

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

**TO:** Planning Commission

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

**BY:** Esteban Danna, Assistant Planner

**DATE:** July 25, 2012

**SUBJECT:** Appeal of an Administrative Decision to Remove Guardrails on a Green Roof  
Located at 225 John Street.

**RECOMMENDATION**

Staff recommends that the Planning Commission **UPHOLD** the Community Development Director's decision to **DENY** the guardrail on the green roof.

**APPELLANT**

Darren and Mindy Goodrich  
225 John Street  
Manhattan Beach, CA 90266

**BACKGROUND**

On June 9, 2010, a Building permit application was submitted for the construction of a new single-family residence consisting of three levels (two stories over a basement). As the property topography slopes down from east to west, the basement level becomes a story towards the western portion (rear) of the lot. Once the dimension between the ground (local grade) and the finished floor elevation of the level above exceeds six feet, the level is no longer classified as a basement and it thus becomes a story (Manhattan Beach Municipal Code Section 10.04.030).

The original plans proposed a deck above the second level towards the west (rear) of the property, where the first level is no longer considered a basement. The deck above the second story in this area is considered an additional (third) story. This is not allowed unless the deck is adjacent to a living space, the deck surface is nine feet below the maximum height, and increased setbacks are provided as detailed in MBMC Section 10.12.030(H). The original plans were changed to comply with this section and the portions of the deck that did not meet the code criteria were changed to a green roof.

City Staff approved plans (Exhibit A) with a green roof above the second story with an open-style guardrail around the perimeter. At the time of plan approval, Staff did not have reason to believe that the green roof would be converted to a deck. Upon final inspection of the completed house, City Staff realized that appellants had not built the green roof in conformance with the approved plans but had instead built a marble surfaced deck and placed plants on top of the

marble deck. It appeared that the intention was to remove the plants and use the space as a deck. Temporary Certificate of Occupancy was issued with conditions (Exhibit B) in order to allow the homeowners to move into the home until the issue is resolved.

## **DISCUSSION**

The subject appeal refers to Condition 2 in the Temporary Certificate of Occupancy, which requires the removal of the glass and cable guardrails at the perimeter of the roof. Staff has concerns that the appellants could potentially convert the green roof to an illegal deck for the following reasons (none of the following were shown on the approved plans):

- Roof area was completely tiled with marble, matching the style and elevation of the approved smaller deck adjacent to the green roof to create one large contiguous area.
- The proposed raised maintenance walkway on the green roof was not installed (Exhibit C).
- A gas line was installed under the green roof for the future installation of a barbecue.
- Audio equipment (speakers) was installed within the guardrails.
- Lighting was installed within the guardrails.
- Planting trays were placed on top of a plastic sheet to protect marble.
- Pine railing installed for approved deck adjacent to green roof was inconsistent (craftsmanship, style, and materials) with the rest of the mahogany and reclaimed wood finishes.
- Raised planter strip with irrigation was installed at the perimeter of green roof, but no irrigation was installed for the proposed green roof.
- Roof drains were not installed on the green roof.

Upon review of the structural plans with the City's Building Engineer, Staff noticed that the green roof structure was designed using load calculations that are more consistent with deck structures than of roof structures.

Planning Staff requirements for the issuance of the Temporary Certificate of Occupancy included the following:

- Posting of \$13,000 security deposit (refundable upon completion of all outstanding items).
- Removal of glass and cable guardrails or submission of an appeal to the Planning Commission.
- Recordation of Covenant and Agreement acknowledging that the west roof shall not be used as a deck.
- Removal of green roof until final decision from the City.
- Removal of gas line from the roof.
- Removal of tile on roof area at the 3rd floor.
- Completion of roof drains on the 3rd floor request for final building approval.
- Completion of waterproofing on roof and request for final building approval.
- Completion of Planning and Building requirements based on Planning Commission/City Council final decision.
- Final Approval from Planning and Building departments.

