

Agenda Report

May 2, 2016

TO: Honorable Mayor and City Council
FROM: Planning and Community Development Department
SUBJECT: **APPEAL OF THE BOARD OF ZONING APPEALS' DECISION ON
HILLSIDE DEVELOPMENT PERMIT #6347
1835 KAWEAH DRIVE**

RECOMMENDATION:

It is recommended that the City Council:

1. Adopt the Environmental Determination that the proposed project is exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, Class 1 §15303, New Construction or Conversion of Small Structures); and
2. Overturn the Board of Zoning Appeals' decision and approve Hillside Development Permit #6347 with a Minor Variance for a reduced front yard setback.

EXECUTIVE SUMMARY:

On March 16, 2016, the Board of Zoning Appeals (BZA) considered, at its regularly noticed hearing, an appeal of Hillside Development Permit (HDP) #6347. The request was to allow the construction of a new 1,339 square-foot, two-story, single-family residence and an attached 367 square-foot garage, on a vacant lot, in the RS-6-HDSR (Single-Family Residential, 0-6 lots per acre, Hillside Overlay District, San Rafael Area) zoning district. In addition to the HDP, the applicant requested a Minor Variance to allow the residence to provide a reduced front yard of zero feet, where the minimum required is 12 feet.

At the conclusion of the public hearing, a motion was made to approve the Hillside Development Permit. The motion to approve failed as the vote of the BZA resulted in a two-to-three vote by the five members present. No further motions were made. As a result, no action was taken on the Hillside Development Permit by the BZA. Pursuant to, Section 17.72.070.B.5 (Failure to Act) of the Zoning Code, since the BZA failed to

act on an appeal, the decision of the Hearing Officer to disapprove the Hillside Development Permit was deemed affirmed (Attachment D). A failure to act by the BZA is considered a decision and may be appealed.

On March 24, 2016, Richard McDonald, Esq., on behalf of the applicant Mr. Patrick Nicholson, submitted an appeal application (Attachment C) to the City Council citing a disagreement with the decision of the Board of Zoning Appeals. The hearing before the City Council is a de novo hearing where the Council has no obligation to honor the prior decisions and has the authority to make an entirely different decision.

Staff recommends that the City Council overturn the BZA March 16, 2016, decision and approve Hillside Development Permit #6347 (Attachment A).

BACKGROUND:

Hearing Officer Public Hearing

The application was originally presented to the Hearing Officer at a public hearing on December 2, 2015 (Attachment L). Staff's recommendation to the Hearing Officer was to approve the HDP since the project met all applicable development standards. Five letters in opposition, prepared by adjacent neighbors, were received prior to the hearing. Eight residents spoke at the hearing in opposition to the project. The main reason stated for opposing the project was the view impact the proposed residence would have on the existing residence located at 1827 Kaweah Drive.

At the conclusion of public testimony, the Hearing Officer decided to disapprove the HDP. The Hearing Officer determined that the proposed residence was designed and located in such a manner that it would impede the protected view of the existing residence located at 1827 Kaweah Drive. This decision was based on the findings in Attachment K (Decision Letter) to this report. As a result, the Hearing Officer was not able to make the findings to support the project and disapproved the HDP.

On December 8, 2015, the applicant, Mr. Patrick Nicholson, submitted an appeal application (Attachment I) to the BZA citing a disagreement with the decision of the Hearing Officer.

Board of Zoning Appeal's Public Hearing

On February 17, 2016, the BZA considered, at its regularly noticed hearing, an appeal of HDP #6347 (Attachment G). At that meeting, the BZA was presented with revised development plans that were prepared in an attempt to address the concerns and the issues that were raised at the Hearing Officer public hearing of December 8, 2015; specifically as it relates to the view impact the proposed project would have on the adjoining property to the east (1827 Kaweah Drive). Six speakers spoke at the BZA hearing in opposition to the project. The main reason stated for opposing the project

was the view impact the proposed residence would have on the adjoining property to the east.

In an attempt to preserve the view of the adjoining property, the applicant revised the project presented to the BZA so that the proposed residence would not be placed directly in the protected view of the adjoining property. To achieve this, the applicant:

- 1) Reduced the overall length of the building by approximately six feet;
- 2) Moved the building up to the property line, eliminating the 12-foot front setback; and
- 3) Moved the mass of the building 10'-12' west, away from the adjoining property.

