

January 16, 2003

**Honorable Chairman and Members of the
Hermosa Beach Planning Commission**

**Regular Meeting of
January 21, 2003**

SUBJECT: VARIANCE 02-4

LOCATION: 836 BEACH DRIVE

APPLICANT: ADAM L. GOOCH.
2629 MANHATTAN AVENUE #225
HERMOSA BEACH, CA 90254

REQUEST: A VARIANCE FROM THE SUBDIVISION AND ZONING ORDINANCES TO
ALLOW A SUBDIVISION TO CREATE TWO LOTS WITH LESS THAN
REQUIRED LOT SIZE AND LOT WIDTH.

Recommendation

To approve the Variance, and direct staff to return with a resolution for approval in conjunction with the approval of a parcel map for a two lot subdivision.

Background

ZONING:	R-2
GENERAL PLAN:	Medium Density Residential
EXISTING LOT AREA:	5,353 Square Feet
EXISTING LOT WIDTH:	56.35 Feet
PROPOSED LOT AREAS:	2,850 square Feet (32 9th Street) 2,503 Square Feet (836 Beach Drive)
PROPOSED LOT FRONTAGE	30 Feet each lot
PROPOSED LOT WIDTHS:	30 Feet (32 9th Street) 26.35 Feet (836 Beach Drive)

The subject property contains a duplex on two lots from the original tract that have been merged into one legal parcel by the City in 1988 pursuant to Chapter 16.20 of the Municipal Code. As merged lot, the lot can be developed for up to three units in accordance with the lot area per dwelling unit standard of the R-2 zone¹. The applicant is seeking to obtain a Variance from the Subdivision and Zoning Ordinance to develop two single-family homes on individual lots. A precedent was established for a similar situation at 501-507 29th Street when the Commission granted a Variance for a two-lot subdivision in April 2000.²

Analysis

The provisions in the Subdivision and Zoning Ordinances that pertain to this proposed subdivision are as follows:

- Section 16.08.060, of the Subdivision ordinance states that a subdivision cannot create lots smaller than a 40-foot width and having less than 4,000 square feet. Further, to approve a subdivision the Planning Commission must find that:
 1. The proposed subdivision will in no way be inconsistent with the prevailing lot pattern or reduce property values in the surrounding neighborhood area.
 2. The size of the proposed lots is not smaller than the prevailing lot size and lot frontage within the same zone and general plan designation within a 300 foot radius; provided, however, that all such lots used in the comparison shall be in the same “neighborhood area”³.
- Section 17.46.220 of the Zoning Ordinance pertaining to division of lots also states that the minimum lot width for a division is 40 feet and minimum lot size is 4000 square feet. The criteria for approval of a lot division are similar to the requirements of the subdivision ordinance.

The applicant is requesting Variances from both the Subdivision and Zoning Ordinance. A Variance from the Subdivision Ordinance is requested to create two lots substandard in width and area, as an alternative to constructing two or three units on one lot. The proposed width of the lots (as measured at the midway point of the lot) is 30 feet and 26.35 rather than the required 40 feet as required in the Subdivision Ordinance. The proposed lot sizes are 2,850 square feet and 2,503 square feet rather than the required 4000 square feet as required in the Subdivision Ordinance. The prevailing lots in the neighborhood (see the attached consistency analysis) consist of the typical 2,850 square foot lots with a 30’X95 dimension located on the numbered streets, and the 2400 square foot lots with a 30’X80’ dimension on the Strand. Therefore, the proposed lot at 32 9th Street is clearly consistent with prevailing lot sizes in the neighborhood area, but the lot at 836 Beach Drive is inconsistent, as the lot tapers to a narrower width at the rear of the property along the alley and contains 2,503 square feet. It is larger than the Strand lots, but only two other lots on the numbered streets in the area are similar to the proposed lot on Beach Drive (the other similar corner lots on Beach Drive). Therefore, since its consistency with prevailing lot sizes is in question, a Variance is also needed from the consistency provisions of the Subdivision Ordinance for the Beach Drive lot.⁴

The applicant is requesting a Variance from the Zoning Ordinance in order to create two lots substandard in width and area. The proposed width and area of the lots does not meet the minimum lot width (40 feet) and area requirements (4,000 square feet) contained in the Zoning Ordinance which are the same as the Subdivision Ordinance. A Variance is also needed from the Zoning Ordinance with respect to consistency with the prevailing lot size, as noted above, as the Beach Drive lot is smaller than the prevailing lot sizes in the area.

