

'17 OCT 23 01:09PM

CITY CLERK

**Kenneth McCormick
790 Fairfield Circle
Pasadena, California 91106**

October 23, 2017

Mayor Tornek and City Council Members
City of Pasadena
100 North Garfield Street
Pasadena, California 91101

Honorable Mayor and Council Members:

This 18-month controversy stems from facts surrounding a home permitted as a two-story home with 5,437 square feet but built as a three-story shell to hold 8,058 square feet, and the question of whether all or any of the 48% of additional square footage should be inhabited.

The applicants (and now the City staff) have said yes; we have argued no, for two reasons - we believe the additional space was improperly built, and we believe the applicant had the original opportunity to design his home within his allowable square footage as a three-story home if he wished; he did not. We have appealed to you to decide which argument prevails because of what are important precedent-setting issues.

The staff report you received is the third staff report on the matter. None of the reports addresses a key issue the City faces with the case: was the additional square footage ever permitted and approved for construction? We have been told at times it wasn't, but then other times that it was, - so we requested to see the permit plans. In our view, they do not include anything describing the additional 2,621 square feet that was built, an entire floor of the house at a new grade level. At one stage staff told us that four revised structural pages, added to the 2/29/16 permit set on 4/18/16, characterize the additional square footage. But we do not think that these either characterize the additional construction or represent approval for what was built. The additional 2,621 square feet is bigger than the size of an average home in Pasadena - it would not or should not get lost in the shuffle. Someone at the City must understand why the incremental space was not explicitly permitted.

At the BZA hearing on the matter last month, Mr. Rocha stated in response to a question from a Commissioner, "A permit was issued" for the space. But Mr. Parker then clarified for the BZA and said, "It did not come through Zoning for approval, which is why we're in this situation. A permit was issued that was not consistent with the Hillside Development Permit."

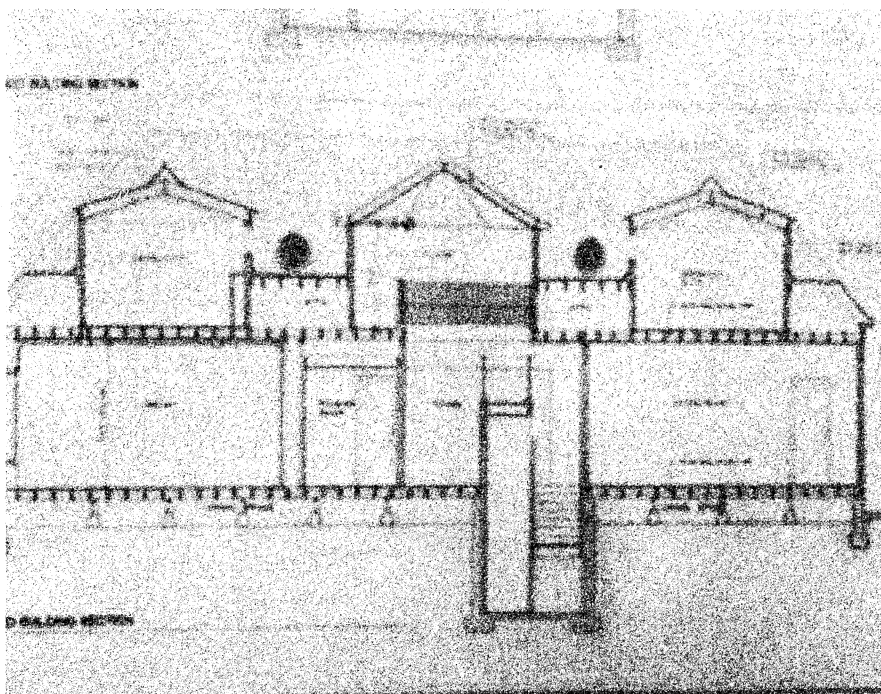
So was there a valid permit or not? After the BZA hearing, we met with staff and reviewed drawings with them. We believe they would now agree that the additional square footage was never permitted explicitly by any department. We believe an experienced architect would recognize that these drawings don't create a valid permit.

Because of this, and because the BZA relied on the incorrect information from staff at that hearing, we are asking that the BZA decision be set aside, regardless of what decision you make here tonight. We have now reviewed the plans multiple times, with and without staff and with an outside expert. We contend that the stamped permitted plans do not allow for what was constructed. City staff often exhibits much goodwill

toward developers and in retrospect, we believe staff was trying to facilitate an application after being presented confusing and sometimes conflicting stories - it could be described as complex data to read. Our position at this stage reflects the words of City Manager Mermell at the hearing on STRs three weeks ago, "If we're not going to allow something, then we need to take steps to make sure it doesn't." It is important Council send a message to the development community that Council will make sure this building process doesn't happen elsewhere - where a developer builds something and asks later for permission. And it is important that staff resources are reinforced to avoid such confusion in the future.

Background

The original 5,437 square feet permitted for the house was 99.4% of the maximum 5,469 permissible under the Hillside Ordinance, granted by a Hearing Officer 6/17/15. The issue of basement habitation was raised at the hearing. The approved plans assured that only a small portion of a foundation subterranean level - 280 square feet - would be built as a walkway that had stairs at the end to get up to the outside back porch. There was also room for a wine cellar and an elevator stop. The rest of the foundation level would not be big enough for habitation as it would only have only 4.5' crawl space.



Intended crawl space for foundation level characterized in permit set - maximum 4.5'

When the house began construction nine months later, it became apparent to neighbors and to City officials that the house being built was substantially bigger than permitted, taller at the foundation level with a full basement level, no longer subterranean - it became an additional 2,621 of potentially habitable square feet, 48% more than the allowable FAR for this lot. This new full ground floor was also being framed out with doors and windows for occupancy.



July 5, 2016 construction site photo: new ground floor level under the house excavated with concrete slab; framing commencing for occupancy.

After the City learned of the discrepancy in July, 2016, it red-tagged the home and construction stopped. The homeowner, in an effort to start construction again, re-committed to live by the terms of his original permit, this time through a signed, recorded covenant which prohibited him from using the unpermitted portion - he agreed to fill in the illegal portions with dirt.

At some point after making this re-commitment, the homeowner hired a new legal team and developed a new explanation about why the house was built so much larger. We believe that if you ask the right questions Monday night, both of staff and the applicant, you may concur that the new stories do not make sense. It is a complex narrative involving technical points of geophysical findings, revised drawings, structural and construction issues, but complexity doesn't make something true, it can just make things confusing, sufficiently perhaps to engender second thoughts or empathy from staff members and some neighbors. We have attached two memorandums from building professionals - a geophysicist (Attachment A) and a contractor (Attachment B) - to address the two key arguments the homeowner makes: geophysics required them to build the full ground floor, and there are permits allowing them to do so.

