CORRESPONDENCE

george penner

VIA EMAIL

Date: April 28, 2021

To: Mayor Victor Gordo
Pasadena City Council
Mr. David M. Reyes

From: George Penner

Re: 801 South San Rafael Avenue, Pasadena

I am respectfully writing to you as a proud citizen of Pasadena, a 16 year South San Rafael Avenue resident, and an architectural purist and preservationist - having honorably served as a Pasadena Heritage Board Member for six years.

I believe and endorse the protection of landmarking appropriate structures, based on their architectural significance.

However, a single family property differs significantly from a public or institutional building. Any single family property designation, homeowner cooperation must be considered. This process should never be done retroactively, in a vacuum, against city staff recommendations and most importantly, against the wishes of any homeowner.

To my knowledge, the landmarking of a single family home in Pasadena without approval of the homeowner has never been done.

If 801 South San Rafael Avenue is landmarked in this manner, I believe the result could potentially have wider implications, such as:

- Reducing property owner rights.
- Discouraging current homeowners from undertaking renovations and improvements of their property.
- Impact property values negatively.
- Limit new residents' consideration of Pasadena due to its inconsistencies around the permitting and approval process.
- Increased liability for nondisclosure of a potential unforeseen "future" landmark designation for multiple parties, including: current homeowners considering selling, real estate brokerages and their agents, organizations such as Pasadena Heritage, and even the City of Pasadena itself.

Mayor Victor Gordo
Pasadena City Council
Mr. David M. Reyes

RE: 801 South San Rafael Avenue, Pasadena

If there is a desire to landmark more single family homes, one suggestion would be to establish an independent commission that would carefully evaluate Pasadena's entire inventory of homes, their architectural significance, and their contribution to the overall design fabric of our city. Once a property has been identified as potentially landmark worthy, the homeowner would be notified and would have the ability to provide input and agreement. Then a complete list could be made public - providing complete transparency and objectivity.

The permits at 801 South San Rafael were approved by highly trained and experienced city staff. Twice they recommended against landmark designation. I support their decisions.

We all treasure the amazing architecture in Pasadena. But more importantly, we need to treasure the individuality of our incredible neighbors, friends and residents.

Thank you very much for your consideration.

Sincerely,

George Penner
220 South San Rafael Avenue

Jomsky, Mark

From: Steven A. Lamb <slamb@rovenslamb.com>
Sent: Thursday, April 29, 2021 2:21 PM
To: PublicComment-AutoResponse; Jomsky, Mark
Subject: Submission on Behalf of Roxanne Christ-DeWitt re Notice of Public Hearing HDP #6837 -- 801 San Rafael Avenue -- Appeal of BZA Denial of HDP Permit; City Council Meeting May 3, 2021
Attachments: 20210429.city council appeal letter.s.w exhs.pdf

Attached please find our submission on behalf of our client, Roxanne Christ-DeWitt, for review and consideration by the City Council.
This matter is noticed for the May 3, 2021 City Council meeting.
Regards

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Via email to
correspondence@cityofpasadena.net
mjomsky@cityofpasadena.net

April 29, 2021

HONORABLE COUNCIL MEMBERS
Pasadena City Council
City of Pasadena
100 North Garfield Avenue
Pasadena, CA 91101

Re: ***Notice of Public Hearing HDP #6837 – 801 S. San Rafael Ave.***
Appeal of Decision of Board of Zoning Appeals to Deny Hillside Development Permit on March 18, 2021

Dear Council Members:

This matter is before the City Council on an appeal by the HDP applicant and developer Deborah Rachlin Ross[1] following a hearing on March 18, 2021 and denial by the Board of Zoning Appeals ("BZA") of the developer's application for a Hillside Development Permit ("HDP") for the Project Site at 801 South San Rafael Avenue, Pasadena California.

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[1] 801 S. San Rafael Avenue is owned by This Old House, LLC, which was organized by Deborah Rachlin Ross and of which Deborah Rachlin Ross, Rodney Ross and Michael Rachlin are members. Michael Rachlin is also the architect of record. For simplicity, we refer to This Old House, LLC, Deborah Rachlin Ross, Rodney Ross, and Michael Rachlin, singularly and collectively as the "developer."

At the hearing, the BZA adopted a motion by Commissioner Lyons "to grant the appeal and disapprove the project and directs that the staff further study the scope of the entire project, including all of the phases of work, and potentially reevaluate the historic eligibility."[2] Despite this clear directive, work on prior phases of this project has continued. And work not apparently covered by *any* permit, the addition of a deck to the front of the house, has started and finished since the BZA decision.

The BZA Decision denying the HDP Application is further described in a March 23, 2021 letter to the Applicant.

> At the conclusion of the public hearing, and with full knowledge of the property and vicinity, the Board of Zoning Appeals determined that ***the project was not 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 and § 15301, Class 1, Existing Facilities). Specifically, it was determined that ***the scope of the entire project, including all its phases, and the historical status of the residence, were not fully evaluated***.

BZA Letter of March 23, 2021 (emphasis added).

The Notice of Public Hearing posted at the Project Site provides notice that "The City Council will be asked to consider whether the proposed project is categorically 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(e), Class 3, New construction or Conversion of Small Structures)." The Notice of Public Hearing sets the hearing for Monday, May 3, 2021 at 4:30 p.m.

Accordingly, the sole and exclusive issue the City Council is considering is whether the proposed project is exempt under § 15303(e). Notably, the City Council is not considering and is accepting the BZA's determination that "the scope of the entire

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[2] Emphasis added. See Minutes of the Board of Zoning Appeals Special Meeting, March 18, 2021, adopted at the Special Meeting of the Board of Zoning Appeals held on April 22, 2021. Commissioners Lyons, Nanney and Coher voted in favor of the motion. Commissioner Wendler voted against the motion. Commissioner Hansen recused. A copy of the Minutes is included in as Exhibit A.

project, including all its phases, and the historical status of the residence, were not fully evaluated."[3]

We represent Roxanne Christ-DeWitt, who resides at 815 S. San Rafael Avenue, which abuts the Project Site, and is the trustee of the DeWitt Family Bypass Trust. We understand that the City Council's review is a *de novo* review.[4]

We address herein the sole and exclusive subject of the hearing for which Ms. Christ-DeWitt and the public have been provided notice, namely whether the proposed project is exempt under § 15303(e).[5]

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[3] A copy of the Public Hearing Notice is attached hereto as Exhibit B.

[4] During the BZA hearing filed by Ms. Christ-DeWitt, she was given 15 minutes to present to the BZA since she had filed the appeal. The developer was given 15 minutes to present her opposition to the appeal. Each "side" was given 5 minutes to respond to the other's presentation.

As the appellant in this City Council meeting on the matter, the developer and her lawyer will be given extra time to present their appeal. However, the city clerk informed Ms. Christ-DeWitt that she would not be given time to present her opposition to the developer's appeal at this City Council meeting. Her status is, as she was told, "the same as any other neighbor or citizen" and she could submit a request to make up to a 3 minute public comment. We think this unequal treatment contradicts Resolution No. 9716 and principles of fairness.

