



Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Montgomery and Members of the City Council

THROUGH: Richard Thompson, Interim City Manager

FROM: Laurie B. Jester, Acting Director of Community Development
Eric Haaland, Associate Planner

DATE: December 7, 2010

SUBJECT: Consideration of Planning Commission Approval of a Coastal Development Permit and Minor Exception to Allow an Addition to an Existing Single Family Residence at 120 29th Place.

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 November 10, 2010, approved (5-0) a 250 square foot addition to a 2-story single-family residence on a typical walk street lot in the beach area. In addition to a Coastal Development Permit, a Minor Exception is proposed to retain nonconforming parking and open space, and to retain and alter walls with nonconforming setbacks. Most coastal permit applications involving single-family homes and duplexes are processed administratively, but in this case, the City's Coastal Program requires Planning Commission approval due to the additional Minor Exception request. Additionally, Minor Exceptions are typically approved administratively, but in this case the combination with the Coastal Permit requires Planning Commission approval.

The Planning Commission supported the project since it generally conforms to coastal program zoning requirements, and complies with the regulations and intent of the Minor Exception procedure. The resulting 2,372 square feet of total floor area would be 52% of the site's allowable 4,588 square feet. The existing building height would remain at 2-stories in a 3-story zone, since the proposed addition area would be at the ground floor. Some deck area would be displaced by the addition bringing the project 30 square feet below the open space requirement, however, the building's below-maximum height allows for Minor Exception approval of an open space reduction. The nonconforming garage would be improved in length and supplemented by a new conforming single-car garage space involving alterations to the building's nonconforming rear

wall.

A Variance was previously approved for the property allowing the ground floor of the residence to occupy approximately half of the front yard with a zero setback. This condition currently exists and no expansion, addition, or other significant changes (some minor changes are anticipated) are permitted without a new Variance approval.

The Planning Commission found the Minor Exception request to be appropriate since it met the required findings, and is consistent with the intention and criteria of these specific types of Minor Exception items as established by the City's "Mansionization" project of 2008. One of the key purposes of the Minor Exception is to encourage the retention of existing smaller buildings rather than prompting property owners to completely demolish, and construct new maximum size buildings.

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, except two letters of support from the adjacent neighbors submitted by the applicant.

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:

- A. Resolution No. PC 10-07
- B. P.C. Minutes excerpts, dated 10/27/10 & 11/10/10
- C. P.C. Staff Report and attachments, dated 11/10/10
- D. Neighbor support letters
- E. Plans (separate/NAE)

(NAE) – not available electronically

- C: Breton Lobner, Applicant/Owner
Jay Stephenson, Project Architect
Elizabeth Srour, Applicant representative

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RESOLUTION NO PC 10-07

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 SINGLE FAMILY RESIDENCE WITH NONCONFORMING SETBACKS, NONCONFORMING PARKING, AND REDUCED OPEN SPACE ON THE PROPERTY LOCATED AT 120 29TH PLACE (Lobner)

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 public hearings pursuant to applicable law on October 27, 2010, and November 10, 2010 to consider an application for a Coastal Development Permit and Minor Exception for the property legally described as Portion of Lot 13, Block 8, Peck's Manhattan Beach Tract, located at 120 29th Place in the City of Manhattan Beach.
- B. The public hearings were advertised pursuant to applicable law, testimony was invited and received.
- C. The applicant for the Coastal Development Permit and Minor Exception is Breton Lobner, the property owner.
- D. The applicant proposes a 1st story addition of 250 square feet to an existing 2,262 square foot building for a project that exceeds a 50% remodel of the existing single-family residence with retention and alteration of nonconforming setbacks, retention of nonconforming parking, and a reduction of useable open space to a total of 325 square feet, instead of the required 355 square feet. The resulting 2,372 square foot building would be 52% of the allowable 4,588 square feet, and would remain a 2-story building in a 3-story zone.
- E. The property is located within Area District III and is zoned RH High Density Residential, and is located within the appealable portion of the Coastal Zone. The surrounding land uses consist of single and multiple family residences.
- F. A previous Variance approval for the site's existing reduced front yard setback contained in Board of Zoning Adjustment Resolution 77-35 remains in effect.
- G. The General Plan designation for the property is High Density Residential, and the Local Coastal Program/Land Use Plan designation is High Density Residential.

EXHIBIT A
CC Mtg. 12/7/10

- H. The Project is Categorical 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:
 - 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 relatively low in bulk.
 - b) The project will not be detrimental to surrounding neighbors since the new construction will observe required setbacks, and be well below the maximum floor area.
 - c) Practical difficulties warrant deviation from code standards including demolishing living area and garage area.
 - 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.
 - e) The project is consistent with the General Plan, the intent of the zoning code, and other applicable policies of the City.
- 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 this Chapter.
 - 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.

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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. Parking spaces may remain non-conforming with respect to the number of spaces, except as provided below, as well as the size, consistent with the provisions in Section 10.64.090 Exceptions, which allows a one foot (1') reduction in dimensions. Other minor parking non-conformities, including but not limited to, garage door width, turning radius, driveway width, and driveway visibility, may remain as determined by the Director of Community Development to be impractical to bring into conformance with Code requirements.
5. 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.
6. Projects between two thousand (2,000) and two thousand eight hundred(2,800) square feet in area per dwelling unit shall provide a minimum two (1) car off-street parking with one(1) fully enclosed garage and one (1) unenclosed parking space per dwelling unit, which may be located in a required yard.
7. All development on the site which is existing legal non-conforming development for zoning regulations may remain, however non-conformities shall be brought closer to or in conformance with current zoning requirements to the extent that it is reasonable and feasible.
8. The existing legal non-conforming portions of the structure that remain shall provide a minimum of fifty percent (50%) of the required minimum setbacks, unless there is an unusual lot configuration and relationship of the existing structure to the lot lines for minor portions of the building, then less than fifty percent (50%) of the minimum required setback may be retained. A previous Variance approval preempts this requirement for the existing front yard nonconformity.
9. All development on the site which is existing legal non-conforming for Building Safety regulations shall be brought into conformance with current regulations to the extent feasible, as determined by the Building Official.
10. 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.

L. The project is in accordance with the objectives and policies of the Manhattan Beach Coastal Program, as follows:

- a) The proposed structure is consistent with the building scale in the coastal zone neighborhood and complies with the applicable standards of the Manhattan Beach Coastal Zone Zoning Code.
- b) 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.

- c) 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:
 - 1. Maintain building scale in coastal zone residential neighborhoods.
 - 2. Maintain residential building bulk control established by development standards.
 - 3. Maintain Coastal Zone residential height limit not to exceed 30'.

- L. 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 29th Street and 29th Place.

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.

- M. This Resolution upon its effectiveness constitutes 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 Coastal Development Permit and Minor Exception 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;

- 1 b. an affidavit executed by the assignee attesting to the assignee's agreement to
 - 2 comply with the terms and conditions of the permit;
 - 3 c. evidence of the assignee's legal interest in the property involved and legal capacity
 - 4 to undertake the development as approved and to satisfy the conditions required in
 - 5 the permit;
 - 6 d. the original permittee's request to assign all rights to undertake the development to
 - 7 the assignee; and,
 - 8 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.


12 Special Conditions

- 13 8. The subject Coastal Development Permit will be implemented in conformance with all
- 14 provisions and policies of the Certified Manhattan Beach Local Coastal Program (LCP)
- 15 and all applicable development regulations of the LCP - Implementation Program.
- 16 9. The plans shall be in substantial conformance with the plans submitted to the Planning
- 17 Commission on October 27th & November 10, 2010.
- 18 10. The project shall comply with all requirements of the RH zoning district except for the
- 19 existing front & rear yards, and parking size (modified per plan) and open space. The
- 20 existing reduced front yard authorized by previous Variance approval contained in
- 21 Board of Zoning Adjustment Resolution 77-35 shall not be significantly altered.
- 22 11. After completion of the project(s) that is subject to the Minor Exception approval(s), no
- 23 further addition(s) shall be permitted unless the entire structure is brought into
- 24 conformance with the current Code requirements. This shall not preclude the submittal
- 25 of multiple Minor Exceptions that meet the Code established criteria.
- 26 12. The applicant agrees, as a condition of approval of this project, to pay for all reasonable
- 27 legal and expert fees and expenses of the City of Manhattan Beach, in defending any
- 28 legal actions associated with the approval of this project brought against the City. In the
- 29 event such a legal action is filed against the project, the City shall estimate its expenses
- 30 for the litigation. Applicant shall deposit said amount with the City or enter into an
- 31 agreement with the City to pay such expenses as they become due.

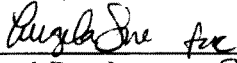
SECTION 3. Pursuant to Government Code Section 65009 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine 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.

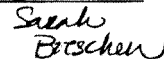
I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of November 10, 2010 and that said Resolution was adopted by the following vote:

AYES: Andreani, Lesser, Paralusz
Seville-Jones, Chairman Fasola
NOES: None
ABSTAIN: None
ABSENT: None



LAURIE B. JESTER,
Secretary to the Planning Commission



Sarah Boeschen
Recording Secretary 

E. PUBLIC HEARINGS

10/27/10-2 Consideration of a Coastal Development Permit and Minor Exception to Allow an Addition to an Existing Single Family Residence at 120 29th Place (Lobner)

Commissioner Lesser disclosed that he is acquainted with the project architect. He said that he has no financial interest in the subject project and feels he can consider the item fairly.

Chairman Fasola also indicated that he also knows the architect; however, he does not believe there is any conflict in his considering the proposal and feels he can consider the item fairly.

Associate Planner Eric Haaland summarized the staff report. He stated that the proposal is to add 250 square feet to the first floor of an existing two story residence. He commented that the proposal would include retaining and altering an existing nonconforming rear area; retaining existing nonconforming parking; and providing 30 square feet less open space than the requirement. He said that the proposed new construction is in compliance with the Code standards except for the revisions covered by the proposed Minor Exception. He pointed out that the main intent of allowing for Minor Exceptions is to encourage the retention of existing smaller structures rather than tearing down existing buildings and building new structures to the maximum that is permitted. He indicated that the project is consistent with the General Plan and the intent of the Zoning Code and Local Coastal Program. He stated that staff is recommending that the Commission discuss the proposal and continue the hearing and any action regarding the proposal to the meeting of November 10 due to late mailing of the notice regarding the hearing to the neighboring residents.