Important City issues come to play through two questions about the events that followed: 1) how did the City staff respond to the newly crafted narrative, 2) why did staff respond the way it did.

1. How did staff respond?

After recognizing the overbuilding and initially red tagging the house, requiring a recorded covenant that the illegal space would never be occupied, staff reversed its earlier position six months later and began supporting an effort by the homeowner to occupy the entire space and vacate the covenant.

2. Why did staff do so?

There are two schools of thought about why. One is that staff was influenced by the requests of a Council member. The other is that the complexity of the facts as presented looked as though the City had "no choice,"

in the words of one staff member, other than to support the request. Staff has said that based on the existence of the newly built space, the findings can be made for a variance.

Importantly, when an objective Hearing Officer heard the City's reasoning and the applicant's narrative at the first request to occupy the 2,621 square feet on May 17 of this year, he denied the variance and said that several of the findings could not be made.

The applicant then adjusted the request downwards to occupy only a portion of the additional space with an appeal to BZA in the "spirit of a compromise" - we too, were approached whether such a smaller amount, 483 square feet, would be acceptable as a compromise. But the Hearing Officer continued to oppose even the smaller occupancy (Attachment C), as do we, because nothing changed in the analysis and we believe the findings still cannot be made. Part of us wants to support a compromise - this is an uncomfortable role for us as neighbors. But our concern from the beginning was with the principle, not the quantity - the precedent of allowing an owner to overbuild his property without permission, assert later he had valid reasons for doing so, and then obtain a variance to occupy it. Whether it is 200 protected palms that are cut down or just twin palms, City policy and process should be the same.

On the two perspectives of why City staff changed its mind - from opposition to support - the first view is one of Councilman influence. We learned recently from other parties unassociated with us that this issue is already on record with the City through letters to the City Manager, the City Attorney and other agencies.

As best as we understand, several months after the homeowner signed the covenant committing to backfill the illegal space, he made the first of two large contributions to Mr. Wilson's reelection efforts which would sum to \$7,500, making him the single largest private contributor to the Wilson campaign. Two weeks after that, he wrote a letter to Mr. Wilson entitled, "A Little Help," wherein he describes how he had experienced difficulties building his new home, and could Mr. Wilson help him getting staff engagement on the matter. The email and contributions are in Attachment D. In the email, the new explanation began, wherein the homeowner characterizes having run into some "geophysical" problems resulting in City difficulties, but that his architect met with the City and "got that all cleared up." Mr. Wilson agreed to help him and wrote three emails to City staff, plus made phone calls, encouraging staff to meet and find a way for the homeowner to occupy the space.

There may or may not be cause and effect in these events and that is not the issue for us. But when influence of this type is needed rather than relying on simple facts supporting a case, it raises concerns about the sufficiency of the facts, similar to the attacks made against us personally in recent correspondence to you by our neighbor.

The second and more benign explanation for the staff position reversal is that the homeowner presented new and difficult facts to staff that "compelled the City to support the application," in their words, for a variance to occupy the entire 2,621 additional square feet over the approved permit. This was a considerable request - it is bigger than the size of an average Pasadena home. So this took considerable facts or considerable confusion, much of which has been presented to you in the materials from the applicant in your board package.

Important in this line of thinking is the following observation. We understand that had the homeowner applied for a variance with his initial Hillside Permit application to build anything over the Hillside Ordinance FAR threshold, the City would have had to evaluate it under due process, **but most likely would have opposed it.** But, the thinking goes, once the structure was built as it was, a full basement at a new grade level with full ceiling height, **the City needed only to examine the new incremental impact from a findings perspective.** Since it is already built, it will not do any additional harm to occupy it.

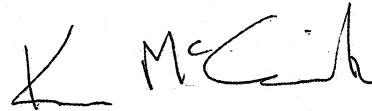
This is where logic breaks down for us and the premise becomes the conclusion. If staff would likely have opposed the variance initially, why would they support it now? The applicant would need new evidence, particularly since the size of the variance was the largest in the history of the Hillside Ordinance and exceeded the Neighborhood Compatibility test.

New evidence continues to emerge in each hearing and we expect other new evidence may be presented Monday night. At the first hearing in May, a single page new geophysical inspection report from September, 2016 was produced which had never been presented to the City before, and it appeared to make no sense – it was long after the excavation occurred. Mr. Bogaard, who was in attendance at that hearing and listened to the facts and the Hearing Officer decision, responded to the irrelevancy of that data in his letter to the BZA opposing the appeal dated September 5. In response to Mr. Bogaard's letter, apparently, two new sheets of paper were presented at the BZA hearing last month that the architect characterized as having been found in his files, geophysical inspection reports from April, 2017 also not provided to the City earlier. These two sheets do not seem to make sense to us either. The architect also articulated a background story about the need for a structural slab. A structural slab is important, as you will hear, because a slab on grade typically does not take a permit. But a structural slab used for structural support requires permitting and inspection.

Logic breaks down completely at this point: if there were substantive reasons for a variance in the first place, or if the expansion had been originally permitted, or if there were valid geophysical or structural reasons, surely the homeowner would have presented all the data he had before he signed a covenant agreeing he couldn't utilize the additional space. Or certainly he would have provided all the materials when he first applied for a variance to do so, rather than waiting to present this new evidence to the BZA appeal for a variance to occupy only a small portion of the space. The pattern of discoveries just doesn't add up to us.

If we are incorrect and all of this 2,621 additional square feet was properly permitted, we still do not understand, nor did the Hearing Officer, how Findings #9 and #10 can be made. Finding #9 says the variance is required because of extraordinary circumstances of this site that do not apply to others typically in the Hillside District. Finding #10 says the variance is required because of a substantial property right lost if it is not granted. We look to Council to sort all this out. Again, we repeat the words of the City Manager at the hearing on STRs three weeks ago: "If we're not going to allow something, then we need to take steps to make sure it doesn't." We appeal to you to make sure it doesn't.

Thank you for your time.



Attachment A: Geophysicist Review
Attachment B: Contractor Review of Permit Plans
Attachment C: Hearing Officer BZA Recommendation
Attachment D: Wilson email

October 20, 2017

Ken McCormick
595 E. Colorado Blvd. Suite 518
Pasadena, California 91101

Subject: Geotechnical Engineering Opinion on Documentation Provided
800 Fairfield Circle, Pasadena

Dear Mr. McCormick:

In response to your request, we have reviewed three field reports by Irvine Geotechnical and are providing our geotechnical engineering opinion on the extent of the subterranean construction performed. We understand that there is a concern regarding the construction of a subterranean level at the subject residence that was not a part of the permitted construction project. You have provided us with daily field memorandums, dated April 4, April 11, and September 28, 2017, from Irvine Geotechnical, who we understand are the Geotechnical Engineer of Record for the project. We have not been provided with other documentation on the project.