[5] We incorporate by reference for the record herein all prior submissions by and on Ms. Christ-DeWitt's behalf through and including the BZA appeal stage.

1. The Proposed Project is Not Exempt Under § 15303(e)[6]

The CEQA exemption under §15303(e) includes only "small facilities or structures" and subclause (e) of Class 3 includes only "[a]ccessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences" which are, themselves, examples of "small facilities or structures."

The exemption under §15303(e) cannot be fairly read to include fully enclosed, conditioned, multi-room buildings that are intended to be occupied by humans (e.g., not cars) like the developer's proposed 600 square foot "home office" building containing a one hundred twelve (112) square foot kitchen-like area fitted with a fourteen (14) foot long counter and kitchen sink, and a three quarter bathroom complete with a shower, toilet and bathroom sink; or the developer's proposed six hundred (600) square foot "home gym" building, containing a bathroom and sixty (60) square foot closet.

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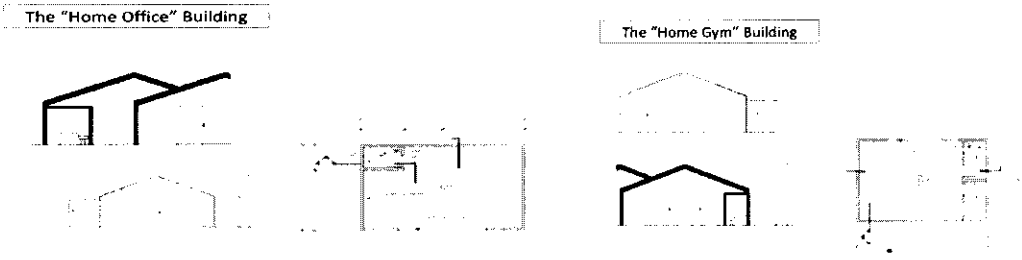
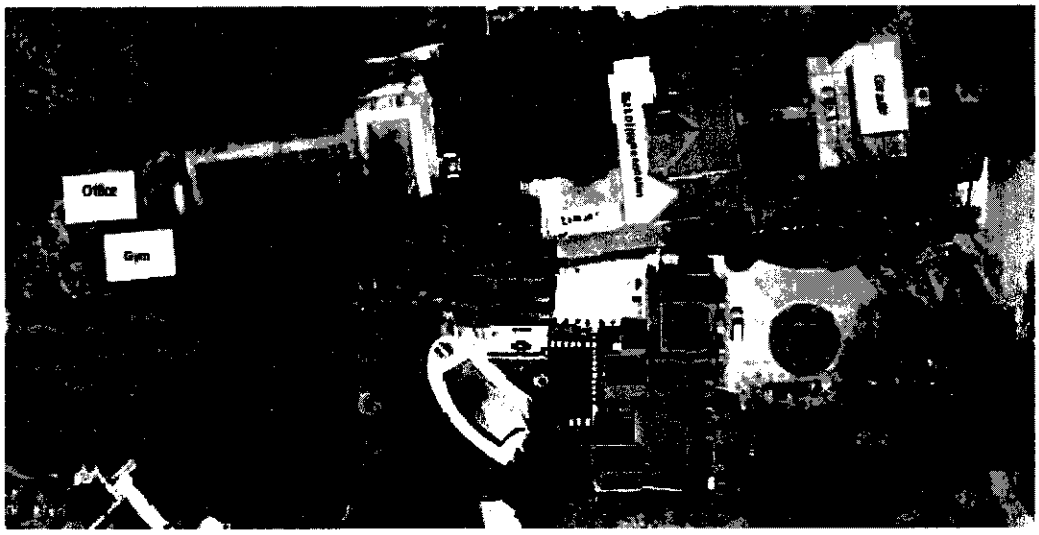
[6] The Notice of Public Hearing specifically does not reference Section 15301(e) ("Class 1 Exemption"). Between the original hearing on HDP #6837 on January 6, 2021 and the BZA appeal on March 18, 2021, the City had added the Class 1 Exemption as its basis for determining the demolition of the guest house and construction of a new "cabana" like structure in its place was exempt from CEQA. Clearly, § 15301(e) cannot apply to the newly proposed home office building or home gym building that are part of the proposed project since they are not added to the existing structures: they are detached from those. Nor does § 15301(e) apply to the demolition of 70% of the 840 square foot existing guest house (which, according to the Declaration of Andrea Van de Kamp, John Van de Kamp used as his home office) and construction of a 262 square foot cabana or patio entertainment structure in its place. Demolishing a guest house containing a living room, fireplace, bedroom, two bathrooms and kitchen area and replacing it with an outdoor entertainment structure is not a "minor alteration" of an existing structure or is it necessarily a less intensive use. The HDP covers the entire project, which includes the demolition of 70% of the guest house. Moreover, building three new "accessory" structures on top of the garage that is still being built is not fairly within the meaning of a limited numbers of accessory structures allowed by the qualifying language in § 15303.





The statutory intent of CEQA is well-settled: "The foremost principle under CEQA is that the Legislature intended the Act "to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language." *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 259. CEQA requires all doubts to be resolved toward requiring environmental review. *Bowman v. City of Petaluma* (1986) 185 Cal.App.3d 1065, 1073–1074.

CEQA categorical exemptions "are construed narrowly" and will not be unreasonably expanded beyond their terms. *County of Amador v. El Dorado County Water Agency* (1999) 91 Cal.Rptr.2d 66, 89. Exemptions are strictly construed to allow for the fullest possible environmental protections within the reasonable scope of statutory language. CEQA Guidelines 15003(f); *Azusa Land Reclamation Co, v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1192-93; *East Peninsula Ed. Council, Inc. v. Palos Verdes Peninsula Unified School Dist.* (1989) 210 Cal.App.3d 155, 171; *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 390 (rejecting "an attempt to use limited exemptions contained in CEQA as a means to subvert rules regulating the protection of the environment").

There is simply no legal authority that supports a §15303(e) exemption for the proposed project. We cannot find a single instance where the City has previously relied on this "exemption" to avoid CEQA review of the concurrent construction of multiple habitable, conditioned structures on a single-family residence lot. As neighbor Eric Whalen wrote in his well-researched letter to the BZA dated March 15, 2021, out of 71 residences within the 500 foot radius of the Project Site, "only 18 have any apparent detached accessory structures that are not zero-sided open-roofed patio pergolas. Of the 18, only a *single* residence (964 Hillside Terrace) appears to have more than one such accessory structure. And that residence has only two such structures. If my research is correct, then the idea of building three more detached accessory structures – totaling 1462 square feet – on a property where a fourth 600 square foot detached accessory structure (the front yard garage) is compatible with development in the existing neighborhood seems as wrong as it looks."

