

# Agenda Report

May 3, 2021

**TO:** Honorable Mayor and City Council

**FROM:** Planning and Community Development Department

**SUBJECT: APPEAL OF THE BOARD OF ZONING APPEALS' DECISION ON  
HILLSIDE DEVELOPMENT PERMIT #6837  
801 SOUTH SAN RAFAEL AVENUE**

## **RECOMMENDATION:**

It is recommended that the City Council:

1. Adopt the Environmental Determination that the proposed project is exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, Class 3 §15303(e), New Construction or Conversion of Small Structures); and,
2. Overturn the Board of Zoning Appeals' decision and approve Hillside Development Permit #6837.

## **EXECUTIVE SUMMARY:**

Hillside Development Permit (HDP) #6837 was first scheduled to be presented to the Hearing Officer on December 16, 2020. The Hillside Development Permit (HDP) application was requested to allow the construction of two, new 600 square-foot detached accessory structures and the modification of an existing playroom that is attached to the main house by a breezeway into a 262 square-foot detached accessory structure. The breezeway attachment is proposed to be removed and the existing playroom is proposed to be converted into a partially open cabana. The site is currently developed with a two-story, 4,706 square-foot dwelling with a detached 600 square-foot, three-car garage in the RS-4 HD (Single-Family Residential, Hillside Overlay District) zoning district. A Hillside Development Permit is required for the construction of more than one accessory structure. At the request of an abutting property owner, Roxanne Christ, the case was continued to January 6, 2021, in order to provide an opportunity for Roxanne Christ to secure legal counsel.

On January 6, 2021, the Hearing Officer considered, at its regularly noticed hearing, Hillside Development Permit #6837. Staff's recommendation to the Hearing Officer was to approve HDP #6837. Staff assessed the proposed project, and, based on the analyses, concluded that the findings necessary for approving the HDP could be made. At the conclusion of the public hearing, and after public testimony, the Hearing Officer approved Hillside Development Permit #6837 (Attachment H) with conditions and adopted the environmental determination that the project was exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, Class 3 §15303(e), New Construction or Conversion of Small Structures).

On January 11, 2021, Councilmember Steve Madison requested a Call for Review of the project with concerns of potential impacts to the neighborhood.

On January 19, 2021, Roxanne Christ, an abutting property owner of 815 S. San Rafael Avenue, filed an appeal with the Board of Zoning Appeals, of the Hearing Officer's decision (Attachment G).

Subsequently, Councilmember Steve Madison withdrew the Call for Review of the project citing the filing of the appeal as the reason for the withdrawal.

On March 18, 2021, the Board of Zoning Appeals considered at its regularly noticed hearing, an appeal of the Hearing Officer's decision to approve Hillside Development Permit #6837. At the conclusion of the public hearing, the Board of Zoning Appeals made a motion to overturn the Hearing Officer's decision and to disapprove the Hillside Development Permit #6837 (Attachment D). The motion resulted in a 3-1 vote by the four members present.

On March 24, 2021, the applicant, Deborah Rachlin Ross, submitted an appeal application (Attachment C) to the City Council. The hearing before the City Council is a de novo hearing where the Council has no obligation to honor the prior decisions and has the authority to make an entirely different decision.

Based on the previous analysis and the recommended Conditions of Approval, Staff recommends that the City Council overturn the Board of Zoning Appeals March 18, 2021, decision and adopt the environmental determination that the project is exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, Class 3 §15303(e), New Construction or Conversion of Small Structures) and approve Hillside Development Permit #6837, subject to the findings provided in Attachment A and recommended conditions of approval in Attachment B.

**BACKGROUND:**

The applicant, Deborah Rachlin Ross, had submitted a Hillside Development Permit application on June 29, 2020 to allow the construction of two, new 600 square-foot detached accessory structures in the southwest portion of the property and the modification of an existing playroom that is attached to the main house by a breezeway into a 262 square-foot detached accessory structure. The breezeway attachment will be

removed and the existing playroom will be converted into a partially open cabana. No other changes to the existing residence or the detached garage are proposed.

The site is relatively flat and is developed with a 4,706 square-foot, two-story single-family residence and a detached 600 square-foot three-car garage in front of the residence. Currently under construction is a permitted 466 square-foot addition to the main residence and a detached three-car, 600 square-foot garage, and for the purposes of this report and discussion, are considered as existing and are not part of the subject Hillside Development Permit review.

The proposed project includes a new 600 square-foot, detached, home office with a  $\frac{3}{4}$  bathroom (no bathtub) in one new structure ("Accessory Structure 1") and a 600 square-foot, detached, home gym/open storage room with a  $\frac{1}{2}$  bathroom in the second new structure ("Accessory Structure 2"). The third structure is designed as a partially open cabana with one open side facing northwest and an inoperable fireplace ("Accessory Structure 3"). No protected trees are proposed for removal as part of the project.