The applicant states that the reasons for keeping the guardrails are for the safety of their children as well as for the safety of people maintaining the green roof. Staff has not heard of any safety concerns regarding the many flat roofs within the City that are adjacent to decks. The front roof was also approved as a green roof, but no guardrails were shown on the plans or installed. During construction, the appellant decided not to install this green roof. Current Planning of Building and Safety codes do not require guardrails on any type of roof adjacent to living areas. Staff discussed various code-conforming safety options with the owners to avoid a perimeter guardrail which can maintain the safety of both children and maintenance personnel.

## **CONCLUSION**

Staff determined that allowing the guardrail to remain at the perimeter of the green roof creates a condition that would allow the appellants, or subsequent homeowners, to easily convert the roof to an illegal deck. Guardrails are not required by the building code and other code-conforming safety features are available to address the appellants' safety concerns for the green roof. Therefore, Staff determined that the guardrails should be removed.

Staff recommends that the Planning Commission **UPHOLD** the Community Development Director's decision to **DENY** the guardrails on the green roof.

### Attachments:

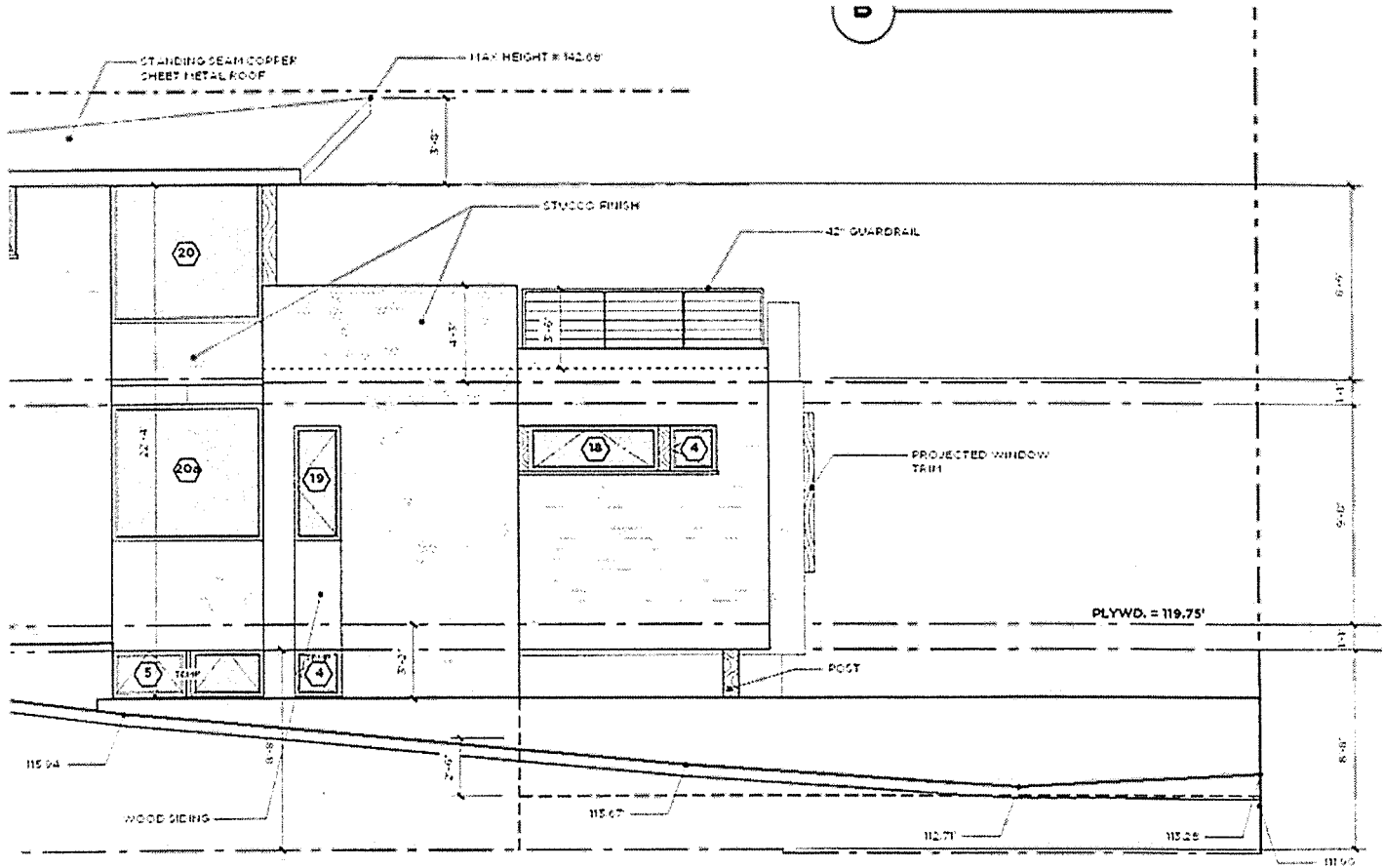
- Exhibit A – Plans
- Exhibit B – Temporary Certificate of Occupancy
- Exhibit C – Raised Walkway Detail
- Exhibit D – Recorded Covenant and Agreement
- Exhibit E – Staff Photographs
- Exhibit F – Application Materials

