

February 20, 2007

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

**Regular Meeting of  
February 20, 2007**

SUBJECT: VARIANCE 07-4

LOCATION: 517 LOMA DRIVE

APPLICANT: DAVID ARIAS  
517 LOMA DRIVE  
HERMOSA BEACH, CA 90254

REQUEST(S): VARIANCE TO ALLOW A DRIVEWAY SLOPE TO EXCEED THE MAXIMUM  
OF 12.5% FOR A GARAGE ACCESS TO A RECENTLY CONSTRUCTED  
SINGLE FAMILY DWELLING.

**Recommendation:**

To approve requested Variance subject to conditions as contained in the attached resolution.

**Background:**

ZONING:	R-2
GENERAL PLAN:	Medium Density Residential
LOT SIZE:	3,386 Square Feet
EXISTING DWELLING UNIT FLOOR AREA:	4,094 Square Feet (Floor area only)

**Background:**

The subject lot has been recently developed with a single-family residence with a two car garage that fronts on Loma Drive. The approved site plan complied with all of the required City's zoning regulations including a maximum driveway slope of 9.5%, however the improvements in the public right-of-way on the civil engineering drawings including a 6-inch curb height was not included in the slope calculation in the site plan. During final inspection it was identified by the Building and Safety Division that the driveway slope exceeds the maximum of 12.5% as permitted by Section 17.44.120 (D) of the Municipal Code (Off-Street Parking). At the time the project plan check was completed, a 2% transition slope from property line to the exterior end of sidewalk was not required by the Public Works Department. This requirement was initiated within the past year after the plan check was approved. As constructed, the driveway slope ranges between 14% on the most northern portion to 18% on the south portion between the drainage grate and the property line, a distance of 17.92 feet (Please refer to plan sheet A-1).

**Analysis:**

The applicant is seeking a Variance for the non-conforming driveway slope, to receive final approval and obtain a Certificate of Occupancy. As constructed, the driveway has an average slope of 16.17%. The applicant is proposing to demolish the existing driveway, reconfigure the grade, and setback the drainage grate an additional 1.75 feet further from property line, thus providing a new driveway length of 19.67 feet as opposed as the previously approved 17.92 feet; therefore the new average driveway slope would calculate to 13.53% since the grade or slope is a function of the difference in elevation (rise) and horizontal length of the driveway (run). Despite this proposed modification, the driveway slope will still exceed the maximum slope of 12.5%. Approval of the requested Variance would enable the applicant to obtain the Certificate of Occupancy.

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

- There are exceptional or extraordinary circumstances; limited to the physical conditions applicable to the property involved.
- 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.
- 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.
- The Variance is consistent with the General Plan.

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

**Finding 1:** The subject property is adjacent to a narrow driveway entrance to South Park at the terminus of Loma Drive (Attachment 2). This area was not fully improved at the time plans were prepared and the area immediately south-west of the subject site does not currently have sidewalks, gutters and full public improvements. There are arguably exceptional circumstances related to the physical conditions of the property since it is uniquely located at the terminus of a street without standard public improvements. The lack of such improvements which help fix the elevation at the top of the driveway have exacerbated planning for the site and created an unusual hardship in now providing a code complying driveway slope given the new elevation required to accommodate street drainage established by the Public Works Department. This new elevation has added over 8-inches to the top of the driveway grade since the project was originally reviewed and approved.

**Finding 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 since other nearby properties have been able to construct two story buildings with basements, similar driveway configurations and complying driveway slopes that were not subject to the new street drainage requirements. Therefore there is not parity with other property owners in the same vicinity and zone given the current street drainage requirement applicable to the property.

Further, the applicant argues that without the Variance to help correct the problem that resulted from a new public improvement elevation related to new drainage requirements, he will have to demolish the building garage face and reframe the garage opening to accommodate new headroom required to raise the garage slab and reduce the driveway slope. This is arguable an unusual hardship that resulted from the unique conditions of the site at the terminus of a not fully improved street, and unusual circumstance related to the project approval.