Commissioner Andreani asked whether any discussion of the Commissioners regarding the issue is premature at this hearing, as the required amount of time for noticing was not met.

Associate Planner Haaland indicated that staff feels the Commissioners can discuss the project at this hearing but that it would not be appropriate to conclude discussions or make a decision.

In response to a question from Commissioner Lesser, Associate Planner Haaland said that staff has received no public comments regarding the proposal.

Commissioner Lesser said that he would be prepared to have a discussion among the Commissioners at this hearing, as staff and the architect are present.

In response to a question from Commissioner Seville-Jones, Associate Planner Haaland stated that the notice indicated that comments received by residents prior to October 20 would be included with the staff report and that comments received after that date and before the hearing would be provided to the Commissioners separately. He indicated that there is no deadline that prevents members of the public from submitting comments at any time before the hearing. He indicated that notice of the hearing was done on time in the Beach Reporter, and the applicant is anxious to move forward with the project.

Commissioner Seville-Jones pointed out that the applicant will not be able to yet move forward after this hearing, as the Commission cannot make a decision on the project without proper notice of the hearing to the neighbors.



Associate Planner Haaland said that the applicant would like to know any issues that the Commissioners have with the project in order to have an opportunity to address them before the next hearing.

Commissioner Seville-Jones said that she is not particularly supportive of the item being discussed at this hearing without proper notice having been given to the neighbors. She commented that she would prefer that discussion occur after the proper noticing period.

Acting Director Jester said that staff is suggesting that the Commission ask staff and the applicant any questions that they may have and to raise any issues that they may have with the project. She said that any additional public comments can be taken at the next meeting.

Commissioner Paralusz said that the only reason that she feels the item should be discussed at this hearing is because the agenda is full for the next meeting; however, that should not be a reason for making the decision. She indicated that she is concerned about the issue of the insufficient time for noticing.

In response to a question from Commissioner Lesser, Acting Director Jester stated that there have been issues in the past that have had improper noticing where the items were discussed and no action was taken until the hearings were conducted with proper notice.

Commissioner Andreani said that the notice in the newspaper did indicate that the issue would be heard at this hearing. She indicated, however, that her recollection in receiving notices is that residents are asked to submit any comments by a specific date before the hearing.

Associate Planner Haaland indicated that the only suggestion in the notice is that residents must submit comments by a certain date in order to be included with the staff report and any comments received after that time and before the hearing would be forwarded separately to the Commissioners.

In response to a question from Commissioner Fasola, Acting Director Jester indicated that a second notice would not need to be done for the next meeting since the item was noticed for this hearing as well as for the November 10 meeting. She said that staff could send out an additional notice if it were a concern of the Commission.

Commissioner Seville-Jones said that she would rather not have the Commissioners give their views regarding the project because the noticing period has not been met. She said, however, that the applicant is present at this hearing and would like to know if the Commissioners have questions regarding the proposal. She said that there is an issue of policy as to whether an issue should be discussed without proper noticing time. She suggested that the Commissioners ask any questions of the applicant but wait to express their opinions on the proposal until the next hearing.

Chairman Fasola suggested that the Commissioners hear from the applicant. He indicated that he feels it is fair for the item to be discussed among the Commission and then continued to the next hearing. He said that he would like to have a further discussion regarding discussion of items where there has not been the proper amount of time for noticing.

Commissioner Paralusz commented that any members of the public that received late notice and attend the next meeting would not have the benefit of being able to be present to view this hearing as it is occurring. She said that she also would want to avoid basically having the same discussion at two hearings.

Commissioner Lesser said that he would support moving forward at this hearing with the discussion. He stated that there have been several other issues over the years that did not have the proper time for noticing that were discussed and then continued to a further hearing. He indicated that continuing the hearing would allow anyone who wishes to speak an opportunity at the next hearing.

Commissioners Paralusz and Seville-Jones and Andreani said that they would prefer for discussion of the item to be continued. The Commissioners agreed to defer to the Chairperson's judgment given the differing views of the Commissioners and staff.

Acting Director Jester pointed out that the proposal is for very minor changes that would be approved administratively if it did not require a Coastal Development Permit. She said that the applicant is present at this hearing, and the same discussion can be done at the next hearing if necessary. She indicated that staff would suggest that the applicant make a brief presentation since the applicant is present and that the Commissioners ask any questions at this hearing.

Chairman Fasola suggested that the applicant make a presentation and that the item be continued. He said that he feels the subject proposal is very minor.

Commissioner Andreani asked whether there is not a time limit for an applicant to use an approved Variance and whether the Variance from 1977 is still in place.

Associate Planner Haaland said that a Variance request can become invalid if the structure is demolished or if the Variance request is no longer used, but a change in ownership of the property would not result in a Variance becoming invalid.

In response to a question from Commissioner Seville-Jones, Associate Planner Haaland indicated that finishing work is proposed to be done to the front area of the property, but no structural work would be done. He indicated that staff's position is that the area that is included in the Variance not be substantially changed with structural alterations.

Acting Planner Jester indicated that staff's position is that the original Variance approved the specific one story addition with a specific configuration and location, and any substantial alterations would need an amendment to the Variance. She commented that there is a standard condition in today's discretionary permits that the plans and project description must be in substantial compliance with the plans that are approved. She indicated that there was not such language included in the original Variance for the project. She commented that it has always been staff's position that the Use Permit and Variance must continue to be in substantial compliance with what was approved and any significant changes would require an amendment.

Chairman Fasola opened the public hearing.

Jay Stephenson, the project architect, said that the applicants have always had an issue with parking, and the intent of the proposal was to add parking. He commented that the existing garage is very short and can only accommodate parking for one car. He indicated that they had to convert living area to accommodate for a conforming parking space. He said that they hoped to be able to retain the existing nonconforming parking space along with the proposed conforming parking space. He stated that they decided to eliminate an existing stairway which would add 3 ½ feet of length for parking. He indicated that the original Variance was passed without a specific design for the project. He said that the Variance permitted building to the front property line with certain restrictions, such as any building within the area could not

exceed 17 feet in width; the height was limited to 14 feet; and the home would be used as a single family residence. He indicated that they would like to do some structural modifications to the front which is permitted within the property line. He inquired as to why they would be unable to do modifications to the front of the structure, as it would be permitted under the original Variance that is still in effect. He stated that they could improve the project if they were able to do structural modifications to the front. He said that they would like to add a mission style parapet that would tie in the front end of the house with the original portion of the home. He said that with the parapet they would need to add a roof and rafter tails.

Commissioner Lesser said that he would have liked to have seen more complete plans as to the architect's preferred changes to the front of the structure and for staff to have had an opportunity to respond based on those plans. He said that continuing the item will allow an opportunity for staff to provide their opinion. He commented that he would be interested in staff's opinion regarding instances where there is a request for a Minor Exception which relates to improving a structure that has been built subject to a Variance.

Acting Director Jester pointed out that the applicant would also like to replace an existing window on the west side with French doors, which staff also considers a significant change.

In response to a question from Chairman Fasola, Acting Director Jester indicated that staff's opinion is that changing the parapet, extending the roof, and converting the window to French doors as suggested by the applicant would be significant changes that would require an amendment to the Variance.

In response to a question from Commissioner Lesser, Acting Director Jester commented that an amendment to the Variance is not the application that is before the Commission. She commented that the position of the applicant is that their preferred proposal would not require an amendment to the Variance.

Commissioner Andreani commented that the applicant's proposal would be an improvement to the home and the neighborhood. She pointed out that on the plans submitted by the applicant show two French doors in the living room; however, the elevation shows a single French door and a window.

Mr. Stephenson pointed out that the picture on page 4 of the handout that they have provided to the Commissioners shows their preferred design. He commented that on the west side they would like to install two French doors where there currently is a 6 foot wide window.

Acting Director Jester said that page 6 of the plans should show a window rather than two French doors.

Commissioner Andreani indicated that the parapet as proposed by the applicant looks more attractive than the existing shed roof. She asked if the applicant's suggested modifications to the front roofline are considered structural changes.

Chairman Fasola commented that the conditions of the original Variance are very clear. He indicated that it could be argued that replacing the window with doors or extending the roof on the downward slope are not necessarily structural changes. He said, however, that extending the parapet would have an impact on the uphill neighbor, and it may be difficult for the Commissioners to grant that part of request.

Mr. Stephenson pointed out that the only new house on the street is located to the east of the subject property and is three levels. He indicated that the property owner of that home is benefiting by the Variance on the subject property, as the front 20 feet can only be single story or 14 feet high.

In response to a question from Commissioner Seville-Jones, Acting Director Jester commented that the plans that have been available for review by the neighbors did not include the applicant's suggested improvements to the parapet and the installation of French doors.

In response to a question from Commissioner Lesser, **Mr. Stephenson** said that he is not certain what is involved in requesting an amendment to the Variance. He indicated that they had decided to take the opportunity at this hearing to ask the Commission whether they would consider supporting allowing their suggested changes as part of the existing Variance. He said that they would agree to the compromises that have been worked out with staff; however, the applicant would prefer to do improvements that are more accurate to the style of the home.

In response to a question from Commissioner Lesser, Acting Director Jester indicated that the necessary findings would need to be met for granting an amendment to the Variance that there are extraordinary circumstances; that it would result in no significant detrimental impact; that the proposed changes are consistent with the General Plan; and that approving the amendment would not be granting a special privilege. She said that a request for an amendment to the Variance would require noticing and a public hearing.

In response to a question from Commissioner Paralusz, Associate Planner Haaland said that the property owner has indicated that he thought the existing Variance allowed more flexibility than has been interpreted by staff.

In response to a question from Commissioner Lesser, Associate Planner Haaland indicated that a request to amend the Variance would cost roughly \$5,000.00, and a Minor Exception application is between \$1,000.00 and \$2,000.00.

In response to a question from Commissioner Andreani, Commissioner Lesser indicated that his understanding is that the current Minor Exception application as presented by staff would be coming before the Commission at the continued hearing on November 10 and not a request to amend the Variance. He suggested that the applicant consider if they would prefer for the Minor Exception to be considered further or if they would rather make a request for an amendment to the Variance that would include their preferred changes.

