

CORRESPONDENCE

Jomsky, Mark

From: Ronald Lamutt <rhlamutt@earthlink.net>
Sent: Tuesday, April 26, 2016 12:21 AM
To: Jomsky, Mark
Subject: Pasadena Hillside Development Permit #6347

Honorable Mayor and City Council
Pasadena City Hall
100 North Garfield Avenue
Pasadena, CA 91109

Re: Hillside Development Permit #6347 - Appeal Hearing May 2, 2016

Dear Honorable Mayor and City Council:

My wife and I live directly across the street from the applicants' lot on the captioned hillside development permit request. We and most of the neighbors have participated in all the public hearings to date to try to prevent the applicants from severely damaging Dan and Barbara Grady, the owners of the house next door.

PRIOR PUBLIC HEARINGS. There have been three public hearings before a public Hearing Officer and the Zoning Board of Appeals. The applicants' permit was declined all three times. All three reviews found that the applicants had not done the maximum feasible to avoid obstructing the Grady's view. It now seems clear that the applicants have no intention of complying with the View Protection Ordinance, until they are unequivocally required to do so.

PRIOR DESIGN PLANS. The applicants have submitted at least four design plans, each of which, would significantly obstruct the view from the Grady's living room. They have made no serious effort to remove their structures from the Grady's view.

The first design placed a 40 ft wide by 20 ft high blank wall just opposite the Grady's living room windows. They then moved the structure toward the south end of their lot, but left the corner of the building and a 32x8 ft deck, above eye level, just opposite the living room. The Zoning Board of Appeals gave the applicants another 30 days to revise their design to remove the view obstruction.

The applicants responded with a ludicrous change to leave the building exactly where it was and to remove 2 feet off the end of the 32x8 foot deck. Since the Grady's would be looking almost straight on at the end of the deck, pushing the deck back 2 feet would make virtually no difference whatsoever.

The Grady's would still be looking at a blank wall at the corner of the building. And they would still be looking upward at the end and bottom of a 30x8 ft deck with a solid railing, and at the sides and bottom of 6 ft roof "rafters" sticking out like a lattice over the deck.

The Board of Appeals rejected that proposal and let the original 12/3/15 declination by the Public Hearing Officer stand.

The applicants have now made another meaningless proposal leaving the building exactly where it was, but removing 4 more feet off the *end* of the deck. The Grady's would now be looking up at the same wall at the

corner of the building and at the end and bottom of the same 26x8 foot deck. This will again make virtually no difference in removing the view obstruction.

VIEW PROTECTION. At each of the three public hearings the Hearing Officer and the Board of Appeals found that the applicants' design would significantly obstruct the Grady's view and that the applicants had not done everything feasible to avoid doing so. They still have not.

Although the applicants and their attorney have repeatedly ignored and denied the view obstruction, they have never visited the Grady's house to view the extent of that obstruction. And they have made no serious effort to solve the problem.

ALTERNATIVES. The applicants have numerous alternatives to build without obstructing the view. One alternative would be to widen the house and pull the north wall another 15 to 20 feet closer to the street. One of the new neighbors, Chul Paik, did exactly that on his design for the house just next door (to the west) of the applicants' lot.

Mr. Paik recently filed a preliminary design with City Planning to build a house for his sister, Mimi Paik. His design will produce the same size house as the applicants but with the north wall and deck all within 33 feet of the south property line - or nearly 20 feet further south than the Nicholsons' design. This will will not obstruct any protected views.

Mr. Paik's design demonstrates that there is plenty of room for the applicants to change their design and locate their house on the lot without blocking the Grady's view. The city has already offered to give the applicants a variance to move their structure further south and closer to the street, but the applicants have refused to change their basic design.

The applicants could also change other design premises. They could reduce the size of the house. They could remove the north deck. Or, like most every other house along the street, they could lower the whole structure down into the hillside another 10 to 20 feet - just as the Grady's did nine years ago.

Changing the elevation of the house would allow them to build their deck at ground level instead of 10 feet higher than the Grady's living room. (This would have the added benefit of reducing the height of the structure looming over Mr. Paik's own house, which will be located on the two lots north of the applicants' lot.)