At the conclusion of the meeting, and after hearing public testimony, the BZA decided to continue the matter to the March 16, 2016 hearing to allow the applicant an opportunity to revise the plans by modifying the length of a proposed deck on the second floor. The BZA provided direction to explore designs to locate the proposed deck in a manner so that it would not impede into the protected view of the adjoining property to the east.

On March 16, 2016, the BZA considered revised development plans that reduced the length of the second floor deck by two feet (Attachment E); further moving it away from the adjacent property to the east. At the conclusion of the public hearing, a motion was made to approve the HDP. The motion to approve failed as the vote of the BZA resulted in a two-to-three vote by the five members present. No further motions were made. As a result, no action was taken on the Hillside Development Permit by the BZA. Therefore, per Section 17.72.070.B.5 (Failure to Act) of the Zoning Code, the decision of the Hearing Officer to disapprove the Hillside Development Permit was deemed affirmed (Attachment D).

On March 23, 2016, Richard McDonald, Esq., on behalf of the applicant Mr. Patrick Nicholson, submitted an appeal application (Attachment C) to the City Council citing a disagreement with the decision of the BZA.

ANALYSIS:

Hillside Development Permit: Construction of a 1,339 square-foot, two-story single-family residence with a 367 square-foot attached two-car garage.

Development Standards

Gross Floor Area:

In the RS-6-HD-SR zoning district, the maximum allowable gross floor area, which includes all covered parking spaces, accessory structures and enclosed space, is 27.5 percent of the lot area plus 500 square feet. For a lot of 10,000 square feet or more in the Hillside Overlay District, any portions of the lot with a 50 percent slope or more, and any access easement on the lot must be deducted from the lot area for calculating the

maximum allowable gross floor area. If the average slope of the lot area exceeds 15 percent, the maximum allowable gross floor area shall be further reduced in compliance with the slope reduction formula as described in Section 17.29.060.A.4 of the City's Zoning Code.

According to the application package, the subject site measures 5,356 square feet, less than 10,000 square feet, and there are no access easements on the lot. However, the subject site has an average slope of 38.6 percent and is subject to the slope reduction formula as described in Section 17.29.060.A.4 of the City's Zoning Code.

Based on the floor area calculation, including application of the slope reduction formula, the maximum allowable gross floor area for the site is 1,740 square feet. The total gross floor area, including the attached garage, would be 1,706 square feet and is in compliance with the allowable floor area for the site.

Lot Coverage:

In addition to the maximum allowable gross floor area requirement, the site is also subject to maximum lot coverage requirement. The maximum allowable lot coverage sets limits on the footprint of all covered structures (enclosed or unenclosed) and overhangs extending more than three feet of up to 35 percent of the lot area. The maximum allowable lot coverage for the subject 5,356 square-foot lot is 1,875 square feet. The proposed lot coverage for this site would be 1,495 square feet or approximately 28 percent of the lot area. The proposed project is in compliance with the lot coverage requirement.

Setbacks:

Within the San Rafael Area of the Hillside Overlay District, the front setbacks are governed by Table 2-9 of the City's Zoning Code. Pursuant to Table 2-9, the minimum front yard setback for the subject site is 12 feet. The proposed garage, attached to the residence, would be built up to the front property line. Due to the topography of the site, and in an effort to respond to concerns related to view protection, the applicant is requesting a Minor Variance to allow the proposed residence to be built up to the property line, adjacent to Kaweah Drive.

The minimum required interior side yard setback is 10 percent of the lot width, with a minimum of 5 feet, and a maximum of 10 feet. The lot width is approximately 47 feet; therefore, the minimum required side yard setback is five feet, as measured from each side property line or nearest top or toe of slope, whichever is closer. As proposed, the new residence would provide a side yard of five feet along both side property lines; thus the proposed project is in compliance with the minimum side yard setback requirement. The minimum required rear yard setback is 25 feet. The residence is proposed to be set back approximately 50 feet from the rear property line, therefore in compliance with the minimum rear yard setback.

Furthermore, the proposed project is subject to the encroachment plane requirement per Section 17.40.160.D.1 of the Zoning Code. The Zoning Code requires residences not to be located within a side setback encroachment plane sloping upward and inward to the site at a 30-degree angle measured from the vertical, commencing six feet above the existing grade along the interior side property line. No portion of the proposed residence encroaches into the encroachment angle.

With the exception of the reduced front yard setback, the proposed project is consistent with the setback and encroachment plane standards.