Field Memorandum, April 5, 2016 – Geotechnical Field Technician noted that dense terrace soils were exposed over 3/4 of building footprint, but that a smaller area (“downhill 1/4”) had thin fill and soil (noted to be only 2 feet thick in next visit). Technician recommended *“Remove all fill and soil in areas of slab and hardscape. Expose dense soil and call for bottom inspection.”*

Field Memorandum, April 11, 2016 – Geotechnical Field Technician returned to observe the exposed bottom for the “Southeast corner” (downhill ¼), and confirmed that *“a small wedge of fill and soil (approx.. 2 feet deep) was removed to expose dense terrace soils.”* He writes, *“The fill will be recompacted for slab support within the building footprint.”*

Based on these two field memorandums, there is no mention of an excavation being required deeper than 2 feet to remove existing fill soils that extended below the planned finished subgrade. This would indicate that the dense terrace deposits were exposed over ¾ of the building footprint to support footings as planned, and that over ¼ of the building footprint the footings would be supported on up to 2 feet of compacted fill or extend up to 2 feet deeper to reach into the terrace materials.

Field Memorandum, September 28, 2016 – It appears that the scope of the project changed between the April and September field memorandums. In April, a very limited amount of work (remove and recompact 2 feet of soil over ¼ of the building pad) was recommended by the Project Geotechnical Engineer and subsequently performed. In September, the field memo references basement walls, deepened footings, and grade beams. We noted the following after reading this document:

- The field report references basement walls when referring to the footings observed.
- The report references compacted fill soils and native soils being exposed in the footing excavations, and follows by stating that *“It is recommended to either place a grade beam*

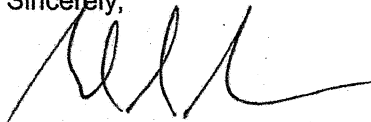
or deepen to native soils." It is not clear if this is a deviation from the project geotechnical investigation report. If so, it is a recommendation that should have been made by a registered engineer and not a technician or inspector. It is unclear if the field report was written by an engineer.

- In reading the daily report, it appears that the recommendation is to support footings in native soils only. As a result, the report recommends "a grade beam", which would span over the fill soils and be supported on each end by a footing supported in the native soils (this is a structural alternative that would require the project structural engineer), or "deepened to native soils." Deepening to native soils involves simply deepening the footing excavation to extend through the fill soils and embed into the native soils. Typically, this deepened portion of the footing excavation is backfilled with concrete to the designed base of footings, and then the footings are constructed as designed.
- Deepening a footing does not require removal of all of the in-place fill soils, but instead removing only the fill soils beneath the footing. The concrete used to backfill the deepened portion has sufficient strength to carry the structural bearing loads down to the native soils so that the fill soils left in place are not loaded.
- If the fill soils were removed in their entirety, which is not consistent with the field report, the process would simply involve excavating the soils to expose the native soils (as noted in the April 2016 field memos), backfilling the materials in lifts to properly compact, and then re-excavating the footings as designed. This process would not involve placing a concrete slab, and given the information available, we are not aware of a reason why a concrete slab at depth would be required as part of a foundation system.

In summary, the field memos from April 2016 indicate that the dense terrace deposits were exposed at the planned subgrade over $\frac{3}{4}$ of the footprint, with only $\frac{1}{4}$ of the footprint requiring removals and recompaction of 2 feet of fill soil. In the September 2016 field memo, there is an indication of a basement area on the sketch and basement walls in the text. We understand that there has been a concern that the scope of the constructed project varies from the scope of the permitted project. The project documentation provided for review is limited (three field memos from the Project Geotechnical Engineer), but based on our review it appears that deep removals were not required in the April 2016 memos, but that a basement and deepened footings are discussed in the September 2016 memo.

I trust that this letter satisfies your current need. Please contact me if you have questions or require further information.

Sincerely,



Paul R. Schade, G.E. 2371

Attachments: Irvine Geotechnical Field Reports (3)

IRVINE GEOTECHNICAL

NOTICE OF FIELD OBSERVATION

CLIENT: Reddy DATE: 4/5/16 TIME: 2:30 IC: 14176
 LOCATION: 800 Fairfield Circle
 REQUESTED BY: Mike MET WITH: Mike
 (Title) (Title)
 SPECIAL CONDITIONS: ∅
 (Weather, Job Shutdown, Advice Ignored, Safety)
 WE HAVE OBSERVED THE: Site Conditions

APPROVED PER THE PLANS CALL AGENCY INSPECTOR DISAPPROVED SEE BELOW

SKETCH OF FIELD CONDITIONS:

NOTES & CONDITIONS:

met with Mike to discuss soil conditions and observe proposed pad area

dense coarse soils are exposed over 3/4 of the pad with a small wedge of fill/soil on the down hill 1/4.

Also mention and soil overly the lower yard area below the proposed garage.

Remove all fill and soil in areas of slab or had escapes. expose dense soils and call for bottom inspection

ADDITIONAL SITE VISIT(S): REQUIRED NOT REQUIRED POSSIBLY REQUIRED
 REPRESENTATIVE OF IRVINE GEOTECHNICAL: Mike
 HOURS: 2 (2 Hour Minimum Charge) NOTICE LEFT WITH: Site

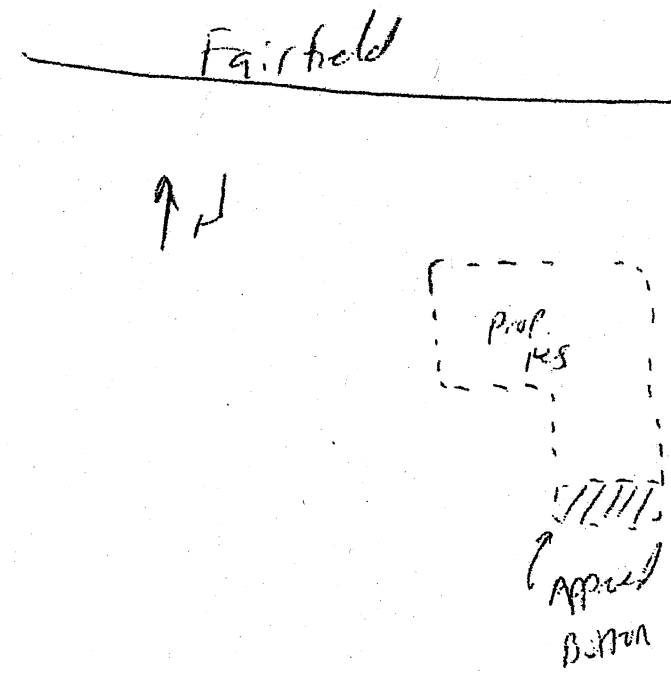
IRVINE GEOTECHNICAL

NOTICE OF FIELD OBSERVATION

CLIENT: Reddy Fairfield Circle Prop. DATE: 4/11/16 TIME: 10:00 IC: 14176
 LOCATION: 800 Fairfield Circle
 REQUESTED BY: Mike MET WITH: Mike
 (Title) (Title)
 SPECIAL CONDITIONS: Ø
 (Weather, Job Shutdown, Advice Ignored, Safety)
 WE HAVE OBSERVED THE: Bottom

APPROVED PER THE PLANS CALL AGENCY INSPECTOR DISAPPROVED SEE BELOW

SKETCH OF FIELD CONDITIONS:



NOTES & CONDITIONS:

Observed bottom excavation for Southeast corner of residence pad, as shown. A small wedge of fill and soil (approx. 2' deep) was removed to expose dense terrace soils. The fill will be recomacted for slab support within the building footprint. The bottom is approved.

