

ATTACHMENT C
APPEAL APPLICATION OF BOARD OF ZONING APPEALS' DECISION
RECEIVED MARCH 24, 2016



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REQUEST FOR APPEAL

APPLICATION INFORMATION

Project Address: 1835 Kaweah Drive

Case Type (MCUP, TTM, etc.) and Number: HDP #6347

Hearing Date: March 16, 2016

Appeal Deadline: March 26, 2016

APPELLANT INFORMATION

APPELLANT: Patrick & Sonia Nicholson c/o Richard A. McDonald, Esq.

Telephone: [626] 356-4801

Address: 140 S. Lake Avenue, Suite No. 251

Fax: [626] 356-4801

City: Pasadena State: CA Zip: 91101

Email: rmcdonald@carlsonnicholas

APPLICANT (IF DIFFERENT): _____

I hereby appeal the decision of the: Board of Zoning Appeals ("BZA")

- | | |
|------------------------------------------------|---------------------------------------------------------------|
| <input type="checkbox"/> Hearing Officer | <input type="checkbox"/> Zoning Administrator |
| <input type="checkbox"/> Design Commission | <input type="checkbox"/> Director of Planning and Development |
| <input type="checkbox"/> Historic Preservation | <input type="checkbox"/> 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):

The BZA failed to grant a categorical exemption required under CEQA Guidelines Section 15303 when there are no unusual circumstances about the proposed single family home in a single family neighborhood, which fully complies with all of the development standards under the Code and only needs a minor variance to avoid impinging on a neighbor's view. The BZA further ignored the City's historical interpretation of 17.29.060(E), and instead applied it to mean that any neighbor has an absolute right to unobstructed views regardless of the applicant's efforts, which is contrary to the plain meaning of the Code and its legislative history. The BZA also ignored substantial evidence that supported all of the findings required for the HDP, and instead relied on distorted, fraudulent evidence for its decision. Last, it violated the City's Standards of Conduct for Commissioners under Resolution 4830 by having the Chair meet with the neighbors, but not the applicant, to discuss and opine on the case before the hearing, thus prejudging it.

Richard A. McDonald
Signature of Appellant

03/24/2016
Date

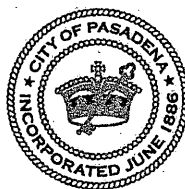
* OFFICE USE ONLY

PLN # 2015-60370 CASE # _____ PRJ # _____

DESCRIPTION _____

DATE APPEAL RECEIVED: 3/24/16 APPEAL FEES: \$ 272.95 RECEIVED BY: [Signature]

ATTACHMENT D
BOARD OF ZONING APPEALS DECISION LETTER DATED MARCH 23, 2016



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION

March 23, 2016

Patrick Nicholson
1209 Oak Hill Avenue
South Pasadena, CA 91030

Re: **Appeal of Hillside Development Permit #6347**
1835 Kaweah Drive
Council District #6

PLN2015-00370

Dear Mr. Nicholson:

An Appeal application of **Hillside Development Permit** for property located at **1835 Kaweah Drive** was considered by the Board of Zoning Appeals on **March 16, 2016**.

HILLSIDE DEVELOPMENT PERMIT: To allow the construction of a new 1,339 square foot, three-story, single-family residence and an attached 367 square-foot garage. The subject property is currently vacant. A Hillside Development Permit is required for the construction of a new single-family residence on a property in the Hillside Development Overlay District; and

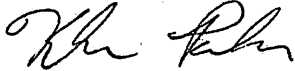
MINOR VARIANCE: To allow a reduced front yard setback of zero feet, where the minimum required is 12 feet.

At the conclusion of the public hearing, a motion was made to approve the Hillside Development Permit. The motion to approve failed as the vote of the Board of Zoning Appeals resulted in a two-to-three vote by the five members present. No further motions were made. As a result, no action was taken on the Hillside Development Permit by the Board of Zoning Appeals. Therefore, per Section 17.72.070.B.5 (Failure to Act) of the Zoning Code, the decision of the Hearing Officer to **disapprove** the Hillside Development Permit is deemed affirmed, along with the findings in Attachment A. In addition, per Section 17.72.070.B.5 (Failure to Act) of the Zoning Code, the CEQA determination was deemed denied since there was no action taken to approve the CEQA determination by the Board of Zoning Appeals.