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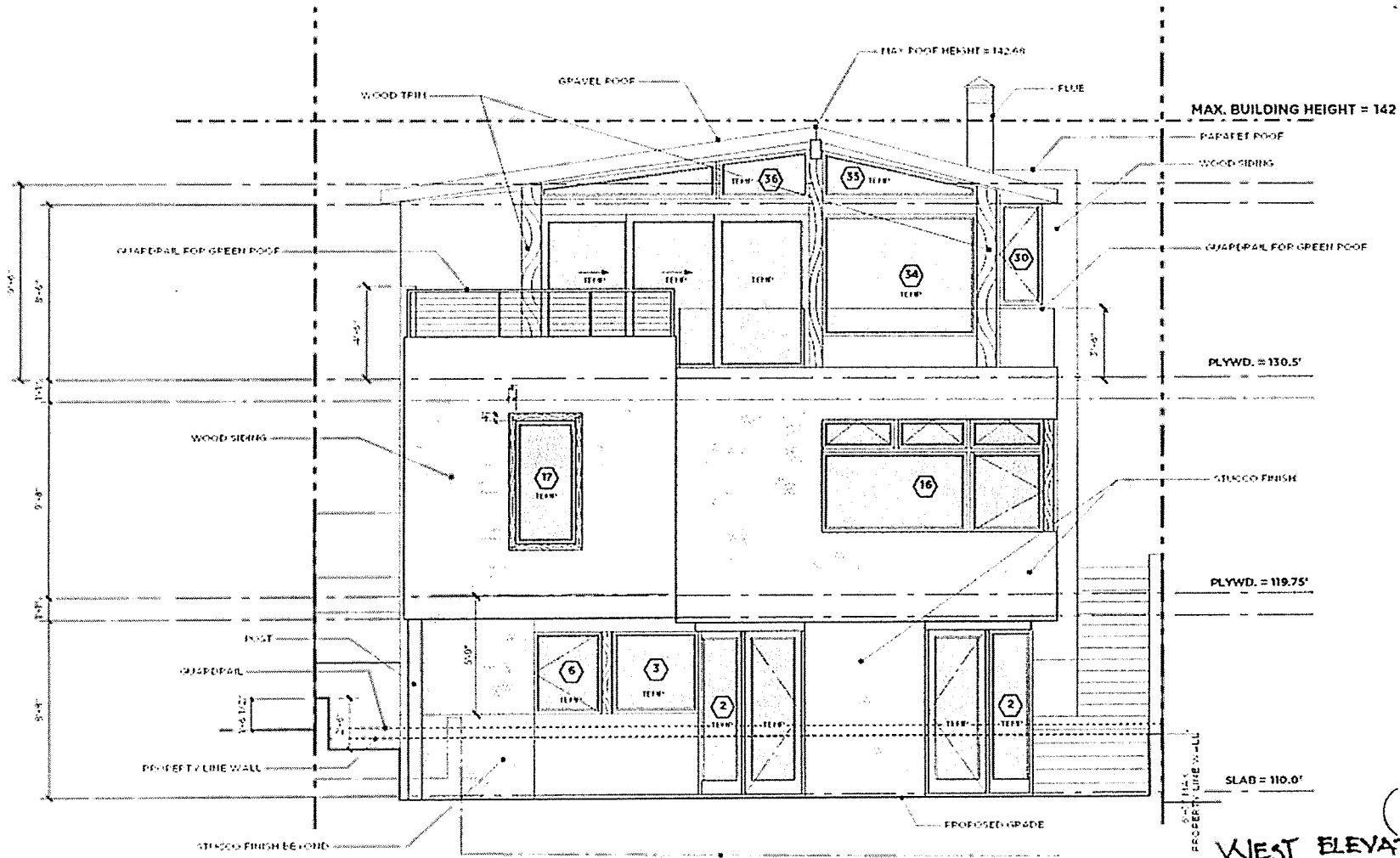




