



LINDA VISTA ~ ANNANDALE ASSOCIATION

Post Office Box 93464, Pasadena, California 91109

August 16, 2009

Mayor Bill Bogaard and Councilmembers
c/o City Clerk's Office, City of Pasadena

Re: Council Meeting on August 17, 2009;
Agenda Item 7.B.(1) – Call for Review of 897 Linda Vista Ave.

Mayor Bogaard and Councilmembers:

RECEIVED
09 AUG 17 A9 08
CITY CLERK
CITY OF PASADENA

The Linda Vista-Annandale Association (LVAA) supports a Call for Review of 897 Linda Vista Ave. to the Board of Zoning Appeals (BZA), and requests that the Council vote to call up this matter

The primary issue involved in this matter is how City staff and Hearing Officers should interpret and apply Guideline II.A. of the Guidelines adopted by this Council several years ago to govern the implementation of the Neighborhood Compatibility provisions of the Hillside Overlay Ordinance. A copy of the Guidelines is attached hereto as Attachment 1. Section II.A. of the Guidelines provides that the maximum allowable house size may be exceeded if all three criteria are met, including Number 3: the proposed Floor Area Ratio (FAR) of the house is consistent with the average FAR of houses in the defined neighborhood.

LVAA always has understood that if a Finding (required Finding 7 – see below) can be made that all 3 criteria listed in Guideline II.A. are met, then this Finding triggers a Discretionary review of whether or not excess Neighborhood Compatibility square footage should be allowed. Further, LVAA understands that this grant of Discretion must be exercised in a manner which meets the basic intent of the Neighborhood Compatibility rules: new or remodeled houses should be in character, and be compatible and in scale with, the surrounding neighborhood.

As to the proper exercise of Discretion, LVAA expects that the process should involve a clear, careful, reasoned, specific, and thorough analyses of those matters called out in required Finding 7: *The design, location, and size of the proposed structures . . . will be compatible with existing and anticipated future development on adjacent lots as described in Section 17.48.060D of this ordinance. and in terms of aesthetics, character, scale and view protection* (italics and emphasis added.) Note: the reference to the Zoning Code is in error and should be Section 17.29.060D, This Section of the Zoning Code, which addresses Neighborhood Compatibility, specifically refers to a "consideration" of character and scale and specifically states that: *The review authority may approve additional floor area following a review of site conditions and compliance with the remainder of the Hillside District standards* (italics and emphases added.)

08/17/2009

A copy of Finding 7 from the Hearing Officer's Decision from this case is attached hereto as Attachment 2. Reviewing the Hearing Officer's statements in Finding 7 (supported by staff) as to why excess square footage should be allowed, it is clear that the Hearing Officer (and staff) first calls out the proposed project FAR and then the average FAR in the defined neighborhood and, next, in a mechanical manner jumps to the following conclusion with no further analyses of any applicable, special aspects of this proposed project or the LVAA hillside area: *Therefore staff finds the size of the house as proposed is compatible with the character and scale of existing homes in the neighborhood.* The reasoning is circular and simply asserts an unsupported conclusion. It is as if a comparison of the FAR percentages "entitles" the project to approval of the proposed excess Neighborhood Compatibility square footage, as opposed to triggering Discretion.

LVAA believes that this "entitlement" approach to interpreting and applying the Council-adopted Guidelines is clearly in error. LVAA strongly believes that the Guidelines were intended by this Council to trigger a Discretionary analysis of character, compatibility, scale and aesthetics. For example, if built, the proposed project will be the third largest in a modified Neighborhood totaling 50 homes, and, will be almost twice the size of the median 2,773 square foot sized home in the modified Neighborhood. Without a Discretionary analysis, how will these important project-related facts be taken into account (along with a number of others, including the totality of the proposed project on site) in making required Finding 7 to support excess Neighborhood Compatibility square footage? How will special Linda Vista-Annandale hillside area circumstances be taken into account?

Proper exercise of Discretion is particularly important since the computation of allowable Neighborhood Compatibility square footage already includes a 35% increase in square footage over neighborhood median to allow for special development situations such as modern kitchens. Every time excess Neighborhood Compatibility square footage is approved on top of the 35% excess over median which is permitted as a matter of right, the basic purpose of the Hillside Ordinance provisions is undermined as new, approved, square footage "creeps" ever larger.

Therefore, LVAA requests that this Council call this matter up to the BZA to enable the required Discretionary review triggered by Guideline II.A. to take place so as to properly justify and support, with a strong analytical foundation, any decision to allow excess Neighborhood Compatibility square footage.

Thank you for your attention to our concerns.

Sincerely,

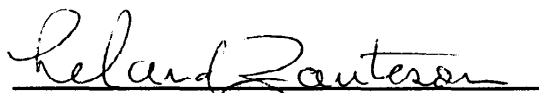

LELAND ZANTESON,
President, LVAA

EXHIBIT A
GUIDELINES FOR THE IMPLEMENTATION OF SECTION 17.29.060(D)
(NEIGHBORHOOD COMPATIBILITY GUIDELINE) OF THE HILLSIDE OVERLAY
DISTRICT OF THE CITY OF PASADENA ZONING CODE.

I. Guidelines for Modifying the "Neighborhood"

The 500-foot 'neighborhood', as defined by the Neighborhood Compatibility guideline (Section 17.29.060(D) of the Hillside Overlay District, may be modified, on a case-by-case basis, based on any or all of the following criteria:

- A. Properties within 500 feet are not in Pasadena.
- B. Properties within 500 feet are not in Hillside Overlay district.
- C. Properties within 500 feet are not in RS district, or in a different RS district.
- D. Properties within 500 feet are separated by significant manmade structure (i.e. freeway) or significant natural feature (canyon, ridge, etc.) that to the extent determinable by staff is not the result of grading or other manmade alternation of the natural terrain.

→ **II. Guidelines for Exceeding Neighborhood Compatibility Floor Area**

A. The maximum allowable house size as calculated by the Neighborhood Compatibility guideline may be approved to be exceeded, on a case-by-case basis, based on all of the following criteria:

- 1. Compliance with View Protection provision (17.29.060(E)) of the Hillside District Ordinance; and
- 2. Compliance with Ridgeline Protection provision (17.29.050(C)) of the Hillside District Ordinance; and
- 3. Proposed FAR (not including garage) is consistent with the average FAR (not including garage) in the neighborhood.

B. When the Neighborhood Compatibility maximum size is less than the maximum allowable Gross Floor Area development standard, and a proposed project, whose size exceeds both maximums, is approved to exceed the lower Neighborhood Compatibility maximum size, it shall not be permitted to exceed the maximum Gross Floor Area development standard unless there are extreme circumstances that warrant the approval of a Variance. This is intended to serve as a 'check and balance' to ensure that the above guideline (A) does not encourage Variance requests.