Commissioner Paralusz pointed out that the applicant is investing a lot of resources into renovating their home, and she would suggest that they consider whether they would like to change their request from a Minor Exception to an amendment to the Variance.

Commissioner Andreani said that it appears that the applicant has achieved the goal with the subject application of improving parking. She said that while there is not a full improvement to have two full sized parking spaces, it is an improvement to the existing condition and does not exacerbate a neighborhood parking problem.

Chairman Fasola said that he feels the parking as proposed is a great improvement to the existing condition.

Commissioner Lesser stated that the Commission appears to have provided direction that they would not consider the preferred changes suggested by the applicant without a request for an

amendment to the Variance because of the structural modifications that are being proposed. He indicated that he would also urge the applicant to consider if they want consideration to go forward for the Minor Exception or if they would prefer to apply for an amendment to the Variance.

A motion was MADE and SECONDED (Lesser/Paralusz) to CONTINUE the hearing regarding Consideration of a Coastal Development Permit and Minor Exception to Allow an Addition to an Existing Single Family Residence at 120 29th Place to the meeting of November 10, 2010, and that the item be renoticed.

AYES: Andreani, Lesser, Paralusz, Seville-Jones, Chairman Fasola
NOES: None
ABSENT: None
ABSTAIN: None

F. DIRECTORS ITEMS

Acting Director Jester indicated that the Sustainable Communities Strategy Workshop will be held on October 28 at 4:30 p.m. in Rolling Hills Estates. She indicated that Chairman Fasola has indicated that he would be available to attend.

Chairman Fasola said that he will be attending the workshop.

Acting Director Jester reported that the Special City Council meeting regarding the library expansion has been cancelled for November 10 and will be rescheduled for a future date. She said that staff is encouraging all members of the City's boards and commissions to attend as residents rather than as commissioners.

In response to a question from Commissioner Paralusz, Acting Director Jester said that the public can attend the Sustainable Communities Strategy Workshop. She indicated that the workshop is taking place in Rolling Hills Estates at the Peninsula Library from 4:30 p.m. to 6:30 p.m.

Acting Director Jester said that work is underway on the South Bay Bicycle Master Plan. She indicated that a grant has been given to the South Bay Bicycle Coalition for the development of a master plan for seven cities in the South Bay. She indicated that volunteers are needed to help conduct bicycle counts at specific intersections. She stated that there is a one hour training session on October 30, 2010, at 11:00 p.m. in Redondo Beach. She indicated that the counts will be taken on November 4, 2010, from 3:00 p.m. to 6:00 p.m. and on November 6 from 10:30 a.m. to 1:30 p.m. She commented that information is also available on the City's website.

G. PLANNING COMMISSION ITEMS

In response to a question from Commissioner Paralusz, Acting Director Jester indicated that the Environmental Impact Report for the Manhattan Village Mall expansion is not yet completed. She commented that she is anticipating receipt of draft technical reports in the next two weeks and further reports in the next two months. She said that the reports will be distributed to City staff once they are received and will then be incorporated into the Screen Check Draft Environmental Impact Report. She said that after staff review it will become a draft document that is available for public review and comment. She said that she does not have a schedule of when the reports will be received and reviewed.

Action

A motion was MADE and SECONDED (Lesser/Paralusz) to **APPROVE** the minutes of October 27, 2010, as amended.

AYES: Andreani, Lesser, Paralusz, Seville-Jones, Chairman Fasola
NOES: None
ABSENT: None
ABSTAIN: None

C. AUDIENCE PARTICIPATION

D. BUSINESS ITEMS

E. PUBLIC HEARINGS

11/10/10-2 Consideration of a Coastal Development Permit and Minor Exception to Allow an Addition to an Existing Single Family Residence at 120 29th Place (Lobner)

Commissioner Lesser disclosed that he and his wife had consulted with the project architect in the past, but he has no financial interest in the project and feels he can consider the item fairly.

Associate Planner Haaland summarized the staff report. He indicated that the proposal is for a 250 square foot addition to an existing single family residence. He commented that the proposal is to retain a nonconforming rear portion of the building; to retain nonconforming parking with the addition of a new single car garage space; and to have a reduction in the required amount of open space by 30 square feet. He stated that an additional notice was provided after the previous hearing in order to clarify that the item would be considered at this meeting in addition to the previous one. He indicated that the proposed new construction is in compliance with all standards except for the Minor Exception. He commented that Minor Exceptions are intended to encourage retention of existing buildings rather than tearing them down and building new structures to the maximum size permitted.

Chairman Fasola opened the public hearing.

Jay Stevenson, the project architect, commented that his understanding is that there is a possibility that they would be able to revise the plans to be closer to their original proposal provided that they submit letters of approval from the adjacent residents.

Acting Director Jester said that staff is working with the architect to allow minor modifications to the front portion of the structure as long as the changes would not impact the neighbors and are not structural.

In response to a question from Commissioner Lesser, Acting Director Jester indicated that any changes that would be allowed by staff would be to the Minor Exception that is currently before the Commission. She pointed out that an amendment to the existing Variance is not being considered.

In response to a question from Commissioner Lesser, **Mr. Stevenson** said that his understanding is that the applicants do not intend to request an amendment to the Variance

provided that they are allowed some additional flexibility in working with staff with the Minor Exception.

In response to a question from Commissioner Paralusz, Acting Director Jester said that letters have been received from the adjacent neighbors on both sides of the subject property indicating that they do not object to the proposal. She indicated that staff has not received any other comments.

Commissioner Andreani asked if it would be appropriate to add a requirement under "Special Conditions" in the Resolution that the address be changed from 120 29th Place to 125 29th Street. She commented that the front of the home faces on 29th Street, and changing the address would make it consistent within the neighborhood.

Associate Planner Haaland pointed out that there is a possibility of changing the address during plan check before the building permit is issued. He said that an address change is typically not included as part of a planning approval such as this one, as it is typically dependent upon the Fire and Police Departments.

Chairman Fasola closed the public hearing.

Commission Discussion

Commissioner Seville-Jones indicated that the purpose of continuing the item was to allow any neighbors that wanted an opportunity to address the Commission since the required noticing period had not been met at the last hearing. She indicated that the project is nicely designed and is only in front of the Commission because it is located in the Coastal Zone. She said that she feels the plans are consistent with the findings for allowing the Minor Exception.

Commissioner Andreani said that the project is a nice improvement to the neighborhood. She commented that adding a parking space as proposed would be a benefit.

Commissioner Lesser said that he supports the project as presented. He stated that the project could have been designed to be larger, and he feels the necessary findings can be met.

Commissioner Paralusz stated that she also supports the project. She thanked the architect for coming before the Commission at both hearings and working with staff.

Chairman Fasola said that he feels it is good project and that the required findings can be met. He commented that any small details that the architect and property owners may wish to add can be addressed with staff.

Action

A motion was MADE and SECONDED (Andreani/Paralusz) to **APPROVE** Consideration of a Coastal Development Permit and Minor Exception to Allow an Addition to an Existing Single Family Residence at 120 29th Place

AYES: Andreani, Lesser, Paralusz, Seville-Jones, Chairman Fasola
NOES: None.
ABSENT: None
ABSTAIN: None

Acting Manager Jester said that the item will be placed on the agenda for the City Council under receive and file items for the City Council meeting of December 7, 2010.

11/10/10-3 Consideration of Two Appeals of the Director of Community Development's Decision to Approve a Remodel Project for 3404 The Strand/3405 Ocean Drive

Acting Director Jester said that a petition was received from the property owner which will be provided to the Commission. She commented that staff has also received the structural plans for the project. She indicated that any decision of the Community Development Director is able to be appealed. She said that in this case adjacent neighbors were concerned that the amount of work that was occurring was above the scope of the demolition permit that was approved. She indicated that a stop work order was placed on the project. She indicated that staff worked closely with the building official, and it was determined that the remodel did not exceed 50 percent valuation of the existing development. She commented that there are only three separate valuations that may be placed on construction; \$160.00 per square foot for new construction; \$140.00 per square foot for major remodels of existing homes; and \$80.00 per square foot for standard remodels. She said that staff feels the proposal is a typical standard remodel. She indicated that staff felt it was important to allow the neighbors to raise their concerns to the Commission.

Assistant Planner Danna provided a power point presentation, summarizing the staff report. He said that a building permit application was submitted for the subject remodel in January of 2010, and staff reviewed the plans and issued corrections in February. He indicated that a demolition permit was issued in March. He stated that neighboring residents later contacted the City and raised concerns that the demolition went beyond the scope of the approved permit. He said that a stop work order was placed on the property in June. He indicated that the applicant then withdrew the building permit application and resubmitted the building plans to reflect the new scope of work for the project. He stated that staff issued a courtesy notice of the decision to approve the revised project, and subsequently two appeals were received from neighboring residents. He pointed out that the new permit does not exceed the 50 percent building valuation. He commented that the original permit for the existing structures was issued in 1973, 37 years ago. He indicated that The Strand unit has legal nonconformities with the south side setback, open space, and the deck projection. He said that the Ocean Drive unit has legal nonconformities with the height; the number of stories; the south, north, and east side setbacks; and the amount of open space. He commented that square footage is not being added as part of the remodel, and the construction does not exceed 50 percent valuation. He pointed out that the method of determining height measurement was different in 1973 than it is currently.

Assistant Planner Dana said that Manhattan Beach Municipal Code Section 10.68.030(e) provides an exception for the nonconforming height of structures regardless of the building valuation if the reason for the excess height is due to the method under which the structure was measured. He indicated that the proposed project is not increasing the discrepancy between the existing conditions and the current Code standards and is consistent with the purpose and intent of the nonconforming portion of the Code. He stated that the proposed remodel is also not increasing the degree of nonconformities, and no square footage is proposed to be added. He indicated that the first appeal that was received challenged the legality of the 1973 permit and staff's valuation determination. He stated that the second appeal challenged the legality of the original permit as well as the need for a Minor Exception and staff's authority and jurisdiction.

He stated that the statute of limitations for filing an appeal of the original permit issued in 1973 has expired. He indicated that the appellants argue that the plans show that there was an issue

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

TO: Planning Commission

FROM: Laurie B. Jester, Acting Director of Community Development *UBJ*

BY: Eric Haaland AICP, Associate Planner *EH*

DATE: November 10, 2010

SUBJECT: Consideration of a Coastal Development Permit and Minor Exception to Allow an Addition to an Existing Single Family Residence at 120 29th Place.

