

Linda Vista-Annandale Association

April 21, 2021

Board of Zoning Appeals
City of Pasadena

Re: Appeal of HDP #6838; 1820 Linda Vista Ave.; BZA Hearing 4/22/2021

Chair Coppess and Board of Zoning Appeals Members:

The Zoning Committee of the Linda Vista-Annandale Association (LVAA) has reviewed the proposed project in the context of this Appeal and has the following comments.

Due Process Concerns Regarding Hearing Officer Hearing. The Hearing Officer failed to receive and review LVAA's comment letter at the Hearing Officer Hearing. The LVAA Hearing Officer Comment letter is included in the record. Our concerns were incompletely and inaccurately "summarized" by staff at that Hearing. It also appears to us that the concerns and objections of the resident neighbor immediately adjacent to the south were not adequately reviewed and considered by the Hearing Officer. The Hearing Officer gave only minimal consideration to the concerns, comments, and objections of LVAA and the objecting neighbor in the course of quickly adopting staff's recommendations.

LVAA respectfully requests that you, the BZA Members, give full attention and consideration to all comments, concerns, and objections of LVAA and the objecting neighbor in reaching your decision.

Privacy and View Impacts; CEQA. As to the objecting neighbor, we are concerned about the objections of the neighbor to the south calling out privacy and view impacts. These objections should be carefully reviewed and mitigated if appropriate, or the Hillside Development Permit denied. Also, LVAA understands that the objecting neighbor may present arguments that the claimed California Environmental Quality Act (CEQA) exemption may not apply to this proposed project and that environmental review may be required. This argument also should be fully reviewed.

Protection of privacy rights is highly valued and protected in the Hillside Overlay Ordinance beginning with this statement of Ordinance purpose:

G. Provide development standards that promote orderly development consistent with the traditional scale and character of the community, and that preserve privacy and views;

Further, the Ordinance provides:

*D. **Architectural features.** All new homes and additions subject to a Building Permit shall have architectural features that are compatible with existing architecture and the character of the surrounding neighborhood as defined below in Section D. In particular:*

2. **Privacy—Surrounding lots.** *Windows, balconies, and outdoor living areas generally shall be located to protect the privacy of adjacent homes and yards.*

Recently, the Hillside Overlay rules were strengthened to add greater protection for views and to limit Excess Neighborhood Compatibility if views are infringed. The view protection provisions of the Overlay Ordinance begin with this statement of Ordinance purpose:

A. *Preserve and protect views to and from hillside areas to maintain the identity, image, and environmental quality of the City;*

The Ordinance even provides that Development standards can be adjusted to protect views. See section H. of the Permit section of the Ordinance. Existing views of adjacent neighbors is a “property right” highly valued and highly protected by the Hillside Overlay Ordinance.

Top Edge of the Arroyo. The Hearing Officer adjacent neighbor objection asserts that the Top Edge of the Arroyo limitation has been improperly applied. In our view, the Top Edge of the Arroyo limitation must be strictly enforced, and we do not support any deviation from the Code in this regard.

Support for Additions to the Existing House. The project incorporates several good features that we have encouraged on other hillside sites, including: leaving the existing house in its original site location, thus preserving the existing Front Yard setback and rhythm of the block face; placing the bulk of new square footage in a manner that preserves the perception from Linda Vista Ave. that the residence remains a one-story house that “reads” as horizontal in design; and, subject to comments below on hillside construction and grading, placing the new second story as a “Lower” story, thus avoiding adding on a typical second story which adds mass and bulk.

Therefore, LVAA **supports** approval of a Hillside Development Permit for the proposed additions to the existing house, including possibly a small amount of Excess Neighborhood Compatibility square footage, subject to comments below on Excess Neighborhood Compatibility square footage and hillside construction and grading.

Objections to Misleading Project Description and Development Character; CEQA. In connection with the description and discussions of the additions and changes to the existing house, the Project Description, arguably, becomes confusing and maybe misleading when addressing the “deck” extension and new construction at the rear of the existing house – the lower level or lower story addition which is proposed to extend significantly out beyond the house into the steep, descending slope area at a significant height. Over and over in the Hearing Officer Staff Report, and less so in the edited BZA Staff Report, most of the proposed construction in the back is described as a “deck” extension and new square footage that fills empty space below the “deck”. Here are quotes from Pages 7- 8 of the BZA Staff Report:

The project would add a new 807 square-foot lower floor at the north side of the property beneath the master bedroom and second-story deck expansion. . . .

The existing second-story deck would be expanded and include a new patio cover, infinity pool, and spa (accessible from each bedroom and living area at the east elevation) at the eastern side of the dwelling. The additions are extensions of the existing living area, deck area, and filling in the space below the deck with additional floor area. The lower level addition terraces down the slope of the property and captures space that would otherwise be an empty volume under the proposed pool deck.

What exactly is this “deck” extension in the context of the “lower story”? Is the proposal a “pool deck” as referred to by staff? Is the proposal a roof deck? The Hillside Overlay Ordinance limits significantly the allowed height of a Hillside lowest floor level and deck, as follows:

3. **Height of lowest floor level.** The vertical distance between the lowest point where the foundation meets grade and the lowest floor line of the structure shall not exceed six feet (see Figure 2-5).
4. **Decks.** No portion of the walking surface of a deck with visible underpinnings shall exceed a height of six feet above grade. Decks shall be integrated into the architecture of the house, and not appear as an add-on to the primary building mass (see Figure 2-5).

