

**ATTACHMENT H  
CORRESPONDENCE RECEIVED FOR THE FEBRUARY 17, 2016  
BOARD OF ZONING APPEALS MEETING**

**CARLSON & NICHOLAS, LLP**  
**Attorneys at Law**

[www.carlsonnicholas.com](http://www.carlsonnicholas.com)

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

140 South Lake Avenue  
Suite No. 251  
Pasadena, California 91101  
(626) 356-4801

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

**VIA E-MAIL & HAND DELIVERY**

February 16, 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:

Thank you for hearing the Nicholson's appeal of the Hearing Officer's December 2, 2015 denial of their application for a Hillside Development Permit ("HDP").

As explained in the staff report, the property is an irregular shaped lot located at 1835 Kaweah Drive in the RS-6 HD-SR zone. The developable area of the lot is 5,356 square feet. The site has an average slope of 38.6 percent, which slopes downward in a northwesterly direction. See Exhibit "A."

As originally presented, the Nicholson's proposed building a 1,337 square foot, two-story house behind a 366 square foot garage that was setback 12.5 feet from the front property line.

See Exhibit "B." As proposed, the project fully complied with the Hillside Ordinance's

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requirements for gross floor area, lot coverage, front, side, and rear yard setbacks, encroachment plane standards, height, parking, neighborhood compatibility (size and design), and ridgeline protection. The geotechnical and hydrology reports for the site also determined that the proposed project was feasible; and, the proposed house complied with Section 17.29.060 on view protection because the adjacent property to the east at 1827 Kaweah Drive faces northwest, not west. *See* Exhibit "A.". Its primary view areas, therefore, would not have been blocked by the new house. *Id.*

Although fully compliant with the Hillsides Ordinance, the proposed project nonetheless required three variances. The first variance was for the amount of hardscape in the front yard, i.e., to allow 56 percent of the front yard to be paved, which was more than the 30 percent limit under section 17.40.160.F.3.a. The second variance was for the width of the driveway, i.e., the 18.5-foot-wide driveway, which exceeded the Code's limit of 15 feet. The third variance was for the safety fence/railing required along the driveway, i.e., it exceeded the four-foot height limit because of the Code requires it to be measured from existing grade under Section 17.40.180. A.1.

Although originally calendared for a November 18, 2015 hearing, on November 17, 2015, staff informed the Nicholsons of some objections from the neighbor at 1827 Kaweah Drive; namely, that the proposed house would block his view. Although it did not, the Nicholsons agreed to a conference call with the Zoning Administrator and Planning staff to address his concerns.

During the conference call, staff explained the neighbor's concerns about his views being impeded and suggested the Nicholsons move their house five feet closer to Kaweah Drive. *See* Exhibit "C." Doing so, however, required them to apply for a fourth variance, i.e., one to allow a

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seven-foot front yard setback, which was five feet less than the required 12 feet under the Code. The hearing date, therefore, was continued to December 2, 2015, to provide the required public notice of the hearing on this new variance.

On December 2, 2015, both the twelve-foot setback and the seven-foot setback alternatives were presented to the Hearing Officer. For both, staff recommended approval.

Rather than approve either of the two alternatives, however, the Hearing Officer denied the HDP application on the grounds that both alternatives violated the view protection of the neighbor at 1827 Kaweah Drive under Section 17.29.060. He also handed the Nicholsons a drawing of a design prepared by the previous owner of their lot. After the Nicholsons told the Hearing Officer that they were familiar with it, but did not use it because it violated the allowable square footage limits under the Code, he suggested they use a zero front yard setback instead.

With that in mind, on January 20, 2016, the Nicholsons met with the neighbors (Mr. and Mrs. Grady to the east and Mr. Chul Paik to the north), and staff. At that meeting, they presented the zero front yard setback design suggested by the Hearing Officer. *See* Exhibit "D."

Unfortunately, the neighbors refused to consider it in good-faith, claiming it continued to obstruct their view. The neighbors also complained that if you turn at an angle, then the proposed deck blocks the view from their patio.

On February 6, 2016, the Nicholsons set-up a silhouette of the east side, north side, and the upper deck of the zero setback revised design that showed it did not block any of the neighbor's views. *Id. See also*, Exhibit "A." In particular, the following changes have been made by the Nicholsons to address all of the neighbor's concerns:

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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.

Regardless of these changes, the neighbors still object to the project presumably based upon an unfounded belief that they have the right to an unobstructed 180-degree view.

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 City's Code are the views from primary living areas, which are expressly defined as a living room, family room, and patio, but not a kitchen, bedroom, or bathroom.

Here, there is no evidence, let alone any substantial evidence, that any of the neighbors' primary living areas are negatively impacted. To the contrary, the fact that the neighbors claim that "if they turn at an angle" by definition means there is no impact to their direct views because, if there were, they would not have to turn.

Under California law, there also is no common law right to a view. *Wolford v. Thomas*, 190 Cal. App. 3d 347, 358 (1987). California landowners simply do not have a right of access to air, light and view over adjoining property. *Porterville Citizens for Responsible Hillside Development v. City of Porterville*, 157 Cal. App. 4th 885, 902 (2007). The only protection the neighbors have is under Section 17.29.060(E), which is limited to their northwest facing patio only and which is not impacted.

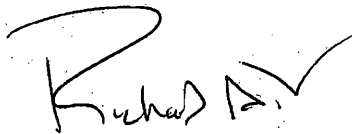
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Last, on November 12, 2015, and again on December 2, 2015, the Grady's expressly represented that their "view windows are approximately 55 [feet] from the street on the west, and "our primary living area begin at 50 feet from Kaweah Drive." See Exhibit "E." The Nicholsons, therefore, have eliminated any impact on the Grady's view by moving their house forward with a zero setback. See Exhibit "F." As Exhibit "F" shows, the Nicholsons house is now within the 50 – 55 feet space the Grady's state does not impede their views. As such, the findings for the HDP are supported by substantial evidence and can be made.

We, therefore, ask the Board 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,