CHARACTER OF THE NEIGHBORHOOD. The applicants have proposed a square block structure with huge, wrap-around decks on both the north and west sides, and with a large, roof top deck and stairway tower on top - all to maximize their view - but all at the expense of the neighbors around them. This might be fine down at one of the densely populated beach communities, but it is completely out of character with the rest of the neighborhood here in Pasadena.

The applicants have proposed the maximum square footage possible on a small, steeply sloping lot. While they describe it as a "modest" house, when all the pieces (living area, garage and basement) are added together, it totals 2,372 sq ft of inside space with a huge 1,150 sq ft of deck space - or total usable living space of over 3,500 sq ft.

By comparison, our house across the street has one story, 1,480 sq ft and no decks. Our neighbors on either side, have 860 and 1,600 sq ft respectively. While the Grady's have a larger home - at about 2,300 sq ft - they purchased and built their house on *two* lots and spent their life savings to build it properly. They sunk the elevation of their structure over 30 feet down into the hillside to avoid blocking the view of the houses around them. They built small balconies off the living room and breakfast nook that invade no one's privacy. And they built it all without a single code variance.

LITTLE EFFORT TO FIX THE PROBLEM. While the applicants have made minor changes after each declination, they haven't made any meaningful effort to solve the problem. Instead of asking themselves how *much* they can obstruct the neighbors' view, they should be asking how to design their project *without obstructing* the neighbors' view - just as Mr. Paik has done.

VIEW PROTECTION ORDINANCE IS STRAIGHT-FORWARD. The language of the View Protection Ordinance is very clear - to design and locate new houses so that they don't block the view of their neighbors. The intent is also clear - to prevent builders from highjacking their neighbors' views in order to maximize their own. In this case, that simple, common sense approach is being bent and distorted in order to evade the intent of the Ordinance.

The diagram used to illustrate the application of the Ordinance moves the example design structure to one end of the lot in order to stagger the houses and avoid blocking the neighbor's view. That is exactly what the Grady's are asking.

Unfortunately the applicants have refused to change their basic design and have only partially moved their structure. Their design continues to extend 53 feet from the south property line, and they continue to significantly block the view from the Grady's living room.

CITY COUNCIL DECISION. The Public Hearing Officer and the Zoning Board of Appeals have each found that the applicants are not in compliance with the View Protection Ordinance. In deciding this final appeal, the City Council now has the final word in the interpretation of the Ordinance and whether it will ever be enforced.

Please decline the applicants' appeal and direct them to change their design - to remove their house, walls, decks, railings and any other obstructions from the Grady's view. It has become abundantly clear that they will not do so until it is specifically required.

Thank you for your consideration.

Ron Lamutt
1818 Kaweah Drive
Pasadena, CA 91105

16 APR 28 09:52AM

CITY CLERK

April 24, 2016

Re: Letter of support to the Nicholsons' application
[Hillside Development Permit for 1835 Kaweah Drive]

Dear Mayor and City Council Members,

I am the property owner of 1847 Kaweah Drive, two lots towards the west of the subject property that is currently under building permit plan check process. I am very familiar with the neighborhood's character, natural hillside topography as well as the Pasadena Zoning Code. Since the Nicholsons' property is within a close proximity to my property, this project has drawn my attention since the end of last year.

After carefully reviewing the hearing recordings from the Hillside Development Permit Hearing thru the last Board of Zoning Appeal Hearing, as well as the materials that were presented on the hearings, including photos presented by the Gradys' on the last Board of Zoning Appeal, I would like to state my support for the project.

Per current Pasadena Zoning Code section 17.29.060 E on View Protection, I think the proposed structure has been designed and located so that it avoids blocking views from the Gradys' living room to the *maximum extent feasible*. The Nicholsons' have shown efforts to revise the project from the original proposal presented at the Hillside Development Hearing that was blocking about 40 percent of the Gradys' *direct* view from the living room to the current proposal that blocks zero percent of the view.

In order to preserve the Gradys' view, the Nicholsons' have lost the driveway at the front setback area that could have been used for guest parking area. They don't have any private gardens on all sides because the Gradys' can see their backyard. And the biggest hardship as a property owner is that they can't build anything on about half of their property area because of the neighbor's view.