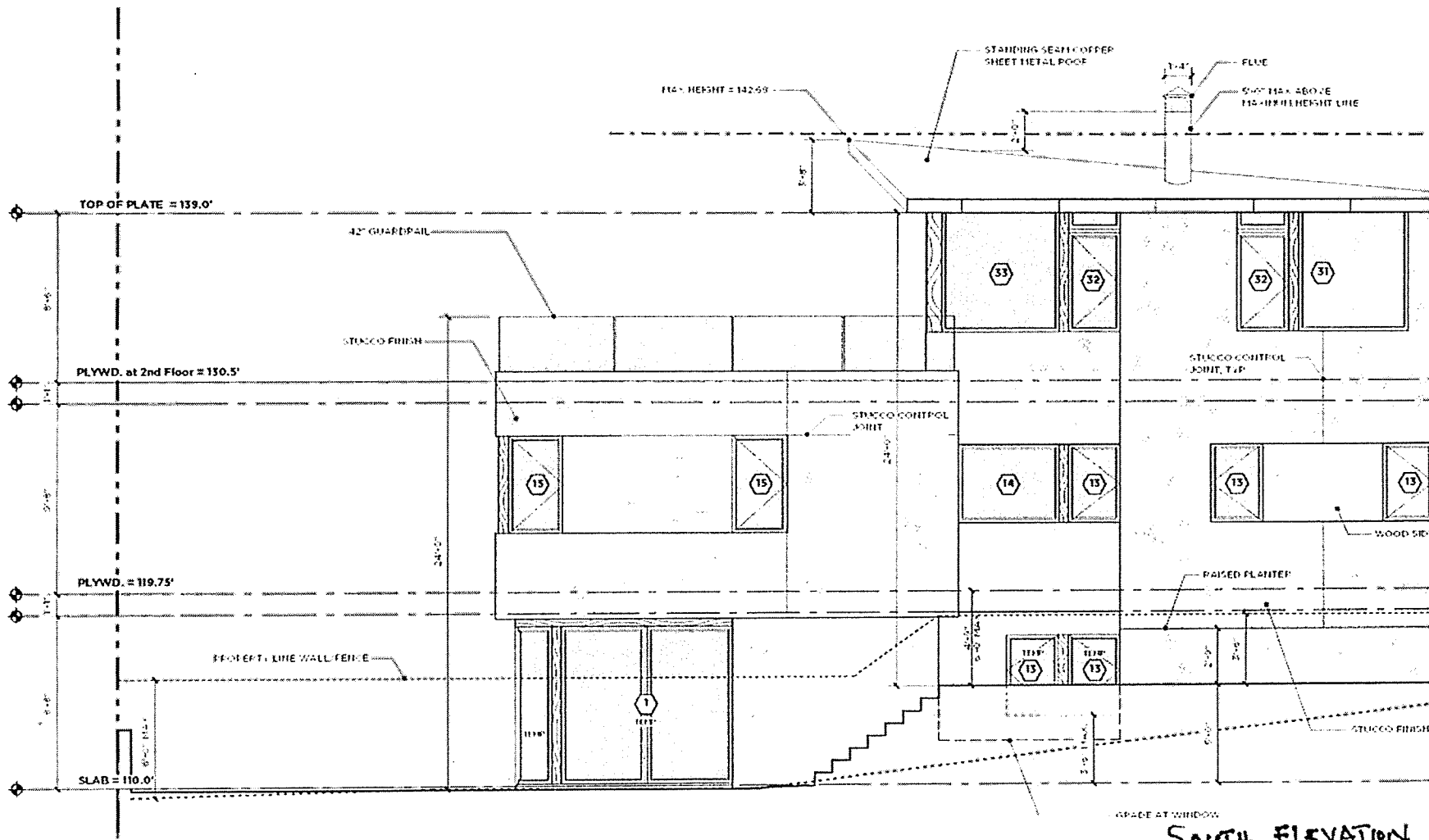
**A** NORTH ELEV

225 JOHN STREET

$\frac{1}{8}'' = 1'-0''$



WEST ELEVATION  
 225 JOHN STREET  
 1/8" = 1'-0"



