



**CITY OF SOUTH PASADENA  
PLANNING COMMISSION  
REGULAR MEETING AGENDA**

**Tuesday, July 14, 2020 at 6:30 p.m.**

*South Pasadena Planning Commission Statement of Civility*

*As your appointed governing board we will treat each other, members of the public, and city employees with patience, civility and courtesy as a model of the same behavior we wish to reflect in South Pasadena for the conduct of all city business and community participation. The decisions made tonight will be for the benefit of the South Pasadena community and not for personal gain.*

***NOTICE ON PUBLIC PARTICIPATION & ACCESSIBILITY***

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the regular meeting of the Planning Commission for July 14, 2020 will be conducted remotely and held by video conference. The Meeting will be broadcast live on the City's website ([https://www.spectrumstream.com/streaming/south\\_pasadena\\_pc/live.cfm](https://www.spectrumstream.com/streaming/south_pasadena_pc/live.cfm)) and local cable channels.

Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chambers will not be open for the meeting. Commission members will be participating remotely and will not be physically present in the Council Chambers.

The Planning Commission welcomes your input. If you would like to comment on an agenda item, members of the public may submit their comments in writing for the Planning Commission consideration, by emailing comments or questions to [PlanningComments@southpasadenaca.gov](mailto:PlanningComments@southpasadenaca.gov) by **12:00 p.m. on Tuesday, July 14, 2020** to ensure adequate time to compile and post. Please provide: 1) your name and address; and 2) agenda item for the comments/questions. All comments/questions received will be distributed to the Commission for consideration and will also be posted on the City's website prior to the meeting.

**CALL TO ORDER:**

Chair Janet Braun

**ROLL CALL:**

Laura Dahl, Commissioner, Richard Tom, Commissioner, Lisa Padilla, Secretary, John Lesak, Vice-Chair and Janet Braun, Chair

**COUNCIL LIAISON:**

Diana Mahmud, Mayor Pro Tem, Council Liaison

**STAFF PRESENT:**

Teresa L. Highsmith, City Attorney  
Joanna Hankamer, Planning & Community Dev. Director  
Kanika Kith, Planning Manager  
Malinda Lim, Associate Planner

**APPROVAL OF AGENDA**

Majority vote of the Commission to proceed with Commission business.

**DISCLOSURE OF SITE VISITS AND EX-PARTE CONTACTS**

Disclosure by Commissioners of site visits and ex-parte contact for items on the agenda.

**PUBLIC COMMENTS AND SUGGESTIONS**

If you wish to address the Planning Commission on items not on the agenda and within the subject-matter jurisdiction of the Planning Commission, members of the public may submit their comments in writing to [PlanningComments@southpasadenaca.gov](mailto:PlanningComments@southpasadenaca.gov) by **12:00 p.m. on Tuesday, July 14, 2020** to ensure adequate time to compile and post. The public should be aware that the Planning Commission may not discuss details or vote on non-agenda items. Your concerns may be referred to staff or placed on a future agenda.

**PRESENTATION**

**1. General Plan and the Downtown Specific Plan – Landscape and Signage**

Recommendation

Review and Provide Comments

**PUBLIC HEARING**

**2. Moffat Street, Project No. 2191-HDP/TRP- Hillside Development Permit to install a private roadway extending westward approximately 600 feet from the terminus of the existing Moffat Street and Tree Removal Permit for the removal of 5 protected trees. This private road will provide access to 7 lots in the City of Los Angeles through an easement in South Pasadena (Continued).**

Recommendation

Direct the Applicant to submit an alternative street design with access to the seven land-locked lots from Lowell Avenue for review by the City Engineer or City’s engineering consultant prior to Planning Commission consideration, or if the Applicant’s engineer is unable to provide an alternate street design, the City shall hire an engineering consultant to evaluate an alternative street design at the Applicant’s expense prior to Planning Commission consideration.

**3. Zoning Code Amendment for Streamline Planning Review and Minor Clean-up**

Recommendation

Adopt a Resolution recommending approval of the proposed Zoning Code Amendment to City Council.

**ADMINISTRATION**

**4. Comments from City Council Liaison**

**5. Comments from Planning Commissioners**

**6. Comments from Staff**

**ADJOURNMENT**

**7. Adjourn to the regular Planning Commission meeting scheduled for August 11, 2020.**

**PUBLIC ACCESS TO AGENDA DOCUMENTS AND BROADCASTING OF MEETINGS**

Planning Commission meeting agenda packets are available online at the City website: <https://www.southpasadenaca.gov/government/boards-commissions/planning-commission/test-planning-commission-agendas-minutes-copy>

Agenda related documents provided to the Planning Commission are available for public review on the City’s website. Additional documents, when presented to Planning Commission, will also be uploaded and available on the City’s website.

The meeting will be broadcast live on the local cable channels (Spectrum Channel 19 and AT&T Channel 99) and on the City's website, and a recording of the meeting will be available within 48 hours of adjournment at the following links:

- Live Stream: [https://www.spectrumstream.com/streaming/south\\_pasadena\\_pc/live.cfm](https://www.spectrumstream.com/streaming/south_pasadena_pc/live.cfm)
- Recorded meeting: [https://www.spectrumstream.com/streaming/south\\_pasadena\\_pc/](https://www.spectrumstream.com/streaming/south_pasadena_pc/)

**AGENDA NOTIFICATION SUBSCRIPTION**


Individuals can be placed on an email notification list to receive forthcoming agendas by emailing [CityClerk@southpasadenaca.gov](mailto:CityClerk@southpasadenaca.gov) or calling the City Clerk’s Division at (626) 403-7230.

**ACCOMMODATIONS**



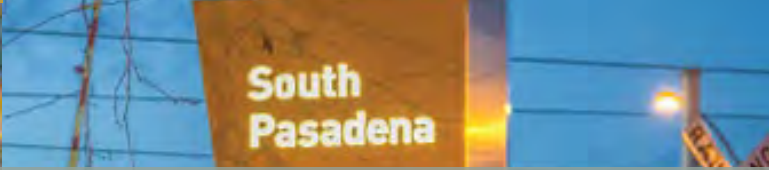
The City of South Pasadena wishes to make all of its public meetings accessible to the public. If special assistance is needed to participate in this meeting, please contact the City Clerk's Division at (626) 403-7230. Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities. Notification at least 48 hours prior to the meeting will assist staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting (28 CFR 35.102-35.104 ADA Title II).

I declare under penalty of perjury that I posted this notice of agenda on the bulletin board in the courtyard of City Hall at 1414 Mission Street, South Pasadena, CA 91030, and on the City's website as required by law.

7/9/20   
Date Elaine Serrano,  
Administrative Secretary

**Next Item**





# DOWNTOWN SPECIFIC PLAN DEVELOPMENT STANDARDS PART 3: LANDSCAPE AND SIGNS

PLANNING COMMISSION  
CITY OF SOUTH PASADENA

JULY 14, 2020





# MEETING OBJECTIVES

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- Summary of June Meeting Discussion
  - Parking Standards
- Review and Receive Feedback for Specific Plan Development Standards
  - 4.8 Landscape Standards
  - 4.9 Signs and Other Standards



The **Downtown Specific Plan** establishes the following standards for new development:

- Building Placement
- Allowed Building Intensity, Density, Types, and Site Size
- Parking
- Frontages and Encroachments
- Building Standards (Allowable Types/Typologies)
- Streets, Blocks, and Open Spaces
- **Landscape Standards**
- **Signs and Other Standards**

Topics in blue were discussed at the May 12 and June 9 meetings and general directions will be reviewed tonight. **Our focus tonight will be on the topic in yellow.**







# Review of Planning Commissioners Discussion of Development Standards at June 9, 2020 Meeting





# Summary of June 9 Planning Commissioners Discussion

## Parking Standards General Comments

- Parking standards need to consider assessment of existing parking in the City (budgeted for early next year); where parking is located, number of spaces, effectiveness in supporting existing needs, anticipated future needs, and best approaches to meet these needs.
- Appropriate for parking standards for DTSP area to vary from citywide standards to reflect intentions to enhance as a pedestrian-active district, with a transit-oriented sub-area.
- Learn from the experience of other cities; what are the standards, what has worked, and what has not?
- Allow flexibility for adjustments over time based on “real” experience in the downtown area.





# Summary of June 9 Planning Commissioners Discussion

## Responses to the 10 Questions

- General agreement that parking standards in proximity to the Gold Line transit station could be **considered for further reductions** based on findings of parking study.
- **Incentives** should be provided for code-required parking to be provided in shared **parking structures** in proximity to the transit station, but not required.
- Establishment of parking **maximum limits** in lieu of **minimums** should be considered.
- Parking **standards** for **restaurants** in the DTSP area **should be less** than other commercial areas in the City, based on consideration of successful models implemented by other communities in comparable pedestrian-active districts.
- Additional **criteria** for the **reduction of parking requirements** may include the development of passenger drop-off/pick-up areas, call stations, shuttles, flexible amenities, and/or implementation of other **physical improvements**.





# Summary of June 9 Planning Commissioners Discussion

## Responses to the 10 Questions

- Agreement that the DTSP's parking standards should be revised for consistency with Policies and Actions as follows:
  - **A4.8d** Reduce the minimum parking requirements for research and development, offices and laboratories and for offices, administrative, corporate from **3 spaces** per 1,000 square feet of gross floor area to **2.5 spaces** per 1,000 square feet.
  - **A4.8e** Amend the code for **restaurants**—not part of multi-tenant retail site or building so that for new uses occupying an existing space of any size (rather than 1,200 square feet or less), **no new parking** is required.
- Consensus supporting the revision of parking standards to be based on **net square feet** versus the current **gross square feet** of building area.
- General support for the use of **curbside and on-site parking areas for outdoor dining** and other amenities with possible differentiation of standards for improvements on Mission Street and Fair Oaks Avenue and flexibility to adjust over time due to experience in implementation. Some concerns regarding compatibility with traffic flow and bicycle lanes.





**Landscape and signage standards specified by the Draft Downtown Specific Plan (November 2019) are intended to implement the policies and actions contained in the Draft GP and DTSP, as presented on the following slides.**

- Based on the draft Plan, do the standards for landscape and signage reflect the intended character for the Downtown Specific Plan area?





# General Plan Policy Framework for Standards

- P1.5** Preserve, manage, and grow the **urban forest**.
- A1.5** Adopt an **Urban Forest Management Plan** that guides economically sustainable and environmentally friendly strategies for planting, maintaining, and funding **trees on public and private property**. The Urban Forest Management Plan should include best practices, design standards, tree palettes, implementation locations, integration into the Capital Improvement Program and Stormwater Program, incentives for property owners and requirements for developers, funding opportunities and ballot measures, and water conservation strategies.
- A2.8a** Encourage development projects in the Downtown Specific Plan area to provide uses and improvements in excess of minimums specified by Municipal Code that contribute to South Pasadena's character and are responsive to community needs that may include, but not be limited to:
- Provides public amenities greater than Code requirements such as **landscaped plazas**, bicycle and active transportation support facilities, or public parking spaces.







# General Plan Policy Framework for Standards

- A3.4** Implement a Form-Based Code for the Downtown area that emphasizes pedestrian orientation, integration of land uses, **treatment of streetscapes as community living space**, and offers a streamlined development review process, but also allows for creativity and variety in design.

*[Note: Numerous text descriptions emphasizing development of streetscape improvements and extensive and well-maintained tree canopy]*





# Specific Plan Policy Framework for Standards

- A1.4** Adopt an **Urban Forest Management Plan** that guides economically sustainable and environmentally friendly strategies for planting, maintaining, and funding **trees on public and private property**. The Urban Forest Management Plan should include best practices, design standards, tree pallets, implementation locations, integration into the Capital Improvement Program and Storm Water Program, incentives for property owners and requirements for developers, funding opportunities and ballot measures, and water conservation strategies.
- A3.2a** Develop and adopt a Form-Based Code for the Downtown area that emphasizes pedestrian orientation, integration of land uses, **treatment of streetscapes as community living space**, and offers a streamlined development review process.
- 7.1C** **Streetscape Standards.** Streets have an important role in place-making, in addition to their contribution of a major percentage of public space, streets' standards must be considered alongside building form, building types, frontage types, civic spaces and **landscaping in creating urban places**.

*[Note: Numerous text descriptions emphasizing development of streetscape improvements and extensive and well-maintained tree canopy]*





# Specific Plan Landscape Standards

## 8.1 LANDSCAPE STANDARDS

### 8.1A Purpose

The Street Tree Master Plan (Figure 8.1) graphically depicts the goals effectuating the preservation of native vegetation and habitats, the repair and enhancement of downtown's natural characteristics, the smooth transition between natural landscape areas and development, and the protection of regional landscape character. The landscape is designed to serve as a unifying element for the development. Regularly spaced ornamental street trees define the roadways as well as provide visual screening. Plant materials will be native or native-in-character.

### 8.1B Applicability

These Landscape standards shall apply to all public streets and open spaces, to the initial construction of front yards for all Building Types, and to the semi-public outdoor courtyards. Private rear yards are not subject to these standards.

### 8.1C Streetscape Standards

1. Street trees shall be consistent with, or similar to, species identified in Figure 8.1.
2. Street tree spacing shall be no less than 25 feet and no more than 45 feet on center. Consistency in tree spacing and species shall be used to create strong spatial definition for the streetscape. Street tree planting shall take into consideration the existing spacing for street lights, guy wire, and utility poles.
3. Existing context, street characteristics, and site attributes should be considered when selecting a tree species.
4. Runoff from sidewalks shall be conveyed to planted parkways.
5. Street trees are subject to review and approval by the City.

### Lot Standards

Yard Landscaping: Plantings in yard areas fronting on streets shall be appropriate to the scale, and purpose of the yard. All trees for front yards when provided shall be a minimum of 24 inch box (1"-1.75" caliper). Appropriate plant materials and designs for specific frontage yard types are as follows:

#### i Front Yard

- a. Front yards shall be planted and maintained from the back of sidewalk to a facade or garden wall.
- b. At facades, low shrubs and/or ground cover may be planted against the facade.
- c. At garden walls, low shrubs and wall vines or tall shrubs alone shall be planted against the wall.

#### ii Other Yards

- a. Rear yards may have multiple trees.
- b. Side yards need not be landscaped, except when adjacent to public space.
- c. If visible from the public realm, (i.e., the sidewalk or street), rear and side yards shall be landscaped and maintained.

### Parking Facility Standard

- i. Amount of Landscaping: Each parking lot shall provide landscaping within and/or around the parking area at a minimum ratio of 10 percent of the gross area of the parking lot. A minimum of one shade tree shall be provided for each 5 parking spaces or trees provided to achieve 50% canopy coverage of paved area at maturity, whichever is greater.
- ii. Location: Landscaping shall be evenly dispersed throughout each parking area. Orchard-style planting (placement of trees in uniformly-spaced rows) is required for parking areas with more than 20 parking spaces.







# 8.1C Streetscape Standards

1. Street trees shall be consistent with, or similar to, species identified in Figure 8.1.

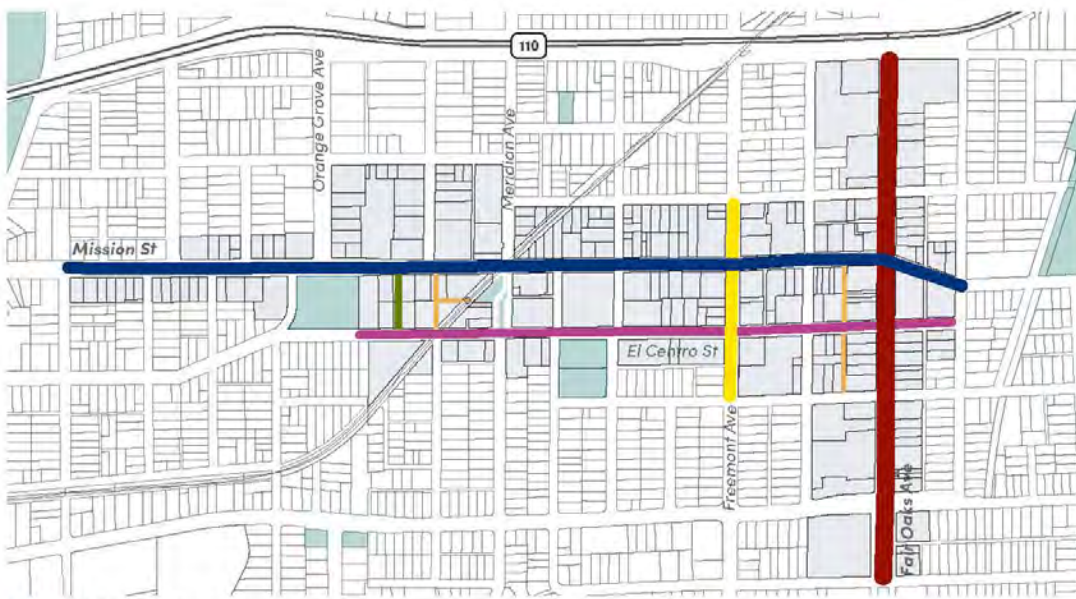
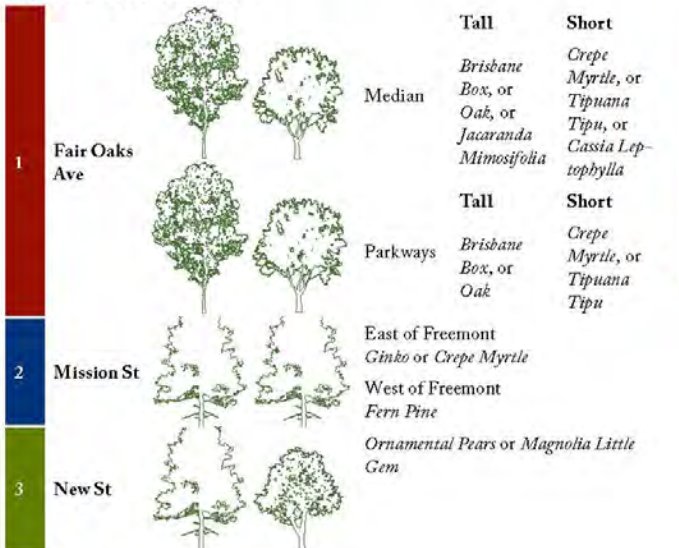


Figure 8.1. Tree species map



Match existing pallet, refer to the City's approved tree list for any changes.

*Majestic Beauty Southern Magnolia*

North of Mission: *Crepe Myrtle*

South of Mission: *Pink Trumpets*

*Carrorwood or Magnolia Little Gem*



Vision for Fair Oaks Avenue



Vision for Mission Street



Crepe Myrtle



Ginkgo



Jacaranda Mimosifolia



Oak



Cassia Leptophylla



Fern Pine



Brisbane Box



Carrotwood



Magnolia Little Gem



Ornamental Pear



Tipuana Tipu



Pink Trumpet



Southern Magnolia





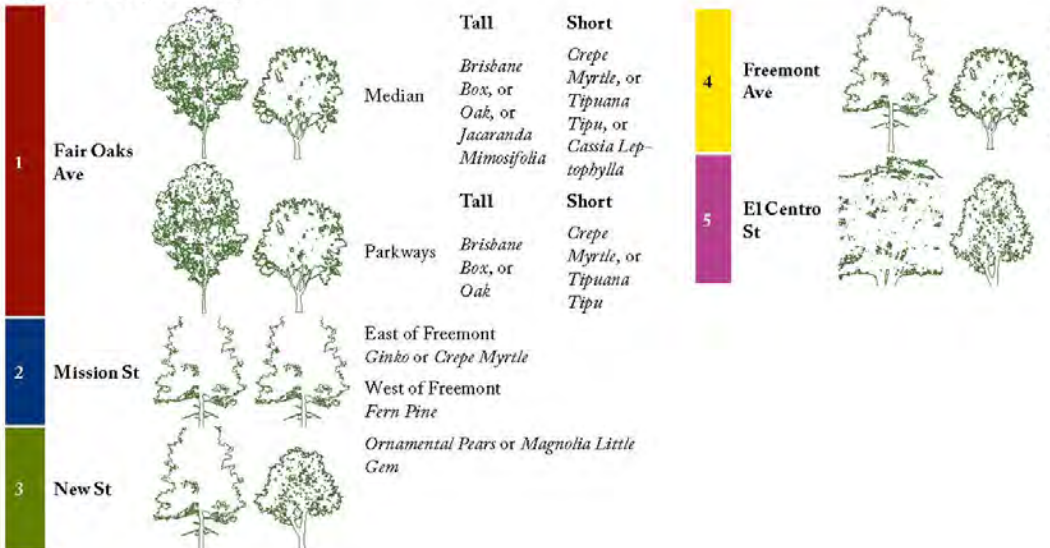
# 8.1C Streetscape Standards

1. Street trees shall be consistent with, or similar to, species identified in Figure 8.1.



**Note: No tree species identified for alleys**

Figure 8.1. Tree species map



Vision for Mission Street

Match existing pallet, refer to the City's approved tree list for any changes.  
 Majestic Beauty Southern Magnolia  
 North of Mission: *Crepe Myrtle*  
 South of Mission: *Pink Trumpets*

*Carrorwood or Magnolia Little Gem*



Crepe Myrtle



Ginkgo



Jacaranda Mimosifolia



Oak



Cassia Leptophylla



Fern Pine



Brisbane Box



Carrotwood



Magnolia Little Gem



Ornamental Pear



Tipuana Tipu



Pink Trumpet

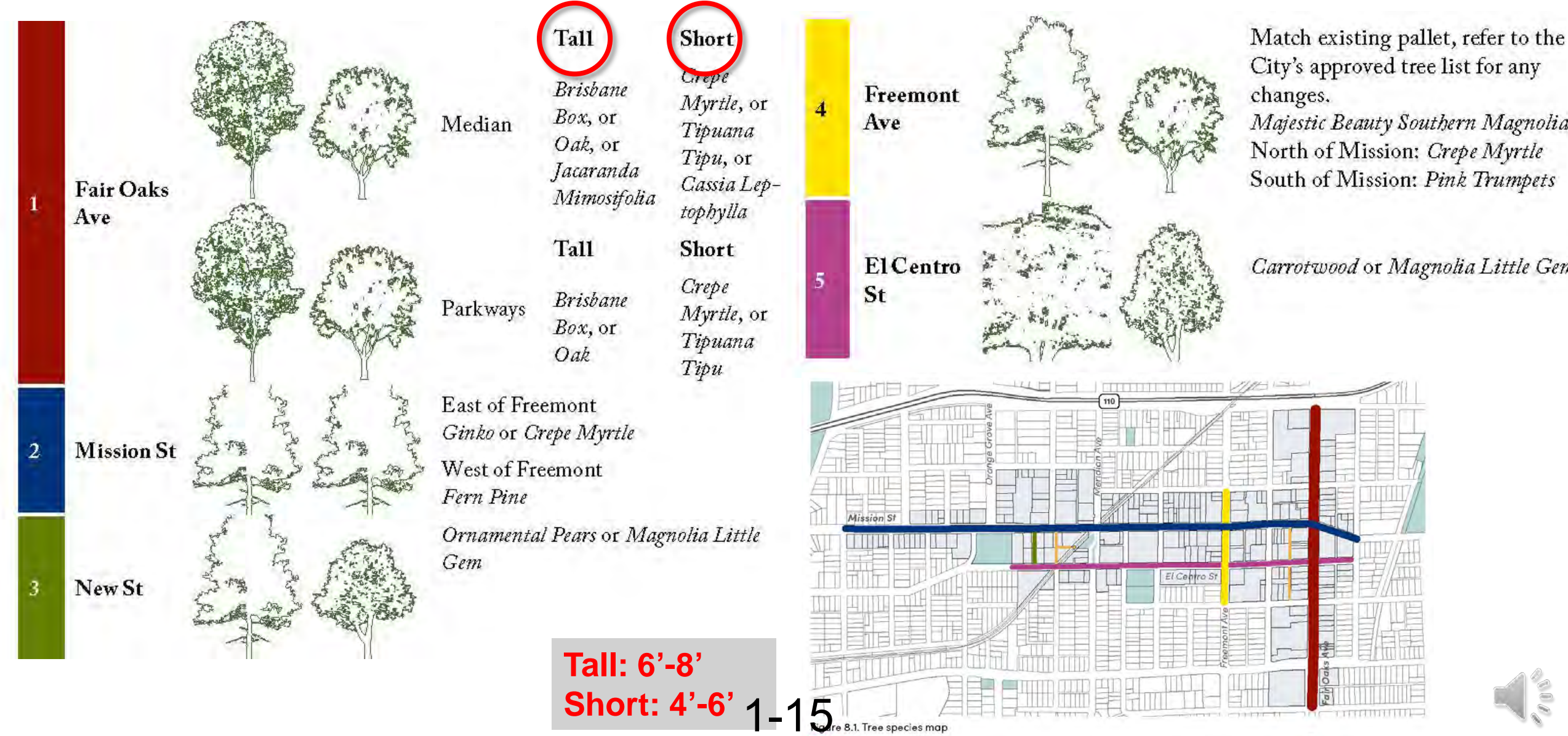


Southern Magnolia



# 8.1C Streetscape Standards

1. Street trees shall be consistent with, or similar to, species identified in Figure 8.1.







# Specific Plan Landscape Standards for New Projects

## 8.1C Streetscape Standards

1. Street trees shall be consistent with, or similar to, species identified in Figure 8.1.
2. Street tree spacing shall be no less than 25 feet and no more than 45 feet on center. Consistency in tree spacing and species shall be used to create strong spatial definition for the streetscape. Street tree planting shall take into consideration the existing spacing for street lights, guy wire, and utility poles.
3. Existing context, street characteristics, and site attributes should be considered when selecting a tree species.
4. Runoff from sidewalks shall be conveyed to planted parkways.
5. Street trees are subject to review and approval by the City.

### Current Practices for the Planning Commissioners' Consideration:

- Tree species are approved by Public Works; the list can vary over time.
- New trees must be drought-tolerant.
- Street trees required to be irrigated by pipe connections from adjoining property owner; drip irrigation required.
- Tree spacing standard (#2): Needs to be flexible to allow for driveway access, utility boxes, and other public infrastructure.





# Specific Plan Landscape Standards for New Projects

## 8.1D Lot Standards

Yard Landscaping: Plantings in yard areas fronting on streets shall be appropriate to the scale, and purpose of the yard. All trees for front yards when provided shall be a minimum of 24 inch box (1"-1.75" caliper). Appropriate plant materials and designs for specific frontage yard types are as follows:

### i Front Yard

- a. Front yards shall be planted and maintained from the back of sidewalk to a facade or garden wall.
- b. At facades, low shrubs and/or ground cover may be planted against the facade.
- c. At garden walls, low shrubs and wall vines or tall shrubs alone shall be planted against the wall.

### ii Other Yards

- a. Rear yards may have multiple trees.
- b. Side yards need not be landscaped, except when adjacent to public space.
- c. If visible from the public realm, (i.e., the sidewalk or street), rear and side yards shall be landscaped and maintained.

## Current Practices for the Planning Commissioners' Consideration:

- Tree standard minimums should be flexible to allow for species diversity, as provided by the South Pasadena ordinances. A minimum of 24-inch boxes or similar would be recommended..
- Parkway landscaping is the responsibility of adjoining landowners and must adhere to "Tree Ordinance" and "Water Efficient Landscaping" (Municipal Code)





# Specific Plan Landscape Standards

## 8.1E Parking Facility Standard

- i. Amount of Landscaping: Each parking lot shall provide landscaping within and/or around the parking area at a minimum ratio of 10 percent of the gross area of the parking lot. A minimum of one shade tree shall be provided for each 5 parking spaces or trees provided to achieve 50% canopy coverage of paved area at maturity, whichever is greater.
- ii. Location: Landscaping shall be evenly dispersed throughout each parking area. Orchard-style planting (placement of trees in uniformly-spaced rows) is required for parking areas with more than 20 parking spaces.