I think it will only be fair, after all the efforts they have done to preserve the Grady's view, that the Nicholsons' current proposal should be approved. Thank you for your time and consideration.

Best Regards,



Elsye Alam
Property Owner of 1847 Kaweah Drive

April 16, 2016

16 APR 28 08:52AM

CITY CLERK

Mayor Tornek and Honorable City Councilmembers:

Hello

Coming before you at the May 2nd City Council meeting is an appeal for Hillside Development Permit #6347, construction of a new single family residence in the San Rafael Hills District at 1835 Kaweah Drive. In July 2014 we wanted to realize a long time dream to build our own house from the ground up and purchased this undeveloped lot. We know you are busy and thus we will only outline the highlights of our appeal.

We are design professionals (Sonia is a licensed Architect and Landscape Architect, and Patrick is a Professional Civil Engineer). Combined we have more than 60 years of design experience. Our most notable projects in Pasadena are the Rose Bowl Aquatics Center, where Sonia was the Project Architect, and the Pasadena Gold Line where Patrick was the Design Manager.

As design professionals we have worked very closely with the members of the City's planning staff, particularly Luis Rocha, to meet the Hillside Development Standards and requirements. At each step of the process we have implemented the design suggestions of City staff and each published staff report (5 to date) have recommended approval of our project.

Our initial submittal was in September 2015. Two days before the hearing date the Zoning Administrator, Kelvin Parker, notified us that several neighbors had written letters objecting to our plans, in support of the Grady's at 1827 Kaweah, just east of our lot, who claimed we were blocking the Grady's views. Mr. Parker suggested that we move our house five feet south, towards Kaweah Drive as a compromise and ensured we would receive support from the Planning Department for this, as a minor variance is required to encroach into the twelve-foot setback. We agreed to move the house, and the hearing was postponed to December 2nd.

At the hearing the City Planner, Luis Rocha, did an excellent job presenting our project and confirming that the planning staff recommended approval of our project. Unfortunately, many neighbors had the same objections to our plans (that we were blocking the Grady's view) even though we had moved our house as suggested by the Zoning Administrator.

The Hearing Officer told us we had done a good job of working with the Planning Department, and a poor job of meeting with the neighbors – though neighborhood outreach is not a requirement for a Hillside Development Permit. He suggested that we move our house to a zero front setback.

We revised our plans again (as suggested by Mr. Novak) and moved our house to the zero lot line. We also met with the Gradys (along with Luis Rocha and Kelvin

Parker). In the meeting we showed the Gradys that our house fit within the outline they insisted on. In addition, we condensed the building footprint further in the north/south direction to ameliorate the neighbor's view conditions. These revisions resulted in a total reduction of eighteen feet in length.

We submitted these drawings to the Planning Department, erected a silhouette, and went in front of the Board of Zoning Appeals in February. Again, many neighbors showed up, all opposed to our plan on the grounds that we were blocking the Grady's view, in spite of the substantial revisions we had made.

To our disappointment, the BZA Chair, Greg Jones, stated that he had visited the Gradys and saw the silhouette of our house from their living room, but he never contacted or met with us. After discussions, the BZA continued the hearing until March so that the Planning Staff could refine their presentation to address the Zoning Code's meaning of the Grady's direct view.

We made further plan modifications by cutting a portion of the north side deck as suggested by the planning staff. In spite of all of these revisions (and the planning staff's recommendation for approval) we were denied the appeal.

We are now appealing the Zoning Board's decision to the City Council for the following reasons:

1. Our project is in compliance with the City's View Protection Zoning Code Section 17.29.060 (E), Subsection A, "*New structures...shall not be placed directly in the view of the primary living areas on a neighboring parcel*".
2. The professional designers on the City Planning staff have agreed that we are in compliance with all sections of the Zoning Code, including view protection.
3. We have moved our house so that it is not in the direct view of the Grady's at 1827 Kaweah Drive. We have condensed the building footprint and cut back the front deck to provide an open green space of 61'-4" in length. The total depth of our lot is 110'. Thus we have provided almost 60% of our property as an open space that provides a clear and unobstructed view for the Gradys.
4. A popularity contest has taken precedence over adherence to City Zoning Code. This is a private project (deemed by City staff to not have any significant negative impact on neighbors), yet our project is treated like a public project and features are up for public debate. We are now on our fifth re-design.
5. The BZA ignored the City's historical interpretation of Section 17.29.060 (E) and instead applied it to mean that the Grady's have an absolute right to an unobstructed 180-degree view, regardless of our efforts. This is contrary to the plain meaning of the Zoning Code.