2. Regardless, the Proposed Project is Excepted from Exemption as a Historical Resource Under § 15300.2

Even assuming the Project were to fit under a categorical exemption – which it does not – the Project would still not qualify for an exemption because it comes within exceptions under Guidelines 15300.2, subdivisions (f) and (c). Guidelines § 15300.2(f) provides, "Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource."

CEQA and Guidelines unequivocally state that the fact that the property is not listed as a historic resource in the national registry or California Register shall not relieve the lead agency of its obligation to determine that it is historically significant if it meets the criteria, as the Van de Kamp residence clearly does. Pub. Res Code § 21084.1; Guidelines § 15064.5(a)(4); *Architectural Heritage Assn. v. County of Monterey* (2004) 122 Cal.App.4th 1095, 1114 ("the governing statute 'does not demand formal listing of a resource in a national, state or local register as a prerequisite to 'historical' status. The statutory language is more expansive and flexible.'") *citing League for Protection of Oakland's etc. Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 907. The City has never made a determination under the applicable statute that the property does not meet historical status under the Public Resources Code.

As the original and supplemental materials submitted by Pasadena Heritage prove, there is *no question* that the former residence of John K. Van de Kamp meets the eligibility criteria for "historical resources."

Claire Bogaard, who herself served on the State Historical Resources Commission for several years wrote in her March 15, 2021 letter to the BZA "I am able to vouch for the eligibility of the Van de Kamp property as an historic landmark." And, "with certainty."

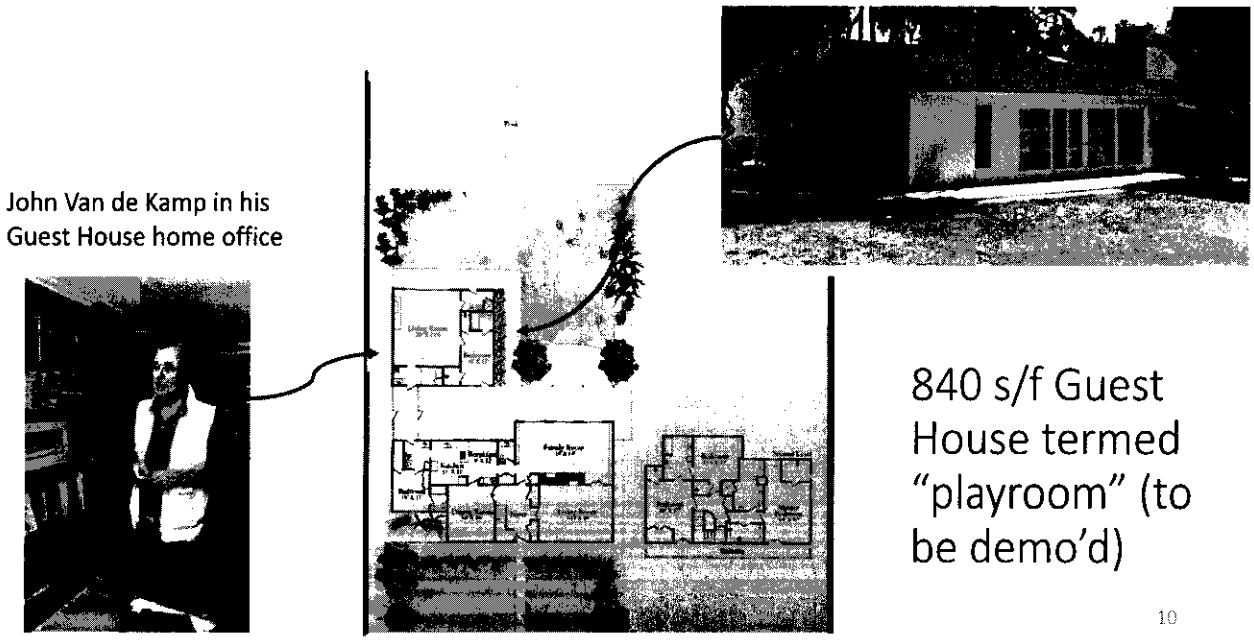
Planning Commissioner Donald Nanney put it during the BZA hearing "I think the City really dropped the ball on the historic value of John Van de Kamp having lived there. … John Van de Kamp was, you know, huge and if [he] as former resident of that house doesn't qualify it for some special treatment, I don't know what does under the ordinance . . ."

The staff's response to the irrefutability of this property's eligibility is to argue that the work proposed by the developer would not cause a "substantial adverse change" to the home. This is not so. The 840 square foot building behind the main house that the developer strategically calls a "playroom" and now proposes to demolish served as John Van de Kamp's home office.

According to John's widow, Andrea Van de Kamp, "the guest house doubled as John's home office. His computer was set up on a built in desk in the living room. His books filled built-in bookshelves and bookcases. The walls were covered with his awards, mementos, family photos, professional and personal memorabilia, books, papers, and

records. Throughout the time we lived on San Rafael, John spent thousands of hours working from his home office except when we had guests staying over."

According to Mrs. Van de Kamp, the photos below show the guest house building, its floor plan, and John Van de Kamp inside his home office. See Declaration of Andrea L. Van de Kamp, attached hereto as Exhibit C.



She explains why she refers to this building as the "guest house" rather than the "playroom": "We never used the guest house as a 'playroom.' Nor, to my knowledge did the Boswells, who lived in the house from 1964 to 1987, ever use the guest house as a 'playroom'."

Two of the seven aspects of integrity that are the basis for historical status in this case are "location" and "association". The demolition of the guest house will adversely affect the association of the house with John Van de Kamp. So, the developer's

proposed demolition of all but one wall of this building that John Van de Kamp used as his home office would most definitely have a substantial adverse change on the significance of his former residence as a historical resource.

Again, the Notice of Hearing sets forth and specifically limits the issue being presented to the City Council for *de novo* review. The sole issue on appeal is the applicability of § 15303(e) as an exception to CEQA requirements. ***The City Council is not considering and is accepting the BZA's determination that "the scope of the entire project, including all its phases, and the historical status of the residence, were not fully evaluated." Accordingly, assuming arguendo that the exemption applies, it is excepted by the unrebutted and accepted determination of the BZA.***

3. The Proposed Project is not Exempt Because of the Unusual Circumstances Exception

Guidelines §15300.2(c) provides, "A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances."

The project presents unusual circumstances given the property's status as a historical resource. As articulated in earlier filings with the hearing officer and BZA, and for brevity's sake not repeated here, the neighboring train collection, evidence of past and likely future impacts and damage from construction vibration, and the numerous accessory structures (and uses) that are proposed, reasonably foreseeable, or recently approved and/or built on the site. These unusual circumstances disqualify the Project from any categorical CEQA exemption.