Pursuant to Section 17.72.070.B.5 (Failure to Act) of the Zoning Code, a failure to act and any action pursuant to CEQA is considered a decision. You are hereby notified that, pursuant to Pasadena Municipal Code Chapter 17.72, any person affected or aggrieved by the decision of the Board of Zoning Appeals has the right to appeal this decision within **ten days (March 28, 2016)**. Appeal applications must cite a reason for objecting to a decision and should be filed with the City Clerk. Without a Call for Review or appeal, the effective date will be **March 29, 2016**. Prior to such effective date, a member of the City Council may stay the decision and request that it be called for review to the City Council. 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,



Kelvin Parker
Zoning Administrator

KP:lr

Attachments:

Attachment A – Specific Findings

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)

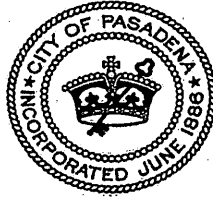
ATTACHMENT A
FINDINGS FOR HILLSIDE DEVELOPMENT PERMIT #6347

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 E
BOARD OF ZONING APPEALS STAFF REPORT DATED MARCH 16, 2016
(WITHOUT ATTACHMENTS)



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: March 16, 2016
TO: BOARD OF ZONING APPEALS
FROM: KELVIN PARKER, PRINCIPAL PLANNER/ ZONING ADMINISTRATOR
SUBJECT: APPEAL OF HEARING OFFICER'S DECISION:
HILLSIDE DEVELOPMENT PERMIT #6347 – 1835 KAWAEH DRIVE

RECOMMENDATION:

It is recommended that the Board of Zoning Appeals:

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. Overturn the Hearing Officer's decision and approve Hillside Development Permit #6347.

BACKGROUND:

On February 17, 2016, the Board of Zoning Appeals (BZA) considered, at its regularly noticed hearing, an appeal of Hillside Development Permit (HDP) #6347. The request was to allow the construction of a new 1,339 square-foot, two-story, single-family residence and an attached 367 square-foot garage, on a vacant lot, in the RS-6-HDSR zoning district. In addition to the HDP, the applicant requested a Minor Variance to allow the residence to provide a reduced front yard of zero feet, where the minimum required is 12 feet.

At that meeting, the BZA was presented with revised development plans that were prepared in an attempt to address the concerns and the issues that were raised at the Hearing Officer public hearing on December 8, 2015; specifically as it relates to the view impact the proposed project would have on the adjoining property to the east (1827 Kaweah Drive). Six speakers spoke at the BZA hearing in opposition to the project. The main reason stated for opposing the project was the view impact the proposed residence would have on the adjoining property to the east.

At the conclusion of the meeting, and after hearing public testimony, the BZA decided to continue the matter to the March 16, 2016 hearing to allow the applicant an opportunity to revise the plans by modifying the length of a proposed deck on the second floor. The BZA provided

direction to explore designs to locate the proposed deck in a manner so that it would not impede the protected view of the adjoining property to the east.

The application was disapproved by the Hearing Officer on December 2, 2015, as it was determined that the proposed residence was designed and located in such a manner that it would impede the protected view of the adjoining property to the east. The decision to disapprove the project was subsequently appealed to the Board of Zoning appeals by the applicant on December 8, 2015.

REVISED PLANS

In an attempt to preserve the view of the adjoining property, the applicant has revised the project so that the proposed residence and its deck are not placed directly in the view of the primary living areas of the adjoining property to the east. To achieve this, the applicant has reduced the width of the second floor deck by two feet. As designed, the proposed project would not be placed directly in the view of the primary living areas of the adjoining property to the east that are defined by an extensive window system, facing west-northwest looking towards the city of Glendale.

Based on an analysis of the revised plans, staff is of the opinion that the redesign of the proposed residence has been designed to the maximum extent feasible to not obstruct the views of the adjoining property to the east.