#### Hearing Officer Public Hearing

The application was first scheduled to be presented to the Hearing Officer on December 16, 2020. At the request of the abutting property owner, Roxanne Christ, the case was continued to January 6, 2021, in order to provide an opportunity to secure legal counsel for herself. The application then was presented to the Hearing Officer at a noticed public hearing on January 6, 2021. Staff's recommendation to the Hearing Officer was to approve Hillside Development Permit #6837, as Staff determined that all eight findings for the Hillside Development Permit could be made.

During the Hearing Officer hearing, the applicant provided a brief presentation of the project and spoke in favor of the project. There were eight public comments in opposition of the project received prior to or at the Hearing Officer hearing, including two from the abutting property owner's attorney. The primary concerns raised in the public comments were about dust and vibration impacts on abutting properties, the historical significance of the subject property, potential impact on protected views, incorrect application of a CEQA exemption and the cumulative impacts of multiple projects at the subject property.

In response to public comments, the Hearing Officer acknowledged the concerns and discussed them in relation to staff's recommendation. At the conclusion of public testimony, the Hearing Officer approved Hillside Development Permit #6837, as recommended by staff. This decision was based on the findings and conditions of approval in Attachment H. To supplement the decision, the Hearing Officer provided an addendum with explanation for approval of the application (Attachment F).

#### Call for Review

On January 11, 2021, Councilmember Steve Madison requested a Call for Review of the project with concerns of potential impacts to the neighborhood. On January 22,

2021, the Call for Review by Councilmember Steve Madison was withdrawn citing the appeal filed on January 19, 2021 as the reason for the withdrawal (see the following section). Prior to the withdrawal nine public comment letters were received in support of the proposed project and for approval of the Hillside Development Permit. These comments were provided to the Board of Zoning Appeals.

#### Board of Zoning Appeal's Public Hearing

On January 19, 2021, Roxanne Christ, an abutting property owner, submitted an appeal application of the Hearing Officer's decision to the Board of Zoning Appeals (Attachment G). The appellant cited the following reasons for the appeal:

1. Inadequate information and conditions to avoid or minimize damage to the "Collection;"
2. Failure to require plantings for privacy;
3. Delegation of findings to staff;
4. The required findings cannot be made;
5. Hillside Ordinance incorrectly interpreted and applied;
6. Project is inconsistent with the City's General Plan;
7. Hearing Officer erred in determining that the project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA);
8. Significant errors and omissions in the record;
9. Hearing Officer failed to consider evidence;
10. Lack of substantial evidence; and,
11. Hearing Officer's decision is arbitrary and capricious.

On March 18, 2021, the Board of Zoning Appeals considered at a noticed public hearing, an appeal of the Hearing Officer's decision to approve Hillside Development Permit #6837. A response to each of the appellant's claims was provided to the Board of Zoning Appeals as a component of the March 18, 2021, Board of Zoning Appeals staff report (Attachment E). This included a determination by the Design and Historic Preservation Division that the property did not meet the criteria for designation as a landmark (Attachment K). Staff presented the project and recommended that the Board of Zoning Appeals adopt the environmental determination and approve Hillside Development Permit #6837.

During public testimony, the appellant spoke in opposition and submitted a presentation to the Board of Zoning Appeals for review. The appellant's primary concerns were regarding the construction of the proposed project and potential impacts due to vibration and dust to her private property. As part of her presentation, the appellant proposed a number of conditions to alleviate her concerns. In addition to the appellant's testimony, 11 public comment letters were received prior to the hearing, 10 against the project and one neutral. The comment letters primarily focused on dust and vibration impacts on abutting properties, the historical significance of the subject property, incorrect application of a CEQA exemption and the cumulative impacts of multiple projects at the subject property.

In addition, the applicant spoke in favor of the project and submitted a presentation to the Board of Zoning Appeals for review in response to the appeal. As part of the

applicant's presentation, the applicant agreed to incorporate the appellants recommended conditions of approval related to potential vibration and dust from the construction of the project. These conditions have been incorporated as recommended conditions of approval to the City Council as numbers 7 through 16 in Attachment B.

At the conclusion of the public hearing, after considering written and verbal public testimony and with full knowledge of the property and vicinity, the Board of Zoning Appeals motioned to overturn the Hearing Officer's decision and to disapprove Hillside Development Permit #6837 (Attachment D). In their decision, 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 of its phases (the previous ministerial approval, the proposed discretionary project and any future ministerial approval or discretionary projects), and the historical status of the residence, were not fully evaluated. That motion resulted in a 3-1 vote by the four members present.

#### **APPEAL OF BOARD OF ZONING APPEALS DECISION:**

On March 24, 2021, the applicant, Deborah Rachlin Ross, submitted an appeal application (Attachment C) to the City Council. The hearing before the City Council is a de novo hearing where the City Council has no obligation to honor the prior decisions and has the authority to make an entirely different decision.