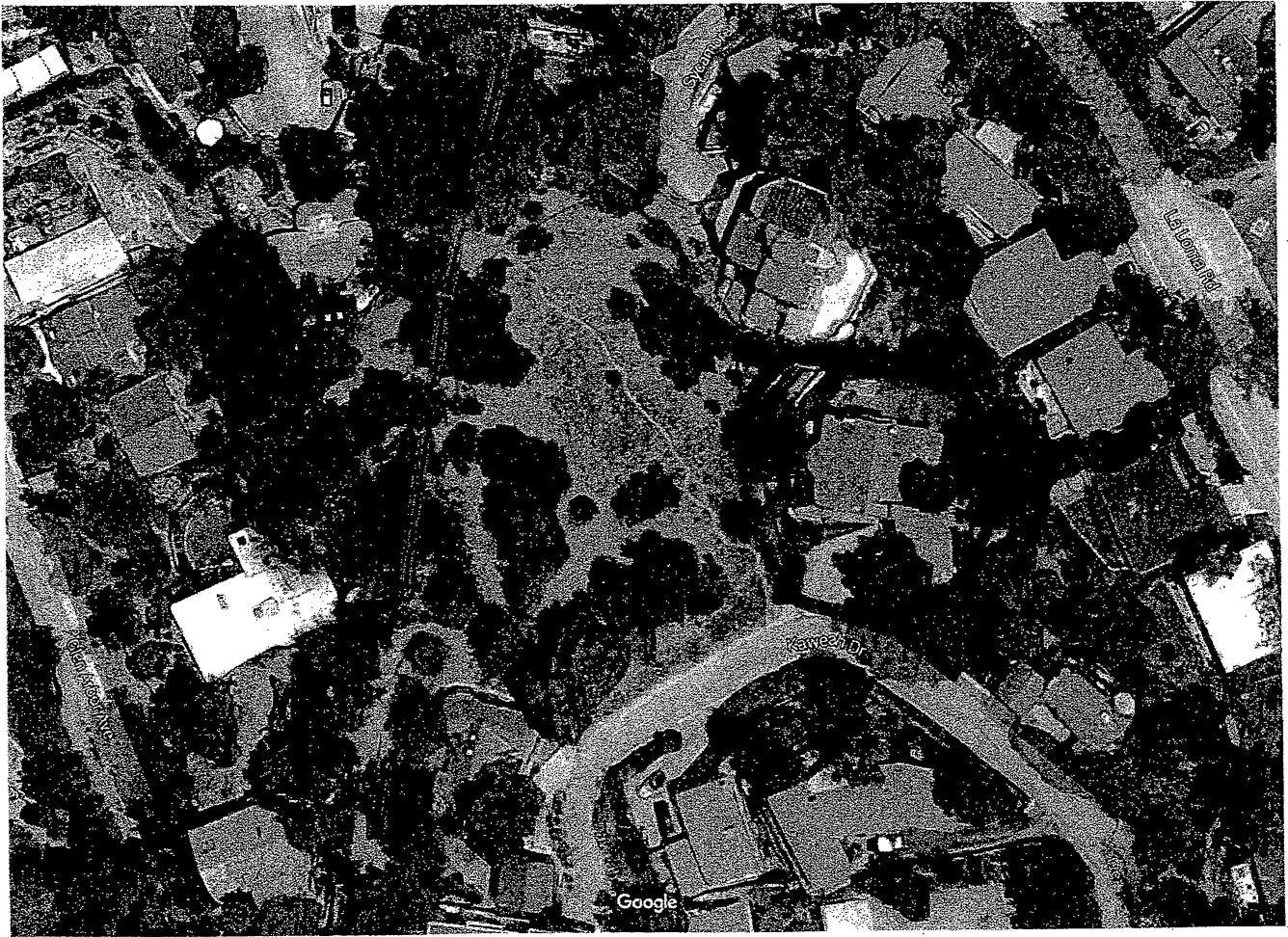


Richard A. McDonald, Esq.  
Of Counsel, Carlson & Nicholas, LLP

# **EXHIBIT A**

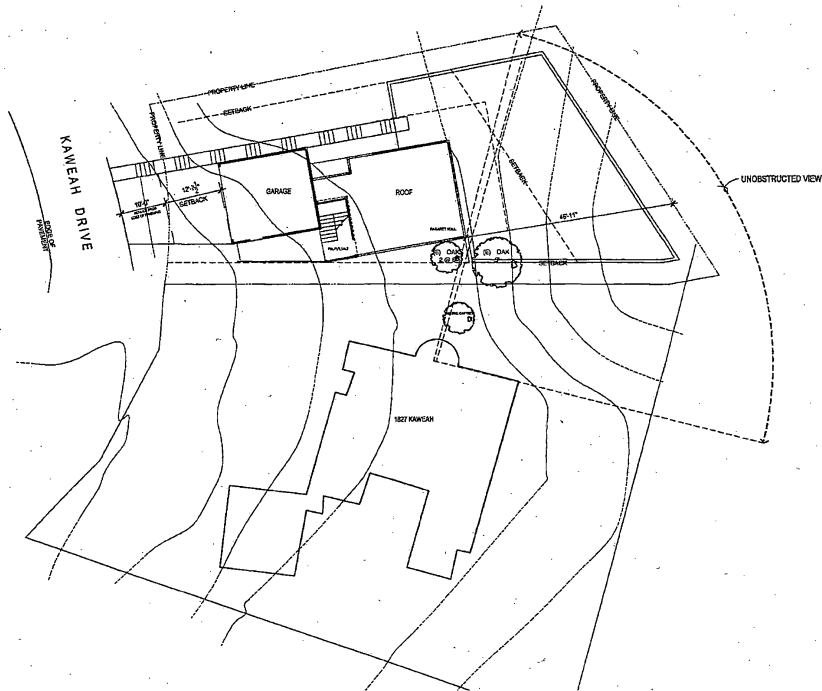
Google Maps

<https://www.google.com/maps/@34.1353039,-118.1850528,135m/data=!3m1!1e3>





# **EXHIBIT B**



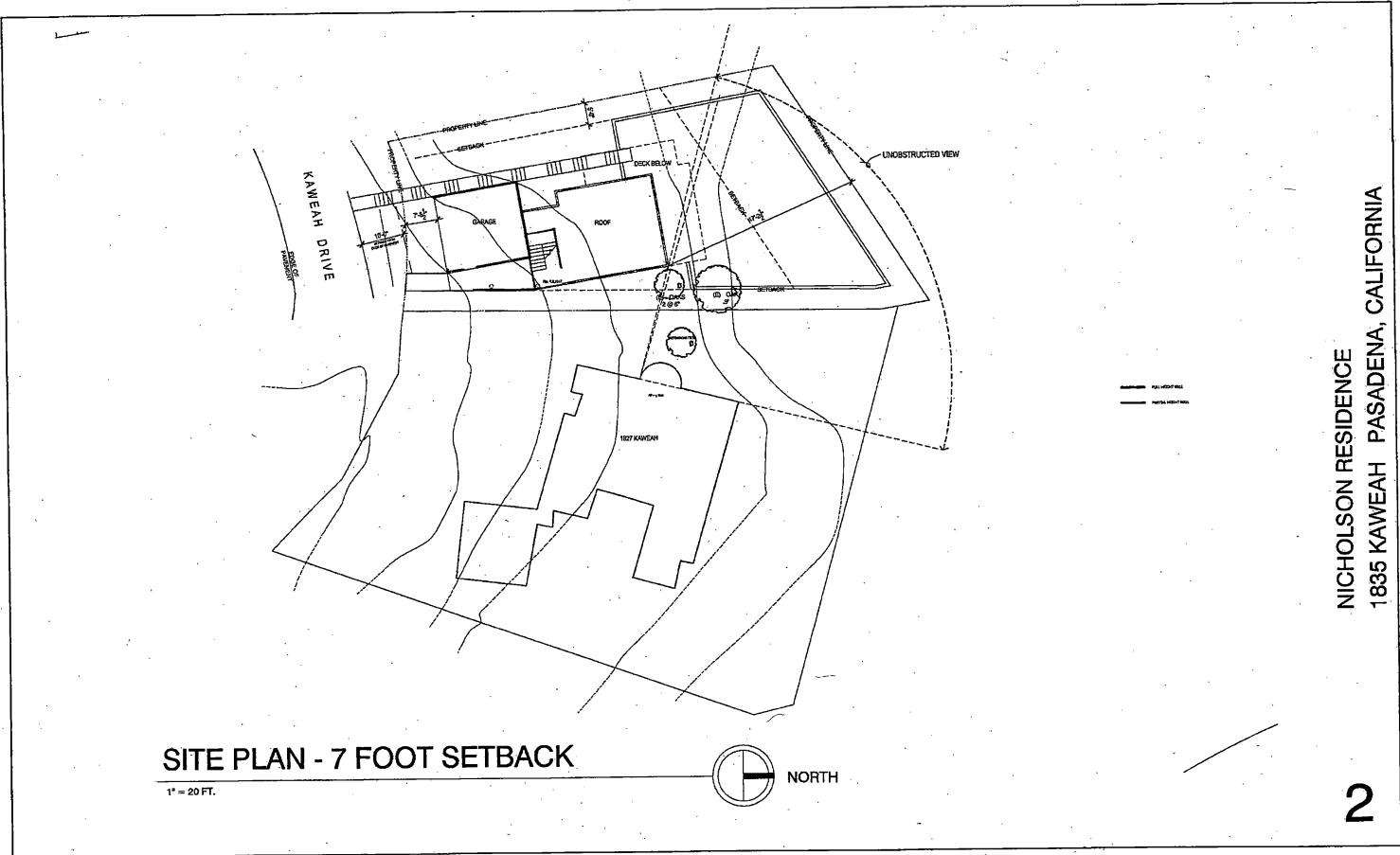
**SITE PLAN - 12 FOOT SETBACK**

1" = 20 FT.