SOUTH ELEVATION  
 225 JOHN STREET  
 1/8" = 1'-0"





City Hall 1400 Highland Avenue Manhattan Beach, CA 90266-4795  
Telephone (310) 802-5000 FAX (310) 802-5001 TDD (310) 546-3501

June 8, 2012

WILSON CONSTRUCTION  
4622 MANHATTAN BEACH BOULEVARD  
MANHATTAN BEACH, CA 90266

Subject: Temporary Conditional Final to Occupy for 225 John St  
Permit No. #10-03421

Dear Mr. Wilson:

Pursuant to the 2010 California Building Code, Section 111.3, this letter will serve as a Temporary Conditional Final to Occupy 225 John St, Manhattan Beach. Permanent Final to Occupy will not be granted until all required life/fire, Code compliance, conditions of approval, and safety features are complete and approved, subject to the following conditions:

1. Post \$13,000 security deposit. Refundable upon completion of all outstanding items.
2. Remove glass and cable guardrails or keep rails temporarily and submit an appeal to the Planning Commission.
3. Owner to record agreement acknowledging west roof shall not be used as a deck.
4. Remove green roof until final decision from the City.
5. Remove gas line from the roof.
6. Remove tile on roof area at the 3<sup>rd</sup> floor.
7. Complete roof drains on the 3<sup>rd</sup> floor and call for final building approval.
8. Complete waterproofing on roof and call for final building approval.
9. Complete Planning and Building requirements based on Planning Commissions/City Council final decision.
10. Obtain Final Approval from Planning and Building departments.

This Temporary Conditional Final to Occupy shall be complete and finalized when all of the above conditions are met. This Temporary Conditional Final Occupancy Approval is valid until **Friday, October 1, 2012**.

Should you have any questions or desire additional information, please feel free to contact me at (310) 802-5525.

Sincerely,

  
Laurie Jester  
Planning Manager



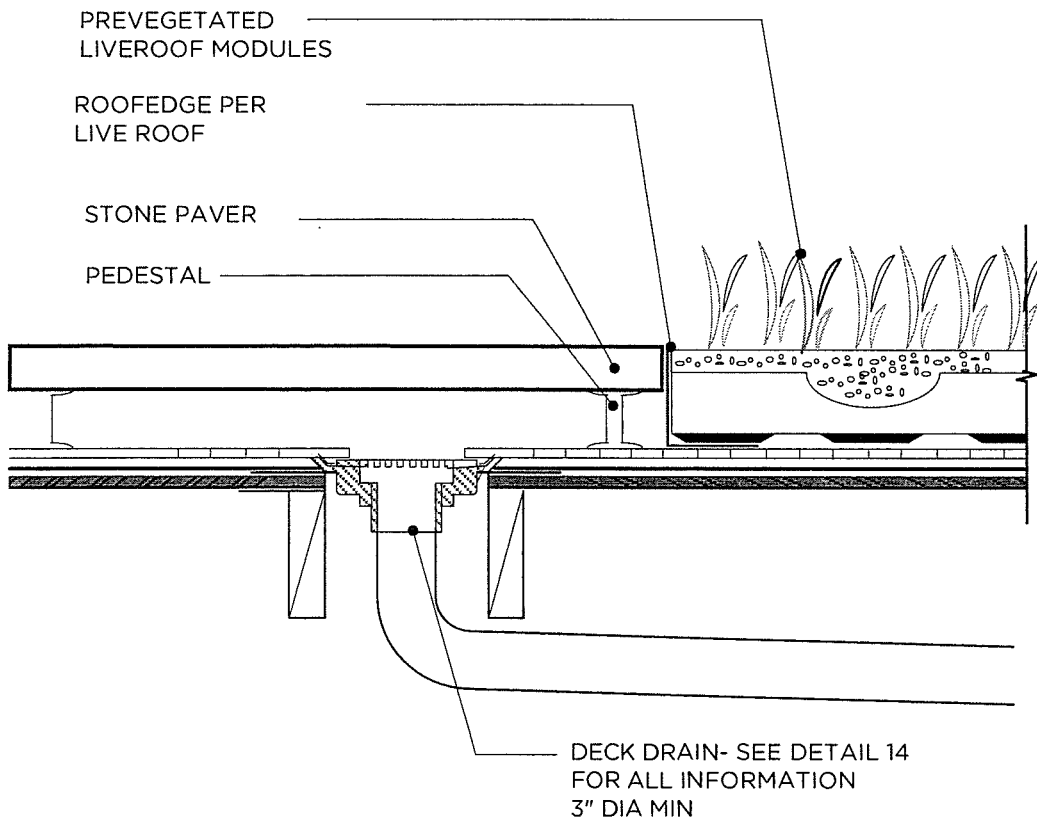
cc: Richard Thompson, Director of Community Development  
Sal Kaddorah, P.E., M.S.  
Art Quezada, Senior Building Inspector