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT** the continued Public Hearing, **DISCUSS** the subject request, and **APPROVE** the request.

APPLICANT /OWNER

Breton Lobner
120 29th Place
Manhattan Beach, CA 90266

LOCATION

<u>Location</u>	120 29 th Place between Manhattan Ave. & Ocean Dr. (See Site Location Map).
<u>Legal Description</u>	Lot 13, Blk 8, 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> 2,262 sq. ft SFR <u>Proposed</u> 2,372 sq. ft. SFR

<u>Neighboring Zoning/Land Uses</u>	North	RH/Duplex
	South	RH/Triplex
	East	RH/SFR
	West	RH/Duplex

PROJECT DETAILS

	<u>Proposed</u>	<u>Requirement (Staff Rec)</u>
Parcel Size:	2,699 sq. ft.	2,700 sq. ft. min
Building Floor Area:	2,372 sq. ft.	4,588 sq. ft. max.
Height	28 ft. existing	30 ft. max.
Parking:	1 + partial enclosed space (*)	2 enclosed
Vehicle Access	29 th Place	N/A
Setbacks		
Front (north)	zero ft. existing (**)	5 ft. (*)
Rear (south)	4.2 ft. (*)	5 ft. min
Interior Side (east)	3 ft.	3 ft. min.
Interior Side (west)	3 ft.	3 ft. min
Usable Open Space	325 sq. ft. (*)	355 sq. ft.

(*) – Minor exception may allow nonconforming setbacks, parking, and open space

(**) – Pre-existing variance approval for front yard setback

BACKGROUND

The Planning Commission, at its regular meeting of October 27, 2010, initiated and continued the public hearing for the proposed project. The continuation was planned prior to that meeting since the mailed portion of the public notice was mistakenly sent after the required deadline. No public input was received. The Commission discussed some aspects of the project with the applicant's architect and continued the item. The architect presented a proposal to modify the portion of the house approved by a previous Variance. Staff clarified that the proposed modifications would require a Variance amendment, which the applicant has not submitted, and therefore the Planning Commission can not take action on that proposal. The draft minutes for that meeting are provided separately in this agenda packet.

The subject site fronts on a walk street (29th St.) and abuts an alley (29th Pl.) at the rear. A Variance was previously approved for the property allowing the ground floor of the residence to occupy approximately half of the front yard with a zero setback. This condition currently exists and no expansion, addition, or alteration was proposed in this area. The submitted plans contain a conflict between an existing window/door element in this area, and it has been clarified that the existing window must remain.

Pursuant to Section A.96.050 of the Manhattan Beach Local Coastal Program, a Coastal Development Permit is now required because the proposed project includes a greater-than-10% addition, and is located within the appealable portion (where a decision is appealable to the State Coastal Commission) of the Coastal Zone. A public hearing is required, without the option of a waiver (Sec. A.96.260), because the application includes a Minor Exception request to retain nonconforming setbacks, parking and open space, and to retain and alter walls with nonconforming setbacks.

Most appealable coastal permit applications involving single-family homes and duplexes may proceed administratively through the waiver process provided by the coastal program. However, applications that require supplemental approvals such as minor exceptions, variances, use permits, and subdivision maps, must be reviewed by the Planning Commission at a public hearing.

DISCUSSION

The applicant proposes to construct a 250 square foot (gross area) addition to a 2-story single-family residence on a typical walk street lot in the beach area. The proposed ground floor additions would increase living area toward the front of the site, while converting some rear area to parking. A full first and second story remodel is proposed, however, the ground floor area within the front yard previously approved by the Variance would not be structurally altered. The upper story would remain recessed well behind the minimum front setback line, and most of an on-grade patio area abutting the unobstructed portion of the front yard side patio would also remain.

While the building's nonconforming setbacks would primarily be unchanged, a stairway in the west side yard would be removed, and the conversion of rear living area to garage space involves recessing a portion of the rear wall to achieve required parking back-up distance (15' from alley centerline). The resulting 2,372 square feet of total floor area would be 52% of the site's allowable 4,588 square feet of Buildable Floor Area (BFA), which also provides eligibility (under 66% of BFA) for Minor Exception approval to allow the setback, parking, and open space nonconformities to remain as proposed.

Setbacks:

The existing building's rear wall is proposed to remain partially nonconforming and will involve structural alterations where the new garage wall is constructed. This 4.2-foot nonconforming setback is well over the 50% of the minimum 5-foot setback that is generally required for a Minor Exception, and is the type of setback that is routinely approved by Staff.

The existing zero-setback front portion of the building does not meet the 50% conformance requirement for Minor Exceptions (MBMC Section 10.84.120(G)(11)), but is authorized by Variance approval. Staff's determination is that the Variance (attached) remains valid independently of the Minor Exception if variance compliance is maintained, and the relevant area is not significantly altered, as is the case with this proposal.

Parking:

Section 10.84.120(G)(6) of the Zoning Code provides that a Minor Exception can be approved for an existing residence between 2,000 and 2,800 square feet in area with a 1-car garage plus 1 open parking space instead of the required 2-car garage. This condition is also routinely approved for Minor Exception applications, and the subject property would possess the new conforming 1-car

garage plus an existing nonconforming space. The existing garage is nonconforming in that its length is only 14 feet instead of 19 feet. The proposed conforming garage space, together with retention of an improved nonconforming space (partially within the driveway), make the project eligible for Minor Exception approval.

Open Space:

The required amount of useable open space for the project is 355 square feet. The 325 square feet of countable open space for the property is provided by the existing ground level patio and entry courtyard. These open space areas are well above minimum qualifying requirements as they are on-grade and uncovered. 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”. Although some of the existing second story is relatively tall, the buildable areas that are no more than 1 story tall are substantial, and Staff believes it is appropriate to approve the small open space reduction.

Minor Exception and Coastal Permit Findings:

Section 10.84.120 of the Zoning Code (attached) provides for Minor Exception approval of nonconforming setbacks, nonconforming parking, and reduced open space for residential remodel projects. In order to approve this 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 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.
- 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 compatible with the neighborhood. The project is also consistent with a primary intention of Minor Exceptions (MBMC 10.84.010), which is to encourage retention of smaller buildings rather than prompting property owners to build new maximum size buildings due to nonconformity challenges.

Staff believes that the Minor Exception criteria of Section 10.84.120(G), applicable to nonconforming setbacks, open space, parking, are met by the proposal as listed in the attached resolution, including: appropriate building code compliance, appropriate zoning conformity, and appropriate parking conformity.

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 as required. The 10-day required noticing period for the mailed notices expired shortly after the Planning Commission considered this item on October 27, 2010, indicating that the public hearing would extend to November 10, 2010. An updated notice was also provided in the newspaper subsequent to the initial meeting. Staff still has received no inquiries or opposition from project neighbors or other members of the community at this time.

ENVIRONMENTAL REVIEW

The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Sections 15301 & 15332 based on staff's determination that the project is a minor infill development and will not have a significant impact on the environment.

CONCLUSION

Staff supports the request finding that the project: 1) meets the findings required to approve a Minor Exception, 2) conforms to applicable zoning objectives and development standards, 3) is not expected to have a detrimental impact on nearby properties; 4) is consistent with the goals and policies of the General Plan, and; 5) would conform to the City's Local Coastal Program.

A draft resolution of approval is attached, which would act as the project minor exception approval and coastal development permit, if the project is approved by the Commission with no further appeal. Several standard conditions typically included have been placed in the draft Resolution as well as project specific conditions.

Attachments:

- A. Draft Resolution No. PC 10-
- B. Vicinity Map
- C. Minor Exception Code
- D. Applicant Material
- E. Previous Variance materials
- F. Supplemental applicant material from 10/27/10 mtg.
- G. Development Plans (transmitted previously)

c: Breton Lobner, Applicant/Owner
Jay Stephenson, Project Architect
Elizabeth Srour, Applicant representative

RESOLUTION NO PC 10-

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 SINGLE FAMILY RESIDENCE WITH NONCONFORMING SETBACKS, NONCONFORMING PARKING, AND REDUCED OPEN SPACE ON THE PROPERTY LOCATED AT 120 29TH PLACE (Lobner)

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 public hearings pursuant to applicable law on October 27, 2010, and November 10, 2010 to consider an application for a Coastal Development Permit and Minor Exception for the property legally described as Portion of Lot 13, Block 8, Peck's Manhattan Beach Tract, located at 120 29th Place in the City of Manhattan Beach.
- B. The public hearings were advertised pursuant to applicable law, testimony was invited and received.
- C. The applicant for the Coastal Development Permit and Minor Exception is Breton Lobner, the property owner.
- D. The applicant proposes a 1st story addition of 250 square feet to an existing 2,262 square foot building for a project that exceeds a 50% remodel of the existing single-family residence with retention and alteration of nonconforming setbacks, retention of nonconforming parking, and a reduction of useable open space to a total of 325 square feet, instead of the required 355 square feet. The resulting 2,372 square foot building would be 52% of the allowable 4,588 square feet, and would remain a 2-story building in a 3-story zone.
- E. The property is located within Area District III and is zoned RH High Density Residential, and is located within the appealable portion of the Coastal Zone. The surrounding land uses consist of single and multiple family residences.
- F. A previous Variance approval for the site's existing front yard setback nonconformity contained in Board of Zoning Adjustment Resolution 77-35 remains in effect.
- G. The General Plan designation for the property is High Density Residential, and the Local Coastal Program/Land Use Plan designation is High Density Residential.