**Findings 3:** The Variance only involves a relatively minor increase in driveway slope and is consistent with the intent of Municipal Code Section 17.44.120 (D) to allow access to parking without scraping the bottom of the vehicle. The driveway does exceed the maximum slope permitted by the Municipal Code; therefore, pedestrian visibility can arguably be considered an issue especially when adjacent to a public facility such as a park. Nevertheless, the slope increase is so insignificant (1.03%) as not to adversely affect pedestrian/vehicle viewsheds. Therefore 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.

**Findings 4:** Approval of a Variance for an increased driveway slope is consistent with the policies and regulations set forth in the General Plan because the construction of a single-family dwelling unit is consistent with the General Plan designation.

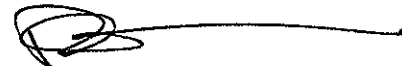
**Conclusion:**

Because the 2% transition slope from property line to the exterior edge of the sidewalk was not required at the time of plan check, the applicant was unaware that the new Public Works provision would increase the elevation at the top of the driveway. Also significant expense is required to raise the grade of the garage slab and reconfigure the garage opening without any significant benefit in the function of the driveway. Therefore, staff recommends approval of the requested Variance.

There is an inherent problem of excessive driveway slopes given current building practice that includes subterranean garages with buildings built to the maximum height limit and the current drainage requirements of the Public Works Department (Attachment 3). The 12.5% slope maximum was established prior to the City's new drainage requirements and seems unusually restrictive. Many cities allow steeper driveways with apparently no problems<sup>1</sup>. Therefore staff is suggesting that the Planning Commission consider amending the parking ordinance to allow a driveway slope maximum of 15% in order to address the problem. Staff has also instituted new policies in regard to plan submittal for residential developments that will result in better coordination between Public Works and the Community Development Department. These changes include the following:

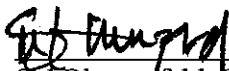
1. The proposed driveway slope from the face of the garage to the back of the sidewalk shall be clearly specified on the site plan and the civil engineering plan ("c"-sheet(s)).
2. The City shall require certification from a license surveyor or civil engineer that the grade elevation of the parking/garage slab is established at the elevation consistent with the plans (Attachment 5).

The following changes to the residential plan submittal requirements shall be effective immediately.



Richard S. Denniston,  
Planning Associate

CONCUR:



Sol Blumerfeld, Director,  
Community Development Department

**Attachments**

1. Location Map
2. Photo Survey
3. Current Driveway Slope Standard
4. Correspondence
5. Driveway Slope Verification Memorandum
6. Resolution

<sup>1</sup> For example the cities of Manhattan Beach and Redondo Beach allow driveway slopes of 15% and these cities have lot sizes and topography common with Hermosa Beach

RESOLUTION NO. 07-\_\_

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, TO APPROVE A VARIANCE TO ALLOW A 13.53% AVERAGE DRIVEWAY SLOPE AT THE PROPERTY ADDRESSED AS 517 LOMA DRIVE AND LEGALLY DESCRIBED AS LOT 5, BLOCK K, TRACT NO. 1686**

The Planning Commission does hereby resolve and order as follows:

Section 1. An application was filed by David Arias, owner of the property located at 517 Loma Drive, seeking a Variance to allow a driveway slope to exceed the maximum of 12.5% for a garage access to a single-family dwelling.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application for the Variance on February 20, 2007, 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. The subject lot has been recently developed with a single-family residence with a two car garage that fronts on Loma Drive.
2. The approved plans comply with all of the required City's zoning regulations including a maximum driveway slope of 9.5% however, upon final inspection it was identified by the Building and Safety Division that the driveway slope exceeds the maximum of 12.5% as permitted by Section 17.44.120 (D) of the Municipal Code (Off-Street Parking).
3. The approved site plan complied with all of the required City's zoning regulations including a maximum driveway slope of 9.5%, however the improvements in the public right-of-way on the civil engineering drawings including a 6-inch curb height was not included in the slope calculation in the site plan.
4. At the time the project plan check was completed, a 2% transition slope from property line to the exterior end of sidewalk was not required by the Public Works Department.
5. The applicant is proposing to demolish the existing driveway, reconfigure the grade, and setback the drainage grate an additional 1.75 feet further from property line, thus providing a new driveway length of 19.67 feet as opposed as the previously approved 17.92 feet; therefore the new average driveway slope would calculate to 13.53%.
6. Approval of the requested Variance would enable the applicant to obtain the Certificate of Occupancy.