6. The BZA ignored the substantial evidence we presented that supported all of the City Planning Staff's findings, and instead relied on distorted, fraudulent evidence presented by the Gradys.
7. We have not been treated fairly. We think that it is unconscionable that the BZA Commission Chair, Greg Jones visited with the Gradys and didn't meet with us. He then further prejudiced the rest of the BZA by stating that when he was in the Grady's living room he agreed with them. This is a clear violation of the City's Standard of Conduct for Commissioners under Resolution 4830.

We thus ask that you keep an open mind and objectively view the information that we will present at the hearing. In doing so you will realize that the City's Planning Staff is indeed correct, that our project is in compliance with the Zoning Code, especially the section on View Protection.

Best Regards,



Sonia and Patrick Nicholson

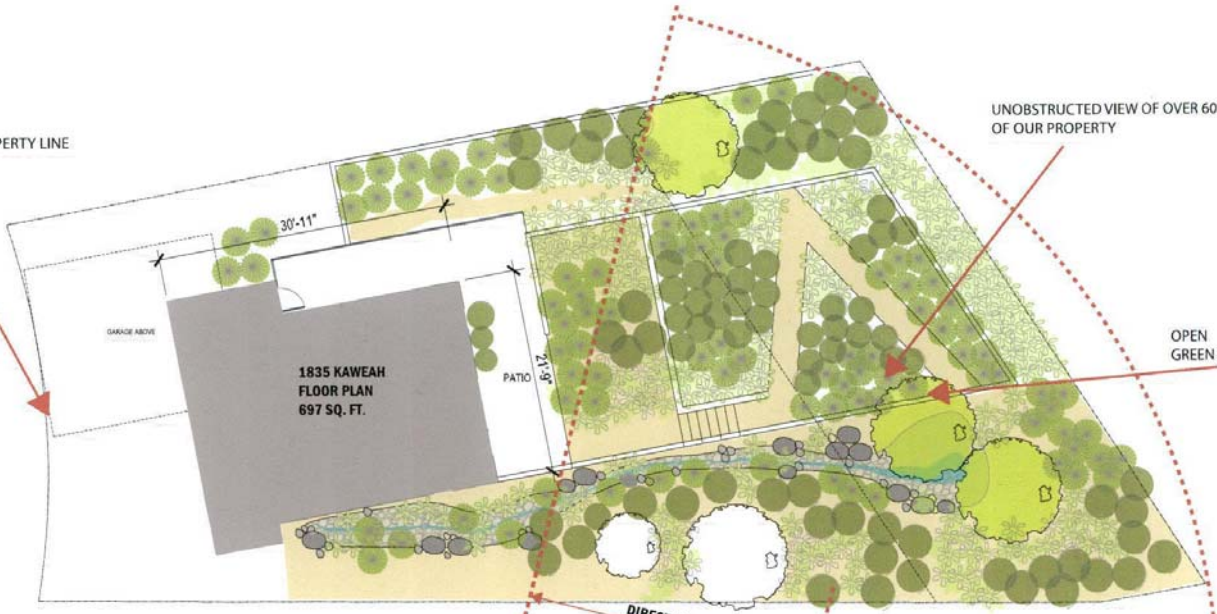
ZERO SETBACK -
GARAGE ON FRONT PROPERTY LINE

KAWEAH DRIVE

UNOBSTRUCTED VIEW OF OVER 60%
OF OUR PROPERTY

OPEN
GREEN SPACE

SITE PLAN



DIRECT VIEW
36 FT. WINDOWS

1827 KAWEAH
FLOOR PLAN
1530 SQ. FT.



**Daniel and Barbara Grady
1827 Kaweah Drive
Pasadena, California 91105**

16 APR 29 09:52AM

CITY CLERK

April 27, 2015

Honorable Mayor and City Council
Pasadena City Hall
100 North Garfield Avenue
Pasadena, California 91109

Re: 1835 Kaweah Drive – Hillside Development Permit #6347

Dear Honorable Mayor and City Council,

We know that you have many documents to review and study prior to any hearing or meeting of the City Council. We appreciate that you will read our letter as homeowners who have lived 43 years in Pasadena in the San Rafael Hills and who are affected by Hillside Development Permit #6347. From our understanding and growing knowledge over the last eight months, this Hillside Development Permit #6347 is a matter that does not comply with the City's Zoning Code and sections of the Hillside Overlay Districts.