Height:

The maximum allowable height for properties in the Hillside Overlay District is 28 feet at any point with a maximum overall height of 35 feet, measured from the lowest point to the highest point of the structure. The maximum overall height of the proposed project is 34 feet. The highest at-any-point height of the new building would be 28'-6". The proposed project is in compliance with both height requirements.

Parking:

The Zoning Code requires two covered parking spaces for a single-family residence. The applicant is proposing a new two-car garage attached to the front elevation of the proposed residence. Because the property is located within the San Rafael Area of the Hillside Overlay District, the required uncovered off-street guest parking spaces as required per Section 17.29.050.G do not apply. The proposed project meets the parking requirements of the Zoning Code.

Neighborhood Compatibility:

The Hillside Overlay District requires that all projects subject to an HDP comply with the Neighborhood Compatibility guidelines. These guidelines are intended to ensure that the proposed project is designed to be in-scale and compatible with existing single-family residential development within the vicinity. The "neighborhood" is defined as the area within a 500-foot radius of the project site. In addition to the floor area ratio requirements of the Zoning Code, the total habitable area of the project shall not exceed the Neighborhood Compatibility threshold, which is established by calculating 35 percent above the median floor area of the existing houses within a 500-foot radius of the site. This square footage excludes garages and accessory structures.

There are 87 parcels within the City developed with single-family residences within a 500-foot radius of the site. According to records from the Los Angeles County Assessor, the median floor area of these residences is 1,508 square feet (excluding garages and other accessory structures). Thirty five-percent above this median is 2,036 square feet. The total habitable floor area of the project is 1,339 square feet; the proposed 666 square-foot basement is not included in the floor area.

The proposed habitable area of 1,339 square feet is within the Neighborhood Compatibility threshold. The proposed project complies with the Neighborhood Compatibility requirement.

Architecture and Setting

The existing residences in this neighborhood were built with varying architectural styles over different time periods, which resulted in no dominating architectural style for the neighborhood. The proposed single-family residence is contemporary in design. The exterior of the building would be treated mainly with Hardie Plank smooth-faced lap siding, up to the roof parapet. Section 17.29.060.C.4.a of the Zoning Code requires the use of darker tones, including earth tones for building walls and roofs. The proposed colors for the residence are brown for the exterior walls and maroon for the window frames, trellis and fascia. The proposed design, materials, and color palette are consistent with the applicable design criteria (architectural features) for the Hillside Overlay District.

While the house is designed with two-stories, when viewed from Kaweah Drive, the house appears to be one-story; with the garage being the main portion of the structure visible from the street. The majority of the residence is sited behind garage, at a lower elevation that is approximately 15 to 20 feet below Kaweah Drive. The residence is designed to step down and follow the downward slope of the site.

The new residence would comply with the ridgeline protection standards of the Zoning Code. There are no ridgelines adjacent to the subject property. Therefore, no part of the proposed residence would appear silhouetted against the sky above a ridge when viewed from a public street or park.

View Protection

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. Section 17.29.060.E (View Protection) of the Zoning Code states that a proposed structure shall be designed and located so that it avoids blocking views from surrounding properties to the maximum extent feasible, as determined by the review authority. Specifically, new structures shall not be placed directly in the view of the primary living areas on a neighboring parcel. "Primary" living area refers to living rooms, family rooms, patios, but not a kitchen, bedroom, or bathroom.

The adjoining property to the east (1827 Kaweah Drive) was designed with primary living areas, with an extensive window system, facing west-northwest on looking towards the city of Glendale. The proposed residence would be sited so that it is not placed directly in the view of the primary living areas of the adjacent property and avoids blocking the view of the adjoining property to the maximum extent feasible. The proposed residence would provide a zero front setback in an attempt to move the building mass away from the field of view of the adjoining property and not block the

protected view. The proposed plans now illustrate that the deck, in question in the March 16, 2016 BZA hearing, has been further reduced in length by a total of six feet. With this reduction, it is staffs assessment that no portion of the proposed residence, and its deck, are placed directly in the view of the primary living areas of the adjoining property to the east.

The two adjoining properties to the west of the proposed project site, along Kaweah Drive, are currently vacant with no primary structures. The properties directly to the south, across Kaweah Drive, are sited at an elevation of approximately 20 feet above Kaweah Drive and would maintain the existing views to the north because the majority of the proposed residence is sited below Kaweah Drive and follows the downward slope of the site.