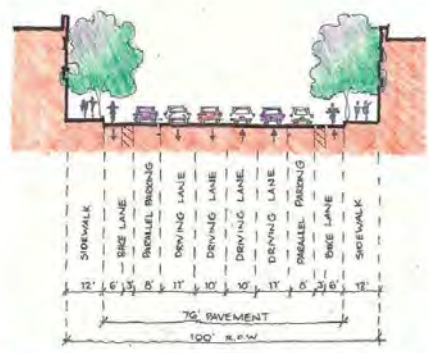
### Current Practices for the Planning Commissioners' Consideration:

- Requirements specified by Zoning Code, Chapter 3.
- Code requires permeable pavers in surface parking lots.

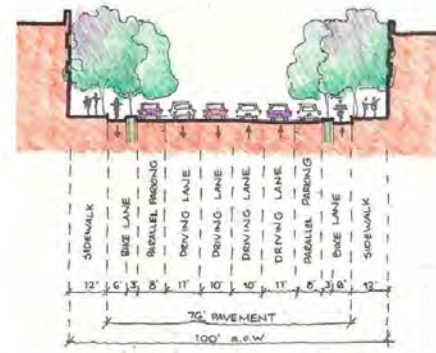




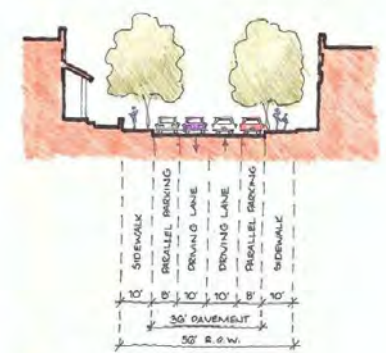
# Specific Plan Landscape Standards



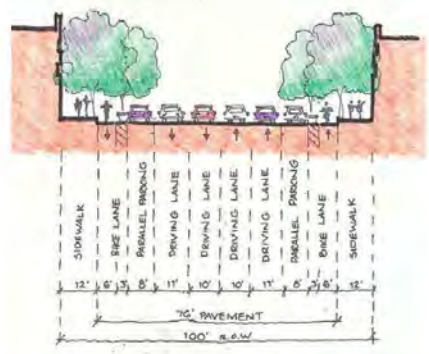
Fair Oaks Avenue, Option 1:  
Existing condition with painted bike lanes



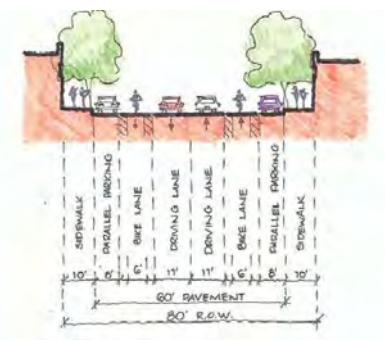
Fair Oaks Avenue, Option 3:  
Raised separator with landscape and tree wells



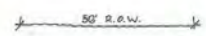
New Street



Fair Oaks Avenue, Option 2:  
Painted bike lanes with potted plants separating bike lanes



Mission Street



Alley

**For the Planning Commissioners' Consideration:**

The diagrams are described as **“options”** that were based on public input during the planning process. Recommend that these be relabeled as **“concepts based on public input,”** which need refinement and verification based on further traffic analyses.







# Draft Downtown Specific Plan Sign Standards

## Questions to frame your discussion:

- What do you think about existing signage in the downtown? Are there too many? Are there too few? What about their size, quality, and design?
- Are the types of permitted signs consistent with the intended character and quality of the Downtown area?





# General Plan Policy Framework for Standards

- A4.1d** Develop a signage master plan consistent with state regulations that specifies guidelines and requirements for the design of high-quality, user-friendly and attractive human-scaled signage directing people driving, walking, and bicycling to destinations.
  
- A8.4c** Develop wayfinding/informational signage at Metro station and throughout the city that identifies and educates about cultural resources (architecture, public art, creative venues, etc.). Utilize existing surfaces for wayfinding signage, such as utility boxes.

*[Note: General Plan policies and actions applicable to public signage. DTSP sign standards apply to new development projects]*







# Specific Plan Policy Framework for Standards

- A4.8g Develop an enhanced wayfinding system of signage directing motorists to public parking lots in Downtown.

*[Note: Specific Plan policies and actions applicable to public signage. DTSP sign standards apply to new private development projects]*





# Sign Standards

Note: Image of pole sign in DTSP replaced



Wall		Window		Awning/Canopy		Sidewalk		Marquee		Projecting		Monument		Roof		Pole	
MS	FO	MS	FO	MS	FO	MS	FO	MS	FO	MS	FO	MS	FO	MS	FO	MS	FO

A sign that is painted or applied directly to the wall, typically above the shopfront or more creatively as approved by the City. This type consists of a single externally illuminated panel or individual letters including a logo and does not include cabinet signs. This type of sign is intended for viewing from across the street and along the sidewalk.

A sign that is painted or applied directly to the storefront window(s) and/or door(s). This type consists of individual letters, including a logo with allowances for contrasting background. This type of sign is intended for viewing from across the street and at close range.

A sign that is integral to the awning or canopy above a shopfront. This type of sign may be located either on the valence that faces the street or on the valence perpendicular to the building. Also included is a feature area on the main panel. For canopies, this type of sign is located on top of and along the front edge of the canopy. This type of sign is intended for viewing at close range.

A two-sided, non-illuminated, portable sign that is placed outside of the shopfront on the adjacent sidewalk for viewing at close range. The sidewalk sign is intended for use by restaurants, cafes, other food-oriented businesses, theaters and other such activities.

A vertically-oriented two- to three-sided sign that projects from the facade over a sidewalk, public open space or other public right-of-way and may project above the building's parapet. This type of sign is intended for viewing along the sidewalk and down the street from the adjacent block.

A two-sided sign that projects over a sidewalk (public or private) or open space (public or private). This type of sign is intended for viewing at close range.

A sign that is located within front and side yards where the building is setback substantially from the sidewalk and the sign is to be viewed from a distance along the street.  
 Wall-integral: Occurs as part of site-defining landscape, in the form of a low wall that may include a gateway that encloses outdoor dining or open space.  
 Freestanding: Occurs as a freestanding sign subject to location and size limitations aimed at scale and compatibility with pedestrian frontages.

A sign that is for use on block-scale buildings at least 3 stories in height such as hotels, conference centers, and certain civic building. This type of sign is intended for viewing from a distance to help emphasize the identity and presence of a particular area as a whole and therefore, the signage is allowed to be more inventive.

A vertically-oriented sign that is detached from the main building, located along the primary frontage within the front setback, consisting of a structural support with the sign mounted at the top. This type of sign is for use on property that has a certain amount of street frontage and if intended for viewing from a distance to identify a business set back and not readily visible from the street.







**9.2 A Wall Sign**

- 1 Description A sign that is painted or applied directly to the wall, typically above the shopfront or more creatively as approved by the City. This type consists of a single externally illuminated panel or individual letters including a logo and does not include cabinet signs. This type of sign is intended for viewing from across the street and along the sidewalk.
- 2 Size
 

Height	18 in. max.
Width (as % of facade width)	60%
Features (allowed beyond sign area)	6 ft. max.
- 3 Design Standard
  - a. Maximum of 1 wall sign per storefront bay along frontage of building;
  - b. Multi-story buildings qualify for a building identification sign located on the uppermost story;
  - c. Maximum thickness of sign as measured from the wall shall not exceed 4 inches;
  - d. Minimum of 24 inches between sign and any opening or edge of the building facade;
  - e. Minimum of 12 inches between sign and an eave or parapet; and
  - f. If illuminated, individual letters required and shall be either internally illuminated or externally illuminated with decorative lamps mounted to maintain visual integrity of the sign.



**9.2 B Window Sign**

- 1 Description A sign that is painted or applied directly to the storefront window(s) and/or door(s). This type consists of individual letters, including a logo with allowances for contrasting background. This type of sign is intended for viewing from across the street and at close range.
- 2 Size
 

Height	15 in. max.
Width (as % of storefront width)	40%
Features (allowed beyond sign area)	2 ft. max.
- 3 Design Standard
  - a. Maximum of 1 window sign per storefront;
  - b. Minimum of 75% of window sign shall be independent of contrasting background;
  - c. Sign inside the shop-space is not allowed within 4 feet of the window; and
  - d. Storefront width is measured between walls or columns of at least 8 inches in width.



**9.2 C Awning/Canopy Sign**

- 1 Description A sign that is integral to the awning or canopy above a shopfront. This sign may be located either on the valence face of the awning facing the street or on the valence perpendicular to the building. Also included is a feature area on the main panel. For canopies, this type of sign is located on top of and along the front edge of the canopy. This type of sign is intended for viewing at close range.
- 2 Size
 

Height awning valance	6 in. min.; 12 in. max.
Height canopy valance	2 ft. max.
Width (as % of awning/canopy width)	75%
Features (logo) for awning main panel	2 sq.ft.
Feature (beyond canopy sign area)	3 sq.ft.
Encroachment	within 2 ft. of curb
- 3 Design Standard
  - a. Maximum of 1 sign per awning / canopy;
  - b. Each awning / canopy shall correspond to a storefront.
  - c. The main panel of awnings shall only be used for a logo feature and shall not be for additional signage area;
  - d. Internal illumination of awning(s) is prohibited;
  - e. Canopy sign may extend up to 24 inches above the top of the canopy; and
  - f. Encroachment permit required.





**9.2 D Sidewalk Sign**

- 1 Description A two-sided, non-illuminated, portable sign that is placed outside of the shopfront on the adjacent sidewalk for viewing at close range. The sidewalk sign is intended for use by restaurants, cafes, other food-oriented businesses, theaters and other such activities.
- 2 Size
 

Height	18 in. min.; 3 ft. max.
Width	18 in. min.; 2 ft. max.
Thickness on each side	4 in. max.
Horizontal clearance from adjacent curb	18 in. max.
- 3 Design Standard
  - a. Maximum of 1 sign per business with a minimum distance of 25 feet from the nearest sidewalk sign;
  - b. Sign shall be vertically oriented and have no more than 2 sides;
  - c. Sign shall be placed as close as possible to the business storefront/edge of outdoor seating or along the street edge of the adjacent sidewalk;
  - d. Encroachment permit required within the r.o.w. Adequate pedestrian access shall be maintained; and
  - e. Materials shall not include vinyl or plastic. Lighting shall be from ambient sources.



**9.2 E Marquee Sign**

- 1 Description A vertically-oriented two- to three-sided sign that projects from the facade over a sidewalk, public open space or other public right-of-way and may project above the building's parapet. This type of sign is intended for viewing along the sidewalk and down the street from the adjacent block.
- 2 Size
 

Height single-story building	max. 35% of facade height
Height multi-story building	max. 75% of facade height
Height above eave or parapet	10 ft. max
Width of each sign face (up to 3 max.)	20 ft. max
Distance from wall	18 in.
Thickness	4 in. max.
Feature (allowed beyond sign area)	6 sq. ft.
Encroachment	within 3 ft. of curb
- 3 Design Standard
  - a. Maximum of 1 marquee sign per building;
  - b. Sign shall be vertically-oriented and placed within the top half of single-story buildings and on the upper floor(s) of multi-story buildings; and
  - c. Encroachment permit required.



**9.2 F Projecting Sign**

- 1 Description A two-sided sign that projects over a sidewalk (public or private) or open space (public or private). This type of sign is intended for viewing at close range.
- 2 Size
 

Height	2 ft. max.
Width	3 ft. max.
Thickness	3 in. max.
Feature (allowed-beyond sign area)	1.5 sq.ft.
Vertical clearance from sidewalk	8 ft. min.
Encroachment	within 3 ft. of curb
- 3 Design Standard
  - a. Maximum of 1 projecting sign per business along frontage;
  - b. If illuminated, shall not be internally illuminated cabinet sign;
  - c. Supporting hardware such as brackets shall be architecturally compatible with the building facade;
  - d. Not allowed under an awning or horizontally within 10 feet of another projecting sign; and
  - e. Encroachment permit required.







**9.2 G Monument Sign**

- 1 Description A sign within front and side yards where the building is setback from the sidewalk and the sign is to be viewed from a distance along the street.  
Wall-integral: Occurs as part of site-defining landscape, in the form of a low wall that may include a gateway that encloses outdoor dining or open space.  
Freestanding: Occurs as a freestanding sign subject to location and size limitations aimed at scale and compatibility with pedestrian frontages.
- 2 Size
 

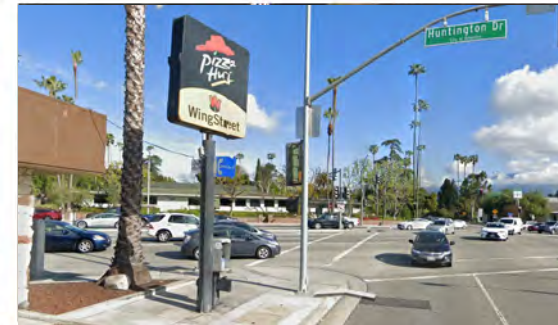
Height of wall or freestanding panel	3 ft. min., 5 ft. max.
Height of sign area	18 in. max.
Width (freestanding)	2 ft. min., 7 ft. max.
Thickness	18 in.
Feature (allowed beyond sign area)	2 sq. ft.
Distance from adjacent curb	5 ft. min.
Encroachment into setbacks	within 3 ft. of property line
- 3 Design Standard
  - a. Wall-integral: Maximum 1 sign may be placed at each end of the wall if there is at least 50 feet between each sign;
  - b. Freestanding: Maximum of 1 sign and minimum of 75 feet horizontal separation from another monument sign;
  - c. Not allowed in any required visibility area, right-of-way, or private street;
  - d. Colors and materials shall match the building style and details; and
  - e. Lighting shall be from external or ambient sources.



**9.2 H Roof Sign**

- 1 Description A sign that is for use on block-scale buildings at least 3 stories in height such as hotels, conference centers, and certain civic building. This type of sign is intended for viewing from a distance to help emphasize the identity and presence of a particular area as a whole and therefore, the signage is allowed to be more inventive.
- 2 Size
 

Height	7 ft. min., 15 ft. max.
Length	10 ft. min., 30 ft. max.
Thickness	18 in. max.
Features (allowed beyond sign area)	25 sq. ft.
- 3 Design Standard
  - a. Maximum of 1 roof sign per building;
  - b. Minimum building height of 3 stories and minimum site frontage along primary street of 150 feet;
  - c. Signs shall not encroach into right-of-way or private street;
  - d. If illuminated, external illumination required and shall be mounted to maintain visual integrity of the sign;
  - e. Supporting hardware such as brackets shall be architecturally compatible with the main building.



**9.2 I Pole Sign**

- 1 Description A vertically-oriented sign that is detached from the main building, located along the primary frontage within the front setback, consisting of a structural support with the sign mounted at the top. This type of sign is for use on property that has a certain amount of street frontage and if intended for viewing from a distance to identify a business set back and not readily visible from the street.
- 2 Size
 

Height to top of the sign	25 ft. max.
Width of sign	15 ft. max.
Height of sign area	10 ft. max.
Thickness	12 in. max.
Feature (allowed-beyond sign area)	25 sq.ft.
Distance from r.o.w.	min. 2 ft.
- 3 Design Standard
  - a. Maximum of 1 pole sign per site;
  - b. If illuminated, illumination shall maintain visual integrity of the sign; and
  - c. Supporting hardware such as brackets shall be architecturally compatible with the architectural style of the main building.

Note: Image of pole sign in DTSP replaced





# Other Standards

## 9.3C Standards for Site Walls

- i. Screening elements such as solid walls, hedges or combination of walls and hedges shall be used to screen service areas, storage areas, or garbage areas from public view from the street or pedestrian ways.
- ii. Low walls (2 to 3 feet in height) may be used to divide space, create a variety in landscaping and to define site edges.
- iii. Solid walls (3 to 8 feet in height) or hedges, are permitted to screen mechanical equipment, garbage receptacles, loading areas and other unsightly areas and provide privacy at the back of lots and along side streets in compliance with the requirements of Section 4.6 'Frontage Standards'. When a wall exceeds 3 feet in height, the wall shall be designed as an extension of the primary building in materials and color.
- iv. Front yard fencing shall comply with the following requirements as applicable:
  - a. Fences shall be located in compliance with the frontage requirements in Section 4.6;
  - b. Where allowed, fences shall be setback from the adjacent sidewalk by at least 12 inches to allow for planting intended to visually improve the appearance of the fence along the sidewalk; and
  - c. The overall height of fencing along the front yard and adjacent side street, when present, shall not exceed 4 feet.







# Other Standards

## 9.3D Outdoor Dining in Public Right-of-Way

This section provides regulations for outdoor dining within the public right-of-way when accompanying a restaurant use type.

i. Permit Requirement:

No person may establish outdoor dining in the public right-of-way unless a Conditional Use Permit is approved by the Planning Commission. The procedural requirements for obtaining a Conditional Use Permit are contained within Zoning Regulations Chapter 36.410.60. The Conditional Use Permit application shall include adequate plans and information to determine compliance with this section.

ii. Evaluation Standards:

- a. To provide for adequate pedestrian circulation, a minimum 4 feet of clearance shall be maintained between dining furnishings, street furniture, or above ground utilities. A minimum of 50 feet of clearance shall be maintained between dining furnishings and the centerline of intersecting perpendicular driveways, alleys or streets to provide for adequate vehicle sight, unless a lesser distance is determined by the Director and City Engineer to be adequate for the protection of the public safety.
- b. Tables and chairs used for outdoor dining shall be of substantial materials. Tables shall be a maximum of 3 feet in diameter if round and 3 feet along the longest side if rectangular. All such furnishings shall be stored indoors after hours of operation.
- c. No portion of the outdoor dining use, including furnishings and signs, shall block visibility of display windows or signage of adjacent businesses, unless written consent of any affected adjacent business owner to block visibility is obtained by the applicant and provided to the Director.
- d. If encroaching in the right-of-way, the outdoor dining use operator shall provide an executed city hold harmless waiver and proof of liability insurance to the satisfaction of the city risk manager.

### For the Planning Commissioners' Consideration:

Development standards for al fresco dining are currently being developed. It may be appropriate to review and revise these standards based on lessons learned through their implementation.



# Other Standards

## 9.3E Required Loading Spaces

Retail or service stand alone market	1 space
Facility with 3 or more tenants, and less than 30,000 s.f. of leasable area	1 space
Facility with 30,000 s.f. or more leasable area	1 space, plus additional as required by the review authority





# Discussion



**Next Item**



## Planning Commission Agenda Report

ITEM NO. <u>  2  </u>
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**DATE:** July 14, 2020

**TO:** Chair and Members of the Commission

**FROM:** Joanna Hankamer, Director of Planning and Community Development  
Kanika Kith, Planning Manager

**VIA:** Malinda Lim, Associate Planner

**SUBJECT:** Project No. 2191-HDP/TRP (Continued) – A Hillside Development Permit for the street extension of Moffat Street, which will be a private street extending westward from the terminus of the existing Moffat Street to allow access to seven lots in the City of Los Angeles and a Tree Removal Permit (APN No's: 5310-006-039, 5310-006-038, 5310-005-010, 5310-005-011, and 5310-005-004)

### Recommendation

It is recommended that the Planning Commission direct the Applicant to submit an alternative street design with access to the seven landlocked lots from Lowell Avenue for review by the City Engineer or City's engineering consultant prior to Planning Commission consideration; or if the Applicant's engineer is unable to provide an alternate street design, the City shall hire an engineering consultant to evaluate an alternative street design at the Applicant's expense prior to Planning Commission consideration.

**\*Note:** It is important to note that the Applicant has stated that they are not interested in pursuing an alternative street design; alternatives to Staff's recommendation are presented later in this report.

### Background

The Commission first reviewed the Project at its March 10, 2020 meeting, a summary of which is included in the June 9, 2020 Staff Report (see **Attachment 2**). After receiving public comment and Commissioner deliberation, the Commission continued the matter to a future regular Planning Commission meeting in order to allow the Applicant and Staff to provide additional information the Commission requested.

At the March 10th meeting, the Planning Commission requested for the following:

1. Clean set of the Conditions of Approval,
2. Access to the project site for a site visit,
3. Reasoning behind the City's past decision to vacate the street,
4. Clarification of one native tree on the tree replacement plan,
5. Clarification of the approval process in City of Los Angeles for the homes to be served by the proposed private street,
6. Potential to have the City of Los Angeles annex the proposed street extension, and

7. Other alternatives to access the 7 lots.

The continued item was scheduled for the June 9, 2020 Planning Commission Meeting; however, after a temporary technical glitch in the City's public comment phone line was discovered, the Applicant requested the item be continued from the June 9, 2020 Planning Commission meeting to this July 14, 2020 meeting to allow additional time for public comment. The public comments received for the June 9th meeting were provided to the Planning Commission as additional documents last month and are included again as **Attachment 3**.

### **Discussion**

The June 9, 2020 Planning Commission Staff Report (see **Attachment 2**) addressed many of the items requested by the Planning Commission on March 10th; however, Staff has continued to request additional information about an alternative street design and clarification of the approval process with the City of Los Angeles. In response to new public comments and unresolved Commissioner questions, this staff report will focus on the following:

- Clarify the designations of "Grantor" and "Grantees" referenced in the Access Easement document that the Applicant intends to exercise. Several public commenters suggest that the Grantors are the current property owners of the properties underlying the easement and that these property owners should be able to approve the proposed street grading.
- Summary of discussions between the Applicant and owners of 4519 Lowell Avenue. Planning Commissioners requested that staff facilitate communication between the Applicant and the owners of the property directly adjacent to the Access Easement in Los Angeles.
- Coordination with the City of Los Angeles to understand sequence of approvals required by each agency.
- The feasibility of an alternative street design, extending a private street from Lowell Avenue to access the Applicant's properties instead of extending Moffatt Street.
- Revised Conditions of Approval, for consideration.

### Grantor and Grantee Determination

The access easement for the proposed private street (Moffatt Street extension) spans over four (4) properties within South Pasadena. In the Access Easement document, the words "Grantor" and "Grantees" are used. Some of the public comments received stated that the Applicant needs the permission of those four (4) property owners before changing the existing grade for the private street because they are the Grantors.

The Access Easement document identifies the "Grantor" as "The Community Redevelopment Agency of the City of South Pasadena, California", which owned the property underlying the Access Easement at the time the Access Easement was granted in 1962. The Access Easement document identifies "Grantees" as "the owners of the [landlocked] lots located in the City of Los Angeles abutting the south [boundary] line of Moffatt Street, a public street in the City of South Pasadena".



The Applicant's attorney provided a letter analyzing the Access Easement document identifying the "Grantor" and "Grantee" and the rights that flow from each party to the successors in interest. According to the analysis, the Grantee includes the Applicant; the Grantor is the City of South Pasadena; and the approval of improvements in the access easement do not extend to the current property owners of the underlying the easement area. The letter is included as **Attachment 5**. The letter has been reviewed by the City Attorney who concurs with the Applicant's attorney's analysis and conclusions that as Grantor, the City has the right to approve any grade change within the easement area and that the current owners of property underlying the access easement do not have the right to approve proposed changes to the grade.

### Discussions between the Applicant & Owners of 4519 Lowell Avenue

In June 2020, the Planning Commission directed staff to facilitate communication between the Applicant and the owners of 4519 Lowell Avenue, the property directly adjacent to the access easement in Los Angeles. On June 22, 2020 Staff had a conference call with the owners of 4519 Lowell Avenue and asked if they would join a call with the Applicant. The owners of 4519 Lowell declined and informed Staff that they had already communicated all of their concerns to the Applicant. To summarize the correspondence, the Applicant has approached the owners of 4519 Lowell Avenue through emails, mail, phone calls, and visits; there have been approximately 13 email exchanges between them; and the owners of 4519 Lowell Avenue have submitted 5 public comments on the project and voiced their opinions in-person at the March 10, 2020 Planning Commission meeting.

### Update on City of Los Angeles Coordination

Following the March 10, 2020 Planning Commission Meeting, Staff has been coordinating with the City of Los Angeles staff to understand the sequence of and prerequisites for developing the Applicant's seven land-locked properties.

The June 9, 2020 Planning Commission Staff Report included a revised set of conditions of approval requiring that, prior to the City issuing of a grading permit for the proposed access street, the applicant is required to provide a letter from the City of Los Angeles confirming that development of the seven (7) homes do not require discretionary review. Following the continuance of the item on June 9, 2020, Staff reached out to the City of Los Angeles to further coordinate between the two agencies. On June 18, 2020, Staff conducted a conference call with staff from the Los Angeles planning division who review projects subject to Los Angeles's Northeast Hillside Ordinance (NEHO), the zoning overlay that guides development of the Applicant's seven properties. Staff discussed the difficulty and incongruence created by having to comply with two adjacent jurisdictions – South Pasadena and Los Angeles; the sequencing of constructing the road and designing the homes have been, and continue to be, a burden on the property owners of the land-locked properties. For example:

Staff is concerned that developing a segment of road that serves only vacant properties, which can become a nuisance, will overburden the City of South Pasadena. Therefore, Staff had recommended a condition of approval that the Applicant obtain building permits for at least four of the seven land-locked properties, which are in the City of Los Angeles, before a building permit can be issued in South Pasadena for the Moffatt Street Extension.

**However, the City of Los Angeles Building Division will not issue a building permit for any of the seven land-locked properties until a road has been constructed.**

Therefore, Staff revised the proposed condition of approval to instead require documentation from the City of Los Angeles stating that the seven homes could be developed with ministerial design approval

which would be quicker and less cumbersome to develop, instead of through a discretionary review process. Discretionary review of the home designs would slow the approval process for developing the vacant lots and it could trigger environmental review for compliance with the California Environmental Quality Act (CEQA), causing additional delays in developing the vacant lots.

