



Agenda Report

March 14, 2016

TO: Honorable Mayor and City Council

FROM: Planning and Community Development Department

**SUBJECT: APPEAL OF THE BOARD OF ZONING APPEALS' DECISION ON
HILLSIDE DEVELOPMENT PERMIT #6196
920 HILLCREST PLACE**

RECOMMENDATION:

It is recommended that the City Council:

1. Adopt a determination that the proposed action is exempt from the California Environmental Quality Act (CEQA) under Section 15303 (New Construction or Conversion of Small Structures) of the State CEQA Guidelines; and
2. Uphold the Board of Zoning Appeals' decision and approve Hillside Development Permit #6196 for the construction of a new single-family residence.

EXECUTIVE SUMMARY:

On December 16, 2015, the Board of Zoning Appeals considered at its regularly noticed hearing, an appeal of the Hearing Officer's decision to approve Hillside Development Permit #6196. The request would allow the demolition of a 5,844 square foot single family residence and the construction of a new 7,843 square foot (including a 2,238 square foot basement not counted towards floor area) single-family residence, a 750 square foot attached garage, and a 1,305 square foot detached pool house on a 35,897 square foot lot. At the conclusion of the public hearing, the Board of Zoning Appeals made a motion to uphold the Hearing Officer's decision to adopt the environmental determination and to approve the Hillside Development Permit #6196. The motion resulted in a 4-0 vote by the four members present.

On December 23, 2015, Ryan Lapidus, Esq. representing Sheffield Investments, submitted an appeal application (Attachment C) to the City Council. The hearing before the City Council is a de novo hearing where the Council has no obligation to honor the prior decisions and has the authority to make an entirely different decision.

Staff recommends that the City Council uphold the Board of Zoning Appeal's December 16, 2015 decision and approve Hillside Development Permit #6196.

BACKGROUND:

Existing Site Characteristics:

The subject site is located on a predominately rectangular-shaped lot measuring 35,897 square feet, mid-block along the south side of Hillcrest Place (private road) at 920 Hillcrest Place. Overall, the property is relatively flat with a gentle slope and is set amongst mature landscaping and tall trees. There are no areas with a slope greater than 50 percent on the property and the site has an overall slope of approximately two percent. Currently, the property is developed with a one-story, 5,844 square foot, single-family residence that was constructed in 1954. The property is zoned RS-2-HD (Single-Family Residential, 0-2 lots per acre, Hillside Development Overlay District).

Adjacent Uses:

North – Single-Family Residential
South – Single-Family Residential
East – Single-Family Residential
West – Single-Family Residential

Adjacent Zoning:

North – RS-2-HD (Single-Family Residential, 0-2 lots per acre, Hillside Overlay District)
South – RS-2 (Single-Family Residential, 0-2 lots per acre)
East – RS-2-HD (Single-Family Residential, 0-2 lots per acre, Hillside Overlay District)
West – RS-2 (Single-Family Residential, 0-2 lots per acre, Hillside Overlay District)

Project Timeline:

- **May 7, 2014** - The applicant, Eric Hammerlund of Schmidt Architecture, submitted a Hillside Development Permit Application to demolish an existing one-story, 5,844 square foot, single-family residence and construct a new one-story residence. The proposed 5,375 square foot, single-family residence included a 750 square foot attached, three car garage and a 2,035 square foot basement. The 2,035 square foot basement would not be included in the gross floor area because it does not exceed a height above existing grade at any point and does not have an exposed wall that is more than six feet above finished grade. The project also included an outdoor basketball court and a 244 square foot open air pool house/patio accessory structure. The total gross floor area of the subject site, excluding the basement, is 6,369 square feet. A Hillside Development Permit is required for a new dwelling

within the Hillside Overlay zoning district. In addition, the applicant requested approval of a Minor Conditional Use Permit for outdoor court lighting for the proposed basketball court which is required for lighting of a sports court within 300 feet of a residential zoning district.