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

1. There are arguably exceptional circumstances related to the physical conditions of the property since it is uniquely located at the terminus of a street without standard public improvements. The lack of such improvements which help fix the elevation at the top of the driveway have exacerbated planning for the site and created an unusual hardship in now providing a code complying driveway slope given the new elevation required to accommodate street drainage established by the Public Works Department.

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 since other nearby properties have been able to construct two story buildings with basements, similar driveway configurations and complying driveway slopes that were not subject to the new street drainage requirements.
3. The Variance only involves a relatively minor increase in driveway slope and is consistent with the intent of Municipal Code Section 17.44.120 (D) to allow access to parking without scraping the bottom of the vehicle.
4. The proposed driveway slope increase is so insignificant (1.03%) as not to adversely affect pedestrian/vehicle viewsheds.
5. Approval of a Variance for an increased driveway slope is consistent with the policies and regulations set forth in the General Plan because the construction of a single-family dwelling unit is consistent with the General Plan designation.

Section 5. The project is Categorically Exempt from the requirements of the California Environmental Quality Act, pursuant to CEQA guidelines, Section 15301 e(2) with the finding that the project is in an area with available services and not in an environmentally sensitive area.

Section 6. Based on the foregoing, the Planning Commission hereby approves the requested Variance subject to the following **Conditions of Approval:**

1. **The project shall be consistent with the submitted plans reviewed by the Planning Commission at their meeting of February 20, 2007. Any further minor modifications to the plan shall be reviewed and may be approved by the Community Development Director.**
2. **The Variance is specifically limited to the situation and circumstances that result relative to the proposed project and is not applicable to the development of new structures or any future expansion.**

VOTE:           AYES:  
                  NOES:  
                  ABSTAIN:  
                  ABSENT:

#### CERTIFICATION

I hereby certify that the foregoing Resolution P.C. 07-\_\_ is a true and complete record of the action taken by the Planning Commission of the City of Hermosa Beach, California, at their regular meeting of February 20, 2007.

\_\_\_\_\_  
Kent Allen, Chairman

\_\_\_\_\_  
Sol Blumenfeld, Secretary

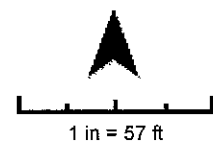
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# City of Hermosa Beach