ADDITIONAL SITE VISIT(S): REQUIRED NOT REQUIRED POSSIBLY REQUIRED
 REPRESENTATIVE OF IRVINE GEOTECHNICAL: [Signature]
 HOURS: 2 (2 Hour Minimum Charge) NOTICE LEFT WITH: _____

IRVINE GEOTECHNICAL
NOTICE OF FIELD OBSERVATION

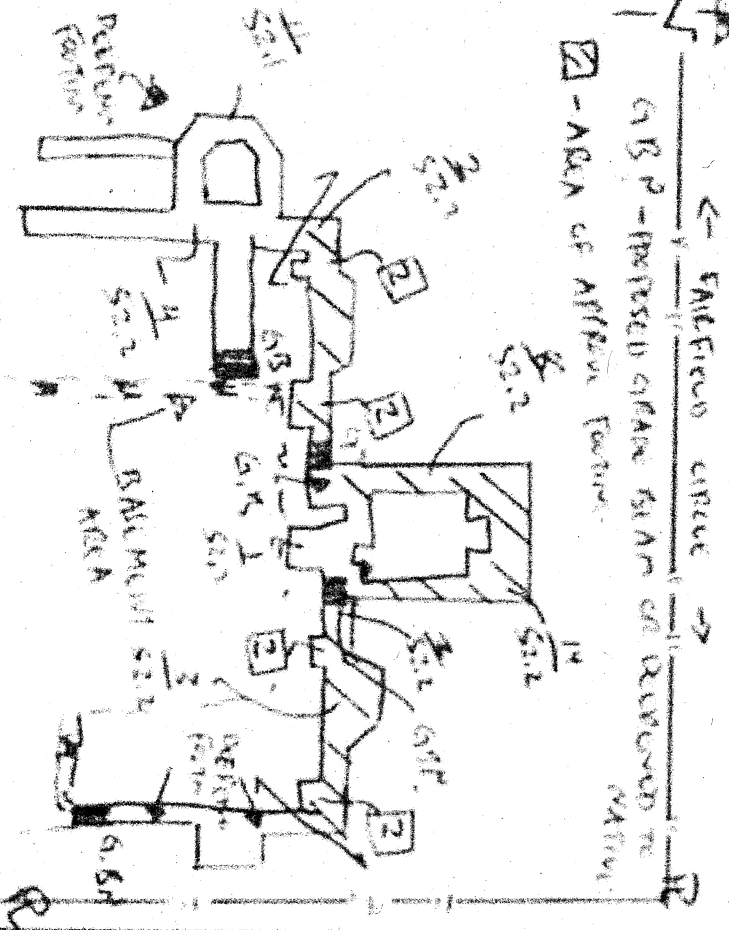
RECEIVED
MAY 17 2017
BY: _____

CLIENT: REDDY DATE: 9/28/16 TIME: 12:05/PM: 14/76
 LOCATION: 800 FAIRFIELD CIRCLE
 REQUESTED BY: TOM COURTNEY MET WITH: ISAAC
 (Title) (Title)

SPECIAL CONDITIONS: _____
 (Weather, Job Shutdown, Advice Ignored, Safety)
 WE HAVE OBSERVED THE: 1ST FLOOR FOOTINGS & PADS

APPROVED PER THE PLANS AS INDICATED CALL AGENCY INSPECTOR DISAPPROVED SEE BELOW

SKETCH OF FIELD CONDITIONS:



NOTES & CONDITIONS:

ARRIVED ON SITE AS REQUESTED FOR 1ST FLOOR FOOTING OBSERVATION. THERE IS A COUPLE OF ISSUES WITH FOOTING PORTION OF FOOTINGS THAT ARE PERPENDICULAR TO RAISEMENT WALL ARE EV COMPACTED. THE REST OF FOOTING IS IN NATIVE SOIL IT IS RECOMMENDED TO EITHER PLACE A GRADE BEAM OR DEEPENED TO NATIVE SOIL. THE FOOTINGS TO THE NORTH ARE ENCLOSED INTO NATIVE SOIL. RECOMMENDED SOIL REPORT THE FOOTINGS HAVE BEEN EXCAVATED TO THE WIDTH AND DEPTHS, PER PLAN. WHERE ORGANICS & ROOTS ARE LOCATED AREA MUST BE DEEPENED. NOTIFY OFFICE WHEN READY FOR NEXT OBSERVATION.

ADDITIONAL SITE VISIT(S): REQUIRED NOT REQUIRED POSSIBLY REQUIRED
 REPRESENTATIVE OF IRVINE GEOTECHNICAL: _____
 HOURS: 2 (2 Hour Minimum Charge) NOTICE LEFT WITH: ON-SITE

10/20/2017

Mr Ken McCormick
790 Fairfield Cir
Pasadena, CA

Dear Ken,

I have been a general contractor and owner's representative throughout my 35-year career, starting as a PM with Whiting Turner in Southern California, forming McCabe Development in the 1980's which I ran until 2002. I relocated to Boise, ID from southern CA in 2002 and started to build projects in Idaho and the surrounding states. I managed large build-outs for such retailers as Target and Whole Foods in recent years. I have built several million square feet of product ranging from single family homes to large office buildings, medical space, Banks and big box retailers throughout the West.

You asked me to review the approved plans for a high-end single-family residence at 800 Fairfield Circle, Pasadena, to clarify what those plans described and permitted. On September 12th, 2017, I was provided the "approved" set of permitted plans for the residence by Luis Rocha of the City of Pasadena's Planning Department, including four sheets added to the originally approved plans noted as Revisions.

I was specifically asked whether there was anything in the plans that dictated or permitted:

- the excavation of a full basement for the home
- the pouring of a structural slab for a full basement
- the framing of doors and windows on the basement level, beyond a single door into a sub-grade passageway, per the photo I was shown

There is not based on what I was provided. I would not have known from these plans that I was expected or allowed to excavate the entire ground floor basement area, to pour a structural slab or to frame doors and windows on the ground floor area.