**However, the City of Los Angeles Planning Division cannot screen the house designs for ministerial design approval or discretionary approval until an approved road design is available from which to measure setbacks for the designed homes.**

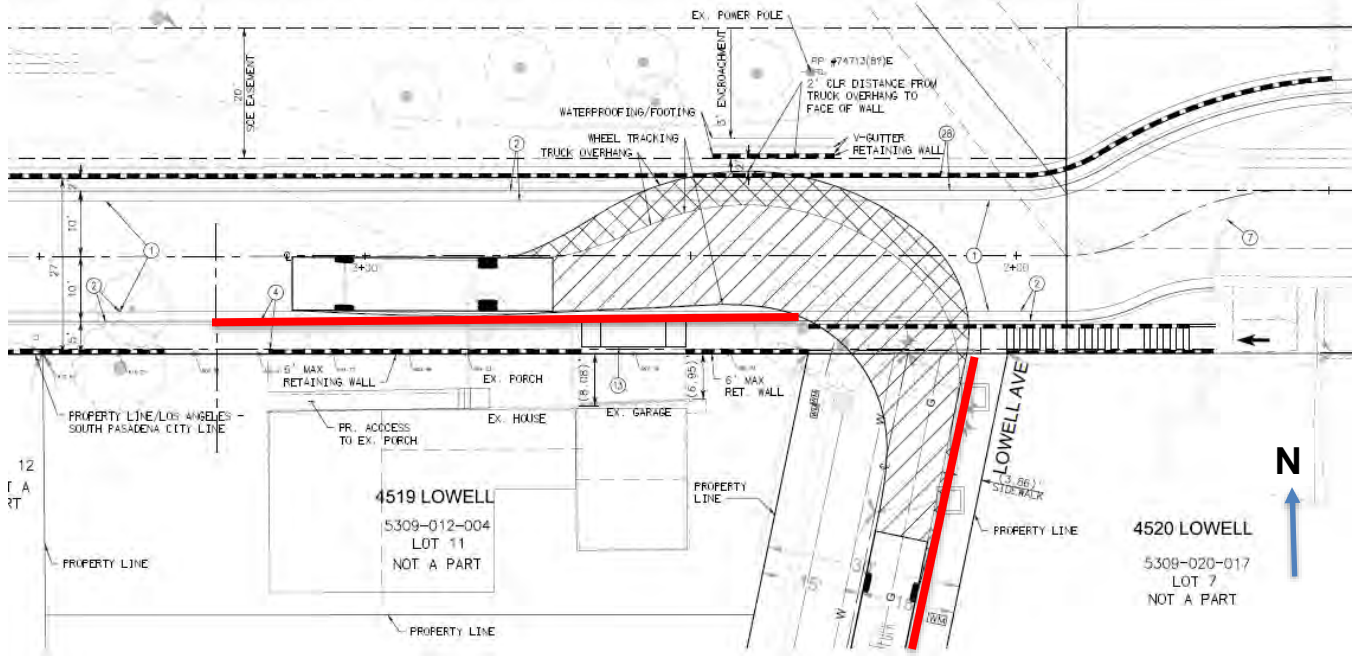
Through continued discussions, Los Angeles Planning Staff confirmed that they could provide a letter to South Pasadena stating that discretionary planning approval is not required if and only if the Applicant submits house plans (site plan, floor plan, and elevations) to their department for review. A discretionary review would not be required if the house plans are in full compliance with all NEHO requirements such as setbacks and height restrictions. Their review can be done with the proposed preliminary road design, in which the letter would clarify that the clearance is based on the preliminary road design; and grading would be pending a separate review after the applicant receive approval from the City of South Pasadena. They encouraged the applicant to submit the house plans to their department for review.

The Applicant has yet to submit house designs for the seven landlocked properties to the City of Los Angeles for review. The Applicant is hesitant to invest in designing the homes until the street design is complete.

#### Alternative Street Design

The June 9, 2020 Planning Commission staff report included an exhibit showing several alternative routes the Applicant considered to access the landlocked properties, including an explanation of why each one was deemed infeasible by the Applicant. Following the continuance of the June 9, 2020 Planning Commission item, and in response to comments from the public and Commissioners, Staff had a conference call with the Applicant on June 18, 2020 and requested additional information on an alternative street design that would connect directly to Lowell Avenue in Los Angeles rather than extend from Moffatt Street in South Pasadena. The Applicant informed Staff that they would provide the alternate design the following week. The Lowell Avenue alternative design had previously been rejected by the Applicant due to multiple constraints including a tight turning radius for fire truck access and the large elevation differential (grade change) between Lowell Avenue and the proposed access street. Upon request from Staff for additional analysis of both the grade change and the feasibility for fire trucks to turn from Lowell Avenue onto the access street, the Applicant's civil engineer provided an incomplete analysis on July 6, 2020 illustrating a single scenario of a fire truck turning left from Lowell Avenue. See **Figure 1** below and included as **Attachment 7**.

**Figure 1: Turning Radius if Private Street were to Connect to Lowell Avenue**



**Figure 1** illustrates a scenario for a fire truck to make a left turn from Lowell Avenue onto the proposed private access street. According to this scenario, a proposed shift in road improvements toward the Southern California Edison (SCE) easement and red curb to restrict parking would be required as shown above. Lowell Avenue between Moffatt Street and Atlas Street (see **Figure 2**) is narrow, and cars often park on both sides of the street. Due to the designation by the City of Los Angeles of Lowell Avenue as a substandard hillside street (according to the Applicant), the Applicant is concerned that property owners of their seven lots would not be properly served in a fire emergency.

**Figure 2: Substandard Portion of Lowell Ave., between Moffatt St. & Atlas St.**



Staff has not had the opportunity verify the information about Lowell Street with the City of Los Angeles, and more information is needed for Staff to provide a sufficient analysis of the alternative street design for consideration by the Planning Commission. For example, are there smaller fire trucks used in the hillside areas that could make this left turn? Were other auto-turn scenarios tested? Could the road improvements be designed so as not to encroach into the SCE easement? Is the grade change between Lowell Avenue and the proposed access street insurmountable? Staff recommends that additional feasibility studies be performed on the alternative street design, because, if this alternative design is feasible, it has the advantages of continuing to provide access from Lowell Avenue to the garage of the resident on the corner, and routing all construction traffic and future car traffic serving the seven Los Angeles properties within the City of Los Angeles' streets. It is important to note that the Applicant has stated that they are not interested in pursuing this alternative design.

### Revised Conditions of Approval

For Planning Commission consideration, if the Commission moves to approve the project as currently designed with the private street connecting to the public portion of Moffat Street, Staff requests a change to condition P-12 for the Applicant to submit preliminary development plans for three (3) of the seven (7) lots as long as one of the parcels is lot 26 or any four (4) of the seven (7) lots to the City of Los Angeles Planning for review and clearance that the plans complies with the NEHO standards and confirmation that the development of these homes are not subject to discretionary review. The revised condition P-12 would read:

P-12. The developer shall *submit preliminary development plans (site plan and elevations) for the construction of either combination of properties referenced in Condition P-11 to the City of Los Angeles Planning and provide documentation a letter* from the City of Los Angeles confirming that the *plans as presented will not be subject to discretionary review. applicant has sufficiently addressed all other outstanding plan check comments, and that the City of Los Angeles is ready to issue grading or building permits subject to the City of South Pasadena issuing grading permits for the road extension, for the combinations of properties referenced above (Condition P-11).*

Staff is also requesting the addition of condition P-20 which is a pre-construction meeting to ensure that all parties involved and adjacent to the private street are familiar with the proposed construction activities and schedule prior to the start of grading. Below is the proposed condition for P-20:

P-20. The applicant shall participate in a pre-construction meeting with property owners directly adjacent to the private street, the City of South Pasadena Planning and Building Divisions and Public Works Department, and Southern California Edison, to ensure all parties involved are aware of when construction will occur, what to expect, and to identify potential conflicts to eliminate otherwise unanticipated problems prior to the start of grading.

A new clean set of all proposed conditions has been provided as Exhibit A under **Attachment 1** and a new redlined version of all changes to the original conditions is included as **Attachment 3**.

### ***Staff Recommendation***

Staff recommends that the Planning Commission continue this item and direct Staff to work with the Applicant to obtain:



1. More information regarding the feasibility of the alternative street design and within enough time to provide an analysis for the Planning Commission's consideration; and
2. Documentation from City of Los Angeles Planning that a sample design for one of the seven properties is eligible for planning clearance through a ministerial design review process.

### **Alternatives to Consider**

If the Planning Commission does not agree with staff's recommendation to consider an alternative street design, the following options are available:

1. The Planning Commission can Approve the street design as submitted with conditions recommended in the package;
2. The Planning Commission can Approve the street design as submitted with additional changes to the plans and/or conditions; or
3. The Planning Commission can Deny the street design as submitted.

For approval or approval with conditions added, the Planning Commission could make the findings for approval for Hillside Development Permit, Design Review, and the Altos de Monterey zone guidelines as described in more detail in the Resolution, included as **Attachment 1**, pursuant to South Pasadena Municipal Code Section 36.410.065(F), 36.250.030(E), 36.410.040(I).

The required findings for approval of a Hillside Development Permit (SPMC Section 36.410.065(F)) are stated below.

1. *The proposed use complies with the requirements of Division 36.340 (Hillside Protection) and all other applicable provisions of this Zoning Code;*
2. *The proposed use is consistent with the General Plan and any applicable Specific Plan;*
3. *The establishment, maintenance or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;*
4. *The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City;*
5. *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 aesthetics, character, scale, and views protection.*

The required findings for approval of the Altos de Monterey zone guidelines (SPMC Section 36.250.030(E)) are stated below.

1. *The scale of the proposed building, design, height and mass in relation to the street frontage, to all setbacks and surrounding existing property;*
2. *The relation of existing adjoining building heights and their views;*

3. *The relation of proposed building heights to the existing topography;*
4. *The impact on surrounding properties;*
5. *The obstruction of sunlight to the existing adjoining residences.*

The required findings for approval of Design Review (SPMC Section 36.410.040(I)) are stated below.

1. *Is consistent with the General Plan, any adopted design guidelines and any applicable design criteria for specialized areas (e.g., designated historic or other special districts, plan developments, or specific plans);*
2. *Will adequately accommodate the functions and activities proposed for the site, will not unreasonably interfere with the use and enjoyment of neighboring, existing, or future developments, and will not create adverse pedestrian or traffic hazards;*
3. *Is compatible with the existing character of the surrounding neighborhood and that all reasonable design efforts have been made to maintain the attractive, harmonious, and orderly development contemplated by this Section, and the General Plan;*
4. *Would provide a desirable environment for its occupants and neighbors, and is aesthetically of good composition, materials, and texture that would remain aesthetically appealing with a reasonable level of maintenance and upkeep.*

### **Next Steps**

1. If continued, Staff will continue to work with the Applicant and return to Planning Commission with more information.
2. If approved, the project will proceed to the Building Division and Public Works Department for plan check and permits, subject to conditions of approval.

### **Fiscal Impact**

Not Applicable.

### **Environmental Analysis**

This project qualifies for a categorical exemption from any California Environmental Quality Act (CEQA) analysis based on State CEQA Guidelines Section 15303, Class 3 – New Construction or Conversion of Small Structures. Class 3 exemption includes water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction. The reasons for exemption are as follows:

- The project site is a vacant land surrounded by single-family residences and unoccupied land.
- According to the City's GIS mapping system, the project site is not located within a liquefaction or landslide zone.
- A biological survey of the project site was conducted to document the existing conditions and assess the potential for special status plant or wildlife species or other regulated biological resources occurring on the project site. The report concluded that the project site contains no suitable habitat for special status plants and wildlife, and does not occur within any federal U.S.

Fish and Wildlife Services Critical Habitat boundaries. A copy of the report is available as **Attachment 2**.

### **Public Notification of Agenda Item**

At the June 9, 2020 Planning Commission meeting, the Commission notified the public that the project was continued to the July 14, 2020 meeting. In addition, the public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda and posting of the same agenda and reports on the City's website.

At the time of writing this staff report, Staff received no additional public comment other than those provided to the Commission in June.

### **Attachments**

1. New Draft P.C. Resolution
  - a. Exhibit "A" – New Revised Conditions of Approval
2. Staff Report for the June 9, 2020 Meeting ([Click here](#))
3. Additional Documents for June 9, 2020 Meeting ([Click here](#))
4. New Redline Version of Conditions of Approval
5. Letter from the Developer's Attorney Regarding Approval of Grantor for Grade Change & Prescriptive Easement Claim
6. Street Improvement Exhibit With Truck Turning Left from Lowell Avenue

**ATTACHMENT 1**  
New Draft P.C. Resolution



## P.C. RESOLUTION NO. 20-

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SOUTH PASADENA APPROVING AN APPLICATION FOR HILLSIDE DEVELOPMENT PERMIT AND TREE REMOVAL PERMIT (PROJECT NO. 2191-HDP/TRP) FOR THE EXTENSION OF MOFFATT STREET WHICH WILL BE A PRIVATE STREET (ASSESSOR'S PARCEL NUMBERS 5310-006-039, 5310-006-038, 5310-005-010, 5310-005-011, and 5310-005-004)**

**WHEREAS**, in 1923, Tract No. 5643 was recorded in the City of Los Angeles and includes the seven landlocked legal lots south of the proposed private street off of Moffatt Street; and

**WHEREAS**, on July 12, 1961, the South Pasadena City Council adopted Ordinance 1373 for the vacation and abandonment of a portion of Moffatt Street as a public street, pursuant to an Act of Legislature of the State of California set forth in Sections 8300 et. Seq. of the Streets and Highway Code; and

**WHEREAS**, on April 4, 1962, the Community Redevelopment Agency of the City of South Pasadena approved an easement for ingress and egress to the owners of the seven lots located in the City of Los Angeles abutting on the southern boundary line of Moffatt Street and the southern city boundary for the City of South Pasadena; and

**WHEREAS**, on November 15, 2018, Planet Home Living, (developer), submitted an application for a Hillside Development Permit for the extension of Moffatt Street westward and a Variance for a +/- 18 foot high retaining wall; and

**WHEREAS**, in December 2020, the applicant decided not to pursue a variance for the high retaining wall along the northern boundary of the private street and proposed retaining walls to be a maximum height of six feet; and

**WHEREAS**, the proposed project is considered a "Project" as defined by the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq.; and

**WHEREAS**, the project site is a vacant land surrounded by single-family residences and unoccupied land. According to the City's GIS mapping system, the project site is not located within a liquefaction or landslide zone. The Director of Planning and Community Development determined that a biological constraints survey of the project site was required to document the existing conditions and assess the potential for special status plant or wildlife species or other regulated biological resources occurring on the project site. The report concluded that the project site contains no suitable habitat for special status plants and wildlife, and does not occur within any federal U.S. Fish and Wildlife Services Critical Habitat boundaries.; and

**WHEREAS**, the proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to 15303, Class 3 – New Construction or Conversion of Small Structures. Class 3 exemption includes water main, sewage, electrical,

gas, and other utility extensions, including street improvements, of reasonable length to serve such construction; and

**WHEREAS**, the Planning Department evaluated the project for consistency with the City's General Plan, City of South Pasadena Municipal Code, the City's Design Guidelines, and all other applicable state and local regulations; and

**WHEREAS**, on February 26, 2020, notices regarding the tree removals were sent to those within a 100-foot radius of the project site; and

**WHEREAS**, on February 27, 2020, the public hearing notice indicating the date, time, and location of the public hearing was published outside City Hall and said public hearing notice was mailed to each property owner within a 300-foot radius of the project site in accordance with the requirements of South Pasadena Municipal code declaring the project review by the Planning Commission for the hearing on March 10, 2020; and

**WHEREAS**, on February 28, 2020, the City of South Pasadena Planning Division, published a legal notice in the *South Pasadena Review*, a local newspaper of general circulation, indicating the date, time, and location of the public hearing in compliance with state law concerning Project No. 2191-HDP/TRP; and

**WHEREAS**, the South Pasadena Planning Commission held a duly noticed public hearing on March 10, 2020, at which time it considered the staff report, oral report, the testimony, and the written evidence submitted by and on behalf of the applicant and by members of the public concerning Project No. 2191-HDP/TRP and continued the proposed Hillside Development Permit and Tree Removal Permit for the extension of Moffatt Street which will be a private street; and

**WHEREAS**, on May 28, 2020, the public hearing notice indicating the date, time, and location of the public hearing was published outside City Hall and said public hearing notice was mailed to each property owner within a 300-foot radius of the project site in accordance with the requirements of South Pasadena Municipal code declaring the project review by the Planning Commission for the hearing on June 9, 2020; and

**WHEREAS**, on May 29, 2020, the City of South Pasadena Planning Division, published a legal notice in the *South Pasadena Review*, a local newspaper of general circulation, indicating the date, time, and location of the public hearing in compliance with state law concerning Project No. 2280-HDP/TRP; and

**WHEREAS**, the South Pasadena Planning Commission held a duly noticed public hearing on June 9, 2020, at which time continued the proposed Hillside Development Permit and Tree Removal Permit for the extension of Moffatt Street which will be a private street at the request of the applicant to allow additional time for the public to comment; and

**WHEREAS**, the South Pasadena Planning Commission held a duly noticed public hearing on July 16, 2020, at which time it considered the staff report, oral report, the testimony, and the written evidence submitted by and on behalf of the applicant and by members of the public concerning Project No. 2191-HDP/TRP and approved the proposed

Hillside Development Permit and Tree Removal Permit for the extension of Moffatt Street which will be a private street.

**NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF SOUTH PASADENA DOES HEREBY FIND, DETERMINE, AND RESOLVE AS FOLLOWS:**

**SECTION 1:** The Planning Commission has determined that the proposed project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA), under Article 19 Section 15303, Class 3 – New Construction or Conversion of Small Structures of the California Guidelines for Implementation of CEQA. Class 3 exemption includes water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction. Specifically, the project involves street improvements of an access easement to landlocked properties in Los Angeles.

**SECTION 2: DESIGN REVIEW FINDINGS**  
The Planning Commission finds that the proposed project is consistent with all applicable findings for approval of a Design Review Permit pursuant to South Pasadena Municipal Code (SPMC) Section 36.410.040(I), as follows:

- 1. Is consistent with the General Plan, any adopted design guidelines and any applicable design criteria for specialized areas (e.g., designated historic or other special districts, plan developments, or specific plans);**

The General Plan land use designation of the site is Altos De Monterey Residential which allows one single-family unit per lot. The proposed project is a private street within an access easement for seven landlocked properties in Los Angeles and does not involve the addition of another dwelling unit therefore, it is consistent with the General Plan.

- 2. Will adequately accommodate the functions and activities proposed for the site, will not unreasonably interfere with the use and enjoyment of neighboring, existing, or future developments, and will not create adverse pedestrian or traffic hazards;**

The location of the proposed project is within the hillside. With the development of the private street, it will create an easier access for the nine properties it serves and for emergency services to reach the properties. The project is conditioned to install stop signs, stop pavement legends, and limit lines for the north and south approaches on Maycrest Avenue to improve traffic safety. In addition, a 4-foot wide sidewalk is proposed on the south side of the private street and a condition was added for the installation of street lighting for better visibility. Therefore, the proposed project will have no negative impact to the existing pedestrian or traffic circulation.

- 3. Is compatible with the existing character of the surrounding neighborhood and that all reasonable design efforts have been made to maintain the attractive, harmonious, and orderly development contemplated by this Section, and the General Plan; and**

The proposed project was designed to reduce the number of trees proposed for removal and to improve the street access for multiple properties. The height of the retaining wall is conditioned not to exceed six feet in height and will have landscaping to help blend the wall into the hillside.

- 4. Would provide a desirable environment for its occupants and neighbors, and is aesthetically of good composition, materials, and texture that would remain aesthetically appealing with a reasonable level of maintenance and upkeep.**

The proposed project would provide a paved access road to the seven landlocked properties within the City of Los Angeles, 4519 Lowell Avenue, and 2051 La Fremontia Street. An abundance of landscaping is proposed to help screen the wall. A condition was added for the properties utilizing the private street to maintain the street to be aesthetically appealing.

### **SECTION 3: ALTOS DE MONTEREY FINDINGS**

The Planning Commission finds that the proposed project is consistent with all applicable findings for the Altos de Monterey zone pursuant to South Pasadena Municipal Code (SPMC) Section 36.250.030(E), as follows:

- 1. The scale of the proposed building, design, height and mass in relation to the street frontage, to all setbacks and surrounding existing property; and**  
Not applicable; no building is proposed for this project.
- 2. The relation of existing adjoining building heights and their views; and**  
The maximum height of the retaining wall may not exceed 6 feet in height and must be separated by a minimum length equal to the height of the wall, not to exceed six feet. In addition, the locations of the proposed walls are lower than the existing neighboring homes.
- 3. The relation of proposed building heights to the existing topography; and**  
Not applicable; no building is proposed for this project.
- 4. The impact on surrounding properties; and**  
The proposed private street will have a positive impact on the surrounding properties. The proposed project would provide a paved access road to the seven landlocked properties within the City of Los Angeles, 4519 Lowell Avenue, and 2051 La Fremontia Street. The proposed project will create an easier access for the nine properties it serves for emergency services to reach the properties.
- 5. The obstruction of sunlight to the existing adjoining residences.**  
The proposed retaining walls help to retain the existing hillside and will be a lower elevation than the existing property at 2051 La Fremontia Street. The existing homes on Atlas Street within the City of Los Angeles are at the top of the slope; the proposed development of the single-family homes on the vacant lots would be the cause of sunlight obstruction.



**SECTION 4: HILLSIDE DEVELOPMENT PERMIT FINDINGS**

The Planning Commission finds that the proposed project is consistent with all applicable findings for approval of a Hillside Development Permit pursuant to South Pasadena Municipal Code (SPMC) Section 36.410.065(F), as follows:

**1. The proposed use complies with the requirements of Division 36.340 (Hillside Protection) and all other applicable provisions of this Zoning Code.**

Within the AM zone, walls may not exceed six feet in height. As proposed, the concrete block retaining walls are maximized at six feet in height plus a 3'8" cable safety rail on top. A condition is added for the retaining wall height to not exceed six feet and for the retaining walls to be separated a distance equal to the height of the retaining walls, not to exceed six feet. The conceptual landscape plans show the addition of 16 required replacement trees for the removal of five (5) trees. Toyon, California sycamore, and coast live oak are the proposed replacement trees. Rosmarinus prostrates and creeping fig will be planted over the retaining wall to help disguise and blend the wall into the natural landscape. For ground cover, twin peaks and deer grass are proposed. Due to the size of the project, the landscaping will require compliance with the City's Water Efficient Landscape Ordinance. A condition was added for the applicant to submit construction landscape and irrigation plans in compliance with the City's Water Efficient Landscape Ordinance.

**2. The proposed use is consistent with the General Plan and any applicable specific plan;**

The General Plan land use designation of the site is Altos De Monterey Residential which allows one single-family unit per lot. The proposed project is a private street within an access easement for seven landlocked properties in Los Angeles and does not involve the addition of another dwelling unit therefore, it is consistent with the General Plan.

**3. The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of the persons residing or working in the neighborhood of the proposed use;**

The proposed project would provide a paved access road to the seven landlocked properties within the City of Los Angeles, 4519 Lowell Avenue, and 2051 La Fremontia Street. The proposed project will create an easier access for the nine properties it serves for emergency services to reach the properties. The project is conditioned to install stop signs, stop pavement legends, and limit lines for the north and south approaches on Maycrest Avenue to improve traffic safety.

**4. The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City; and**

According to the Preliminary Geotechnical Report, the project site is suitable to

be developed as proposed and will be safe against hazard from landslides, settlement, or slippage and will have no adverse effect on the geologic stability of the adjacent properties provided that the recommendations outlined in the report are implemented.

- 5. 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 aesthetics, character, scale, and view protection.**

The proposed project would provide a paved access road to the seven landlocked properties within the City of Los Angeles, 4519 Lowell Avenue, and 2051 La Fremontia Street. An abundance of landscaping is proposed to help screen the wall. A condition was added for the properties utilizing the private street to maintain the street to be aesthetically appealing.

### **SECTION 5: RECORD OF PROCEEDING**

The documents and other materials that constitute the record of the proceedings upon which the Planning Commission's decision is based, which include, but are not limited to, the staff reports, as well as all materials that support the staff reports for the proposed project, and are located in the Planning and Building Department of the City of South Pasadena at 1414 Mission Street, South Pasadena, CA 91030. The custodian of these documents is the City Clerk of the City of South Pasadena.

### **SECTION 6. DETERMINATION**

Based upon the findings outlined in Sections 1 through 6 above and provided during the public hearing, the Planning Commission of the City of South Pasadena hereby approves the application for a Hillside Development Permit for the extension of Moffatt Street, which will be a private street extending westward from the terminus of the existing Moffatt Street to allow access to seven lots in Los Angeles and a Tree Removal Permit for the removal of five trees (Project No. 2191-HDP/TRP) (APN No's: 5310-006-039, 5310-006-038, 5310-005-010, 5310-005-011, and 5310-005-004), subject to the Conditions of Approval that are attached hereto as Exhibit "A."

### **SECTION 7: APPEALS**

Any interested person may appeal this decision or any portion of this decision to the City Council. Pursuant to the South Pasadena Municipal Code, any such appeal must be filed with the City, in writing, and with appropriate appeal fee, no later than (15) days, following the date of the Planning Commission's final action.

### **SECTION 8: CERTIFICATION OF THE RESOLUTION**

The Secretary shall certify that the foregoing Resolution was adopted by the Planning Commission of the City of South Pasadena at a duly noticed regular meeting held on the 16<sup>th</sup> day of July 2020.

**PASSED, APPROVED, AND ADOPTED this 16<sup>th</sup> day of July 2020 by the following vote:**

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Janet Braun, Chair

**ATTEST:**

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Lisa Padilla, Secretary to the Planning Commission

**APPROVED AS TO FORM:**

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Teresa L. Highsmith, City Attorney

**EXHIBIT “A”  
CONDITIONS OF APPROVAL  
PROJECT NO. 2191-HDP/TRP  
Moffat Street Extension**

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PLANNING DIVISION:

General Conditions

- P-1. The following approvals are granted as described below and as shown on the development plans submitted to and approved by the Planning Commission on July 16, 2020:
- A. Hillside Development Permit for the street design of an extension of Moffat Street, which will be a private street extending westward from the terminus of the existing Moffat Street to allow access to seven lots in Los Angeles; and
  - B. Tree Permit for the removal of five (5) trees and planting of 16 trees for the proposed private street development. The Tree Permit was reviewed by the Public Works Department and was recommended for approval to the Planning Commission.
- P-2. This approval and all rights hereunder shall terminate within twelve (12) months of the effective date of their approval by the Planning Commission unless otherwise conditioned and/or unless action is taken to secure Building Permits and maintain active Building Permits with the Building Division beginning with the submittal of the plans for Plan Check review.
- P-3. Approval by the Planning Commission does not constitute a building permit or authorization to begin any construction. All appropriate permits issued by the South Pasadena Public Works Department and Building Division must be obtained prior to construction, enlargement, relocation, conversion or demolition of any building or structure on any of the project site.
- P-4. All other requirements of any law, ordinance, or regulation of the State of California, City of South Pasadena, and any other government entity shall be complied with.
- P-5. Compliance with and execution of all conditions listed herein shall be necessary prior to obtaining any final inspection clearance and/or prior to obtaining any final clearance.
- P-6. The applicant and each successor in interest to the property which is the subject of this project approval, shall defend, indemnify and hold harmless the City of South Pasadena and its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul any approval of the City, City Council or City Planning Commission concerning this use.



- P-7. The applicant shall be responsible for all costs incurred by the City for the use of professional services or consultants in the review and investigation by Planning and Public Works, which include landscape plans, construction management plan, traffic control plans, and street and off-site improvement plans. The initial Building Construction plan check fee will cover the initial plan check and one recheck only. Additional review required beyond the first recheck shall be paid for on an hourly basis in accordance with the current fee schedule. The applicant shall deposit monies into an approved project account from which the City shall draw funds to pay for said professional services.
- P-8. If subsurface artifacts are unearthed during construction activities, the Applicant shall comply with California Public Resources Code (PRC) Section 21083.2, which specifies the protocol to be followed should cultural resources be discovered during excavation, grading, or construction activities. Should that process determine that any artifacts found are tribal in origin, ground-disturbance activity shall cease, and the City shall notify the tribes known to be affiliated with the Project area to initiate development of a tribal cultural resource (TCR) monitoring plan. Construction of the proposed Project shall adhere to California Health and Safety Code Section 7050.5, which states that if human remains are encountered, no further disturbance shall occur until the Los Angeles County Coroner has made a determination of origin and disposition pursuant to PRC Section 5097.98. The Los Angeles County Coroner must be notified of the find immediately. If the human remains are determined to be prehistoric, the Coroner will notify the NAHC, which will determine and notify a Most Likely Descendant (MLD). The MLD shall complete the inspection of the site within 48 hours of notification and may recommend scientific removal and non-destructive analysis of human remains and items associated with Native American burials.
- P-9. The hours of construction shall be limited to 8:00 am through 7:00 pm Monday through Friday; 9:00 am through 7:00 pm on Saturday; and 10:00 am through 6:00 pm on Sunday.
- P-10. The clearing, grading, earth moving, or excavation operations that cause excessive fugitive dust emissions shall be controlled by regular water or other dust preventive measures using the following procedures:
- a. All material excavated or graded shall be sufficiently watered to prevent excessive amounts of dust. Watering shall occur at least twice daily with complete coverage, preferable in the late morning and after work is done for the day;
  - b. All material transported on-site or off-site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust;
  - c. The area disturbed by clearing, grading, earth moving, or excavation operations shall be minimized so as to prevent excessive amounts of dust; and
  - d. Visible dust beyond the property line emanating from the project shall be prevented to the maximum extent feasible.