4. CEQA Forbids the City's Piecemeal Review of the Proposed Project

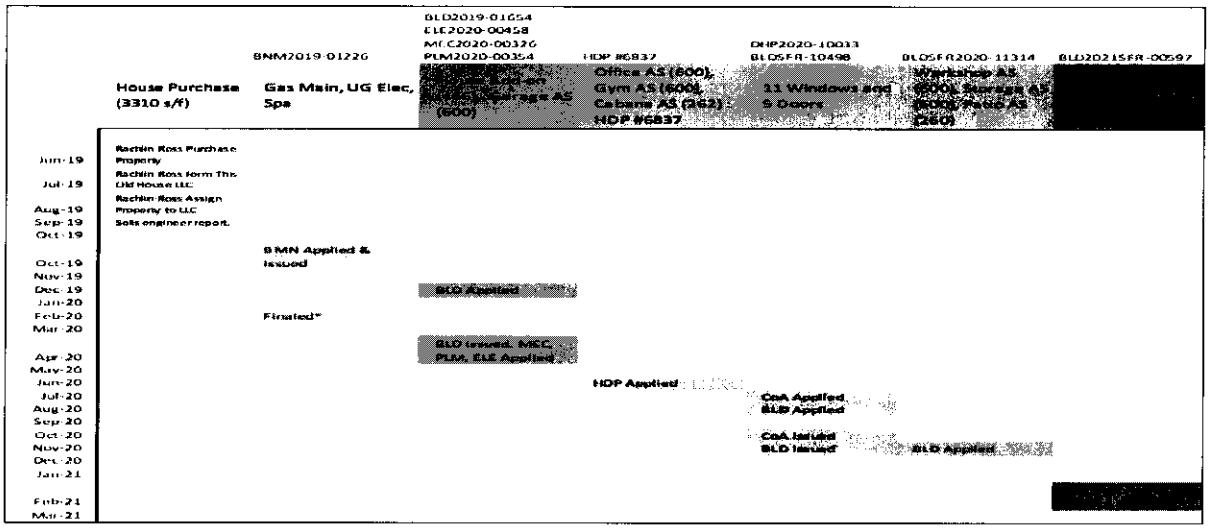
Distinct from the CEQA exemptions, City violates CEQA because of the incomplete project description as well as piecemealing.

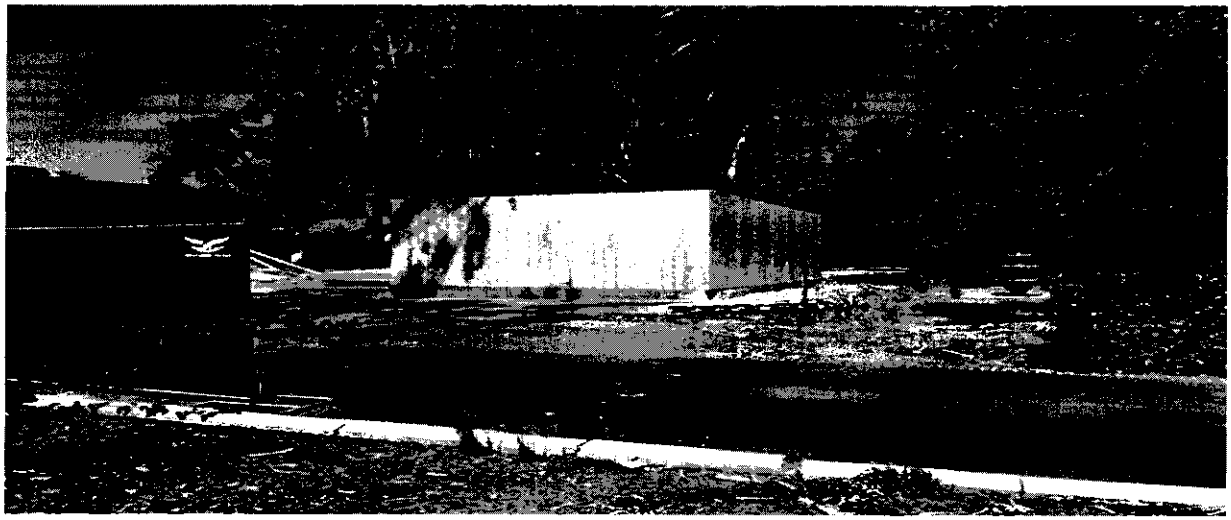
The Staff Report of January 6, 2021, as well as the final approval and findings of January 11, 2021 show that the project description is incomplete as the project is proceeding in piecemeal nature. First, the project description excludes the 600 sf. garage that is currently being built, as well as the 466 sf. addition and views those as an existing structure. There is no question that these proposed accessory structures are

part of a larger, mapped out project that is being segmented or phased. This is evident from the permit timeline below:

801 S. San Rafael Piecemealing

- 6 permit applications in 16 months
- HDP application filed 6/29/20. Photo taken 7/17/20.





Planning Commissioner Jason Lyon zeroed in on this issue during the BZA hearing[7]:

> "I can't make the environmental determination here because the city by its own admission hasn't done the piece-mealing analysis it has to do and so this is an applicant who has chosen for whatever reason to phase the project whether that's been coincidence or a plan – and I think it was probably a plan for the project –the city is required under CEQA to analyze the project as a whole, and so to call each phase a 'project' is inconsistent with CEQA."

Commissioner Nanney added, "I was also very bothered by the sequencing of the project, . . ."

