|                          |   |
|--------------------------|---|
| <u>Location</u>          | 121 24 <sup>th</sup> St between Highland & Ocean Dr. (See Site Location Map). |
| <u>Legal Description</u> | Lot 13, Block 3, Peck's MB Tract  |
| <u>Area District</u>     | III   |

**LAND USE**

|                                     |                              |                       |
|-------------------------------------|------------------------------|-----------------------|
| <u>General Plan</u>                 | High Density Residential     |                       |
| <u>Zoning</u>                       | RH, Residential High Density |                       |
| <u>Land Use</u>                     | <u>Existing</u>              | <u>Proposed</u>       |
|                                     | 1,939 sq. ft. Duplex         | 2,393 sq. ft. Duplex. |
| <u>Neighboring Zoning/Land Uses</u> | North                        | RH/Duplex             |
|                                     | South                        | RH/Duplex             |
|                                     | East                         | RH/Residential        |
|                                     | West                         | RH/Duplex             |

The project's loss of useable open space does require approval of a Minor Exception. The 657 square feet of existing countable open space for the property is provided by small front patio and deck areas, and the large rear deck area where the subject addition is proposed. The required amount is 440 square feet, but the resulting amount would be 204 square feet after replacing most of the rear deck area with living area. Section 10.84.120 of the zoning code (attached) provides for Minor Exception approval of reduced open space for "dwelling units that are largely 2-story in 3-story zones". In order to approve this type of Minor Exception, the following findings must be made:

- a. 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.
- b. 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.
- c. There are practical difficulty which warrants 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.
- d. 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.
- e. 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.

Staff believes that these findings can be made since the resulting building will be well below the maximum size, and the new construction will be small in scale and compatible with the neighborhood. The project is also consistent with the intention of this specific type of Minor Exception, which is to encourage lower buildings rather than prompting property owners to add upper floor levels as a result of open space requirements.

Staff also finds that that the project will comply with applicable coastal program regulations. The project is consistent with policies II.B 1, 2, 3 of the City's Local Coastal Program which seek to maintain neighborhood building scale, control residential building bulk, and establish building height standards.

## **PUBLIC INPUT**

A public notice for the project was mailed to property owners and residents within 100 feet of the site and published in the Beach Reporter newspaper. Staff has received a few inquiries, but no opposition has been received from project neighbors or other members of the community.

RESOLUTION NO PC 09-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A COASTAL DEVELOPMENT PERMIT AND MINOR EXCEPTION TO ALLOW CONSTRUCTION OF AN ADDITION TO AN EXISTING DUPLEX WITH REDUCED OPEN SPACE ON THE PROPERTY LOCATED AT 121 24<sup>TH</sup> STREET

(Ballew)

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 June 10, 2009 to consider an application for a Coastal Development Permit and Minor Exception for the property legally described as Lot 13, Block 3, Peck's Manhattan Beach Tract, located at 121 24<sup>th</sup> Street in the City of Manhattan Beach.
- B. The public hearing was advertised pursuant to applicable law, testimony was invited and received.
- C. The applicant for the Coastal Development Permit and Minor Exception is Richard Ballew, the property owner.
- D. The applicant proposes a second story addition of 453 square feet to an existing duplex with a reduction of useable open space to a total of 207 square feet, instead of the required 440 square feet.
- E. The property is located within Area District III and is zoned RH High Density Residential. The surrounding land uses consist of single and multiple family residences.
- F. The General Plan designation for the property is High Density Residential, and the Local Coastal Program/Land Use Plan designation is High Density Residential.
- G. 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.
- H. 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.
- I. The Planning Commission made the following findings with respect to the reduced open space Minor Exception application:
  - a) The proposed project will be compatible with properties in the surrounding area since the building size will be well below the maximum size permitted and the addition area is small, and at a non-prominent location on the site.
  - b) The project will not be detrimental to surrounding neighbors since the new construction will observe required setbacks, and be well below the maximum height limit.
  - c) Practical difficulties warrant deviation from code standards including demolishing living area or adding an additional building level to achieve conforming open space.
  - d) Existing nonconformities will not be brought into conformance since significant changes are not proposed for those locations and required conformance would not be reasonable.

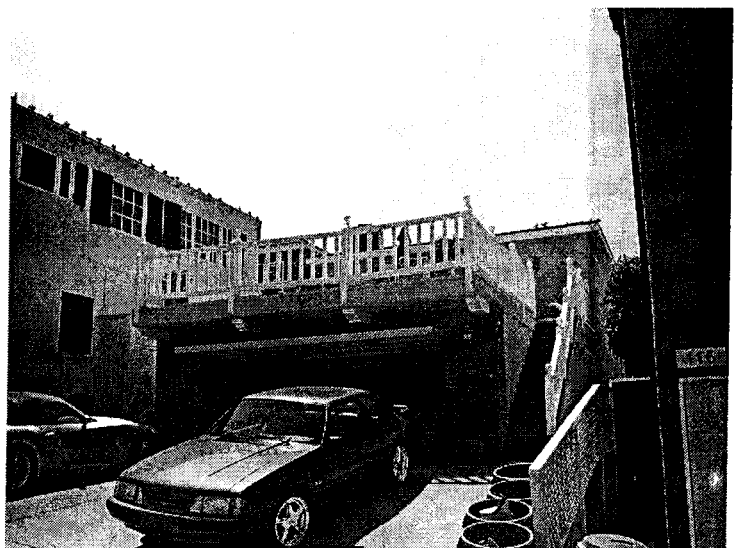
- b. an affidavit executed by the assignee attesting to the assignee's agreement to comply with the terms and conditions of the permit;
  - c. evidence of the assignee's legal interest in the property involved and legal capacity to undertake the development as approved and to satisfy the conditions required 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 submitted to the Planning Commission on June 10, 2009.
10. The project shall comply with all requirements of the RS zoning district except for the existing front, rear, and corner side yards, and open space.
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. 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.