Prior to Issuance of Grading Permit

- P-11. The developer shall post a bond in a sufficient amount for maintaining, monitoring, and securing the private road for ten (10) years, or until the applicant demonstrates certificates of occupancy for the seven (7) properties (Tract 5643 Lot 26 APN:5309-012-019, Lot 24 APN: 5309-012-017, Lot 22 APN: 5309-012-015, Lot 20 APN: 5309-012-013, Lot 18 APN: 5309-012-011, Lot 18 APN: 5309-012-009, and Lot 16 APN: 5309-012-007) in either of the following combinations:
- a. Three (3) of the seven (7) lots listed above as long as one of the parcels is Lot 26, or
  - b. Any four (4) of the seven (7) lots listed above.
- P-12. The developer shall submit preliminary development plans (site plan and elevations) for the construction of either combination of properties reference in Condition P-11 to the City of Los Angeles Planning and provide documentation from the City of Los Angeles confirming that the plans as presented will not be subject to discretionary review.
- P-13. In the event that no homes are built on the properties listed above (Condition P-11) after ten (10) years, the bond shall be used by the bonding company for the removal of the street improvements.
- P-14. Street improvement plans for the private street shall show the sidewalk, curb, and gutter connecting with the existing sidewalk, curb, and gutter located in front of the apartment building at 4520 Lowell Avenue.
- P-15. Retaining walls shall not exceed more than six (6) feet in height and must be separated a distance equal to the height of the retaining walls, not to exceed six (6) feet.
- P-16. The applicant shall submit a construction management plan for approval by the Building, Planning, and Public Works Departments. The construction management plan shall include, but not be limited to:
- a. A proposed haul route and location of a proposed off-site construction staging area where project construction workers and/or subcontractors will park and equipment will be stored. Equipment and construction staging area shall be located away from adjacent residential uses. Any construction activity that may require closing public roadways shall be identified and mitigation identified as part of the staging plan. The applicant shall obtain input from Public Works to identify haul route and staging area.
  - b. A plan for dust control techniques to be implemented during project construction which shall include, but not be limited to, plans for daily watering of the construction site, limitations on construction hours, and adherence to standard construction practices such as watering of inactive and perimeter areas.

- c. A traffic control plan for the duration of the construction prepared by a licensed civil engineer for approval by the City Engineer. The applicant shall notify businesses and residents impacted by any parking restrictions during construction.
- d. A list of construction equipment, fixed or mobile, showing that all equipment will be equipped with properly operating and maintained mufflers and other state-required noise-attenuation devices.
- e. A plan for limiting the number of noise-generating, heavy-duty off-road construction equipment (e.g., backhoes, dozers, excavators, loaders, rollers, etc.) simultaneously used on the project site within 50 feet of adjacent residential uses surrounding the site to no more than one or two pieces of heavy-duty, off-road equipment to reduce construction noise levels.
- f. A sign, legible at a distance of 50 feet, shall be posted at the Project construction site providing a contact name and a telephone number where residents can inquire about the construction process and register complaints. This sign shall indicate the dates and duration of construction activities. In conjunction with this required posting, a noise disturbance coordinator shall be identified to address construction noise concerns received. The contact name and the telephone number for the noise disturbance coordinator shall be posted on the sign. The coordinator shall be responsible for responding to any local complaints about construction noise and shall notify the City to determine the cause and implement reasonable measures to the complaint, as deemed acceptable by the City.

P-17. If vegetation removal is scheduled during the nesting season (typically February 1 to September 1), then a focused survey for active nests shall be conducted by a qualified biologist (as determined by a combination of academic training and professional experience in biological sciences and related resource management activities) no more than five (5) days prior to the beginning of project-related activities (e.g., excavation, grading, vegetation removal, etc.). Surveys shall be conducted in proposed work areas, staging and storage areas, and soil, equipment, and material stockpile areas. For passerines and small raptors, surveys shall be conducted within a 250-foot radius surrounding the work area (in non-developed areas and where access is feasible). For larger raptors, such as those from the genus *Buteo*, the survey area shall encompass a 500-foot radius. Surveys shall be conducted during weather conditions suited to maximize the observation of possible nests and shall concentrate on areas of suitable habitat. If a lapse in project-related work of five (5) days or longer occurs, an additional nest survey shall be required before work can be reinitiated. If nests are encountered during any preconstruction survey, a qualified biologist shall determine if it may be feasible for construction to continue as planned without impacting the success of the nest, depending on conditions specific to each nest and the relative location and rate of construction activities. Any nest(s) within the Project Site shall be monitored by a qualified biologist during active construction if work is occurring directly adjacent to the pre-determined no-work buffer. If the qualified biologist determines construction activities have potential to adversely affect a nest, the biologist shall immediately inform the construction

manager to halt construction activities within a minimum exclusion buffer, depending on species and location. Construction activities within the no-work buffer may proceed after a qualified biologist determines the nest is no longer active due to natural causes (e.g. young have fledged, predation, or other non-anthropogenic nest failure).

- P-18. The applicant shall reimburse the City for any damage to City property associated with clearing, grading, earth moving, or excavation operations. Prior to the issuance of a grading permit, the applicant will deposit funds or bond for an amount as determined by the Director of Public Works.
- P-19. The applicant shall provide details on the street light pole design to the satisfaction of the Planning Director.
- P-20. The applicant shall participate in a pre-construction meeting with property owners directly adjacent to the private street, the City of South Pasadena Planning and Building Divisions and Public Works Department, and Southern California Edison, to ensure all parties involved are aware of when construction will occur, what to expect, and to identify potential conflicts to eliminate otherwise unanticipated problems prior to the start of grading.

#### Prior to Final Inspection

- P-21. The applicant shall install all landscaping and irrigation per the approved final **landscape plans pursuant to the City's Water Efficient Landscape Ordinance (SPMC Section 35.50)**. The applicant shall provide documentations as required under SPMC Section 35.50, which shall include, but not limited to the following:
  - a. A Certification of Completion certifying that landscape and irrigation have been installed per the approved final landscape plan and complies with the City Water Efficient Landscape Ordinance.
  - b. A Landscape Irrigation Audit Report from a certified landscape irrigation auditor shall be submitted to the City. The landscape irrigation audit shall not be conducted by the person who designed the landscape or installed the landscape irrigation.
- P-22. The applicant shall record a covenant or other instrument acceptable to the City that runs with the land specifying the following:
  - a. All common open space areas, both residential and commercial, including all courts, paseos, pedestrian access, all private water, drainage, and sewer, facilities; storm water treatment devices, landscaping within designated landscape areas (including irrigation system), and community mailboxes, etc. shall be maintained in perpetuity by a designated entity.



## PUBLIC WORKS DEPARTMENT

### General Conditions

- PW-1. The applicant shall obtain City approval for any modifications or revisions to the approval of this project. Deviations not identified on the plans may not be approved by the City, potentially resulting in the need for the project to be redesigned.
- PW-2. The applicant shall provide a copy of a current Title Report (within the last 60 days). The applicant shall show all easements per the Title Report to the satisfaction of the Public Works Department. Any conflict with existing easements resulting in the site being redesigned potentially requires a minor change or amendment approval by Planning Commission.
- PW-3. The applicant shall pay all applicable City and Los Angeles County fees, including Public Works Department permit fees per the current adopted Master Fee Schedule which can be found on the City's website. The applicant shall provide receipts of all applicable fees paid prior to the issuance of permits.
- PW-4. The applicant shall be responsible for all costs incurred by the City for the use of professional services or consultants in the review, investigation, and or plan check by Planning and Building, and Public Works Departments, which include construction plans, landscape plans, improvement plans, construction management plan, traffic control plans, and street improvement plans. The applicant shall deposit monies into an approved project account from which the City shall draw funds to pay for said professional services.

### Grading Conditions

- PW-5. The applicant shall provide a detailed drainage plan signed and stamped by a CA licensed civil engineer. Cross lot drainage is not permitted. Provide a copy of the approved plan from the Building & Safety Department. The street improvement plan needs to address storm water runoff from the road.
- PW-6. The applicant shall comply with all requirements of the City of South Pasadena Low Impact Development (LID) Ordinance. The applicant shall include the necessary Best Management Practices (BMP) measures and a Standard Urban Storm Water Mitigation Plan (SUSMP) for construction and post-construction phases as part of the LID plan per SPMC Section 23.14. Provide a copy of the approved plan from the Building & Safety Department.
- PW-7. The applicant shall provide a copy of the Notice of Intent (NOI), a Waste Discharge Identification Number (WDID), and a Storm Water Pollution Prevention Plan (SWPPP) developed by a certified Qualified SWPPP Developer (QSD) per SPMC Section 23.12(b). Provide a copy of the approved plan from the Building & Safety Department.
- PW-8. Prior to issuance of a grading permit, the applicant shall provide an erosion control plan for dust control techniques to be implemented during project construction

which shall include, but not be limited to, use of appropriate BMPs, plans for daily watering of the construction site, limitations on construction hours, and adherence to standard construction practices such as watering of inactive and perimeter areas.

## Utility Conditions

- PW-9. The Provide a 24-hour emergency contact number for the applicant and contact information of all utility agencies involved/impacted/potentially impacted by this project on the title sheet of the plans.
- PW-10. Water and sewer utilities shall be provided by the City of Los Angeles. Show the location and area of trench sections for the proposed sewer and water lines connection within the private street including trench restoration detail and all utility points of connections (POC). The City of South Pasadena will not provide water and sewer utilities.
- PW-11. Provide a copy of an approval letter and receipt for the sewer connection fee from the Los Angeles County Sanitation District (LACSD). A copy of the receipt for any fees to be paid must be submitted before permit issuance.
- PW-12. Provide clearance letter from utility companies for any proposed relocation of utility lines that encroach on the proprieties prior to obtaining permits for the project.
- PW-13. Improvement plans for underground utilities (i.e. water, sewer, gas, electrical, telecommunications, etc.) to be placed in the private street or easement that will be owned and maintained by other entities shall be reviewed by the City prior to Utility Agency approval.
- PW-14. The Developer shall execute and provide to the City, a written statement from the water, sewer, electrical, and gas purveyor indicating that each system will be owned, operated, and maintained by the purveyor and that under normal condition, the system(s) will meet the requirements for the development and that each service will be provided to each building.

## Street Improvements Conditions

- PW-15. Show the existing grade, location, and dimensions of all existing and proposed conditions within street improvements including, but not limited to: curb and gutter, sidewalk, driveway, traffic striping, signage, utilities, lighting, landscaping, storm drain facilities, trees, and other features.
- PW-16. The proposed street improvement plans shall be prepared by a Registered Civil Engineer and provide the proposed cross slope for Moffat Street and the plan and profile for Moffat Street including center of the street, northerly curb and flow lines, southerly curb and flow lines. The applicant shall submit a final geotechnical report with the street improvement plans.
- PW-17. All flood control plans to be reviewed by the City or the Los Angeles County Flood Control District shall be submitted through the City of South Pasadena, unless

otherwise directed by the City Engineer. For projects requiring LACFCD review, the developer shall pay the appropriate fees to LACFCD.

- PW-18. The applicant shall record a covenant or other instrument acceptable to the City that runs with the land for the private street including sidewalks, lighting, trees, landscaping (including irrigation system), irrigation, curb, gutter, drainage, utilities, storm water treatment devices, etc. shall be maintained in perpetuity by a designated entity. This covenant other instrument acceptable to the City shall be reviewed and approved by the Public Works Department and the City Attorney and a fully executed covenant, in recordable form, shall be provided to the City prior to obtaining a permit.
- PW-19. The street improvement plan shall include street lighting for the street and sidewalk in accordance with the most recent edition of the Illuminating Engineering Society of North America (IESNA) and American Association of State Highway and Transportation Official (AASHTO) Roadway Lighting Design Guide standards. The level of outdoor lighting to shall have no direct light or excess glare onto the adjacent neighbors.
- PW-20. Prior to final inspection, provide a street name sign at the property line stating the name of the street, range of address, and a clear indicator that this is a private street.
- PW-21. Prior to final inspection, the applicant shall submit a letter from the Engineer and Landscape Architect of record that the final street improvements, drainage, street lighting, and landscaping conforms to the approved plans.

## Tree Conditions

- PW-22. Show all existing and proposed trees (including parkway trees), including size and species, and indicate their disposition. The applicant shall show methods of protecting existing onsite and on the parkway trees during construction on the plans. The applicant shall submit an arborist report for all trees (including parkway trees) at project completion to the City, demonstrating that all protection methods were followed and document the tree disposition after construction.
- PW-23. Tree removals associated with development shall only be conditionally approved subject to the applicant receiving their development building permit, paying all fees associated with the tree removal as established by resolution of the city council, and paying a deposit in the amount of \$5,360 for the 16 replacement trees. Upon the planning review authority's approval of the development application and satisfaction of all conditions of approval, and payment of all required fees, the applicant shall be issued a tree removal permit.
- PW-24. Replacement trees shall be planted per SPMC section 34.12-5 (b). The applicant is required to plant 16 replacement trees based on the trees proposed for removal. The South Pasadena Public Works Department shall inspect the replacement trees before being planted.

- PW-25. Upon the applicant's proof to the city's satisfaction that the applicant has complied with the approved tree replacement plan, the city shall reimburse the applicant's replacement tree deposit. Should the applicant fail to plant any replacement trees per the approved replacement tree plan, the city shall retain the amount of the replacement tree deposit necessary to cover the cost to plant any required replacement trees in alternative locations within the city (public right-of-way, park, etc.), as permitted by SPMC chapter 34.
- PW-26. No trees shall be removed from the site until Tree Removal Permits are issued.
- PW-27. Trees planted adjacent to the private street will be private trees to be maintained (including trimming) under the recorded covenant or other instrument acceptable to the City.

### Encroachment Conditions

- PW-28. The applicant shall provide a construction schedule for each stage of any major activities (i.e. demolition, grading, material delivery, etc.) and the timing of special access if necessary, as it relates to site staging, traffic, and access. If there are any changes to the construction schedule, the applicant shall submit a revised schedule to the Public Works Department.
- PW-29. The applicant shall provide a haul route map, traffic control plan, on-site staging plan, and indicate a contractor parking location to the Public Works Department for review and approval prior to issuance of permits. All vehicles including workers' vehicles shall not be parked near the construction site. Provide a shuttle service if necessary. Any construction activity that may require roadway closures will require a traffic control plan prepared by a CA licensed civil or traffic engineer or a C-31 licensed contractor to be submitted for review. All street closures will require an encroachment permit from the Public Works Department.
- PW-30. Street closures are only allowed between 8:30 am and 2:00 pm. Whenever there will be a street closure exceeding thirty minutes in duration, the applicant shall provide written notification about the street closure to all impacted businesses and resident at least 48 hours in advance of the street closure.
- PW-31. The applicant shall post temporary "No Parking " signs along the entire length of the property prior to the start of any construction. The temporary "No Parking" signs shall be covered at the end of each working day and uncovered at the start of the following working day prior to any construction activity. If two-way traffic cannot be accommodated, a traffic control plan depicting the use of flagmen and/or detouring shall be submitted for review.
- PW-32. No overnight storage of materials or equipment within the public right-of-way shall be permitted.
- PW-33. Temporary bins (low boy) will be "roll off" style to be provided by Athens Services. Athens Services has an exclusive agreement with the City for the provision of trash removal services: only Athens dumpsters can be used. Any dumpsters placed on the



roadway shall require a protective barrier underneath (such as plywood) to protect the pavement. The applicant shall obtain dumpster permit from the Public Works Department.

- PW-34. The applicant shall obtain oversize/overload permits from the Public Works Department for any oversized equipment used during the stages of construction, including, but not limited to: demolition; clearing and grubbing; grading; material disposal; drilling for piles and/or caissons; trenching for footings; excavation for retaining walls; core sampling of soils; etc.
- PW-35. The applicant shall be responsible for posting a project sign at the entrance to the project site displaying the City's construction hours per SPMC Section 19A.13. The project sign shall be 24" x 36" and made of durable weather-resistant material. The applicant shall provide a 24-hour emergency contact number for the designated contact who will be responsible for maintaining the project site during the all stages of construction until the project is complete.

#### Traffic Conditions

- PW-36. Contractor shall maintain access to existing driveways along Moffat Street during construction.
- PW-37. The applicant shall provide a traffic sight distance study prepared by a CA licensed civil engineer for vehicular ingress and egress from the proposed driveway entrance. The applicant shall be responsible for implementing safety measures based on the sight distance study.
- PW-38. The applicant shall submit a plan to install the STOP signs, "STOP" pavement legends, and limit lines for the north and south approaches on Maycrest Avenue subject to Public Works Department approval prior to permit issuance. Prior to final inspection, the applicant shall install the improvements per the approved plan.

#### BUILDING AND SAFETY DIVISION:

##### General conditions

- BD-1. The second sheet of building and grading plans is to list all conditions of approval and to include a copy of the Planning Commission Decision letter. This information shall be incorporated into the plans prior to the first submittal for plan check.
- BD-2. Prior to the application of a building or grading permit, a preliminary Geotechnical report that specifically identifies and proposes mitigation measures for any soils or geological problems that may affect site stability or structural integrity shall be approved by the Building Official or his/her designee. The applicant shall reimburse the City for all costs incurred to have the project soils report evaluated by an independent, third-party, peer-level soils and /or geological engineer. Approval letter of the geotechnical report review shall be copied and pasted on the first sheet of building and grading plans.

- BD-3. A geotechnical and soils investigation report is required, the duties of the soils engineer of record, as indicated on the first sheet of the approved plans, shall include the following:
- a) Observation of cleared areas and benches prepared to receive fill;
  - b) Observation of the removal of all unsuitable soils and other materials;
  - c) The approval of soils to be used as fill material;
  - d) Inspection of compaction and placement of fill;
  - e) The testing of compacted fills; and
  - f) The inspection of review of drainage devices.
- BD-4. The geotechnical and soils engineer shall review and approve the project grading and foundation plans to show compliance that their recommendations have been properly implemented.
- BD-5. The owner shall retain the soils engineer preparing the Preliminary Soils and/or Geotechnical Investigation accepted by the City for observation of all grading, site preparation, and compaction testing. Observation and testing shall not be performed by another soils and/or geotechnical engineer unless the subsequent soils and/or geotechnical engineer submits and has accepted by Building Division, a new Preliminary Soils and/or Geotechnical Investigation.
- BD-6. At the time of plan submittal, the PDF copy of the soils report shall be provided by the applicant.
- BD-7. A grading and drainage plan shall be approved prior to issuance of the building permit. The grading and drainage plan shall indicate how all storm drainage including contributory drainage from the existing development in the subject site is carried to the public right-of-way or drainage structure approved to receive storm water.
- BD-8. Grading work and drainage shall be designed and constructed in accordance with applicable provisions in Appendix J as part of Los Angeles County Building Code.
- BD-9. Drainage patterns within the proposed street shall be designed to the extent possible to resemble those in the pre-development stage and be supported by hydrology/hydraulic calculations based on the current Los Angeles County 50-Year, 24 Hour Isohyet. Should the drainage flows across property lines or city boundaries which existed prior to grading, the post-development drainage shall continue to follow this pattern without exceeding the existing drainage flow in accordance with Section J109.4. Excess or concentrated drainage and its disposal at the existing segment of the Moffat Street is strictly prohibited.
- BD-10. Separate plan review and permit is required for each detached retaining wall.

- BD-11. Retaining wall structural calculations prepared under the direction of a civil engineer or structural engineer shall be provided.
- BD-12. In accordance with paragraph 5538(b) of the California Business and Professions Code, grading and retaining wall plans are to be prepared and stamped by a licensed civil engineer.
- BD-13. The building/grading permit will not be issued until all project property boundaries affected by the proposal has been surveyed and marked by a land surveyor licensed by the State of California.
- BD-14. Rough grading inspection will not be made until the excavation has been surveyed and the easement boundaries have been determined in accordance with the approved plans by a land surveyor licensed by the State of California. THIS NOTE IS TO BE PLACED ON THE FOUNDATION PLAN IN A PROMINENT LOCATION.
- BD-15. No form work or other construction materials will be permitted to encroach into adjacent property without written approval of the affected property owner.
- BD-16. Prior to the issuance of building permit, a written consent shall be obtained from the current easement holder(s) for any proposed development encroaching into existing easement(s).

FIRE DEPARTMENT:

- FD-1. The private street shall meet the following slope requirements:
  - a. The turn-around landing at the west end of the street cannot have a slope greater than 3%; and
  - b. The average slope of the entire private street cannot be greater than 17% from the top of the turn-around landing to the bottom of the private street; and
  - c. The maximum slope for any portion of the private driveway shall not exceed 20%.

**ATTACHMENT 2**

Staff Report for the June 9, 2020 Meeting

[Click here](#)

**ATTACHMENT 3**

Additional Documents for June 9, 2020 Meeting

[Click here](#)



**ATTACHMENT 4**  
New Redline Version of  
Conditions of Approval

**EXHIBIT “A”  
CONDITIONS OF APPROVAL  
PROJECT NO. 2191-HDP/TRP  
Moffat Street Extension**

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PLANNING DIVISION:

General Conditions

- P-1. The following approvals are granted as described below and as shown on the development plans submitted to and approved by the Planning Commission on March-July 9<sup>16</sup>, 2020:
- A. Hillside Development Permit for the street design of an extension of Moffat Street, which will be a private street extending westward from the terminus of the existing Moffat Street to allow access to seven lots in Los Angeles; and
  - B. Tree Permit for the removal of five (5) trees and planting of 16 trees for the proposed private street development. The Tree Permit was reviewed by the Public Works Department and was recommended for approval to the Planning Commission.
- P-2. This approval and all rights hereunder shall terminate within twelve (12) months of the effective date of their approval by the Planning Commission unless otherwise conditioned and/or unless action is taken to secure Building Permits and maintain active Building Permits with the Building Division beginning with the submittal of the plans for Plan Check review.
- P-3. Approval by the Planning Commission does not constitute a building permit or authorization to begin any construction. All appropriate permits issued by the South Pasadena Public Works Department and Building Division must be obtained prior to construction, enlargement, relocation, conversion or demolition of any building or structure on any of the project site.
- P-4. All other requirements of any law, ordinance, or regulation of the State of California, City of South Pasadena, and any other government entity shall be complied with.
- P-5. Compliance with and execution of all conditions listed herein shall be necessary prior to obtaining any final inspection clearance and/or prior to obtaining any final clearance.
- P-6. The applicant and each successor in interest to the property which is the subject of this project approval, shall defend, indemnify and hold harmless the City of South Pasadena and its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul any approval of the City, City Council or City Planning Commission concerning this use.

- P-7. The applicant shall be responsible for all costs incurred by the City for the use of professional services or consultants in the review and investigation by Planning and Public Works, which include landscape plans, construction management plan, traffic control plans, and street and off-site improvement plans. The initial Building Construction plan check fee will cover the initial plan check and one recheck only. Additional review required beyond the first recheck shall be paid for on an hourly basis in accordance with the current fee schedule. The applicant shall deposit monies into an approved project account from which the City shall draw funds to pay for said professional services.
- P-8. If subsurface artifacts are unearthed during construction activities, the Applicant shall comply with California Public Resources Code (PRC) Section 21083.2, which specifies the protocol to be followed should cultural resources be discovered during excavation, grading, or construction activities. Should that process determine that any artifacts found are tribal in origin, ground-disturbance activity shall cease, and the City shall notify the tribes known to be affiliated with the Project area to initiate development of a tribal cultural resource (TCR) monitoring plan. Construction of the proposed Project shall adhere to California Health and Safety Code Section 7050.5, which states that if human remains are encountered, no further disturbance shall occur until the Los Angeles County Coroner has made a determination of origin and disposition pursuant to PRC Section 5097.98. The Los Angeles County Coroner must be notified of the find immediately. If the human remains are determined to be prehistoric, the Coroner will notify the NAHC, which will determine and notify a Most Likely Descendant (MLD). The MLD shall complete the inspection of the site within 48 hours of notification and may recommend scientific removal and non-destructive analysis of human remains and items associated with Native American burials.
- P-9. The hours of construction shall be limited to 8:00 am through 7:00 pm Monday through Friday; 9:00 am through 7:00 pm on Saturday; and 10:00 am through 6:00 pm on Sunday.
- P-10. The clearing, grading, earth moving, or excavation operations that cause excessive fugitive dust emissions shall be controlled by regular water or other dust preventive measures using the following procedures:
- a. All material excavated or graded shall be sufficiently watered to prevent excessive amounts of dust. Watering shall occur at least twice daily with complete coverage, preferable in the late morning and after work is done for the day;
  - b. All material transported on-site or off-site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust;
  - c. The area disturbed by clearing, grading, earth moving, or excavation operations shall be minimized so as to prevent excessive amounts of dust; and
  - d. Visible dust beyond the property line emanating from the project shall be prevented to the maximum extent feasible.

Prior to Issuance of Grading Permit

- P-11. The ~~applicant-developer~~ shall post a bond in a sufficient amount for maintaining, monitoring, and securing the private road for ten (10) years, or until the applicant demonstrates certificates of occupancy demonstrate that they received approved building permits from the City of Los Angeles for the seven (7) ~~adjacent landlocked residential~~ properties (Tract 5643 Lot 26 APN:5309-012-019, Lot 24 APN: 5309-012-017, Lot 22 APN: 5309-012-015, Lot 20 APN: 5309-012-013, Lot 18 APN: 5309-012-011, Lot 18 APN: 5309-012-009, and Lot 16 APN: 5309-012-007) in either of the following combinations:
- a. Three (3) of the seven (7) lots listed above as long as one of the parcels is Lot 26,  
or
  - b. Any four (4) of the seven (7) lots listed above.
- P-12. The developer shall submit preliminary development plans (site plan and elevations) for the construction of either combination of properties reference in Condition P-11 to the City of Los Angeles Planning and provide documentation a letter from the City of Los Angeles confirming that the plans as presented will not be subject to discretionary review. applicant has sufficiently addressed all other outstanding plan check comments and that the City of Los Angeles is ready to issue grading or building permits subject to the City of South Pasadena issuing grading permits for the road extension, for the combinations of properties referenced above (Condition P-11).
- P-13. In the event that no homes are built on the properties listed above (Condition P-11) after ten (10) years, the bond shall be used by the bonding company for the removal of the street improvements.
- P-14. Street improvement plans for the private street shall show the sidewalk, curb, and gutter connecting with the existing sidewalk, curb, and gutter located in front of the apartment building at 4520 Lowell Avenue.
- P-15. Retaining walls shall not exceed more than six (6) feet in height and must be separated a distance equal to the height of the retaining walls, not to exceed six (6) feet.
- P-16. The applicant shall submit a construction management plan for approval by the Building, Planning, and Public Works Departments. The construction management plan shall include, but not be limited to:
- a. A proposed haul route and location of a proposed off-site construction staging area where project construction workers and/or subcontractors will park and equipment will be stored. Equipment and construction staging area shall be located away from adjacent residential uses. Any construction activity that may require closing public roadways shall be identified and mitigation identified as part of the staging plan. The applicant shall obtain input from Public Works to identify haul route and staging area.

