

**ATTACHMENT I
APPEAL APPLICATION OF HEARING OFFICER'S DECISION
DATED DECEMBER 8, 2015**



REQUEST FOR APPEAL

APPLICATION INFORMATION

Project Address: 1835 Kaweah Drive
Case Type (MCUP, TTM, etc.) and Number: HDP # 6347
Hearing Date: December 2, 2015 Appeal Deadline: December 14, 2015

APPELLANT INFORMATION

APPELLANT: Patrick Nicholson Telephone: (323) 633-3988
Address: 1209 Oak Hill Avenue Fax: []
City: S. Pasadena State: CA Zip: 91030 Email: patrick.nicholson@skanska.com
APPLICANT (IF DIFFERENT): _____

I hereby appeal the decision of the:

- Hearing Officer
- Zoning Administrator
- Design Commission
- Director of Planning and Development
- Historic Preservation
- Film Liaison

REASON FOR APPEAL

The decision maker failed to comply with the provisions of the Zoning Code, General Plan or other applicable plans in the following manner (use additional sheets if necessary):

Please see the attachment for an explanation of this appeal. The hearing officer failed to correctly interpret Zoning Code Section 17.29.060.E View Protection. At one point in the hearing the hearing officer admitted he was unfamiliar with this section and was confused even after the staff planner gave him a printout. Also we were faulted for doing a "poor job of meeting with the neighbors" even though no public outreach is required by the zoning code. We meet all of the criteria as was documented in the staff reports of Nov. 13 & Dec. 2

Patrick Nicholson Dec 8, 2015
Signature of Appellant Date

* OFFICE USE ONLY
PLN # 2015-00685 CASE # Appeal HDP# 6347 PRJ # _____
DESCRIPTION Appeal of Hearing Officer's Decision 12-02-15
DATE APPEAL RECEIVED: 12-08-15 APPEAL FEES: \$ 272.95 RECEIVED BY: KEL

Compliance with Zoning Code Section 17.29.060.E View Protection

Proposed New Residence at 1835 Kaweah Drive

Prepared by:

Sonia Nicholson, Architect

Patrick Nicholson, P.E.

The terms “view” and “view protection” is not defined in Chapter 17.80 “Glossary of Specialized Terms and Land Use Types”. To determine what is meant by “view protection” the reader of Section 17.29.060.E is directed to “See Figures 2-6 and 2-7”, See below:

View protection. A proposed structure shall be designed and located so that it avoids blocking views from surrounding properties to the maximum extent feasible, as determined by the review authority, and as follows. See Figures 2-6 and 2-7. For purposes of this Chapter, “surrounding” properties refers to all abutting properties as well as properties directly across a street from the subject property.

- A. New structures and tall landscaping shall not be placed directly in the view of the primary living areas on a neighboring parcel. For purposes of this Chapter, “primary” living area refers to living rooms, family room, patios, but not a kitchen, bedroom, or bathroom.
- B. Mechanical equipment other than vents or solar panels shall be placed on a rooftop or below a deck only if the equipment is not visible from off the site. This equipment shall also comply with the height limits in Subsection B. above.