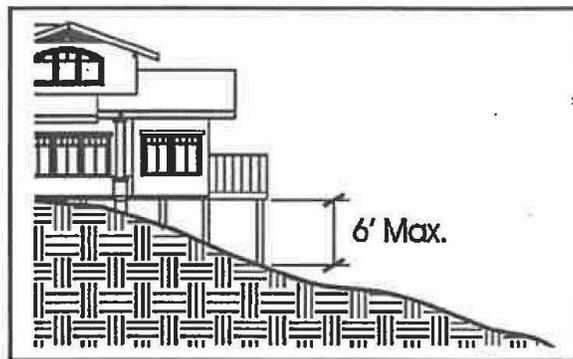


Figure 2-5 – Height Limit for Lowest Floor and Decks

Further, as noted above with respect to Hillside Ordinance Purpose G, a primary purpose of the Hillside Ordinance is to *Provide development standards that promote orderly development consistent with the traditional scale and character of the community,*

How do these rules and purposes apply to the “extension” of the deck, to the proposed pool and spa on the “deck”, including placement of the pool and spa on the extended deck on top of square footage, and to the filling of the “void” under the deck with new square footage of significant height, and, apparently, of varying heights? **Does the massing “under” the “deck” constitute “visible underpinnings”?** Does filling “voids” under “decks” advance the purposes and intent of the Hillside Ordinance? The project description is confusing, and

apparently misleading, and there is no analysis or explanation as to how the “extended” deck and new construction, including the pool, spa, and extended master bedroom, comply with the Hillside Ordinance lower level and deck rules, or the purposes and intent of the Ordinance. Zoning Code compliance as to the “deck” should be clarified. And how does this proposed different and unusual form of Hillside steep descending slope development meet the required Finding 6 requirement that *the design, location, operating characteristics, and size of the proposed use would be compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection*? Is this the form and type of Hillside steep descending slope development what is envisioned and encouraged in the Linda Vista Hillside? Does this form and type of steep descending slope development raise CEQA issues that require environmental review?

This proposed type and character of Hillside development down the steep slope is not typical or usual. The “unusual circumstances” of this proposed slope development may remove this project from the claimed CEQA categorical exemption and trigger environmental review based on unusual circumstances.

Further, it is not clear that this form of Hillside descending slope development meets required Findings 1, 2, 3, 5, 6 or 7. If even one Finding cannot be made, then the requested HDP should be denied and the proposed project redesigned.

Hillside Topography and Minimal Grading. Preservation of the natural topography in the Hillside and minimal grading in connection with Hillside projects are foundational principles of the Hillside Ordinance Overlay. As stated in Hillside Ordinance Purposes E and I:

- E. Preserve significant natural topographic features, including swales, canyons, knolls, ridgelines, and rock outcrops, riparian vegetation, natural streambeds, and woodlands to the maximum extent feasible. While it is recognized that development may necessarily affect natural features, a major design objective shall be to minimize these impacts;*
- I. Avoid residential densities that would require extensive grading*

Minimal grading in connection with Hillside projects has been a staff and City policy years. All Hillside projects, including this proposed project, should be reviewed, and analyzed, for grading impacts. All new square footage and improvements should “terrace” down the descending steep slope in a manner that follows the natural topography. Further, any excavation and grading over minimal amounts would call into question your ability to make required Finding No. 8 for approval of the entire HDP including the proposed lower story.

There is no staff analysis of impacts on the natural topography and the extent of proposed grading. Instead, the BZA Staff Report indicates that the project will comply with the City’s Grading Ordinance which is insufficient analysis. The extent of the grading that will be required, particularly considering the proposed pool and spa and “pool deck” with extensive square footage under the “deck” must be analyzed considering the mass, weight and engineering and support structures that will be required. Just what is the extent of required excavation for the “lower-level”? In fact, topographic and grading impacts associated with this proposed project may constitute such “unusual circumstances” as to remove this proposed

project from any sort of CEQA Categorical exemption. Environmental review may be required. This possible environmental review requirement should be carefully reviewed and considered, particularly since environmental equilibrium and preservation are important Hillside Ordinance principles.

Excess Neighborhood Compatibility Square Footage. LVAA always is concerned about Staff support for excess Neighborhood Compatibility floor area, here to the extent of 844 square feet. The Neighborhood Compatibility rules are an important check on Hillside development that is out of scale and out of character. It appears obvious that this proposed excess Neighborhood Compatibility square footage is proposed for placement below the expanded deck as the new lower-level story which will total 807 square feet.

Clearly, the requested excess Neighborhood Compatibility square footage should be denied to the extent of 807 square feet if the view protection concerns of the neighbor to the south are valid. Excess Neighborhood Compatibility square footage can no longer be approved if additional view impacts will occur to neighboring properties.

Further, The Staff Report refers to the proposed lower story "terracing" down the slope which would mean following the existing topography, but the following matters are not clear. Will construction and placement of the "deck", the pool and spa, and the lower story massing require more than minimal excavation and grading? Anything more than minimal excavation and grading does not justify Excess Neighborhood Compatibility, and the excess Neighborhood Compatibility square footage should be denied.

LVAA requests that you consider and resolve these various issues at this BZA Hearing, nearly all of which were ignored at the Hearing Officer Hearing.

Thank you for considering and responding to our comments and concerns.

Sincerely,

Nina Chomsky

Nina Chomsky, LVAA President

cc: LVAA Board of Directors