NICHOLSON RESIDENCE  
1835 KAWEAH PASADENA, CALIFORNIA

# EXHIBIT C



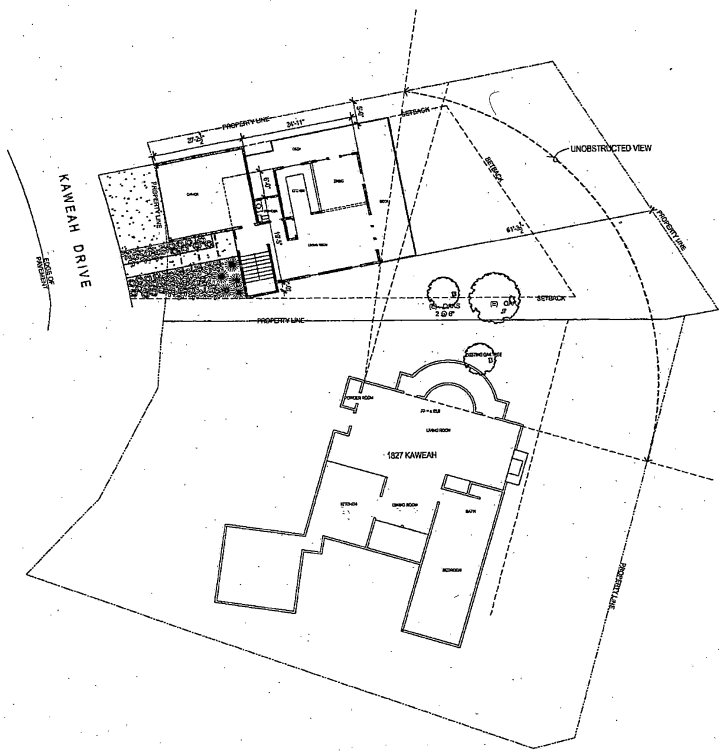
**SITE PLAN - 7 FOOT SETBACK**

1" = 20 FT.



NICHOLSON RESIDENCE  
 1835 KAWEAH PASADENA, CALIFORNIA

# **EXHIBIT D**



**SITE PLAN - 0 SETBACK - UPPER FLOOR**

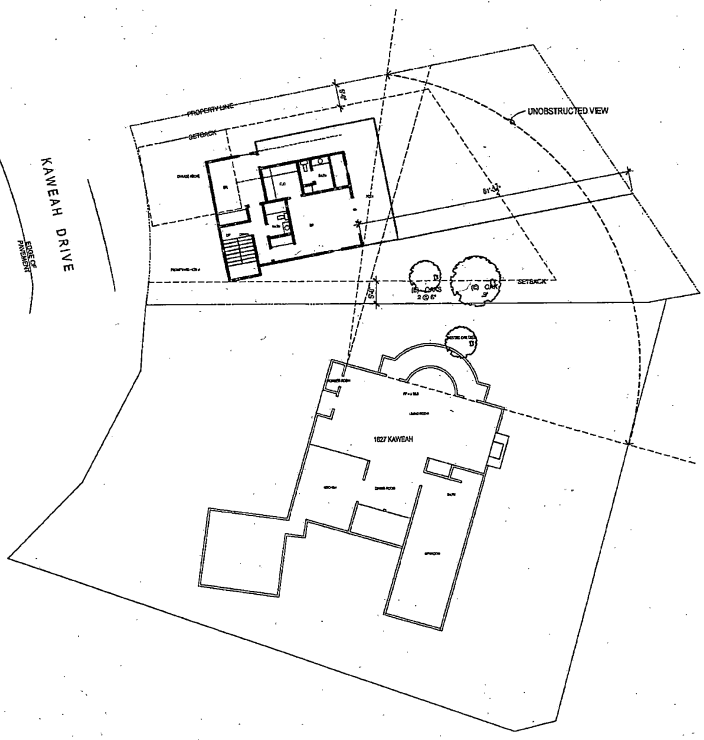
1" = 20 FT.