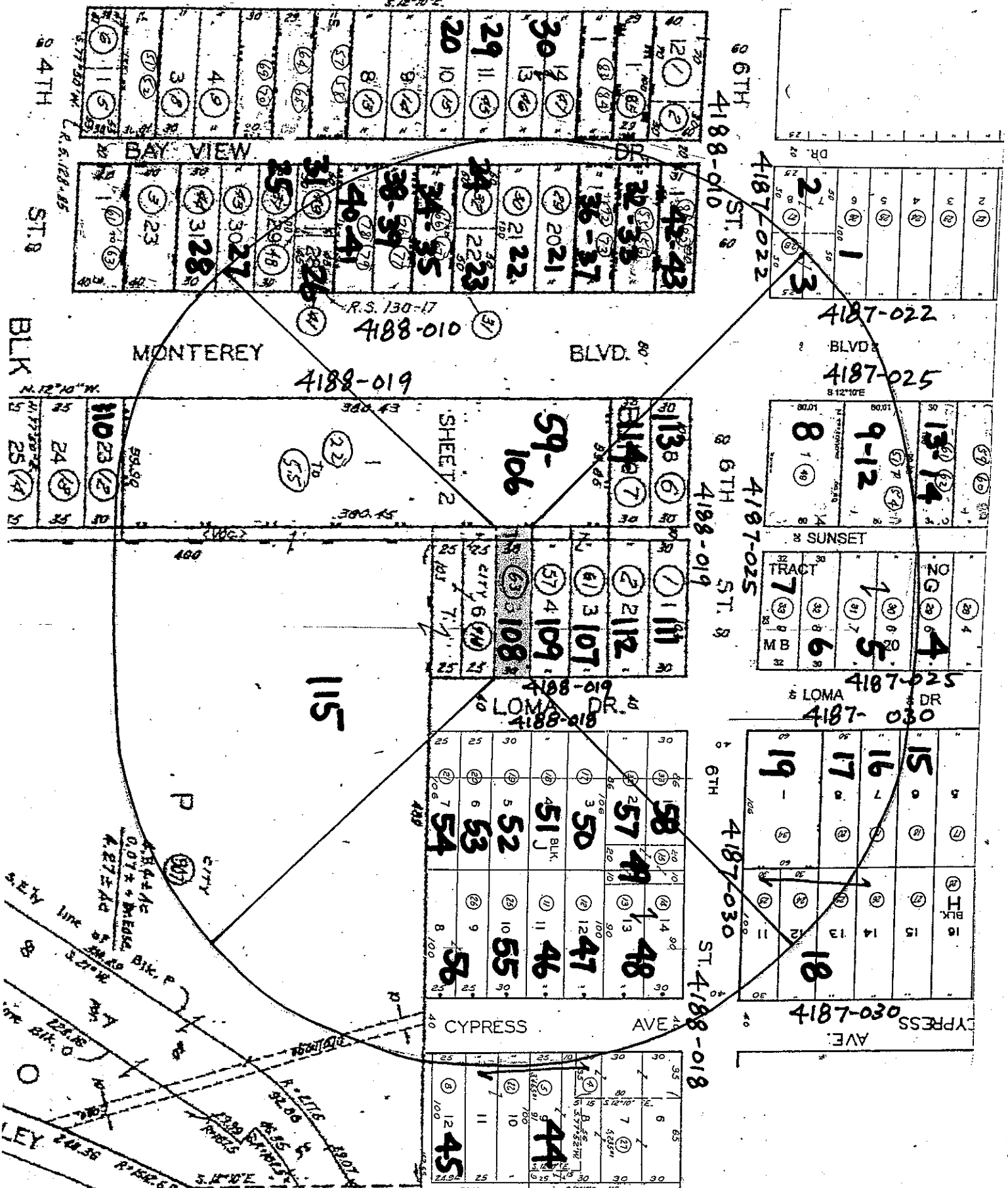
## 517 Loma Drive



Date Printed: 2/12/2007

**517 Loma Drive**







**PHOTO SURVEY  
517 LOMA DRIVE**

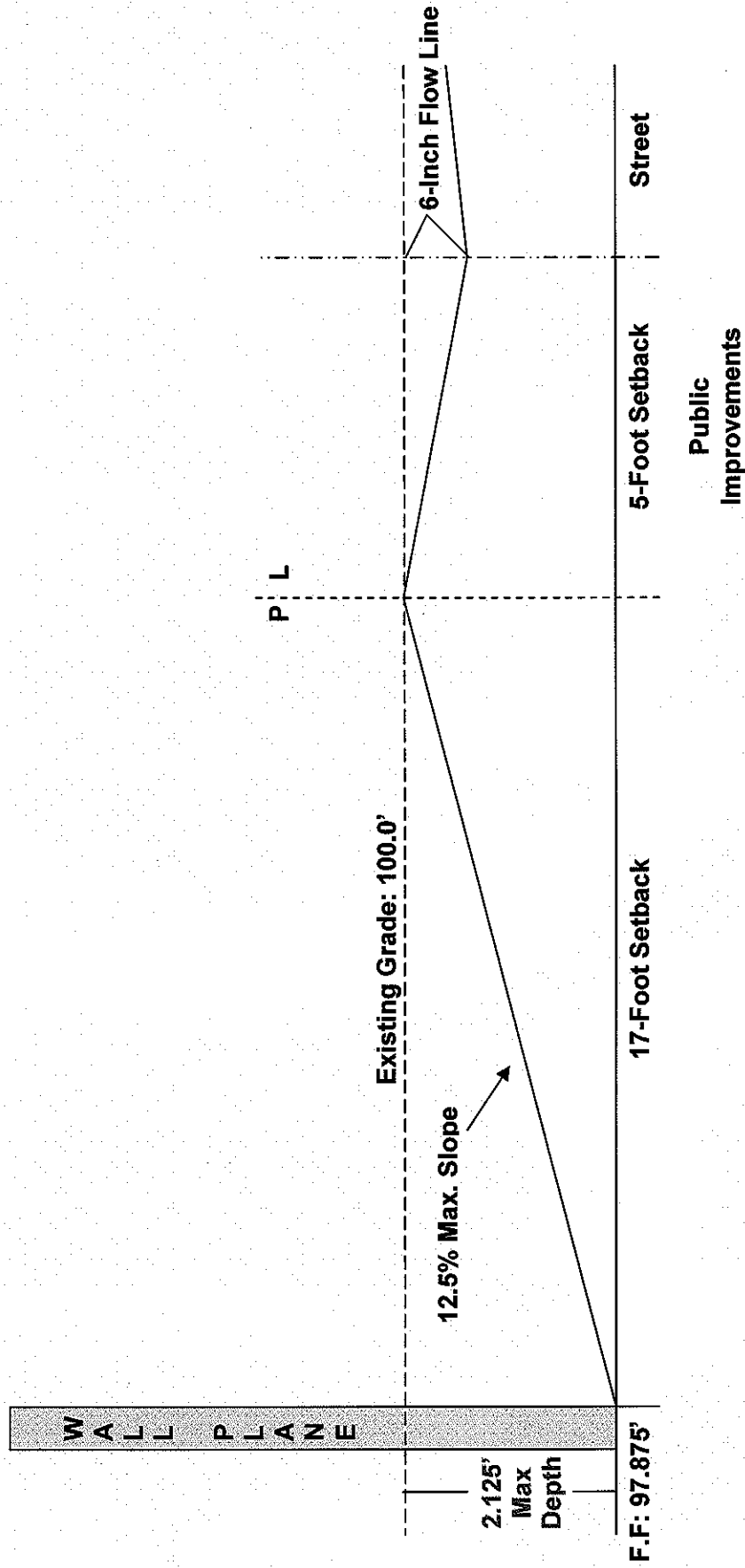


**517 LOMA (LOOKING SOUTHWEST)**



**SOUTH PARK (SOUTH SIDE OF SUBJECT PROPERTY)**

# **CURRENT DRIVEWAY SLOPE STANDARD** **-12.5% DRIVEWAY SLOPE-**



NOT TO SCALE

**Richard Denniston**

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**From:** Halearsi@aol.com  
**Sent:** Monday, February 05, 2007 8:21 PM  
**To:** Richard Denniston  
**Subject:** 517 Loma Dr variance

Dear Mr. Denniston. Regarding the above matter, since about 1999, when the utilities were undergrounded, this block of Loma Drive has been in an almost constant state of upheaval. Three homes torn down and rebuilt, new sewer system and innumerable instances of the street being torn up for new hook ups and once because the access to a Verizon vault had been PAVED OVER. The repair technician couldn't even find it!!! Enough already!!! Please grant the variance as soon as possible and let a bit of peace and quiet return to the block. Most of us who live here share the same sentiments. Frances B . Parker 521 1/2 Loma Dr

**RECEIVED**

FEB 07 2007

COMMUNITY DEV. DEPT.

02/07/2007

## Chapter 17.52

### NONCONFORMING BUILDINGS AND USES

#### Sections:

- 17.52.010 General goals.
- 17.52.020 Continuance and maintenance.
- 17.52.030 Expansion, remodeling and alteration.
- 17.52.040 Nonconforming use limits other uses.
- 17.52.050 Change in status of nonconforming use.
