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October 15, 2021

**VIA ELECTRONIC MAIL [cityclerk@cityofpasadena.net]**

Mayor Victor M. Gordo,  
Vice-Mayor and Councilmember Andy Wilson,  
Councilmembers Tyron Hampton, Felicia Williams,  
John J. Kennedy, Gene Masuda, Jess Rivas, Steve Madison  
City Council, City of Pasadena  
100 North Garfield Avenue  
Pasadena, California 91101

Re: **STATEMENT OF APPELLANT AT 1812 LINDA VISTA  
REGARDING THE NEW PROJECT AT 1820 LINDA VISTA**

Appeal of Case No. ZENT2020-10016 // Hillside Dev. Permit #6838  
City Council Agenda Item #12

*Project Location:* 1820 Linda Vista Avenue  
*Zoning:* RS-4-HD  
*Hearing Date:* October 18, 2021

Dear Mayor Gordo, Vice-Mayor Wilson, Councilmembers Hampton, Williams,  
Kennedy, Masuda, Rivas, and Madison:

This office represents neighboring property owner and the Original Project Appellant Jin Ser Park (“Appellant”) in connection with the above-captioned appeal. Appellant challenged the Hearing Director’s approval of the subject application and prevailed by a unanimous decision of the Board of Zoning Appeals (sometimes the “BZA”) on April 22, 2021.

The Owner/Developer/Architect Applicant Matthew Feldhaus (“Applicant”) originally proposed a massive expansion of his hillside single family residence, which would have greatly changed the massing of the structures thereupon and blocked Appellant’s legally protected views. The original approval Applicant sought was for Hillside Development Permit #6838 to convert an existing 2,452 square-foot, single-story single-family residence, with an attached 366 square-foot garage, and an attached 439 square-foot

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carport to the following: a 4,660 square-foot, two-story residence with an attached 754 square foot garage for a total gross area of 5,414 square feet (the “Original Project”).

Having the Original Project utterly rejected at the BZA Hearing, Applicant *now* seeks the City Council’s approval of a different, even more troubling project. The new project proposes a 3,853 square-foot residence with an attached 754 square foot garage, and 158 square feet of enclosed pool equipment in tandem with a deck expansion, infinity pool, and an 807 square-foot lower floor Accessory Dwelling Units (“ADU”) for a total gross area of **5,572 square feet** (the “New Project”). The story poles still in place from the Original Project show that the very same view obstruction remains. Worse, the exemption from environmental review is now for an even more unwieldy construction project on a steep hillside next to liquefaction zones, a golf course, and a historic resource.

Furthermore, the “Public Notice” of the New Project is non-existent. Appellant learned of the New Project by virtue of reading the new staff report, which was only released in the evening of October 14. Moreover, the homes within the notice radius did not receive the traditional mailing notification. The expanded project footprint, the bypassing of public input at the Hearing Officer stage and consideration by the BZA, and the change of project in the goal of reaching a final decision by the City Council violate the Brown Act, due process, equal protection, and the Pasadena Zoning Code. This lack of due notice deprives the public of the opportunity to review and comment upon the project before a Hearing Officer, who would then make decisions in a public forum about the Hillside Ordinance and the project’s impact on the environment.

Based on the foregoing, Appellant respectfully requests the City Council uphold the decision of the Board of Zoning Appeals and reject Hillside Development Permit #6838.

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EXIBITS  
[hyperlinked for convenience]

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[Photographs Reflecting Obstruction of Protected Views Shown by Story Poles]  (1) View from Appellant’s Dining Room [Protected View] (2) View from Appellant’s Dining Room [Colorized to Show Ridgeline Obstruction] (3) View from Appellant’s Dining Room with Different Angle and Showing Window [Partially Colorized to Show Ridgeline Obstruction]	I

**I. THE NEW PROJECT STILL SUBSTANTIALLY INFRINGES ON APPELLANT’S PROTECTED VIEWS**

Certain view corridors are a legally protected benefit that belongs to those who reside in the Hillside Development Overlay District (the “District”). The City of Pasadena Municipal Code [“PMC”] requires that applicants for hillside development permits avoid blocking certain views:

\*\*\*

New structures and tall landscaping shall not be centered directly in the view of any room of a primary structure on a neighboring parcel. Views shall be considered from windows *of any room in the primary structure*. ***New structures shall avoid blocking the following from any room of a main dwelling*** on a neighboring property:

1. Culturally significant structures such as the Rose Bowl, Colorado Street Bridge, City Hall, etc.;
2. Downslope views of the valley floor;
3. **Prominent ridgelines**; and/or
4. The horizon line.