- II. 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:
 - 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 relatively low in bulk.
 - b) The project will not be detrimental to surrounding neighbors since the new construction will observe required setbacks, and be well below the maximum floor area.
 - c) Practical difficulties warrant deviation from code standards including demolishing living area and garage area.
 - 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.
 - e) The project is consistent with the General Plan, the intent of the zoning code, and other applicable policies of the City.
- 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 this Chapter.
 - 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. Parking spaces may remain non-conforming with respect to the number of spaces, except as provided below, as well as the size, consistent with the provisions in Section 10.64.090 Exceptions, which allows a one foot (1') reduction in dimensions. Other minor parking non-conformities, including but not limited to, garage door width, turning radius, driveway width, and driveway visibility, may remain as determined by the Director of Community Development to be impractical to bring into conformance with Code requirements.
 5. 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.
 6. Projects between two thousand (2,000) and two thousand eight hundred (2,800) square feet in area per dwelling unit shall provide a minimum two (1) car off-street parking with one (1) fully enclosed garage and one (1) unenclosed parking space per dwelling unit, which may be located in a required yard.
 7. All development on the site which is existing legal non-conforming development for zoning regulations may remain, however non-conformities shall be brought closer to or in conformance with current zoning requirements to the extent that it is reasonable and feasible.
 8. The existing legal non-conforming portions of the structure that remain shall provide a minimum of fifty percent (50%) of the required minimum setbacks, unless there is an unusual lot configuration and relationship of the existing structure to the lot lines for minor portions of the building, then less than fifty percent (50%) of the minimum required setback may be retained. A previous Variance approval preempts this requirement for the existing front yard nonconformity.
 9. All development on the site which is existing legal non-conforming for Building Safety regulations shall be brought into conformance with current regulations to the extent feasible, as determined by the Building Official.
 10. 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.
- L. The project is in accordance with the objectives and policies of the Manhattan Beach Coastal Program, as follows:
- a) The proposed structure is consistent with the building scale in the coastal zone neighborhood and complies with the applicable standards of the Manhattan Beach Coastal Zone Zoning Code.
 - b) 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.

- c) 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:
 - 1. Maintain building scale in coastal zone residential neighborhoods.
 - 2. Maintain residential building bulk control established by development standards.
 - 3. Maintain Coastal Zone residential height limit not to exceed 30'.

- L. 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 29th Street and 29th Place.

 - 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.

- M. This Resolution upon its effectiveness constitutes 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 Coastal Development Permit and Minor Exception 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 submitted to the Planning Commission on October 27th & November 10, 2010.

10. The project shall comply with all requirements of the RH zoning district except for the existing front & rear yards, and parking size (modified per plan) and open space. The existing front yard nonconformity authorized by previous Variance approval contained in Board of Zoning Adjustment Resolution 77-35 shall not be significantly altered.

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.

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 November 10, 2010 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

LAURIE B. JESTER,
Secretary to the Planning Commission

Sarah Boeschen
Recording Secretary

Vicinity Map
120 29th Place

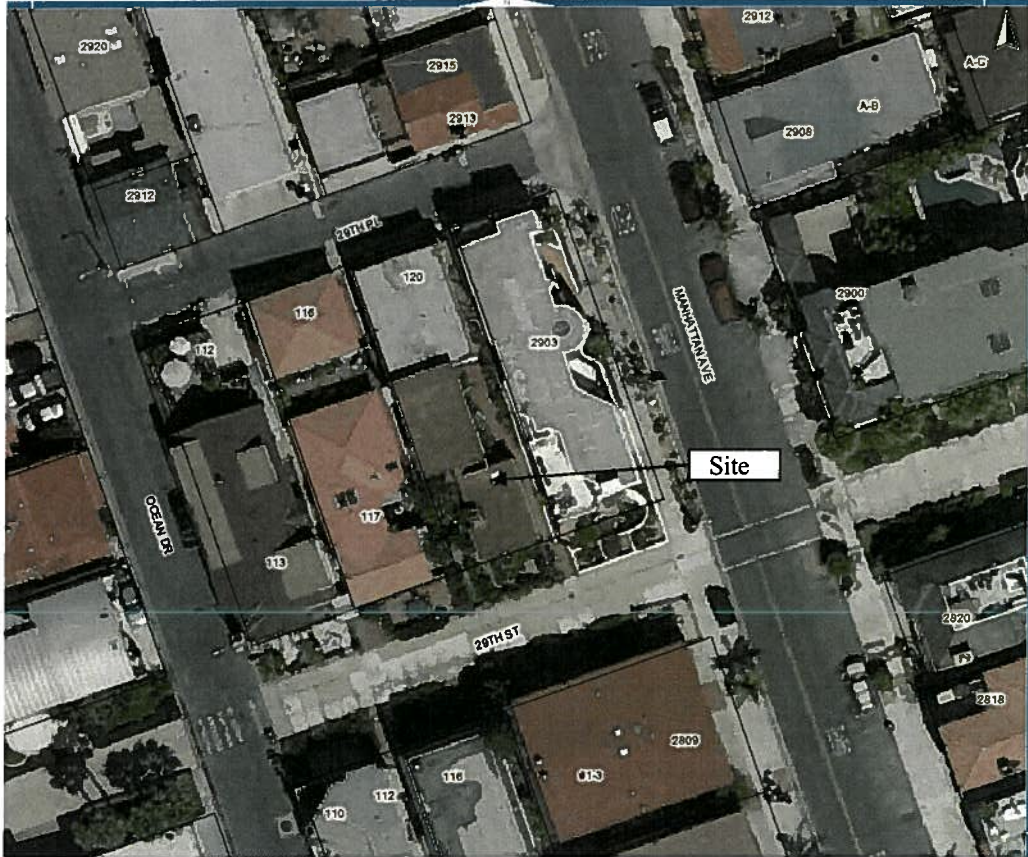


EXHIBIT B
PC MTG 10-27-10

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10.84.120 - Minor exceptions.

The Community Development Director may grant minor exceptions from certain regulations contained in the ordinance codified in this chapter for projects as follows:

Valuation No Limitation. Projects that involve new structures or remodels without limits of project valuation [i.e., may exceed fifty percent (50%) valuation provisions of Section 10.68.030(E)], as provided below. Notice may be required for exceptions to Sections 10.68.030(D) and (E), see subsection A and B of this section for noticing requirements.

Applicable Section	Exception Allowed
10.12.030	Attachment of existing structures on a site in Area District III or IV which result in the larger existing structure becoming nonconforming to residential development regulations.
10.12.030	Site enlargements (e.g., mergers, lot line adjustments), not exceeding the maximum lot area, which result in existing structures becoming nonconforming to residential development regulations.
10.12.030 (M)	Reduction in the 15% open space requirement for dwelling units that are largely 1-story in 2-story zones and for dwelling units that are largely 2-story in 3-story zones.
10.12.030 (P)	Construction of retaining walls beyond the permitted height where existing topography includes extreme slopes.
10.12.030 (T)	Reduction in percentage of additional 6% front yard setback, or 8% front/streetside yard setback on corner lots, required in the RS Zone—Area Districts I and II, 15% open space requirement, side yard setbacks, and/or rear yard setback. This may be applied to small, wide, shallow, multiple front yard, and/or other unusually shaped lots or other unique conditions.
10.12.030 (T)	Reduction in percentage of additional 6% front yard setback required in the RS Zone—Area Districts I and II for remodel/additions to existing dwelling units if the additional setback area is provided elsewhere on the lot.
10.12.030 (T)	Reduction in percentage of additional 8% front/streetside yard setback required on corner lots in the RS Zone—Area Districts I and II for remodel/additions to existing dwelling units if the additional setback area is provided elsewhere on the lot.
10.12—10.68	Non-compliant construction due to Community Development staff review or inspection errors.
10.68.030 (D) and (E), 10.12.030 and 10.12.030 (R)	Construction of a first, second or third story residential addition that would project into required setbacks or required building separation yard, matching the existing legal non-conforming setback(s).
10.68.030 (D) and (E)	Alterations, remodeling and additions (enlargements) to existing smaller legal non-conforming structures.
10.68.030 (E)	Alterations and remodeling to existing legal non-conforming structures.

A. **Minor Exception Application Without Notice.** All applications for minor exceptions may be approved administratively by the Director of Community Development without notice, except as provided in subsection B of this section. Additionally, a minor exception from Section 10.68.030(D) and (E) must meet the following criteria:

1. **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) or three thousand (3,000) square feet, whichever is less.

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.

~~EXHIBIT C 2.~~
PC MTG 10/27/10

~~EXHIBIT C~~
PC MTG 10/27/10

EXHIBIT C

PC MTG 11-10-10

- 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 stating the reasons for the decision under the authority for granting the exception, as provided by the applicable sections of this chapter. The letter also shall state that the Director's decision is appealable under the provisions of subsection K of this section. Notice of the decision also shall be mailed to all those individuals who received the initial notice to property owners described in subsection E of this section.
 2. **Findings.** In making a determination, the Director shall be required to make the following findings:
 - 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.

G. Additional Criteria—Sections 10.68.030(D) and (E). When making a determination to approve an exception to Sections 10.68.030(D) and (E), the Director shall also require the following criteria to be met, in addition to the findings in subsection (F)(2), as stated above:

1. New construction must conform to all current Code requirements except as permitted by this Chapter.
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. Parking spaces may remain non-conforming with respect to the number of spaces, except as provided below, as well as the size, consistent with the provisions in Section 10.64.090 Exceptions, which allows a one foot (1') reduction in dimensions. Other minor parking non-conformities, including but not limited to, garage door width, turning radius, driveway width, and driveway visibility, may remain as determined by the Director of Community Development to be impractical to bring into conformance with Code requirements.
5. 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.
6. Projects under two thousand (2,000) square feet in area per dwelling unit shall provide a minimum one (1) car fully enclosed garage per dwelling unit.
7. 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) fully enclosed garage and one (1) unenclosed parking space per dwelling unit, which may be located in a required yard subject to Director of Community Development approval.
8. Projects two thousand eight hundred (2,800) square feet in area and up to three thousand six hundred (3,600) square feet per dwelling unit shall provide a minimum two (2) car fully enclosed garage per dwelling unit.
9. Projects three thousand six hundred (3,600) square feet in area per dwelling unit and over shall provide a minimum three (3) car fully enclosed garage per dwelling unit.