The appellant has cited the following reasons for the appeal of the Board of Zoning Appeals' decision:

- The Board of Zoning Appeals wrongly determined that the project was not exempt from CEQA;
- The project is clearly exempt from CEQA and staff did the correct analysis and took into account all the issues.

#### **ANALYSIS:**

The subject property is located in the RS-4 HD (Single-Family Residential, 0-4 dwelling units per acre, Hillside Overlay District) zoning district. Properties located within the Hillside Overlay are required to comply with additional standards beyond those applicable to the base single-family residential zoning district (RS-4). These additional standards are intended, in part, to preserve and protect views to and from hillside areas, maintain an environmental equilibrium by preserving and protecting existing natural resources, prohibit features that would create or increase fire, flood, landslide or other safety hazards to public health and safety, and preserve significant natural topographic features. The City Council may approve a Hillside Development Permit only after

making eight findings pursuant to Zoning Code Section 17.61.050 (Conditional Use Permits and Master Plans) and 17.29.080 (Hillside Development Permit). Findings are necessary for the purpose of evaluating compliance with the Zoning Code and General Plan, whether the use would be detrimental or injurious to the neighborhood, and compatibility of the operation with existing and future uses. The following analysis discusses the project's compliance with development standards of the Hillside Overlay District, as applicable to additions to existing single-family residences.

#### RS-4 and Hillside Overlay District Development Standards for Accessory Structures

Properties located within the Hillside Overlay District are required to comply with all of the required development standards of the RS-4 zoning district, except as superseded by additional development standards listed in Zoning Code Sections 17.29.050 through Section 17.29.070 (Hillside Overlay District). Furthermore, accessory structures are subject to the development standards pursuant to Zoning Code Section 17.50.250 and Section 17.29.060.C. Accessory structures shall be limited to uses which are accessory to the main use, including but not limited to, cabana, garage or carport, gazebo, greenhouse, pergola, pool, or hot tub and related equipment, or workshop. An accessory structure shall not be used for sleeping quarters.

In addition to the following discussion, an outline of development standards is provided in Table A (Page 13) to show compliance with all of the applicable zoning and Hillside Overlay development standards.

#### *Gross Floor Area*

Calculating the maximum allowed floor area in the Hillside Overlay District is a multi-step process. The intent of the process is to consider the steepness or topography of a property when determining the size of a development; a steeper property may provide less land area suitable for development. The Zoning Code considers this with respect to maximum allowed floor area. The following calculations were undertaken:

Gross floor area includes all covered parking (garage and carport areas), habitable attic space, accessory structures and basements with any exposed wall (or portion thereof) six feet or more above finished grade, measured from finished grade elevation to the floor above. The maximum allowable gross floor area for properties located in the RS-4 HD zoning district with a property size more than 10,000 square feet is 25 percent of the lot size plus 500 square feet. For lots 10,000 square feet or more in the Hillside Overlay District, any portion with a slope equal to or greater than 50 percent, or any access easement on the lot, must be deducted from the lot area when calculating the maximum allowable gross floor area. The subject site does not have any portions with a slope equal to or greater than 50 percent and does not have any access easements. As such, the maximum gross floor area for the 34,361 square-foot subject site is 9,090 square feet.

Pursuant to Zoning Code Section 17.29.060.A.4 (Maximum floor area), the maximum allowed gross floor area for a lot with an average slope exceeding 15 percent shall be

further reduced. According to the application materials and topographic survey submitted, the site has an average slope of 3.17 percent. Therefore, the maximum allowed gross floor area for the site remains at 9,090 square feet.

The existing two-story residence includes a 2,470 square-foot first floor, a 1,306 square-foot second story, a 930 square-foot playroom connected to the rear of the main residence by a breezeway and a 600 square-foot detached, three-car garage in front of the residence. On April 16, 2020, building permit number BLD2019-01654 was issued by the City of Pasadena to allow the construction of a 466 square-foot first-floor addition to the rear of the main residence and the addition of the 600 square-foot detached, three-car garage in front of the residence. The 466 square-foot addition and the 600 square-foot garage are under construction at this time and for the purposes of this report are considered as built and part of the existing improvements. As a result, the total existing gross floor area (inclusive of the attached playroom and detached three-car garage) on the property is 5,306 square feet. The proposed project includes the demolition of 668 square feet of the existing playroom and breezeway, only retaining 262 square feet in Accessory Structure 3, and the addition of 1,200 square feet of floor area in Accessory Structures 1 and 2. As proposed, the total gross floor area would be 5,838 square feet, which is within the allowable gross floor area of 9,090 square feet for the site, and thus complies.

#### *Lot Coverage*

The maximum allowed lot coverage for a property in the Hillside District Overlay is equal to 35 percent of the lot area. Lot coverage is the percentage of the site covered by roofs, soffits or overhangs extending more than three feet from a wall, and decks more than four feet in height; this measurement includes all covered structures, whether or not they are fully enclosed. This standard generally evaluates the percentage of land area covered by development. In this case, 35 percent of the 34,361 square-foot lot is 12,026 square feet. The proposed lot coverage is 14 percent, or 4,687 square feet, which includes the existing house, detached garage and the three proposed accessory structures, and is less than the maximum allowable lot coverage; therefore, the project complies with the maximum allowable lot coverage.