#4000  
\$520.00

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**DRAIN AT GREEN ROOF**

1 1/2" = 1'-0"

**17**

**EXHIBIT C**  
PC Mtg. 7/25/2012

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RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

City Clerk  
City of Manhattan Beach  
1400 Highland  
Manhattan Beach Ca 90266



[Space Above Line For Recorder's Use]

Recording Fee: Exempt pursuant to California Government Code Section 27383

### COVENANT AND AGREEMENT FOR USE OF WEST ROOF

This covenant and agreement is made and entered into as of the 8<sup>th</sup> day of June, 2012, by and among the undersigned, Mindy M. Goodrich and Darren C. Goodrich husband and wife as Joint Tenants (the "Owners"), and the City of Manhattan Beach, a municipal corporation (the "City"), with respect to the following facts:

#### RECITALS:

A. The Owners hereby represent and warrant that they are the record owners of the following described real property (the "Property") generally located at 225 John Street in the City of Manhattan Beach, County of Los Angeles, State of California, identified by Los Angeles County Assessor's Parcel Number 4169-010-001 and more particularly and legally described as follows:

North 42.20 feet of Lots 1 and 2, Block 9, Tract No. 3393

B. The City requires that the roof area west of the living room remain a roof as approved on page A1.2 (as well as other sheets) of the building plans associated with Building Permit No. 10-03421, issued on June 9, 2010 and conditions detailed on the Temporary Certificate of Occupancy issued on June 8, 2012.

C. The conversion or use of the aforementioned roof area to deck area violates Manhattan Beach Municipal Code Section 10.12.060H, as well as Building Code regulations, and is therefore not permitted.


D. It is in the intention hereof that this covenant and agreement shall constitute a covenant running with the land and shall burden any transferee.

- Signatures Begin on Next Page -

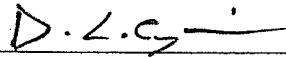


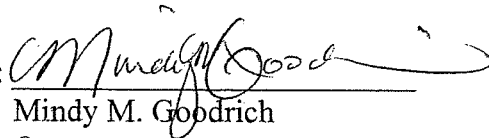
Executed this 8<sup>th</sup> day of June, 2012

CITY OF MANHATTAN BEACH:

  
\_\_\_\_\_  
Richard Thompson  
Directory of Community Development

OWNER:

By:   
\_\_\_\_\_  
Darren C. Goodrich  
Owner

By:   
\_\_\_\_\_  
Mindy M. Goodrich  
Owner



Facing West



Facing Southwest



Adjacent to Living Room Window



Adjacent to Pine Railing





Removal of Tile and Gas Line– Facing Northwest



Removal of Tile and Gas Line – Facing North



Removal of Tile – Facing South



Removal of Speaker



# MASTER APPLICATION FORM

CITY OF MANHATTAN BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT

**Office Use Only**  
Date Submitted: 6/8/12  
Received By: [Signature]  
F&G Check Submitted: N/A

225 John Street

Project Address

\$ 58,500

portions of lots 1-2, Block 9, Tract 3393, M.B. 40-28

Legal Description

Dist 1-RS

General Plan Designation

Zoning Designation

Area District

For projects requiring a Coastal Development Permit, select one of the following determinations<sup>1</sup>:

Project located in Appeal Jurisdiction

Project not located in Appeal Jurisdiction

Major Development (Public Hearing required)

Public Hearing Required (due to UP, Var.,

Minor Development (Public Hearing, if requested) etc.)