- 17.52.060 Nonconforming commercial and manufacturing businesses subject to the requirement for a conditional use permit.
- 17.52.070 Reconstruction of a damaged nonconforming building.

#### 17.52.010 General goals.

The goals of the city council related to the nonconformity that exists throughout the city as a result of zone changes and ordinance amendments are as follows:

A. To allow buildings, whether they are occupied by a nonconforming use or nonconforming to zoning standards, to remain and be maintained, and to allow some limited alteration and expansion of said buildings when certain criteria are met;

B. To encourage restoration and maintenance of historical residential buildings;

C. To encourage the use of the ordinance to meet current and future minimum standards of parking, open space, setbacks, height, etc.;

D. To limit remodeling and expansion of buildings which by current standards are exceptionally undersized, dilapidated, significantly overdense, or do not meet minimal standards for parking and setback. (Ord. 95-1124 § 1 (part), 1995: prior code Appx. A, § 13-0)

#### 17.52.020 Continuance and maintenance.

The nonconforming use of a building may be

continued, provided any structural alteration or expansion shall comply with Section 17.52.030. When a use which is nonconforming to the use regulations for the district where it is located is vacated or discontinued for ninety (90) consecutive days or more, the nonconforming use will be deemed abandoned, and any future use of such building shall conform to the provisions of the zone in which it is located.

