

March 13, 2003

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

**Regular Meeting of  
March 18, 2003**

SUBJECT: VARIANCE 03-3

LOCATION: 1220 SUNSET DRIVE

APPLICANT: VICTORIA AND ANDREA IGLOI  
1220 SUNSET DRIVE  
HERMOSA BEACH, CA 90254

REQUEST: VARIANCE FROM THE MINIMUM LOT AREA PER DWELLING UNIT  
STANDARD IN THE R-3 ZONE TO ALLOW THE DEVELOPMENT OF TWO  
UNITS ON A 2,611 SQUARE FOOT LOT.

**Recommendation**

To deny the requested Variance by adopting the attached Resolution.

**Background**

ZONING:	R-3
GENERAL PLAN:	High Density Residential
LOT AREA:	2,611 Square Feet
LOT DIMENSION:	30 Feet x 87.21 Feet

The subject property is a street to alley through lot, with street frontage on Loma Drive, and alley frontage on Sunset Drive and contains a single-family dwelling constructed in 1923.

Section 17.16.090 of the Zoning Ordinance states that the “minimum lot area per dwelling unit shall not be less than 1,320 square feet, which means that a minimum of 2,640 square feet is required on any lot to develop two dwelling units. The subject lot contains 2,611 square feet and, therefore, does not contain sufficient lot area to qualify for two units. The lot area per dwelling unit standard of the R-3 zone is derived from the General Plan density ranges. In the High Density Residential category the range goes up to a maximum of 33 units per acre, which equates to one unit per 1,320 square feet.

The property is one of 7 similar lots on the block located between Pier Avenue and 11<sup>th</sup> Street that are also 30 feet wide that contain slightly less than 2,640 square feet. Five of the seven lots are currently developed with 2-units and are nonconforming uses as they are nonconforming to lot area per dwelling unit standard of the R-3 zone<sup>1</sup>, while the subject lot and lot 6 are developed with conforming single family dwellings.

### **Analysis**

The applicant is requesting a Variance from the Zoning Ordinance in order to develop two units on the subject property. The applicant's arguments for granting the Variance are contained in the attached supplemental prepared by the applicant's Attorney.

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.<sup>2</sup> The basic facts and circumstances in this case clearly are not consistent with this principle, as the applicant's proposal essentially would change the zoning and allowable use for the subject property in order to allow an additional unit. This is not a minor variation as it would double the number of units on the property as the net effect would be to allow two rather than one unit on the property, and would allow the property to be developed inconsistent with the General Plan. Also, if a Variance were deemed appropriate for this property, it would set a precedent to grant similar variances on all seven properties with similar conditions on the subject block. If a potential result of granting the Variance for the subject property is that seven other properties (more than 50% of the block) are also candidates for the Variance then the Commission should consider rezoning the affected properties, since Variances are applied to unique circumstances for a property and not on an area-wide basis. Also, it would set a precedent for allowing Variances on any lot within the City that was near the threshold for additional units in the R-2 and R-3 zone.

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 applicant argues that unique circumstances exist for this property and 6 other adjacent properties within the block. However, to make this finding, the unique circumstances must *apply to the property involved*. Since 6 other lots in this block, and others throughout the City are in similar circumstances (with a lot size falling below the threshold for an additional unit), this finding cannot be supported.

**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 applicant argues that the vast majority of properties within the vicinity also within the R-3 zone are developed with two or more units, and failure to grant this “minor” variance in the lot area per dwelling unit standard for this lot violates the owners rights to avail themselves of the same rights and opportunities. While it may be true that a majority of other lots in the vicinity are developed with multiple units, this applicant’s argument fails to note that these developments on similar lots are nonconforming to current codes, and thus the properties could not be redeveloped with two new units or 2-unit condominiums as they are nonconforming uses, and are limited by Chapter 17.50 of the Zoning Ordinance. The other lots developed with two or more units are properties that are larger, either 30-feet X 100-feet or 40-feet X 100-feet and therefore, have sufficient land area to allow two or more units under the R-3 standards. When these facts are added to the discussion, it is clear the property right the applicant is seeking is not possessed by other properties in the vicinity, and to the contrary, is an attempt to achieve a privilege not otherwise possessed by other property owners. Under the current zoning regulations the owner suffers no hardship as they have the right to develop a new single-family structure to a scale and size the same as other similar properties in the vicinity whether developed with one or two units. Further, the owners have the right to avail themselves of the multiple unit opportunities of the R-3 zone by assembling properties to increase their lot area.