#### *Restricted Items and Facilities*

Accessory structures are prohibited from having bathtubs, fireplaces, and kitchen (full or partial) facilities. Additionally, an accessory structure may contain air conditioning, heating, shower, toilet, washtub, and/or washer and dryer facilities. However, when an accessory structure contains any of the above listed facilities, or a combination of such facilities, a covenant shall be required that restricts the use of the accessory structure, prior to the issuance of a building permit.

Accessory Structures 1 and 2 would be 600 square feet each, with Accessory Structure 1 serving as a home office with an open room and a  $\frac{3}{4}$  bathroom (no bathtub) and Accessory Structure 2 serving as a home gym and storage with an open room, closet

and ½ bathroom (no shower or bathtub). As a result, as both structures contain a partial bathroom, they are required to have a covenant recorded stating that the structures are accessory structures and shall be maintained as an accessory structures and not be used for sleeping quarters or be converted to a residential use. A condition of approval has been included in Attachment B of this report to ensure compliance with this requirement.

Accessory Structure 3 would result from the demolition of 668 square feet of the existing 930 square-foot playroom that is attached to the primary structure by a breezeway, resulting in a 262 square-foot, partially unenclosed detached accessory structure. Accessory Structure 3 will include a partially unenclosed cabana, with the northwestern wall fully removed and portions of the southwestern and northeastern walls to remain. The structure will also contain an existing fireplace that will be made inoperable. Functioning fireplaces are not permitted in accessory structures, and as a result, a condition of approval has been included in Attachment B of this report requiring that the fireplace be rendered inoperable as part of the building permit for Accessory Structure 3.

#### *Accessory Structure Size and Placement*

Pursuant to Zoning Code Section 17.50.250.G, the maximum size of all accessory structures combined on a site shall not exceed an aggregate of 600 square feet or six percent of the lot size, whichever is greater. Furthermore, Section 17.29.060.C, states that accessory structures located in the HD district shall comply with the following size and location limits:

- a) In addition to the aggregate size requirements of Section 17.50.250.G, for lots larger than 10,000 square feet in size, portions of a lot with a slope 50 percent or greater shall not be included in the lot size when determining maximum aggregate size.
- b) In addition to the aggregate size requirements of Section 17.50.250.G, individual accessory structures shall be limited to a maximum size of 600 square feet.
- c) Accessory structures, except for detached garages, must be located behind the rear wall plane(s) of the primary structure. An existing primary structure may not be converted into an accessory structure unless the new primary structure is in front of the accessory structure.

The subject site is 34,361 square feet in area, and no portions of the site have a slope of 50 percent or greater. Therefore, based on the lot size of 34,361 square feet, the maximum allowable aggregate size of all accessory structures is 2,062 square feet. Under construction is a 600 square-foot, detached three-car garage, and the proposed project includes the addition of two, 600 square-foot detached structures (Accessory Structures 1 and 2) and one, 262 square-foot detached structure (Accessory Structure 3). Each accessory structure is in compliance with the maximum size for individual



accessory structures and the aggregate total of all accessory structures, including the 600 square-foot detached garage, would be 2,062 square feet, therefore in compliance with the maximum allowable individual and aggregate accessory structure sizes for the site.

All three accessory structures are also located behind the rear plane of the existing primary structure. The furthest new accessory structure (“Accessory Structure 1”) would be approximately 204 feet behind the primary structure, the second new accessory structure (“Accessory Structure 2”) would be approximately 190 feet behind the primary structure and the third accessory structure would be approximately seven feet behind the primary structure. Therefore, all three accessory structures comply with size and location requirements.

#### *Accessory Structure Setback*

Pursuant to Zoning Code Section 17.50.250.D.2, an accessory structure may be located in a required side or rear setback; provided it is located more than 100 feet from the front property line or entirely within the rear 25 feet of the site. Otherwise, the minimum required setbacks of the primary structure shall also apply to the accessory structure. Additionally, in order to prevent an excessive amount of structure located along a property line, the maximum horizontal length of an accessory structure than can be located less than five feet from the property line shall be limited to 22 feet. Any portion of the structure that exceeds 22 feet in length and is less than five feet from the property line, shall be required to be set back a minimum of five feet from the property line.

Accessory Structure 1 would have horizontal length of 30 feet, a side setback of approximately 12'-6" from the northwestern side property line and a rear setback of approximately 30 feet. Accessory Structure 2 would have a horizontal length of 30 feet, a side setback of 10 feet from the southeastern side property line and a rear setback of approximately 53 feet.