C. When the Neighborhood Compatibility maximum size is greater than the maximum allowable Gross Floor Area development standard, and a proposed project, whose size exceeds both maximums, is approved through a Variance to exceed the lower Gross Floor Area development maximum size, the review authority shall consider not permitting the project to also exceed the Neighborhood Compatibility maximum size

ATTACHMENT 1

location of the house behind the existing vegetation and trees will not convey an overdeveloped appearance from the public right-of-way or neighboring properties. The new single-family residence will not block views, nor will they lead to significant grading of previously undisturbed portions of the site. No trees are proposed to be removed as part of this project.

7. *The design, location, and size of the proposed structures and/or additions or alterations to existing structures will be compatible with existing and anticipated future development on adjacent lots as described in Section 17.48.060D of this ordinance and in terms of aesthetics, character, scale, and view protection. The City's Neighborhood Compatibility guideline includes a review of the size of the home when compared to the median home size within the surrounding neighborhood. The size of the proposed house (not including the attached garage) is 4,320 square feet, which exceeds the Neighborhood Compatibility maximum of 3,744 square feet by 576 square feet. However, using the guidelines for modification of the neighborhood and exceeding the Neighborhood Compatibility maximum size, staff has determined that the proposed Floor Area Ratio (14.4 percent) is consistent with the average Floor Area Ratio in the neighborhood (14.5 percent). Therefore staff finds the size of the house as proposed is compatible with the character and scale of existing homes in the neighborhood.*

8. *The placement of the proposed house avoids the most steeply sloping portions of the site to the maximum extent feasible and minimizes alteration of hillside topography, drainage patterns, and vegetation in that. The proposed single-family residence will be located in approximately the same location as the existing residence, which will result in less overall site disturbance than if it were located closer to the street, which, permitted by the Zoning Code, can be as close as 25 feet. No trees, and more importantly, no protected trees, are proposed to be removed. As part of the building permit review, the Building Division will review the grading and drainage plans to ensure that the drainage conditions after construction comply with the applicable regulations.*

From: Steven Gorski
Date: Thu, 30 Jul 2009 08:01:42 -0700
To: <President@lvaa.net>
Subject: 897 Linda Vista Ave. - Mark and Laura Scarsi

Dear Mr. Zanteson:

It has come to my attention that the LVAA has asked the Planning Commission to call up the Scarsi's project at 897 Linda Vista for a review again. I am opposed to this action and I am disappointed that the LVAA would take such a drastic measure before seeking input from the community or the LVAA members.

I am strongly in favor of the Scarsi's being allowed to proceed with their project. As I understand it, last week the Scarsi's had a hearing before the City on their revised plans, which included a reduced floor area ratio as suggested by the LVAA. The LVAA, however, continued to object without a valid reason. The Hearing Officer sided with the City Planning Staff and the Scarsi family and determined that the LVAA's objections were baseless. I have heard that the LVAA is seeking to further delay the Scarsi project by asking for another review of the project without any legitimate basis.

As a resident of the area since 1999, I am all for rules that work to keep the character and charm of our neighborhood. When someone follows the rules, however, the LVAA should not stand in their way. It's simply a matter of fairness. The Scarsi family has revised their project on multiple occasions and now they should be allowed to continue with their project which will be an asset to the neighborhood.

I generally support the work of the LVAA organization and have been pleased with its work on behalf of the community in the past. I do not, however, condone actions by the organization against a resident that are not founded on established rules. If individuals within the organization have personal issues with a project, those individuals should object on their own behalf and not purport to be acting on behalf of my family and the

8/17/2009
7.B.1

entire community.

As president of the LVAA, please rescind the organizations' request for a further review of the Scarsi project immediately.

Regards,
Steven Gorski
1546 Linda Vista Ave.

--

Steven Gorski

626-533-3918 (cell)

1401 Inverness Drive
Pasadena, CA 91103
July 28, 2009

RE: Mark and Laura Scarsi
897 Linda Vista Ave

Mr. Lee Zanteson
LVAA President

Dear Mr. Zanteson:

I am writing on behalf of Mark and Laura Scarsi regarding their project at 897 Linda Vista Avenue.

I understand that after three attempts and 2 design changes the Scarsi's not only received staff approval for their project but they did in fact receive approval for their project by Hearing Officer, Nancy Burke at their July 15 hearing. After the second re-design, the Scarsi's project now fully meets all codes necessary for approval including the neighborhood compatibility guidelines, which was the issue that resulted in the denial of the project in the first place.

I recently have been informed that the LVAA, which my wife and I are members and have been for 15 years, has asked the Planning Commission to review the Scarsi's project in order to determine if it should go up for appeal. As a LVAA member I am totally against this action being taken against the Scarsi's and want to know what basis this action is being taken since they have now abided by all codes!!?? I understand Nina Chomsky is again leading the effort to deny the Scarsi's their rights to build the home they want which is now being designed within the very recent codes set forth circa 2004, which both LVAA and Ms. Chomsky help author. What is going on!!??

Prior to the Scarsi's first hearing in June 2008 Ms. Chomsky said the following in a letter to the City:

LVAA supports the Staff Recommendation for denial of the Hillside Development Permit for the reasons set forth therein, specifically the facts that: (1) the proposed ratio of house size to lot size (FAR) (exclusive of the garage), which is 17 percent, is more than the 14.4 percent average existing FAR in the Neighborhood (as modified by Staff), which is the trigger for exercise of discretion in approving excess Neighborhood Compatibility size pursuant to the Guidelines"

"The only basis for exercise of discretion would be a reduction in the size of the proposed project house to an FAR of no more than 14.4 percent, which is the average FAR in the Modified Neighborhood. Unless the project is reduced to this house size, discretion cannot be exercised pursuant to the Guidelines, and, therefore, the Application should be denied as recommended by Staff." (emphasis added)

8/17/2009

7.B.1

After that hearing the Hearing Officer wrote:

The design of the proposed remodeled dwelling is very attractive, However, in this case the proposed size of the project does not meet the Neighborhood Compatibility standard or the FAR Guidelines. The staff recommended, and I agreed, that in this case there may be an area of compromise of the size of the proposed dwelling. The proposed dwelling could be reduced to the existing average neighborhood of 14.4 percent. This would allow a 4,320 square feet dwelling." (p.4, emphasis added)

Prior to the Scarsi's August 2008 second hearing Ms. Chomsky wrote another letter to the City which includes the following:

"LVAA supports the Staff Recommendation for denial of the Hillside Development Permit for the reasons set forth therein, specifically the facts that: (1) the proposed ratio of house size to lot size (FAR) (exclusive of the garage), which is 15.9 percent after revisions to the project, still is more than the 14.4 percent average existing FAR in the Neighborhood (as modified by Staff), which is the trigger for exercise of discretion in approving excess Neighborhood Compatibility size pursuant to the Guidelines"

"LVAA also agrees with Staff that the revised project is an improvement over the original project, but we agree that further revisions are necessary to bring the project into compliance. Also, note that LVAA does not oppose a project per se on this site, provided that the project meets the Guidelines. If the project met the Guidelines, then the resulting excess of Neighborhood Compatibility square footage, on top of the 35% "bonus" included in the calculation, probably would deserve approval based primarily on the fact that all of the excess is contained in the second story of the house."