Figure 2-6 — Siting New Building to Preserve Views

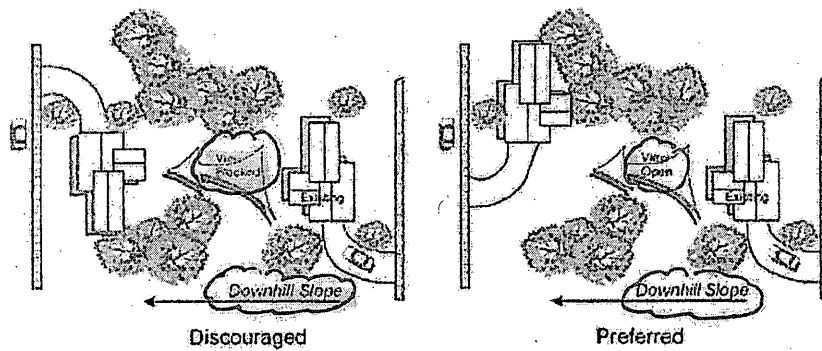


Figure 2-7 — Example of Preferred Location of Second Floor to Preserve Views

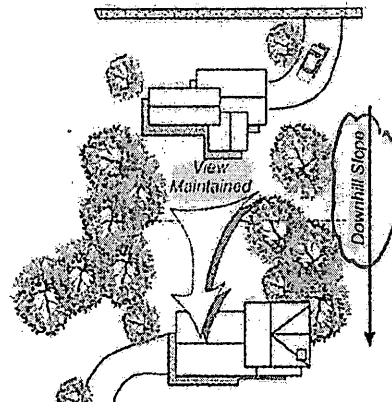


Figure 2-6 covers the siting of new buildings to preserve views. The diagram shows an existing house and a proposed house. The downhill slope is indicated on the drawing. The “view” is indicated as an arrow parallel to the downhill slope. The figure on the left indicates “view blocked” by the proposed house which is immediately downslope from the existing house. This diagram is labeled “discouraged”. The figure on the right indicates “view open” when the proposed house is moved perpendicular to the downhill slope. This figure is labeled “preferred”.

Figure 2-7 is labeled “Example of Preferred Location of Second Floor to Preserve Views”. Again the “view” in the figure is parallel to the downhill slope. The view is maintained by looking over the top of the first story roof.

Figure 1 of the appendix is a topographic map of the area surrounding 1835 Kaweah Drive. The house at 1818 Kaweah Drive is upslope of 1835 Kaweah. The grade difference between these two properties is approximately 30 feet measured at the south property line of 1835 Kaweah up to the first floor of 1818 Kaweah Drive. The design of 1835 Kaweah Drive is such that it is stepped down and follows the natural grade of the property. A part of the lower floor is below grade to lower of overall profile of the house. (See Figure 1a). The proposed house is placed against the southeast corner of the lot at the prescribed setback limits. Both the horizontal placement of the house and the vertical design achieve the goal of avoiding blocking the view from 1818 Kaweah to the maximum extent feasible.

During the design process a design was presented to the City Planning Department of a detached garage with a 5 foot front yard setback. Unfortunately this design was not approved because it would require a variance in the sill plate height of an accessory structure 17.50.250 Resident Uses – Accessory Uses and Structures, Section E.1.b Nine Foot Top Plate. This necessitated abandoning the detached garage concept and moving to a combined garage and residence, which increased the front yard setback from 5 feet to 12 feet. Thus pushing the entire structure to the north.

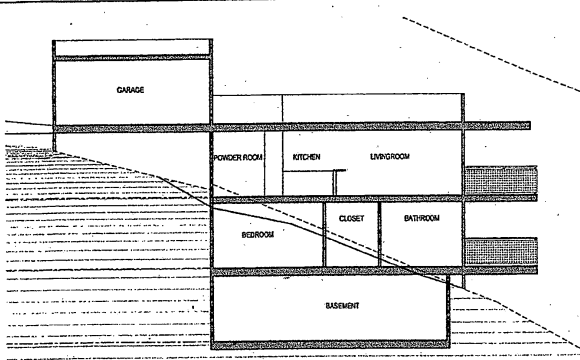
Both Figures 2-6 and 2-6 from the City's Planning Code relate to view protection and both figures indicate the "view" being parallel to the downhill slope. There are no other diagrams or descriptions in the Planning Code that have to do with view protection other than in the downslope direction. Figure 2 of the attachment is a topographic map of 1827 Kaweah Drive. The figure indicate that the downhill slope for 1827 Kaweah Drive is to the north. Thus the protected view for 1827 Kaweah is to the north. 1835 Kaweah is to the west of 1827 Kaweah and therefore Section 17.29.060.E of the planning code is not applicable.

Figures 2-6 and 2-6 from the City's Planning Code relate to view protection for the downhill slope. The upper floor of 1827 Kaweah is at the approximate same elevation as the proposed upper floor at 1835 Kaweah. Thus both houses and topographies are at the same elevation and therefore Section 17.29.060.E of the planning code is not applicable.