In order to assist staff with the analysis of the proposed project, the applicants constructed a partial silhouette delineating the portions of the proposed residence in questions of obstructing the protected view of the adjacent property to the east located at 1827 Kaweah Drive. Based on a site visit, and analysis of the proposed development plans, staff is of the opinion that the redesign of the proposed residence has been designed so that is not placed directly in the view of the primary living areas of the adjoining property to the east to the maximum extent feasible. With the exception of the requested variance, the proposed residence will be in compliance with all applicable development standards, including maximum allowable floor area, Neighborhood Compatibility, lot coverage, remaining setbacks, building height, and off-street parking requirements of the zoning district

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

Pursuant to Section 17.29.100, Table 2-9, the minimum front yard setback for the subject site is 12 feet. Due to the topography of the site and the view protection requirements of the Zoning Code, the applicant has requested to design the proposed residence so that it is built up to the front property line.

Staff finds that there are exceptional or extraordinary circumstances or conditions applicable to the subject site that does not apply generally to sites in the same zoning district. The subject property is characterized by a steep descending slope; where the elevation difference between the front of the lot and the rear is approximately 40 feet. Furthermore, there is an existing adjacent residence with an extensive window system that is oriented towards the subject site. The subject property is located in an RS zoning district within the Hillside Overlay District and is subject to the view protection requirements of the Zoning Code; whereas RS properties outside of the Hillside Overlay District are not subject to such a standard.

The reduced front yard setback would not be harmful or detrimental to surrounding properties and to other residences in the immediate neighborhood. The reduced setback would reduce the encroachment of the new structure into the field of view of the

adjacent property located at 1827 Kaweah Drive. In addition, the reduced front yard setback would reduce grading impacts to the slope as the residence would be sited further up the slope. Furthermore, the reduced front setback would not result in the granting of a special privilege to the applicant as there are residences along Kaweah Drive with minimal front setbacks due to the topography of the area.

GENERAL PLAN CONSISTENCY:

The subject site is designated as Low Density Residential in the General Plan Land Use Element. The use of the site would be a single-family residence; therefore, the character of the single-family neighborhood would be maintained. Policy 21.9 of the General Plan Land Use Element is to “maintain appropriate scale, massing and access to residential structures located in hillside areas.” Policy 7.1 discourages “mansionization” by requiring building scale and massing that is compatible with existing development in single-family residential neighborhoods and Policy 4.11 requires that development demonstrates a contextual relationship with neighboring structures and sites addressing such elements as building scale, massing, orientation, setbacks, buffering, the arrangement of shared and private open spaces, visibility, privacy, automobile and truck access, impacts of noise and lighting, landscape quality, infrastructure, and aesthetics. The proposed livable area of the project is 1,339 square feet and within the Neighborhood Compatibility threshold. As designed, the project would not block any views, and is in compliance with the ridgeline protection standard. Furthermore, as designed, the proposed project would be compatible with the surrounding neighborhood.

ENVIRONMENTAL ANALYSIS:

This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15303, Class 3, New Construction or Conversion of Small Structures). This exempts from environmental review the construction of limited numbers of new, small facilities or structures. Section 15303(a) specifically exempts the construction of one single-family residence in a residential zone. The proposed project involves the construction of one single-family residence in the RS-6-HDSR zone, a residential zone. The use of the site would be as a single-family dwelling.

CONCLUSION

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

FISCAL IMPACT:


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

Respectfully submitted,



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Attachments:

Attachment A – Specific Findings

Attachment B – Conditions of Approval

Attachment C – Appeal Application of Board of Zoning Appeals' decision received
March 24, 2016

Attachment D – Board of Zoning Appeals Decision Letter dated March 23, 2016

Attachment E – Board of Zoning Appeals Staff Report dated March 16, 2016 (Without
Attachments)

Attachment F – Correspondence Received for the March 16, 2016 Board of Zoning
Appeals meeting

Attachment G – Board of Zoning Appeals Staff Report dated February 17, 2016
(Without Attachments)

Attachment H – Correspondence Received for the February 17, 2016 Board of Zoning
Appeals meeting

Attachment I – Appeal Application of Hearing Officer's decision dated December 8,
2015

Attachment J – Hearing Officer Addendum

Attachment K – Hearing Officer Decision Letter dated December 7, 2015

Attachment L – Hearing Officer Staff Report dated December 2, 2015 (Without
Attachments)

Attachment M – Correspondence Received for the December 2, 2015 Hearing Officer
meeting