The only basis for exercise of discretion would be a reduction in the size of the proposed project house to an FAR of no more than 14.4 percent, which is the average FAR in the Modified Neighborhood. Unless the project is reduced to this house size, discretion cannot be exercised pursuant to the Guidelines, and, therefore, the Application should be denied as recommended by Staff." (emphasis added)

The Hearing Officer did not approve the Scarsi's project at the second hearing but did indicate that if the project's FAR was reduced to 14.4% as Ms. Chomsky was arguing and therefore met the guidelines of the code, the project would probably be approved. Ms. Chomsky specifically said in her letter above: Also, note that LVAA does not oppose a project per se on this site, provided that the project meets the Guidelines. If the project met the Guidelines, then the resulting excess of Neighborhood Compatibility square footage, on top of the 35% "bonus" included in the calculation, probably would deserve approval based primarily on the fact that all of the excess is contained in the second story of the house."

I reiterate, Ms. Chomsky specifically stated above that if the project does in fact meet the guidelines in terms of neighborhood compatibility then it would deserve approval. The Scarsi's did in fact re-design their project to meet the 14.4% FAR that Ms. Chomsky and the City said needed to be met in order for approval and on July 15, 2009 the Hearing Officer agreed and the project approved. THE PROJECT IS NOW IN COMPLIANCE WITH ALL HILLSIDE AND NEIGHBOR COMPATIBILITY ORDINANCES, WHY IS Ms. CHOMSKY AND LVAA ASKING THE PLANNING COMMISSION FOR A REVIEW AND POSSIBLE APPEAL!??

The code is the code, is the code (please remember who helped author the codes in the first place, LVAA) and should be abided by everyone and that is what Ms. Chomsky was saying all along. If the code is good enough to stop a project (as Ms. Chomsky was arguing) then the code is also be good enough to allow a project to be approved and continue when it is met. You cannot have it both ways! Again, I repeat, IF THE CODE IS GOOD ENOUGH TO STOP A PROJECT THEN THE CODE IS ALSO GOOD ENOUGH TO ALLOW A PROJECT TO BE APPROVED AND CONTINUE WHEN IT IS MET. There is no subjectivity here, either you meet the code or you do not. The Scarsi's have successfully made every effort to meet the code (2 re-designs at significant extra cost), received City approval and now they MUST be allowed to move on with their project without any further delay. IF THE PROJECT HAS MET THE CODE WHICH IT HAS THERE IS ABSOLUTELY NO REASON FOR A PLANNING COMMISSION REVIEW. Let the Scarsi's continue with their project without further delay! There is absolutely NO BASIS whatsoever for Ms. Chomsky objection to the Scarsi's project and the actions she is now trying to take after the fact. Again, you cannot have it both ways! I repeat again, YOU CANNOT HAVE IT BOTH WAYS.

Lastly, as a 15-year member of LVAA I take issue that Ms. Chomsky says she represents LVAA. Does she really and in this case in particular or is she arbitrarily objecting to projects without any support from LVAA and/or its board members? As a LVAA member I would like to know. My wife and I as well as the entire area are LVAA and Ms. Chomsky does not represent my wife and I or any other member of LVAA. Ms. Chomsky could say she represents LVAA if all households in the area were allowed to vote for their President and Board members. I have never been given that opportunity. I as well as many, many others do not appreciate that misrepresentation and find it very disingenuous. LVAA needs to address this issue.

Thank you.

John Hyll

Jomsky, Mark

From: Maura Johnson [mjohnson@hollywoodhousing.org]
Sent: Monday, August 17, 2009 4:28 PM
To: Jomsky, Mark; Sinclair, David
Cc: 'Scarsi, Mark'; 'Laura Scarsi'
Subject: Monday August 17, City Council Meeting
Attachments: Scarsi support.pdf; Fwd: Scarsi Project; Scarsi.doc; gorskiltr.doc; Scarsi Project; FW: 897 Linda Vista; FW: August 12, 2009 Planning Commission Hearing; Maura McAniff Johnson support letter.pdf

Dear Mr. Jomsky:

Please provide the attached letter with supporting petition and additional letters to the Mayor and City Council Members for consideration this evening with respect to City Council Agenda Item 7.B. (1); HDP 5249 – 897 Linda Vista Avenue.

Thank you,

Maura McAniff Johnson
Housing Director
Hollywood Community Housing Corporation
1640 N. Wilcox Avenue
Hollywood, CA 90028
Tel: 323-469-0710, ext. 211
Fax: 323-469-1899

8/17/2009

7.B.1

8/17/2009

Maura McAniff Johnson
1250 Charles Street
Pasadena, CA 91103

August 17, 2009

Re: City Council Agenda Item 7. B. (1); HDP 5249 -- 897 Linda Vista

Dear Mayor Bogaard and Members of the City Council:

I am strongly opposed to the proposal to call up the project referred to above and which is to be considered as City Council Agenda Item 7.B. (1) on August 17, 2009 for further review. I do so as a 45 year resident of Pasadena, a 30 year resident of the westside of Pasadena and a 5 year neighbor of the wonderful Scarsi family who received City Planning Staff and Hearing Officer approval for their project at 897 Linda Vista Avenue.

Let me set forth the reasons why I urge a no vote. First, the City Council much less the Planning Commission has never taken a formal position on subterranean basement area. To do so with respect to so important a matter and in the context of an already approved project would be both procedurally and substantively inappropriate.

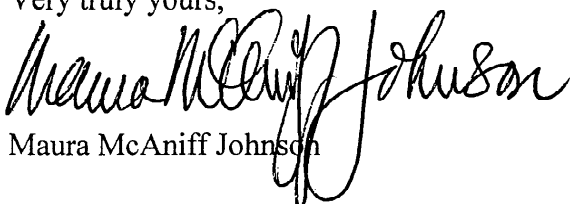
Second, the decision to grant the project approval was made with great care by Planning Staff and the Hearing Officer and now but for the request of a City Councilman who does not represent our area and who does not speak for the majority of the area's residents this project may come up for further review. The Planning Commission examined the prior decision and decided there were not substantive grounds to review that decision.

The present action, taken without any substantial neighborhood input and in the face of the actions of the Planning Staff and the Planning Commission, were the City Council to do so now without any adequate basis and as I have noted above any substantial neighborhood support, would be to call in question the Council's confidence in the Planning Staff and the Planning Commission and would seem to represent an ill considered doffing of the hat to the squeaky wheel.