Accessory Structure 3, the modified attached playroom, would maintain a horizontal length of 28 feet, a side setback of 10 feet from the southeastern side property line (shared property line with the appellant) and a rear setback of approximately 242 feet. The remaining portions of Accessory Structure 3 will not be modified from their current location.

As each detached accessory structure maintains a side setback of at least five feet and a rear setback of at least 25 feet, all three structures comply with the minimum setback standards described above.

#### *Accessory Structure Height Limits*

As prescribed in Zoning Code Section 17.50.250.E, the top plate height for an accessory structure shall not exceed nine feet, and the overall height shall not exceed 15 feet, so long as the structure does not intercept the encroachment plane, sloping

inward from a point nine feet in height and rising a maximum of one and one-half feet of distance starting at the two-foot setback.

Accessory Structures 1 and 2 would have a top plate of nine feet and an overall height of 15 feet. Accessory Structures 1 would have a setback of approximately 12'-6" from the northwestern side property line and Accessory Structure 2 would have a setback of 10 feet from the southeastern side property line. As a result, both Accessory Structures 1 and 2 comply with the maximum height and encroachment plane standards.

Accessory Structure 3 would maintain a top plate of seven feet, eight inches and an overall height of 12'-9". The structure would be setback ten feet from the southeastern side property line. As a result, the accessory structure would comply with both the maximum height and encroachment plane standards.

### *Parking*

Single-family residences are required to provide two covered parking spaces within a garage or carport in the RS-4 HD zoning district. Zoning Code Section 17.47.020.J requires that small additions (with a maximum aggregate total of 150 square feet) may be made to properties developed with an existing single-family residence without requiring two covered parking spaces in a carport or garage, as is required by Zoning Code Section 17.46.040 (Number of Off-Street Parking and Loading Spaces Required). However, any addition to the property, including the construction of an accessory structure (e.g., a pool house or workshop) of over 150 square feet shall require the construction or maintenance of a two-car covered parking structure. As the project includes the construction of two new 600 square-foot detached accessory structures and the conversion of a portion of the main residence into a 262 square-foot detached accessory structure, totaling 1,462 square feet, two covered parking spaces are required to be provided within a garage or carport. The site includes an existing 600 square-foot, three-car garage, therefore, the proposed project complies with the minimum parking requirement for single-family residential uses.

Additionally, for properties within the Hillside Overlay District, a minimum of four guest parking spaces shall be provided on a site fronting on a street where parking is prohibited on both sides of the street at the site and a minimum of two guest parking spaces shall be provided on a site fronting a street where on-street parking is allowed. Parking is not permitted on both sides of the street and four guest parking spaces are required to be provided. The submitted plans show four guest parking spaces in the existing circular driveway, and thus complies.

### *Neighborhood Compatibility*

Construction of a new single-family residence and additions to a single-family residence subject to a Hillside Development Permit are required to consider the character and scale of existing development in the neighborhood. The Zoning Code specifies that the allowable floor area of the single-family residence, excluding garages and other

accessory structures, may not exceed the median floor area of existing residences within the established 500-foot radius by more than 35 percent. As the proposed project includes only the construction of detached accessory structures and no addition to the primary structure, the subject project is not subject to the neighborhood compatibility analysis.

### *Ridgeline Protection*

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

### *Architecture, Setting, and View Protection*

The existing residences in this neighborhood were built with varying architectural styles over different time periods, which resulted in no dominating architectural style for the neighborhood. The existing two-story residence on the site was built in 1946 and was designed in the Monterey Colonial Revival architectural style. As determined by the Design and Historic Preservation Division, the existing residence does not meet the criteria for designation as a landmark.

The proposed project, which consists of the construction of two, new, 600 square-foot detached accessory structures and the conversion of a portion of the main residence into a 262 square-foot detached accessory structure, does not include any changes to the façade of the primary structure. The only change to the existing structure is to detach a playroom connected by a breezeway to the rear of the primary structure. As a result, the project would not be visible from the public right-of-way

All three accessory structures are proposed to be clad in dark grey wood siding and a dark grey shingle roof. Accessory Structure 3 will retain the existing walls of the playroom, except for portions of the southwest and northeast walls and the northwestern facing wall, which would be removed entirely. The proposed design, materials, and color palette are consistent with the applicable design criteria (architectural features) for the Hillside Overlay district as staff finds that the proposed colors are consistent with the requirement for the utilization of darker tones, including earth tones.

Moreover, the Zoning Code requires applicants to design and locate improvements so that they avoid blocking views from neighboring properties to the maximum extent feasible. Specifically, new improvements shall not be centered directly in the view of any room of a primary structure on a neighboring parcel. The standard specifies that improvements are to avoid blocking culturally significant structures such as the Rose Bowl, Colorado Street Bridge, City Hall, downslope views of the valley floor, prominent ridgelines, and/or the horizon line. Views of the open sky, existing foliage, private yards, and existing structures on surrounding properties shall not be taken into consideration

by the review authority. Due to the topography of the area, neither the Rose Bowl nor the Colorado Street Bridge are visible from this property or surrounding properties.

