

**ATTACHMENT E**  
**BOARD OF ZONING APPEALS STAFF REPORT DATED SEPTEMBER 6, 2017**  
**(WITHOUT ATTACHMENTS)**



**PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT**

**STAFF REPORT**

**DATE:** SEPTEMBER 6, 2017  
**TO:** BOARD OF ZONING APPEALS  
**FROM:** KELVIN PARKER, PRINCIPAL PLANNER/ ZONING ADMINISTRATOR  
**SUBJECT:** APPEAL OF HEARING OFFICER'S DECISION;  
MODIFICATION TO HILLSIDE DEVELOPMENT PERMIT #6303  
800 FAIRFIELD CIRCLE

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**RECOMMENDATION:**

It is recommended that the Board of Zoning Appeals:

1. Adopt a determination that the proposed action is exempt from the California Environmental Quality Act (CEQA) under Section 15301 (Existing Facilities) of the State CEQA Guidelines; and
2. Overturn the Hearing Officer's decision and approve the Modification to Hillside Development Permit #6303.

**EXECUTIVE SUMMARY:**

On May 17, 2017, the Hearing Officer considered, at its regularly noticed hearing, Modification to Hillside Development Permit (HDP) #6303. The request was to allow the conversion of 2,621 square feet of unimproved basement area into habitable space and increase a detached pool bathroom by 12 square feet. The original approved project consisted of a 4,492 square-foot residence, a 280 square-foot basement, a 620 square-foot garage and a 45 square-foot accessory structure (pool bathroom) for an approved gross floor area of 5,437 square feet. The requested modification would increase the floor area to 8,070 square feet. The Hearing Officer also considered a Variance application to allow 8,070 square feet of gross floor area, where the maximum permitted is 5,469 square feet.

Staff's recommendation to the Hearing Officer was to approve the Modification to the HDP and the Variance since the project met all applicable development standards, with the exception of the Variance, and that the findings necessary for approving the Variance could be made. At the conclusion of the meeting, and after hearing public testimony, the Hearing Officer determined that the findings for the Modification to the HDP and the Variance could not be made. As a result, the Hearing Officer disapproved the request (Attachment D).

On May 30, 2017, the applicant, James Coane and Associates, submitted an appeal application (Attachment E) to the Board of Zoning Appeals citing a disagreement with the decision of the Hearing Officer. As part of the appeal application, the applicant submitted revised development plans in an attempt to address the concerns and the issues that were raised at the public hearing by the Hearing Officer and the public (refer to Revised Plans: Page 3).

Staff recommends that the Board of Zoning Appeals overturn the Hearing Officer's May 17, 2017, decision and approve Modification to HDP #6303, along with the requested Variance. (Attachment A).

## **SITE BACKGROUND:**

### Existing Site Characteristics:

The site is a 23,785 square-foot lot with two frontages; the primary frontage on Fairfield Circle and the second frontage on Canon Drive. For the purposes of this report, Fairfield Circle would serve as the front of the site and Canon Drive as the rear of the site. The developable area of the lot is 22,290 square feet with an average slope of 16.66 percent. The remaining 1,496 square feet of the lot has a slope greater than 50 percent. The lot is currently being developed with a two-story single-family residence, a basement and a detached garage.

### Adjacent Uses:

North – Single-Family Residential  
South – Single-Family Residential  
East – Single-Family Residential  
West – Single-Family Residential

### Adjacent Zoning:

North – RS-2 (Single-Family Residential, 0-2 lots per acre)  
South – RS-2-HD (Single-Family Residential, 0-2 lots per acre, Hillside Overlay District)  
East – RS-2-HD (Single-Family Residential, 0-2 lots per acre, Hillside Overlay District)  
West – RS-2-HD (Single-Family Residential, 0-2 lots per acre, Hillside Overlay District)

### Public Hearing

The application was presented to the Hearing Officer at a public hearing on May 17, 2017. Staff's recommendation to the Hearing Officer was to approve the Modification to the HDP and the Variance since the project met all applicable development standards, with the exception of the Variance, and that the findings necessary for approving the Variance could be made. Two letters and a petition with 13 signatures of adjacent neighbors in support were submitted prior to the hearing (Attachment G). Two letters in opposition, prepared by adjacent neighbors that reside on the abutting property to the west, were received prior to the hearing (Attachment G). Two residents spoke in favor and three residents spoke at the hearing in opposition to the project.

At the conclusion of public testimony, the Hearing Officer decided to disapprove the Hillside Development Permit. The Hearing Officer determined that the findings for the Modification to the HDP and the Variance could not be made. As a result, the Hearing Officer disapproved the request (Attachment D).