- **November 5, 2014** - The request was originally heard by the Hearing Officer. At this meeting, the Hearing Officer opened the public hearing and, at the request of the public commenters (including the appellant Veronique Million), decided to continue the project to a date uncertain. The continuation was granted to allow for additional reports to be submitted and to give the public additional time to review the proposed project.
- **November 14, 2014** - The applicant submitted a revised tree inventory report and a new preliminary geotechnical report. Furthermore, the applicant withdrew the Minor Conditional Use Permit request by eliminating the outdoor sports court lighting for the proposed basketball court after hearing the concerns from the adjacent neighbors.
- **November 15, 2014** - The property owner Sean Yu, hosted a private community meeting at the subject site, to discuss the merits of the proposed project with neighborhood.
- **December 17, 2014** -
 - The entitlement application was presented to the Hearing Officer at a public hearing. One resident spoke at the hearing in opposition of the project, mainly concerned with the proposed removal of two protected Chinese Elm Trees. Two other speakers, who represented Sheffield Investments, did not indicate a position on the project, however, both requested a continuance of the project to a date uncertain.
 - The Hearing Officer, after careful consideration of the proposed application, and with full knowledge of the property and vicinity, concurred with the staff recommendation, and at the conclusion of public testimony, approved Hillside Development Permit #6196. This decision was based on the findings in Attachment A and the conditions of approval in Attachment D of this report.
- **December 22, 2014** - Veronique Millon, representing Sheffield Investments appealed Hillside Development Permit #6196 to the Board of Zoning Appeals (Attachment C).
- **August 10, 2015** - The applicant obtained a Zoning Permit (ZON2015-00181) for a half-court basketball court. The basketball court is a permitted use and is not subject to a Hillside Development Permit.

- **October 8, 2015** - The applicant submitted a revised project that included minor modifications to the original proposal.

	920 Hillcrest Place	
	Proposed Project - May, 2014	Revised Project - October, 2015
Demolition	Existing one-story 5,844 square foot single-family residence	Existing one-story 5,844 square foot single-family residence
Proposed Single-Family Residence	One-story, 5,375 square foot single-family	One-story, 5,605 square foot single-family residence
Basement (not included in gross floor area)	2,035 square feet	2,238 square feet
Garage	750 square-foot, attached garage	750 square-foot, attached garage
Accessory Structure	244 square foot, open-air accessory structure	1,305 square foot, enclosed accessory structure

- **October 22, 2015** – The appellant, Veronique Million (Trimble) notified staff that there would be a substitution in legal counsel for Sheffield Investments and that Ryan Lapidus would be taking over as the appellant’s representation.
- **December 16, 2015** - The Board of Zoning Appeals considered the appeal of the Hearing Officer’s decision to approve Hillside Development Permit #6196. During the Board of Zoning Appeals hearing, in addition to the appellant, one person spoke against request. The applicant spoke in favor of the request. Those speaking in opposition to the request had the following concerns:
 - Historic Preservation,
 - Noise, and
 - Environmental Review.

At the conclusion of the public hearing, the Board of Zoning Appeals made a motion to uphold the Hearing Officer’s decision to adopt the environmental determination and to approve Hillside Development Permit #6196. That motion resulted in a 4-0 vote by the four members present.

- **December 23, 2015** - Ryan Lapidus, Esq. representing Sheffield Investments, submitted an appeal. The hearing before the City Council is a de novo hearing where the Council has no obligation to honor the prior decisions and has the authority to make an entirely different decision.

APPEAL OF BOARD OF ZONING APPEALS DECISION:

The appellant cited the following issues as the basis of his appeal of the Board of Zoning Appeals’ decision:

- Environmental Determination;
- Consideration on a Hillcrest Place Landmark District (Historic Preservation);
- Noise; and
- Zoning Code compliance.

In regards to the appellant's opinion that further environmental study is required for the construction of a single-family residence, staff is of the opinion that the construction of a new single-family residence is intended for the subject site. The site is currently developed with an existing single-family residence and is located within an existing single-family neighborhood. The lot, is relatively flat, and has no unique characteristics that would warrant additional environmental review since single-family residences are exempt through the California Environmental Quality Act (CEQA).