The concept of a Variance is that basic zoning provisions are not being changed but the property owner is allowed to use his property in a manner basically consistent with the established regulations with such minor variation as will place him in parity with other property owners in

the same zone.⁵ The basic facts and circumstances in this case may arguably be consistent with this principle, as the applicant's proposal to develop these lots, as two single-family dwellings will result in a project more consistent with surrounding development than the development of the property with a three-unit condominium. Further the proposed lot sizes are generally in character with the small lots in the neighborhood area.

If the Variance is granted the applicant will benefit with respect to the development standards that apply to two single-family projects as opposed to developing the project on one lot as a condominium. Although the standards of the R-2 zone are similar, the applicant is proposing to take advantage of the following important differences:

- ❑ Separate single-family projects as proposed are permitted a 30-foot height building for the full depth of the lot. A condominium project on one lot would be subject to a 25-foot height limit for the front half of the lot (Section 17.22.060C). A single-family project on the single lot, or a duplex or triplex not involving condominium ownership would also be permitted a 30-foot height for the full depth of the lot.
- ❑ The proposed two separate single family projects are subject to a side yard requirement of three feet at the common property line separating the lots, and three feet at the side yards facing Beach Drive and the property to the east at 34 9th Street. A development on the property as one lot, whether condominium, single-family or duplex or triplex would be subject to 5-foot side yards at Beach Drive and the property to the east, and have no yard requirements in the middle of the property.

In order to grant a Variance, the Commission must make the following findings:

1. There are exceptional or extraordinary circumstances, limited to the physical conditions applicable to the property involved.
2. The Variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same vicinity and zone, and denied to the property in question.
3. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located.
4. The Variance is consistent with the General Plan.

Discussion of Findings

Finding 1: *Exceptional circumstances apply to the property involved.*

The lot in its merged condition is only one of four lots within a total of 52 lots within a 300-foot radius in the neighborhood area that have been merged. Therefore its lot size of 5,253 square feet is arguably an exceptional and unique condition as compared to the other lots whether located on the Strand or on walk streets or neighborhood streets in the area. Of the 31 lots within the neighborhood area located on walk streets or neighborhood streets (8th, 9th and 10th Streets) 26 have not been merged and contain lot sizes of 2,850 square feet or less. Also, the property is

located on the corner of Beach Drive, and if split, has a narrower width along the alley to the rear than the majority of lots in the area.

Also, the lot contains sufficient square footage in the R-2 zone to develop up to three units, while prior to the merger; the property could have been developed with one unit per lot, or two units. The merger in 1988, therefore, had the unintended consequence of allowing more intense development of the property, while the intent of the lot merger ordinance to reduce density and the overall intensity of development in the City. This situation is somewhat unique and arguably exceptional since the combined square footage of the two lots yields the development potential of three units; while, as separate lots neither lot is large enough to qualify for two units.

Finding 2: *A Variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity of the subject property.*

The owners wish to exercise their property right to subdivide their lot into the two lots from the original tract to create lots similar to other lots in the neighborhood. A majority of the lots in the neighborhood are currently developed with single-family homes on lots of 2,850 square feet or less. The applicant's merged lot is 5,330 square feet, which is nearly twice the size of the prevailing lot sizes. Therefore, the Variance is arguably necessary for the property owner to exercise the right to develop separate single-family projects on the lots from the original tract, which is right clearly possessed by other properties in the vicinity.