On May 30, 2017, the applicant, James Coane and Associates, submitted an appeal application (Attachment E) to the Board of Zoning Appeals citing a disagreement with the decision of the Hearing Officer. The effect of an appeal is that the prior decision of the Hearing Officer is vacated. The 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.

If the Board of Zoning Appeals approves the Hillside Development Permit application the applicant would complete the entitlement process by submitting development plans to the Building and Safety Department.

Revised Plans:

As part of the appeal application, the applicant submitted revised development plans in an attempt to address the concerns and the issues that were raised at the public hearing. The original request was to allow the conversion of 2,621 square feet of unimproved basement area into habitable space and increase a detached pool bathroom by 12 square feet. The revised request is to allow the conversion of 483 square feet of unimproved basement area into habitable space and increase a detached pool bathroom by 12 square feet. The request for habitable basement was reduced in size by 2,138 square feet.

Pursuant to Section 17.72.070 of the Zoning Code, the Board of Zoning Appeals shall consider the same application, plans and materials submitted by the applicant for the original decision. If the applicant submits new plans and materials that differ substantially, as determined by the Zoning Administrator, from the materials submitted for the original decision, the hearing shall be terminated and the applicant shall file a new application. However, this section stipulates that changes to the original submittal, to address objections of the Hearing Officer, need not be the subject of a new application. The revised plans, submitted by the applicant, have been changed in an attempt to address the concerns and objections of the Hearing Officer.

Original Hillside Development Permit #6303:

On June 17, 2015, the Hearing Officer approved, at its regularly noticed hearing, Hillside Development Permit #6303 (Attachment H). The request was to allow the demolition of a former single-family residence and the construction of a two-story, 4,492 square-foot single-family residence with a 280 square foot basement, a 620 square foot detached garage, and an unenclosed 440 square foot cabana with a 45 square foot detached pool bathroom; for a total floor area of 5,437 square feet. The project also included the removal of two protected trees.

A building permit for construction, pursuant to HDP#6303, was issued on February 29, 2016. A majority of the work on the residence has been completed; with interior and exterior finishes currently in the process. Prior to the issuance of the building permit, the applicant signed a covenant and agreed with the City that the lowest level (basement) of the residence would not exceed 280 square feet.

Current Project Description:

The applicant, James Coane and Associates, has submitted a Modification to Hillside Development Permit to allow the conversion of 483 square feet of unimproved basement area into habitable space. The original approved project consisted of a 280 square-foot habitable basement. In addition, the detached pool bathroom increased in size by 12 square feet. The

applicant has submitted a Variance application to allow 5,932 square feet of gross floor area, where the maximum permitted is 5,469 square feet.

The residence, currently under construction, is located on a lot that has a descending grade from the front of the property on Fairfield Circle to the rear of the property, adjacent to Canon Drive. The difference in elevation from the property frontage to the rear is approximately 26 feet. This topography results in a design where the residence has a two-story elevation from Fairfield Circle and a three-story elevation on the rear façade. The two-main levels, visible from Fairfield Circle, contain the majority of the habitable area of the residence (bedrooms, bathrooms, kitchen and communal areas). The lower level, the basement, was approved with a wine cellar and restroom and was to be used primarily as an access point to access the rear yard area via a hallway. The 280 square-foot basement contributes towards floor area because it exceeds a height of three feet above existing grade and has an exposed wall that is more than six feet above finished grade.

Given the unique nature of hillside properties and how structures must be engineered in order to safely be constructed on hillside slopes, it is not uncommon to have areas of a residence that while they are integrated into the structure through foundation walls, are not fully excavated or improved for habitation. For example, a residence that "steps down" a slope can typically have an area that is not graded, but is still enclosed by a foundation wall that supports the floor above. In such cases, this unexcavated area, which has limited usability, does not count as floor area based on its exterior exposure and when the interior height of this space is less than five feet.

When the HDP was originally approved and the building permit was issued for construction, due to the topography of the site, the lower level of the residence (basement) had areas that were not fully excavated or improved for habitation. These areas were integrated into the structure through the use of foundation walls along the rear façade and partially on the side elevations. These areas of the lower level did not contribute towards gross floor area. During the construction process, portions of these areas were graded, at the recommendation of the applicant's engineer, to stabilize the foundation of the residence. This resulted in areas in the lower level of the residence with interior ceiling heights of approximately eight feet and a concrete floor/foundation.