Regarding the appellant's concerns on Historic Preservation, the development plans for the Hillside Development Permit were provided to the Design & Historic Preservation (D&HP) Section for review and to determine if the proposed project would have a detrimental impact on a historic resource.

In 2008, the subject site was evaluated as a potential contributing resource to the potential Hillcrest Place Landmark District. The evaluation was conducted as part of a City-wide historic resources survey in conjunction with the Cultural Resources of Past Historic Context Report (2007-2008). The survey analyzed Mid-Century Modern and Modern/Asiatic Ranch architectural styles. Although evaluated as part of the historic resource survey, the Hillcrest Place Landmark district was never formally established and was not identified as a City Designated Historic Property. A July 2014 report, prepared by Teresa Grimes, Principal Architectural Historian, concluded that Hillcrest Place should not be designated as a Landmark District. Further conclusions state that the subject residence located at 920 Hillcrest Place would not qualify as an individual historic resource. At the December 16, 2015 Board of Zoning Appeals hearing, the appellant submitted a subsequent historic resource report. Following the review of this report, staff of the opinion that the demolition of the existing single-family residence and construction of a new single-family residence would have no impact on historic preservation

Regarding the appellant's concerns on noise, the proposal is to construct a single-family residence on an existing single-family residential lot, within an existing residential. The single-family residential use would be required to adhere to the City's Noise Ordinance.

Regarding the appellant's concern on project's Zoning Code compliance, the Hillside development Permit application is necessary because the project involves the construction of a new single-family residence in the Hillside Overlay District. Per Section 17.29.030.A of the City's Zoning Code, the construction of a new single-family residence in the Hillside Overlay District requires the approval of a Hillside Development Permit.

There are eight findings required to be made prior to the approval of a Hillside Development Permit. For this project it was found that all of the findings could be made. As noted above, the construction of a new single-family residence in the Hillside Overlay District is allowed by the Zoning Code and the project complies with all applicable development standards. In addition, the proposed 1,305 square foot detached pool house, pools are allowed uses within the RS-2 zoning district.

Development Standard	Zoning Code Requirement	Proposed Project (as revised on 10/8/2015)
<i>Gross Floor Area</i>	7,661 sf (max)	7,660 sf
<i>Lot Coverage</i>	12,564 sf (max)	9,438 sf
<i>Setbacks</i>	Front - 25'	Front - 25'
	Side - 10'	Side - 10' (west), 23'-1" (east)
	Rear - 25'	Rear - 100'
<i>Height Limit</i>	28' (Max)	17'-9"
<i>Neighborhood Compatibility (35% above median)</i>	5,606 sf	5,605 sf
<i>Parking</i>	Two parking spaces (covered), two guest parking spaces (uncovered)	Three parking spaces (covered), one parking space (uncovered)

ENVIRONMENTAL ANALYSIS:

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, §15303, Class 3, New Construction or Conversion of Small Structures). This class exemption exempts from environmental review the construction of limited numbers of new, small facilities or structures. Section 15303(a) specifically exempts the construction of one single-family residence in a residential zone. The proposed project involves the construction of one single-family residence in the RS-2-HD zone, a residential zone. The use of the site will remain as a single-family residence.

CONCLUSION:

Staff has determined that the proposed one-story, single-family residence will not negatively impact the surrounding neighborhood due to its consistent size and scale with the surrounding neighborhood. Furthermore, the project will comply with the applicable development standards of the Zoning Code, including gross floor area, setbacks, building height, Neighborhood Compatibility (as modified herein), and lot coverage. Therefore, staff recommends that the City Council uphold the Board of Zoning Appeal's decision to approve the proposed Hillside Development Permit.

FISCAL IMPACT:

There is no fiscal impact for this project. Any cost associated with the Hillside Development Permit will be borne by the applicant.

Respectfully submitted,



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Approved by:



STEVE MERMELL
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Attachments (5):

- Attachment A – Specific Findings
- Attachment B – Conditions of Approval
- Attachment C – Appeal Application of Board of Zoning Appeals' decision dated December 23, 2015
- Attachment D – Board of Zoning Appeals Staff Report dated December 16, 2015
- Attachment E – Appeal Application of Hearing Officer's decision dated December 22, 2014