A nonconforming structure may be maintained and the use therein continued, provided any structural alteration or expansion shall comply with Section 17.52.030.

Routine maintenance and repairs, enlargement of window and door openings, repairs and/or replacement to plumbing, electrical wiring and that required by law or similar work as determined by the community development director, shall not be considered structural alterations, and may be performed on a nonconforming structure. (Ord. 95-1124 § 1 (part), 1995: prior code Appx. A, § 13-1)

#### 17.52.030 Expansion, remodeling and alteration.

Buildings containing nonconforming uses, and nonconforming buildings are subject to the following standards:

##### A. Buildings Containing Nonconforming Uses.

##### 1. Structural removal allowed:

a. Roofs may be removed to add additional stories;

b. A maximum of ten percent linear feet of exterior walls and ten percent of floor area may be removed;

c. Planning commission approval is required to remove more than specified above.

##### 2. Expansion/alteration allowed:

a. Maximum of fifty (50) percent of the current replacement cost of the existing building(s) excluding any expansion that has occurred after October 26, 1989 (Replacement cost based on building valuation data provided by the International Conference of Building Officials (ICBO), with remodeling computed at fifty (50) percent of the value for new construction);

b. Expansion not permitted if residential density exceeds forty-five (45) units per acre;

c. Expansion must conform to current codes (except existing nonconforming side yards may be extended if within ten percent current side yard standard);

d. For buildings nonconforming to current parking requirements, refer to Section 17.44.140;

e. Any garage expansion for parking shall not be included in the allowed expansion.

**B. Nonconforming Buildings.**

**1. Structural removal allowed:**

a. Roofs may be removed to add additional stories;

b. Up to thirty (30) percent existing linear feet of exterior walls and thirty (30) percent of floor area;

c. Planning commission approval required to remove more than specified above.

**2. Expansion/remodel allowed:**

a. Up to one hundred (100) percent expansion/remodel of the current replacement cost of the existing building(s) excluding any expansion that has occurred ~~after~~ <sup>before</sup> October 26, 1989. Greater than fifty (50) percent up to one hundred (100) percent requires planning commission approval. (Replacement cost based on building valuation data provided by the International Conference of Building Officials (ICBO), with remodeling computed at fifty (50) percent of the value for new construction);

b. Expansion must conform to current codes (except existing nonconforming side yards may be extended if within ten percent of current side yard standard);

c. Existing nonconforming side yards may be continued and extended subject to planning commission approval;

d. For buildings nonconforming to current parking requirements, refer to Section 17.44.140;

e. Any garage expansion for parking shall not be included in the allowed expansion.

C. Policies, procedures and fees for issuing building permits, and for actions requiring planning commission approval subject to this section, shall be

established by resolution of the city council. (Ord. 95-1124 § 1 (part), 1995: prior code Appx. A, § 13-2)

**17.52.040 Nonconforming use limits other uses.**

While a nonconforming use exists on any lot, and it is the only use on the lot, no new use may be established thereon even though such other use would be a conforming use. While a nonconforming use occupies a portion of a lot or building with multiple uses no new use may be established within that portion of the lot or building which the existing nonconforming use occupies. (Ord. 95-1124 § 1 (part), 1995: prior code Appx. A, § 13-3)

**17.52.050 Change in status of nonconforming use.**

If an existing nonconforming manufacturing, commercial or residential use is vacated or removed and it is succeeded by another use, this shall be deemed the termination of the existing nonconforming use, and thereby immediately loses any vested right to continue. A nonconforming use may be succeeded by a use which is itself nonconforming, provided the degree of nonconformity is less intensive (e.g., requires less parking or results in fewer dwelling units).

It is the intent of this section to allow for an improvement in the degree of nonconformity of a use utilizing existing structures. It is not intended to allow the construction of new structures in violation of the provisions of this chapter.