- b. A plan for dust control techniques to be implemented during project construction which shall include, but not be limited to, plans for daily watering of the construction site, limitations on construction hours, and adherence to standard construction practices such as watering of inactive and perimeter areas.
- c. A traffic control plan for the duration of the construction prepared by a licensed civil engineer for approval by the City Engineer. The applicant shall notify businesses and residents impacted by any parking restrictions during construction.
- d. A list of construction equipment, fixed or mobile, showing that all equipment will be equipped with properly operating and maintained mufflers and other state-required noise-attenuation devices.
- e. A plan for limiting the number of noise-generating, heavy-duty off-road construction equipment (e.g., backhoes, dozers, excavators, loaders, rollers, etc.) simultaneously used on the project site within 50 feet of adjacent residential uses surrounding the site to no more than one or two pieces of heavy-duty, off-road equipment to reduce construction noise levels.
- f. A sign, legible at a distance of 50 feet, shall be posted at the Project construction site providing a contact name and a telephone number where residents can inquire about the construction process and register complaints. This sign shall indicate the dates and duration of construction activities. In conjunction with this required posting, a noise disturbance coordinator shall be identified to address construction noise concerns received. The contact name and the telephone number for the noise disturbance coordinator shall be posted on the sign. The coordinator shall be responsible for responding to any local complaints about construction noise and shall notify the City to determine the cause and implement reasonable measures to the complaint, as deemed acceptable by the City.

~~P-17. The applicant shall follow mitigation measure BIO-1 stated in the biological resources assessment dated January 2020 and prepared by MIG.~~

~~P-17. If vegetation removal is scheduled during the nesting season (typically February 1 to September 1), then a focused survey for active nests shall be conducted by a qualified biologist (as determined by a combination of academic training and professional experience in biological sciences and related resource management activities) no more than five (5) days prior to the beginning of project-related activities (e.g., excavation, grading, vegetation removal, etc.). Surveys shall be conducted in proposed work areas, staging and storage areas, and soil, equipment, and material stockpile areas. For passerines and small raptors, surveys shall be conducted within a 250-foot radius surrounding the work area (in non-developed areas and where access is feasible). For larger raptors, such as those from the genus *Buteo*, the survey area shall encompass a 500-foot radius. Surveys shall be conducted during weather conditions suited to maximize the observation of possible nests and shall concentrate on areas of suitable habitat. If a lapse in project-related work of five (5) days or longer occurs, an additional nest survey shall be required before work can be reinitiated. If nests are encountered during any preconstruction survey, a~~



qualified biologist shall determine if it may be feasible for construction to continue as planned without impacting the success of the nest, depending on conditions specific to each nest and the relative location and rate of construction activities. Any nest(s) within the Project Site shall be monitored by a qualified biologist during active construction if work is occurring directly adjacent to the pre-determined no-work buffer. If the qualified biologist determines construction activities have potential to adversely affect a nest, the biologist shall immediately inform the construction manager to halt construction activities within a minimum exclusion buffer, depending on species and location. Construction activities within the no-work buffer may proceed after a qualified biologist determines the nest is no longer active due to natural causes (e.g. young have fledged, predation, or other non-anthropogenic nest failure).

P-18. The applicant shall reimburse the City for any damage to City property associated with clearing, grading, earth moving, or excavation operations. Prior to the issuance of a grading permit, the applicant will deposit funds or bond for an amount as determined by the Director of Public Works.

P-19. The applicant shall provide details on the street light pole design to the satisfaction of the Planning Director.

~~P-18~~-P-20. The applicant shall participate in a pre-construction meeting with property owners directly adjacent to the private street, the City of South Pasadena Planning and Building Divisions and Public Works Department, and Southern California Edison, to ensure all parties involved are aware of when construction will occur, what to expect, and to identify potential conflicts to eliminate otherwise unanticipated problems prior to the start of grading.

Prior to Final Inspection

~~P-19~~-P-21. The applicant shall install all landscaping and irrigation per the approved final landscape plans pursuant to the City's Water Efficient Landscape Ordinance (SPMC Section 35.50). The applicant shall provide documentations as required under SPMC Section 35.50, which shall include, but not limited to the following:

- a. A Certification of Completion certifying that landscape and irrigation have been installed per the approved final landscape plan and complies with the City Water Efficient Landscape Ordinance.
- b. A Landscape Irrigation Audit Report from a certified landscape irrigation auditor shall be submitted to the City. The landscape irrigation audit shall not be conducted by the person who designed the landscape or installed the landscape irrigation.

~~P-20-P-22.~~ The applicant shall record a covenant or other instrument acceptable to the City that runs with the land specifying the following:

- a. All common open space areas, both residential and commercial, including all courts, paseos, pedestrian access, all private water, drainage, and sewer, facilities; storm water treatment devices, landscaping within designated landscape areas (including irrigation system), and community mailboxes, etc. shall be maintained in perpetuity by a designated entity.

## PUBLIC WORKS DEPARTMENT

### General Conditions

- PW-1. The applicant shall obtain City approval for any modifications or revisions to the approval of this project. Deviations not identified on the plans may not be approved by the City, potentially resulting in the need for the project to be redesigned.
- PW-2. The applicant shall provide a copy of a current Title Report (within the last 60 days). The applicant shall show all easements per the Title Report to the satisfaction of the Public Works Department. Any conflict with existing easements resulting in the site being redesigned potentially requires a minor change or amendment approval by Planning Commission.
- PW-3. The applicant shall pay all applicable City and Los Angeles County fees, including Public Works Department permit fees per the current adopted Master Fee Schedule which can be found on the City's website. The applicant shall provide receipts of all applicable fees paid prior to the issuance of permits.
- PW-4. The applicant shall be responsible for all costs incurred by the City for the use of professional services or consultants in the review, investigation, and or plan check by Planning and Building, and Public Works Departments, which include construction plans, landscape plans, improvement plans, construction management plan, traffic control plans, and street improvement plans. The applicant shall deposit monies into an approved project account from which the City shall draw funds to pay for said professional services.

### Grading Conditions

- PW-5. The applicant shall provide a detailed drainage plan signed and stamped by a CA licensed civil engineer. Cross lot drainage is not permitted. Provide a copy of the approved plan from the Building & Safety Department. The street improvement plan needs to address storm\_water runoff from the road.
- PW-6. The applicant shall comply with all requirements of the City of South Pasadena Low Impact Development (LID) Ordinance. The applicant shall include the necessary Best Management Practices (BMP) measures and a Standard Urban Storm Water Mitigation Plan (SUSMP) for construction and post-construction phases as part of the LID plan per SPMC Section 23.14. Provide a copy of the approved plan from the Building & Safety Department.

- PW-7. The applicant shall provide a copy of the Notice of Intent (NOI), a Waste Discharge Identification Number (WDID), and a Storm Water Pollution Prevention Plan (SWPPP) developed by a certified Qualified SWPPP Developer (QSD) per SPMC Section 23.12(b). Provide a copy of the approved plan from the Building & Safety Department.
- PW-8. Prior to issuance of a grading permit, the applicant shall provide an erosion control plan for dust control techniques to be implemented during project construction which shall include, but not be limited to, use of appropriate BMPs, plans for daily watering of the construction site, limitations on construction hours, and adherence to standard construction practices such as watering of inactive and perimeter areas.

## Utility Conditions

- PW-9. Provide a 24-hour emergency contact number for the applicant and contact information of all utility agencies involved/impacted/potentially impacted by this project on the title sheet of the plans.
- PW-10. Water and sewer utilities shall be provided by the City of Los Angeles. Show the location and area of trench sections for the proposed sewer and water lines connection within the private street including trench restoration detail and all utility points of connections (POC). The City of South Pasadena will not provide water and sewer utilities.
- PW-11. Provide a copy of an approval letter and receipt for the sewer connection fee from the Los Angeles County Sanitation District (LACSD). A copy of the receipt for any fees to be paid must be submitted before permit issuance.
- PW-12. Provide clearance letter from utility companies for any proposed relocation of utility lines that encroach on the properties prior to obtaining permits for the project.
- PW-13. Improvement plans for underground utilities (i.e. water, sewer, gas, electrical, telecommunications, etc.) to be placed in the private street or easement that will be owned and maintained by other entities shall be reviewed by the City prior to Utility Agency approval.
- PW-14. The Developer shall execute and provide to the City, a written statement from the water, sewer, electrical, and gas purveyor indicating that each system will be owned, operated, and maintained by the purveyor and that under normal condition, the system(s) will meet the requirements for the development and that each service will be provided to each building.

## Street Improvements Conditions

- PW-15. Show the existing grade, location, and dimensions of all existing and proposed conditions within street improvements including, but not limited to: curb and gutter, sidewalk, driveway, traffic striping, signage, utilities, lighting, landscaping, storm drain facilities, trees, and other features.

- PW-16. The proposed street improvement plans shall be prepared by a Registered Civil Engineer and provide the proposed cross slope for Moffat Street and the plan and profile for Moffat Street including center of the street, northerly curb and flow lines, southerly curb and flow lines. The applicant shall submit a final geotechnical report with the street improvement plans.
- PW-17. All flood control plans to be reviewed by the City or the Los Angeles County Flood Control District shall be submitted through the City of South Pasadena, unless otherwise directed by the City Engineer. For projects requiring LACFCD review, the developer shall pay the appropriate fees to LACFCD.
- PW-18. The applicant shall record a covenant or other instrument acceptable to the City that runs with the land for the private street including sidewalks, lighting, trees, landscaping (including irrigation system), irrigation, curb, gutter, drainage, utilities, storm water treatment devices, etc. shall be maintained in perpetuity by a designated entity. This covenant other instrument acceptable to the City shall be reviewed and approved by the Public Works Department and the City Attorney and a fully executed covenant, in recordable form, shall be provided to the City prior to obtaining a permit.
- PW-19. The street improvement plan shall include street lighting for the street and sidewalk in accordance with the most recent edition of the Illuminating Engineering Society of North America (IESNA) and American Association of State Highway and Transportation Official (AASHTO) Roadway Lighting Design Guide standards. The level of outdoor lighting to shall have no direct light or excess glare onto the adjacent neighbors.
- PW-20. Prior to final inspection, provide a street name sign at the property line stating the name of the street, range of address, and a clear indicator that this is a private street.
- ~~PW 21. Prior to issuance of a permit, the applicant shall submit the approved building permit from the City of Los Angeles for the adjacent residential properties. Grading or construction of the private road cannot begin until City of Los Angeles issued the building permit for the residential properties.~~
- ~~PW 22.~~PW-21. Prior to final inspection, the applicant shall submit a letter from the Engineer and Landscape Architect of record that the final street improvements, drainage, street lighting, and landscaping conforms to the approved plans.

## Tree Conditions

- ~~PW 23.~~PW-22. Show all existing and proposed trees (including parkway trees), including size and species, and indicate their disposition. The applicant shall show methods of protecting existing onsite and on the parkway trees during construction on the plans. The applicant shall submit an arborist report for all trees (including parkway trees) at project completion to the City, demonstrating that all protection methods were followed and document the tree disposition after construction.

PW-24-PW-23. Tree removals associated with development shall only be conditionally approved subject to the applicant receiving their development building permit, paying all fees associated with the tree removal as established by resolution of the city council, and paying a deposit in the amount of \$5,360 for the 16 replacement trees. Upon the planning review authority's approval of the development application and satisfaction of all conditions of approval, and payment of all required fees, the applicant shall be issued a tree removal permit.

PW-25-PW-24. Replacement trees shall be planted per SPMC section 34.12-5 (b). The applicant is required to plant 16 replacement trees based on the trees proposed for removal. The South Pasadena Public Works Department shall inspect the replacement trees before being planted.

PW-26-PW-25. Upon the applicant's proof to the city's satisfaction that the applicant has complied with the approved tree replacement plan, the city shall reimburse the applicant's replacement tree deposit. Should the applicant fail to plant any replacement trees per the approved replacement tree plan, the city shall retain the amount of the replacement tree deposit necessary to cover the cost to plant any required replacement trees in alternative locations within the city (public right-of-way, park, etc.), as permitted by SPMC chapter 34.

PW-27-PW-26. No trees shall be removed from the site until Tree Removal Permits are issued.

PW-28-PW-27. Trees planted adjacent to the private street will be private trees to be maintained (including trimming) under the recorded covenant or other instrument acceptable to the City.

## Encroachment Conditions

PW-29-PW-28. The applicant shall provide a construction schedule for each stage of any major activities (i.e. demolition, grading, material delivery, etc.) and the timing of special access if necessary, as it relates to site staging, traffic, and access. If there are any changes to the construction schedule, the applicant shall submit a revised schedule to the Public Works Department.

PW-30-PW-29. The applicant shall provide a haul route map, traffic control plan, on-site staging plan, and indicate a contractor parking location to the Public Works Department for review and approval prior to issuance of permits. All vehicles including workers' vehicles shall not be parked near the construction site. Provide a shuttle service if necessary. Any construction activity that may require roadway closures will require a traffic control plan prepared by a CA licensed civil or traffic engineer or a C-31 licensed contractor to be submitted for review. All street closures will require an encroachment permit from the Public Works Department.

PW-31-PW-30. Street closures are only allowed between 8:30 am and 2:00 pm. Whenever there will be a street closure exceeding thirty minutes in duration, the applicant shall provide written notification about the street closure to all impacted businesses and resident at least 48 hours in advance of the street closure.



~~PW-32~~-~~PW-31~~. The applicant shall post temporary "No Parking " signs along the entire length of the property prior to the start of any construction. The temporary "No Parking" signs shall be covered at the end of each working day and uncovered at the start of the following working day prior to any construction activity. If two-way traffic cannot be accommodated, a traffic control plan depicting the use of flagmen and/or detouring shall be submitted for review.

~~PW-33~~-~~PW-32~~. No overnight storage of materials or equipment within the public right-of-way shall be permitted.

~~PW-34~~-~~PW-33~~. Temporary bins (low boy) will be "roll off" style to be provided by Athens Services. Athens Services has an exclusive agreement with the City for the provision of trash removal services: only Athens dumpsters can be used. Any dumpsters placed on the roadway shall require a protective barrier underneath (such as plywood) to protect the pavement. The applicant shall obtain dumpster permit from the Public Works Department.

~~PW-35~~-~~PW-34~~. The applicant shall obtain oversize/overload permits from the Public Works Department for any oversized equipment used during the stages of construction, including, but not limited to: demolition; clearing and grubbing; grading; material disposal; drilling for piles and/or caissons; trenching for footings; excavation for retaining walls; core sampling of soils; etc.

~~PW-36~~-~~PW-35~~. The applicant shall be responsible for posting a project sign at the entrance to the project site displaying the City's construction hours per SPMC Section 19A.13. The project sign shall be 24" x 36" and made of durable weather-resistant material. The applicant shall provide a 24-hour emergency contact number for the designated contact who will be responsible for maintaining the project site during the all stages of construction until the project is complete.

## Traffic Conditions

~~PW-37~~-~~PW-36~~. Contractor shall maintain access to existing driveways along Moffat Street during construction.

~~PW-38~~-~~PW-37~~. The applicant shall provide a traffic sight distance study prepared by a CA licensed civil engineer for vehicular ingress and egress from the proposed driveway entrance. The applicant shall be responsible for implementing safety measures based on the sight distance study.

~~PW-39~~-~~PW-38~~. The applicant shall submit a plan to install the STOP signs, "STOP" pavement legends, and limit lines for the north and south approaches on Maycrest Avenue subject to Public Works Department approval prior to permit issuance. Prior to final inspection, the applicant shall install the improvements per the approved plan.

~~Prior to Final Inspection Conditions~~

~~PW 40. Prior to issuing a Certificate of Occupancy, the applicant shall record the Final Map with the LA County Recorder's office pursuant to the requirements of the Subdivision Map Act.~~

~~PW 41. The applicant shall apply for a change of address permit for the new units prior to final occupancy approval.~~

## BUILDING AND SAFETY DIVISION:

### General conditions

- BD-1. The second sheet of building and grading plans is to list all conditions of approval and to include a copy of the Planning Commission Decision letter. This information shall be incorporated into the plans prior to the first submittal for plan check.
- BD-2. Prior to the application of a building or grading permit, a preliminary Geotechnical report that specifically identifies and proposes mitigation measures for any soils or geological problems that may affect site stability or structural integrity shall be approved by the Building Official or his/her designee. The applicant shall reimburse the City for all costs incurred to have the project soils report evaluated by an independent, third-party, peer-level soils and /or geological engineer. Approval letter of the geotechnical report review shall be copied and pasted on the first sheet of building and grading plans.
- BD-3. A geotechnical and soils investigation report is required, the duties of the soils engineer of record, as indicated on the first sheet of the approved plans, shall include the following:
- a) Observation of cleared areas and benches prepared to receive fill;
  - b) Observation of the removal of all unsuitable soils and other materials;
  - c) The approval of soils to be used as fill material;
  - d) Inspection of compaction and placement of fill;
  - e) The testing of compacted fills; and
  - f) The inspection of review of drainage devices.
- BD-4. The geotechnical and soils engineer shall review and approve the project grading and foundation plans to show compliance that their recommendations have been properly implemented.
- BD-5. The owner shall retain the soils engineer preparing the Preliminary Soils and/or Geotechnical Investigation accepted by the City for observation of all grading, site preparation, and compaction testing. Observation and testing shall not be performed by another soils and/or geotechnical engineer unless the subsequent soils

and/or geotechnical engineer submits and has accepted by Building Division, a new Preliminary Soils and/or Geotechnical Investigation.

- BD-6. At the time of plan submittal, the PDF copy of the soils report shall be provided by the applicant.
- BD-7. A grading and drainage plan shall be approved prior to issuance of the building permit. The grading and drainage plan shall indicate how all storm drainage including contributory drainage from the existing development in the subject site is carried to the public right-of-way or drainage structure approved to receive storm water.
- BD-8. Grading work and drainage shall be designed and constructed in accordance with applicable provisions in Appendix J as part of Los Angeles County Building Code.
- BD-9. Drainage patterns within the proposed street shall be designed to the extent possible to resemble those in the pre-development stage and be supported by hydrology/hydraulic calculations based on the current Los Angeles County 50-Year, 24 Hour Isohyet. Should the drainage flows across property lines or city boundaries which existed prior to grading, the post-development drainage shall continue to follow this pattern without exceeding the existing drainage flow in accordance with Section J109.4. Excess or concentrated drainage and its disposal at the existing segment of the ~~Moffatt~~Moffat Street is strictly prohibited.
- BD-10. Separate plan review and permit is required for each detached retaining wall.
- BD-11. Retaining wall structural calculations prepared under the direction of a civil engineer or structural engineer shall be provided.
- BD-12. In accordance with paragraph 5538(b) of the California Business and Professions Code, grading and retaining wall plans are to be prepared and stamped by a licensed civil engineer.
- BD-13. The building/grading permit will not be issued until all project property boundaries affected by the proposal has been surveyed and marked by a land surveyor licensed by the State of California.
- BD-14. Rough grading inspection will not be made until the excavation has been surveyed and the easement boundaries have been determined in accordance with the approved plans by a land surveyor licensed by the State of California. THIS NOTE IS TO BE PLACED ON THE FOUNDATION PLAN IN A PROMINENT LOCATION.
- BD-15. No form work or other construction materials will be permitted to encroach into adjacent property without written approval of the affected property owner.
- BD-16. Prior to the issuance of building permit, a written consent shall be obtained from the current easement holder(s) for any proposed development encroaching into existing easement(s).

FIRE DEPARTMENT:

- FD-1. The private street shall meet the following slope requirements:
- a. The turn-around landing at the west end of the street cannot have a slope greater than 3%; and
  - b. The average slope of the entire private street cannot be greater than 17% from the top of the turn-around landing to the bottom of the private street; and
  - c. The maximum slope for any portion of the private driveway shall not exceed 20%.

**ATTACHMENT 5**

Letter from the Developer's Attorney  
Regarding Approval of Grantor for Grade  
Change & Prescriptive Easement Claim



## PALMIERI TYLER

ATTORNEYS AT LAW

**Stephen A. Scheck**  
Direct Dial (949) 851-7221  
Direct Fax (949) 825-5417  
sscheck@ptwww.com

Refer To File No. 37056-003  
Document I.D. 2970018.1

June 25, 2020

### VIA E-MAIL

Joanna Hankamer  
Director of Planning and Community Development  
Planning and Building Department  
City of South Pasadena  
1414 Mission Street  
South Pasadena, California 91030

Re: Project No. 2191-HDP/TRP - Hillside Development Permit and Tree Removal Permit

Ms. Hankamer:

As you know, our firm represents HDP Moffatt Street LLC ("HDP") and Planet Home Living ("PHL") (collectively the "Developer"), the owner of seven lots ("Developer's Property") on the south side of the former Moffatt Street, west of May Crest Avenue, in the City of Los Angeles immediately adjacent to the southerly boundary of the City of South Pasadena (the "City").

Developer's Property is landlocked and has access to the existing Moffatt Street via a Right-of-Way Easement ("Access Easement") granted by the City across the privately owned property immediately to the north of the lots, which property was formerly owned by the City. Such Access Easement (recorded on June 14, 1962 in Book D1649, Page 122) was granted in place of the former Moffat Street which was a public street vacated by the City in 1962.

In connection with Developer's proposed development of Developer's Property, Developer has made application with the City to construct a private access drive over the area covered by the Access Easement, which application is identified as Project No. 2191-HDP/TRP. Developer's application and the proposed construction of the private access driveway was discussed at the March 10, 2020 meeting before the City's Planning Commission. The Planning Commission did not issue a determination with respect to my client's application at that time and continued the hearing.

We previously prepared a letter on behalf of our client dated May 27, 2020, to address certain concerns raised by members of the Planning Commission with respect to the impact of the California Environmental Quality Act.

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We have prepared this letter on behalf of our client to respond to two additional issues raised by members of the public in comments delivered to the City with respect to the proposed project. As you know, the project is scheduled for re-hearing before the Planning Commission on July 8, 2020.

### **1. Approval of Grantor to Grade Change**

The first issue was raised in the June 8, 2020 letter to the City from Neilesh Mutyala, who lives at 2050 La Fremontia Street, South Pasadena which property underlies a portion of the area covered by the Access Easement. Mr. Mutyala alleges in his June 8th letter that he is the "holder of the easement upon which the Moffat St. extension is being proposed" and that, as such, the easement document requires that the Developer obtain Mr. Mutyala's approval of the proposed private driveway.

Line 22 of page 2 of the Access Easement states that "Grantees shall make no changes in the grades of said Moffatt Street (vacated) without first obtaining the approval of the Grantor." We understand from his June 8th letter that Mr. Mutyala believes that because he is the successor owner of the La Fremontia Street property that he is now the "Grantor" under the Access Easement and, therefore, Developer is required to obtain his approval if it desires to change the grade of the area covered by the Access Easement. Developer disagrees with such contention.

The rules governing succession to the benefits and burdens of appurtenant easements are clear. An "appurtenant easement" is an easement that runs in favor of particular property, as is the case with the Access Easement. The creators of easements are free to specify the terms on which successors will be bound or benefited by easements and the manner in which the burdens and benefits may be transferred.

The law is clear that the benefits of an appurtenant easement pass automatically with the dominant estate (*Rosebrook v. Utz* [1941] 45 CA 2d 726, 729). No instrument of transfer is necessary. Accordingly, the benefits of the Access Easement run in favor of Developer as a successor-in-interest as owner of seven of the lots granted access from Moffatt Street thereunder.

By contrast, benefits retained in favor of the servient estate, which is the property burdened by the easement (in this case, the property owned by Mr. Mutyala), do not pass automatically with ownership of the servient estate. Such benefits will only run in favor of such successors if such right is clearly stated in the document creating the easement. No such statement is included in the Access Easement.

The Access Easement defines "Grantor" as "The Community Redevelopment Agency of the City of South Pasadena, California", which owned the property underlying the Access Easement at the time the Access Easement was granted in 1962. The Access Easement defines

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"Grantees" as "the owners of the lots located in the City of Los Angeles abutting the south line of Moffatt Street, a public street in the City of South Pasadena".

Although there are a total of seventeen references to "Grantor" and "Grantees" in the document (seven references to Grantor and ten references to Grantees), there are only three that also reference such parties' successors and/or assigns.

Two such references relate to the successors and assigns of Grantees. Such statements are blanket in nature, with the first reference located in the granting clause which actually grants the easement itself, and the second reference in the final paragraph of the document in which Grantor reaffirms that the easement has been conveyed to Grantees.

The granting clause of the Access Easement, set forth in lines 26 and 27 on page 1, states that "Grantor hereby grants to Grantees *and each of their successors and assigns*, an easement for ingress and egress from and to said lots described in Schedule B . . ." (emphasis added).

The final paragraph of the Access Easement, set forth in lines 12 and 13 on page 3, reads: "TO HAVE AND TO HOLD the above-mentioned easement and right unto the Grantees, *their successors and assigns*, forever." (emphasis added).

The document is clear, in these two references, that all rights in the easement as set forth in the document run in favor of the Grantees as they existing in 1962 when the Access Easement was recorded, as well as in favor of the successors and assigns in ownership of the lots referenced therein, which includes Developer.

By contrast there is only one reference to the successors and assigns of Grantor. On page 2 of the document, the grant of easement is made subject to four separate restrictions. The fourth and final such restriction (set forth in line 1 on page 3) states that "Grantor, *its successors or assigns*, agrees not to deposit or permit or allow to be deposited, earth, rubbish, debris or any other substance or material . . . or to construct any fences or other structures on said right-of-way strip so as to interfere with the right of ingress and egress herein granted to the Grantees" (emphasis added). By its clear terms, the only provision of the Access Easement that is expressly intended to be binding upon the successors and assigns of Grantor is actually a *restriction* on the rights of Grantor (a restriction which we note Mr. Mutyala has violated by permitting the construction of improvements within the right-of-way by the owner of the property located at 4519 Lowell Avenue, as discussed below).

There is no reference in the document that any other rights of Grantor, including the right to approve any change in grade of the access easement area (as set forth in lines 22 through 24 on page 2), inures to the benefit of the successors-in-interest as owners of the property underlying the easement.

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Pursuant to the rules of general contract interpretation, if the parties to a contract use specific language with respect to one aspect of the contract (as they did when referencing "Grantor, its successors or assigns" in lines 1 and 2 on page 3 with respect to the restrictions binding upon Grantor's successors), but do not use the same specific language in other areas of the contract (as they failed to do in lines 22 through 24 on page 2 with respect to the approval rights of Grantor concerning approval of a grade change), then the failure to use such specific language is deemed to reflect the intention of the parties to treat such contract provisions differently.

If the original Grantor under the Access Easement had intended that the right to approve grade changes in the easement area would be a right exercisable by its successors in ownership of the property, then the original Grantor could have included specific language stating so. The original Grantor did not do so. In addition, the original Grantor could have included a general clause in the final paragraph stating that all rights under the document inured to the benefit of its successors and assigns, as it did with respect to the easement and rights of the Grantees. The original Grantor did not do that either.