The purpose of our letter is three-fold:

- (1) To express our continuing objections to the design of a house to be constructed on Lot #17 adjacent to our home, the current design of which remains in violation of Section 17.29.060E (View Protection) of the Hillside Overlay Districts of the City of Pasadena Zoning Code.
- (2) To invite you to visit our home and the adjacent property (Lot #17) so that you can view and observe the property, the proposed "story poles" that show the outside edge of the design, and the view obstruction from the primary living areas of our home.
- (3) To urge that you uphold the March 16, 2016, decision of the Board of Zoning Appeals that disapproved Hillside Development Permit #6347.
 - o Initially, on December 2, 2015, the Hearing Officer disapproved Hillside Development Permit #6347.
 - o On February 17, 2016, at the initial appeal hearing before the Board of Zoning Appeals, the Board of Zoning Appeals decided to continue the matter to the March 16, 2016, hearing, until the design is acceptable and to allow the applicants to revise the plans so that the deck is removed from the view shed of the primary living area of our home at 1827 Kaweah Drive
 - o Then, at the March 16, 2016, Hearing of the Board of Zoning Appeals, the BZA disapproved Hillside Development Permit #6347. As a result the decision of the Hearing Officer on December 2, 2015, was deemed affirmed along with the Hearing Officer's findings.

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 43 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. Our lot is approximately 9000 square feet, and our home is built on 1¼ lots. 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 and was in compliance with the Pasadena Hillside Overlay Districts, Section 17.29.060E (View Protection.) We also dropped the elevation of our home more than 30-feet, consistent with the other homes on Kaweah Drive.
- In building our home in 2005 we designed a single-family custom home 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.

The "History" of This Case

- This case has been and remains very difficult because of the failure of the applicant/owner to comply with rules, regulations & code requirements. The heart of this matter is not about an objection to the applicants (Mr. and Mrs. Nicholson) building a house. The problem is that from August of 2015 at the time of the submission of their initial design, they have not designed or located the structure to avoid blocking the view from our property to the maximum extent feasible. On Lot #17 there is plenty of room to build their house without obstructing our view. We are only asking that they are required to do so. They continue to make miniscule changes that do not address or solve the problem(s).
- 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."*
- We believe that the proposed structure has NOT been designed *to the maximum extent feasible* to avoid blocking the view from our home - quite to the contrary. In reviewing the various plans and design, it appears that no satisfactory or good faith effort to avoid blocking the view from our home has been made, in violation of Section 17.29.060E. The Hearing Officer on December 2, 2015, the Board of Zoning Appeals on February 17, 2016, by continuing the hearing, and on March 16, 2016, by voting to disapprove HDP #6347, affirm that the applicants have yet to comply with the code requirements.

❖ August 2015 – December 2, 2015

- In mid-August of 2015 our neighbor who is building below my property on Sycamore Glen, contacted us after he had been in the Planning Office re: his own project. Our neighbor told us that he had learned from City Planner Luis Rocha that the owner/builder of Lot #17 had submitted his plans. We then immediately called Mr. Rocha to make an appointment to meet with him and to look at the plans. We met with Mr. Rocha at his office. At this mid-August meeting with Luis Rocha, we requested that he schedule a time to come to our home to visit the site.
- In response to my request, Luis Rocha visited our home during the 3rd week of August and took photographs of our home, view, and lot. Based on the proposed design on Lot #17, Mr. Rocha made it very clear to us that the proposed structure

and design for Lot #17 was in violation of Section 17.29.060 E (View Protection) of the Hillside Overlay Districts. Mr. Rocha explained to us that it is clear there are other ways to design the house - where there is enough property to construct a 1,337 sq. ft. family residence without blocking our view and would be in compliance with Section 17.29.060E.