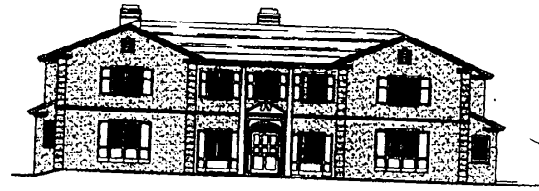
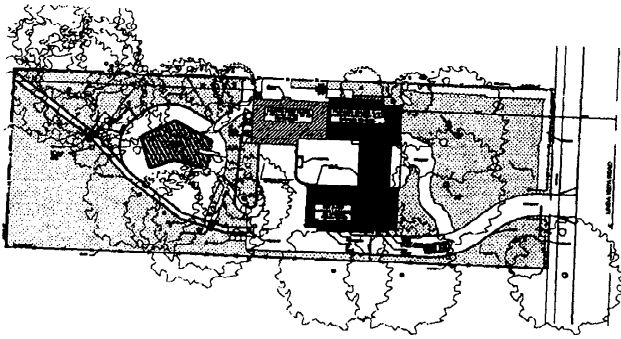
As evidence of the lack of neighborhood support for the LVAA position I refer to the plethora of written opposition to the reconsideration of Agenda Item 7. Virtually everyone in the neighborhood has provided written support for this position.

I urge you to vote no and have no further review of this project.

Very truly yours,


Maura McAniff Johnson

SCARSI RESIDENCE - 897 LINDA VISTA, PASADENA CA



SITE PLAN

EXTERIOR ELEVATION - FROM LINDA VISTA

I HAVE REVIEWED AND UNDERSTAND THE PROPOSED ADDITIONS TO 897 LINDA VISTA AND HAVE NO OBJECTIONS.

NAME	ADDRESS	SIGNATURE	DATE
Sue Fletcher	885 Linda Vista Ave	Sue A. Fletcher	5-19-08
S. BOCCARDI	909 LINDA VISTA AVE	[Signature]	5/19/08
Brian Sullivan	877 Linda Vista	[Signature]	5/19/08
Ryan Winston	920 Linda Vista Ave	Ryan Winston	5/27/08
Gregoria Cardenas Miller	910 Linda Vista Ave	Gregoria Cardenas Miller	5/19/08
Trish McElhenny	999 Linda Vista Ave	Trish McElhenny	5-20-08
Jern Bahr	985 Linda Vista	Jern Bahr	5-27-08
Meghan Stimmeler	740 Linda Vista Ave	Meghan Stimmeler	5/28/08
Laura Kathryn Jones	932 Underwood Ave	Laura K	5/28/08
Lisa Horne	925 Linda Vista	Roxsana Lisa Horne	5/28/08
Carmen Grossi	918 Linda Vista	Carmen Grossi	5/28/08
George Merrill	865 LINDA VISTA	George Merrill	5/28/08
Jennith Knox	845 Linda Vista	Jennith Knox	5/28/08
Lindsay Epstein	811 Linda Vista	Lindsay Epstein	5/28/08
Masami Robson	898 Linda Vista Ave.	Masami Robson	5/28/08
Pam and John King	1215 Charles St	Pam King	5/28/08
FRANK & GAIL	1150 Rancheros	Frank & Gail	5-28-08
Pat May	982 Linda Vista Ave	Pat May	5-28-08
Frank Love	1185 Rancheros Blvd	Frank Love	5-30-08
PAULA KENNEDY	835 Linda Vista Ave	Paula Kennedy	5-7-08
CARMEN SANDOVAL	878 LINDA VISTA AVE	Carmen Sandoval	6-7-08
ESTER MATHIAS	916 Linda Vista Ave	Ester Mathias	6-7-08
Gary Nugent	1195 Rancheros Rd.	Gary Nugent	6-7-08
MAURIA McANIFF JOHNSON	1250 Charles Street	Mauria McAniff Johnson	6-8-08
Clydebet Cramer	910 Linda Vista Ave	Clydebet Cramer	6-10-08

Jomsky, Mark

From: Ogden, Mark [Mark.Ogden@Sothebyshomes.com]
Sent: Friday, August 07, 2009 12:34 PM
To: Laura Scarsi
Subject: FW: 897 Linda Vista

Hope this helps

From: Ogden, Mark
Sent: Friday, August 07, 2009 12:34 PM
To: 'president@lvaa.net'
Cc: 'jpoindexter@cityofpasadena.ne'; '1pellman@nossaman.com'
Subject: 897 Linda Vista

Dear Mr. Zanteson:

I understand that the LVAA has asked the Planning Commission to call up the Scarsi's project at 897 Linda Vista for a review. I am opposed to this action and am more than disappointed that the LVAA would take such a drastic measure without input from the community or the LVAA members. This action sounds more like something one would read about from the "Peoples Republic Of Santa Monica".

I am a member of the LVAA and am generally pleased at the work it does to keep our community top notch. I am wondering who gave Nina Chomsky authority to represent the LVAA. Has anyone driven by her home on Lancashire lately. That should be cited as a neighborhood eyesore.

Common sense should prevail here. On a 30,000 sq. ft. almost flat lot, one should be able to build this size home without jumping through these hoops. This is less than a 10% footprint coverage. Absolutely crazy to review!

Sincerely,
Mark Ogden
1177 Yocum St.
Pasadena, California 91103

"The information in this electronic mail message is the sender's business confidential and may be legally privileged. It is intended solely for the addressee(s). Access to this internet electronic mail message by anyone else is unauthorized. If you are not the intended recipient, any disclosure, copying, distribution or any action taken or omitted to be taken in reliance on it is prohibited and may be unlawful."

"The sender believes that this E-mail and any attachments were free of any virus, worm, Trojan horse, and/or malicious code when sent. This message and its attachments could have been infected during transmission. By reading the message and opening any attachments, the recipient accepts full responsibility for taking protective and remedial action about viruses and other defects. The sender's employer is not liable for any loss or damage arising in any way from this message or its

8/17/2009

8/17/2009
7.B.1

Jomsky, Mark

From: Scarsi, Mark [MScarsi@milbank.com]
Sent: Wednesday, August 12, 2009 11:54 AM
To: Laura Scarsi
Subject: FW: August 12, 2009 Planning Commission Hearing
Attachments: Attachment A .pdf; Attachment B .PDF; Attachment C .pdf

From: Scarsi, Mark
Sent: Wednesday, August 12, 2009 9:43 AM
To: 'Burciaga-Ramos, Claudia'
Subject: August 12, 2009 Planning Commission Hearing

Please deliver to the Planning Commission -- Thank you.

August 12, 2009

Chairman Richard McDonald and Members of the Planning Commission
C/O Claudia Burciaga-Ramos

Re: August 12, 2009 Planning Commission Agenda; HDP 5249 -- 897 Linda Vista
Chairman McDonald and Commissioners:

My wife Laura and I are the owners of 897 Linda Vista Ave. This letter briefly responds to Ms. Chomsky's letter of August 5, 2009 regarding our application for a Hillside Development Permit.