**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 applicant argues that since the property is surrounded by multi-family development, the proposed Variance to add one more such project would not be materially detrimental to surrounding properties. However, as noted previously, this Variance would add one more unit and would double the density on the subject lot. While it may be arguable this impact may not be material given the surrounding density, and existing development pattern, it is difficult to support this finding because of the cumulative impact if this Variance sets a trend for similar Variances.

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

The subject property is located in the land use category High Density Residential. The density range for this designation goes up to a maximum of 33 units per acre. If developed with two units the subject lot would have a density of 33.36 units per acre<sup>3</sup>. The applicant argues that the density calculation on this individual lot is not relevant since the density of the entire block is less 33 units per acre, and therefore, would be consistent with the General Plan. This argument is faulty for two reasons. First, even if the applicant’s flexible methodology of calculating density is used, and density is calculated for the whole block, the possible build-out would be assumed to be 24 units<sup>4</sup>. With 24-units on this block containing 31,525.35 square feet, the density calculates to be 33.16 units per acre<sup>5</sup> which is clearly inconsistent with High Density designation on the General Plan. Secondly, the General Plan Land Use Element clearly states in Policy 1.1-1 that *residential development at greater densities than permitted by the General Plan land use designation are prohibited*. This statement is not qualified with any flexible standard or methodology whereby a larger area can be used to base the calculation on, depending on the circumstances. In fact, if the standard were so flexible, it would be impossible to implement the General Plan in any practical or equitable way since the density could be calculated wherever one wanted to pick and choose the area or boundaries for calculation depending on their desired result. Therefore the density standard must logically apply to the project area only. In this case the density on the subject lot clearly is inconsistent with and conflicts with the maximum density

allowed by the General Plan. This is not a selective interpretation of the goals and objectives of the General Plan, but following the most very basic principle of the density allowances in the General Plan and which cannot be exceeded, and following basic planning principles in regards to implementing zoning regulations.

Given the above, staff concludes that none of the findings can be made to support the requested Variance. To approve a Variance all the findings must be made. The Commission should also consider the precedent that would be set by granting such a Variance. The seven lots on this block are not the only lots in the city that are very close in lot area to qualifying for another unit pursuant to the lot area per dwelling units standards in the R-2, R-2B and R-3 zones.

The General Plan and Zoning Ordinance necessarily have thresholds for density with respect to residential land use. Simply because a property is very close to meeting the standard for an additional unit (and thus the development would be “inconsequential” or consistent with surrounding nonconforming land uses) does not create grounds to vary from the standard. There has to be a threshold or break point, and it follows that some lots will fall just short of that requirement. To grant a Variance to this standard for an individual lot would, in effect, be to grant a General Plan amendment and Zone Change for one lot, which is clearly not permitted by State Law.

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Ken Robertson  
Associate Planner

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Sol Blumenfeld, Director  
Community Development Department

Attachments

1. Proposed Resolution Denying Variance
2. Location Map
3. Applicant’s Correspondence and Exhibits

Var1220 Sunset

<sup>1</sup> Pursuant to the definitions contained in Section 17.04.040, a “nonconforming use” includes a use which no longer conforms to the lot area per dwelling unit regulations.

<sup>2</sup> Longtin’s California Land Use, 2<sup>nd</sup> Edition 1987-Chapter 3, Part G, “Variances and Conditional Use Permits.”