The planning commission shall make determinations as to whether a use is less intensive upon request. (Prior code Appx. A, § 13-4)

**17.52.060 Nonconforming commercial and manufacturing businesses subject to the requirement for a conditional use permit.**

A. Nonconforming Alcohol Beverage Establishment--On and Off-Sale. This conditional use permit process, established pursuant to this chapter, shall apply to establishments which sell

**17.44.130 Turning radii, stall width and aisle width.**

For the purpose of determining access to garages or open parking spaces, the minimum dimensions for turning radii, for stall widths, and for aisle widths shall be as set forth in the "parking lot design standards," on file with the city. Where an angle of parking other than one listed in the attached standards is proposed, the chief building inspector shall determine by interpolation the dimensions required for such parking. (Prior code Appx. A, § 1161)

**17.44.140 Requirements for new and existing construction.**

A. For every residential dwelling hereafter erected, parking spaces shall be provided, permanently maintained and permanently available as set forth in Section 17.44.020, including requirements for turning radii, as provided by this chapter, and the parking standards contained herein.

B. For every residential building hereafter which is structurally altered to increase gross floor area, there shall be provided, permanently maintained and permanently available, two parking spaces for each existing unit, including requirements for turning radius and parking standards as required by this chapter. During the life of a building, a single addition of not more than one hundred (100) square feet may be constructed without compliance with this section, and a maximum of two hundred fifty (250) square feet may be constructed if at least one parking space is available with the same requirement as noted above for each existing unit, except that nonconforming uses require planning commission approval.

C. Before any additional units may be added to a lot where there now exists a building or buildings used for human habitation, there shall be provided, permanently maintained and permanently available, two parking spaces for each existing unit, including requirements for turning radius and size, as provided by this article and parking standards herein.

Exception to subsections B and C of this section: Existing garages or parking spaces for existing units

eight and one-half feet wide by eighteen (18) feet deep inside measurement, having access from any alley or street and having a distance of not less than twenty (20) feet from the far side of such alley or street, with a minimum eight feet wide driveway, in the clear, will be considered to meet the parking requirements and turning radius of this chapter.

D. For every building in a C or M zone hereafter erected, or reconstructed, or expanded, the parking requirements and turning area for the entire building shall be as set forth in this chapter. However for an expansion of an existing building legally nonconforming to parking requirements, parking requirements shall only be applied to the amount of expansion, subject to Section 17.44.040 for expansions in the downtown area. In no case shall new construction reduce the parking serving an existing use below the requirements of this chapter.

E. When the use of an existing building or structure is changed to a more intense use with a higher parking demand there shall be no additional parking requirement for sites in the downtown area except to the extent there is a change of floor area to lot area ratio in excess of 1:1. Otherwise, the requirement for additional parking, shall be calculated as the difference between the required parking as stated in this chapter for that particular use as compared to the requirement for the existing or previous use which shall be met prior to occupying the building unless otherwise specified in this chapter. (Ord. 94-1099 § 2, 1994; prior code Appx. A, § 1162)

**17.44.150 Underground parking facilities.**

Underground parking facilities shall conform to all the provisions of this chapter; provided however, that underground parking facilities may be located in the side, front and rear yards which are completely below existing ground level. However, in the side yards and rear yards not abutting a street, the grade may be raised an average of three feet with a maximum of six feet above the existing grade, provided both side yards are provided with cement stops in order not to obstruct any pedestrian way. No portion of such facility shall have less than

# **NOTICE**

January 24, 2007

## **City of Hermosa Beach Community Development Department**

### **NEW PROCEDURES FOR GARAGE SLAB ELEVATION/ DRIVEWAY SLOPE VERIFICATION FOR NEW RESIDENTIAL, COMMERCIAL, OR INDUSTRIAL PROJECTS AND ALL PROJECTS WITH NEW GARAGES AND DRIVEWAYS**

The City requires strict compliance with DRIVEWAY SLOPE REQUIREMENTS for driveways, which is clearly indicated on project plans. Excessive driveway slopes discovered at or near completion results in costly corrections and significant project delays.

Effective January 29, 2007, the City will require certification from a licensed surveyor or civil engineer that the grade elevation of the parking/garage slab is established at an elevation consistent with plans, and verification that this elevation as compared with the street/curb elevation will allow for a complying driveway slope. This elevation certification will be required *before the Building Inspector approves the forms* for pouring concrete of the garage slab and/or driveway. Verification will be required for all projects with a new garage and/or parking spaces.