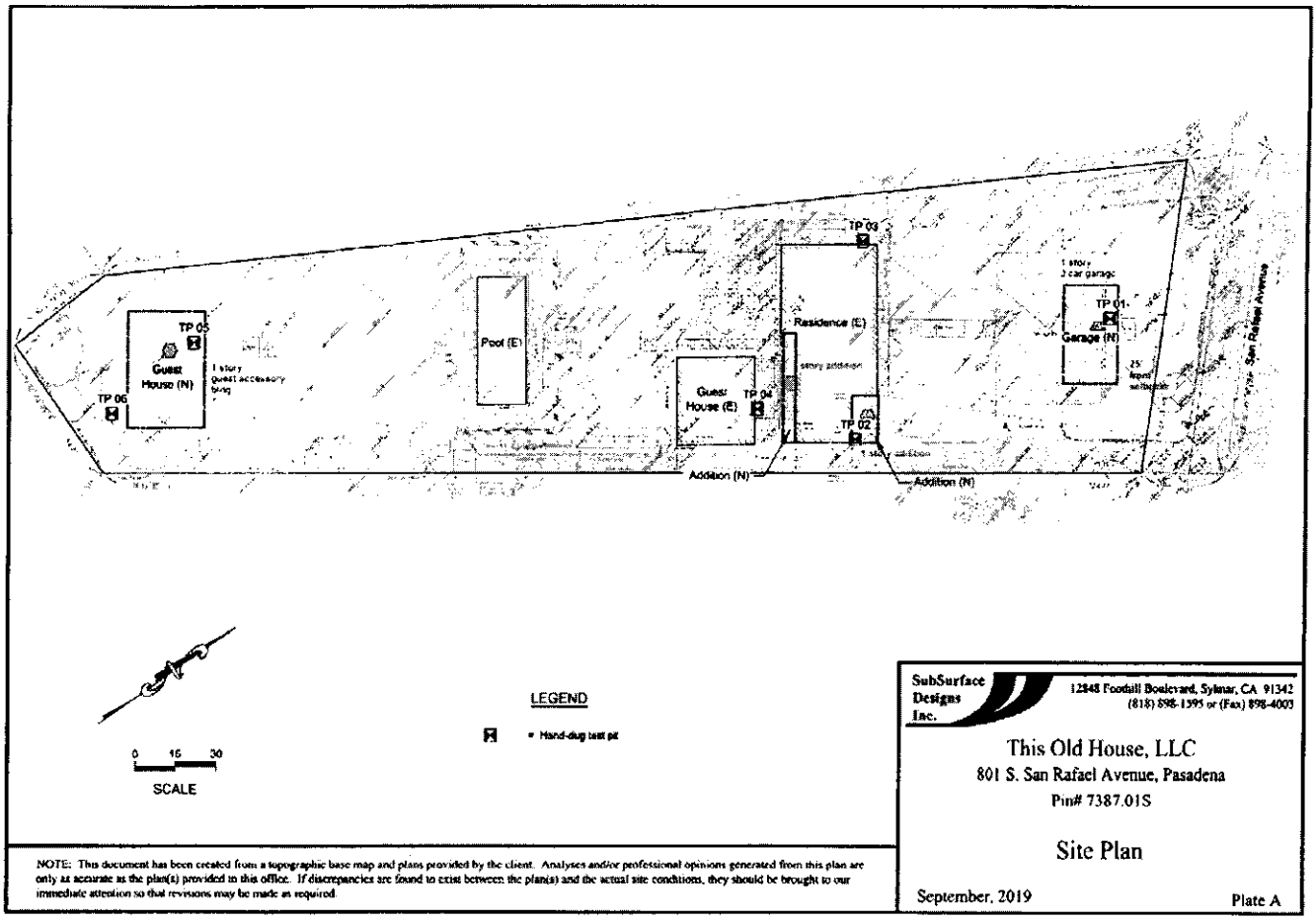
Commissioner Coher agreed, stating,

> "It seems to me that we have a larger project and that, that hasn't really been properly analyzed under the Hillside Ordinance. The phasing, it just seems problematic. It *is* problematic for me. I'm a little at a loss for understanding how there is an issue such as the need for a garage that wasn't earlier discovered in the initial process that would seem to me like something that would jump out so I'm not clear on what happened there. I'm not saying it didn't happen by any stretch, please don't misunderstand me. I'm just saying that there's a broader overall analysis required here."

Second, the Staff Report omits what are reasonably foreseeable future segments of this project. One future segment includes a future first story addition at the east end of the front of the house (the "Front Facade Expansion"). This Front Façade Expansion (along with the garage and a large new rear yard accessory structure) is specifically

[7] A certified transcript is not presently available, but the audio from the hearing is uploaded on the city's website.

disclosed in project description and site plan of the developer's soils engineering report dated September 26, 2019, and attached as Exhibit D, shown below:



CEQA analysis must include reasonably foreseeable construction (and project expansion) of a presently unidentified structure on the 3 walls, which will remain after Accessory Structure # 3 gets detached from the main house. The three detached walls – with an existing and remaining fireplace – will compel construction of something else, which is undisclosed now. Piecemealing and an inaccurate project description violate CEQA.

"CEQA forbids piecemeal review . . . " *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 193-194. CEQA's prohibition of piecemealing stems from Guidelines § 15378(a)'s definition of a project as "the whole of an action"; Guidelines § 15165's mandate to study the "total undertaking" (individual projects or multiple phases) in a single document under; CEQA's mandate to study the impacts of "all phases of project planning, implementation, and operation," as well as "planning, acquisition, development, and operation" Guidelines §§ 15063(g)(1), 15126, respectively; CEQA's mandate that the impacts analysis include both the "direct physical changes" and the "reasonably foreseeable indirect physical change" under Guidelines § 15064(d); and Guidelines § 15130(b)(1)(A)'s mandate to consider the cumulative impacts of the project together with the list of "past, present, and probable future." Whether piecemealing occurred is a question of law. *Paulek v. Department of Water Resources* (2014) 231 Cal.App.4th 35, 45-46. CEQA contemplates consideration of environmental consequences at the "earliest possible stage, even though more detailed environmental review may be necessary later." *Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App.3d 1337, 1346. CEQA is subverted by piecemeal "chopping a large project into many little ones-each with a minimal potential impact on the environment - which cumulatively may have disastrous consequences." *Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 283-284.[8]

The piecemealing and inaccurate project description here result in subversion of CEQA and failure to consider the impacts of the ongoing construction, as well as the future potential expansion of the cabana and uses on the two other accessory structures.

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[8] The project description contains other errors as well. It states the project would "reduc[e] the size of the playroom by 670 square feet, resulting in a 262 square foot detached accessory structure." This is impossible. The "playroom"/guest house structure is a 28 x 30 foot (840 square feet) rectangular building. (See Tim Gregory Building Biography, pg 28). Subtracting 670 from 840 yields 170, not 262. That is a material arithmetic error of 35%. More importantly, why did the mistake occur? Where is the factual inaccuracy? Calling the guest house a "playroom" is also materially misleading. It implies the guest house is not itself right now an accessory structure (which Ms. Christ-DeWitt pointed out to the Hearing Officer). It incorrectly implies that the new accessory structure in its place will have a less intensive use. It inaccurately describes "existing" conditions that do not actually exist. In short, it contains misinformation. Without an accurate project description CEQA cannot be properly analyzed and no HDP determination can be made.

5. Conclusion

The City's purported exemption from CEQA and its environmental analysis are inaccurate, improper, and incomplete. There is substantial evidence in the record that the Project is not exempt from CEQA. There is also substantial evidence in the record that the historic significance and unusual circumstances exceptions further disqualify the project from the application of any exemption City may invoke.

We urge the City Council to overrule the appeal, uphold the BZA motion and decision, and direct staff to conduct a thorough investigation under CEQA and to identify the actual scope of the project, as well as the individual and cumulative impacts and mitigation measures prior to issuing any approval or permit for the Project site. *If* the City Council reaches the question of whether the HDP findings can or cannot be made (and it should not reach this question because the CEQA issue is a threshold that mandates the matter first be sent back to the staff for a full CEQA analysis then the HDP process begins anew), then the findings required for issuing HDP #6837 still cannot be made without additional conditions that are reasonable and necessary to make the findings based on expert advice of Fred Hill, an expert on model trains; Hugh Saunerman, Ph.D., P.E., a vibration engineer; and Fran Offenhauser, an architect. We reserve all other arguments raised below.