- It is important to note here that recently plans have been submitted by another owner to design a home on the lot (Lot #18) next to the applicants, on the west side of their property and proposed structure. Lot #18 is a similar-sized lot, and the plans the owner is designing demonstrate how a home can be designed without violating the View Protection clause of the Hillside Overlays District. The house being designed on Lot # 18 is a house slightly larger in size than the house the applicants are designing on Lot # 17 which shows that the applicants can build a house to more than their gross floor area of 1706 square feet within 34' deep and not 53' deep.
- We also have shown to Mr. Rocha and Mr. Kelvin Parker, Zoning Administrator, proposed designs for Lot #17 by the previous owner of this lot and the adjacent 4 lots, options that will not violate the View Protection Clause of the Hillside Overlay Districts (Section 17.29.060E). In mid-August when Mr. Rocha came to our home, he indicated that he was going to meet with the applicants regarding changes to the design that would not violate the View Protection clause. Mr. Rocha also said that he would contact the applicants to set up a meeting with us. At that time the applicants refused to meet with us.
- There have been continuous problems with details submitted by the applicants without staff questioning or verifying critical information. For example, in August, I learned from Mr. Rocha, based on the plans that the applicant/owner submitted, that according to the plans submitted by the owner the slope calculation for Lot # 17 was 32 degrees. I disputed this calculation at the time and for several months thereafter. The lot slope for my home is 37 degrees ; the lot slope directly below is 42 degrees; and Lot # 17 clearly had a slope calculation at least as steep as my lot. For months I requested staff to verify that the slope calculation as submitted and verified by the owner be accurately determined and verified. We know that the slope calculations affect the overall gross floor plan of the design.
- On Thursday, October 22, 2015, we met with Mr. Rocha in his office. At that meeting he told us that "his hands were tied" because the owner/builder refused to change his design and he (Mr. Rocha) could do nothing. He also said that, "The City has no way of stopping him even though your view will be compromised." Mr. Rocha showed us the file and the current design that, if allowed, will certainly violate the View Protection clause. During the meeting, we questioned again the "slope calculations" in the design for Lot #17 that allow this structure to be built in the direction the owner/builder plans to build. Luis Rocha asked us for our Permit # and Case # because he wanted to check on the "slope calculations".
- After several months, City staff verified that the slope calculation for Lot #17 was **38.6 degrees**, not 32 degrees. If this important calculation was incorrect, what other calculations submitted by the applicants are and have been incorrect?
- The applicants submit plans asserting that they - Mrs. Nicholson, an architect, and Mr. Nicholson, a civil engineer – as professionals in the field should not be questioned about what they submit and certify in their own hand. Staff seem to accept whatever the applicants submit as accurate, e.g., the slope calculations submitted by the applicant that were never questioned by staff until we insisted

they verify them because common sense alone told us that the applicants' submission were not correct. As another example, at the Board of Zoning Appeals Hearing of February 17, 2016, Chair Jones questioned the applicant as to whether the Hydrology Report was submitted and certified by an "independent" expert. The applicant said that he did not need an independent certification because he was qualified to do so. Chair Jones stated that he did not think it was appropriate for an applicant to submit his own Hydrology Report.

❖ **The Hearing Officer's Decision: December 2, 2015**

- After hearing all of the details concerning the proposed property, including a visit to the site, the Hearing Officer ruled that Hillside Development Permit #6347 be disapproved. He found that the (1) *"use, as described, would be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city, "and (2) "the design, location, operating characteristics, and size of the proposed use would not be compatible with the existing future land uses in the vicinity in terms of aesthetic values, character, scale and view protection."*
- During the hearing, the Hearing Officer encouraged the applicants to meet with us and our neighbors, a suggestion that the applicants said was not important to them and was not required.

❖ **The Board of Zoning Appeal and Hearing, February 17, 2016**

- **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 and reports.
- We also acknowledge and understand 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.

- **THE REVISED DESIGN:** Prior to the Board of Zoning Appeals Hearing on February 17, 2016, the applicants submitted revised design plans, including reducing the length of the building and moving the structure up to the property line. However, they included two 8-foot decks (an upper and lower), 32-foot long, that jut out directly in the View Protection corridor of our home.
- The revised design presented in the appeal was not 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, we 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 on February 17, 2016, was Attachment E, HEARING OFFICER ADDENDUM, presented in the appeal materials. In Attachment E, the Hearing Officer of December 2, 2015, stated 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."