Based on the changes made, these areas now would contribute towards gross floor area per the Zoning Code. The applicant is requesting the ability to convert approximately 483 square feet of the lower level from unimproved basement area into habitable space. This would result in a total lower level area of 763 square feet. Since the requested improvements would occur within an area of the lower level that is currently integrated into the structure through foundation walls, the massing, bulk, and building envelope would not change. From a visual perspective, the only exterior changes that would occur as a result of the requested improvements would be the installation of windows and doors on the rear elevation facing the backyard. The lower level would be used for additional recreation/communal space and laundry area.

In order to facilitate the applicant's request, a Modification to the Hillside Development Permit is required. Pursuant to Section 17.64.050 of the Zoning Code, an applicant may apply for changes of an approved project, including conditions, only twice in a single year. This would be the applicant's first request. In addition, the applicant would need a Variance to allow 5,932 square feet of floor area, where the maximum permitted is 5,469 square feet.

Proposed Entitlements:

Modification to Hillside Development Permit: To allow an increase in floor area.

The applicant's requested changes to the approved project would require the modification to existing conditions of approval of HDP#6303. Specifically, the following two conditions would need to be modified:

Condition No. 3: *This approval allows the demolition of an existing single-family residence and construction of a new single-family residence. The total gross floor area of the building shall not exceed 5,437 square feet. The total livable area of the residence for the purposes of the Neighborhood Compatibility requirement shall not exceed 4,817 square feet; and*

Condition No. 22: *The lowest level of the proposed structure, identified in the plan set as the "basement", shall not exceed the 280 square foot area identified on the project plans. Any other areas on this level within the building footprint shall remain unexcavated and shall maintain a ceiling height of less than five feet.*

The requested changes would increase the total gross floor area of the site to 5,932 square feet and would increase the habitable floor area of the residence to 5,255. In addition, the requested changes would increase the lowest level (basement) of the structure by 483 square feet to 763.

*Proposed Conditions of Approval:*

As previously mentioned, the lower level of the residence (basement) had areas that were not to be fully excavated or improved for habitation and these areas ultimately were graded with interior ceiling heights of approximately eight feet with a concrete floor/foundation during the construction process. These lower level areas that were graded exceed 2,000 square feet in size; where the applicant is now only requesting to convert 483 square feet of it into habitable space.

If the applicant's request is approved, staff recommends the following conditions of approval to address the remaining portions of the basement:

*The lowest level of the proposed structure, identified in the plan set as the "basement", shall not exceed the 763 square-foot area identified on the project plans. Any other areas on this level within the building footprint shall be backfilled with natural soil and shall maintain a ceiling height of less than five feet.*

*Prior to the issuance of a building permit to exercise the privileges authorized by this approval, the applicant or successor in interest shall submit a covenant and agreement stating that the lowest level (basement) of the residence will not exceed 763 square feet in size. Said covenant shall be submitted to the Zoning Administrator for review and approval for recordation prior to the issuance of a building permit.*

*Gross Floor Area:*

In the RS-2-HD zoning district, the maximum allowable gross floor area, which includes all covered parking spaces, accessory structures and enclosed space, is 22.5 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 that exceed a 50 percent slope or 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 remaining lot area exceeds 15 percent, the maximum allowable gross floor area shall be further reduced in compliance with the slope reduction formula (17.29.060.A.4) of the Hillside District Ordinance.

According to the information provided by the applicant, 1,495 square feet of the 23,785-square foot lot has a slope greater than 50 percent. This portion of the lot is excluded from the lot area used to calculate the gross floor area. The remaining 22,290 square feet of the lot has an average slope of 16.66 percent. Based on the floor area calculation as discussed above, the maximum allowable floor area for the site is 5,469 square feet. As proposed, the total gross floor area, including the garage, would be 5,932 square feet and exceeds the allowable floor area for the site by 463 square feet (refer to Variance discussion).

*Lot Coverage:*

The proposed modifications to the project would be done within the existing building envelope and would not change the existing code compliant lot coverage. The maximum allowable lot coverage, which includes the footprint of all covered structures (enclosed or unenclosed), is 35 percent of the entire lot area. The maximum allowable lot coverage for this 23,785-square foot lot is 8,325 square feet. The existing lot coverage is 4,920 square feet or approximately 20 percent.

*Setbacks:*

The proposed modifications to the project would be done within the existing building envelope and would not change the existing code compliant setbacks. The minimum required front yard setback in the Hillside Overlay District is 25 feet. The existing front yard setback is 47 feet on the Fairfield Circle frontage. The minimum required front yard setback along Canon Drive is also 25 feet. The existing front yard setback along Canon Drive is approximately 80 feet. The minimum required interior side yard setback is ten percent of the lot width with a maximum requirement of ten feet. The width of this lot is approximately 90 feet; therefore, the required side yard setback is nine feet, as measured from each side property line. The existing westerly side yard setback is 17'-6", and the existing easterly side yard setback to the closest part of the new residence is 14'-8"; thus the project is in compliance with the minimum setback requirements.