To do so, the revisions to the plans would have needed to be far more extensive. Mr. Rocha and I exchanged views about what the four revision sheets did envision, and in my view, and I believe he came to agree with me, they made only minimal changes to the existing set of structural drawings that did not call for or allow for excavation of the entire foot print of the house, the pouring a structural slab or framing the doors and windows in the ground floor area. No architectural plans were changed and no city approval stamp was noted on the revised plans.

I was told by Mr. Rocha what had been explained to him, the addition of deeper footings/foundation walls in the revised plans; but these are incomplete, and for me, I wouldn't have known what to do unless there had been architectural changes also made (there were none), particularly to locate the framed doors and windows on the picture of the home I was shown.

The four revised plans included:

S 1.2 Framing & Upper Foundation Plan

S 2.1 Structural Details

S 2.2 Structural Details

S 2.3 Structural Details

What they did not include were any revisions to the following sheets:

C 3 Grading Plan

S 1.1 Foundation Plan

A 2.3 Basement Plan

A 3.3 Basement Plan

A 5.1 Section (depicting intended basement/crawl space)

A 5.3 Same

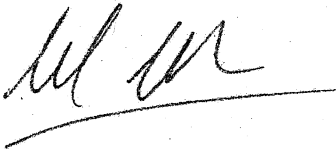
A 6.2 Exterior Elevation (depicting a solid stone back-yard foundation wall)

The front page characterizing all the metrics was also not revised to reflect any additional square footage.

Without a new grading plan and a new S 1.1 Foundation Plan that shows the intent to create a full-size basement, I'm not sure how the builder (or the plan checker) would have understood what was desired.

I was also asked about a "structural slab." I don't see any drawings that reference a structural slab for the entire basement - typically you would dowel for rebar and an inspector would need to see a drawing to see the location, frequency and sizing of the rebar. There may have been more sheets in the field but Luis told me this was the full permitted set.

Sincerely,



MIKE MCCADE

208-724-4343

**ZHO Addendum
Modification of HDP #6303 and associated Variance (800 Fairfield Circle)**

August 15, 2017

I have reviewed the appeal of my determination disapproving HDP #6303 (900 Fairfield Circle).

The appeal offers two reasons for over-turning my determination:

- "The Hearing Officer relied on personal observations and information outside the record that was not disclosed until after the public hearing was closed."

The appeal does not identify the "personal observations and information," leading me to suspect that it concerns comments made during my deliberation at the public hearing. I would note, for the record, that I did visit this site in advance of the public hearing, as is my practice for all ZHO cases on my agenda. This is routine and appropriate conduct which better enables me to understand the application, the on-site development, and the surrounding community.

- "Further, the HO failed to consider and rely on substantial evidence in making the findings required under Zoning Code Section 17.29 and 17.61."

The appeal does not identify the "substantial evidence" which I purportedly "failed to consider." I reviewed the application package (application forms, plans, photographs), the staff report prepared by Planning staff, substantial correspondence (from the applicant and from several neighbors), and I also I conducted a site visit, in advance of the hearing. I considered all public testimony presented at the public hearing, both from those in support and those in opposition.

Zoning Code Section 17.29 proscribes development standards for homes in the Hillside Overlay District. These standards, along with Neighborhood Compatibility requirements, were analyzed in significant detail in the staff report. The appeal suggests that my determination ignored development standards, even though the request seeks approval for a home that is more than thirty-percent (30%) larger than what is permitted by the underlying zoning and associated standards. I would submit that the staff analysis, and the determination, reflect the letter and spirit of the Zoning Code substantially more than does the proposed project.

Zoning Code Section 17.61 identifies the requirements for approval/denial of variances (as well as other zoning approvals not at stake in this application). The original determination documents three findings (exceptional or extraordinary circumstances; detrimental or injurious to property or improvements in the vicinity; and cost to the applicant) which staff, and myself, could not be made, as required to approve the applicant's request. The appeal offers no new information to suggest that these or other findings can be made in the affirmative.

Because there is no additional information presented in the appeal to justify overturning the disapproval, the appeal should be denied.

Attachment D

From: [Andy Wilson](#)
To: [Reyes, David](#)
Subject: Re: Could Use a Little Help
Date: Friday, January 20, 2017 2:31:22 PM

Hi David — Week is pretty much over and I thought you told Pat that he'd from you. Know you're busy. . . thx. Andy

--

Andy Wilson
Pasadena City Councilmember District 7
Good neighbor — Dedicated Leader
andy@wilsonforcitycouncil.com
t: (626) 584 6070

Website: <http://wilsonforcitycouncil.com/>

Request yard sign: yardsign@wilsonforcitycouncil.com

Follow us on Facebook: <https://www.facebook.com/andywilsonforcitycouncil/>

On Jan 19, 2017, at 9:24 AM, Andy Wilson <andy@wilsonforcitycouncil.com> wrote:

Hi David — Were you able to close the loop with Pat? Thanks! Andy

--

Andy Wilson
Pasadena City Councilmember District 7
Good neighbor — Dedicated Leader
andy@wilsonforcitycouncil.com
t: (626) 584 6070

Website: <http://wilsonforcitycouncil.com/>

Request yard sign: yardsign@wilsonforcitycouncil.com

Follow us on Facebook: <https://www.facebook.com/andywilsonforcitycouncil/>

On Jan 11, 2017, at 11:13 AM, Reyes, David <davidreyes@cityofpasadena.net> wrote:

Hi CM Wilson,

I will regroup with staff on this issue and ensure that they report back to Pat this week.

David

David Reyes
Director
City of Pasadena - Planning & Community Development Department
175 N. Garfield Ave. (Hale Building)
Pasadena, CA 91101-1704
Tel. 626.744.7171 Fax. 626.396.7626

From: Andy Wilson [<mailto:andy@wilsonforcitycouncil.com>]
Sent: Wednesday, January 11, 2017 10:12 AM
To: Reyes, David
Cc: Reddy, Pat
Subject: Fwd: Could Use a Little Help

Hi David — Seems like Pat (cc'd) is in a bit of a holding pattern with his new home at 800 Fairfield Circle. Can you see if you can help move this forward? More detail than you probably need/probably already have but I guess the key question is whether this plan change can move through at a staff level or whether this will require a variance. Thanks for following-up with Pat so his project can continue on schedule. Many thanks, Andy

--

Andy Wilson
Pasadena City Councilmember District 7
Good neighbor — Dedicated Leader
andy@wilsonforcitycouncil.com
t: (626) 584 6070

Website: <http://wilsonforcitycouncil.com/>
Request yard sign: yardsign@wilsonforcitycouncil.com
Follow us on Facebook: <https://www.facebook.com/andywilsonforcitycouncil/>

Begin forwarded message:

From: "Reddy, Pat" <JPReddy@spectraenergy.com>
Subject: Re: Could Use a Little Help
Date: January 11, 2017 at 7:59:22 AM PST
To: Andy Wilson <andy@wilsonforcitycouncil.com>

800 Fairfield Circle. Will call you in a few. Pat

Sent from my BlackBerry 10 smartphone.