ENVIRONMENTAL REVIEW:

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 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-6-HD-SR zone, a residential zone. The use of the site would be as a single-family dwelling.

CONCLUSION:

Staff concludes that the findings necessary for approving the Hillside Development Permit can be made (Attachment A). The proposed project meets all applicable development standards required by the Zoning Code, with the exception of the required variance as a result of the topography on the site and the view protection requirements of the Zoning Code. Staff finds that there are exceptional or extraordinary circumstances or conditions applicable to the subject site that does not apply generally to sites in the same zoning district. As designed, the requested variance would not be harmful or detrimental to surrounding properties and to other residences in the immediate neighborhood. Conditions of approval would ensure that the project is compatible with the surrounding neighborhood. Therefore, staff recommends approval of the Hillside Development Permit, subject to the findings in Attachment A and recommended conditions of approval in Attachment B.

RECOMMENDATION:

It is recommended that the Board of Zoning Appeals:

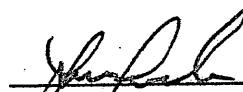
1. Adopt a determination that the proposed action is exempt from the California Environmental Quality Act (CEQA) under Section 15303 (New Construction or Conversion of Small Structures) of the State CEQA Guidelines; and
2. Overturn the Hearing Officer's decision and approve Hillside Development Permit #6347.

Respectfully Submitted,

Prepared by:



Kelvin Parker
Principal Planner/Zoning Administrator



Luis Rocha
Planner

Attachments:

- Attachment A – Zoning Administrator Recommended Specific Findings
- Attachment B – Recommended Conditions of Approval
- Attachment C – Hearing Officer Decision Letter, dated December 2, 2015
- Attachment D – Appeal Application, dated December 8, 2015
- Attachment E – Hearing Officer Addendum
- Attachment F – Board of Zoning Appeals Staff Report, dated February 17, 2016 (without attachments)

**ATTACHMENT F
CORRESPONDENCE RECEIVED FOR THE MARCH 16, 2016
BOARD OF ZONING APPEALS MEETING**

CARLSON & NICHOLAS, LLP
Attorneys at Law

www.carlsonnicholas.com

Scott Carlson, Partner
Frank Nicholas, Partner
Richard McDonald, Of Counsel

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Scott@carlsonnicholas.com
Frank@carlsonnicholas.com
RMcDonald@carlsonnicholas.com

VIA E-MAIL

March 14, 2016

Chair Greg Jones
Hon. Commissioners Cohen, Farhat, Nelson, and Williamson
Board of Zoning Appeals of and for the City of Pasadena
100 North Garfield Avenue
Pasadena, California 91109

Re: 1835 Kaweah Drive – HDP No. 6347.

Dear Chair Jones and Honorable Commissioners:

On February 17, 2016, the BZA asked the Nicholson's to consider revising the design of their proposed deck to insure it is not in the view corridor of Mr. Grady's balcony. Mr. Nicholson will explain that revision and their approach to it. Before doing so, however, we wish to make a few additional points for the continued hearing.

First, Section 17.29.060.E(1) of the Zoning Code expressly states, "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." (Emphasis added).

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City of Pasadena
March 14, 2016

Therefore, under the Code, as staff has explained, Mr. Grady's only protected view is looking "directly" out his living room window in a northwesterly direction. That view corridor does not include his balcony, nor the Nicholson's house or deck.

Second, in an attempt to resolve this matter, I reached out to Mr. Grady's attorney and him. After two conversations, however, it became apparent that Mr. Grady did not want to resolve anything in good-faith. Rather, he claimed that he had re-surveyed his property and that his view corridor began at 42.5 feet from Kaweah Drive. He insisted that the Nicholson's house and deck, therefore, had to be moved even closer to the street to avoid blocking his views. A zero setback was not enough.

However, according to Mr. Grady's November 12, 2015 statement to the Hearing Officer ("HO"), "The corner of our home is approximately 50' from the street, and our view windows are approximately 55' from the street on the West." See, Exhibit "E" to McDonald February 16, 2016 Letter to BZA. Further, according to Mr. Grady's December 2, 2015 statement to the HO, "The deck of our home and our primary living area begin at 50 feet from Kaweah Drive."