*Height:*

The proposed modifications to the project would be done within the existing building envelope and would not change the existing code compliant building 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 existing residence when measured from the lowest elevation on the site where the structure touches the grade, to the highest point of the residence is 34'-6". The highest at-any-point height of the new building is 27'-6". The project is in compliance with both height requirements.

*Parking:*

The proposed modifications to the project would be done within the existing building envelope and would not change the existing code compliant off-street parking. The Zoning Code requires two covered parking spaces for a single-family residence. The residence provides covered parking spaces for three cars within the detached garage. In addition, properties within the Hillside Overlay District must provide off-street guest parking spaces. The residence requires two guest parking spaces on the site because on-street parking is available on Fairfield Circle. The residence provides one of the required guest parking spaces on the existing driveway line and the other within the detached garage. The project meets the parking requirements of the Zoning Code.

*Architecture, Setting and Views:*

The proposed modifications to the project would be done within the existing building envelope and would not change the existing architecture of the residence, impact the existing setting or impact any protected views. As previously stated, the requested improvements would occur within an area of the lower level that is currently integrated into the structure through foundation walls, the massing, bulk, and building envelope would not change. From a visual perspective, the only exterior changes that would occur as a result of the requested improvements would be the installation of windows and doors on the rear elevation facing the backyard.

There are no ridgelines adjacent to the subject property. Therefore, no part of the existing residence appears silhouetted against the sky above a ridge when viewed from a public street or park. Due to the topography in the area, the surrounding neighborhood is a mix of two-, three-, and up to four-story residences. The existing residence, and the requested improvements, would not appear out of character with the height and scale of the surrounding area.

*Neighborhood Compatibility:*

The Hillside Overlay District requires that all projects subject to a Hillside Development Permit 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. Generally, the "neighborhood" is defined as the area within a 500-foot radius of a project site. In addition to the floor area ratio requirements of the Zoning Code, the total livable 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 50 parcels 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 4,335 square feet (excluding garages and other accessory structures). Thirty five-percent above this median is 5,852 square feet. The proposed livable area of the project is 5,255 square feet and within the Neighborhood Compatibility. The analysis is incorporated in this report as Attachment C.



Variance: To allow 5,932 square feet of gross floor area, where the maximum permitted is 5,469 square feet

For projects subject to the RS development standards, gross floor area means the floor area between the floor and roof above it, as measured from the outside edge of the exterior walls of the main structure and all accessory structures, including required parking (either garage or carport). Any portion of a structure, including stairwells, over 17 feet in interior height, is counted twice for purposes of computing floor area. In the Hillside Overlay District, gross floor area shall include without limitation: all covered parking, habitable attic space, and basements, including garage and carport areas, with any exposed wall (or portion thereof) six feet or more above finished grade, measured from finished grade elevation to the floor above. If the basement, garage or carport area has any portion of an exposed wall over six feet in height, then the entire area shall be counted as floor area. As previously discussed, areas enclosed by a foundation wall that supports the floor above, do not count as gross floor area based on its exterior exposure and when the interior height of this space is less than five feet.

In the RS-2-HD zoning district, the maximum allowable gross floor area is 22.5 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 that exceed a 50 percent slope or 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 remaining lot area exceeds 15 percent, the maximum allowable gross floor area shall be further reduced in compliance with the slope reduction (17.29.060.A.4) of the Hillside District Ordinance.

According to the information provided by the applicant, 1,495 square feet of the 23,785-square foot lot has a slope greater than 50 percent. This portion of the lot is excluded from the lot area used to calculate the gross floor area. The remaining 22,290 square feet of the lot has an average slope of 16.66 percent. Based on the floor area calculation as discussed above, the maximum allowable floor area for the site is 5,469 square feet. As proposed, the total gross floor area, including the garage, pool bathroom and the proposed lower level, would be 5,932 square feet and exceeds the allowable floor area for the site by 463 square feet. A Variance is needed to deviate from this requirement.

A Variance application allows the City to review whether a deviation from the Zoning Code can be granted for a project. A Variance may only be granted when, because of special circumstances applicable to the subject property, the strict application of the Zoning Ordinance denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts, or creates an unnecessary hardship or unreasonable regulation which makes it impractical to require compliance with the applicable development standards. A Variance shall not be granted if the granting of the application would be detrimental or injurious to property or improvements in the vicinity of the subject site, or to the public health, safety, or general welfare.