The proposed accessory structures are proposed to the rear of the primary structure at the same elevation as the existing residence. The surrounding properties are at approximately the same elevation as the subject property as there is little topography change in the nearby vicinity. The proposed location of the accessory structures would not block views from neighboring properties that the City would otherwise protect. The abutting properties to the southeast (815 S. San Rafael Avenue) and northwest (787 S. San Rafael Avenue) are oriented towards San Rafael Avenue and southwest towards large back yards. Properties are all heavily planted in mature trees limiting views outside of their immediate property. Any views across the subject site would reasonably be limited to existing foliage, the private yard, the existing structure, and the open sky. The City does not protect these views. In addition, the project would not reasonably affect views from adjacent properties to the southwest (949, 959 and 969 Mesa Verde Road). Though these properties are oriented towards the subject site, any views would be limited to existing foliage, the private yard, the existing structure, and the open sky. Properties located to the northeast across the San Rafael are at a distance, location, and lower elevation such that the project would have no view impact.

Due to existing landscaping, which includes many mature trees, the one-story, low vertical profile of the structures, and extensive setbacks from property lines, the accessory structures would only be partially visible to properties located to the southeast, northwest and southwest and would not obstruct any views protected by the City. Therefore, the proposed addition would not impede protected views from any of the adjacent properties nor be centered directly in the view of any room of a primary structure on a neighboring parcel.

### *Preliminary Geotechnical Report*

Geotechnical investigation reports are required for projects subject to a Hillside Development Permit. The purpose of the report is to identify any soils or geological problems that may affect site stability or structural integrity, and any subsurface conditions as they relate to the proposed project. SubSurface Designs Inc. conducted a geotechnical investigation of the site and prepared a report, which included the review of hand-dug test pits and laboratory testing and analysis of the samples. Grading will include the removal and recompaction of the near surface soil for support of the new proposed structures. Grading will also include excavation of future foundations. A comprehensive drainage system shall be designed and incorporated into the final plans. Based on the exploration testing, consultation and review of the development plans, it is found that the construction of the proposed project is feasible from a geologic and soils engineering standpoint with the recommendations contained in the report.

A summary of development standards is provided in Table A below to show compliance with all of the applicable zoning and Hillside Overlay development standards.

Table A

Development Feature	Required	Proposed	Analysis
<b>RS-4 Hillside Overlay District Development Standards</b>			
<b>Lot Size: 34,361 square feet (based on signed topographical survey)</b>			
Maximum Floor Area Ratio	9,090 square feet (25 percent, plus 500 square feet - slope reduction)	5,838 square feet	Complies
Maximum Lot Coverage	12,026 square feet (35 percent)	4,687 square feet (14 percent)	Complies
Neighborhood Compatibility	n/a	n/a	n/a
Minimum Parking	2 covered spaces	3-car garage	Complies
Guest Parking	Four spaces	Four spaces	Complies
<b>Accessory Structure(s)</b>			
Maximum Individual Accessory Structure Size- Accessory Structure 1 Accessory Structure 2 Accessory Structure 3	600 square feet	600 square feet 600 square feet 262 square feet	Complies
Maximum Allowable Aggregate Accessory Structure Size	6% of the lot size (2,062 square feet) or 600 square feet, whichever is greater	2,062 square feet (four structures)	Complies
Minimum Side Setback  Northwest Accessory Structure 1 Accessory Structure 2 Accessory Structure 3	2 feet for the initial length of 22 feet, 5 feet thereafter.	12'-6" 40'-1 1/4" 67'-2 1/4"	Complies
Southeast Accessory Structure 1 Accessory Structure 2 Accessory Structure 3		36' 10' 10'	
Minimum Rear Setback Accessory Structure 1 Accessory Structure 2 Accessory Structure 3	25'	30' 53' 242'	Complies
Maximum Allowable Overall Height Accessory Structure 1 Accessory Structure 2 Accessory Structure 3	15'	15' 15' 12'-9"	Complies

Maximum Allowable top plate height-			
Accessory Structure 1	9'	9'	Complies
Accessory Structure 2		9'	
Accessory Structure 3		7'-8"	

**TREE PROTECTION ORDINANCE:**

An arborist report prepared by Jan C. Scow Consulting Arborists on September 24, 2020 identified 62 trees located on-site or off-site adjacent to the property. No trees are proposed to be removed as part of the proposed project. There are seven protected native and specimen trees on-site and two protected specimen trees off-site on adjacent properties. Seven of the 62 trees are public trees and 10 are located off-site on adjacent properties, two of which (OP 36 and OP 38) are located on the properties to the north and south, respectively, adjacent to Accessory Structures 1 and 2.

There would be no alterations or grading on the site, except as needed for the footprint of the new Accessory Structures (1 and 2); the existing foundation of Accessory Structure 3 would be left in place for use as a patio deck. The arborist report includes detailed instructions and requirements for tree protection and the proposed project is expected to have minor or no impact on the on- and off-site protected trees, if the recommended tree protection measures are adhered to.