7

NICHOLSON RESIDENCE  
1835 KAWEAH PASADENA, CALIFORNIA

3

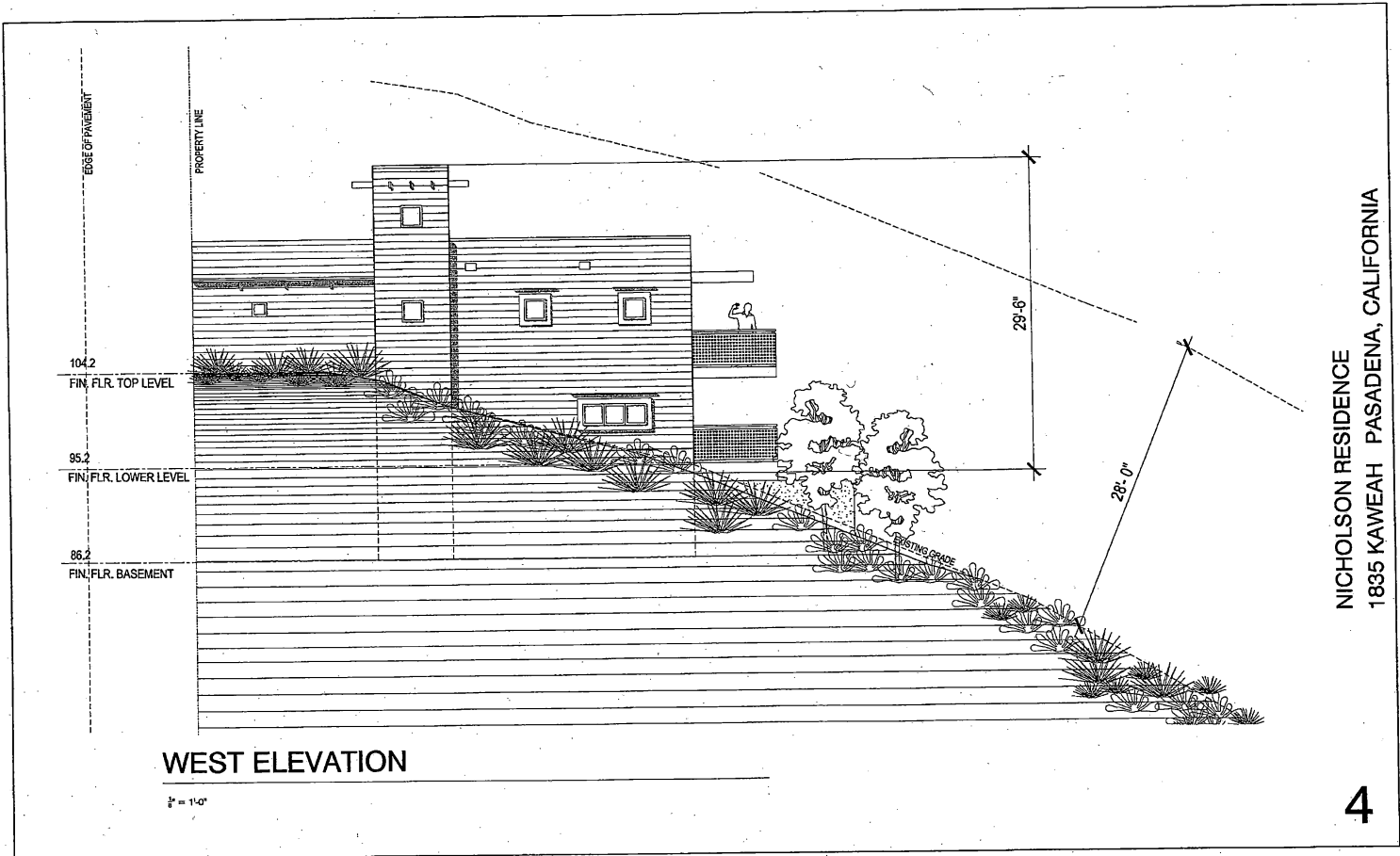


**SITE PLAN - 0 SETBACK - UPPER FLOOR**

1" = 20 FT.



NICHOLSON RESIDENCE  
1835 KAWEAH PASADENA, CALIFORNIA



**WEST ELEVATION**

1/8" = 1'-0"

NICHOLSON RESIDENCE  
 1835 KAWEAH PASADENA, CALIFORNIA



# **EXHIBIT E**

11/12/2015

5. The corner of our home is approximately 50' from the street, and our view windows are approximately 55' from the street on the West. The proposed design for Lot #17 is a long narrow structure that extends approximately 68' from the street. An adjustment of moving the proposed design by 15' toward the street, would protect the view for our home, would protect the privacy of the lower lots below on Sycamore Glen, and would also preserve the lower hillsides terrain. \* ]
6. In front of our home at 1827 Kaweah Drive, Kaweah Drive is running directly WEST. At the start of Lot # 17, 1835 Kaweah Drive, Kaweah Drive makes a sharp curve to the SOUTH WEST. (An attached topographical map illustrates this change of direction).
7. If one stands on the street in front of Lot #17 looking down, one can see that the slope runs predominantly West in a pie shape. Allowing this design to go forward as is – i.e., a long narrow structure with a flat roof – will directly block the view of the primary living area of our established home. (See the attached topographical map).
8. The front of Lot # 17 property is approximately 40' in width; the rear of Lot #17 is approximately 63' in width. It is my understanding that according to the owner/builder, the lot Slope for Lot # 17 is 32 degrees. The lot slope for my home is 37 degrees. And the lot slope directly below is 42 degrees. It is my understanding the owner/builder asserts that his slope calculation at 32 degrees is nearly the same as ours. I dispute this. We all know that the slope calculations affect the overall gross floor plan of the design. Thus, it is imperative that the slope calculations for Lot #17 be accurately determined and verified.
9. Attached is an example of a proposed design for a home on Lot # 17 by the previous owner of this lot and the adjacent 4 lots (the Pasadena Five). Also attached are two site plans showing the curve on Kaweah Drive and an air photograph of the hillside. Views of the attached maps illustrate that there are other options that can be utilized in designing the structure on Lot # 17, options that do not violate the View Protection Clause of the Hillside Overlay Districts (Section 17.29.060E).
10. It is also unacceptable to consider allowing the minor variance that the owner/builder is requesting. The owner/builder requests that he be allowed to have "*fencing in the front yard with a height of up to twelve (12) feet, where the maximum permitted is four (4) feet.*" Requesting a variance to build a fence/wall 12 feet high in the front yard, when the maximum allowed is 4 feet, is an example of the extreme aspects of this design that contribute to the code violations inherent in this proposed design and location. If allowed, this variance is clearly in violation of one of the purposes of Hillside Overlay Districts, #G: "*Provide development standards that promote orderly development consistent with the traditional scale and character of the community, and that preserve privacy and views.*"
11. At the time that Luis Rocha, Planner, came to our home in mid-August to view our home site and take photographs, he indicated that the owner/builder could not block our view and he was going to talk with him regarding changes to the design that would not violate the View Protection clause. He also indicated that he would contact the owner/builder to set up a meeting with us. It is our understanding that the owner/builders have refused to meet with us.

12/02/2015

2. Page 6 of the Staff Report: "...The location of the proposed residence would, however, be placed in the view and be visible from the primary living areas of 1827 Kaweah Drive (our home). As discussed, the adjoining residence has a 36-foot field of view. (Not true: 30-foot field of view). The proposed residence encroaches approximately 10 feet into the field of view of the primary living areas of 1827 Kaweah Drive (our home). To reduce the encroachment into the field of view, the applicant is proposing to move the proposed residence five feet closer to Kaweah Drive, thereby reducing the encroachment of the proposed residence."

The deck of our home and our primary living area begin at 50 feet from Kaweah Drive. Moving the proposed residence 5 feet closer to Kaweah Drive will not reduce the encroachment into our field of view. The proposed residence needs to be moved 18 feet closer to Kaweah Drive in order to eliminate the encroachment into our field of view, including the overhangs and decks. The proposed design for Lot #17 is a long narrow structure that extends approximately 68 feet from the street. An adjustment of moving the proposed design by 18 feet, not 5 feet, toward the street, would protect the view for our home, would protect the privacy of the lower lots below on Sycamore Glen, and would also preserve the lower hillsides terrain. ] \*

We believe that the proposed structure has NOT been designed to *the maximum extent feasible* to avoid blocking the view of our home – quite the contrary. In continuing to review the plans and design, it appears that no effort to avoid blocking the view of our home has been made, in violation of Section 17.29.060E.