In light of the foregoing, the clear intent of the original Grantor, and the interpretation of the Access Easement required under law, is that the right to approve any grade change within the easement area does NOT run in favor of Grantor's successors in ownership of the property underlying the easement area. Accordingly, neither Mr. Mutyala nor any other owner of property underlying the Access Easement has the right to approve proposed changes to the grade thereof. Such approval right remains vested in the City.

## **2. Prescriptive Easement Claim.**

The second issue that we wanted to address was raised in an e-mail to the City from Micah Haserjian on June 8, 2020. Mr. Haserjian owns the property located at 4519 Lowell Avenue, in the City of Los Angeles, which is located at the "top" of Lowell Avenue immediately adjacent to the current terminus of Moffatt Street. Mr. Haserjian alleges that he has a prescriptive easement claim over a portion of the area covered by the Access Easement with respect to his existing deck and driveway.

While it goes without saying that Developer disagrees with Mr. Haserjian's prescriptive easement claim, the City should be aware that the validity of such claim and Developer's defenses thereto relate to a matter in dispute between private parties that does not fall within the Planning Commission's approval authority concerning the project. If Mr. Haserjian believes he has a valid prescriptive easement claim, his recourse is through the court system against the owner of the property and the easement holder. A claim for a prescriptive easement does not provide Mr. Haserjian with any recourse against the City as the City is neither charged with nor responsible for determining the validity of such claim and, in fact, lacks the authority or

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jurisdiction to make such determination. As you are aware, in recognition of the foregoing, Developer agreed to indemnify the City with respect to this matter as part of the application process.

The Planning Commission should be aware that the Developer has offered to meet with Mr. Haserjian on numerous occasions to discuss his claims in an attempt to address the same, only to be rebuffed and/or ignored. Nonetheless, it remains Developer's intention to amicably resolve Mr. Haserjian's claims and it intends to continue to make outreach in an attempt to do so.

Please let me know if you have any questions regarding the foregoing.

Very truly yours,



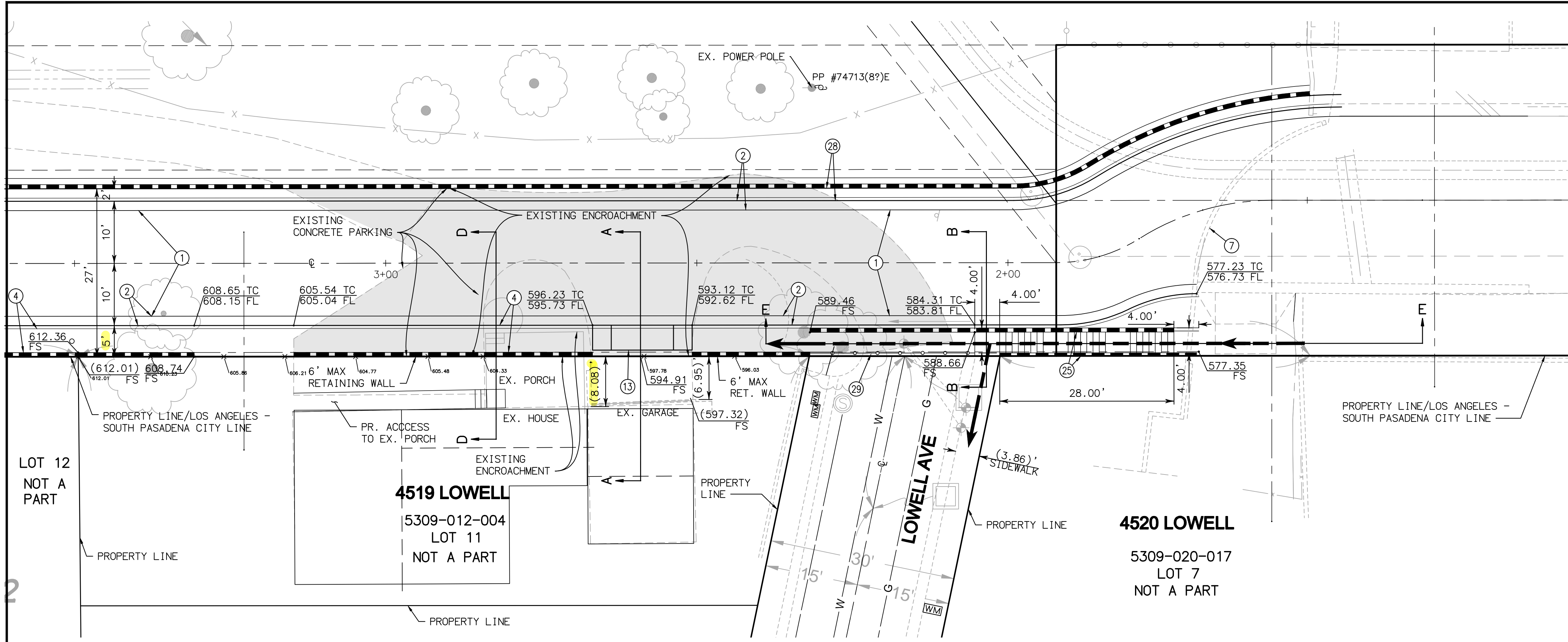
Stephen A. Scheck

cc: Kanika Kith, Planning Manager (via e-mail)  
Malinda Lim, Associate Planner (via e-mail)  
Michael Marini (via e-mail)  
David French (via e-mail)

**ATTACHMENT 6**

Street Improvement Exhibit with Street  
Connection to Lowell Avenue

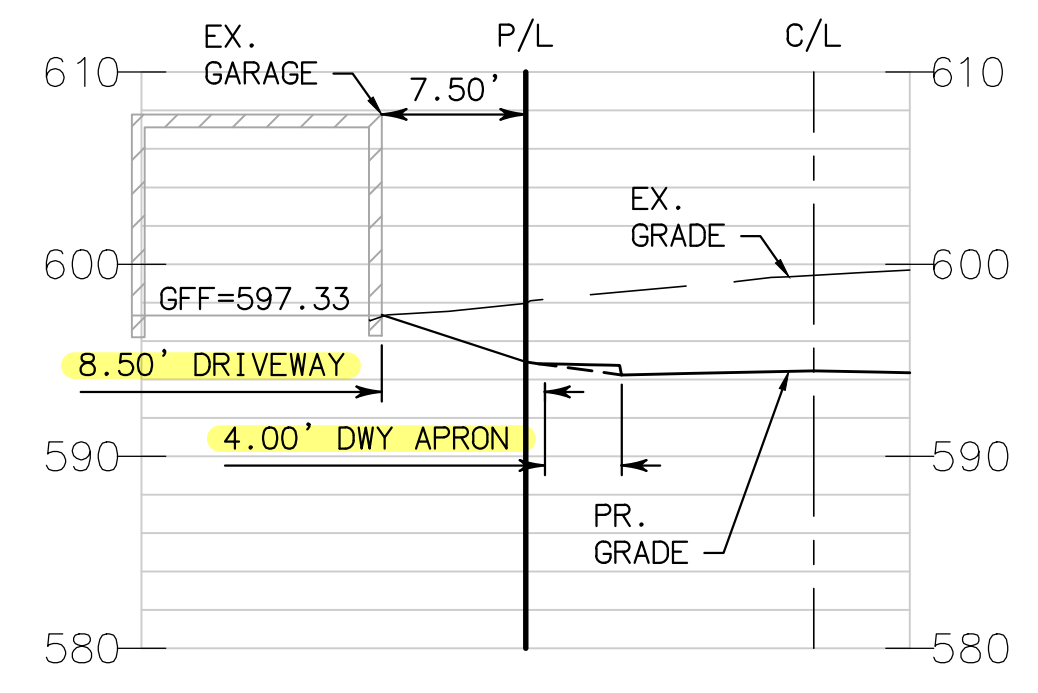




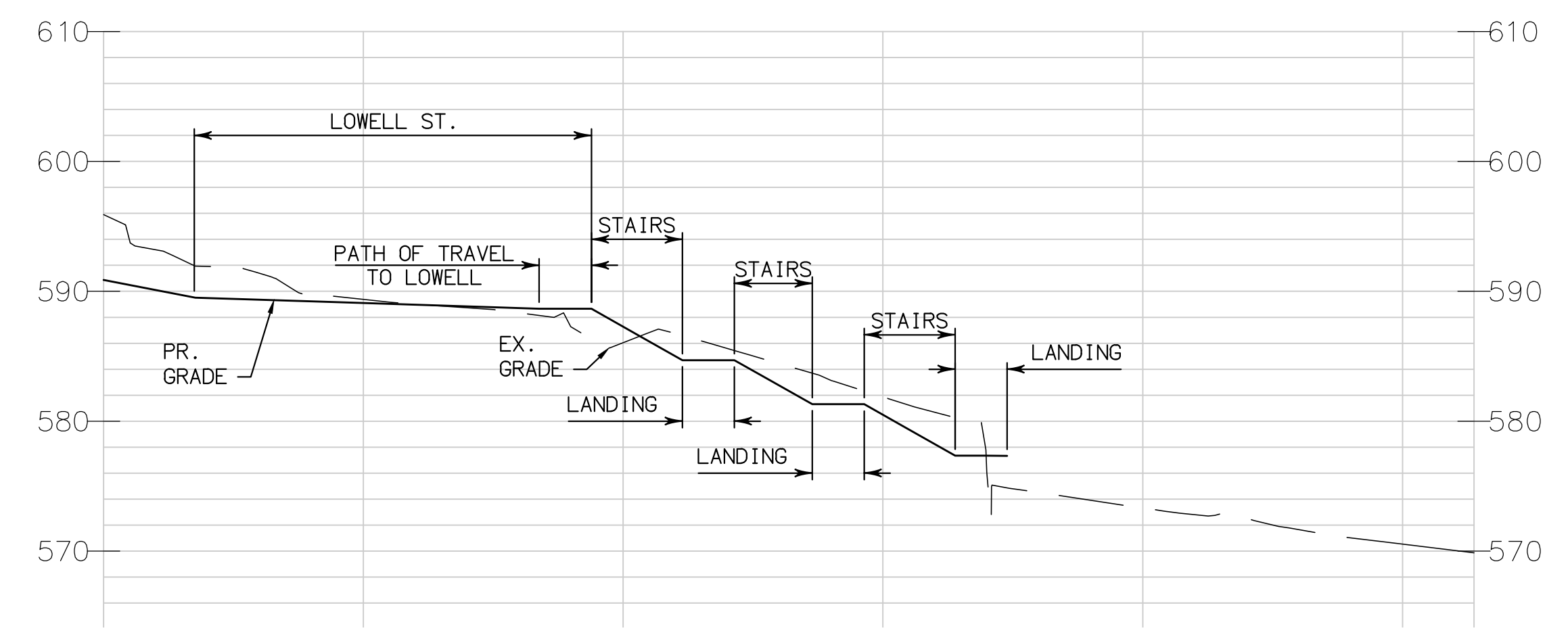
LOT 12  
NOT A PART

**4519 LOWELL**  
5309-012-004  
LOT 11  
NOT A PART

**4520 LOWELL**  
5309-020-017  
LOT 7  
NOT A PART



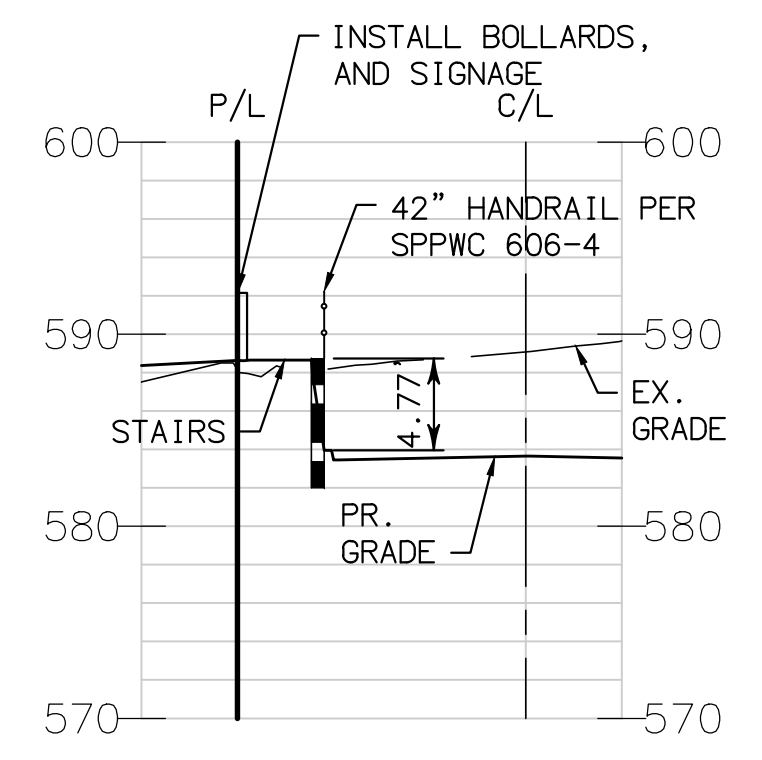
**SECTION A-A**  
EXISTING GARAGE CENTERLINE  
SCALE: 1"=10'



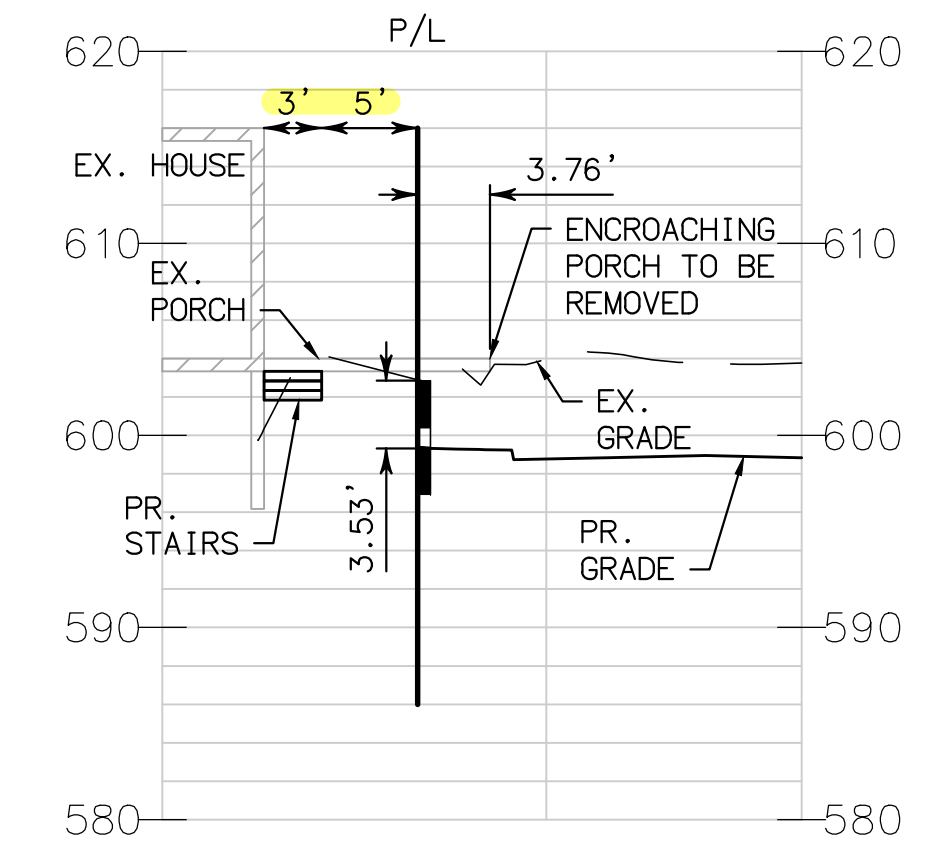
**SECTION E-E**  
SECTION THROUGH STAIRS  
SCALE: 1"=10'

**CONSTRUCTION NOTES**

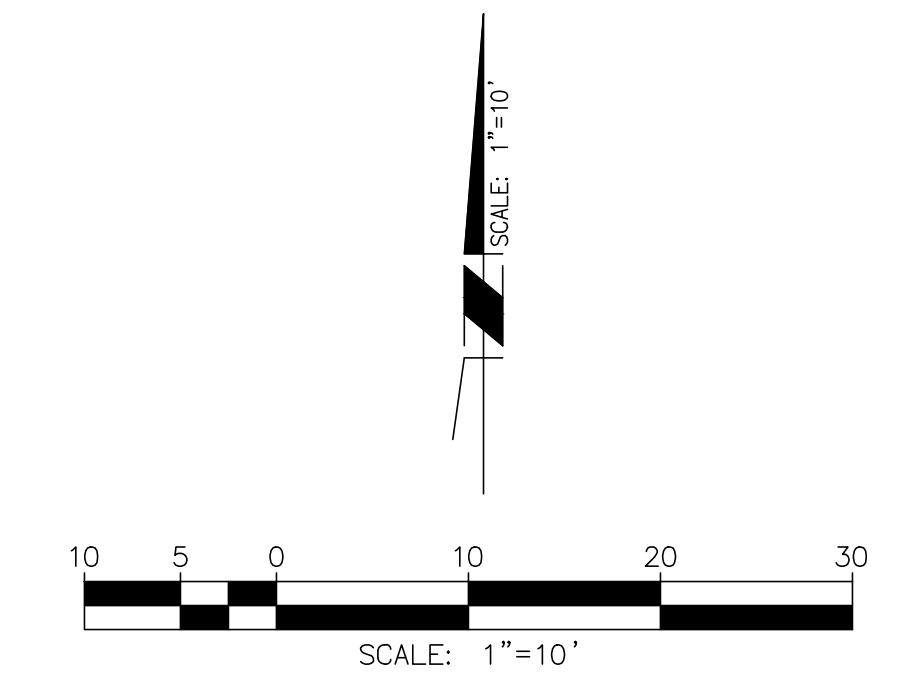
- ① CONSTRUCT 4" AC PAVEMENT OVER 6" CMB PER SPPWC 133-3 CASE 2
- ② CONSTRUCT 6" CURB AND GUTTER PER PER SPPWC 120-2
- ④ CONSTRUCT 3" CONCRETE WALK OVER 4" CMB PER SPPWC 113-2
- ⑦ DEMOLISH
- ⑬ CONSTRUCT TYPE A DRIVEWAY APPROACH PER SPPWC 110-2
- ⑮ CONSTRUCT REINFORCED CONCRETE STAIRWAY PER SPPWC 640-4. W=4', T=12", R=6-7/8", C=6", L=4'
- ⑳ GRADE ONLY; 2:1 MAX. LANDSCAPING BY OTHERS
- ㉑ INSTALL METAL-BEAM GUARDRAIL PER S-462-2 AND BOLLARDS WITH SIGNAGE (CITY OF SOUTH PASADENA)



**SECTION B-B**  
PEDESTRIAN ACCESS FROM LOWELL TO MOFFAT  
SCALE: 1"=10'



**SECTION D-D**  
SECTION THROUGH EX. PATIO  
SCALE: 1"=10'



CONSULTANT:  
**DELANE ENGINEERING**

2812 SANTA MONICA BLVD, SUITE 206  
SANTA MONICA, CA 90404  
PHONE: 310.546.5711 - WWW.DELANEENGINEERING.COM



REVISIONS:

OWNER:  
PLANET HOME LIVING  
1451 QUAIL STREET, STE. 204  
NEWPORT BEACH, CA 92660

PROJECT:  
**MOFFAT STREET**

5350, 5342, 5340, 5336, 5332,  
5326, 5322 MOFFAT ST,  
LOS ANGELES, CA 90032

LOTS 14, 16, 18, 20, 22, 24, 26

SCALE:

SHEET:  
**ACCESS EXHIBIT**

NUMBER:  
**C2.6**

**Next Item**



## Planning Commission Agenda Report

ITEM NO. 3

**DATE:** July 14, 2020

**FROM:** Joanna Hankamer, Director of Planning and Community Development

**PREPARED BY:** Kanika Kith, Planning Manager

**SUBJECT:** **Zoning Code Amendment for Streamline Planning Review and Minor Clean-up.**

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### **Recommendation**

It is recommended that the Planning Commission adopt a Resolution recommending that the City Council approve the proposed Zoning Code Amendment by amending South Pasadena Municipal Code (SPMC) Chapter 36 (Zoning) - Sections 36.400.020 (Authority of Land Use and Zoning Decisions), 36.400.040 (Application Preparation and Filing), 36.410.040 (Design Review), 36.410.060 (Conditional Use Permits and Administrative Use Permits), 36.410.065 (Hillside Development Permits), 36.420.020 (Time Limits and Extensions), 36.600.050 (Design Review Board), 36.610.050 (Applying, Filing, Processing and Decisions), 36.630.020 (Notice of Hearing), 36.630.040 (Review Authority Decision and Notice), and 36.630.050 (Recommendation by Planning Commission).

### **Background**

On May 6, 2020, the City Council adopted an Urgency Ordinance amending several sections of the Zoning Code to streamline Planning approval processes and toll planning and permitting deadlines so that the time and cost savings associated with the amendments can provide immediate financial relief to applicants and the City during the COVID-19 emergency.

Council directed staff to have the Planning Commission review the content of the Urgency Ordinance and provide its recommendation to the City Council for adoption of the same or similar Ordinance, through the regular process to approve zoning code amendments (e.g., recommendation of the Planning Commission, with General Plan findings, followed by first and second readings by the City Council and an effective date 30 days after approval).

On May 12, 2020, the adopted Urgency Ordinance was presented to the Planning Commission and no requested changes were received.

On May 14, 2020, the adopted Urgency Ordinance was presented to the Design Review Board (DRB). The Board asked several questions about DRB chair review, DRB Subcommittee, and Hillside Development Permits. The Board provided positive feedback, and no changes were requested.

On May 21, 2020, the adopted Urgency Ordinance was presented to the Cultural Heritage Commission (CHC), and two changes related to the CHC recommendation of a Certificate of Appropriateness listed below were requested:

1. CHC authority on certification of an Environmental Impact Report for Certificate of Appropriate for project no involving Planning Commission approval.
2. CHC authority to review changes to a project that could affect the historic component of the project after CHC review or if the Planning Commission's decision could potentially be contradictory to the CHC recommendation.

## **Project Description**

While staff has adjusted to providing planning and building services remotely, existing inefficiencies in the current Zoning Code pertaining to processing planning applications were amplified in the early months of the pandemic, causing more staff time to process applications and at a greater expense to the City. On May 6, 2020, City Council approved an Urgency Ordinance to streamline project review and which alleviated inefficiencies immediately. Some of the code amendments in the Urgency Ordinance and proposed here are clarifications of existing processes intended to continue; while other proposed amendments are recommended to modify existing approval processes to streamline project review. The amendments in the Urgency Ordinance had immediate benefits in time and cost-savings for applicants and for the City, and staff recommends a replacement Ordinance that have been reviewed by the Planning Commission.

A brief summary of the significant changes to the Zoning Code as adopted by the Urgency Ordinance and proposed for the replacement Ordinance is provided below.

Significant Changes for streamlining planning processes:

1. Shifting Planning Commission (PC) review for existing hillside homes to Design Review Board (DRB) or DRB Chair. This shift allows Planning Commission to focus on long range planning (e.g. General Plan Update, Downtown Specific Plan, Housing Element update, Code Amendments) and large development projects. The shift also allows for a more even spread of projects across the Planning Commission, Cultural Heritage Commission (CHC), and DRB.
  - Examples of this shift from PC include to the DRB or DRB Chair include:
    - A large addition (over 500 sq. ft.) or significant exterior changes to an existing hillside home would be reviewed by the Design Review Board
    - Small additions and exterior changes to existing hillside homes not visible to the street would be reviewed by the DRB Chair
2. Shifting DRB review of simpler projects, non-hillside homes, to the DRB Chair or Planning Director for approval. For example:
  - DRB Chair Review - Small additions above the first floor where the addition would not exceed the height of the existing structure

- DRB Chair Review – Minor exterior changes visible to the street and do not change the architectural style of the existing structure
  - Planning Director Review – Small additions or exterior changes on the 1<sup>st</sup> floor and not visible to the street;
3. Shifting DRB Chair approval authority to the Planning Director, and adding Planning Director-level approval authority for changes to buildings/properties that are not visible from the street;
  4. Allowing the Planning Director to consider an Administrative Use Permit without holding a public Director’s Hearing if and only if, after a full public notice process, no neighbors within a 300-foot radius request a public hearing.

Other proposed changes include:

5. Consistency between code sections regarding a 2008 code amendment for project streamlining in which hillside homes and large projects skip DRB to go directly to Planning Commission for design review.
  - The adopted Urgency Ordinance also calls for the formation of a DRB Subcommittee for large projects, to work with staff during the early phases of project review, before the project goes to the Planning Commission
6. Clarification of the Cultural Heritage Commission’s role in the review of large projects where a historic resource is involved (example Mission Bell)
7. Correction of public noticing language; bringing all public hearing notice requirements in compliance with state law (publish notice in the newspaper, sending notices within a 300-ft radius)
8. Providing a clear process for approving administrative time extensions by the Planning Director
9. Clarify that the appeal period for planning approvals is 15 calendar days.

### **Discussion/Analysis**

Zoning Code Section 36.620.070(B) requires the following findings for Zoning Code amendments.

1. The proposed amendment is consistent with the actions, goals, objectives, policies, and programs of the General Plan; and
2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.
3. The proposed amendment is internally consistent with other applicable provisions of this Zoning Code.

## General Plan Consistency

The proposed changes to the Zoning Code are consistent with goals/objectives and policies in the General Plan as it will remove inconsistency within the Zoning Code and streamline the review process to encourage maintenance and restoration of the city's existing housing stock and promote commercial revitalization and economic development. The proposed Zoning Code Amendment could promote the following objectives and policies:

- **Goal 1:** *To manage change and target growth by type and location to better serve community needs and enhance the quality of life.*
- **Policy 1.7:** *Support managed change. Utilize means available to the City - including code enforcement, permit fee waiver, tax abatement, shared parking offsets, and offerings of expedited plan processing - to facilitate change as necessary.*
- **Goal 2:** *To increase city revenues by fostering commercial development.*
- **Policy 2.2:** *Promote the adaptive reuse of existing structures in the community where land use changes are occurring.*
- **Goal 6:** *To promote and enhance South Pasadena's image as being desirable location for business.*
- **Policy 6.3:** *Provide incentives to investors.*
- **Goal 1.0:** *Conserve the Existing Supply of Affordable Housing*
- **Objective:** *To maintain and enhance the quality of existing residential housing and neighborhoods in South Pasadena.*

## Zoning Code Compliance

The proposed Zoning Code Amendment includes removing internal inconsistencies, shortening the review process for exterior renovation to existing structures, and creating a shorter review period for additions to existing hillside homes while having proper oversight as desired by the community. The proposed changes would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City as the changes are limited to clarifying and removing existing inconsistencies and creating a process to promote maintenance of existing structures and limited expansion to existing structures.

For example, the Director Approval process allows the Planning Director to approve proposed exterior changes that are not visible from the public right of way such as window and door changes and additions to the back of the house that require less discretion. The DRB Chair review process allows the Chair to approve exterior changes on the second floor that do not change the architectural character of the house such as replacing existing siding or addition of less than 500 square feet that would not be visible from the public right of way. The DRB Subcommittee will



be an extra layer of oversight for large project that do not go to DRB for review. A list of proposed changes is provided below.