Id.

Somehow, miraculously, the 55 feet that existed on November 12, dropped five more feet to 50 feet by December 2d. And now, after re-surveying, it has dropped another seven and half feet to 42.5 feet.

The game being played here by Mr. Grady is obvious. In particular, to address Mr. Grady's concern about the potential impact on his view, staff asked the house be moved five feet closer to the street by reducing the 12-foot setback to a 7-foot setback. Mr. Grady, however, reduced his numbers by 5 feet as well, and continued to complain.

Letter to BOZA
City of Pasadena
March 14, 2016

When the house then was moved another 7-feet closer to the street by reducing the 7-foot setback to a zero setback, Mr. Grady reduced his number by 7-feet as well (i.e., 50 feet down to 42.5 feet), and continued to complain.

In short, no matter where the house is moved, Mr. Grady will change his position so that he can continue to object because he does not want anything built.

Third, unfortunately for Mr. Grady, the surveyor's immovable stake is at 55 feet. See, Exhibit "F" to McDonald February 16, 2016 Letter to BZA. As such, the house and deck do not impact his view with a zero setback no matter how much he changes his position.

Fourth, as explained at the February 17 hearing, the following changes have been made to address all of Mr. Grady's concerns:

1. They increased their back yard setback 14'-4 1/2" from 46'-11" to 61'-3 1/2".
2. They decreased their front yard setback by 12' from 12' to 0'.
3. They decreased their building footprint dimension in the north-south direction by 6'-2 1/2" from 51'-4" to 45'-1 1/2".
4. They reduced the number of stories from 3 to 2.
5. They reduced the number of variance they need from 3 to 1.

Mr. Grady, however, has not made any changes, or put forth any effort to seek a reasonable solution. Instead, regardless of these changes, Mr. Grady still objects to the entire project and its design based upon his unfounded belief that he has the right to an unobstructed 180-degree view from his balcony.

As staff correctly explains in their report, however, Section 17.29.060(E) does not provides any such sweeping, all-encompassing right. Rather, the only views protected under the

Letter to BOZA
City of Pasadena
March 14, 2016

Code are the views "directly" from primary living areas, which are expressly defined as a living room, family room, and patio, not his balcony.

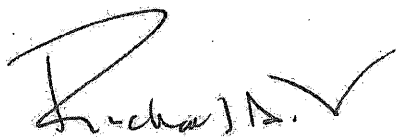
Here, there is no evidence, let alone any substantial evidence, that any of Mr. Grady's primary living areas are negatively impacted when the house is moved to a zero setback. To the contrary, the fact that Mr. Grady keeps changing his position shows as much because otherwise he would not have to change his numbers. His objections are based upon the existence of the house altogether, not any impact on his views.

Nonetheless, in final effort to resolve this matter, the Nicholson's have redesigned their deck as requested by the BZA by moving it two feet west, which is the "maximum extent feasible" for technical, structural reasons that Mr. Nicholson will explain.

In sum, with a zero setback, substantial evidence supports all of the findings set-forth in Attachment "A" to your staff report. We, therefore, ask the BZA to reverse the Hearing Officer's December 2, 2015 decision and approve the revised zero front-yard setback design for HDP No. 6347.

Thank you again for your consideration.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Richard A. McDonald", with a checkmark at the end.

Richard A. McDonald, Esq.
Of Counsel, Carlson & Nicholas, LLP

Dear Mr. Rocha and Zoning Board of Appeals:

I am yet again disappointed by the applicants' latest design proposal. It appears that they have no intention of complying with the View Protection Ordinance, with the findings of the Hearing Officer, or the findings of the Board of Appeals.

As one of the Appeals Board members said at the last hearing and as the Hearing Officer said at the prior hearing, *anyone who visits the site can see that the applicants' design would significantly obstruct the neighbors' view.*

The applicants' latest design places the northeast corner of their house and their north deck just above eye level, directly opposite the neighbors' living room and balcony. They have not removed the deck or roof cover. They have not lowered the deck to the level of the neighbors' balcony. They have proposed a ludicrous change (reduce the length of the deck by 2 feet, from 32 to 30 feet, and left the width at 8 feet) which would make no difference whatsoever in clearing the view.