Neighborhood Compatibility Guidelines

To better understand the issues involved in the above captioned matter, we believe that it is instructive to briefly review the history surrounding the adoption of guidelines for neighborhood compatibility in the Hillside Overlay District. Section 17.29.060(D) specifies a neighborhood compatibility requirement for the Hillside District. The intent of this requirement was to ensure that new construction resulted in houses that were compatible with the surrounding neighborhood. As enacted, Section 17.29.060 (D) of the Pasadena Zoning Code set a target neighborhood compatibility formula, but stated that:

"The review authority may approve additional floor area following a review of site conditions and compliance with the remainder of the Hillside District standards."

Unfortunately, the code provided little guidance as to when it was appropriate to exercise the discretion to approve additional floor area. Recognizing this problem, the Planning Commission asked the City Staff to develop guidelines for the exercise of discretion. Throughout the Summer of 2006, the City Staff worked with neighborhood associations and the public to develop appropriate guidelines. The City Staff presented its recommended guidelines to the City Council at a meeting on September 25, 2006. The Staff proposed flexible guidelines that would allow the exercise of discretion if the proposed project met the view and ridge line protections and:

1) the proposed FAR of the project was consistent with the FAR in the surrounding neighborhood,

8/17/2009

8/17/2009
7.B.1

or

- 2) the lot was larger than most lots in the surrounding neighborhood, or
- 3) the average slope of the lot is less than 15%.

Representatives from the LVAA and WPRA attended the hearing and argued for narrower guidelines. Specifically, they proposed removing 2) and 3) above, resulting in a three part test:

- 1) compliance with view requirements, and
- 2) compliance with the ridgeline requirements, and
- 3) the proposed FAR of the project was consistent with the FAR in the surrounding neighborhood.

After some debate, the City Council approved the narrower guidelines with the understanding that they would revisit them if they proved too stringent. The City Council was particularly vocal about the need for clear guidelines to reduce the numerous incidents of appeal that had preceded adoption of the guidelines. Since 2006, these guidelines have been consistently applied to Hillside Projects. When a project exceeds these guidelines (as our original project did in 2008), the LVAA has objected and the City has generally denied the permit. When a project falls within the guidelines (as our current project does), the LVAA has not objected, and the City has approved the permit.

History of Our Project

In June 2008, we submitted a plan for remodeling our existing home at 897 Linda Vista Ave. That plan called for the addition of a second floor, resulting in a 5,127 square foot home. The planned floor area ratio (FAR) for the project was 17%, which was consistent with the average FAR of the houses along Linda Vista Ave. The day before our hearing, Ms. Chomsky submitted a letter (attachment A) objecting to our plan. The letter included the following language:

"LVAA supports the Staff Recommendation for denial of the Hillside Development Permit for the reasons set forth therein, specifically the facts that: (1) the proposed ratio of house size to lot size (FAR) (exclusive of the garage), which is 17 percent, is more than the 14.4 percent average existing FAR in the Neighborhood (as modified by Staff), which is the trigger for exercise of discretion in approving excess Neighborhood Compatibility size pursuant to the Guidelines"

"The only basis for exercise of discretion would be a reduction in the size of the proposed project house to an FAR of no more than 14.4 percent, which is the average FAR in the Modified Neighborhood. Unless the project is reduced to this house size, discretion cannot be exercised pursuant to the Guidelines, and, therefore, the Application should be denied as recommended by Staff." (emphasis added)

At the hearing, we attempted to convince the Hearing Officer to accept our redefined neighborhood definition (having an average FAR of 17%) in lieu of the neighborhood definition proposed by Staff, which had an average FAR of 14.4%. While we were unsuccessful at the hearing, the Hearing Officer indicated a willingness to approve the project if we reduced the square footage to 4,320 resulting in an FAR of 14.4%. (See Attachment B) Specifically, the Hearing Officer wrote:

"The design of the proposed remodeled dwelling is very attractive, However, in this case the proposed size of the project does not meet the Neighborhood Compatibility standard or the FAR Guidelines. The staff recommended, and I agreed, that in this case there may be an area of compromise of the size of the proposed dwelling. The proposed dwelling could be reduced to the existing average neighborhood of 14.4 percent. This would allow a 4,320 square feet dwelling." (p.4, emphasis added)

In August 2008, we appealed the Hearing Officer's decision. In an effort to compromise, however, we also reduced the scope of our remodel so that it would result in a 4,770 square foot home, having an FAR of 15.9 percent. The day of our hearing, Ms. Chomsky submitted another letter (attachment C) objecting to our revised plan. The letter included the following language:

"LVAA supports the Staff Recommendation for denial of the Hillside Development Permit for the reasons set forth therein, specifically the facts that: (1) the proposed ratio of house size to lot size (FAR) (exclusive of the garage), which is 15.9 percent after revisions to the project, still is more than the 14.4 percent average existing FAR in the Neighborhood (as modified by Staff), which is the trigger for exercise of discretion in approving excess Neighborhood Compatibility size pursuant to the Guidelines"

"LVAA also agrees with Staff that the revised project is an improvement over the original project, but we agree that further revisions are necessary to bring the project into compliance. Also, note that LVAA does not oppose a project per se on this site, provided that the project meets the Guidelines. If the project met the Guidelines, then the resulting excess of Neighborhood Compatibility square footage, on top of the 35% "bonus" included in the calculation, probably would deserve approval based primarily on the fact that all of the excess is contained in the second story of the house."

The only basis for exercise of discretion would be a reduction in the size of the proposed project house to an FAR of no more than 14.4 percent, which is the average FAR in the Modified Neighborhood. Unless the project is reduced to this house size, discretion cannot be exercised pursuant to the Guidelines, and, therefore, the Application should be denied as recommended by Staff." (emphasis added)

After an unsuccessful appeal, we decided to follow the advice of our original Hearing Officer and Ms. Chomsky and reduce the scope of our project yet again so that it meets the 14.4% FAR cap.

On July 15, 2009, we appeared before Hearing Officer Burke on our new project. Officer Hearing Burke approved our project finding that our FAR of 14.4 % was consistent with the average FAR in the neighborhood (which is 14.5%).

We believe that Hearing Officer Burke properly applied the applicable law to the facts and arrived at sound decision. In all candor, we see no sound basis for a further review of this project.

Misstatements in Ms. Chomsky's Letter

In closing, we are particularly troubled by Ms. Chomsky's reckless disregard for candor in this matter. Ms. Chomsky's letter contains several knowing misstatements of fact clearly designed to mislead the Commission. For example, Ms. Chomsky states that:

"The currently proposed Project includes a total of 7,410 new square feet of habitable square feet on site, . . ."

This statement is simply false. The current project includes 4,320 square feet of habitable space. As Ms. Chomsky knows, under the code, basement square footage is not habitable space. This issue was discussed at our hearing in Ms. Chomsky's presence. Ms. Chomsky also makes several sleight-of-hand comparisons between the combined square footage of our house plus garage and the square footage of houses in the neighborhood without including square footage of their garages.

As an attorney, Ms. Chomsky should know that she has an ethical duty to refrain from submitting materials to a governmental tribunal that contain knowing misstatements of fact. I would ask the Planning Commission to take this into account in considering what weight to give to Ms. Chomsky's letter.