(PMC § 17.29.060-G [emphasis added].)

The Original Staff report before the April 22 BZA Appeals Hearing concluded (with no meaningful analysis) that since the Original Project would “maintain the general height of the existing residence, ... the existing view conditions [of Appellant’s Property] would

not be impacted.” (Staff Rep., p. 8.) However, the expansion of square footage for the Project will leave new structures and obstacles directly within the line of sight from Appellant’s rooms to the Ridgeline. (See Exhibit I.) The October 18 Staff Report *now acknowledges the unlawful ridgeline view obstruction*. (Oct 18 Staff Rep., p. 14 [“Although it appears that a portion of the ridgeline would be blocked from a first-story window by the new roof-design of the single-story additions and remodel, the proposed structure is designed to avoid blocking views from surrounding properties to the maximum extent feasible.” (Emphasis added)].) Of course, this completely understates the point since there are several first-floor windows and multiple rooms that would be affected by the view obstruction.<sup>1</sup> Furthermore, if Applicant wanted an exemption from compliance with the view ordinance or other relief from these provisions based on hardship, he could have asked for that in his application. He did not.

Planning Staff has no analysis of sight angles from the Project. (See *Topanga Association for a Scenic Community v. County of LA* (1974) 11 Cal.3d 506, 511 [for discretionary permits to be granted, there must be “substantial evidence [that] supports the findings that legislative requirements have been satisfied.”]) The lack of analysis renders the Planning Department’s review of the application critically defective and unsupported.

## **II. THE PROJECT IS NOT EXEMPT FROM CEQA BECAUSE THE LOCATION OF THE SITE AND UNUSUAL CIRCUMSTANCES SHOW THE PROJECT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT**

The same concerns about the environmental review of the project remain.<sup>2</sup> Though the Planning Staff seemingly ignores these concerns, there are particular and unusual circumstances that show the project may have a significant effect on the environment. Thus, the failure to prepare and Environmental Impact Report is a clear violation the California Environmental Quality Act (“CEQA”) in this case. I will summarize the particular circumstances of the site and the proposed development that require the preparation of an EIR and the study of alternative projects:

- (a) The property is located directly adjacent to a large liquefaction zone, which includes a historic watershed, the Arroyo Seco;
- (b) The property to the north of the subject property, 1840 Linda Vista Avenue, is itself directly within a liquefaction zone, according to the California Earthquake Hazards Map maintained by the California State Department of Conservation;
- (c) The Project seeks to double the footprint of the existing structures --- this is a massive expansion from structures previously in place, from structures that has

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<sup>1</sup> Appellant is concurrently submitting to the City Council a file containing and video and photographs that give context to the layout and locations of the north-facing kitchen and dining room windows at 1812 Linda Vista Avenue.

<sup>2</sup> Appellant incorporates by reference the entirety of its arguments advanced at the BZA Hearing on April 22, 2021, including the letter dated April 20, 2021 that it submitted in advance of that hearing. The New Project does not fundamentally address the issues raised before the BZA.

- been in place *since 1948*, alterations to façade and certain elements notwithstanding. The effect on the hillside, which likely has had substantial soil movement in the **past 73 years** is something that must be reviewed in light of the load created by the new structures including the pool;
- (d) Portions of the property contain a steep slope (over 50%), and the average slope for the remaining portions of the parcel is 29%;
  - (e) The subject property is located in a high fire severity zone;
  - (f) The subject property is located next to other properties at the top of the hillside which all sit next to the largest liquefaction zone in the City;
  - (g) The subject property itself sits within a landslide zone, according to the California Earthquake Hazards Map maintained by the California State Department of Conservation;
  - (h) The adjacent golf course with the watershed could be damaged in the event the soil on the subject property shifts due to earthquakes, landslides, or other soil movement and this could affect the watershed, a natural resource;
  - (i) The proposed swimming pool appears to put major strain on the further edge of the Project, which is closest to the steepest portions of the slope; and
  - (j) **There is still no identification or analysis of how many gallons the pool will hold and the resulting strain that would put on the hillside.** Landslide danger is evident, and the public has a right to evaluate this. This renders the application, even for the New Project, incomplete.