From: Andy Wilson
Sent: Wednesday, January 11, 2017 9:51 AM
To: Reddy, Pat
Subject: Re: Could Use a Little Help

Pat — Can you provide me street address? Besides asking him to get back to you soon anything else you need of me? Please confirm so I might assist. Feel free to ring my cell: Andy

Andy Wilson
Pasadena City Councilmember District 7
Good neighbor — Dedicated Leader
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On Jan 10, 2017, at 7:47 AM, Reddy, Pat <JPReddy@spectraenergy.com> wrote:

Hello Andy,

Hope you are off to a great start in the New Year! I appreciate the contacts you have introduced me to in Pasadena and I plan to meet with each of them in upcoming visits.

Work on our new home continues, slowed a bit by the recent much-needed rains. Our builder is thinking we could be complete in October although we find ourselves in an unusual situation. Our lot has a mild slope and falls under the Hillside Development Review (HDR) process which places limits on overall square footage and we developed our plans to conform. Our approved plans included post and pier supports for the unfinished portion of the basement below the main floor. As we began construction and our soils engineer tested for compaction, he determined that we needed to excavate deeper than initially expected and so a solid concrete foundation with shear walls under the main floor made more sense. Our architect went back to the building department and got this change approved. Now that we have a full basement slab, we would like to build out the remainder of the basement.

I have met with David Reyes and Kelvin Parker and they have expressed a willingness to help us move forward. Our plan is entirely consistent with the other homes on our side of the street which have walk-out basements and does not present a neighborhood compatibility issue. I have attached a couple of photos to make the point but I know you are very familiar with our street from your canvassing activities. David has had his staff looking at possible options for us. When I met with him on December 20th, he was looking at three possibilities:

1. Allow us to move forward with the same sized basement that the original structure had (quickest);
2. As part of a "refresh" of the HDP code, provide that approval could be given for basements whose floor area is =50% of the area of the upper floors (~2 months to get City Council approval); and
3. That the Planning Department could support our request for a formal variance that would require notice and another hearing (~5 months)

David requested that I provide him with a drawing showing the dimensions of the original basement and my architect sent that to him on Tuesday January 3rd. I have emailed David a couple of times since then to check in but haven't received a response yet. But we will be facing some important dates in the near future – like installing plumbing and electrical and ordering drywall – and it would be very helpful to know which path we are on.

I hesitate to bother you with this but would you mind pinging David and seeing what you might be able to do from your end to keep things moving? Thanks in advance Andy.

Best regards,
Pat

497 Contribution Report

Amounts may be rounded to whole dollars.

497 CONTRIBUTION REPORT

NAME OF FILER Wilson for City Council 2017 AREA CODE/PHONE NUMBER (626) 584-6070 STREET ADDRESS Pasadena	I.D. NUMBER (if applicable) Pending STATE CA ZIP CODE 91106	Date of This Filing 12/28/2016 Report No. AW-004 <input type="checkbox"/> Amendment to Report No. (explain below) No. of Pages 1	Date Stamp <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> E-Filed 12/28/2016 11:38:14 Filing ID: 162617587 </div>
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CALIFORNIA FORM 497

For Official Use Only

1. Contribution(s) Received

DATE RECEIVED	FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR <small>(IF COMMITTEE, ALSO ENTER I.D. NUMBER)</small>	CONTRIBUTOR CODE *	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER <small>(IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)</small>	AMOUNT RECEIVED
12/27/2016	John Reddy Pasadena, CA 91106	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	CFO Spectra Energy	5,000.00 <input type="checkbox"/> Check if Loan Provide interest rate _____%
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		 <input type="checkbox"/> Check if Loan Provide interest rate _____%
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*Contributor Codes
 IND - Individual
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 OTH - Other (e.g., business entity)
 PTY - Political Party
 SCC - Small Contributor Committee

Reason for Amendment: _____

497 Contribution Report

Amounts may be rounded to whole dollars.

497 CONTRIBUTION REPORT

NAME OF FILER		Date of This Filing 03/15/2017	Date Stamp
Wilson for City Council 2017		Report No. aw-021	<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: auto;"> E-Filed 03/15/2017 23:26:41 Filing ID: 164009156 </div>
AREA CODE/PHONE NUMBER	I.D. NUMBER (if applicable) 1391205	<input type="checkbox"/> Amendment to Report No. (explain below)	
STREET ADDRESS	STATE ZIP CODE	No. of Pages 2	
Pasadena	CA 91106		

CALIFORNIA 497 FORM
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1. Contribution(s) Received

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03/15/2017	Olin Barrett Pasadena, CA 91106	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Retired None	1,000.00 <input type="checkbox"/> Check if Loan Provide interest rate _____%
03/15/2017	Pasadena Firefighters Local 809 PAC Sacramento, CA 95814 Committee ID # 862327	<input type="checkbox"/> IND <input checked="" type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		5,000.00 <input type="checkbox"/> Check if Loan Provide interest rate _____%
03/15/2017	John Reddy Pasadena, CA 91106	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	CFO Spectra Energy	2,500.00 <input type="checkbox"/> Check if Loan Provide interest rate _____%

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Reason for Amendment: _____

800 Fairfield Circle Permit Requests & Zoning Appeals Timeline
SUBMITTED BY AVRAM GOLD

17 OCT 23 03:17PM

CITY CLERK

Something about this project just doesn't ring true. Has the Applicant been negotiating construction requests and changes in good faith? Were there hidden agendas? And if so, should that means of doing business be taken into consideration when granting construction approvals? Is the project solely about square footage variances, or are there ethical issues to be considered? By granting the Applicant's request for expanded footage after the Applicant broke the covenant promise and refused to back fill, is accountability in question, or not? And if not, what kind of message does this send for future applicants who want to override zoning restrictions? We must not forget that zoning regulations are essentially consumer and environmental protections. Everyone must play by the rules.

An analysis of the Staff Report, the submitted Applicant's 10/19/17 letter to Mayor Tornek, the four Irvine Geotechnical site reports and various project documents were used to construct a timeline that suggests the Applicant has changed facts in their project narrative. The constructed timeline also suggests that the Applicant intended to build a 422 sq/ft basement media room soon after they had signed a covenant to reduce their basement plans back to the originally approved 280 sq/ft basement area.