<sup>3</sup> 2 units on a lot of 2,611 square feet equates to 33.36 units per acre as follows:

$$2,611 \text{ sq. ft.} / 2 \text{ units} = 1 \text{ unit per } 1305.5 \text{ square feet}$$

$$43,560 \text{ square feet (1 acre)} / 1305.6 \text{ sq. ft. per unit} = 33.36 \text{ units per acre}$$

<sup>4</sup> The maximum build-out assumes that two units are built on the subject lot and on the other lot currently developed with one-unit if a similar Variance were approved, this yields a total of 24 units.

<sup>5</sup> Total square feet of the residential lots on the same block and on the same side of the street (based on the argument by the applicant) is 31,525.35 square feet. 24 units on 31,525.35 square feet equates to 33.16 units per acre as follows:

$$31,525.35 \text{ sq. ft.} / 24 \text{ units} = 1 \text{ unit per } 1313.56 \text{ square feet}$$

$$43,560 \text{ square feet (1 acre)} / 1313.56 \text{ sq. ft. per unit} = 33.16 \text{ units per acre}$$

The applicants claim that somehow the density on this block is 24 units per acre is based on a faulty calculation, and is clearly not supported by the facts.

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**RESOLUTION NO. 03-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF  
HERMOSA BEACH, CALIFORNIA, DENYING A VARIANCE TO THE  
MINIMUM LOT AREA PER DWELLING UNIT STANDARD OF THE R-3  
ZONE AND THEREBY DENYING A REQUEST TO ALLOW TWO UNITS  
ON A 2,611 SQUARE FOOT LOT LOCATED AT 1220 SUNSET DRIVE  
AND LEGALLY DESCRIBED AS LOT 8, TRACT 1851**

The Planning Commission does hereby resolve and order as follows:

Section 1. An application was filed by Victoria and Andrew Igloi owners of property at 1220 Sunset, seeking approval of a Variance from the lot area per dwelling unit standard of the R-3 zone as set forth in Section 17.16.090 of the Zoning Ordinance to allow the development of two units.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application for a Variance on March 18, 2003, at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission.

Section 3. Based on the evidence received at the public hearing, the Planning Commission makes the following factual findings:

1. Section 17.16.090 of the Zoning Ordinance states that the “minimum lot area per dwelling unit shall not be less than 1,320 square feet, which means that a minimum of 2,640 square feet is required on any lot to develop two dwelling units.

2. The subject lot contains 2,611 square feet and, therefore, does not contain sufficient lot area to qualify for two units pursuant to Section 17.16.090.

3. The lot area per dwelling unit standard of the R-3 zone is derived from the General Plan density ranges. In the High Density Residential category the range goes up to a maximum of 33 units per acre, which equates to one unit per 1,320 square feet.

4. The property is one of 7 similar lots on the block between Loma Drive and Sunset Drive between Pier Avenue and 11<sup>th</sup> Street that are also 30 feet wide that contain slightly less than 2,640 square feet. Five of the seven lots are currently developed with 2-units and are nonconforming uses as they are nonconforming to lot area per dwelling unit standard of the R-3 zone, while the subject lot and lot 6 are developed with conforming single family dwellings.

Section 4. Based on the foregoing factual findings, the Planning Commission makes the following findings pertaining to the application for a Variance:

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3 1. Exceptional or extraordinary circumstances do not apply to property involved  
4 since 6 other lots in this block share almost exactly the same circumstance and contain a  
5 lot area slightly below the threshold for an additional unit, and other lots throughout the  
6 City share this conditions (with a lot size falling below the threshold for an additional  
7 unit).