- In the redesign presented for the February 17, 2016, Appeal Hearing before the Board of Zoning Appeals, the applicants left in the redesign an 8-foot wide, 32-foot

long, upper deck of the proposed residence, an upper deck with a roof designed above it that continued to encroach into the field of view and privacy of our primary living area, our living room.

- We note again that examples of proposed designs that have been previously provided/shown to the applicants 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.
- On February 17, 2016, the Board of Zoning Appeal decided to continue the matter to March 16, 2016, and gave direction to the applicant to explore designs to locate the deck (or not include it at all) so that it would not impede the protected view.

❖ **The Board of Zoning Appeals Hearing, March 16, 2016**

- At the conclusion of the Appeals Hearing on March 16, 2016, the Board of Zoning Appeals disapproved the motion to approve Hillside Development Permit # 6347. As a result, the decision of the Hearing Officer on December 2, 2016, was deemed affirmed along with the Hearing Officer's findings.
- What we want to point out here is that following the direction of the Board of Zoning Appeals in February to the applicants to redesign the deck(s) and their location prior to the March 16, 2016, BZA Hearing, the applicants took off 24 inches (2 feet) on the length of the east side of the upper deck, not decreasing it by width but just the length. The 8-foot width continues to block the view and not comply with the View Protection order.
- Yes, the applicants have made adjustments: the 1st after the December 2 Hearing Officer decision when they moved the design forward to the property line but leaving 8-foot decks at the back side of the house directly in line of our view from the primary living areas of our home; the 2nd after the BZA direction on February 17, 2016, to fix the problem now caused by the 8-foot decks to present to the BZA a proposed miniscule re-design of taking of 24 inches of the length, not the width, of the upper 8-foot deck.
- The decision to disapprove Hillside Permit #6347 on March 16, 2016, was based on the majority of the Board of Zoning Appeals finding that the changes did not solve the problem that continues to violate the zoning codes.

❖ **Other Issues**

- **"Story Poles"**: Beginning in October of 2015, we had been requesting that "story poles" be installed to show the outside edge of the design, but we were told the applicants were not required to do this. Sometime in March, prior to the March 16, 2016, BZA Hearing, the applicant himself installed "story poles" to show the outside edge of the design. How does anyone know if the "story poles" installed by the applicant accurately reflect the design? What basis of measurement has been used by the applicant to install the "story poles"? Has placement of the "story poles" been verified or certified as accurate and consistent with the design? Is this like the slope calculations – trusting the applicant because he is a civil engineer and whatever calculations or installations or reports he presents are accurate because he is a civil engineer? Should a survey monument be utilized – by a professional land surveyor – as a means of visualizing the corners or edge of the design?

The horizontal "story pole" installed in March – the one that reflects the actual extension of the deck - was removed by the applicant on the week-end of April 16, and then another one was reinstalled by the applicant on Saturday, April 23. Luis Rocha, City Planner, visited our home on Thursday, April 21, and told us that he was going to contact the applicants and tell them that they had to reinstall the story pole consistent with the latest design. The latest design still reflects the 8-foot deck. The applicants have removed 4-feet off of the length of the deck, but have not changed the width of the deck at all: the deck still juts out into the protected view of our living room.

- Attached with this letter are photographs taken from our primary living area , our living room, that show the most recent "story poles" and their affect, if these accurately reflect the outside edge of the design.
Attachments A, B, C, and D

○ **Response to the applicant's Attorney, Mr. McDonald's, Mischaracterizations Concerning the Location of the Applicants' Proposed Designs (March 14, 2016, letter):**

- We would like to speak specifically to the attorney's letter to the Board of Zoning Appeals. He described us as "uncooperative and constantly changing the goal lines". (In this hearing Mr. McDonald also publicly referred to Mrs. Grady as lying and fraudulent. At one point in the Hearing one of the BZA Hearing Officers told Mrs. Grady that he did not believe that she was a liar or fraudulent, and he apologized for the comments). Mr. McDonald's assertions/statements could not be further from the truth. I, Mr. Grady, have mentioned in conversation and other correspondence numbers re: how many feet from the front property line our house and windows begin, etc. as a means of pointing out the importance of the applicant's responsibility to provide accurate measurements. As the retired home owner, I have given numbers as best guesses and approximations. Frankly, it seems clear that the applicants are the parties who have the responsibility and burden of providing accurate numbers re: the proposed design. It is preposterous to believe and accept that a professional architect and engineer would rely on any numbers without a survey and minus verifying accuracy of numbers as a basis to support their design.