In addition, the arborist report recommends that a Project Arborist be present on-site when the property is to be cleared or graded; any digging, excavating, trenching or building within the tree protection zone (TPZ) of a protected tree on the site commences; any pruning of a protected tree’s canopy or roots takes place; and commencement of any other activity within the TPZ of a protected tree on the site. Lastly, as part of the building permit plan check submittal, the applicant is required to submit a tree protection plan for the protected trees on-site.

**GENERAL PLAN CONSISTENCY:**

The subject site is designated as Low Density Residential in the General Plan Land Use Element. The use of the site would remain a single-family residence; therefore, the character of the single-family neighborhood would be maintained. General Plan Land Use Policy 21.9 (Hillside Housing) requires residences to maintain appropriate scale, massing and access to residential structures located in hillside areas. The proposed construction of the detached accessory structures to the property currently developed with an existing two-story, single-family residence and detached three-car garage, would comply with all the development standards set forth in the City’s Zoning Code. The proposed combined size of all the accessory structures (2,062 square feet) would comply with the maximum permitted for the property. The residence would not be altered by this project, except to detach the playroom, and would maintain its Monterey Colonial Revival architectural style utilizing earth tone colors and materials that would be compatible with the architectural

guidelines of the City's Hillside Development Ordinance. Additionally, the scale and massing of the one-story accessory structures would be consistent with the scale and setting of the surrounding residences. Vehicle access to the site would continue to occur from San Rafael Avenue. Therefore, staff finds that the project would be consistent with applicable General Plan objectives and policies.

### **ENVIRONMENTAL REVIEW:**

Staff has evaluated the scope of the proposed project and it has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15303, Class 3, New Construction or Conversion of Small Structures). Specifically, this Code Section states (emphasis added):

“§15303. New Construction or Conversion of Small Structures. Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include but are not limited to:

- (a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.
- (b) A duplex or similar multi-family residential structure totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes, and similar structures designed for not more than six dwelling units.
- (c) A store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.
- (d) Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction.
- (e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.
- (f) An accessory steam sterilization unit for the treatment of medical waste at a facility occupied by a medical waste generator, provided that the unit is installed and operated in accordance with the Medical Waste Management Act (Section 117600, et seq., of the Health and Safety Code) and accepts no offsite waste.

The proposed project conforms to examples (a) and (e) of the Class 3 Categorical Exemption as it involves the construction of two new accessory structures (example (e)) and the conversion of a portion of the existing primary dwelling into an accessory

structure (examples (a) and (e)). Class 3 specifically allows for the conversion of existing small structures, which includes a single-family residence, from one use to another where only minor modifications are made in the exterior of the structure and the construction of accessory structures. As a result, the scope of the project meets the criteria of a Class 3 Categorical Exemption. In addition, there are no features that distinguish this project from others in the exempt class; therefore, there are no unusual circumstances.

In addition, CEQA §15300.2, Exceptions, notes the following exceptions that would preclude a project from qualifying for the listed Categorical Exemptions (emphasis added).

“§ 15300.2. Exceptions.

- (a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located. A project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.
- (b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.
- (c) Significant Effect. 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.
- (f) 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.”

*Cumulative Impact*

The full scope of the work prior to the submittal of the Hillside Development Permit included ministerial approval for the construction of a 600 square-foot detached garage in front of the residence, a single-story addition of less than 500 square feet to the rear of the existing residence and an exterior and interior remodel of the existing residence. Each of these improvements, individually and cumulatively, did not require a discretionary submittal of a Hillside Development Permit and were not subject to environmental review pursuant to CEQA nor considered a “project” pursuant to CEQA. The current project under consideration is subject to a discretionary Hillside Development Permit and is subject to CEQA. If the ministerial approvals and the project under consideration were subjected to CEQA, the combined development would continue to be exempt under the Class 3 Categorical Exemption as the development would meet the criteria and continue to include conversion of existing small structures from one use to another, the construction of new accessory structures, and additions to the existing residence. The totality of these improvements would be within the criteria to



qualify for the exemption. Further, the cumulative impact of these improvements does not have the potential to have a significant effect on the environment, therefore this exception to the exemption does not apply. Although not proposed as part of this project, it is worth noting that the Class 3 Categorical Exemption includes an exemption for the development of a new residence with accessory structures. At this time, staff is not aware of any future development or improvements for the site and the applicant has not indicated that other development or improvements are being considered. CEQA does not require unknown future development to be considered as part of the project. However, pursuant to 17.29.030, a Hillside Development Permit, along with environmental review pursuant to CEQA, would be required for any additional additions to the residence or any other accessory structures proposed within the next three years.