No Public Hearing Required

### Submitted Application (check all that apply)

- Appeal to PC/PWC/BBA/CC + \$5000
- Coastal Development Permit
- Environmental Assessment
- Minor Exception
- Subdivision (Map Deposit) 4300
- Subdivision (Tentative Map)
- Subdivision (Final)
- Subdivision (Lot Line Adjustment)
- Use Permit (Residential)
- Use Permit (Commercial)
- Use Permit Amendment
- Variance
- Public Notification Fee / \$85 \$85
- Park/Rec Quimby Fee 4425
- Lot Merger/Adjustment/\$15 rec. fee
- Other

### Fee Summary: Account No. 4225 (calculate fees on reverse)

Pre-Application Conference: Yes \_\_\_\_\_ No \_\_\_\_\_ Date: \_\_\_\_\_ Fee: \_\_\_\_\_

Amount Due: \$ \_\_\_\_\_ (less Pre-Application Fee if submitted within past 3 months)

Receipt Number: \_\_\_\_\_ Date Paid: \_\_\_\_\_ Cashier: \_\_\_\_\_

### Applicant(s)/Appellant(s) Information

Darren and Mindy Goodrich

Name

225 John Street, Manhattan Beach, CA 90266

Mailing Address

Owner

Applicant(s)/Appellant(s) Relationship to Property

Contact Person (include relation to applicant/appellant)

Phone number / e-mail

Address,

Applicant(s)/Appellant(s) Signature

Phone number

Complete Project Description- including any demolition (attach additional pages if necessary)

Appeal to PC. for retaining guardrail @ perimeter of Green Roof.

**EXHIBIT F**  
PC Mtg. 7/25/2012

KIRK J. RETZ  
DIRECT DIAL: 310 • 802-7774  
EMAIL: KIRK@BBLSURFLAW.COM

**BAKER  
BURTON  
LUNDY**

ATTORNEYS AT LAW  
A PROFESSIONAL CORPORATION  
515 PIER AVENUE  
HERMOSA BEACH CA 90254-3889  
TELEPHONE: 310 • 376-9893  
FACSIMILE: 310 • 376-7483  
WWW.BAKERBURTONLUNDY.COM

July 9, 2012

City of Manhattan Beach  
Attn: Sal Kaddorah/Building Official  
1400 Highland Avenue  
Manhattan Beach, CA 90266

Re: Darren and Mindy Goodrich  
225 John Street/ Permit #10-03421 (NSFR)  
Manhattan Beach, CA 90266

Dear Mr. Kaddorah,

Baker, Burton & Lundy, P.C. has been retained to represent the interests of Darren and Mindy Goodrich in relation to their appeal of the Planning Department's decision to force the removal of the glass and cable safety guardrails which are currently installed around the green roof at the West facing side of their home located at 225 John Street in the City of Manhattan Beach. Essentially, after requiring the safety guardrails during the design phase of the project, the Planning Department is now requiring their removal. The Goodriches would like the safety rails to remain for the protection of their two young boys, with another on the way, and the protection of the gardeners who will maintain the green roof. Although the roof is inaccessible to the children unless they climb over a safety rail at the edge of the adjacent 200 square foot deck, the Goodriches are concerned that (boys being boys) their children may hit a ball onto the roof area creating an attractive nuisance and try to retrieve it. Removal of the safety guardrails at the perimeter of the green roof will increase the likelihood of catastrophic injury. 225 John Street is the first home the Goodriches constructed and they learned a great deal from the process. Having built their dream house, they are looking forward to raising their family in the City of Manhattan Beach.