Very truly yours,

Steven A. Lamb

Enclosures:

A – BZA Minutes from Hearing of March 18, 2021
B – Public Notice of May 3, 2021 Hearing
C – Declaration of Andrea L. Van de Kamp
D – 9/26/2019 Subsurface Designs, Inc. letter with attached Soils Report
E – List of HDP Conditions and Summary of Expert Advice re Conditions and Reports

Exhibit A

MINUTES
BOARD OF ZONING APPEALS
SPECIAL MEETING – 5:30 P.M.
Thursday, March 18, 2021
Virtual Meeting

1. **ROLL CALL** – Chair Coher called the meeting to order at 5:30 p.m.
   Present: Commissioners Hansen, Lyon, Nanney, Wendler, and Chair Coher
   Excused Absent: Chair Coppess
   Staff: Luis Rocha, Beilin Yu, Jennifer Driver, Lesley Cheung, Theresa Fuentes, Elisa Ventura, Mitch Dion, Brad Boman

2. **APPROVAL OF MINUTES**
   A. **February 18, 2021** – Not discussed

3. **PUBLIC HEARINGS**
   A. **Mod to CUP #6222: 3420 and 3500 N. Arroyo Blvd. – Council District #1**
   An appeal of Modification to Conditional Use Permit #6222 has been filed with the Board of Zoning Appeals. Modification to Conditional Use Permit #6222 was approved by the Hearing Officer at the January 6, 2021 public hearing. The project includes repair and replacement of City's water infrastructure facilities within the Upper Arroyo Seco that were damaged by debris flows caused by storms following the 2009 Station Fire. Damage to these structures has greatly reduced the City's capacity to divert water from the Arroyo Seco for spreading and pumping credits. The proposed improvements would allow for increased utilization of the City's pre-1914 surface water rights from the Arroyo Seco. A Conditional Use Permit is required for improvements within the Open Space (OS) Zoning District.

   Staff Recommendation:

   1) Adopt a resolution certifying the Final Environmental Impact Report (SCH No. 2014101022) adopting findings, and adopting the Mitigation Monitoring Reporting Program;
   2) Adopt a resolution adopting a Statement of Overriding Consideration for the project; and
   3) Uphold the Hearing Officer's decision and approve the Modification to Conditional Use Permit #6222 with conditions.

   Case Manager: Beilin Yu

Public Comment:

- Ken Kules (appellant)
- Timothy Brick (appellant)
- Hugh Bowles (appellant)
- Morey J. Wolfson (appellant)
- Mark Hunter

Motion:

Commissioner Wendler moved to approve the staff recommendation to 1) adopt a resolution certifying the Final Environmental Impact Report (SCH No. 2014101022) adopting findings, and adopting the Mitigation Monitoring Reporting Program; 2) adopt a resolution adopting a Statement of Overriding Consideration for the project; and 3) approve the Modification to Conditional Use Permit #6222 with the Findings in Attachment A and the conditions in Attachment B and the following added conditions:

1. The project should seek stream flows that maximize percolation in the streams and habitats, to the extent possible.
2. The project should make renewed efforts to identify and understand the fish status within the stream and seek to support its habitat.
3. The applicant should provide a means to recover additional runoff water for diversion to the Raymond Basin.
4. A communication plan shall be developed by the Water and Power Department. The purpose of the communication plan is to provide interested parties the status of the project.

Seconded by Commissioner Lyon. Motion approved 5-0.

Chair Coher: Y	Hansen: Y	Lyon: Y
Nanney: Y	Wendler: Y	

B. HDP #6837: 801 S. San Rafael Ave. – Council District #6

An appeal of a Hillside Development Permit (HDP) #6837 has been filed with the Board of Zoning Appeals. The HDP was approved by the Hearing Officer at the January 6, 2021 public hearing. The project applicant, Deborah Rachlin Ross, has submitted a Hillside Development Permit application to permit the construction of two, new 600 square-foot detached accessory structures. The applicant also proposes to modify an existing playroom that is attached to the residence by removing the connecting breezeway and reducing the size of the playroom by 670 square feet, resulting in a 262 square-foot detached accessory structure to be used as a partially opened cabana. No other changes are proposed to the existing two-story dwelling or the existing detached 600 square-foot, three-car garage. The property is located in the RS-4-HD (Single-Family Residential, Hillside Overlay District) zoning district. No trees are proposed to be removed. A Hillside Development Permit is required for the construction of more than one accessory structure.

Staff Recommendation:

1) Find that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15303, (Class 3, New Construction or Conversion of Small Structures); and
2) Uphold the Hearing Officer's decision and approve the Hillside Development Permit.

Case Manager: Jennifer Driver

Public Comment:

- Roxanne Christ DeWitt (appellant)
- Deborah Rachlin Ross (applicant)

Motion:

Commissioner Lyon moved to grant the appeal and disapprove the project and directs that staff further study the scope of the entire project, including all the phases of work, and potentially reevaluate the historic eligibility. Seconded by Commissioner Nanney. Motion approved 3-1. Commissioner Hansen recused herself from discussion of the case.