### Proposed Clarifications, included in the adopted Urgency Ordinance

1. Clarify that the appeal period for planning approvals is 15 calendar days. (Section 36.610.050 Appeal Filing, Processing, and Decisions);
2. Remove “Advisory responsibility”; and Revise “Decision-making responsibility” for the Design Review Board Advisory Authority to be consistent with Section 36.410.040 which was amended in 2008 to streamline project review. In 2008, the Zoning Code was amended to skip Design Review by the Design Review Board and to have the Planning Commission or Cultural Heritage Commission perform Design Review for project requiring their approval. Section 36.600.050 currently conflicts with the 2008 amendment (Section 36.600.050 Design Review Board);

### Proposed Modifications, included in the Adopted Urgency Ordinance

3. Correct the public notification process for public hearings to comply with State law and modify the public notification requirement for Design Review Board to be consistent with Planning Commission and Cultural Heritage Commission (Section 36.630.020 Notice of Hearing);
4. Replace the public hearing requirement for Administrative Use Permit (AUP) that, following a 10-day public notice process, allows for public hearings to be held upon request only and otherwise allows for uncontested actions to proceed without a public hearing (Section 36.410.060 Conditional Use Permits and Administrative Use Permits);
5. Revise the language and approval authority for planning approval time extensions to allow the Director of Planning and Community Development, rather than the approval body, to approve a one-year extension (Section 36.420.040 Time Limits and Extensions);
6. Streamline and clarify the Cultural Heritage Commission’s authority for large projects requiring Planning Commission approval as recommendation-only for Certificate of Appropriateness for approval by the Planning Commission in order to reduce the number of public hearings. Under the current code, a project would have to go to the Planning Commission for action on a CEQA document (EIR or MND), then to CHC for action on the Certificate of Appropriateness, and then back to Planning Commission on the rest of the project applications (Section 36.400.020 Authority for Land Use and Zoning Decisions);
7. Replace the list of submittal requirements for Design Review in the Zoning Code with a requirement to comply with the *Design Review Submittal Requirements Checklist* (See Attachment 3) provided by the Director of Planning and Community Development, so that the checklist can be updated periodically without having to amend the Zoning Code each time (Section 36.410.040 Design Review);

8. Clarify that re-roofing of like-for-like material with no structural changes is exempt from Design Review for both residential and commercial structures (Section 36.410.040 Design Review);
9. Define Minor Design Review as improvements subject to approval by the Design Review Chair or Planning Director without conducting a public hearing or providing public notice prior to taking action (Section 36.410.040 Design Review);
10. Revise Design Review Chair Authority to include Minor Design Review and Minor Hillside Development Permit for projects of a certain size, location on the site, and visibility to the street that do not change the architectural design style of existing structures, and are not subject to Planning Commission review or Certificate of Appropriateness (Section 36.410.040 Design Review); and modify Approval Authority Table accordingly (Section 36.400.020 Authority for Land Use and Zoning Decisions);
11. Add Planning Director Approval Authority for Minor Design Review for projects that involve minor modifications or additions to only the first floor of an existing structure, not visible to the street, and does not change the architectural design style of the structures.
12. Revise Design Review Board Authority to include Minor Hillside Development Permits for modifications to existing structures and projects of a certain size, location on the site, and visibility to the street (36.410.065 Hillside Development Permits); and modify Approval Authority Table accordingly (Section 36.400.020 Authority for Land Use and Zoning Decisions)
13. Require a Preliminary Review Application for all new construction and additions Hillside Development Permit and Minor Hillside Development Permit (Section 36.400.040 Application Preparation and Filing);
14. Revise Hillside Ordinance (36.410.065 Hillside Development Permits) to:
  - a. Clarify language for concurrent processing of multiple applications regarding Hillside Development Permits and Design Review (Sections 36.410.065 Hillside Development Permits and 36.410.040 Design Review);
  - b. Define Hillside Development Permits as pertaining to new construction of primary dwelling units;
  - c. Define Minor Hillside Development Permit to include additions or improvements other than which fall under Hillside Development Permits;
  - d. Allow/Apply Design Review Chair and Design Review Board Approval Authorities to Minor Hillside Development Permits for improvements to existing hillside homes that meet the respective approval standards for Design Review.

- a. Add Director Approval Authority for Minor Hillside Development Permits pertaining to improvements to the property grounds such as swimming pools, patio covers, and accessory structures that are not visible to the street.
  - b. Modify language to allow grading on slope of 30% or greater when sufficient technical information has been provided to support that such development would have no negative impacts on the property, adjacent property, or on the safety and welfare of the public.
15. Add a Design Review Board (DRB) Subcommittee to take part in the early review process of the Design Review of a Mixed-use or Multi-family development of seven (7) dwelling units or more, which the Planning Commission is the decision maker. Under the current code and proposed amendments (to be consistent with the 2008 code revision for project streamlining), a mixed-used or multi-family development of seven (7) dwelling units or more would skip Design Review Board and go directly to Planning Commission.

The proposed formation of a DRB Subcommittee will allow two members of the DRB to work with the applicant and staff during the application review process to ensure that proposed project design would be consistent with our standards and appropriate for the neighborhood. To allow this formation, the following revisions are proposed:

- a. Amendment Table 4-1 (Review Authority) in Section 36.400.020 (Authority for Land Use and Zoning Decisions); and
  - b. Added subsection (a) to Design Review Section 36.410.040(D)(3).
16. Clarify DRB Chair review authority to allow addition above the first floor as long as they are not visible to the street and do not exceed the height of the existing structure.
17. Added a language stating that the cost of all public notices for consideration of Administrative Use Permit be will the sole responsibility of the applicant/property owner.
18. Clarified language for how to measure the 300-foot radius for public noticing.
19. Remove Second Dwelling Units from the list of exemption from Design Review.

Proposed Modifications that are not in the adopted Urgency Ordinance – Per CHC Request

20. Amend Section 36.400.020, Table 4-1 Review Authority, to include CHC authority to certify Environmental Impact Report; and
21. Amend Section 36.400.030 to create a process for the Planning Commission to refer the project to CHC or have a joint meeting prior to making a decision when a Planning Commission decision could potentially affect the historic component of the project or contradictory to the CHC recommendation.

Planning Commission  
July 14, 2020

Zoning Code Amendment  
Streamline Planning Review

Staff recommends that the Planning Commission recommends approval of the proposed Zoning Code Amendment to City Council. The required finding for approval and supporting evidence are provided in the attached Resolution for the Commission to take action.

### **Environmental Analysis**

The proposed Zoning Code Amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines § 15061(b)(3), which states the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It may be seen with certainty that there is no possibility this Zoning Code Amendment may have a significant effect on the environment.

### **Legal Review**

The City Attorney has reviewed this item.

### **Fiscal Impact**

If adopted, the proposed amendments would continue to be a time and cost-savings for applicants and for the City. Staff anticipates a 25-35% reduction in staff time to process applications, allowing staff to immediately address a backlog of applications, and a 3-6 month time-savings for applicants depending on the complexity of application.

### **Public Notification of Agenda Item**

The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website and/or notice in the *South Pasadena Review*.

### **Attachments:**

1. PC Resolution & Proposed Zoning Code Amendment Sections
2. Redline of Proposed Zoning Code Amendment Sections

**ATTACHMENT 1**  
Resolution &  
Proposed Zoning Code Amendment

## P.C. RESOLUTION NO. 20-\_\_\_\_\_

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SOUTH PASADENA RECOMMENDING APPROVAL OF THE PROPOSED ZONING CODE AMENDMENT BY AMENDING SOUTH PASADENA MUNICIPAL CODE (SPMC) CHAPTER 36 (ZONING) - SECTIONS 36.400.020 (AUTHORITY OF LAND USE AND ZONING DECISIONS), 36.400.040 (APPLICATION PREPARATION AND FILING), 36.410.040 (DESIGN REVIEW), 36.410.060 (CONDITIONAL USE PERMITS AND ADMINISTRATIVE USE PERMITS), 36.410.065 (HILLSIDE DEVELOPMENT PERMITS), 36.420.020 (TIME LIMITS AND EXTENSIONS), 36.600.050 (DESIGN REVIEW BOARD), 36.610.050 (APPLYING, FILING, PROCESSING AND DECISIONS), 36.630.020 (NOTICE OF HEARING), 36.630.040 (REVIEW AUTHORITY DECISION AND NOTICE), AND 36.630.050 (RECOMMENDATION BY PLANNING COMMISSION).**

**WHEREAS**, in December 2019, a novel coronavirus known as SARS-CoV-2 was first detected in Wuhan, Hubei Province, People’s Republic of China, causing outbreaks of the coronavirus disease COVID-19 that has now spread globally;

**WHEREAS**, on March 4, 2020, Governor Gavin Newsom declared a state of emergency to exist in California as a result of COVID-19;

**WHEREAS**, on March 4, 2020, the Chair of the Los Angeles County Board of Supervisors and the Los Angeles County Health Officer declared a local emergency and a local health emergency, respectively, as a result of COVID-19;

**WHEREAS**, on March 12, 2020, Governor Gavin Newsom signed Executive Order N-25-20 giving state and local public health officials the authority to issue guidance limiting or recommending limitations upon attendance at public assemblies, conferences or other mass events;

**WHEREAS**, on March 18, 2020, the City adopted Resolution 7646, declaring a local emergency in response to COVID-19, including adopting regulations restricting private and public facilities and gatherings; and

**WHEREAS**, on March 19, 2020, Los Angeles Public Health officials announced a “Safer at Home” order prohibiting all indoor and outdoor public and private gatherings and events, and requiring that all businesses cease operations and close to the public, which order has been extended through May 15, 2020; and

**WHEREAS**, while planning and building services have been adjusted to remote access, certain inefficiencies in processing development applications have been amplified, and require amendments and clarifications in order to provide immediate benefits in time and cost-savings for applicants and



the City; and

**WHEREAS**, given the sudden and widespread economic downturn affecting businesses, residents and City revenue streams as a result of the spread of COVID-19 and the “Safer at Home” orders, amending the zoning code on an immediate, urgency basis, is necessary to provide immediate time and cost-effective streamlining of planning applications for the benefit of the public health, safety and welfare in the City of South Pasadena; and

**WHEREAS**, on May 6, 2020 the City Council adopted an urgency ordinance, not in conflict with general laws, as necessary to protect public peace, health, and safety, via exercise of the powers provided to cities in Article XI, Section 7, of the California Constitution, and in compliance with Government Code section 36937, and directed staff to bring back an ordinance to replace urgency ordinance for consideration in August 2020 after review by the Planning Commission; and

**WHEREAS**, on May 12, 2020, the adopted Urgency Ordinance was presented to the Planning Commission and no requested changes were received; and

**WHEREAS**, on May 14, 2020, the adopted Urgency Ordinance was presented to the Design Review Board (DRB). Several questions about DRB chair review, DRB Subcommittee, and Hillside Development Permits were asked. Positive feedbacks were provided and no changes were requested; and

**WHEREAS**, On May 21, 2020, the adopted Urgency Ordinance was presented to the Cultural Heritage Commission (CHC) and two changes related to the CHC recommendation of a Certificate of Appropriateness listed below were requested:

1. CHC authority on certification of an Environmental Impact Report for Certificate of Appropriate for project no involving Planning Commission approval.
2. CHC authority to review changes to a project that could affect the historic component of the project after CHC review or if the Planning Commission’s decision could be potentially contradictory to the CHC recommendation.

**WHEREAS**, the City determined that the proposed Zoning Code Amendment qualifies for an exemption from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines § 15061(b)(3), which states the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It may be seen with certainty that there is no possibility this Zoning Code Amendment may have a significant effect on the environment; and

**WHEREAS**, in accordance with state law, on July 3, 2020, City of South Pasadena Planning and Building Department published a legal notice in compliance with South Pasadena Municipal Code Section 36.630.020 concerning the proposed senior housing development project in the *South Pasadena Review*, a local newspaper of general circulation, regarding the City of South Pasadena Planning Commission meeting of July 14, 2020; and

WHEREAS, on July 14, 2020, the Planning Commission conducted a duly noticed public hearing, at which time public testimony was taken concerning the proposed Zoning Code Amendment and considered the proposed Zoning Code Amendment.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF SOUTH PASADENA DOES HEREBY FIND, DETERMINE, AND RESOLVE AS FOLLOWS:

## **SECTION 1: ENVIRONMENTAL REVIEW FINDINGS**

The Planning Commission hereby finds that the proposed Zoning Code Amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines § 15061(b)(3), which states the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It may be seen with certainty that there is no possibility this Zoning Code Amendment may have a significant effect on the environment.

## **SECTION 2: ZONING CODE AMENDMENT FINDINGS**

The Planning Commission hereby finds that the proposed Zoning Code Amendment is consistent with all applicable findings for approval pursuant to South Pasadena Municipal Code Section 36.620.070(B), as follows:

### **1. The proposed amendment is consistent with the actions, goals, objectives, policies, and programs of the General Plan;**

The proposed Zoning Code Amendment could promote the following objectives and policies:

- **Goal 1:** *To manage change and target growth by type and location to better serve community needs and enhance the quality of life.*
- **Policy 1.7:** *Support managed change. Utilize means available to the City - including code enforcement, permit fee waiver, tax abatement, shared parking offsets, and offerings of expedited plan processing - to facilitate change as necessary.*
- **Goal 2:** *To increase city revenues by fostering commercial development.*
- **Policy 2.2:** *Promote the adaptive reuse of existing structures in the community where land use changes are occurring.*
- **Goal 6:** *To promote and enhance South Pasadena's image as being desirable location for business.*
- **Policy 6.3:** *Provide incentives to investors.*
- **Goal 1.0:** *Conserve the Existing Supply of Affordable Housing*
- **Objective:** *To maintain and enhance the quality of existing residential housing and neighborhoods in South Pasadena.*

The proposed Zoning Code Amendment is consistent with the goals/objectives and policies in the General Plan as it will remove consistency within the Zoning Code and streamline the review process to encourage maintenance and restoration of existing housing stocks and promote commercial revitalization and economic development.

**2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City;**

The Zoning Code Amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City as the changes are limited to clarifying and removing existing inconsistencies and creating a process to promote maintenance of existing structures and limited expansion to existing structures.

For example, the Director Approval process allows the Planning Director to approve proposed exterior changes that are not visible to the public such as windows and doors changes addition to the back of the house that requires little or no discretion. The DRB Chair review process allows the Chair to approve exterior changes on the second floor that do not change the architectural character of house such as replacing existing siding or addition of less than 500 square feet that would not be visible to the public. The DRB Subcommittee will be an extra layer of oversight for large project that do not go to DRB for review.

**3. The proposed amendment is internally consistent with other applicable provisions of this Zoning Code;**

As stated in Finding 2 above, the proposed Zoning Code Amendment includes changes that are limited to clarifying and removing existing inconsistencies and creating a process to promote maintenance of existing structures and limited expansion to existing structures. The changes also include codifying existing processes intended to continue that were in place to address inconsistencies in the Code.

**SECTION 3: RECORD OF PROCEEDING**

The documents and other materials that constitute the record of the proceedings upon which the Planning Commission's decision is based, which include, but are not limited to, the environmental documents, staff reports, as well as all materials that support the staff reports for the proposed project, and are located in the Planning and Building Department of the City of South Pasadena at 1414 Mission Street, South Pasadena, CA 91030. The custodian of these documents is the City Clerk of the City of South Pasadena.

**SECTION 4. DETERMINATION**

Based upon the findings outlined in Sections 1 through 3 above, the Planning Commission of the City of South Pasadena hereby recommend that the City Council approve the proposed Zoning Code Amendment by amending South Pasadena Municipal Code (SPMC) Chapter 36 (Zoning) - Sections 36.400.020 (Authority of Land Use and Zoning Decisions), 36.400.040 (Application Preparation and Filing), 36.410.040 (Design Review), 36.410.060 (Conditional Use Permits and Administrative Use Permits), 36.410.065 (Hillside Development Permits), 36.420.020 (Time Limits and Extensions), 36.600.050 (Design Review Board), 36.610.050 (Applying, Filing,

Processing and Decisions), 36.630.020 (Notice of Hearing), 36.630.040 (Review Authority Decision and Notice), and 36.630.050 (Recommendation by Planning Commission), hereto attached as Exhibit “A”.

## **SECTION 5: CERTIFICATION OF THE RESOLUTION**

The Secretary shall certify that the foregoing Resolution was adopted by the Planning Commission of the City of South Pasadena at a duly noticed regular meeting held on the 14<sup>th</sup> day of July 2020.

**PASSED, APPROVED, AND ADOPTED** this 14<sup>th</sup> day of July 2020 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Janet Braun, Chair

**ATTEST:**

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Lisa Padilla, Secretary to the Planning Commission

**APPROVED AS TO FORM:**

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Teresa L. Highsmith, City Attorney

**Exhibit “A”**

Proposed Zoning Code Amendment Sections

## Division 36.340. Hillside Protection

Sections:

- 36.340.010 Purpose of Division.
- 36.340.020 Applicability.
- 36.340.030 Permit and Application Requirements.
- 36.340.040 Hillside Development Design Guidelines.
- 36.340.050 Hillside Project Development Standards.

### 36.340.010 Purpose of Division.

The standards of this Division are intended to:

- A. Preserve the City's scenic resources by encouraging retention of natural topographic features and vegetation;
- B. Acknowledge that as the slope of a development site increases so does the potential for environmental degradation including slope failure, increased erosion, sedimentation and stormwater run-off; and
- C. Encourage grading practices that are appropriate in hillside areas; and
- D. Encourage structures on hillside parcels to be designed with scale, massing, architectural design and detailing appropriate to maintain hillsides in a natural, open character.

(Ord. No. 2108 § 1.)

### 36.340.020 Applicability.

- A. Sloping sites. The standards in this Division apply to subdivisions, uses, structures, and to all other development on sites with an average of slope of 20 percent or greater.
- B. Exceptions. The provisions of Section 36.340.050 (Hillside Project Development Standards) shall not apply to parcels within the AM (Altos de Monterey) overlay zone, which are instead subject to the requirements of Section 36.250.030 (Altos de Monterey (AM) Overlay District).
- C. Determination of average slope. Average slope shall be determined by applying the following formula.

$$\text{Average Slope Formula: } S = \frac{100 (I \times L)}{A}$$

Where:

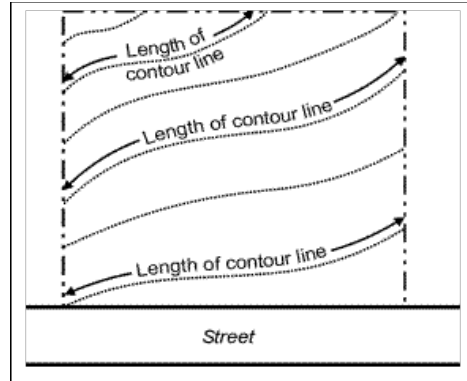
S = Average natural slope in percent.

I = Contour interval in feet, at not more than 10 foot intervals, resulting in at least five contour lines being shown on the contour map.

L = The sum of the length of all the contour lines across the parcel in scale feet. See Figure 3-25.

A = The gross area of the building site in square feet.





**Figure 3-25.** Measurement of Contour Line Length to Determine “L” in Slope Formula

- D. Guest parking spaces. Section 36.340.050H applies only to properties located on the following streets in the Southwest Monterey Hills area of the city: Hanscom Drive, Peterson Avenue, Illinois Drive, Hill Drive, Harriman Avenue, Randolph Avenue, Hulbert Avenue, Elkins Street, Moffatt Street.

(Ord. No. 2108 § 1 Ord. No. 2166, § 1, 2007.)

### **36.340.030 Permit and Application Requirements.**

Development that is subject to this Division shall require a Hillside Development Permit (Section 36.410.065) and Design Review (Section 36.410.040). The application shall include:

- A. Basic application contents. All information and materials required by Section 36.400.040 (Application Preparation and Filing), and all additional materials required by the application contents handout provided by the Department for hillside development; and
- B. Geotechnical report. A preliminary geotechnical report that identifies and proposes mitigation measures for any soils or geological problems that may affect site stability or structural integrity. Depending upon the site characteristics and project design, a final geotechnical report may also be required as part of a subsequent Building Permit application.
- C. Constraints analysis. For properties that have sensitive environmental resources including endangered plants and animals, or a wildlife corridor designated by the City, a qualified professional approved by the Director shall prepare a site constraints analysis in compliance with Section 36.380.030. The report shall include proposed mitigation measures to effectively protect important biological features identified.

(Ord. No. 2108 § 1; Ord. No. 2183 § 15, 2009.)

### **36.340.040 Hillside Development Design Guidelines.**

Proposed hillside development should satisfy as many of the following objectives as feasible, as determined through the Design Review process.

- A. Terrain alteration. The project should be designed to fit the terrain rather than altering the terrain to fit the project. Development patterns that form visually protruding horizontal bands or steeply cut slopes for roads or lots shall be avoided. Large-scale slope terracing, cribwalls, or significant slope modification is discouraged. Where alteration of the terrain is necessary, contour grading techniques should be utilized to help achieve a natural appearing slope. (See Section 36.340.050.F and Figure 3-33.)
- B. Street layout. Any new streets should follow the natural contours of the terrain to minimize the need for grading. Cul-de-sacs and loop roads are encouraged where necessary to fit the natural topography, subject to the approval of the City Engineer and Fire Chief.
- C. Location of structures. Structures should be located in the most accessible, least visually prominent, and most geologically stable portion or portions of the site. They should also be oriented with the natural contours of the

site. Siting structures in the least visually prominent locations is especially important on open hillsides where the prominence of construction should be minimized by placing structures so that they will be screened by existing vegetation, depressions in topography, or other natural features.

D. Site layout and structure design. Building and site design should utilize varying setbacks and structure heights, split-level foundations, and low retaining walls to blend structures into the terrain.

E. Architectural design.

1. Form. Building forms should complement the character of the hillsides and avoid massive structures that dominate views of the hills.
2. Scale and windows—Infill lots. The scale of homes proposed on infill lots should be compatible with buildings on adjacent parcels. Where feasible, windows, balconies, and outdoor living areas should be located to protect the privacy of adjacent homes and yards.
3. Exterior wall surfaces. The apparent size of exterior wall surfaces visible from off the site should be minimized through the use of single story elements, setbacks, overhangs, roof pitches, landscaping, and/or other means of horizontal and vertical articulation to create changing shadow lines and break up massive forms.
4. Roofs. Roof pitches should generally be placed to follow the angle of the slope; but with variations to avoid a monotonous appearance. See Figure 3-26.

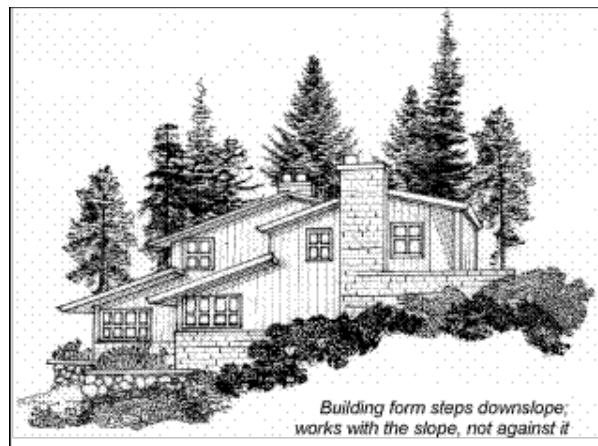


Figure 3-26. Design Sensitive to Terrain

Note: This diagram is intended to provide an example of building form, and is not intended to show a preferred architectural style.

5. Support structures. Support structures (for example, columns, pilings, etc.) below the lowest floor on the downhill side of a house, should be enclosed unless visible structural members are an integral feature of the architectural design. Support structure wall surfaces shall not exceed six feet in height.
- F. View protection. New construction should not block views from other properties.
1. Where feasible, new structures and tall landscaping should not be placed directly in the view of the primary living areas on a neighboring parcel.
  2. New structures should be placed on the lower areas of a hillside site.

3. Mechanical equipment may be placed on rooftops or below a deck only if the equipment is not visible from off the site, except for unobtrusive solar collectors that are compatible with the roof line and architecturally integrated with the structure.

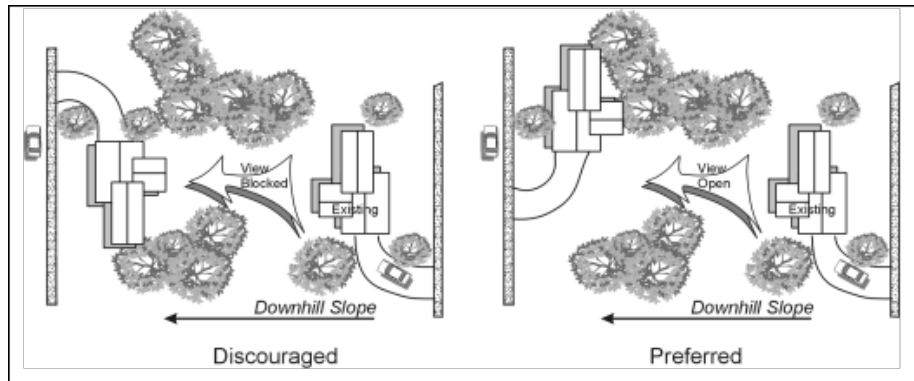


Figure 3-27. View Protection

- G. Colors and materials. A mixture of materials, color, and forms should be used to blend structures with the natural appearance of the hillsides:
  1. Based upon the graphic principle that dark colors are less noticeable than light colors, darker tones, including earth tones should be used for building walls and roofs on highly-visible sites so that buildings appear to blend in with the natural terrain.
  2. Surface materials should be appropriate for the architectural style of the structure and compatible with the hillside environment.
- H. Exterior lighting. Night views of the hillsides should not be dominated by bright lights. Lighting within high-visibility areas should be properly shielded to avoid glare and the spill of light to surrounding areas. Low-level lighting and the use of multiple low profile fixtures is encouraged, as opposed to the use of fewer, but taller fixtures.
- I. Retaining walls. Large retaining walls in a uniform plane shall be avoided. Retaining walls shall be divided into terraces with variations in plane and include landscaping to break up the length of walls and to screen them from view. No retaining wall shall be higher than six feet, and should incorporate a three foot recessed offset feature every 30 feet, or other methods of articulation. Retaining walls more than three feet high that are visible from off the site should be screened with landscaping. See Figure 3-28.

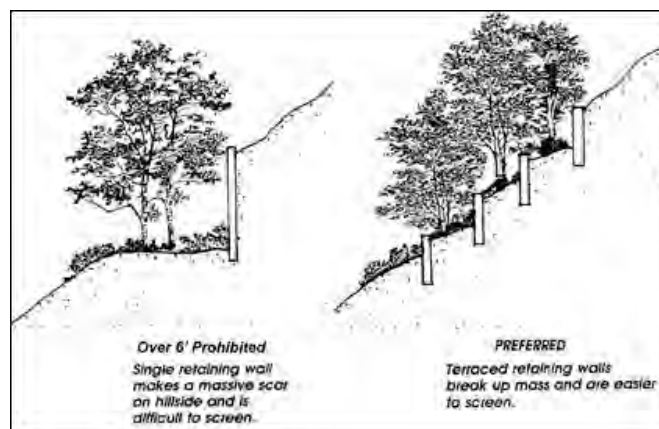


Figure 3-28. Retaining Wall Design

(Ord. No. 2108 § 1.)

**36.340.050 Hillside Project Development Standards.**

A. Setbacks. Hillside developments shall comply with the following setback requirements, and with the limitations on the allowable uses of setbacks in Section 36.300.030.E.3.