Very truly yours,
Mark Scarsi

<<Attachment A .pdf>> <<Attachment B .PDF>> <<Attachment C .pdf>>

Milbank

Litigation

Mark Scarsi

601 South Figueroa St., 30th Fl.

Los Angeles, CA 90017

T: 213-892-4580 F: 213-892-4780

mscarsi@milbank.com

www.milbank.com

=====
IRS Circular 230 Disclosure: U.S. federal tax advice in the foregoing message from Milbank, Tweed, Hadley & McCloy LLP is not intended or written to be, and cannot be used, by any person for the purpose of avoiding tax penalties that may be imposed regarding the transactions or matters addressed. Some of that advice may have been written to support the promotion or marketing of the transactions or matters addressed within the meaning of IRS Circular 230, in which case you should seek advice based on your particular circumstances from an independent tax advisor.
=====

This e-mail message may contain legally privileged and/or confidential information. If you are not the intended recipient(s), or the employee or agent responsible for delivery of this message to the intended recipient(s), you are hereby notified that any dissemination, distribution or copying of this e-mail message is strictly prohibited. If you have received this message in error, please immediately notify the sender and delete this e-mail message from your computer.

8/17/2009

Scarsi, Mark

From: Scarsi, Mark
Sent: Monday, July 06, 2009 4:20 PM
To: 'James Coane'
Subject: FW: FW: HDP #5055 -- 897 Linda Vista Avenue: Hearing Date 6/12/08

From: NRCHOMSKY@aol.com [mailto:NRCHOMSKY@aol.com]
Sent: Wednesday, June 11, 2008 4:06 PM
To: Sinclair, David
Cc: NP7956755@aol.com; sharon.y@mac.com
Subject: HDP #5055 -- 897 Linda Vista Avenue: Hearing Date 6/12/08

Please deliver to the Hearing Officer -- Thank you.

LINDA VISTA-ANNANDALE ASSOCIATION

Mr. Paul Beard, Hearing Officer
c/o David Sinclair, Planner
City of Pasadena

Re: HDP #5055 -- 897 Linda Vista Avenue

Mr. Beard:

On behalf of the Linda Vista-Annandale Association (LVAA), I have reviewed the above-referenced matter, and have the following comments.

Support of Staff Recommendation.

LVAA supports the Staff Recommendation for denial of the Hillside Development Permit for the reasons set forth therein, specifically the facts that: (1) the proposed ratio of house size to lot size (FAR) (exclusive of the garage), which is 17 percent, is more than the 14.4 percent average existing FAR in the Neighborhood (as modified by Staff), which is the trigger for exercise of discretion in approving excess Neighborhood Compatibility size pursuant to the Guidelines; and (2) the proposed 1,494 square foot difference between the proposed project and the Neighborhood Compatibility maximum size is a 41 percent increase, which is too great. We agree with Staff that the size of the proposed house is too great of a difference to approve, and that the project as proposed is not in scale with the homes in the vicinity of the project.

Support Staff's Modified Neighborhood.

LVAA supports Staff's recommended Modified radius Neighborhood. We agree that the resulting Neighborhood of RS-4 lots includes adjacent lots more compatible with the subject lot even though the applicant gains 80 square feet in the Neighborhood calculation.

No Basis for Exercise of Discretion Without Compliance with Guidelines.

As indicated by Staff, the proposed project does not meet Guideline II.A.3: the proposed FAR (exclusive of the garage) is not consistent with the average FAR in the Modified Neighborhood. Thus, under the Guidelines, there is no basis or justification for the exercise of discretion to approve the project as proposed.

The only basis for exercise of discretion would be a reduction in the size of the proposed project house to an FAR of no more than 14.4 percent, which is the average FAR in the Modified Neighborhood. Unless the project is reduced to this house size, discretion cannot be exercised pursuant to the Guidelines, and, therefore, the

Application should be denied as recommended by Staff.

Importance of Neighborhood Compatibility Rules.

LVAA worked closely with Staff, other neighborhood associations and groups, the Planning Commission, and the City Council to craft the Neighborhood Compatibility rules, together with the later adopted Guidelines. These rules apply throughout the entire Linda Vista Annandale neighborhood area, and benefit the entire area by limiting out-of-scale development which undermines the character of the entire area. Controlling scale and character is of the highest importance to LVAA and a large number of residents of the overall Linda Vista-Annandale area.

Thank you for your attention to LVAA's concerns.

Sincerely,

Nina Chomsky,
LVAA Zoning Chair

cc: Norm Parker, LVAA President
Sharon Yonashiro, past LVAA President

Vote for your city's best dining and nightlife. City's Best 2008.

**BOARD OF ZONING APPEALS
STAFF REPORT
August 20, 2008**

SUBJECT: Hillside Development Permit #5055

LOCATION: 897 Linda Vista Avenue

ZONING DESIGNATION: RS-4-HD (Single-Family Residential, Hillside Overlay district)

GENERAL PLAN DESIGNATION: Low Density Residential

CASE PLANNER: David Sinclair

APPLICANT/APELANT: Mark and Laura Scarsi

ZONING ADMINISTRATOR AND HEARING OFFICER'S RECOMMENDATION: Acknowledge the Environmental Determination and the Specific Finding in Attachment A to **disapprove** the Hillside Development Permit application.

ENVIRONMENTAL DETERMINATION: This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, Class 1 §15301, Existing Facilities). This exemption addresses additions to existing structures, provided that the additions will not result in an increase of more than 10,000 square feet and the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan. The proposed additions will occur on the developed portions of the lot and are not encroaching into an environmentally sensitive area. The use will remain a single-family residence.

STAFF ADDENDUM:

On June 12, 2008 the Hearing Officer adopted the Zoning Administrator's recommended finding and disapproved Hillside Development Permit #5055. That decision has been appealed by the applicant.

The proposed project involved: 1) remodeling the existing 3,418 square foot one-story residence, including relocating the attached garage to the opposite side of the house at the rear, resulting in a net reduction of seven square feet; and 2) constructing a new 2,178 square foot second floor. The proposed gross floor area was 5,127 square feet, plus the relocated garage of 462 square feet, for a total of 5,589 square feet. The proposed project exceeded the Hillside District Neighborhood Compatibility requirement of 3,553 square feet, by 1,574 square feet, not including the garage.

Using the adopted guidelines for Neighborhood Compatibility, staff recommended a change in the neighborhood boundary, as shown in Attachment C to this report, which increased the

Neighborhood Compatibility maximum size from 3,553 to 3,633 square feet. The proposed project still exceeded the compatibility requirement by 1,494 square feet.

No protected trees were proposed to be removed and no Variances to the development standards of the Hillside Ordinance were requested. However, staff recommended disapproval of the application because the project exceeded the Neighborhood Compatibility maximum size and the project did not satisfy all of the guidelines for approving the additional floor area.