### III. THE NEW APPLICATION EXACERBATES THE DENIAL OF EQUAL PROTECTION OF THE LAW AND DUE PROCESS BY IMPROPERLY FAVORING APPLICANT AT THE EXPENSE OF THE PUBLIC

#### 1. *Constitutional and Statutory Framework Concerning Due Process Applies to Administrative Hearings and Land Use Applications*

The State of California recognizes a “much more inclusive” due process standard and “protects a broader range of interests than under the federal Constitution.” (*Ryan v. California Interscholastic Federation-San Diego* (2001) 94 Cal. App. 4th 1048, 1069 [internal quotations and citations omitted]; (See also Cal. Gov. Code § 54950 et seq. [the Brown Act, which provides for open meetings and fair comment]; Cal. Gov. Code § 11340 et seq. [California Administrative Procedures Act.]

The City itself recognizes the importance of an *informed* and *fair* public participation in decisions affecting its citizens. Guiding Principle No. 7 provides: “Community Participation will be a permanent part of achieving a greater city. Citizens will be provided with timely and understandable information on planning issues and projects; citizens will directly participate in shaping plans and policies for Pasadena’s future.”

Appellants have fundamental rights at stake conferred by statute/code: (1) the right to proper environmental review of nearby properties; and (2) the rights and protections

afforded to them as property owners in the District. (*Desmond v. County of Contra Costa* (1993) 21 Cal. App. 4th 330, 338-39 [observing that Contra Costa County Code required consideration of adjoining landowners with respect to discretionary approvals.]) Case law also requires adequate public notice where a Notice of Exemption from environmental review is proposed for a new project. (*Los Angeles Department of Water and Power v. County of Inyo* (2021) 67 Cal.App.5th 1018, 1033 [“Consistent with basic principles of due process, the notice given before a public hearing has a role in defining the opportunity provided to the public.”]) citing *Mathews v. Eldridge* (1976) 424 U.S. 319, 333 for the proposition that “the essence of due process is notice and the opportunity to be heard at a meaningful time and in a meaningful manner.”) The hearing notice for this appeal does not incorporate the New Project, it is procedurally defective, and the City Council should reject the New Project for that reason alone.

Further, the October Staff Report references the “geotechnical report” on page 2 that would presumably include the ADU as part of the project plans, but that is not available to the public. There is no way for the public to review and provide input into that process, and this denies due process to the Appellant and the public.

Applicant’s appeal of the BZA decision only noted the following: “The Board of Zoning Appeals failed to follow the zoning code and state law in their findings when they denied Hillside Development Permit #6838.” No further discussion was provided in this conclusory statement, and there was no indication that Applicant intended to submit a different project. With respect to the New Project, proper public notice was not provided, and the Planning Staff continues to exhibit strong bias in favor of Applicant by accepting and advocating no environmental review for a new, different (the ADU), and larger project.

## 2. *Planning Staff Has Taken on the Role of the Advocate for the Developer*

Not only do the emails exchanged before the BZA Hearing show the Planning Staff’s attempted assistance to the developer to *avoid environmental review*, but in the New Project the Planning Staff would support a larger project by contradicting its original neighborhood analysis in favor of a different one that serves Applicant’s needs.

Staff has continually exhibited strong bias in favor of the developer, going so far as to disagree with its previous neighborhood compatibility analysis (although both times, it simply chose the specifications that would assist the application). The Planning Staff also proposed that the City Council either find in favor of an entirely new neighborhood compatibility analysis, or reduce the project just enough so that it can rely upon its older analysis. It proposed 37 feet be reduced from the New Project, but how can Appellant or the public know what the reduction looks like or where it comes from?

Appellant has been denied the basic due process from a fair, impartial evaluation of the project by the Planning Staff.

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The Hillside Ordinance and the General Plan are designed for the protection of the people of Pasadena. Applicant's needs do not outweigh those of the community.

#### IV. CONCLUSION

The New Project (a) *admittedly still* violates the View Ordinance; (b) violates CEQA, which would require an Environmental Impact Report under these circumstances; and (c) violates due process, equal protection, and the building code because Applicant effectively is trying to obtain a final City Council decision on a different, though even more troubling project. These problems render the New Project even more unlawful than the Old Project, which was previously denied.

Finally, Applicant seeks to improperly short circuit public comment and review of what amounts to a completely different project. The Original Project was smaller in size and did not include an ADU.

Appellant respectfully requests that the City Council uphold the decision of the Board of Zoning Appeals to deny the instant permit application.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Weaver". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Stephen Weaver, Esq.

cc: Lilia Novelo, City Clerk's Office, via email [[lnovelo@cityofpasadena.net](mailto:lnovelo@cityofpasadena.net)]  
Ruben Martinez, City Clerk's Office, via email [[rumartinez@cityofpasadena.net](mailto:rumartinez@cityofpasadena.net)]

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Exhibit I

[Photographs Reflecting Obstruction of Protected Views Shown by Story Poles]

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CAUTION



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