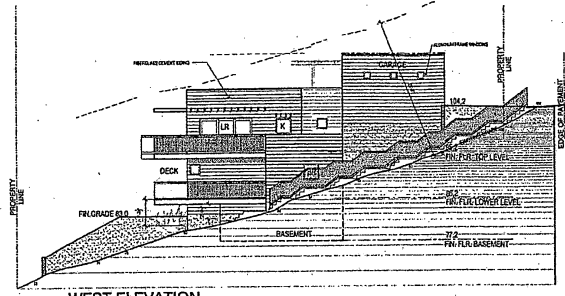
Figures 3, 4, and 5 of the attachment are plan views of 1827 and 1835 Kaweah Drive. These figures indicate three views from the living room of 1827 Kaweah drive. Figure 3 indicates there is a 103 degree view from the right side of the living room. Figure 2 indicates there is an 80 degree view from the center of the living room, and Figure 3 indicates a 67 degree view from the left side of the living room. The partial view indicated in the figures is the view through the balcony of 1835 Kaweah. Also indicated on the figures is the downhill slope of 1827 Kaweah Dr. The proposed house at 1835 Kaweah is placed against the southeast corner of the lot at the prescribed setback limits. Both the horizontal placement of the house and the vertical design achieve the goal of avoiding blocking the view from 1827 Kaweah to the maximum extent feasible.

The median square footage of houses within a 500 foot radius of 1835 Kaweah is 1,944 square feet (excluding the garage). The proposed house at 1835 Kaweah is only 1,337 square feet (31 % smaller than the median house). The proposed upper floor area of 1835 Kaweah is only 667 square feet. The upper floor area of 1827 Kaweah is 1,530 square feet (over two times the size). Thus the proposed design is a modest house, in keeping with all of the City's Planning Guidelines. The proposed design for 1835 Kaweah is in compliance with the Section 17.29.060.E of the planning code. The proposed single family house is situated on the site in compliance with the all setback and height requirements and is located so that it avoids blocking views from surrounding properties to the maximum extent feasible.