The applicants have numerous alternatives to build without obstructing the view. They could widen the house and pull the north wall closer to the street. They could eliminate the north deck. They could reduce the size of the house. They could eliminate the basement. Or, like almost every other house in the neighborhood built in the last 70 years, they could lower the whole structure down into the hillside 10 to 20 feet and put their deck at a much lower level.

Instead, after two separate declinations, they have chosen to ignore the Hearing Officer and the Board of Appeals. They have added decks and deck roof covers, added a roof top deck and tower on top, maintained the absolute maximum amount of square footage and deck space - and generally pushed all height and space limits to the extreme. It appears that they have even cut off a corner of the basement in order to keep the elevation of the entire structure as high as possible. In each design proposed, they continue to violate the View Protection Ordinance.

Since the applicants keep changing their design without fixing the problem, one would have to wonder why. It appears that they keep submitting new designs in hopes that the City and the neighbors will just give up. The whole purpose of the ordinance and the review process is specifically to prevent this kind of construction. It was not enacted to give builders multiple opportunities to distort and evade its intent.

I would strongly ask that the Board of Appeals unequivocally direct the applicants to modify their future design submissions to remove their structure, decks, deck roofs, railings and any other obstructions from the neighbors' view.

Thank you for your consideration and support.

Ron Lamutt
1818 Kaweah Drive
Pasadena, CA 91105

To: Mr. Rocha and Board of Zoning Appeals:

As a neighbor, I have witnessed the multiple meetings related to this building request. I also heard at the last meeting, the frustration of at least one of the Board members with respect to how many times the applicants have been asked to modify their design, and wondering aloud if "the neighbors will ever be satisfied?"

I'd like to briefly review a few critical facts:

- The original plans submitted were denied by the city and were never seen by the neighbors.
- The first public version was denied by the Hearing Officer after he viewed the property. He felt that the design clearly violated the View Protection Ordinance. In denying the permit, he encouraged the applicants to consider alternatives and to work with the Grady's to reach an acceptable solution.
- A month ago, you viewed a third version. The Board member who visited the site to view the impact also definitively stated that it still blocked the Grady's view. The 8' balcony was identified as the culprit. But rather than remanding the issue to the Hearing Officer, the Board graciously provided the applicants with yet another 30 days to revise the design.
- Their revised design merely reduces the balcony by 24" – really? That solves the view problem?

I understand the frustration expressed last month by one of the Appeal Board members. Trust us, the neighbors share that frustration. But please remember, *had the Applicants addressed the View issue properly when first asked to do so, this discussion would have been over months ago.* Throughout this ordeal, the Grady's and the neighbors have asked repeatedly for only one thing – appropriate View Protection.

Instead, the Applicant's strategy appears to be to change as little as possible each time and try to prevail by wearing down the opposition. After all, the Applicant, is an architect. She knows – and other architects who have been in attendance at past meetings have commented – that this house can be built without impinging on the Grady's primary view. But it is clear that the Applicants are just not willing to do that unless and until they are forced to.

It's not fair to the Grady's or to those of us who love and care about our neighbors – to let the Applicant prevail with a design that clearly isn't appropriate ***"just to get it over with"***.

Please do the right thing. Hold your ground and insist that the Grady's view be fully protected - and that the applicants remove that deck! Thank you for your consideration.

Marianne Lamutt

**Objection to Hillside Development
Submitted by Richard S. Jacinto, Esq.
Attorney for the Grady's**

Permit #6347

I. Chapter 17.29- Hillside Overlay District Applies

There shall be no development within the San Rafael Hills neighborhood unless it receives a Hillside Development Permit approval. See Hillside Overlay Section 17.29.030(A). In this case, 1835 Kaweah Drive, Lot #17, is within San Rafael Hills neighborhood. Thus, the Hillside Development Permit approval is required and the standards of Hillside Overlay District Section 17.29 apply.