References to the Staff Report is printed this way

References to the Applicant's letter is printed this way

The Irvine Geotechnical SITE REPORTS are printed this way

Author's comments are sprinted this way

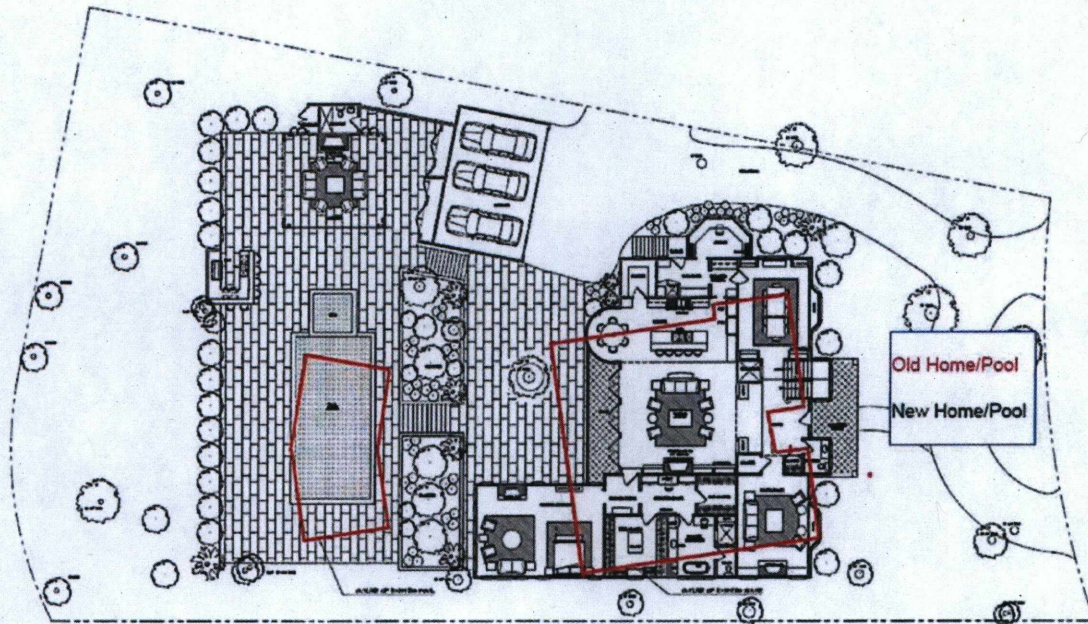
**** **TIMELINE** ****

6/17/2015 - The original HDP project (Development Permit #6303) allowed demolition of a smaller house with the replacement of a two story larger house having a 280 sq/ft basement for a total sq/ft home of 5,437, all within zoning regulations. ***(The Applicant states in their letter to Mayor Tornek that they had no intention of expanding beyond the approved basement limits.)***

2/29/2016 – The construction permit was issued and construction began. (Four geological survey reports were submitted by Staff for referral. If there are more, they have not been submitted as evidence.)

800 Fairfield Circle Permit Requests & Zoning Appeals Timeline SUBMITTED BY AVRAM GOLD

The following drawing shows the footprint of the new home overlaid on the original.



4/5/16 – Irvine Geotechnical observes soil conditions after construction start. The SITE REPORT #1 states: “Met with Mike to discuss soil conditions and observe proposed pad area. Dense terrace soils are exposed over $\frac{3}{4}$ of the pad with a small wedge of fill/soil on the downhill $\frac{1}{4}$ Remove all fill and soil in the areas of slab or hardscapes. Expose dense soils and call for bottom inspection.” ***(The Applicant stated: “Our soil engineer, Irvine Geotechnical, performed soil sampling during the permit process.” However, the first Irvine Geotechnical site report submitted to the public as a reference took place six weeks after the construction permit was approved. The Applicant also stated that during construction, additional geotechnical soil compaction issues required deeper slope excavation under the entire main floor of house.)***

4/18/2016 – The applicant’s contractor submitted revised structural sheets that described different grading of the downward slopes behind the house. This expanded excavation accommodated a basement ceiling height of eight feet with a concrete floor/foundation of approximately 2,700 sq/ft. Although the grading change did not comply to the original project building permit, the Building & Safety Division approved the modified construction plans. **(No copy of the B&S revised permit is available for reference.)**

800 Fairfield Circle Permit Requests & Zoning Appeals Timeline

SUBMITTED BY AVRAM GOLD

4/26/16 - Irvine Geotechnical writes up second SITE REPORT: "Up to 4' to 5' of loose soil overlies the area of the proposed patio arc. Based on our conversations, the loose soil will be removed and re-compacted for slab and patio ftg support 3' below and 4' beyond. Footings will be removed."

5/2/16 - Irvine Geotechnical writes up third SITE REPORT: "Arrived on site as requested by geologist to be deepened into natural alluvial terrace. Footings have been deepened per request and are approved by geologist."

6/?/2016 - (The Applicant's letter states that their contractor suggested they frame out windows and door of the expanded basement slab area so that they would be in place for future city approvals. (With variances, those approvals would accommodate the expanded basement area media room.)

7/19/2016 - A **stop work order** was issued by the City because the grading changes to the basement were not consistent with the originally approved HDP #6303. Subsequently, the applicant home owner submitted construction plans which would reduce the basement area back to the approved upon 280 sq/ft. The excavated flat grading within the wings of the house was expected to be backfilled, eliminating the basement height and livable space. Accordingly, the **owner signed a covenant** with the City promising to sustain the approved 280 sq/ft basement area. **(The Applicant's letter does not mention the covenant's promise of backfilling the excavation which would have stopped the possibility of expanding the basement again to 484 sq/ft.)**

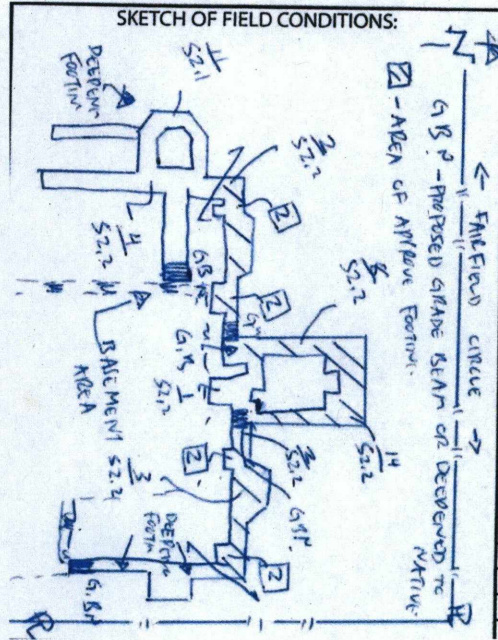
9/28/16 - Irvine Geotechnical writes up forth SITE REPORT for first floor footings and pads: "Arrived on site as requested for the first floor footing observation. There is a couple of issues with the footings. Portion of footings that are perpendicular to basement walls are in compacted fill, the rest of the footings sit in native soils. It is recommended to either place a grade beam or deepened to native soils. The footings to the north are embedded into native soils per approved soils report. The footings have been excavated to the width and depths, per plan."