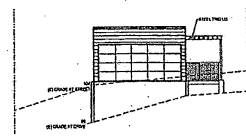
Attachments



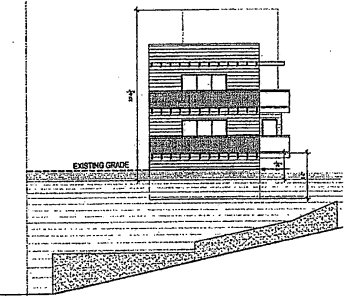
BUILDING / SITE SECTION



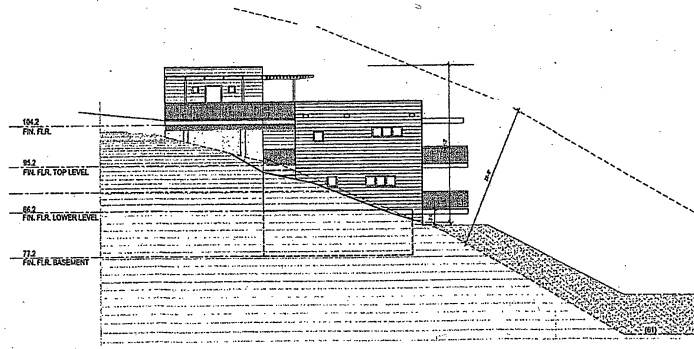
WEST ELEVATION




SOUTH ELEVATION



NORTH ELEVATION



EAST ELEVATION