8 2. A Variance is not necessary for the preservation of a substantial property right  
9 possessed by other properties in the vicinity of the subject property since the current  
10 zoning regulations afford the same rights as other similar properties in the vicinity whether  
11 they are currently developed with one or two units, and it is possible to develop a single-  
12 family dwelling to a scale and size as permitted by the development standards of the R-3  
13 zone. The applicant argues that the vast majority of properties within the vicinity also  
14 within the R-3 zone are developed with two or more units, and failure to grant this “minor”  
15 variance in the lot area per dwelling unit standard for this lot violates the owners rights to  
16 avail themselves of the same rights and opportunities. While it may be true that a majority  
17 of other lots in the vicinity are developed with multiple units, this applicant’s argument  
18 fails to note that these developments on similar lots are nonconforming to current codes,  
19 and thus these same properties could not be redeveloped with two new units or 2-unit  
20 condominiums as they are nonconforming uses, and are limited by Chapter 17.50 of the  
21 Zoning Ordinance. The other lots developed with two or more units are located on  
22 properties that are larger, either 30-feet x 100-feet or 40-feet x 100-feet and therefore,  
23 have sufficient land area to allow two or more units under the R-3 standards. When  
24 considering these facts, it is clear the property right the applicant is seeking is not  
25 possessed by other properties in the vicinity, and to the contrary, if granted would be  
26 granting a privilege not otherwise possessed by other property owners.

27 3. A Variance would potentially be materially detrimental to the public welfare or  
28 injurious to the property or improvements in the vicinity and zone in which it is located  
29 because it would add one more unit and would double the density on the subject lot with  
consequences on both congestion and traffic. Further while only one additional unit  
arguably is not materially detrimental, the cumulative impact could certainly be material if  
this Variance sets a trend or precedent and similar Variances are granted.

30 4. The granting of the Variance will conflict with the provisions of and be  
31 detrimental to the Hermosa Beach General Plan as the subject property is located in the  
32 land use category High Density Residential with a maximum density range of 33 units per  
33 acre, and if the property were developed with two units the subject lot would have a density  
34 of 33.36 units per acre. Further, The General Plan Land Use Element clearly states in  
35 Policy 1.1-1 that *residential development at greater densities than permitted by the General  
36 Plan land use designation are prohibited*. This statement is not qualified with any flexible  
37 standard or methodology whereby a larger area can be used to base the calculation on,

1 depending on the circumstances. In fact, if the standard were so flexible, it would be  
2 impossible to implement the General Plan in any practical or equitable way since the  
3 density could be calculated wherever one wanted to pick and choose the area or boundaries  
4 for calculation depending on their desired result. Therefore the density standard must  
logically apply to the project area only. In this case the density on the subject lot clearly is  
inconsistent with and conflicts with the maximum density allowed by the General Plan.

5 5. To grant a Variance the Commission must make all four required findings  
6 pursuant to Section 7.54.030 of the Zoning Ordinance and pursuant to State Government  
7 Code as follows: 1) There are exceptional or extraordinary circumstances applicable to  
8 the property involved; 2) The Variance is necessary for the preservation and enjoyment of  
9 a substantial property right possessed by other properties in the same vicinity and zone, and  
10 denied to the property in question; 3) The granting of the Variance will not be materially  
11 detrimental to the public welfare or injurious to the property or improvements in such  
vicinity and zone in which the property is located, and 4) The Variance is consistent with  
the General Plan. As stated above, the Commission is unable to make any one of these  
required findings.

12 Section 5. Based on the foregoing, the Planning Commission hereby denies the  
13 subject Variance.

14 Section 6. Pursuant to the Code of Civil Procedure Section 1094.6 any legal  
15 challenge to the decision of the Planning Commission, after a formal appeal to the City  
Council, must be made within 90 days after the final decision by the City Council.

16 AYES:

17 NOES:

18 ABSENT:

19 ABSTAIN:

20 CERTIFICATION

21 I hereby certify that the foregoing Resolution P.C. 03- is a true and complete record of  
22 the action taken by the Planning Commission of the City of Hermosa Beach, California at  
their regular meeting of March 18, 2003.

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24 \_\_\_\_\_  
25 Ron Pizer, Chairman

Sol Blumenfeld, Secretary

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27 Date

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