II. Hillside Development Permit #6347 Still Violates Hillside Overlay District Section 17.29

See Hillside Overlay District Section 17.29.080(F). A proposed view structure shall be designed and located so that it avoids blocking views from surrounding properties to the maximum extent feasible. (Emphasis added) See Hillside Overlay District Section 17.29.060(E). This includes abutting properties as well as properties directly across a street from the subject property. See Hillside Overlay District Section 17.29.060(F). Specifically, new structures shall not be placed directly in the view of the primary living areas on a neighboring parcel. This includes the living rooms, family rooms, and patios. See Hillside Overlay District Section 17.29.060(F)(1).

The hearing officer did not approve the permit in petitioner's original request for a permit to build a Hillside home because he found that the design, location, and size of the proposed structure was not compatible with existing adjacent lots in Terms of View Protection (emphasis added),

It is significant to note that after the proposed changes submitted by the applicant's for the building permit. That Mr. Novak, the hearing officer, of the first hearing on the request to build by the applicants reviewed the appeal of his determination denying Hillside Development Permit #6347 and submitted the following:

"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, 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.”

In this case, the design, location, and size of the proposed structure are still not compatible with existing lots in terms of view protection. Specifically, Daniel and Barbra Grady live in their home at 1827 Kaweah Drive, Lot #16, which has a West looking panoramic view. Their primary upstairs living area, which includes an open area, living room, family rooms, and deck with thirty feet of arched glass windows, was designed around this panoramic view.

However, the design, location, and size of the proposed building for 1835 Kaweah Drive, Lot #17, which are stated in the Hillside Development Permit #6347, are not compatible with the Grady's existing adjacent lot in terms of view protection. The Hillside Development Permit #6347 factually has the opposite affect because the proposed building will intrude and block the protected view of the Grady's upstairs primary living area.

The Hillside Development Permit #6347 was not designed not located so that it avoids blocking views from surrounding properties to the *maximum extent feasible*. Moreover, after reviewing the plan and design, it appears that no effort to avoid blocking the protected view of the Grady's upstairs primary living area has been made.

“No significant” changes were submitted by the applicants again for the consideration for this appeal.

The new changes submitted block the view of the Grady's substantially and the applicant stubbornly submitted minor changes again, hoping the Planning Commission will rubber stamp their plan in spite of the applicants changes that the previous hearing officer, Paul Novak found clearly and emphatically the proposed construction obstructed and blocked the Grady's view.

The Grady's proposals for adjustments regarding the proposed structure and its location are incorporated herein by reference.

III. Feasible Alternatives to Hillside Development Permit #6347, Which Comply with Hillside Overlay District Section 17.29

There are adjustments that can be made in the proposed design so as to avoid blocking views from surrounding properties to the maximum extent feasible and still maintains an appropriate structure of the house proposed in Hillside Development Permit #6347.

IV. The Appeals Board Should Not Approve Hillside Development Permit #6347

Hillside Development Permit #6347 is not designed and located so that it avoids blocking views from surrounding properties to the maximum extent feasible. See Hillside Overlay District Section 17.29.060(E). Rather, it appears that no reasonable steps have been taken by the owner/builder to avoid blocking the Grady's view.

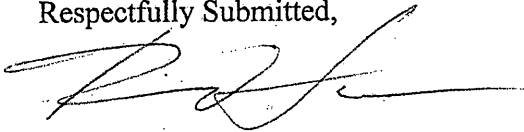
However, alterations to the current proposed plan can feasibly be made to comply with Hillside

Overlay District Section 17.29. Also, alternative designs are available, which meet the standards. Therefore, the Appeals' Board may not approve the Hillside Development Permit #6347.

Variances

No variance should be allowed because the view of the abutting neighbors (th Grady's home) can be protected if the applicant design is altered in reasonable, un-costly, and feasibly manner setting back their project 18 feet towards the South.

Respectfully Submitted,



RICHARD S. JACINTO, ESQ.
RICHARD S. JACINTO, INC.
A PROFESSIONAL LAW CORPORATION
RSJ/grr