Sotheby's International Realty
 The World's Most Luxurious Real Estate

BUILDING ELEVATIONS

Nicholson Residential
 Architects
 Pasadena, CA 91106

Figure 1a

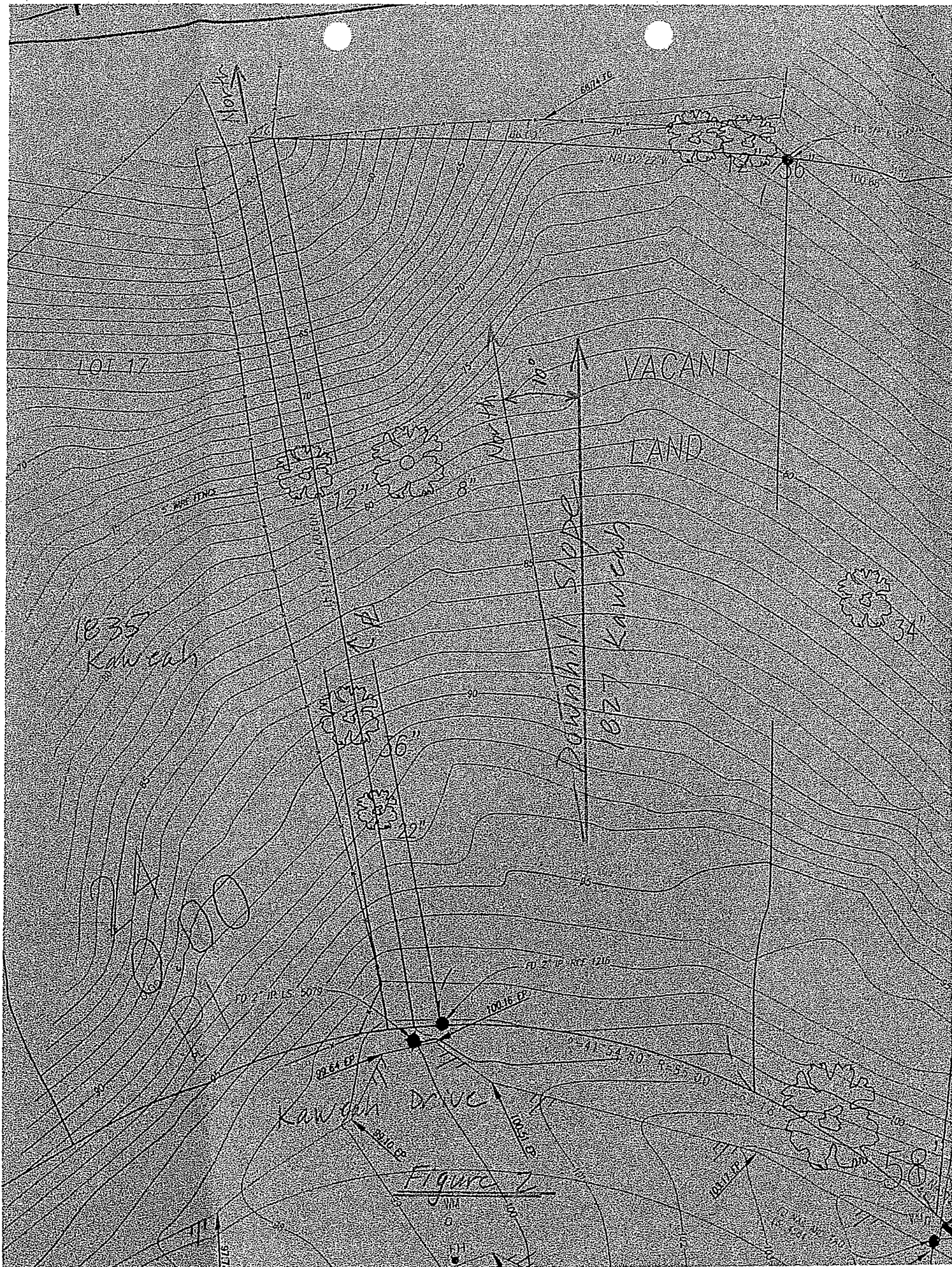
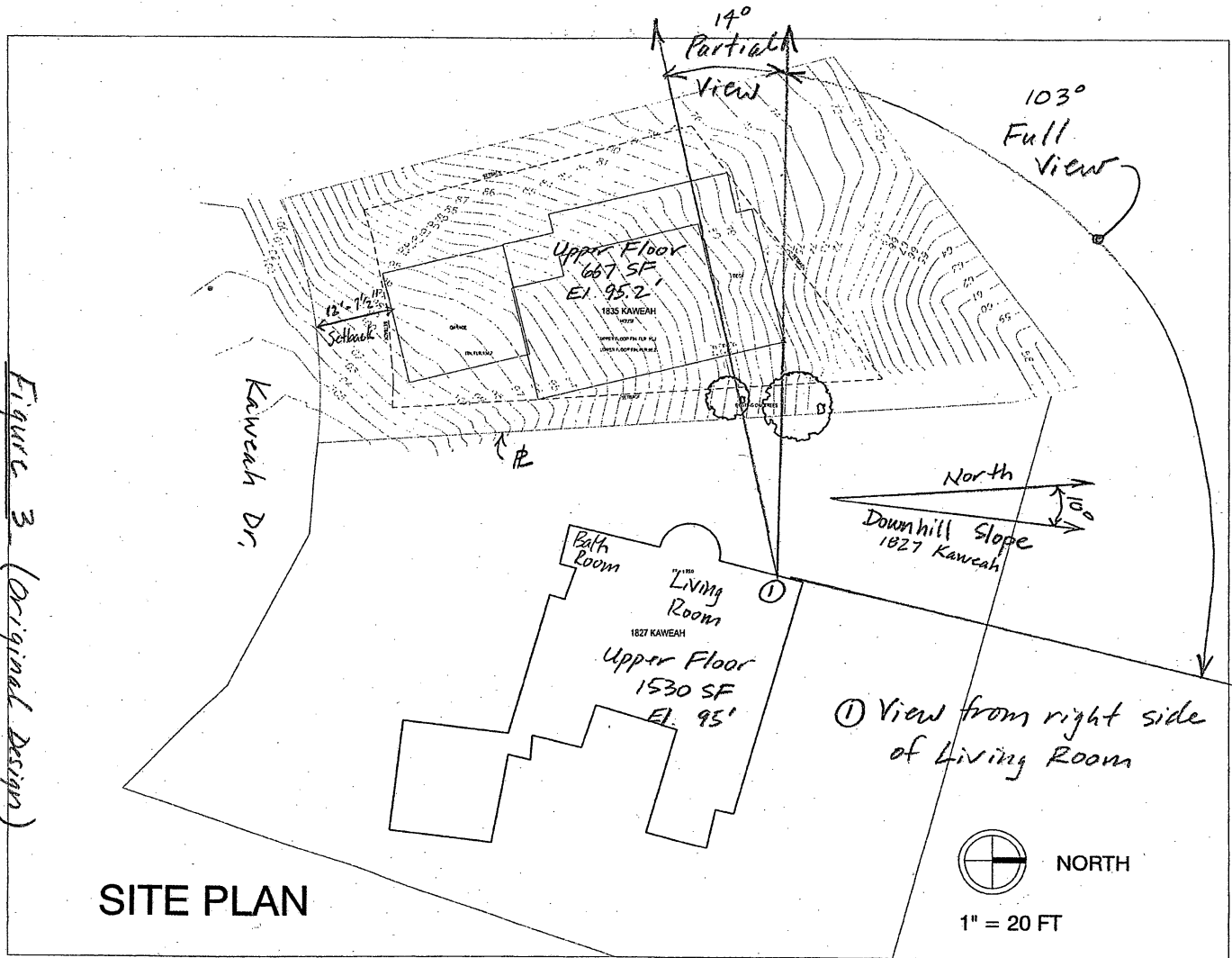