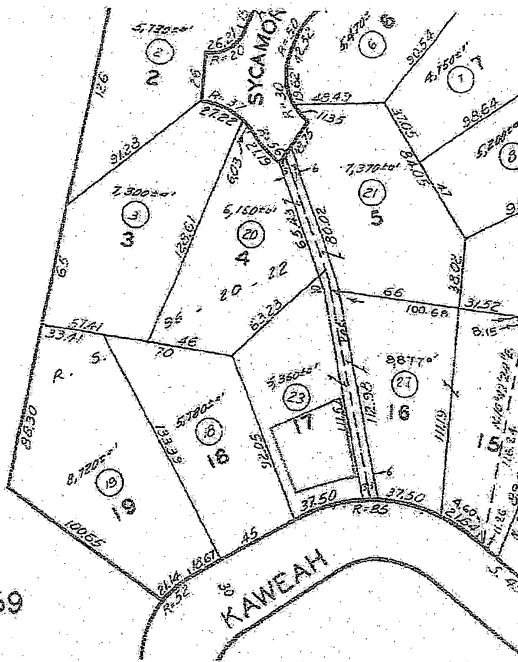
In the Pasadena Hillside Overlay Districts, Section 17.29.060E (View Protection), it is clearly stated that, "a proposed structure shall be designed and located so that it avoids blocking views from surrounding properties to the maximum extent feasible. This includes abutting properties as well as properties directly across the street from the subject property."

3. Page 6 of the Staff Report: "The downhill slope, establishing the protected view for 1827 Kaweah Drive, is towards north/northwest; the existing slope does not run towards the west, across the project site. Therefore, the proposed residence would not block any protected views that are oriented toward the downhill slope."

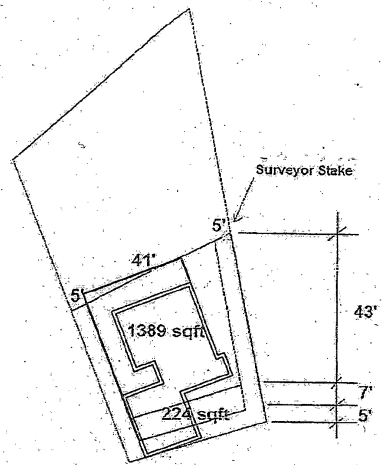
We disagree with the statement that our "existing slope does not run west across the project site." At the time we built our home, the report of the City Planning staff, dated March 15, 2006, states that the average slope of 37 degrees runs downward to the northwest away from Kaweah Drive." Because of this, we disagree with the staff statement above that our lot at 1827 Kaweah Drive does not run toward the west because 1/4 of our lot slopes due west.

If one stands on the street in front of Lot #17 looking down, one can see that the slope runs predominantly west in a pie shape. Allowing this proposed design to go forward as is – i.e., a long narrow structure with a flat roof – will directly block the view of the primary living area of our established home. (See the attached topographical map).

# **EXHIBIT F**



9859  
3-24



Note:  
Approximate values.  
If from 5', then area is 1613 sq ft.  
If from 12', then area is 1389 sq ft.

*Attached are two site plans that show to have 2,400 sq. ft. of property towards the top of the hill to the surveyor's stake, which clears our windows. This leaves some space of room to construct a new 1,337 sq. ft. residence with a 336 sq.*



Daniel and Barbara Grady  
1827 Kaweah Drive  
Pasadena, California 91105

February 17, 2016

**COMMENTS/OBSERVATIONS RE:**  
**HILLSIDE DEVELOPMENT PERMIT #6347**  
**1835 KAWEAH DRIVE**

**WHO WE ARE**

- I am Daniel Grady. My wife, Barbara, and I live at 1827 Kaweah Drive. We have lived in the San Rafael Hills area for 42 years. After living on La Loma Road for 32 years, in 2005 we purchased Lot #16 on which our current home at 1827 Kaweah Drive was built and designed. We have been and remain compliant with all codes and permit requirements, absent any requests for variances. At the time we built our current home, we worked with our neighbors to be certain that the design of our home met with their approval.
- In building our home in 2005 we designed a single-family custom home on a lot that runs North West with a west looking panoramic view. Our primary upstairs living area was designed around this view with a complete open area, living room, family room, and deck with 30 feet of arched glass windows.
- With regard to HDP #6347 we have submitted earlier observations and comments, dated November 12, 2015, and December 2, 2015, in preparation for the hearing that was held on December 2, 2015. We now submit these comments and observations for the hearing before the Board of Zoning Appeals.
- As a result of the hearing held on December 2, 2015, the hearing officer disapproved HDP #A6347. His specific findings stated the following: (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"* – citing it was in violation of the Section 17.29.060E (View Protection) of the Zoning Code and *would be detrimental to property and improvements in the neighborhood*; and (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."* He noted that, *"The proposed residence is designed and located in such a manner that it would impede the protected view of an adjoining property...and is in direct violation of Section 17.29.060E (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"*.
- We understand that this hearing before the Board of Zoning Appeals is a *de novo* hearing where the Board has no obligation to honor the prior decision and has the authority to make an entirely different decision. Therefore, it is very important for us to present before the Board of Zoning Appeals the essential reasons for which we believe HDP #6347 should be disapproved.
- We also continue to express concerns and observations re: the Staff functions in this effort, the continuous lack of timely follow-up, and inaccuracies and errors in fact in their reports.

**COMMENTS/OBSERVATIONS RE: HILLSIDE DEVELOPMENT**  
**PERMIT # 6347, 1835 Kaweah Drive:**  
**FOR THE FEBRUARY 17, 2016, BOARD OF ZONING APPEALS HEARING**

1. **REASON FOR APPEAL:** In the December 8, 2015, Request for Appeal, the applicant for HDP #6347 states the following as his reason for the appeal: *"The hearing officer failed to correctly interpret the zoning code section 17.29/060E 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."*
  - In the December 2, 2015, hearing, the Hearing Officer did NOT state or "admit" that he was "unfamiliar" with the View Protection section. In fact, the Hearing Officer was quite clear in articulating his understanding and explanation of the View Protection clause. The Appeal reason given by the applicant is tantamount to saying that the Hearing Officer was not competent or fit to conduct the hearing.
  - "Also, at the December 2, 2015 hearing, the Hearing Officer stated on the record that prior to the hearing he had visited both properties and first hand was able to observe the ways in which the proposed design would violate the View Protection Clause. In his letter of December 7, 2015, to the applicants, Mr. and Mrs. Nicholson, the Hearing Officer referenced his, *"careful consideration of this application, and with full knowledge of the property and vicinity..."*
  - During the December 2, 2015, Hearing, the Hearing Officer did express concern re: staff lack of accuracy in their findings/reports.
  - We acknowledge that the zoning code does not require an applicant to "meet with neighbors". During the December 2, 2015, hearing, the Hearing Officer commented that it would have been appropriate for the applicants to have reached out to those neighbors who live near or adjacent to the property that is being designed or built by them. We also believe that this would have been a respectful gesture to us and to all of the neighbors on Kaweah Drive. However, the Hearing Officer did not present this as a reason for his disapproving HDP #6347, and this comment is irrelevant as reason for an appeal.
  