Finding 3: *A Variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which it is located.*

The proposed subdivision may not present any potential detriment to surrounding properties relative to density and lot pattern. However, it will permit development of two single-family dwellings 30-feet in height in the front half of the lot, which may impact adjacent properties relative to view and shadow as compared to a condominium development subject to a 25-foot limit in the front half of the lot. This may not be materially detrimental with respect to view, as the Strand fronting property to the west contains a building that exceeds 35-feet in height, and all Strand properties are allowed a 30-foot height. Also, the subject property is only limited to the 25-foot standard if developed as a condominium.

The subdivision will separate the lots as originally divided prior to the City imposed lot merger in 1988. The subdivision will create lots that are more consistent with the prevailing lot pattern in the surrounding neighborhood. The prevailing lot pattern consists primarily of 30-foot wide lots with 2,850 square feet of lot area and other similar corner lots of 2,503 square feet, and lots with lesser area of 2,400 square feet.

Finding 4: *The granting of the Variance will not conflict with the provisions of or be detrimental to the general plan.*

Since the proposed project will result in a density of 16.3 units per acre its consistent with the density range for the Medium Density category of the General Plan (14-25 units per acre).

Further, the proposed project is consistent with prevailing lot pattern and the surrounding character and density of development.

If the Commission decides to approve the Variance it must adopt the necessary findings or it must deny the Variance. If approved, the applicant still needs to submit a subdivision application and a parcel map for final approval by the Commission. Therefore, staff can return with a resolution for the Variance to be adopted at the same time as the subdivision approval. If the Variance is denied the owner will have the option of developing the property with a single-family project, or a multi-unit project containing two or three units whether as rentals or condominiums rather than building individual units on individual lots.

Ken Robertson
Associate Planner

Sol Blumenfeld, Director
Community Development Department

Attachments

1. Neighborhood Prevailing Lot Analysis
2. Location Map
3. Applicant's Correspondence
4. Correspondence

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¹ With the merged condition the lot size of 5,353 square feet yields a potential of three units based on the one unit per 1,750 square-foot standard of the R-2 zone, and thus the property can be developed with one, two or three units. If the lots were separate pursuant to the original tract, only one unit per lot could be developed unless the lots were voluntarily merged. It is not possible to unmerge the lots by amending the Chapter 16.20 of the Municipal Code to make provision for unmerging, because such an ordinance would be inconsistent the State Subdivision Map Act in the Government Code. The intent of the merger law in the Government Code is to make lots conforming to minimum standards and reduce the potential for higher density. Any local law violating minimum subdivision standards would violate the intent of the provision of the Government Code. In this situation, however, because the property is zoned R-2 and allows multiple units based on a lot area per dwelling unit standard, the merged lots actually allow the development of a higher density (up to three units) than the original separated lots.

² In the Variance case at 501,507 29th Street a merged lot measuring 5,291 square feet, fronting on a walk street in the R-2 zone, were split into two separate parcels of 2,414 square feet and 2,877 square feet, with lot widths less than 40-feet.

³ "Neighborhood area" is defined as the block or group of blocks, within the same zone and general plan designated area being located within clearly defined common boundaries. Boundaries shall include arterial or collector streets, parks, or open space designated areas, or significant topographical features such as hillsides

⁴ There are currently no provisions within the Hermosa Beach Municipal Code or the Government Code for granting a Variance to the Subdivision Ordinance. However, the City Attorney has previously determined that a Variance from the Subdivision Ordinance may be granted provided there are adequate grounds. According to the City Attorney, it is arguable that it may be improper for the City to impose zoning or subdivision standards on lot size, if the facts demonstrate that a property is located in an area of small lots and it is unlikely that the size of the lots in the neighborhood would ever conform to the minimum lot size standards. If a Variance can be granted from lot size standards in the Zoning Ordinance the same Variance should also apply to the identical standard in the Subdivision Ordinance. Based on this advice, the Commission approved a Variance from the Subdivision Ordinance in April 2000 for the project located in the R-2 zone at 501 and 507 29th Street

⁵ Longtin's California Land Use, 2nd Edition, 1987, Chapter 3, Part G, "Variances and Conditional Use Permits"