### *Historical Resources*

On July 7, 2020, Pasadena Heritage submitted an application to designate the residence at 801 S. San Rafael Avenue as an individual Landmark to the Design & Historic Preservation Section. Pursuant to Section 17.62.040 of the PMC, the residence was evaluated for historic significance under Criteria B and C:

- B. It is associated with the lives of persons who are significant in the history of the region, State, or nation; and
- C. It is exceptional in the embodiment of the distinctive characteristics of a historic resource property type, period, architectural style, or method of construction, or that is an exceptional representation of the work of an architect, designer, engineer, or builder whose work is significant to the region, State, or nation, or that possesses high artistic values that are of regional, State-wide or national significance.

On November 30, 2020, staff issued a notice of ineligibility to the applicant that the house did not meet the criteria for designation as a Landmark (Attachment K). This determination was not appealed and the decision on the landmark status of the subject property became effective on December 11, 2020.

The staff determination was based on a thorough review of the existing conditions of the property as well as the review of the documents submitted by Pasadena Heritage. In reaching their conclusion, staff applied the methodology for evaluating the significance of historic properties as established by the U.S. Department of the Interior National Park Service in the National Register Bulletin entitled "How to Apply the National Register Criteria for Evaluation," as well the criteria in the Pasadena Municipal Code.

After the Hearing Officer review of the proposed project, Pasadena Heritage submitted additional documentation to help establish significance under Criterion B. Based on the new information submitted, the house may be eligible for designation.

Even if the house at 801 S. San Rafael Avenue was determined to be eligible for designation under any applicable Criterion, the proposed scope of work (detached accessory structures at the rear of the site that are not visible from the street and do not affect the publicly visible portions of the original primary structure), would not have been subject to review under Interim Urgency Ordinance No. 7354, which was in effect at the time the HDP application and the application for Landmark Designation were submitted, nor would the scope of work be subject to review under Ordinance No. 7372, the newly adopted regulations that became effective on April 12, 2021.

The project qualifies for the specified CEQA categorical exemptions and the exception to the exemption clause in Section 15300.2, of CEQA Guidelines pertaining to historic resources does not apply, as the project would not cause a substantial adverse change in the significance of a historic resource or materially impair the resources ability to convey its historical significance, nor would the proposed improvements result in cumulative impacts which would cause a substantial adverse change to the integrity or significance of the resource or materially impair the resources ability to convey its historical significance.

Therefore, this project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15303, Class 3, (New Construction or Conversion of Small Structures), and none of the exceptions to the exemptions apply. There are no features that distinguish this project from others in the exempt class; therefore, there are no unusual circumstances.

### **CONCLUSION:**

It is staff's assessment that the findings necessary for approving the Hillside Development Permit to allow the construction of two new detached accessory structures, and conversion of a portion of the residence into a partially open cabana, on a property currently developed with an existing single-family residence and a detached, three-car garage, can be made (Attachment A). The proposed project meets all applicable development standards required by the Zoning Code for the RS-4 zoning district, for accessory structures and the additional development standards required within the Hillside Overlay District. The architecture incorporates features present in the neighborhood and the location of the improvements are set a significant distance from the right-of-way and abutting properties. Moreover, the proposed size, design, materials, and color palette are consistent with the applicable design criteria (architectural features) for the Hillside Development Overlay and properties within the neighborhood. Existing views and privacy would be maintained after the project. It is anticipated that the proposed location would not be detrimental or injurious to surrounding properties or improvements. Therefore, based on staff's analysis of the issues, the construction of the proposed three accessory structures, with the recommended conditions of approval, including those volunteered by the applicant in response to the Hearing Officer appeal, would be compatible with the adjacent land uses and would not result in any adverse impacts to the surrounding area with the recommended conditions of approval.

Staff finds that the findings necessary for approving Hillside Development Permit #6837 to allow for the construction of the proposed accessory structures can be made. Therefore, staff recommends that the City Council overturn the Board of Zoning Appeals March 18, 2021 decision, and approve Hillside Development Permit #6837 subject to the findings in Attachment A and recommended conditions of approval in Attachment B.

**FISCAL IMPACT:**

There is no fiscal impact as a result of this action and will not have any indirect or support cost requirements.

Respectfully submitted,




DAVID M. REYES  
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Development

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Attachments (11):

- Attachment A – Hillside Development Permit Findings
- Attachment B – Conditions of Approval
- Attachment C – Appeal Application of Board of Zoning Appeals' decision (dated March 24, 2021)
- Attachment D – Board of Zoning Appeals Decision Letter (dated March 23, 2021)
- Attachment E – Board of Zoning Appeals Staff Report (dated March 18, 2021)
- Attachment F – Hearing Officer Addendum (dated March 6, 2021)
- Attachment G – Appeal Application of Hearing Officer's decision (dated January 19, 2021)
- Attachment H – Hearing Officer Decision Letter (dated January 11, 2021)
- Attachment I – Hearing Officer Staff Report (dated January 6, 2021)
- Attachment J – Project Plans
- Attachment K – Design and Historic Preservation Landmark Status Decision Letter (dated November 30, 2020)