Vicinity Map  
121 24<sup>th</sup> Street



10.04.030 which excludes certain garage and basement areas from BFA, does not exceed sixty-six percent (66%) of the maximum allowed (Area Districts III and IV) and seventy-five percent (75%) of the maximum allowed (Area Districts I and II) or three thousand (3,000) square feet, whichever is less .

**2. Alterations and remodeling to existing legal non-conforming structures.** No limit to the total existing Buildable Floor Area, as defined in Section 10.04.030 which excludes certain garage and basement areas from BFA, but no further additions (enlargements) permitted.

**B. Minor Exception Application with Notice.**

1. Applications for minor exceptions from Section 10.68.030(D) and (E) which do not meet the criteria in subsection (A)(1) of this section, may be approved administratively by the Director of Community Development, with notice. A minor exception from Section 10.68.030(D) and (E) must meet the following criteria, and notice as provided in subsection D of this section, must be provided:

**a. Alterations, remodeling, additions (enlargements) to existing smaller legal non-conforming structures.** The total proposed Buildable Floor Area as defined in Section 10.04.030 which excludes certain garage and basement areas from BFA, does not exceed sixty-six percent (66%) of the maximum allowed (Area Districts III and IV) and seventy-five percent (75%) of the maximum allowed (Area Districts I and II) and the Buildable Floor Area exceeds three thousand (3,000) square feet but does not exceed four thousand (4,000) square feet.

**C. Submittal Requirements—All Minor Exceptions Applications.** Applications for all minor exceptions shall be initiated by submitting the following materials to the Community Development Department.

1. A completed application form, signed by the property owner or authorized agent, accompanied by the required fees, plans and mapping documentation in the form prescribed by the Community Development Director.

2. Written statements to support the required findings and criteria of this Code section.

3. A vicinity map showing the location and street address of the development site.

**D. Submittal Requirements—Minor Exception Applications with Notice.**

Applications for minor exceptions with notice shall be initiated by submitting the following materials to the Community Development Department:

1. A completed application form, signed by the property owner or authorized agent, accompanied by the required fees, plans and mapping documentation in the form prescribed by the Community Development Director.

2. Written statements to support the required findings and criteria of this Code section.

3. A vicinity map showing the location and street address of the development site;

4. A map showing the location and street address of the property that is the subject of the application and of all lots of record within three hundred feet (300') of the boundaries of the property; and

5. A list, drawn from the last equalized property tax assessment roll or the records of the County Assessor, Tax Collector, or the City's contractor for such records showing the names and addresses of the owner of record of each lot within three hundred feet (300') of the boundaries of the property. This list shall be keyed to the map required by subsection (D)(4) of this section and shall be accompanied by mailing labels.

**E. Notice to Property Owners—Minor Exception with Notice.** After receipt of a completed Minor Exception application, the Community Development Director shall provide notice to surrounding property owners as provided in subsection D of this section. Said notice shall include: a project description, information regarding where and when project plans can be viewed, a request for comments regarding said exception, and a commenting deadline date. No public hearing shall be required.

**F. Director's Review and Action—All Minor Exceptions.**

**1. Notice of Decision.** After the commenting deadline date, if any, and within thirty (30) days of receipt of a completed application, the Director shall approve, conditionally approve, or deny the required exception. The Director of Community Development shall send the applicant a letter

RESOLUTION NO PC 09-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A COASTAL DEVELOPMENT PERMIT AND MINOR EXCEPTION TO ALLOW CONSTRUCTION OF AN ADDITION TO AN EXISTING DUPLEX WITH REDUCED OPEN SPACE ON THE PROPERTY LOCATED AT 121 24<sup>TH</sup> STREET  
(Ballew)**

**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 June 10, 2009 to consider an application for a Coastal Development Permit and Minor Exception for the property legally described as Lot 13, Block 3, Peck's Manhattan Beach Tract, located at 121 24<sup>th</sup> Street in the City of Manhattan Beach.
- B. The public hearing was advertised pursuant to applicable law, testimony was invited and received.
- C. The applicant for the Coastal Development Permit and Minor Exception is Richard Ballew, the property owner.
- D. The applicant proposes a second story addition of 453 square feet to an existing duplex with a reduction of useable open space to a total of 207 square feet, instead of the required 440 square feet.
- E. The property is located within Area District III and is zoned RH High Density Residential. The surrounding land uses consist of single and multiple family residences.
- F. The General Plan designation for the property is High Density Residential, and the Local Coastal Program/Land Use Plan designation is High Density Residential.
- G. 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.
- H. 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.
- I. The Planning Commission made the following findings with respect to the reduced open space Minor Exception application:
  - a) The proposed project will be compatible with properties in the surrounding area since the building size will be well below the maximum size permitted and the addition area is small, and at a non-prominent location on the site.
  - b) The project will not be detrimental to surrounding neighbors since the new construction will observe required setbacks, and be well below the maximum height limit.
  - c) Practical difficulties warrant deviation from code standards including demolishing living area or adding an additional building level to achieve conforming open space.
  - d) Existing nonconformities will not be brought into conformance since significant changes are not proposed for those locations and required conformance would not be reasonable.

- 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 submitted to the Planning Commission on June 10, 2009.
10. The project shall comply with all requirements of the RS zoning district except for the existing front, rear, and corner side yards, and open space.
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. 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.