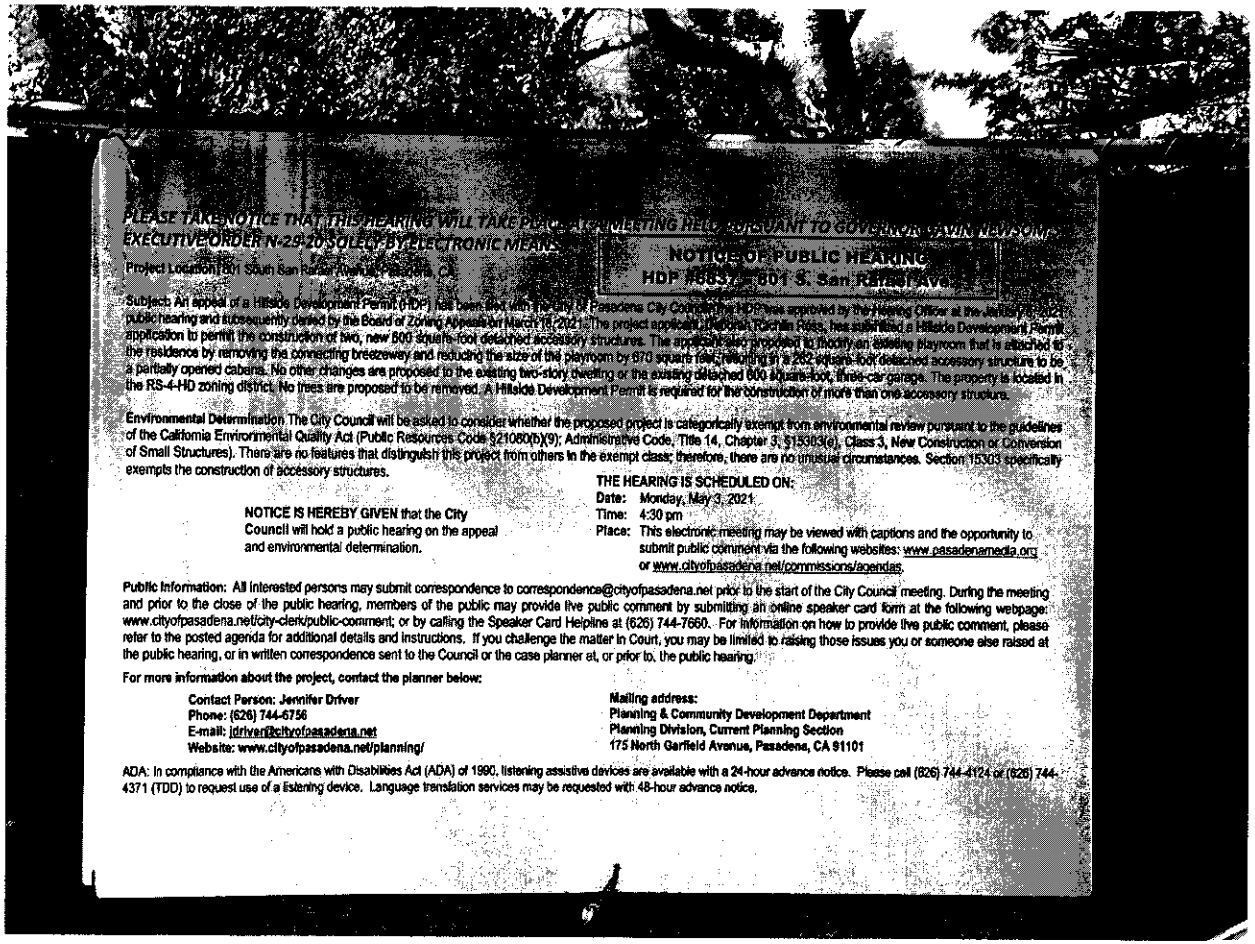
Chair Coher: Y	Hansen: Recused	Lyon: Y
Nanney: Y	Wendler: N	

4. **ADJOURNMENT** – Chair Coher adjourned the meeting at approximately 9:40 p.m.

Luis Rocha, Zoning Administrator

Tess Varsh, Recording Secretary

Exhibit B



PLEASE TAKE NOTICE THAT THIS HEARING WILL TAKE PLACE AT A MEETING HELD PURSUANT TO GOVERNOR GAVIN NEWSOM'S EXECUTIVE ORDER N-29-20 SOLELY BY ELECTRONIC MEANS.

NOTICE OF PUBLIC HEARING
HDP #6857 – 601 S. San Rafael Ave.

Project Location: 601 South San Rafael Avenue, Pasadena, CA

Subject: An appeal of a Hillside Development Permit (HDP) has been filed with the City of Pasadena City Council. The HDP was approved by the Hearing Officer at the January 27, 2021 public hearing and subsequently denied by the Board of Zoning Appeals on March 11, 2021. The project applicant, Joshua Fountain Ross, has submitted a Hillside Development Permit application to permit the construction of two, new 800 square-foot detached accessory structures. The applicant also proposed to modify an existing playroom that is attached to the residence by removing the connecting breezeway and reducing the size of the playroom by 670 square feet, resulting in a 262 square-foot detached accessory structure to be a partially opened cabana. No other changes are proposed to the existing two-story dwelling or the existing detached 600 square-foot, three-car garage. The property is located in the RS-4-HD zoning district. No trees are proposed to be removed. A Hillside Development Permit is required for the construction of more than one accessory structure.

Environmental Determination: The City Council will be asked to consider whether the proposed project is categorically 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(e), Class 3, New Construction or Conversion of Small Structures). There are no features that distinguish this project from others in the exempt class; therefore, there are no unusual circumstances. Section 15303 specifically exempts the construction of accessory structures.

NOTICE IS HEREBY GIVEN that the City Council will hold a public hearing on the appeal and environmental determination.

THE HEARING IS SCHEDULED ON:
Date: Monday, May 3, 2021
Time: 4:30 pm
Place: This electronic meeting may be viewed with captions and the opportunity to submit public comment via the following websites: www.pasadenamedia.org or www.cityofpasadena.net/commissions/agendas.

Public Information: All interested persons may submit correspondence to correspondence@cityofpasadena.net prior to the start of the City Council meeting. During the meeting and prior to the close of the public hearing, members of the public may provide live public comment by submitting an online speaker card form at the following webpage: www.cityofpasadena.net/city-clerk/public-comment; or by calling the Speaker Card Helpline at (626) 744-7660. For information on how to provide live public comment, please refer to the posted agenda for additional details and instructions. If you challenge the matter in Court, you may be limited to raising those issues you or someone else raised at the public hearing, or in written correspondence sent to the Council or the case planner at, or prior to, the public hearing.

For more information about the project, contact the planner below:

Contact Person: Jennifer Driver
Phone: (626) 744-6756
E-mail: jdriver@cityofpasadena.net
Website: www.cityofpasadena.net/planning/

Mailing address:
Planning & Community Development Department
Planning Division, Current Planning Section
175 North Garfield Avenue, Pasadena, CA 91101

ADA: In compliance with the Americans with Disabilities Act (ADA) of 1990, listening assistive devices are available with a 24-hour advance notice. Please call (626) 744-4124 or (626) 744-4371 (TDD) to request use of a listening device. Language translation services may be requested with 48-hour advance notice.

Exhibit C

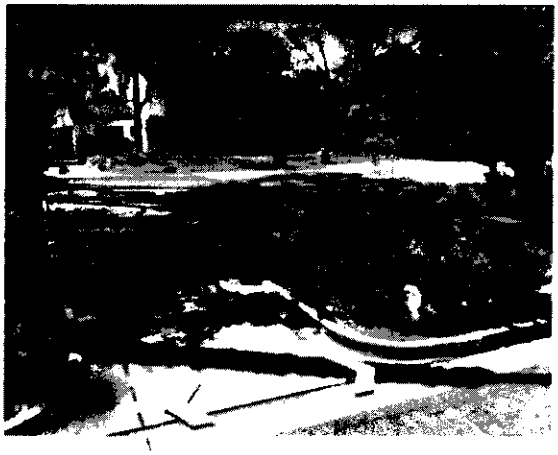
I, Andrea L. Van de Kamp, declare as follows:

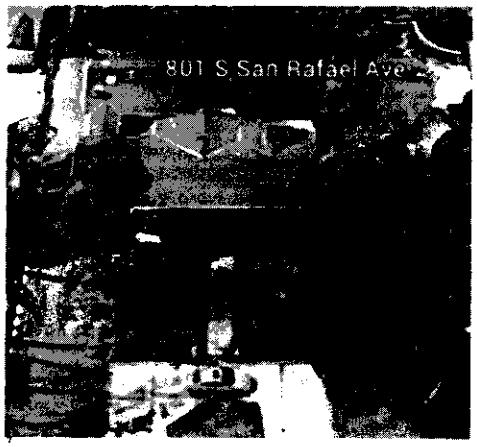
1. I have personal knowledge of the facts stated herein and would and could testify competently thereto if called to do so. Since June 2019, I have lived at 10375 Wilshire Boulevard, Apartment 9D, Los Angeles, California 90024.