10. All development on the site which is existing legal non-conforming development for zoning regulations may remain, however non-conformities shall be brought closer to or in conformance with current zoning requirements to the extent that it is reasonable and feasible.
 11. The existing legal non-conforming portions of the structure that remain shall provide a minimum of fifty percent (50%) of the required minimum setbacks, unless there is an unusual lot configuration and relationship of the existing structure to the lot lines for minor portions of the building, then less than fifty percent (50%) of the minimum required setback may be retained.
 12. All development on the site which is existing legal non-conforming for Building Safety regulations shall be brought into conformance with current regulations to the extent feasible, as determined by the Building Official.
 13. 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.
- H. **Additional Criteria—Section 10.12.030(T). Interior Lots.** When making a determination to approve an exception to Section 10.12.030(T) for a reduction in percentage of additional front yard setback for alterations, remodeling and additions (enlargements) to existing homes if the additional setback area is provided elsewhere, the Director shall also require compliance with the following criteria, in addition to the criteria stated in subsection (F)(2) of this section:
1. A minimum of three percent (3%) of the additional front setback shall be provided within the front and shall meet the criteria established in Section 10.12.030(T).
 2. The percentage of area that is provided outside of the additional front setback area, as established in Section 10.12.030(T), shall be required to be two (2) times the percentage if it was provided in the front yard (i.e., six percent (6%) required, if three percent (3%) in the front [three percent (3%) balance due] - provide six percent (6%) outside of the front yard equals nine percent (9%) total).
 3. The area provided outside of the additional front setback area shall be located adjacent to a required setback (i.e., not an interior courtyard).
 4. The area provided outside of the additional front setback area shall meet all of the criteria established in Section 10.12.030(T)(2) through (4).
 5. The proposed project is consistent with the purpose stated in Section 10.12.010(H).
- I. **Additional Criteria Section 10.12.030(T)—Corner Lots.** When making a determination to approve an exception to Section 10.12.030(T) on corner lots for alterations, remodeling and additions (enlargements) to existing homes if the additional front setback area is provided on the streetside frontage, the Director shall also require compliance with the following criteria, in addition to the criteria stated in subsection (F)(2) of this section:
1. A minimum of three percent (3%) of the additional front setback shall be provided within the front and shall meet the criteria established in Section 10.12.030(T).
 2. A minimum of three percent (3%) of the additional front setback shall be provided in a location that is largely directly abutting the streetside setback, and the balance of the required eight percent (8%) shall be located adjacent to another required setback (i.e., not an interior courtyard).
 3. The area abutting the streetside setback shall meet all of the criteria established in Section 10.12.030(T)(2) through (4).
 4. The proposed project is consistent with the purpose stated in Section 10.12.010(H).
- J. **Conditions of Approval.** In approving a minor exception permit, the Director may impose reasonable conditions necessary to:
1. Achieve the general purposes of this chapter and the specific purpose of the zoning district in which the minor exception will be located, or to be consistent with the General Plan;
 2. Protect the public health, safety, and general welfare; or
 3. Ensure operation and maintenance of the minor exception in a manner compatible with existing uses on adjoining properties in the surrounding area.

- K. **Effective Date—Appeals.** Unless appealed in accordance with Chapter 10.100 of the Manhattan Beach Municipal Code, a minor exception decision shall become effective after expiration of the time limits for appeal set forth in Section 10.100.030 Manhattan Beach Municipal Code.

(Ord. No. 1832, Amended, 01/17/91; Ord. No. 1838, Renumbered, 07/05/91; Ord. No. 1861, Amended, 12/03/92; Ord. No. 1891, Amended, 01/06/94; § 2, Ord. 1951, eff. July 4, 1996; § 5, Ord. 1992, eff. February 18, 1999; § 2, Ord. 2032, eff. May 16, 2002; § 2, Ord. 2050, eff. January 1, 2004; § 3 (part), Ord. 2068, eff. February 4, 2005, and § 20, Ord. 2111, eff. March 19, 2008)

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JAY STEPHENSON, Architect
MEMBER AMERICAN INSTITUTE OF ARCHITECTS
505 N. Sepulveda Blvd. Suite #4
Manhattan Beach, CA 90266 (310)379-6230

PLANNING REVIEW FOR MINOR EXCEPTION

ADDRESS: 120 29th Place
OWNER: Bret & Pattie Lobner
4514 New Hampshire St.
San Diego, CA 92116
(310) 545-7560 (M.B.)

EXISTING HOUSE:

The Lobner's single family house is on a 30x90 Walkstreet lot, zone R-H, A.D. III. The lot area is 2700 sq. ft., and the maximum allowable BFA is 4590 sq. ft. The Lobner's added onto the original 1920's 2-story house in the 1970's. A variance was granted to allow 1-story construction within half of the front setback area. The house now has 2,286.5 sq. ft. Buildable Floor Area and 293.5 sq. ft. garage area. The garage is non-conforming in depth and width. There are landscaped yards in the front and side of the house.

PROPOSED PROJECT:

The Lobner's want to enlarge the garage, add a new kitchen & dining room, and remodel other parts of the old house. The proposed work will exceed 50% valuation, but is less than 66% of the maximum allowable BFA for the property. GARAGE ENLARGEMENT: 175 sq. ft. living area will be converted to one new parking space. The existing non-conforming space will be enlarged by the removal of stairway, but will remain slightly undersized. Structurally, the best way to build the new space is to align new with existing non-conforming garage rear wall setback of 4'-2", requiring a Minor Exception.

KITCHEN/DINING ROOM ADDITION: The proposed addition will add 246.0 sq. ft. BFA. The addition will fix circulation problems and enlarge the living area. The addition requires 37 sq. ft. of Usable Open Space. The addition removes 246 sq. ft. of deck and yard area, but leaves 336 sq. ft. of Usable Open Space at the front and side yards. Minor Exception required?

LIVING ROOM REMODEL: The living room was legally constructed within the front setback as allowed by variance. The living room will be remodeled, but not enlarged, within the allowances of the original variance.

BEDROOM REMODEL: The upstairs bedrooms will be remodeled as required by the moving of the stair in the garage, and to modernize and upgrade the rooms.

ATTACHMENTS:

1. Existing floor plans, 1st & 2nd floors.
2. Proposed floor plans, 1st & 2nd floors, and elevations.
3. Copy of variance
4. Survey
5. Picture



11-10-10



BRET & PATTIE LOBNER

120 29th PL.

JUN 1 2010

RESOLUTION 77-35

A RESOLUTION OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MANHATTAN BEACH GRANTING A VARIANCE FOR THE PROPERTY LEGALLY DESCRIBED AS LOT 13, BLOCK 8 OF PECK'S MANHATTAN BEACH TRACT (120-29th Street)

WHEREAS, the Board of Zoning Adjustment of the City of Manhattan Beach conducted a Public Hearing to consider a variance for the property located at 120-29th Street; and

WHEREAS, the application was filed by Breton K. and Patricia G. Lobner; and

WHEREAS, the Board of Zoning Adjustment made the following findings with respect to the subject property:

1. The applicant requests a zone variance to allow construction of a single family addition within approximately one-half of the required front yard setback.
2. Subject property is a R-2 lot in Area District III which requires a five foot front yard setback from 29th Street.
3. The neighboring residences are generally built to the property line.
4. The Board finds an exceptional circumstance in that a single family dwelling not exceeding one story over approximately one-half of the frontage would preserve the open space, light, air, and views of adjacent properties in furtherance of the intention of the setback ordinance.
5. The Board finds the variance is necessary to grant the applicant an ocean view presently enjoyed by neighboring properties in that neighbors have already built to property line in violation of the front setback ordinance.
6. Granting the variance subject to conditions enumerated below will not be detrimental to neighboring uses.
7. The granting of the variance will not increase population density or otherwise adversely affect the General Plan.
8. No testimony or correspondence was received in opposition to the variance and testimony was received from the neighbor immediately to the east of subject property in favor of the proposed variance.
9. The Board finds that if the conditions enumerated below are enforced, the granting of the variance would not set a precedent.

NOW, THEREFORE, BE IT RESOLVED that the Board of Zoning Adjustment grants the requested variance subject to the following conditions of approval:

1. That all building improvements constructed within the front 20 feet of Lot 13 not cover more than 17 feet of the lot width.
2. That all building improvements within the front 20 feet of the Lot 13 shall not exceed one story or 14 feet.
3. That the use of subject property be limited to single family dwelling.

I hereby certify that the foregoing is a full, true, and correct copy of the resolution adopted by the Board of Zoning Adjustment at its regular meeting of June 28, 1977, and that said Resolution was adopted by the following vote:

AYES: Commissioners Clancy, Myska, and Acting Chairman Hayden
NOES: None
ABSENT: Commissioner Logan and Chairman Armistead
NOT VOTING: None



THOMAS H. CORLEY
Director of Community Development

EXHIBIT E

PC MTG 11-10-10

Mr. Orndorff explained that the subject property contains a single family dwelling build in 1925. The adjacent properties to the west and to the east are two units all constructed prior to 1941. The properties adjacent to the subject property have nonconforming front yard setbacks. Mr. Orndorff pointed out that this is a unique situation in that the exterior lots are zoned R-3, and the interior lots

BZA

page 2

6-28-77

are zoned R-2. The applicant requests a zone variance to allow construction of a single story addition within approximately one-half of the required front yard setback extending to the front property line. The proposal is in variance from Section 10.3.503(c), front yard setback (5') feet.

Mr. Orndorff read the recommended conditions to the Commission.

Commissioner Myska asked whether the use would limit it to a single family use and if in later years the owner wanted to change the use he would have to come back to the Board. Mr. Orndorff explained that if the present owner, or future owner, wanted to add to the existing building he would be informed that the front portion within the 5 foot front yard setback would have to be removed.

Acting Chairman Hayden opened the public hearing and invited testimony from the audience, and asked the applicant to speak in favor of his application and show to the Board the exceptional circumstances that would justify the exception to the Code.

Mr. Lobner, owner and occupant of the property, noted that he had filed an extensive document resitem 6 through 12 of the application for zone variance. Mr. Lobner remarked that he had contacted all the residents of the adjacent properties and discussed his intentions re: the setback. They were all in favor of his plan. His family intends to live in Manhattan Beach, they are not investors and they want to fix the house they have just bought. If you go on our street, said Mr. Lobner, you will see that all the houses have an ocean view. He added that it was their desire to also have some living area with some sort of a view to enjoy.

The applicant said that he was aware that he could build a two-story building on his lot, but in doing so he would obliterate his neighbor's view of the ocean which in the long run would be destructive to the General Plan.

Mr. Lobner read the written report he prepared listing all the exceptional circumstances regarding the property.

In answer to Commissioner Clancy's question, the applicant responded that they were planning to add 700 square feet to the 1500 square feet of the existing building. One part of the structure would be two story.