Figure 3 (Original Design)

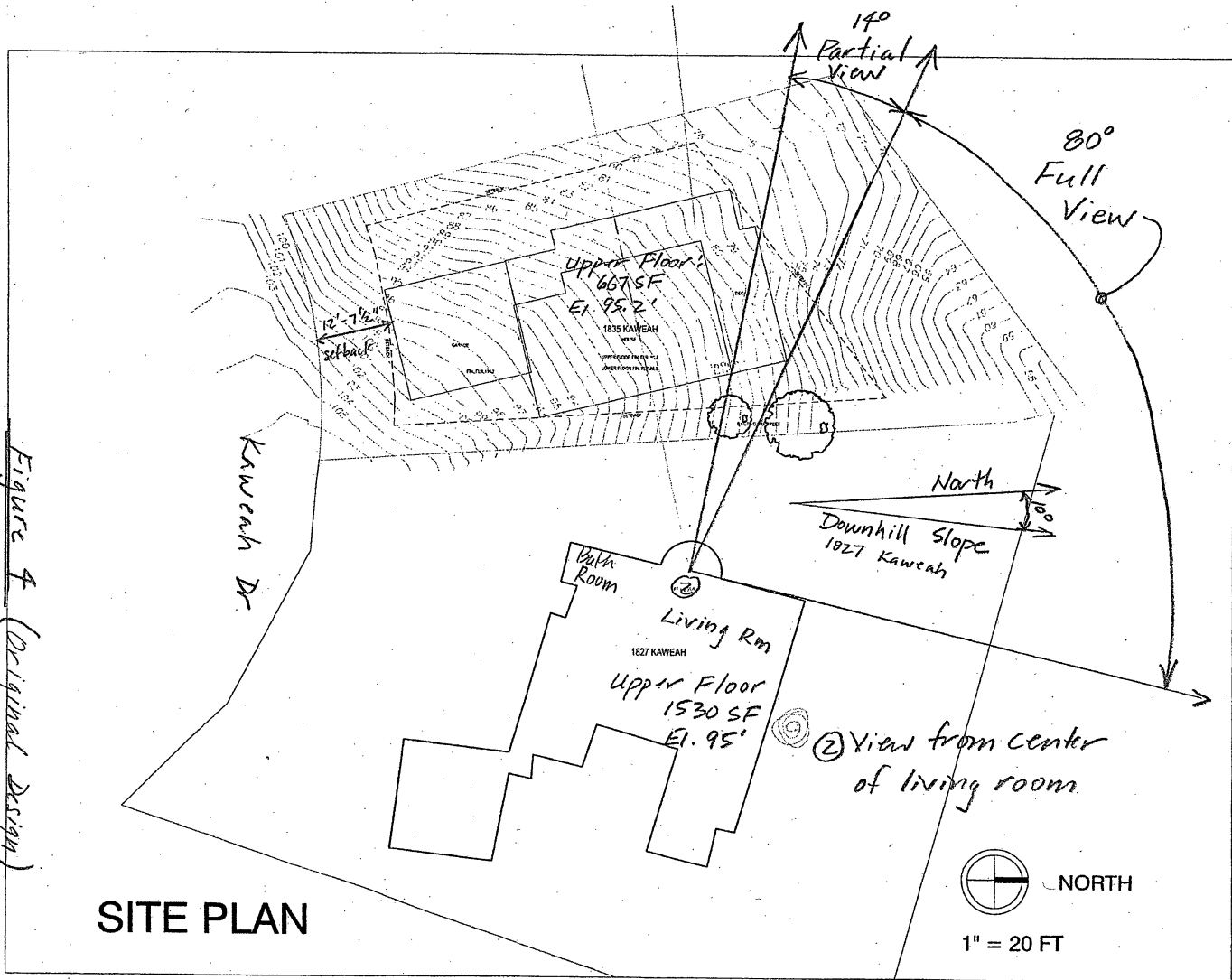


SITE PLAN



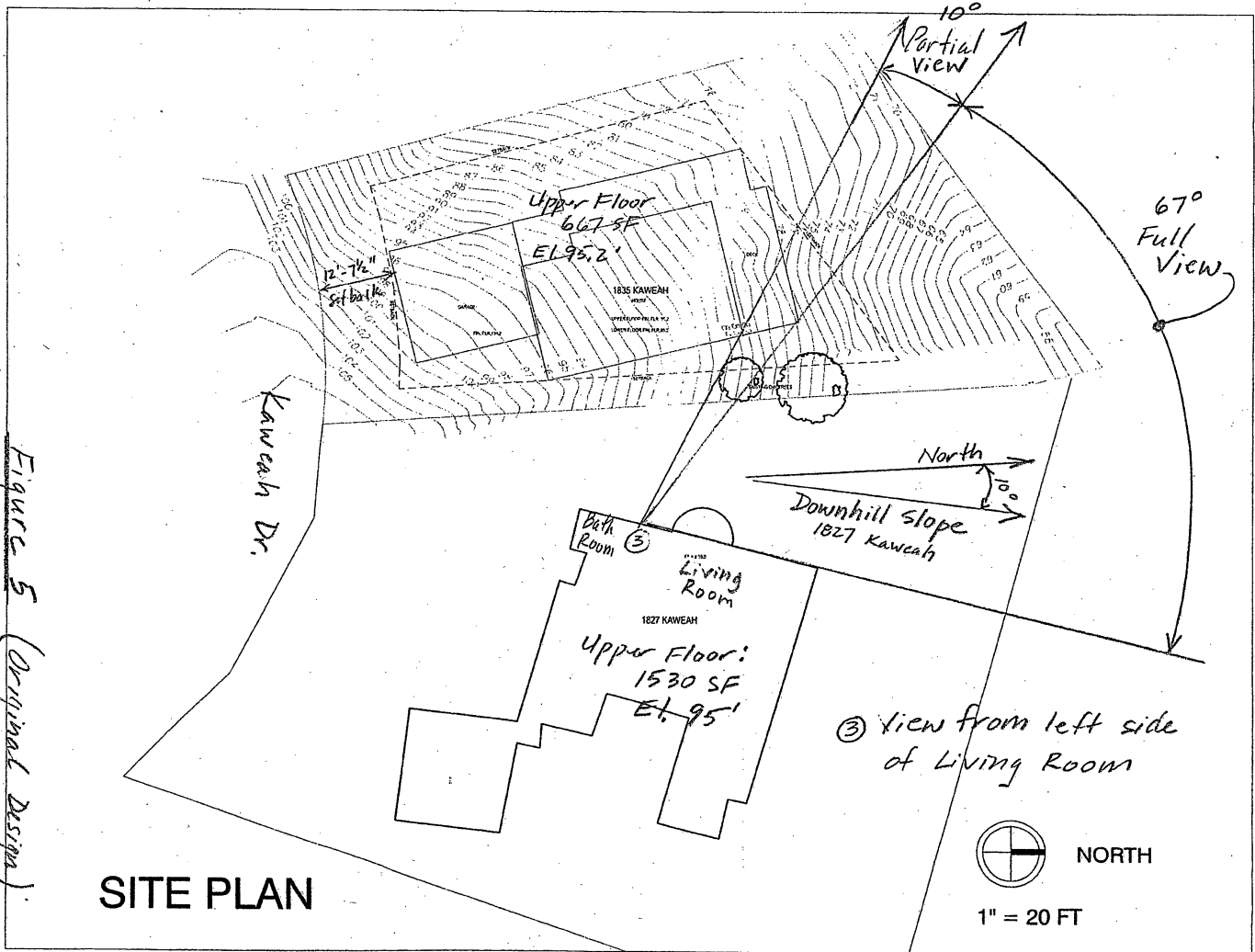
1" = 20 FT

Figure 4 (Original Design)



SITE PLAN

Figure 5 (Original Design)



SITE PLAN

NORTH
1" = 20 FT

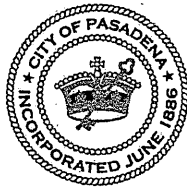
**ATTACHMENT J
HEARING OFFICER ADDENDUM**

I have reviewed the appeal of my determination denying HDP #6347 at 1835 Kaweah Drive.

It is clear from the appeal, as well as from the written record and the testimony at the hearing, that the applicant has chosen a particular location on the lot, and a particular design, to the exclusion of other, more reasonable alternatives (the appeal even references a "detached garage" option that was abandoned). The applicant has chosen to locate on a particular portion of the property, and to develop a 3-4 story structure (depending on how one counts the basement and/or garage), directly in front of the primary view from the living room of the existing home on the adjoining property at 1827 Kaweah Drive. Considering the proposed plans in light of the adjoining home at 1827 Kaweah Drive, makes it hard to understand why the applicant would choose the design submitted, as it clearly has significant, adverse viewshed impacts on the adjoining home, in contrast to this section of the code.

As detailed in my decision letter, the first two findings simply cannot be made. The appeal offers no new information, above and beyond what was presented in the written record and at the public hearing, to support a claim that these two findings can be made.