2. From 1987 until June 2019, I lived at 801 S. San Rafael Avenue, Pasadena, California 91105. In June 2019, I sold 801 S. San Rafael to Rodney Ross and Deborah Rachlin. This was a little more than two years after my husband, John K. Van de Kamp, died.

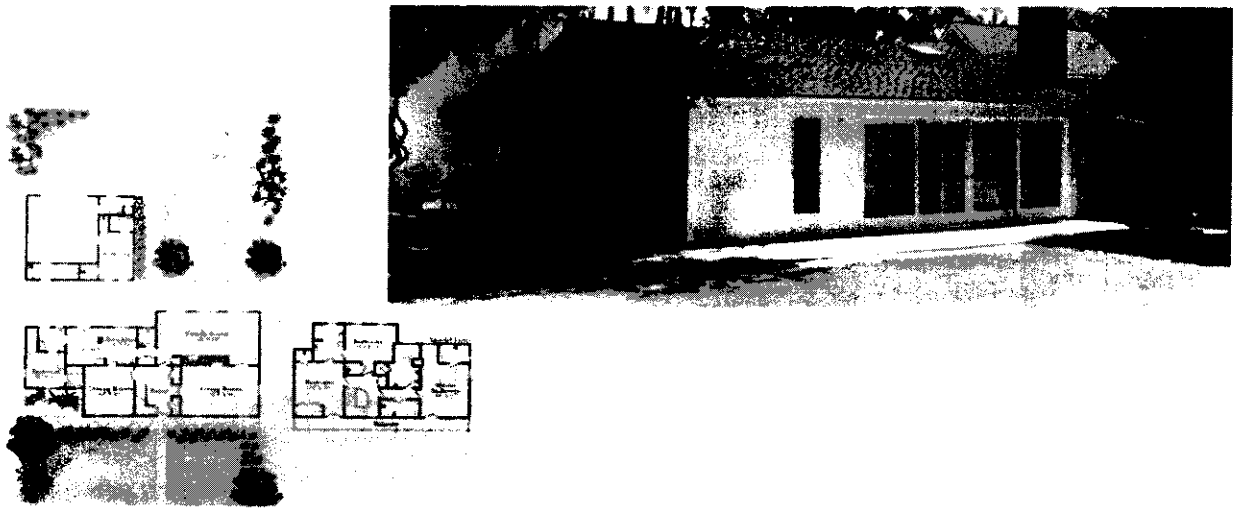
3. John and I purchased 801 S. San Rafael in 1987 from James and Rosalind Boswell. We lived there continuously from 1987 until John died in March 2017 and, as noted, I sold the house in June 2019. John didn't relocate to Sacramento during his tenure as Attorney General.

4. When we bought the house, it did not have a garage. The garage, located right behind the house and connected to it by a breezeway, had been converted to a guest house. In lieu of a garage, there was a covered parking area along the east side where the driveway to the original garage used to be (on the left side looking from the street). Around 2004, we approached the city planning department and asked if we could build a new garage attached to the front façade at the east end of the house. We were told we could not, because neither the of the houses on the sides of ours (i.e., the Bices at 787 S. San Rafael or the Dewitt's at 815 S. San Rafael) had a garage that was in front of the front plane of the house. We were told it would be inconsistent with the neighborhood. So, instead, we replaced the top of the covered parking which had by then badly deteriorated, and added a motorized gate at the front of this covered parking area. The left sides of the photos below show the covered parking area and gate that we installed. It is marked with a red dotted-line. In the photo on the left, the gate is in the open position. I usually parked my car under this covered parking and entered the house through the back door, while John preferred the convenience of parking his car on the pavers directly aligned with the front door.





5. The floorplan shown below is the floorplan of 801 S. San Rafael as it existed when I sold the residence. The first story contained a family room, living room, dining room, breakfast room, kitchen, bedroom (once used as a maid's quarters), bathroom, powder room and laundry room. The second story of the main house contained three bedrooms and two baths. Behind the main house, there was a guest house which contained a living room, bedroom, one full bath and one ¾ bath (the latter accessible from outside near the pool) and kitchen. The kitchen contained a refrigerator, cooktop, and small dining table, all of which were still there and in working order when I sold the house. The living room contained a working fireplace. The guest house had its own heating, air conditioning, electricity, plumbing and hot water. The photo below shows the rear (pool side) of the guest house with its sliding glass doors and exterior bathroom door. The gate next to the sliding glass doors leads to the old driveway.



6. There was a covered 15 foot long breezeway that led directly from the back door of the house to the front door of the guest house. Both doors had separate locks and opened to the outside. This breezeway was open to the elements. When it rained, the breezeway got wet. It did not have any air conditioning, or insulation, or finished walls or a finished floor. The floor was concrete covered with indoor/outdoor carpeting. There was lighting, which was wired from a conduit running from, I think, the guest house—nothing behind the walls or anything like that. The top portion of the side walls were large open lattice work though which wind and rain passed. The lower portions of the walls were solid wood paneling.

7. The guest house doubled as John's home office. His computer was set up on a built in desk in the living room. His books filled built-in bookshelves and bookcases. The walls were covered with his awards, mementos, family photos, professional and personal memorabilia, books, papers and records. Throughout the time we lived on San Rafael, John spent thousands

of hours working from his home office except when we had guests staying over. The photo below shows John in his home office inside the guest house. We never used the guest house as a "playroom." Nor, to my knowledge did the Boswells, who lived in the house from 1964 to 1987, ever use the guest house as a "playroom." While we owned the residence, we did not add any square footage to, or remove any square footage from, either the main house or the guest house or the breezeway.

8. The DeWitt family lived next door to us on San Rafael, at 815 S. San Rafael. Bob DeWitt owned the house when we moved in. Roxanne moved in after marrying Bob in 1989. Together they had two sons, Robert Jr. born in 1990 and Andrew, born in 1993. Bob had an extensive model train collection in a "train room" next to our house. Bob's train collection never once, in any way whatsoever, interfered with our use of our home. Maybe once or twice their sons had a wild party while their parents were way, but I cannot recall a single other occasion that anything they did bothered us. Nor did Bob or Roxanne ever once complain or voice any concern that what we were doing with our home interfered with their train collection or anything else for that matter. We frequently had fundraisers and political events at our home and often entertained in our large back yard and patio. Not once did the DeWitt's complain or voice any concern whatsoever.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 26 day of April 2021 in Oxnard California.

Andrea L. Van de Kamp

Andrea L. Van de Kamp