The issue on appeal is the safety rails at the perimeter of the green roof on the West side of the property. When the green roof was initially discussed during the planning stages, the Manhattan Beach Building Department required a glass and cable safety guardrail system to be installed around the perimeter. This makes sense since the purpose of both the Building Department and the Universal Building Code is to protect the safety of those will occupy or otherwise use the structures. The stated reason for the safety guardrail was to protect the gardeners who will need to access the green roof regularly to maintain it. The architect worked with the Building Department to reach an acceptable design and a glass and cable safety wall was determined to be the best means of achieving the required safety precautions while still protecting the view.

The green roof was designed with walkways through the foliage to allow maintenance access to the plants. During construction, a subcontractor suggested that the walkways would look better if they matched the floor material of other surfaces. The Goodriches agreed and authorized extra cost to install stone on the roof. Another subcontractor suggested installing a future gas line to the roof in case the code

City of Manhattan Beach

Attn: Sal Kaddorah/Building Official

Re :Darren and Mindy Goodrich/ 225 John Street/ Permit #10-03421 (NSFR)

July 9, 2012

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changed or they sought a variance to allow gas in that location. As was explained by the contractor, the cost to install the gas line during construction was substantially less than the cost to install after construction was complete. If the line was never used, it was only a minimal cost. If permission was granted for its use in the future, the savings and reduced need for construction mess in a home they occupied would have been a smart move. This seemed to make good economic sense so they authorized the installation of the future gas line. They now realize that their decisions represented changes from the building plan that required City approval—something that was not explained to them at the time. Again, because this was the first time the Goodriches built a home, they followed the advice of those who advised them and believed they were doing nothing wrong.

These issues all came to light after the certificate of occupancy had been issued. The City Planning Manager came to the site to verify that trees were planted in the front yard as required. While at the Goodriches' home, she asked to see the rest of the property and was openly invited in. Upon seeing the roof covering and gas line, the certificate of occupancy was revoked and a correction list was issued. Upon receiving the list, the Goodriches removed all of the offending materials and put the building back exactly as per the approved plans spending over \$30,000 to make the corrections. The reason for the appeal is that as a condition of issuing a temporary certificate of occupancy, the Goodriches were required to either remove the glass and cable safety guardrails or submit an appeal to the planning commission. They chose to appeal.

The reason to remove the safety guardrails articulated by the City was that by leaving them in place, the roof could be used as a deck. To assure the City that this was not their plan, in addition to incurring great financial cost to remove the offending materials, the Goodriches took the extraordinary step of agreeing to, signing and recording a deed restriction against their property. The Covenant and Agreement For Use of the West Roof, establishes that the roof will never be used as a deck and that such restriction will be a covenant running with the land to all future owners of the property. The Goodriches notarized the deed restriction on June 8, 2012 and immediately delivered it to the City to be recorded with the county recorder's office.

For the reasons identified above, the Goodriches respectfully request the Planning Commission to allow the safety guard rail to remain installed as initially required and as shown on the approved set of building plans.

Respectfully Submitted,  
BAKER, BURTON & LUNDY  
A Professional Corporation

  
Kirk J. Retz

**Outside Matters**  
**Gregg M. Hoffman, B.S.O.H.**  
**License No. 712546**  
**313 West Maple Avenue, El Segundo, CA 90245**  
**Ph (310) 640-2471 – Mobile (310) 864-5348 - Fax (310) 640-9697**  
**E-Mail: [outsidematterslandscaping@gmail.com](mailto:outsidematterslandscaping@gmail.com)**

July 9, 2012

Starr Design Group  
Attn: John Starr  
3216 Manhattan Avenue  
Hermosa Beach, CA 90254

To Whom It May Concern:

I am a certified green roof installer for Live Roof. Our insurance carrier only covers installation and maintenance of Live Roof material when a guardrail is in place because of liability reasons. We will not be able to perform work without it. Expected monthly maintenance and a harness alternative are not viable because our insurance will not cover it.

If you have any questions please do not hesitate to contact me.

Best,

*Gregg M. Hoffman*

Gregg M. Hoffman, B.S.O.H.  
Owner, Outside Matters