ATTACHMENT K
HEARING OFFICER DECISION LETTER DATED DECEMBER 7, 2015



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION

December 7, 2015

Patrick and Sonia Nicholson
1209 Oak Hill Avenue
South Pasadena, CA 91030

RE: Hillside Development Permit #6347
1835 Kaweah Drive
Council District #6

PLN2015-00370

Dear Mr. and Mrs. Nicholson:

Your application for a Hillside Development Permit at 1835 Kaweah Drive was considered by the Hearing Officer on December 2, 2015.

Hillside Development Permit: To allow the construction of a new 1,337 square foot, three-story, single-family residence and an attached 366 square-foot garage, on a vacant lot, in the RS-6-HD-SR zoning district. A Hillside Development Permit is required for the construction of a new single-family residence in the Hillside Overlay District;

Variance: To allow 56 percent (323 sq. ft.) of the front yard to be paved, where the maximum permitted is 30 percent (174 sq. ft.);

Variance: To allow an 18'-6" vehicular driveway width where the maximum permitted is 15 feet;

Minor Variance: To allow fencing in the front yard area with a height of up to 12 feet, where the maximum permitted is four feet; and

Minor Variance: To allow a reduced front yard setback of seven feet, where the minimum required is 12 feet.

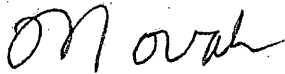
After careful consideration of this application, and with full knowledge of the property and vicinity, the Hearing Officer made the findings as shown on Attachment A to this letter. Based upon these findings, it was decided by the Hearing Officer that the **Hillside Development Permit** be **disapproved**. The Hearing Officer also decided to disapprove the Variance and Minor Variances without prejudice.

You are hereby notified that, pursuant to Pasadena Municipal Code Chapter 17.72, any person affected or aggrieved by the decision of the Hearing Officer has the right to appeal this decision within **ten days (December 14, 2015)**. The effective date of this case will be **December 15,**

2015. Prior to such effective date, a member of the City Council or Planning Commission may request that it be called for review to the Board of Zoning Appeals. However, if there is a request for a call for review, the appeal period will continue to run. If the tenth day falls on a day when City offices are closed, the appeal deadline shall be extended through the next day when offices are open. The decision becomes effective on the eleventh day from the date of the decision. The regular Appeal fee is \$272.95. The Appeal fee for Non-profit Community-based Organizations pre-registered with Neighborhood Connections is \$136.48.

For further information regarding this case please contact **Luis Rocha** at **(626) 744-6747**.

Sincerely,



Paul Novak
Hearing Officer

Enclosures: Attachment A, Attachment B (site map)

xc: City Clerk, City Council, Building Division, Public Works, Power Division, Water Division, Design and Historic Preservation, Hearing Officer, Code Enforcement-Jon Pollard, Case File, Decision Letter File, Planning Commission (9)

ATTACHMENT A
SPECIFIC FINDINGS FOR HILLSIDE DEVELOPMENT PERMIT #6347

Hillside Development Permit – Construction of a 1,337 square-foot, three-story single-family residence with a 366 square-foot attached two-car garage:

1. *The use, as described, would be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.* The proposed residence is designed and located in such a manner that it would impede the protected view of an adjoining property. The adjoining property to the east (1827 Kaweah Drive) was designed with primary living areas, with an extensive window system, facing west. The proposed residence, as designed, would be placed in front of the primary living areas of 1827 Kaweah Drive and substantially obstruct the protected view that is currently afforded. As a result, the proposed residence, as designed, is in direct violation of Section 17.29.060.E (View Protection) of the Zoning Code and would be detrimental to property and improvements in the neighborhood.

2. *The design, location, operating characteristics, and size of the proposed use would not be compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection.* The proposed residence is designed and located in such a manner that it would impede the protected view of an adjoining property. The adjoining property to the east (1827 Kaweah Drive) was designed with primary living areas, with an extensive window system, facing west. The proposed residence would be placed in direct view of the primary living areas of 1827 Kaweah Drive and in direct violation of Section 17.29.060.E (View Protection) of the Zoning Code that states that a proposed structure shall be designed and located so that it avoids blocking views from surrounding properties to the maximum extent feasible. Specifically, new structures shall not be placed directly in the view of the primary living areas on a neighboring parcel. Therefore, the residence, as designed, is not compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection.

ATTACHMENT B SITE PLAN