2. **THE REVISED DESIGN:** The revised design presented in the appeal has NOT been designed to the maximum extent feasible to avoid blocking the view of the primary living areas of our home at 1827 Kaweah Drive.
  - The City Planning Staff scheduled a meeting with the applicants and us, held on Wednesday, January 20, 2016, at 11:00 a.m. for the applicants to present the redesign. After viewing the redesign and listening to the applicant presentation, I expressed dismay as to why the meeting was

scheduled when, in fact, the violations cited by the Hearing Officer in the December 2, 2015, decision were not remedied.

- Of significance at this Board of Zoning Appeals Hearing is Attachment E, HEARING OFFICER ADDENDUM, presented in the appeal materials. The Hearing Officer of December 2, 2015, states the following:

***"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 reference a 'detached garage' option that was abandoned). The applicant has chosen to locate on a particular portion of the 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."***

3. **THE APPEAL EXPLANATION:** The explanation/narrative attached to the Request for Appeal presents numerous inaccuracies:

- Paragraph 3 of page 1 of the Appeal Explanation: ***"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."***
  - This is not accurate and makes no sense. On December 2, 2015, we presented to the Hearing Officer the Topol Maps of both properties showing that Lot #16 ( our lot) as confirmed by a licensed land surveyor, Kevin Lai, runs North West, predominantly West.
  - Also, in an August 27, 2015, letter Luis Rocha, City Planner, wrote the following to Mr. and Mrs. Nicholson re: their design - after he had visited both properties: ***"As designed, it appears that the proposed residence blocks the western view of the primary living areas (living room, family room, and patio) of the abutting property to the East (1827 Kaweah Drive). Let's meet to***



***discuss this item to further clarify how the proposed residence blocks views."***

- Paragraph 4 of page 1 of the Appeal Explanation: ***"The upper floor of 1827 Kaweah Drive 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"***
  - **This is not accurate and again makes no sense. A close review of the drawings attached to the appeal explanation shows that the proposed first floor deck is 6 – 7 feet higher than the first floor elevation of our home, 1827 Kaweah Drive. In no way are the two floors at the "approximate same elevation".**
  - **To conclude that both houses and "topographies" are at the same elevation is erroneous.**
- Paragraph 5 of page 1 of the Appeal Explanation: (Site Plan, Figure 5): ***"The partial view indicated in the figures is the view through the balcony of 1835 Kaweah. Also indicated on the figures is the down hill slope of 1827 Kaweah Drive. 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."***
  - **As the Hearing Officer noted in Attachment E, this proposed design is not designed to avoid lack of compliance with the View Protection clause to the maximum extent feasible, and, in fact "avoids more reasonable alternatives."**
  - **The horizontal placement of the house and the vertical design do not achieve the goal of avoiding blocking the view from 1827 Kaweah Drive to the maximum extent feasible.**
  - **Photographs will be presented at the Board of Zoning Appeals Hearing that demonstrate that the horizontal placement of the house and the vertical design will not achieve the goal of avoiding blocking the view from our home at 1827 Kaweah Drive to the maximum extent feasible.**
- Paragraph 6 of page 1 of the Appeal Explanation: ***"The proposed upper floor 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."*

- The square footage of the upper floor of our home has no bearing on the proposed square footage of 1835 Kaweah or on the upper floor area of 1835 Kaweah.
- The lot sizes are completely different in size and design. Our lot is approximately 9000 square feet, and our home is built on 1 ¼ lots.
- What is the relevance of "modest" to the View Protection clause of the zoning code?
- Compliance with setback and height requirements does not necessarily mean compliance with the View Protection code.
- The fact is, as currently proposed, the design of 1835 is still in violation of the View Protection clause because it blocks the view of the primary living areas of our home.
- We have submitted to the Planning Department alternatives to the proposed design that would avoid blocking and encroachment on our view and privacy.
- The entire structure could be moved closer to the street and/or the decks could be redesigned, thus solving the view protection problem.

4. **THE UPPER DECK:** The redesign and location of the upper deck of the proposed residence encroaches into the field of view and privacy of our primary living areas.

- The inclusion in the revised design of an 8-foot upper deck heading north with a roof or beam designed above it continues to block the view of our primary living area and does not preserve either our view or privacy.
- In Section 17.29.010 of the Hillside Overlay District Zoning Code, Purpose of Chapter, # G, states that overlay zoning districts are intended to: ***"Provide development standards that promote development consistent with the traditional scale and character of the community, and that PRESERVE PRIVACY AND VIEWS."***
- Section E.1 of the Hillside Overlay District Zoning Code – i.e., View Protection – states that, ***"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..."***

5. ZONING ADMINISTRATOR RECOMMENDED FINDINGS: Specific findings within Attachment A as listed below and written by the Zoning Administrator continue to ignore and violate the zoning code regulations re: View Protection and Privacy. These are the same findings and statements that were made in the Staff Reports of November 18, 2015, and December 2, 2015. Basically, the Zoning Administrator and staff continue to ignore the zoning code regulations re: View Protection and Privacy.

- #3: ... "As designed, the project will not block any protected views...(Not true)
- #4: ... "The project will be constructed in such a manner as to minimize impact to surrounding property owners. The proposed project meets all adopted code requirements..." (Not true)
- #7: ... "Although the proposed house is visible from surrounding properties, the placement of the new residence would not impede the protected view of an adjoining property. "(Not true) The Zoning Administrator goes on to quote 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".
- #11: ... "The reduced setback would reduce the encroachment into the field of view of the adjacent property located at 1827 Kaweah Drive..." (Not true)
- The addition of the upper deck in the redesign does NOT avoid blocking the view of the primary living areas from the adjacent property (our home) to the maximum extent feasible, not at all. As stated by the Hearing Officer of December 2, 2015, in Attachment E of the Appeal attachments, this design still "clearly has significant adverse viewshed impacts on the adjoining home," 1827 Kaweah Drive.
- We note again that examples of proposed designs have been previously provided/shown to the applicants that illustrate that there are other options that can be utilized in designing the structure on Lot #17, options that do not violate the View Protection Clause of the Hillside Overlay Districts (Section 17.29.060.E).

6. COMMUNICATION AND FOLLOW THROUGH BY THE PLANNING STAFF  
We have expressed our serious concerns in previous communications regarding the process and the lack of communication and follow up by the Planning Staff throughout this process, beginning in mid-August 2015, and through the December 2, 2015 hearing. This continues to be a problem since the December 2, 2015, Hearing.