Staff finds that there are exceptional or extraordinary circumstances or conditions applicable to the subject site that do not apply generally to sites in the same zoning district. The subject property is characterized by a sloped topography where the difference in elevation between the front property line and the rear of the property is approximately 26 feet. Due to this topographical condition, the residence was designed to step down and follow the downward slope of the site. This results in a design where the residence has a two-story elevation from Fairfield Circle and a three-story elevation on the rear façade. Due to the topography of the site, the lower level of the residence (basement) had areas that were not fully excavated or improved

for habitation. These areas were integrated into the structure through the use of foundation walls along the rear façade and partially on the side elevations.

In addition, staff finds that the granting of the application to convert a portion of the lower level from unimproved basement area into habitable floor area would not be detrimental or injurious to property or improvements in the vicinity of the development site; and to the public health, safety, and general welfare. The requested improvements would occur within an area of the lower level that is currently integrated into the structure through foundation walls. The massing, bulk, and building envelope would not change. From a visual perspective, the only exterior alterations that would occur because of the requested improvements would be the installation of windows and doors on the rear elevation facing the backyard. As a result, the overall appearance of the residence would not change nor change the overall character of the neighborhood. Approval of the application would not constitute a grant of special privilege as there are other properties in the vicinity and in the same zone district with a floor area that exceeds the permitted and, because of site topography, have lower basement levels that are habitable.

#### **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 remain a single-family residence; therefore, the character of the single-family neighborhood would be maintained. The project is consistent with Policy 21.9 of the General Plan Land Use Element that requires hillside housing to "maintain appropriate scale, massing and access to residential structures located in hillside areas." The requested improvements would occur within an area of the lower level that is currently integrated into the structure through foundation walls. The massing, bulk, and building envelope would not change. From a visual perspective, the only exterior alterations that would occur because of the requested improvements would be the installation of windows and doors on the rear elevation facing the backyard. As a result, the overall appearance of the residence would not change nor change the overall character of the neighborhood. Approved access to the site would remain unchanged.

#### **ENVIRONMENTAL REVIEW:**

This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15301, Class 1, Existing Facilities). This section applies to small additions, expansions or alterations to existing structures where there is negligible or no expansion of the use. Section 15301 specifically exempts from environmental review the interior alteration of an existing structure. The use of the site would remain as a single-family residence.

#### **COMMENTS FROM OTHER DEPARTMENTS:**

The project has been reviewed by the Building and Safety Division, Fire Department, Department of Transportation, Department of Public Works, and Design and Historic Preservation Section. The Department of Transportation and Design and Historic Preservation Section had no comments at this time and would review the plans through the building permit plan check process. The Department of Public Works, Building and Safety Division, and Fire Department provided comments and recommended conditions of approval, which have been incorporated to this report under Attachment B "Recommended Conditions of Approval."

**CONCLUSION:**

Staff concludes that the findings necessary for approving the Modification to Hillside Development Permit #6303 can be made (Attachment A). The proposed project meets all applicable development standards required by the Zoning Code, with the exception of the required variance. Additionally, Staff finds that the findings necessary for approving the Variance can be made. 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 Modification to Hillside Development Permit #6303, subject to the findings in Attachment A and recommended conditions of approval in Attachment B.

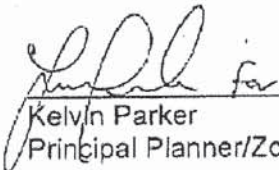
**RECOMMENDATION:**

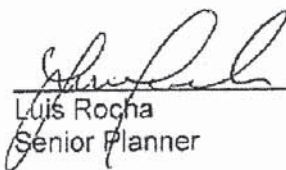
It is recommended that the Board of Zoning Appeals:

1. Adopt a determination that the proposed action is exempt from the California Environmental Quality Act (CEQA) under Section 15301 (Existing Facilities) of the State CEQA Guidelines; and
2. Overturn the Hearing Officer's decision and approve Modification to Hillside Development Permit #6303.

Respectfully Submitted,

Prepared by:

  
Kelvin Parker  
Principal Planner/Zoning Administrator

  
Luis Rocha  
Senior Planner

**Attachments:**

- Attachment A – Zoning Administrator Recommended Specific Findings
- Attachment B – Recommended Conditions of Approval
- Attachment C – Neighborhood Compatibility Analysis
- Attachment D – Hearing Officer Decision Letter (May 22, 2017)
- Attachment E – Appeal Application (May 30, 2017)
- Attachment F – Hearing Officer Addendum
- Attachment G – Correspondence for May 17, 2017 Hearing Officer Hearing
- Attachment H – HDP#6303 Decision Letter (dated June 17, 2015)