

September 13, 2004

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

**Regular Meeting of
September 21, 2004**

SUBJECT: DETERMINATION OF THE LEGALITY OF A NONCONFORMING RESIDENTIAL BUILDING

LOCATION: 67-71 18th STREET

APPLICANT: MICHAEL AND LYNN ALLEN
67 18TH STREET
HERMOSA BEACH, CA 90254

REQUESTS: DETERMINATION OF THE LEGALITY OF WHETHER A FOURTH UNIT, ORIGINALLY PERMITTED AS A BACHELOR UNIT, IS A LEGAL NONCONFORMING DWELLING, AND CAN CONTAIN A KITCHEN

Recommendation

To determine that the fourth unit is legal and may contain a kitchen by adoption of the attached resolution.

Background

LOT SIZE	2850 square feet (30' x 95')
ZONING:	R-2B
GENERAL PLAN:	Medium Density Residential
BUILDING AREA:	2376 Sq. Ft.

The subject property contains a two-story building containing 4 one-bedroom units, and a detached 3-car garage accessed from the alley to the rear. The one-bedroom units contain between 582 and 630 square feet each.

The 4-unit building was constructed in 1954, in accordance with building permit No. 8098 issued for "three units and a bachelor." The Municipal Code in 1954 did not contain any definition for bachelor unit. It appears that the intention of the original permit was for three units with kitchens and one without any kitchen. This is underscored by the 1956 variance request to add a kitchen to the fourth unit, which was withdrawn. Also in 1961 the City found that a kitchen had been installed, and required the removal of the kitchen sink. This sink was removed and the case was closed.

No other City records show any permit application or approval for a kitchen in the bachelor unit, assumed to be unit 71A. A residential building report in from 1975 indicates four units, and states "no building violations".

The property is currently zoned R-2B. Pursuant to current zoning requirements only one dwelling would be allowed due to the lot size. Therefore the current use (whether 3 units and a "bachelor" or 4 units) is nonconforming. In 1954 the zoning designation was "R-4".

Analysis

Chapter 17.60 of the Zoning Ordinance gives a property owner the opportunity to request validation of current conditions which otherwise violate zoning or current building and safety requirements “when city records and actual property use conflict.” The Commission, based on the evidence presented, may validate that these conditions are legally nonconforming.

The evidence available to staff is limited to the records in the building permit file as noted above and the Sanborn Map which provides a legal record of the physical character of a property for insurance purposes. Based on the permit records, as noted, no evidence exists that building permits were applied for or obtained to allow a kitchen in the bachelor unit. In fact, an added kitchen in the unit was considered a violation back in 1961. The Sanborn Map (dated 1957) shows the building as two stories and four units, with no distinction for a bachelor unit.

The applicant purchased the property in March of this year with the understanding that it is currently being used as it always has continuously been used--as four identical one-bedroom units. To support this argument they have submitted statements from prior owners and neighbors, City business license documents, L.A. County tax roll summary. All this evidence corroborates the applicant’s argument that the property has continuously been used as 4-units. The statements from prior owners and neighbors also indicates that unit 71A has had a fully operable kitchen since the 1960’s. The City has been charging business license fees based on 4 apartment units. The County tax rolls show the property containing 4 dwelling units.

In summary, there is no dispute as to the number of units on the property, as the City issued a permit for 4-units. The only issue in dispute is the intent of the 3-units and a “bachelor” was to exclude a kitchen from the bachelor unit. This was clearly the assumption of the City in 1956 and 1961 when enforcing the original permit. However, it should be considered whether the exclusion of a kitchen really serves any public purpose since the City otherwise authorized the construction, and subsequent rental and occupancy of the unit for a separate tenant. In this case, since the bachelor is not connected to the units that have a kitchen, it could be argued that impacts on parking, density and other considerations are no different with or without a kitchen.

Therefore, without a clear and supporting definition that distinguishes a bachelor unit from a dwelling unit or that does not allow a kitchen in a bachelor unit; a record of continuous use as four units; and no practical reason to exclude a kitchen from the fourth unit, staff is recommending the Planning Commission grant this legal determination.

CONCUR:

Ken Robertson
Senior Planner

Sol Blumenfeld
Community Development Director

Attachments

1. Building Permit Chronology
2. Applicant submittal including documentation, plans, and photos

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