- At the meeting on January 20, 2016, with the applicants for HDP #6347 and the Planning Staff, Zoning Administrator Kelvyn Parker and City Planner

Luis Rocha, Mr. Parker, who prior to that date had never visited the properties, said that he would visit both sites. Receiving no response, contact, or follow up again, on Monday February 8, 2016, I telephoned the Planning Office to inquire (1) as to whether Mr. Parker would be visiting the properties, and (2) as to the status of the Staff Report for the February 17, 2016, Board of Zoning Appeals Hearing. We had received notice of the Board of Zoning Appeals Hearing scheduled for February 17, 2015, but we had not received any contact/communication from Mr. Parker since January 20. As a result of my calling the Planning Department on February 8, Mr. Parker and Mr. Rocha scheduled to visit the properties on the afternoon of Thursday, February 11, at 3:30 p.m., three (3) weeks following the January 20 meeting.

- The Staff Report and the Zoning Administrator Recommended Findings for the February 17, 2016, Board of Zoning Appeals Hearing were posted on either Thursday afternoon, February 11, or no later than early Friday morning, February 12. One has to question the thoroughness and accuracy of the Findings and the Staff Report since the Zoning Administrator had not visited either property prior to the late afternoon of February 11, and his "Recommended Findings" apparently had already been written.
- The most egregious example of the complacency of the City staff in this matter is the fact that in the original HDP #6347, the applicant submitted and certified that the slope calculation of Lot #17 was 32 degrees, and the staff accepted it. Only after months of our questioning this calculation and asking for verification of the accuracy of this assertion, did the staff determine that the slope calculation for Lot #17 was 38.6 degrees which should have resulted in the square footage of the project being reduced and which, certainly, has a relationship to the View Protection Clause, depending on the proposed design of the home. The point is: What else has not been fully verified or clarified by City Staff?
- In the current Staff Report prepared for the Board of Zoning Appeals, the staff note in the Executive Summary that, "*Staff's recommendation to the Hearing Officer was to approve the HDP since the project met all applicable development standards...*"
- During the Hearing of December 2, 2015, serious and numerous problems in the proposed design re: lack of compliance in several areas and with regard to several clauses of the zoning codes were evident. Yet the staff recommendation to the Hearing Officer was to approve HDP #6347.
- Our purpose is not to belabor again the lack of satisfactory communication and follow through by staff. Suffice it to say that based on our experience, staff communication and follow through have been less than satisfactory and can best be described as complacent throughout this process.

In closing, we refer again to these three (3) zoning standards/purposes:

- One of the standards (#C) embedded in the **Purpose of the City's Zoning Code** is **"to maintain and protect the value of property."**
- One of the purposes of the Hillside Overlay Districts is #G: **"Provide development standards that promote orderly development consistent with the traditional scale and character of the community, and that preserve privacy and views."**
- We trust that these will be the standards that will be adhered to in this matter as will Section 17.29.060.E (**View Protection**) of the Hillside Overlay Districts.

Thank you for your consideration.

Dan and Barbara Grady

February 15, 2016  
Re: Hillside Development Permit #6347

Dear Board of Zoning Appeals:

My name is Chul Paik, the property owner of adjacent lots 5481-017-018, and 5481-017-020. I have serious concerns about the following issues which will directly impact my properties:

01. The construction of the SFR on the lot 5481-017-023 (Mr. Nicholson's property) seems to prevent the future development of the lot 5481-017-018 based on the city's zoning code for view protection, and privacy requirements. His floor plan has extensive windows and balconies on both West and North sides. If his case is approved, I'd like to have a written assurance from the city of Pasadena that the lot 5481-017-018 can build a SFR from the same minimum frontage to the same depth of the lot 5481-017-023, and similar variances.

02. The new variance requested by Mr. Nicholson to reduce the front setback to 0 ft will pose very high safety risk for the vehicles outgoing from the property 5481-017-018. The drivers won't have any view of incoming vehicles from the East side as the building at 0 ft will completely obstruct the view. The Kaweah Dr is very narrow and has no sidewalks.

03. The backyard of Mr. Nicholson's proposed project shows a very high retaining wall with an extreme amount of soil being held back. This will pose a very high safety risk due to the threat of landslide and/or problems with the retaining wall. If his case is approved, the property owner of 5481-017-020 requests a written assurance from the city of Pasadena that the city will assume full responsibility for any future damages to my property, and/or safety risks to the residents due to the potential problems with the landslide and/or the retaining wall. The natural slope of the area is over 40%, and allowing such potentially dangerous and unnecessary grading should not be permitted.

04. The property 5481-017-023 can not drain storm water thru the property 5481-017-020, and dump to Sycamore Glen for his SUSMP. First, I did not grant storm drain easement to either the city of Pasadena or the property 5481-017-023. The existing easement at the easterly side of the property 5481-017-020 is for the sanitary sewer purposes only granted to the city of Pasadena. The property owner of 5481-017-020 will not grant any further easement. Additionally, the properties on Sycamore Glen already face too much stormwater threat when it rains heavily, therefore more storm drain from Kaweah Dr residence will cause greater threat to the properties on Sycamore Glen.

05. The developer of 5481-017-023 shall build the public sewer main for the entire length of the easement, along the easterly property line of 5481-017-020 with a clean out at terminal. There's already a sewer lateral from the property 5481-017-027 runing thru this easement. Allowing 2 sewer laterals to run thru this easement will bring more maintenance problems to the city and inconveniences to the property 5481-017-020. The city will actually benefit if the property 5481-017-023 builds a public sewer main as he needs his sewer to run thru this existing easement.

It is unfortunate I won't be able to participate in this hearing as I'll be out of town. The items above are the utmost importance for my and the adjacent properties. I respectfully ask to consider all the issues mentioned above if the board of appeals reverses the hearing officer's decision. Thank you.

Sincerely,



Chul Paik

Dear Mr. Rocha:

Thank you and Mr. Parker for coming out to meet with us on Thursday and for showing us the latest revision to the captioned design. As we discussed, we are still concerned with the compliance issues described in my original letter to you of November 16, 2015 (see below).

#### 1) VIEW PROTECTION - 1827 KAWEAH DRIVE

Unfortunately the new proposed design doesn't solve the view protection issues, and it directly contradicts the findings from the 12/2/15 Public Hearing. While the design has been moved further up the hill, it would still significantly obstruct the view from the primary living area of the house next door.

In the new design, the applicants have made every effort to maximize their *own* view by building large decks all around the house. However they do this at the expense and to the detriment of the next door neighbors. This would be a severe loss to the Brady's and should not be allowed.

The applicants could easily build their house to take full advantage of views both to the north and to the west *without* obstructing the views of the house next door. They have simply chosen not to do so.

(In their appeal the applicants described the Hearing Officer at the December 2 meeting as being confused over the law. We heard it quite differently. Our recollection was that he said he had been in the business for many years and had never heard anyone come up with this interpretation. This seemed to be a diplomatic way of saying it was a far-fetched way to do an end run around the View Protection Ordinance.)

#### 2) VIEW PROTECTION - 1818 KAWEAH DRIVE

The new design has added a roof top deck and stairway access tower on top of the house - which may obstruct the view from across the street as well. (This is not reflected in the drawings that were submitted as of 2/14/16.) The applicant did flag the northern and eastern extents of the proposed structure, but did not flag the garage, the front of the house, or the stairway tower for the roof top deck. We again request that the applicant be required to flag the full extents of the proposed structure so that everyone can see what they are planning.