Chuck Thompson, neighbor to the east, on Lot 14, stated that he was pleased that he had been taken into account in the Lobner's plans. He appreciated the fact that he would be able to retain his ocean view. It will beautify the neighborhood added Mr. Thompson, and we are for this type of improvements.

Commissioner Myska asked the applicant whether he had any letters or evidence when he stated that all his neighbors were in favor of his plans. Mr. Lobner stated that he would furnish anything the Commission desired if necessary.

In answer to Commissioner Clancy whether this item had been advertised, Mr. Orndorff said that it had and notice had been sent to all property owners within 300 feet in addition to being advertised in the Manhattan Beach News.

There being no further testimony, motion was made and seconded to close the public hearing (Hayden/Myska).

After further discussion between Commissioners, Acting Chairman Hayden made the following motion. With respect to the subject property, the Board of Zoning Adjustment makes the following findings:

June 22, 1977

TO: Board of Zoning Adjustment
FROM: Department of Community Development
SUBJECT: Zone Variance, 129 - 29th Place, Lot 13, Block 8 of Peck's
Manhattan Beach Tract.

APPLICANT

Breton K. and Patricia G. Lobner
120 - 29th Place
Manhattan Beach, California 90266

PROPOSAL

An application for a zone variance to allow construction of a single story addition within approximately one-half of the required front yard setback extending to the front property line. The proposal is in variance from Section 10-3.503(c), front yard setback (5') feet. See attached plot plan.

ANALYSIS (See Appendix (B) for zoning, and building set

The subject property is zoned R-2 and is located in Area District III on a walk street, see Appendix (B). The improvements consist of a single family dwelling originally constructed in 1925. The existing structure is located on the north portion of the lot leaving the south 50% vacant.

The adjacent property to the west is also zoned R-2; the improvements consist of a single family dwelling built in 1938, the front portion of which is built to the front property line adjacent to the walk street. Further west, at the corner of Ocean Drive and 29th Street property zoned R-3, City records indicate that a residence was built in 1936, and a permit in 1969 was issued to repair fire damage to third floor; number of units indicated as two. To the east of the subject property on Manhattan Avenue property zoned R-3, the property has a duplex built in 1933 and remodeled in 1968. The building is set back three feet from the front property line, however, the fireplace is built to the property line. On the south side of 29th Street adjacent to Manhattan Avenue, a multiple unit building is on two lots; the side lot line of which abuts the walk street. Section 10-3.504(b) (2)(ii) permits a one foot setback. The property to the west is a multiple unit building built 5' from the property line.

The four conditions that must be met are listed in Section 10-3.1603(a)(b)(c)(d). The applicant has also listed the "required showings" (attached) and has addressed each one in detail.

- (a) Staff comments. There are exceptional circumstances in that the property to the west of the subject property is built on the front property line; however, this alone cannot be grounds for "exceptional circumstances." The fact that the general area was developed prior to 1941, the effective date of the Zoning Ordinance, and some properties developed on lots "rearranged" by deed of record, could be considered exceptional circumstances, again, in conjunction with other unique conditions. The fact that the applicant proposes "single story" and on one-half of the frontage, and in that the use of the subject property is and will remain a single family use can be considered exceptional.

In order to make a finding of "exceptional circumstances," the special conditions applicable to the subject property should be made conditions of approval, such as: remain single family use, not exceed one story, and proposed structure not to exceed 50% of the lot width.

- (b) Staff comments. Property in the beach area contains value based on its proximity to the beach and the potential view. The applicant could build two stories within the Code requirements (5' from the property line) and obtain a view. This would block the existing view of the property to the east. This alternative would only provide a view

until the property to the west of the subject property improved to the allowable limits.

Other property in the vicinity presently enjoys a "view." It could be interpreted that the "special conditions" do prohibit the applicant the same amenity.

- (c) Staff comments. The proposed addition will not be detrimental to the public welfare or injurious to adjacent property. The major purposes of "setbacks" are to provide adequate open space, light and air for the property and adjacent properties and to provide efficient emergency access; the subject proposal should not inhibit these objectives.
- (d) Staff comments: The applicant adequately supported that the variance would not affect the General Plan.

ENVIRONMENTAL ASSESSMENT

The proposed project has been evaluated in accordance with the California Environmental Quality Act; A Negative Declaration has been filed.

CONCLUSION

The major concern of staff is that the approval of the variance could be precedent setting. However, due to the following "special conditions" the variance should not create a precedent:

- (a) Single family use where two-family use is permitted,
- (b) Adjacent property to the west built to the property line,
- (c) Single story addition covering fifty percent of the lot width,
- (d) That the normal purposes of setbacks are not totally applicable; and,
- (e) That the possibility of a parallel situation occurring again is remote, thereby lessening the precedent setting factor.

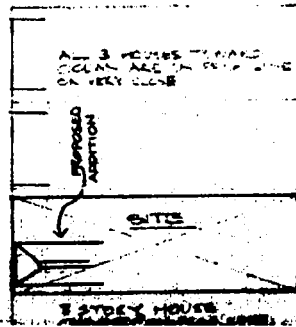
Should the Board wish to approve the subject variance, the Department of Community Development recommends the following conditions of approval:

- (1) That all building improvements constructed within the front twenty feet of Lot 13 not cover more than 50 percent of the lot width.
- (2) That all building improvements within the front twenty feet of Lot 13 not exceed one story or 14 feet.
- (3) That the use of the subject property be limited to single family dwelling.

WHO:dc

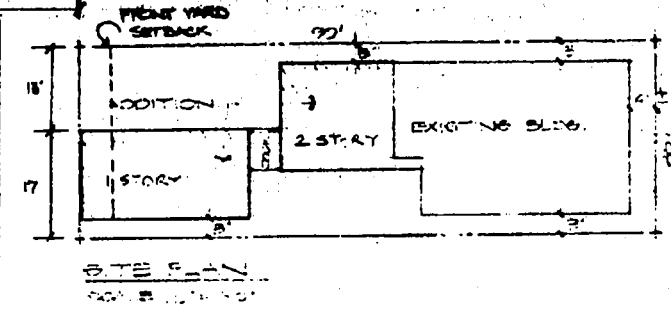
AREA MAP
SCALE 1" = 100'

WALK STREET
2213 S.E.



NOTION FOR:
MAYOR BRETT LUGNER

WALK STREET
PAVEMENT



1977 VARIANCE ISSUE:

The variance granted in 1977 (see p. 2) allows a trade-off in zoning restrictions for this site.

On one hand, it allows the construction within the normal front yard; on the other hand, it restricts the width, height and use of the construction. **It does not refer to a specific design** or a preexisting non-conforming condition. It allowed the construction of a house addition to extend to the front Walkstreet property line, subject to certain conditions of approval:

- The addition within the front 20' may not be wider than 17'.
- The addition within the front 20' may not be higher than 14' and consist of more than 1 story.
- The use of the property must be a single family dwelling.

The architect designed the addition to comply with these restrictions, permits were issued, and the project was built in 1978. The variance had no time limitation and is still in effect.

HOW THIS AFFECTS THE CURRENT PROJECT:

Our preferred design (see p.4) involved more remodeling and reconstruction of the front part of the house within the limitations of the variance; specifically, the addition of a Mission style parapet to integrate the front part with the original 2 story portion, and structural wall modifications to create thicker walls to accommodate period doors and windows.

Planning staff required that the remodeling in the front yard area be limited to non-structural changes only. Modifications were made, and the staff accepted the compromised design as you see it in the plans and copied on p. 3.

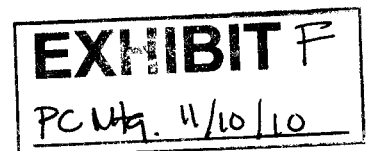
OUR REQUEST:

We request to be allowed to make more extensive changes to the front part of the house, subject to the terms of the variance of 1977. This will allow greater artistic freedom and a better overall design.

The rationale is that the variance is permanent and still in effect.

Thank you for your attention in this matter. We hope the Planning Commission can clarify the applicability of the variance to our current project.

Bret & Pattie Lobner, owners
Jay Stephenson, architect



1977 VARIANCE ISSUE:

ALLOWS CONSTRUCTION IN FRONT YARD SETBACK

RESOLUTION 77-35

A RESOLUTION OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MANHATTAN BEACH GRANTING A VARIANCE FOR THE PROPERTY LEGALLY DESCRIBED AS LOT 13, BLOCK 8 OF PECK'S MANHATTAN BEACH TRACT (120-29th Street)

WHEREAS, the Board of Zoning Adjustment of the City of Manhattan Beach conducted a Public Hearing to consider a variance for the property located at 120-29th Street; and

WHEREAS, the application was filed by Breton K. and Patricia G. Lobner; and

WHEREAS, the Board of Zoning Adjustment made the following findings with respect to the subject property:

1. The applicant requests a zone variance to allow construction of a single family addition within approximately one-half of the required front yard setback.
2. Subject property is a R-2 lot in Area District III which requires a five foot front yard setback from 29th Street.
3. The neighboring residences are generally built to the property line.
4. The Board finds an exceptional circumstance in that a single family dwelling not exceeding one story over approximately one-half of the frontage would preserve the open space, light, air, and views of adjacent properties in furtherance of the intention of the setback ordinance.
5. The Board finds the variance is necessary to grant the applicant an ocean view presently enjoyed by neighboring properties in that neighbors have already built to property line in violation of the front setback ordinance.
6. Granting the variance subject to conditions enumerated below will not be detrimental to neighboring uses.
7. The granting of the variance will not increase population density or otherwise adversely affect the General Plan.
8. No testimony or correspondence was received in opposition to the variance and testimony was received from the neighbor immediately to the east of subject property in favor of the proposed variance.
9. The Board finds that if the conditions enumerated below are enforced, the granting of the variance would not set a precedent.