At the Hearing Officer hearing the applicant and the neighbor to the immediate south spoke in favor. A petition of support from 25 neighbors was also submitted, although one of these neighbors later retracted their support and wrote a letter of opposition. In addition, a letter of opposition from the Linda Vista Annandale Association was presented by a representative of that organization.

During the applicant's presentation to the Hearing Office, he raised issues about the Neighborhood Compatibility and how it is used. Rather than portray the Neighborhood Compatibility calculation as setting a maximum allowable size of a house (in addition to the maximum allowable gross floor area), the applicant presented it in combination with the maximum gross floor area such that the allowable size of a house in the Hillside District overlay would be in the range of Neighborhood Compatibility on the low end and the maximum gross floor area on the high end.

However, it has been the intent of the Neighborhood Compatibility calculation to be an additional 'cap' on the size of a house in the Hillside District, which was presented to, and approved by, the City Council in 2004. Staff concurs that there is flexibility to this calculation that is not available to the gross floor area calculation, but its intent was not to provide a range of house sizes with the Neighborhood Compatibility maximum size on the low end; that would only encourage larger houses.

The applicant also refuted staff's position that the maximum allowable gross floor area was based on the formula available to RS-4-HD properties: 25 percent of lot plus 500 square feet. It was the applicant's position that the project should be subject to the formula for non-HD properties, 30 percent plus 500 square feet, because the average slope of the property, 10.3 percent, is less than 15 percent. It was the applicant's intent to show how large of a house could be constructed and how the Neighborhood Compatibility calculation significantly impacts the allowable size of a house. For example, given that this lot is 30,000 square feet in size, the RS-4-HD formula permits a maximum gross floor area of 8,000 square feet, whereas the formula for non-HD lots permits a maximum gross floor area of 9,500 square feet.

The rationale for the applicant's position appears to be based on the 'flat lot' provision of the HD regulations (17.29.080.J) which permits the use of the gross floor area formula for non-HD properties when the average slope of the property is less than 15 percent. However, in order to qualify for this provision of the Zoning Code, a project must comply with all development standards, no protected trees shall be removed, and a project shall comply with the Neighborhood Compatibility maximum size. In this case, because this project does not comply with the Neighborhood Compatibility maximum the 'flat lot' provision cannot be used.

Revised Plans

After filing an appeal application, the appellant submitted revised plans for a smaller house. The total gross floor area was reduced from 5,589 square feet to 5,319 square feet, a reduction of 270 square feet. The size of the house, not including the garage, was reduced by 357 square feet from 5,127 square feet to 4,770 square feet. (This reduction is slightly greater than the gross floor area reduction because the size of the garage was enlarged by 87 square feet.)

The reduction in the size of the house has reduced the amount of area that the house exceeds the Neighborhood Compatibility from 1,574 square feet to 1,217 square feet as measured by the 500-foot radius neighborhood, and from 1,494 square feet to 1,137 square feet for the neighborhood as modified by staff (Attachment C). As revised by the applicant, the house would exceed the maximum Neighborhood Compatibility size, as recommended by staff, by 31 percent.

Staff considers the reduction in the size of the house a step in the right direction as it brings the residence closer to the Neighborhood Compatibility maximum size. However, it is still staff's position that the revised house continues to be too large in relation to the Neighborhood Compatibility requirement. The proposed 4,770 square foot residence would be the seventh largest of the 56 houses in the 500-foot radius neighborhood and sixth largest of the 50 houses in the staff recommended neighborhood boundary.

As shown in Attachment C to this report, the average ratio of house size to floor size (FAR) in the staff recommended neighborhood is 14.4 percent. The originally proposed project had an FAR of 17.1 percent while the revised plans have an FAR of 15.9 percent. Given that the lot size is 30,000 square feet, this reduction of 1.2 percent translates to 360 square feet; the approximate size of a slightly under-sized two-car garage.

Using the guidelines approved by the City Council (Attachment C to Hearing Officer Staff Report) the proposed project must be 'consistent' with the average FAR in the neighborhood in order to approve a house whose size is greater than the Neighborhood Compatibility maximum size. This does not mean that the sizes must be exactly the same, but must be in the approximate vicinity. In this case, the difference between the 14.4 percent neighborhood average and the 15.9 percent proposal is 450 square feet. This is a difference in sizes that staff finds is too large to support.

Staff noted in the Hearing Officer report that the project is located on a large, relatively flat nature of the property and that the proposed project is a new second floor that will not require extensive grading or any removal of trees, and therefore staff is not opposed to a new second floor on the existing residence. However, staff cannot support the size of the project as proposed because the proposed size approximately one-third (1,137 square feet) greater than the Neighborhood Compatibility maximum size as well as greater than the flexibility provided by the neighborhood FAR analysis. Therefore, staff is continuing to recommend disapproval of the revised application because of the inability to make the necessary compatibility finding (Attachment A).

HEARING OFFICER ADDENDUM:

The public hearing concerning this matter was conducted on June 12, 2008. The applicant spoke in favor of the request. The applicant believes that the size of the project should not be judged based on a comparison with the properties within 500 feet. The size of the dwelling should be compared with dwellings that front along Linda Vista Avenue approximately 2,500 feet north and south of the subject property. The applicant stated that the average property in his "Linda Vista Corridor" study area has the same 17 percent FAR as the proposed project. At the hearing the applicant submitted a petition in favor of the project signed by 25 property owners from the surrounding area.

A letter in opposition to the request was received from a property owner on Linda Vista Avenue who is remodeling his dwelling in conformance with the Neighborhood Compatibility Guidelines. A letter was also received from the Linda Vista-Annandale Association (LVAA) and a representative from this Association spoke at the hearing. The LVAA supports the staff recommendation.

STUDY AREA: I believe that the staff was correct in using the standard 500 feet Neighborhood Compatibility Analysis Study Area to determine Neighborhood Compatibility and FAR. The subject property relates geographically to and is compatible with properties in this adjacent area. The use of the applicant's "Linda Vista Corridor" study area would include properties up to a half mile from the subject property and does not include property within 100 feet of the subject property. The 500 feet study area does not meet the required criteria to allow its modification.

NEIGHBORHOOD COMPATABILITY: The proposed dwelling would be 5,127 square feet. The median dwelling size in the study area is 2,276 square feet, a little more than half the size of the proposed dwelling. The Hillside Ordinance automatically allows 35 percent to be added to the median dwelling size in the study area. This would allow a 3,553 square feet dwelling. The proposed 5,127 square feet dwelling would be 1,574 square feet larger than the permitted 3,553 square feet dwelling. The staff modified the 500 feet study area by removing the RS-2 zoned properties. This increased the maximum by 80 square feet. Even with this change to the area calculation, the proposed dwelling would exceed the median dwelling size by 1,494 square feet or 41 percent.

FLOOR AREA RATIO: The FAR calculation is to be used when the proposed project fails to meet the above Neighborhood Compatibility standard, and can be used as an additional tool to determine if the proposed dwelling is compatible with the dwelling size to lot area ratio of existing dwellings in the area. The average FAR in the study area is 14.4 percent. This would allow a 4,320 square feet dwelling. The proposed 5,127 square feet dwelling would have a FAR of 17 percent, 807 square feet larger than the FAR of the average dwelling in the study area.