- **"The Blue Arrows":** The staff have been using "blue arrows" to show what they define to be the view corridor. The "blue arrows" shown in the hearings do not accurately show the impact on the view from the primary living area of our home at 1827 Kaweah Drive. The View Protection ordinance language is very clear re: not obstructing the view of the primary living areas, in our case, the living room of our home. The blue arrows do not represent reality. What one sees out of our primary living area as you look out is reality, not blue arrows. The language of the View Protection ordinance is common sense language. One only gets the "blue arrows" view by distorting the language of the View Protection clause and by slicing and dicing the definition in the ordinance. The View Protection language is very clear about designing proposed structures to the maximum extent feasible so as not to block the view of the primary living area. Clearly, the applicants have not done this.

The view is what you see by looking directly out of the windows of our primary living area, our living room.

Concluding Thoughts

- The key question that requires consideration and addressing is whether the applicants' *"proposed structure has been designed and located so that it avoids blocking views from surrounding properties to the maximum extent feasible."* (Pasadena Hillside Overlay Districts, Section 17.29.060E (View Protection), especially in light of other alternatives clearly available.
- Throughout the last 6 – 8 months, the applicants and/or their attorney continually claim that they have complied with the code requirement, even when in December of 2015 their design was flagrantly in violation of the zoning codes and Hillside Overlay Districts. Since December the changes to the proposed structure have been miniscule and have not addressed the code violation.
- Another question is the use of the "blue arrows" as a means of demonstrating that the view from our primary living area, our living room, is not obstructed. As we noted above, these arrows are not tied to reality and do not represent commonsense, and they are not contained in the View Protection ordinance. The view from our primary living area is what you see by looking directly out of the windows of our primary living area, especially our living room.

Our Request

We respectfully request that you review the proposed design and structure for Lot #17 and that you uphold the December 2, 2015, decision of the Hearing Officer.

- 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

Exhibit A - View from the Grady's Living Room

- shows view from center of living room looking directly out the windows
- clearly shows the vertical "story pole" for the NE corner of the house
- clearly shows the *new* horizontal story pole for the bottom of the deck



Exhibit B - Same Picture but adds overlay of Nicholson's Design

- the story poles are still visible
- removing 6 ft from the end of the deck makes little difference
- house and deck still extend 53 feet from the South property line
- both house and deck still significantly obstruct the Grady's view





Exhibit C - Picture from Sofa with overlay of Nicholson's Design

- story poles are still visible
- shows significant view obstruction even from across the room
- this is what the Grady's would see every single day
- the View Protection Ordinance is specifically to prevent this
- the City Council should not let this happen

Exhibit D - Plot Plan Drawing - Alternative for Nicholsons

House Locations on Lots

- Grady's existing house - at lower elevation toward North end
- Nicholsons' design - extends 53' from South end, blocks Grady's view
- Mimi Paik's design - extends 33' from South end, blocks no views

Alternative Approach

- Mimi Paik's house is the same size, but with a much smaller footprint
- Nicholsons can change their design to do exactly the same thing
 - Can change design to extend 34' from South end of lot
 - Can lower elevation into the hillside
 - Can build the same size house without blocking neighbors' views or invading their privacy

City of Pasadena Zoning Code
17.29 - Hillside Overlay District

17.29.010

G. Provide development standards that promote orderly development consistent with the traditional scale and character of the community, and that preserve privacy and views

17.29.060

C.2. Privacy - surrounding lots. Windows, balconies, and outdoor living areas generally shall be located to protect the privacy of adjacent homes and yards.

17.29.060

E. View protection. A proposed structure shall be designed and located so that it avoids blocking views from surrounding properties to the maximum extent feasible, ...