This 4th field observation report does not address any backfills as prescribed by the covenant. On the contrary, the sketch of the field conditions still shows proposed expanded basement area that would be asked for later. See sketch below and the dotted line for the basement area, and then the 9/7/2017 Board of Zoning Appeals variance request for the 422 sq/ft media room.

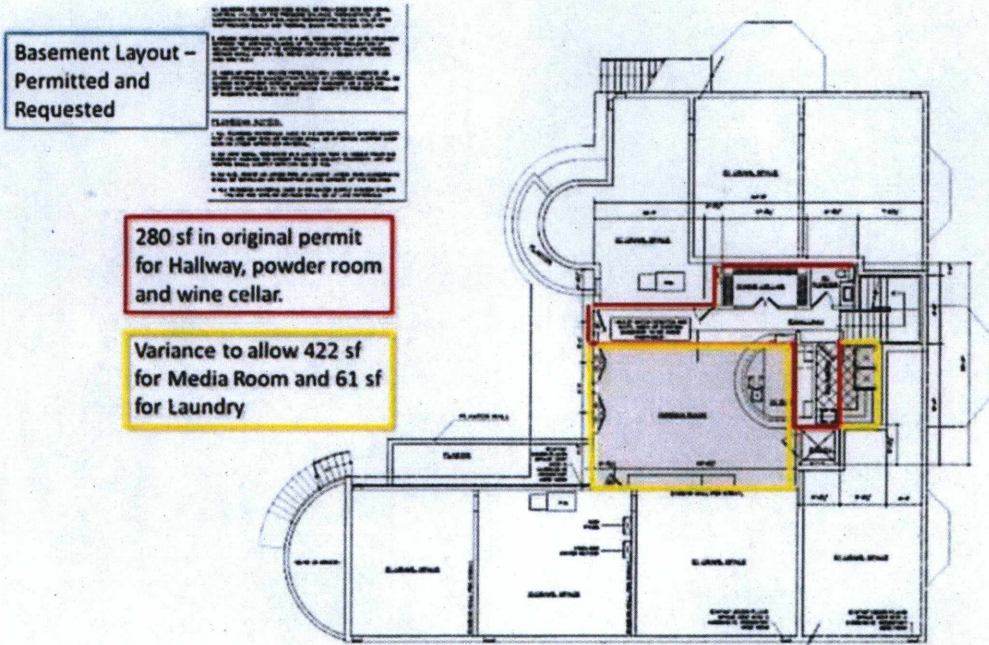
This timeline and geological site report suggest that the Applicant never intended to backfill the grade to a reduced 280 sq/ft area. They left open the graded flat space for the expanded basement they applied for eight months later.

800 Fairfield Circle Permit Requests & Zoning Appeals Timeline SUBMITTED BY AVRAM GOLD

Irvine Geotechnical 9/28/16 SITE REPORT for foundation footings



The Applicant's 5/30/17 revised plan with a proposed basement of 422 sq/ft.



800 Fairfield Circle Permit Requests & Zoning Appeals Timeline

SUBMITTED BY AVRAM GOLD

10/?/2016 – Construction resumed but the back fill never happened. Currently the expanded excavation remains open.

3/?/17 – (The Applicant files for variances, according to their letters.)

5/17/2017 – The Hearing Officer public meeting of the Applicant's revised permit request. According to the Staff report, the property owner wanted the excavated unimproved basement area of 2,621 sq/ft to be converted to living space. **(The Applicant's letter states they asked for a buildout of only 1800 sq/ft.)** This revised permit request increased house area of 5,437 sq/ft to a total 8,070 sq/ft, including the added huge basement. With a May 22nd letter, the hearing officer denied the variance for the immensely expanded footage. **(The Applicant stated they agreed to fill in all the window and door basement framing so that this area matched approval.)**

5/30/2017 – The property owner, now represented by counsel, applied to the Board of Zoning Appeals. The submission for the unimproved excavated basement area of 2,621 sq/ft was reduced to 483 sq/ft, 203 sq/ft more than the permitted 280 sq/ft. The expanded basement area pushed the overall house square footage over the maximum permitted house area of 5,469 sq/ft. **(The Applicant's letter states: "The project still meets all the development standards under the Hillside Ordinance, including Neighborhood Compatibility.")** They still needed buildout variances overriding zoning code restrictions.

9/6/2017 – The Board of Zoning Appeals (3 to 1 vote) approved the requested variance allowing the 483 sq/ft basement and the expansion of the house to be 5932 sq/ft.

9/18/2017 – Kenneth and Tracy McCormich submitted and appeal application to the City Council citing a disagreement with the Board of Zoning Appeals.

CURRENTLY – According to the Staff Report, construction is ongoing and **the exterior rear excavated area has yet to backfilled**. The applicant now wants 483 sq/ft of basement area, which was approved by the Board of Zoning Appeals. However, as previously stated, this timeline suggests that the original approval of a 280 sq/ft basement was never established as a goal through any construction phase once grading started. The total lower area level will now spread to 763 sq/ft if variances are approved. The entire house total square footage will increase from the permitted 5,469 sq/ft to the expanded 5,932 sq/ft.

800 Fairfield Circle Permit Requests & Zoning Appeals Timeline
SUBMITTED BY AVRAM GOLD

From the Staff report:

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 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 M.

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

Jomsky, Mark

From: Mic Hansen <mic.hansen@icloud.com>
Sent: Monday, October 23, 2017 2:59 PM
To: Jomsky, Mark; Sweeney, Jessica
Subject: Hillside Development Permit #6303, 800 Fairfield Circle, 91106

Mark and Jessica,
Would be grateful if you could please distribute the appended note to the Members of the Council for tonight's hearing.
Thank you,
Mic

Dear Mayor Tornek, Vice Mayor Kennedy, and Members of the City Council:

I respectfully ask that the Council overturn the decision of the Board of Zoning Appeal's and concur with the decision of the Haring Officer, and not grant the modification and variance requested by the applicant. This case is of importance to those of us in all neighborhoods because of the precedent that it is likely to provide for residential building throughout our city.

On the face of it, this may look like a reasonable variance to grant; however it is important to thoroughly review the entirety of the record and carefully evaluate the history of the case as well as the trajectory of events. Will our city enforce the provisions of its Hillside Ordinance, or overlook its validity in retroactively? In effect, approval of this modification and variance rewards the applicant's disregard of our zoning code, and devalues the efforts of all the code-abiding citizens who comply with our zoning requirements.

Concurring with this variance condones non-compliance, and sends entirely the wrong message to those who will use retrospective approval of infractions to justify non-compliance. *Most importantly, it is not just about this one case, but the precedent it sets, showing that violating our zoning code has no consequences, and an applicant can do anything they choose because amnesty will be granted after the fact.* It has the potential to encourage and embolden those who may want to circumvent our planning process.

Your decision is very important for all of our residential neighborhoods. Thank you for your consideration.

Respectfully,

Mic Hansen

10/23/2017
Item 11