The design of proposed remodeled dwelling is very attractive. However, in this case the proposed size of the project does not meet the Neighborhood Compatibility standard or FAR Guidelines. The staff recommended, and I agreed, that in this case there may be an area of compromise of the size of the proposed dwelling. The proposed dwelling could be reduced to the existing average neighborhood FAR of 14.4 percent. This would allow a 4,320 square feet dwelling. The applicant stated that a reduction of the size of the proposed dwelling would not be acceptable. I denied the request because I believe that the size of the proposed 5,127 square feet dwelling would not be compatible with the character and scale of the existing dwellings in this neighborhood.

Jomsky, Mark

From: meghan stimmler [megstimmler@yahoo.com]
Sent: Wednesday, July 29, 2009 10:28 AM
To: President@lvaa.net; Poindexter, John; Burciaga-Ramos, Claudia; Miller, Denver
Cc: Laura Scarsi; Dan Stimmler
Subject: Scarsi Project

Dear Mr. Zanteson:

We understand that the LVAA has asked the Planning Commission to call up the Scarsi's project at 897 Linda Vista for a review. We are opposed to this action and are disappointed that the LVAA would take such a drastic measure without seeking input from the community or the LVAA members.

As we understand it, the Scarsi's submitted plans last year to remodel their home at 897 Linda Vista. The LVAA complained about the proposed size of the home and asked that it be reduced so that the floor area ratio matched the floor area ratio of the surrounding neighborhood (thereby meeting the Neighborhood Compatibility Guidelines). The City agreed with the LVAA and the Scarsi's were forced to re-plan their project. Last week the Scarsi's had a hearing before the City on their revised plans, which included a reduced floor area ratio as suggested by the LVAA. The LVAA, however, continued to object. The Hearing Officer sided with the City Planning Staff and the Scarsi's and determined that the LVAA's objections were baseless. Now the LVAA is seeking to delay the Scarsi's further by asking for another review of the project without any legitimate basis.

As a resident of the area, We are all for rules that work to keep the character and charm of our neighborhood. When someone follows the rules, however, the LVAA should not stand in their way. It's simply a matter of fairness. As a member and supporter of LVAA, we admire the organization and I am generally pleased at the work it is doing for our community. We have lived in Linda Visa for almost 10 years and love this community. We do not, however, condone actions by the organization against a resident that are not founded on established rules. If individuals within the organization have personal issues with a project, those individuals should object on their own behalf and not purport to be acting on mine.

We ask you, as president of the LVAA, to rescind the organizations' request for a further review of the Scarsi's project.

Thank you.

Meghan & Dan Stimmler

740 Linda Vista Ave

8/17/2009
7.B.1

8/17/2009

Jomsky, Mark

From: Scarsi, Mark [MScarsi@milbank.com]
Sent: Thursday, July 30, 2009 6:34 PM
To: Laura Scarsi
Subject: Fwd: Scarsi Project

Sent from my iPhone

Begin forwarded message:

From: "Narine Stygar" <narine.stygar@infinidtech.com>
Date: July 30, 2009 1:36:18 PM PDT
To: <President@lvaa.net>
Cc: <jpindexter@cityofpasadena.net>, <rmcdonald@horganrosen.com>, "Scarsi, Mark" <MScarsi@milbank.com>, "Chuck Stygar" <chuck.stygar@infinidtech.com>, "Narine Stygar" <narine.stygar@infinidtech.com>, "Jennifer Hyll" <jahyll@yahoo.com>, "John Hyll" <JHyll@loomissayles.com>
Subject: Scarsi Project

Dear Mr. Zanteson:

It has come to our attention that the LVAA has asked the Planning Commission to review the Scarsi's project at 897 Linda Vista Ave. We are extremely disappointed with this action being taken. The Scarsi's have gone through 3 plan submittals and have finally gotten approval by the Hearing Officer on their 3rd submittal. The reason they were denied the first two times was because they did not meet code. They now meet code, therefore the Association should not fight against a community member that is meeting code.

If an individual feels the Scarsi's should not build because "they feel" the project is still too big even though it meets the written code or that "they feel" that their fellow neighbor is "Gamming the System" by using what is within the code; then this individual is acting outside the set code put forth by the Association. The LVAA team should not support these actions and needs to stand down and not move forward on the appeal.

The extreme cost and the duress you are going to put on your fellow neighbors is unwarranted. As members in our community decide to enhance their home they are required to follow at great cost the Neighborhood Compatibility standard and FAR Guidelines to make sure their project can be approved. If all guidelines are achieved they should not be battling a warped view "that this is still not good enough!"

The very person who is asking for the appeal is the one that stated the following:

"The only basis for exercise of discretion would be a reduction in the size of the proposed project house to an FAR of no more than 14.4 percent, which is the average FAR in the Modified Neighborhood. Unless the project is reduced to this house size, discretion cannot be exercised pursuant to the Guidelines, and, therefore, the Application should be denied as recommended by Staff." (emphasis added)

The Scarsi's have met the 14.4 percent FAR, so what is the purpose of the appeal?

My wife and I are members of the LVAA and want to express our deepest concern over Ms. Chomsky's actions. She is acting outside the authority given to her by the community. We feel she is independently opposing the project even though it meets the guidelines written by the LVAA and Ms. Chomsky herself.

8/17/2009

8/17/2009
7.B.1

As a member I have a few questions to ask and feel that I have a right to know:

- Does Ms. Chomsky have the support of the LVAA current team members on this appeal? If so, on what grounds?
- Is LVAA planning to fund this appeal using LVAA monies? If so, who voted on it and when was the voting done?
- Is there another set of codes or updates that the LVAA team is working on and is the LVAA team planning to have their community members vote on any adjustments?
- I also would like to request a copy of any documentation and/or correspondence on this matter.

Lastly, Mr. Zanteson as you are the president of the LVAA, I request that you please cease any further action towards an appeal of the Scarsi's project.

Best Regards,

Chuck and Narine Stygar

=====
IRS Circular 230 Disclosure: U.S. federal tax advice in the foregoing message from Milbank, Tweed, Hadley & McCloy LLP is not intended or written to be, and cannot be used, by any person for the purpose of avoiding tax penalties that may be imposed regarding the transactions or matters addressed. Some of that advice may have been written to support the promotion or marketing of the transactions or matters addressed within the meaning of IRS Circular 230, in which case you should seek advice based on your particular circumstances from an independent tax advisor.
=====

This e-mail message may contain legally privileged and/or confidential information. If you are not the intended recipient(s), or the employee or agent responsible for delivery of this message to the intended recipient(s), you are hereby notified that any dissemination, distribution or copying of this e-mail message is strictly prohibited. If you have received this message in error, please immediately notify the sender and delete this e-mail message from your computer.