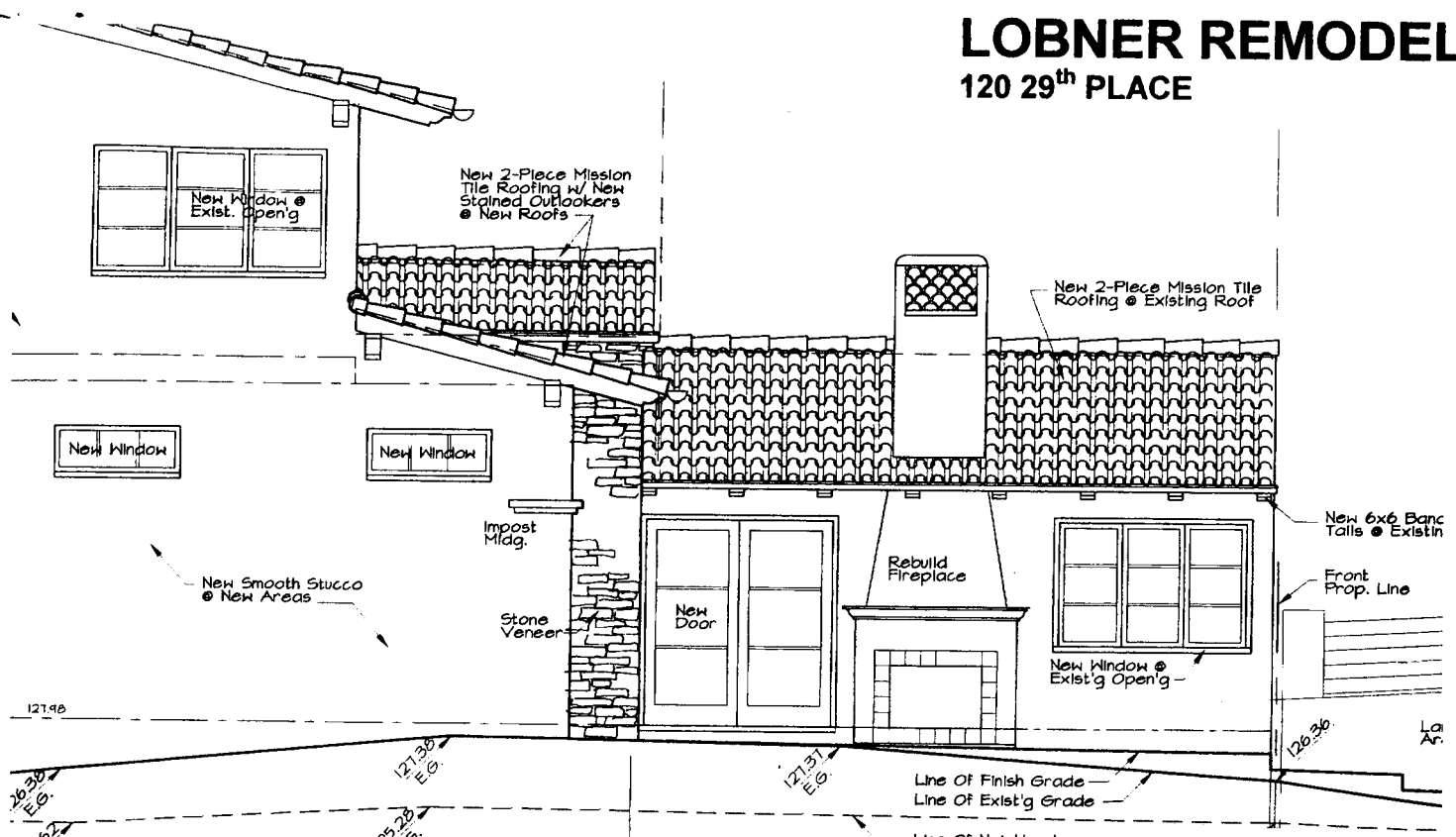
NOW, THEREFORE, BE IT RESOLVED that the Board of Zoning Adjustment grants the requested variance subject to the following conditions of approval:

1. That all building improvements constructed within the front 20 feet of Lot 13 not cover more than 17 feet of the lot width.
2. That all building improvements within the front 20 feet of the Lot 13 shall not exceed one story or 14 feet.
3. That the use of subject property be limited to single family dwelling.

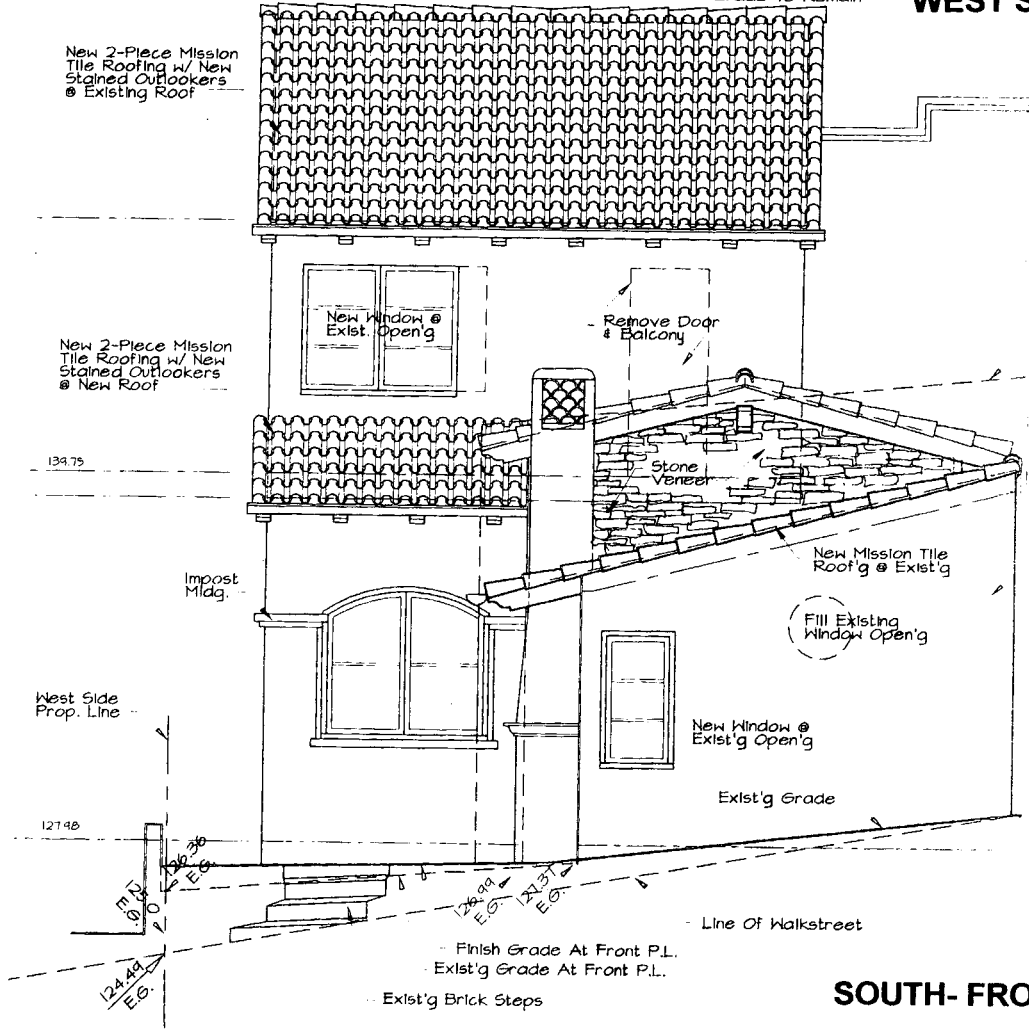
I hereby certify that the foregoing is a full, true, and correct copy of the resolution adopted by the Board of Zoning Adjustment at its regular meeting of June 28, 1977, and that said Resolution was adopted by the following vote:
AYES: Commissioners Clancy, Myska, and Acting Chairman Hayden
NOES: None
ABSENT: Commissioner Logan and Chairman Armistead
NOT VOTING: None

THOMAS H. CORLEY
Director of Community Development

LOBNER REMODEL: 120 29th PLACE



WEST SIDE



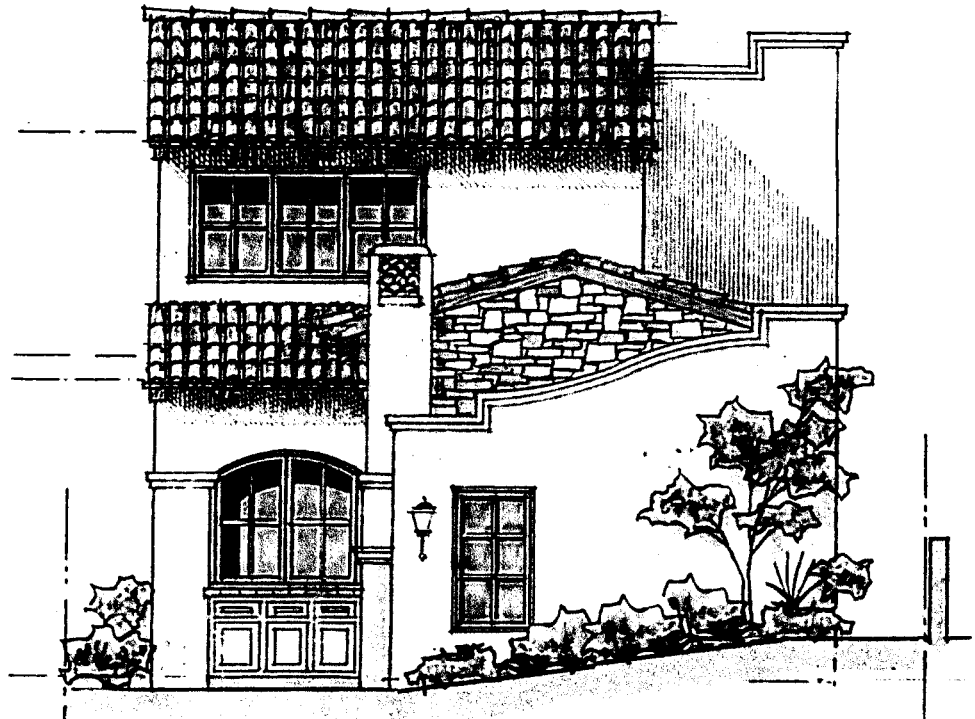
SOUTH-FRONT-

**COMPROMISED DESIGN:
LIMITED CHANGES TO FRONT PORTION**

**LOBNER REMODEL:
120 29th PLACE**



WEST SIDE



SOUTH-FRONT-

PREFERED DESIGN:

REMODEL FRONT PORTION WITHIN LIMITS OF ORIGINAL VARIANCE