#### 3) ALTERNATIVES

The applicants have a number of alternatives to comply with the View Protection Ordinance and the findings of the Hearing Officer. Virtually ALL the other houses on the street have been built down into the hillside and at a lower elevation. As a result, they do not block the neighbors' views. The applicants should be required to follow this exact same practice.

#### 4) TREE REMOVAL

We might point out that the City Planning recommendation says that there would be no removal of protected trees. There is clearly a large oak tree in the middle of the design that has been flagged.

It is clear that the applicants are not in compliance with the View Protection Ordinance and that their Appeal should be denied. While there has been some progress, their revised design is also not in compliance and should be disapproved. Please forward this letter to the Board of Zoning Appeals.



Thank you for your assistance.

Ron and Marianne Lamutt  
1818 Kaweah Drive  
Pasadena, CA 91105

Begin forwarded message:

**From:** Ronald Lamutt <[rhlamutt@earthlink.net](mailto:rhlamutt@earthlink.net)>  
**Subject:** Hillside Development Permit #6347  
**Date:** November 16, 2015 at 10:50:03 AM PST  
**To:** Luis Rocha <[lrocha@cityofpasadena.net](mailto:lrocha@cityofpasadena.net)>  
**Cc:** Steve Madison <[smadison@cityofpasadena.net](mailto:smadison@cityofpasadena.net)>, "Suzuki, Takako" <[tsuzuki@cityofpasadena.net](mailto:tsuzuki@cityofpasadena.net)>

Dear Mr. Rocha:

We just received notice of a public hearing on the captioned project for the construction of a 1,337 sq ft, single-family residence on a property in the San Rafael hills in West Pasadena. We were surprised to learn that the city is considering its approval with no concern over its impact on its neighbors.

1) The house next door to the proposed project is located at 1835 Kaweah Drive and is owned by Dan and Barbara Grady. The primary view from their living room is a spectacular, unimpeded view to the west. The hearing notice outlines a few relatively minor variances to the zoning regulations, but doesn't mention the fact that the project will completely destroy the view of the house next door. It also doesn't mention that it will overwhelm the house below it - with a three story structure overlooking its backyard. This could cause huge financial damage to both neighbors.

The notice also does not consider any discussion about modifying the applicants' plans. It appears that their design could easily be changed to build the same size house without destroying the neighbors' views or privacy. We've been told that the applicants have refused to consider making any changes whatsoever to their design.

The whole purpose of the View Protection section of the Pasadena Zoning Code is to protect neighbors from exactly this type of construction. We believe it is the city's responsibility to enforce the code and to decline the applicants' current request.

2) When the application was being considered for the lot two doors west of this one, they were required to put up a flagged, 2x4 structure to show where the house would be built. This applicant has not put up such a structure. We own the house directly across the street and to the south of the site. We request that this applicant be required to flag the extents of the proposed construction so that we can determine its impact on our own primary view.

3) We might also point out that the design itself will significantly detract from the character of the neighborhood. With a few exceptions, most houses in the area are ranch style homes built in the 1950's and updated over the years. The new design just creates 3 square boxes stuck into the hillside. It seems unlikely that the applicant has any plans to actually move into the house.

Thank you for your assistance.

Ron and Marianne Lamutt  
1818 Kaweah Drive  
Pasadena CA 91105

Dear Mr. Rocha -

After our meeting last Thursday, I was greatly surprised on Saturday when I read Mr. Parker's recommendations to the Board of Zoning Appeals.

While the recommendation is many pages long, it ignores the main issue we discussed - which is the violation of the View Protection Ordinance. It also recommends that the findings of the Hearing Officer at the Public Hearing on December 2, 2015, be overturned, without addressing the problems that he raised.

#### VIEW PROTECTION

While the applicants have moved the proposed house closer to the street, they still have two large decks and a roof cover protruding into the neighbor's view. The proposed design would significantly obstruct the view from the primary living areas of the house next door at 1827 Kaweah.

The applicants have also added a rooftop deck and stairway access tower on top of the building. This addition has not been flagged, but would probably obstruct our view across the street at 1818 Kaweah. We believe this should be flagged to determine its impact.

In several different areas the staff report says that the applicant is in compliance with the View Protection ordinance. This is clearly not the case, and the construction of the planned design would be a great detriment to the neighbors.

#### ALTERNATIVES

The staff report outlines numerous restrictions on the size of house allowed on a steep, 5,000 square foot lot, but then goes to great lengths to exclude parts from the total.

As near as we can tell from the plans, the applicant is planning to build 2,300 square feet of floor space (including the top floor, middle floor, basement and garage) and about 1,200 square feet of decks (on the roof and the north and west sides of the house). Depending on whether the garage or stairway tower count as a separate story, it would be either a 3 or 4 story building. Any way it is counted, it would be a very large structure on such a small lot.

Almost every house on the street is built into and terraced down the hillside to lower the elevation from the street level. The upper floor of the proposed design is approximately 10 feet higher than the upper floor at 1827 Kaweah. The decking (and roof cover) off this floor would substantially block the view next door. If the applicants were to dial back on the size of the house (and decks) and lower its elevation by about 10 feet, they could still build a very attractive house with great views to the north and west - without obstructing the view of the neighbors.

#### BOARD OF ZONING APPEALS

It is clear that the applicants are not in compliance with the View Protection Ordinance and that their Appeal should be denied.

While there has been some progress, their Revised Design is still not in compliance, and it should also be disapproved.

Please forward this letter to the Board of Zoning Appeals.

Thank you.

Ron and Marianne Lamutt  
1818 Kaweah Drive  
Pasadena, CA 91105

**Sweeney, Jessica**

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**From:** asecoman <asecoman@aol.com>  
**Sent:** Wednesday, February 17, 2016 4:02 PM  
**To:** Sweeney, Jessica  
**Subject:** Fwd: HDP #6347

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

**From:** asecoman <asecoman@aol.com>  
**Date:** 2/17/2016 3:13 PM (GMT-08:00)  
**To:** [Irocha@cityofpasadena.net](mailto:Irocha@cityofpasadena.net)  
**Subject:** HDP #6347

We are Arthur and Ruth Drye and we live at 1876 Kaweah Dr, just around the bend from the proposed development at 1835 Kaweah Dr. Having lived on Kaweah Dr for 43 years we have seen many new homes built on our street. Of the approximately 17 new homes built, not one has blocked the views of the adjoining property.

View protection and preservation of property value are two of the paramount tenants of the Zoning Code. The hearing officer at the original public hearing of this project correctly determined that the proposal would have a detrimental effect on the adjoining property. From what we can determine from the new plans, nothing has changed to address these concerns.

We urge you to help us preserve the character of the San Rafael hills, to follow the legal mandates of the Zoning Codes, and to reject this request for variance and to uphold the decision at the original hearing.

Respectfully,

Arthur and Ruth Drye  
323-254-1082

Sent from my Verizon Wireless 4G LTE smartphone