TABLE 3-10. HILLSIDE SETBACKS	
Property Setback	Setback Distance
Front	10 ft.
Side	10% of width, minimum 4 ft., maximum 10 ft.
Corner Side	10% of width, minimum 10 ft., maximum 15 ft.
Ridgeline (1)	50 vertical feet from ridgeline. Also see 36.340.050.C, and Figure 3-31.
Notes: (1) New structures or additions are prohibited within 50 feet of a ridgeline unless this restriction precludes development of the property. An exception may be granted if the review authority finds the following: a. There are no site development alternatives that avoid ridgeline development; b. The density has been reduced to the minimum standards consistent with the General Plan density range; c. No new subdivision of parcels is created that will result in ridgeline development; and d. The proposed development will not have significant adverse visual impacts due to modifications in structural design including height, bulk, size, foundation, siting, and landscaping that avoid or minimize the visual impacts of the development.	

B. Setbacks between structures and toes/tops of slopes. On adjacent lots having a difference in vertical elevation of three feet or more, the required side yard shall be measured from the nearest toe or top of slope to the structure, whichever is closer. See Figure 3-29.

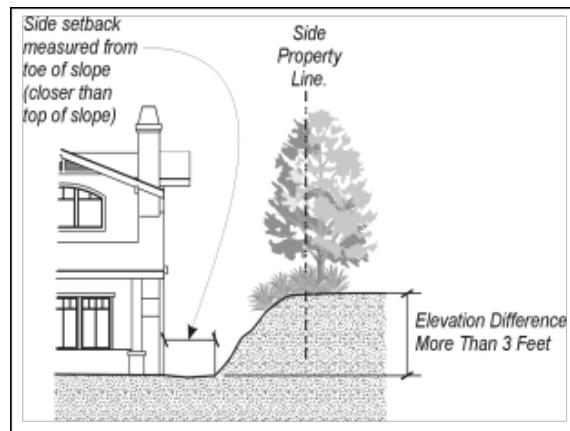


Figure 3-29. Side Setback Measurement

C. Height limitations. The maximum height for structures with a roof pitch of 3:12 or greater shall be 28 feet. If a roof pitch is less than 3:12, the maximum height shall be 24 feet.

1. Siting restrictions. Structures shall not be placed so that they appear silhouetted against the sky when viewed from a public street, except where the review authority determines that the only feasible building site cannot comply with this standard. See Figure 3-30.

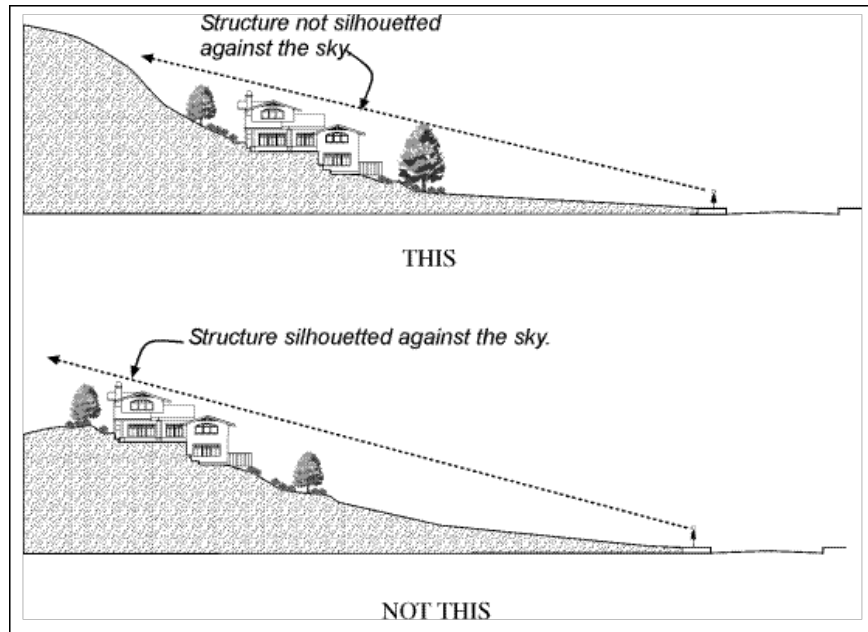


Figure 3-30. Silhouetted Structures

2. Placement below ridgeline. Except as provided by Subsection C.3, structures shall be located so that a vertical separation of at least 50 feet is provided between the top of the structure and the top of the ridge or knoll to maintain the natural appearance of the ridge. Grading should also be avoided within 50 vertical feet of the top of a ridge or knoll. Placement of structures should also take advantage of existing vegetation for screening, and should include the installation of additional native plant materials to augment existing vegetation, where appropriate. See Figure 3-31.

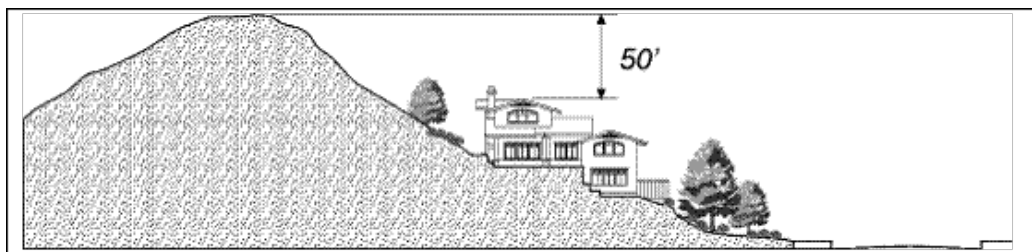


Figure 3-31. Location of Structures Below Ridgelines

3. Height limit above ridgeline. Where the review authority determines that a parcel contains no feasible building site other than where a structure will extend above the ridgeline, proposed structures shall not exceed a height of 16 feet above the highest point on the ridgeline or hilltop within 100 feet of the proposed structure.
4. 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.
5. Downhill building walls. No single building wall on the downhill side of a house shall exceed 15 feet in height above grade. Additional building height on a downhill side may be allowed in 15-foot increments, where each increment is stepped-back from the lower wall a minimum of 10 feet (see Figure 3-32).

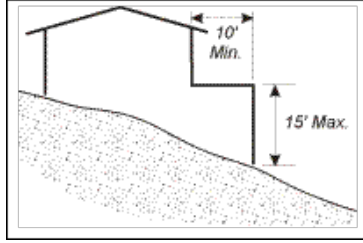


Figure 3-32. Height Limit for Downhill Building Walls

- D. Decks. No portion of the walking surface of a deck with visible underpinnings shall exceed a height of six feet above grade. Decks should be integrated into the architecture of the house, not appearing as an “add-on” to the primary building mass.
- E. Driveways. The ramp to any garage or carport shall not have a grade steeper than five percent within 10 feet of the garage or carport entry. The finished grade of driveways shall not exceed an average of 15 percent.
- F. Natural state. A minimum of 25 percent of the lot area plus the percentage figure of the average slope must be remediated to its natural state in terms of slope and vegetation.
- G. Grading. Grading plans shall be prepared in compliance with the Municipal Code, and the General Plan. Grading on slopes over 30 percent shall be permitted when sufficient technical information has been provided to support the determination that such development would have no negative impacts on the subject property, adjacent properties, or on the safety and welfare of the public. Grading shall utilize landform grading techniques. See Figure 3-33.

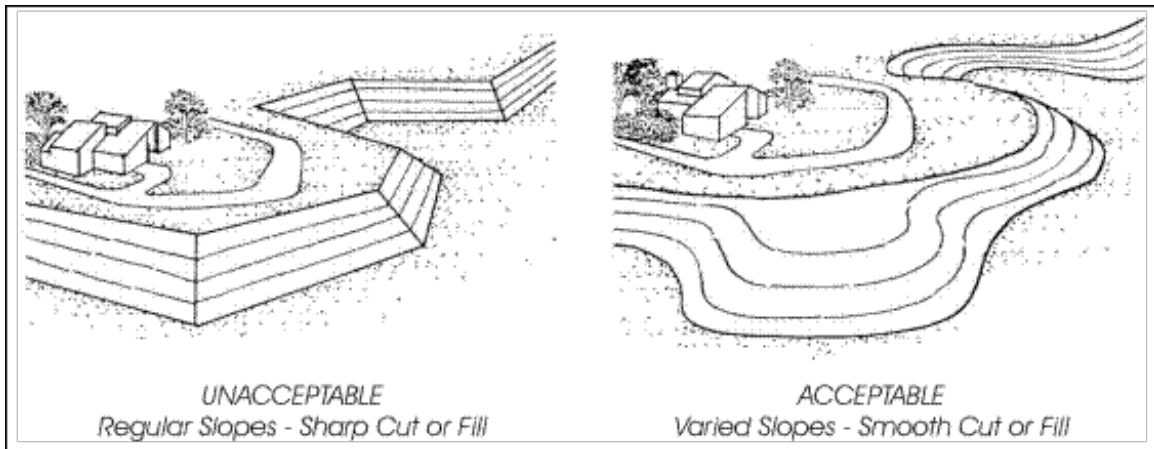


Figure 3-33. Appropriate Grading

- H. Southwest Monterey Hills guest parking spaces. The following guest parking space standards apply only to hillside properties (as defined in Section 36.340.020A) in the Southwest Monterey Hills area as defined by Section 36.340.020D.
  - 1. Required off-street guest parking spaces shall be provided in accordance with Section 36.310.040, Table 3-6 (Parking Requirements by Land Use). An application for a new house, or addition to an existing house that lacks the required off-street parking, shall provide details on the location and dimensions of required guest parking space/s, which shall be located perpendicular (or as close as possible to 90 degrees) to the right-of-way, and within or partially within the required front setback. If physical constraints preclude this location, the applicant shall provide written documentation of these constraints and provide the required off-street guest parking in the following order of preference:

- a. Parallel to the street and at least 10 feet wide by 24 feet deep. Access to a parallel parking space shall not be impeded by landscaping, trees, retaining walls, fences, the alignment of the right-of-way, or any other obstacle. Clear access shall be permanently retained; or
  - b. Other locations as approved by the Director. (The onus is placed on the applicant to demonstrate to the satisfaction of the Director that such a location will be functional and allow vehicles to be parked with no portion encroaching into the right-of-way.)
2. Paving limits. Front yard paving limits as listed in Section 36.300.030E.3.c (Setback Measurement and Exceptions) shall be observed, except when the required guest parking space/s can only be located in the front yard.
3. Slope. The slope of uncovered parking space/s shall comply with the standards in Sections 36.310.080G.2 (Parking Design Standards) and 36.340.050E (Hillside Project Development Standards).
4. Dimensions. Uncovered perpendicular spaces shall be at least 9 feet wide by 18 feet deep. Uncovered parallel spaces shall be at least 10 feet wide by 24 feet deep.
5. Allowable materials. Parking space materials shall conform to the standards listed in 36.310.090C.2 (Driveways and Site Access).

(Ord. No. 2108 § 1; Ord. No. 2166, 2007.)



**Division 36.400. Application Filing and Processing**

Sections:

- 36.400.010 Purpose of Division.
- 36.400.020 Authority for Land Use and Zoning Decisions.
- 36.400.030 Concurrent Permit Processing.
- 36.400.040 Application Preparation and Filing.
- 36.400.050 Application Fees.
- 36.400.060 Application Review.
- 36.400.070 Environmental Assessment.

**36.400.010 Purpose of Division.**

This Division provides procedures and requirements for the preparation, filing, and processing of applications for the zoning approvals (e.g., Administrative Modifications, Conditional Use Permits, Home Occupation Permits, Temporary Use Permits, Variances, etc.) required by this Zoning Code.

(Ord. No. 2108 § 1.)

**36.400.020 Authority for Land Use and Zoning Decisions.**

Table 4-1 (Review Authority) identifies the City official or body responsible for reviewing and making decisions on each type of application, land use permit, and other approvals required by this Zoning Code.

<b>TABLE 4-1. REVIEW AUTHORITY</b>						
<b>Type of Decision</b>	<b>Procedure is in Section:</b>	<b>Role of Review Authority (1)</b>				
		<b>Director</b>	<b>DRB (2)</b>	<b>CHC (3)</b>	<b>Planning Commission</b>	<b>City Council</b>
Affordable Housing Review	36.370				Decision	Appeal
Density Bonus Review	36.370	Decision				
Development Agreement	36.430				Recommend	Decision
General Plan amendment	36.620				Recommend	Decision
Zoning Code Interpretation	36.110	Decision (4)			Appeal	Appeal
Specific Plan	36.440				Recommend	Decision
Zoning Map amendment	36.620				Recommend	Decision
Zoning Text amendment	36.620				Recommend	Decision
Administrative Modification	36.410.070	Decision (4)			Appeal	Appeal
Administrative Use Permit	36.410.060	Decision (4)			Appeal	Appeal
Certificate of Appropriateness	See Municipal Code			Decision (9)		Appeal
Conditional Use Permit	36.410.060				Decision	Appeal
EIR Certification	36.400.070			Certify (5)	Certify (5)	Certify (5)
Emergency Shelters	36.350.250	Decision				
Hillside Development Permit – New structures	36.410.065				Decision	Appeal

**TABLE 4-1. REVIEW AUTHORITY**

Type of Decision	Procedure is in Section:	Role of Review Authority (1)				
		Director	DRB (2)	CHC (3)	Planning Commission	City Council
Minor Hillside Development Permit – Modifications to existing structures	36.410.065		Decision		Appeal	Appeal
Home Occupation Permit	36.410.030	Issued				
Valet Parking Use Permit	36.310.111				Decision	Appeal
Parking Use Permit	36.410.090	Decision			Appeal	Appeal
Planned Development Permit	36.410.100				Decision	Appeal
Planning Clearance	36.410.020	Issued				
Reasonable Accommodation	36.400.110	Decision			Appeal	Appeal
Sign Permit	36.320		Decision		Appeal	Appeal
Single Room Occupancy	36.350.260	Decision				
Temporary Use Permit	36.410.050	Issued				
Variance	36.410.080				Decision	Appeal
Design Review (6)	36.410.040		Decision		Appeal	Appeal
Design Review for Mixed-Use or Multi-Family of 7 dwelling units or more, or Not-Exempt from CEQA (7)	36.410.040		Subcommittee (10)		Decision	Appeal
Minor Design Review	36.410.040	Decision (8)			Appeal	Appeal

Notes:

(1) “Recommend” means that the review authority makes a recommendation to a higher decision-making body; “Decision” means that the review authority makes the final decision on the matter; “Appeal” means that the review authority may consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with Division 36.610 (Appeals); and “Issued” means the nondiscretionary permit shall be granted by the Director.

(2) “DRB” means the Design Review Board. (See Section 36.410.040.)

(3) “CHC” means the Cultural Heritage Commission. (See Municipal Code.)

(4) The Director may defer action on zoning approval applications and refer the items to the Commission for the final decision. In a similar manner, the Director may defer action on a Design Review application and refer the item to the DRB for the final decision.

(5) The Commission shall certify the Environmental Impact Report, except in those instances where the Council has final review authority for the application.

(6) Design Review of all structures is required pursuant to Section 36.410.040.

(7) CEQA means the California Environmental Quality Act.

(8) Decision is by the Planning Director or Chair of the Design Review Board

(9) If a Certificate of Appropriateness is associated with an application requiring approval by the Planning Commission, the Cultural Heritage Commission shall be the recommending body for the Certificate of Appropriateness to the Planning Commission (see Section 36.400.030).

(10) A subcommittee (two members) of the Design Review Board shall work with staff in reviewing the design component of the project.

(Ord. No. 2108 § 1; Ord. No. 2183 § 18, 2009; Ord. No. 2185 § 1, 2009; Ord. No. 2246 § 5, 2013; Ord. No. 2248 § 3, 2013; Ord. No. 2251 § 8, 2013; Ord. No. 2252 § 3, 2013; Ord. No. 2253 § 4, 2013; Ord. No. 2297 § 3, 2016.)

## **36.400.030 Concurrent Zoning Approval Processing.**

When a single project incorporates different land uses or features so that this Zoning Code requires more than one zoning approval, the Director may determine that all of the applications should be reviewed, and approved or disapproved, by the highest level review authority identified by Table 4-1 as having authority over the separate approvals required. This action shall not be interpreted as bypassing the applicable review authority identified by Table 4-1, but rather to have their action take the form of a recommendation to the highest level of review authority identified by Table 4-1. (For example, a project that requires a Zoning Map amendment and a Conditional Use Permit should be reviewed and approved by the Council, where a Conditional Use Permit application by itself may be reviewed and acted upon by the Commission.)

**A. Certificate of Appropriateness.** If a Certificate of Appropriateness is associated with an application requiring approval by the Planning Commission, the Cultural Heritage Commission shall be the recommending body for the Certificate of Appropriateness to the Planning Commission. The Planning Commission's decision shall not be contradictory to the Cultural Heritage Commission's recommendation. If during the review of the project, the Planning Commission decision could potentially be contradictory to the Cultural Heritage Commission's recommendation, could result in changes to the project that could affect the historic component of the project, or the applicant requested changes that could affect the historic component, the Planning Commission shall take one of the following actions:

1. Refer the project back to the Cultural Heritage Commission for reconsideration; or
2. Conduct a joint meeting of the Planning Commission and the Cultural Heritage Commission to consider the changes to the project that could affect the historic component of the project.

(Ord. No. 2108 § 1.)

## **36.400.040 Application Preparation and Filing.**

The preparation and filing of applications for zoning approvals, amendments (e.g., General Plan, Zoning Code, Zoning Map, and specific plan), and other matters pertaining to this Zoning Code shall comply with the following requirements.

### **A. Pre-application review.**

1. A prospective applicant or agent is strongly encouraged to request a pre-application review with the Department before completion of project design and the formal submittal of a zoning approval application.
  - a. If the project is for development on slopes greater than 30%, a pre-application review is required prior to applying for the Hillside Development Permit.
2. A pre-application review, accompanied by preliminary project plans and designs and the required filing fee, will be reviewed by affected City departments and other selected agencies.
3. The reviewing City staff members will inform the applicant of requirements as they apply to the proposed project, provide a preliminary list of issues that will likely be of concern during formal application review, suggest possible alternatives or modifications to the project, and identify any technical studies that may be necessary for the environmental review process when a formal application is filed.
4. Neither the pre-application review nor information and/or pertinent policies provided by the Department shall be construed as a Department recommendation for approval or disapproval of the application or project.

**B. Application contents and fee.** Applications shall include the forms provided by the Department, and all information and materials required by the application content requirements handout provided by the Department for the specific type of application (e.g., Conditional Use Permit, Variance, or others), and the filing fee required by the Council's Fee Resolution.

**C. Eligibility, filing.** All zoning approval and other applications required by this Zoning Code shall be filed with the Department. Applications may be made by:

1. The owner of the subject property; or
2. Any agent or representative, with the written consent of the property owner.

- D. Filing date.** The filing date of an application shall be the date on which the Department receives the last submission, map, plan, or other material required as a part of that application by Subsection A., in compliance with Section 36.400.060 (Application Review) and deemed complete by the Director.

(Ord. No. 2108 § 1.)

### **36.400.050 Application Fees.**

- A. Filing fees required.** The Council shall, by resolution, establish a schedule of fees for amendments, zoning approvals, and other matters pertaining to this Code, referred to as the Council's Fee Resolution. The schedule of fees may be changed from time to time only by resolution of the Council.
- B. Fee waivers.** The Council may waive any of the fees required by the Council's Fee Resolution for sufficient cause being demonstrated by the applicant. The determination of what shall constitute "sufficient cause" shall be at the discretion of the Council.
- C. Refunds and withdrawals.**
1. Recognizing that filing fees are utilized to cover City costs of public hearings, mailing, posting, transcripts, and staff time involved in processing applications, no refunds due to a disapproval of an application are allowed.
  2. In the case of an application withdrawal, the Director may authorize a partial refund based upon the pro-rated costs to-date and determination of the status of the application at the time of withdrawal.

(Ord. No. 2108 § 1.)

### **36.400.060 Application Review.**

All applications filed with the Department in compliance with this Zoning Code shall be initially processed as follows.

- A. Completeness review.** No application will be scheduled for review until deemed complete in compliance with the following requirements.
1. Notification of applicant. The applicant shall be informed in writing within 30 days of submittal, either that the application is complete and has been accepted for processing, or that the application is incomplete and that additional information, specified in the letter, shall be provided. All additional information needed shall be identified in the letter providing notice of an incomplete application.
  2. Environmental information. The Director may require the applicant to submit additional information needed for the environmental review of the project in compliance with Section 36.400.070 (Environmental Assessment), below.
  3. Second notification. If no response to the first letter is received by the Director within 30 days, a second letter shall be sent to the applicant giving an additional 30 days in which to provide the information specified in the first letter.
  4. Withdrawal of application. The Director may deem the application withdrawn if the specified information is not provided within 30 days from the date of the second letter, unless, at a minimum, the applicant submits a letter requesting a mutually agreed upon appointment with the Director to discuss the establishment of a schedule for submittal of the specified information. Application processing shall not resume thereafter until a new application is filed, including fees, plans, exhibits, and other materials that are required for any project on the same site.
  5. Criteria for acceptance. An application shall not be accepted as complete unless or until the Director determines that it:
    - a. Includes all information and materials required by Section 36.400.040.B (Application contents and fees);
    - b. Includes any other technical studies or supplemental information deemed necessary by the Director; and
    - c. Is accompanied by the application fee, or a deposit if appropriate, in compliance with the Council's Fee Resolution.

- B. **Referral of application.** At the discretion of the Director, or where otherwise required by this Zoning Code, State, or Federal law, any application filed in compliance with this Zoning Code may be referred to any public agency that may be affected by or have an interest in the proposed land use activity.

(Ord. No. 2108 § 1.)

**36.400.070 Environmental Assessment.**

After acceptance of a complete application, the project shall be reviewed as required by the California Environmental Quality Act (CEQA) and the South Pasadena Environmental Review Guidelines.

(Ord. No. 2108 § 1.)

## 36.410.040 Design Review.

**A. Purpose.** This Section establishes procedures for the City's review of the design aspects of proposed development (for example, building design, landscaping, site planning and development, and signs). These procedures are not intended to restrict imagination, innovation, or variety in design, but rather to focus on design issues and solutions that will have the greatest effect on community character and aesthetics, to encourage imaginative solutions and high-quality urban design. The purposes of this Section are to:

1. Recognize the interdependence of land values and aesthetics and encourage the varied, yet orderly and harmonious appearance of:
  - a. Most publicly perceived structures and property within South Pasadena; and
  - b. Associated facilities (e.g., landscaping, open space areas, parking, and signs);
2. Ensure that new uses and structures enhance their sites and are compatible with the highest standards of improvement in the surrounding neighborhoods;
3. Better protect the increasing values, standards, and importance of land and development in the community;
4. Retain and strengthen the visual quality of the community;
5. Assist project developers in understanding the public's concerns for the aesthetics of development;
6. Ensure that development complies with all applicable City standards and design guidelines, and does not result in an adverse affect on the City's aesthetics, architectural, health, and safety related qualities of adjoining properties or upon the City in general; and
7. Foster attainment of the actions, goals, objectives, policies, and programs of the General Plan and any applicable specific plan by preserving the particular character and unique assets of South Pasadena.

## **B. Applicability.**

1. **Required review.** The exterior impacts of all projects within the following categories are subject to Design Review.
  - a. Residential development. Any single-family and multi-family residential project that requires a Building Permit for any exterior construction or modification.
  - b. Commercial and industrial development. Any project involving the construction of, or exterior change to, any structure, landscaping, or permanent signs on a parcel or lot zoned commercial and/or industrial.
2. **Exemption from review.** All projects within the following categories shall be exempt from the provisions of this Section.
  - a. All construction, work, or labor on structures or for replacement or repair, which uses the same materials and colors and which does not alter the design of the structure, including re-roofing of like-for-like material and where no structural modifications are required;
  - b. Emergency shelters;
  - c. Single room occupancy;

## **C. Application filing and processing.**

1. **Submittal requirements.** Application for consideration of Design Review shall be made to the Planning Director on the application form provided by Planning Division, shall be accompanied by the required filing fee, and shall include such information and documents required in the Design Review Submittal Checklist form provided by the Planning Director.

2. **Retention of materials.** All application materials shall be retained by the City to ensure full compliance with all formal Design Review decisions.

## **D. Design Review Authority.**

1. **Planning Commission review.** The Planning Commission will be responsible for the Design Review of the following developments:
  - a. As identified in Subsection B (Applicability) of this Section, all developments which require a Hillside Development Permit, a Conditional Use Permit, a Variance, a Planned Development Permit;
  - b. Multi-family developments containing seven or more units;
  - c. Multi-family developments containing six or fewer units not exempt from CEQA; or
  - d. Any other application in which the Planning Commission is the Review Authority.
2. **Cultural Heritage Commission (CHC) review.** The CHC will be responsible for the Design Review of the following:
  - a. All of the developments identified in Subsection B (Applicability) of this Section, which require a Certificate of Appropriateness as required by Chapter 2.58A (Cultural Heritage Commission) of the Municipal Code;
  - b. All properties within a designated historic district;
  - c. Where a proposed project is subject to a Certificate of Appropriateness from the CHC and also requires an application in which the Planning Commission is the Review Authority, the CHC shall review the Certificate of Appropriateness and provide recommendations to the Planning Commission for the Certificate of Appropriateness and may also provide recommendations on the portion of the application in which the Planning Commission is the Review Authority.
3. **DRB review.** The DRB will be responsible for the Design Review of all of the developments identified in Subsection B (Applicability) of this Section, which are not subject to Design Review by the Planning Commission, CHC, DRB Chair, or Planning Director as specified in SPMC Section 36.410.040.
  - a. A subcommittee consisting of two members of the Design Review Board shall be formed to work with staff for the Design Review of Mixed-Use or Multi-Family of seven (7) dwelling units or more, or not-exempted from CEQA, as listed in Table 4-1 (Review Authority).
4. **DRB Chair review.** DRB Chair shall be responsible for Minor Design Review for projects that do not change the architectural design style of existing structures. These projects are as follows:
  - a. Exterior modifications to all elevations of existing structures that would not change the architectural design style of the structures. This includes elevations that are visible to the street and/or above the first floor. Exterior modifications include new and different siding materials, new windows, new roofing materials, and replacement of existing front porch posts, balcony railing, and other similar changes as determined by the Planning Director and/or DRB Chair to not change the architectural design style of the existing structures.
  - b. Additions of no more than 500 square feet in area, or more than 25 percent of the existing structure, whichever is less, for an outdoor structure or a habitable space that is not visible to street. Such additions are allowed above the first floor as long as they are not visible to the street, and do not exceed the height of the existing structure.
  - c. Subject to a Certificate of Appropriateness from the Cultural Heritage Commission in accordance with Sections 2.58 through 2.68 of the South Pasadena Municipal Code.
  - d. Not subject to Planning Commission review in accordance with this Division and Division 36.340 (Hillside Protection).



5. **Planning Director.** The Planning Director shall be responsible for Minor Design Review for projects that involve minor modifications or additions to only the first floor of an existing structure, are not visible to the street, and does not change the architectural design style of the structures. These minor projects are as follows:

- a. Exterior modifications to existing structures that are not visible from the street or prominently visible to any adjoining properties, and not above the first floor of the structure. Exterior modifications include new siding materials, windows, and new roofing materials.
- b. Additions of no more than 500 square feet in area, or no more than 25 percent of the existing structure, whichever is less for an outdoor structure or a habitable space that is not visible to the street or not above the first floor, except for development subject to a Minor Hillside Development Permit.
- c. Modifications to existing graded and/or improved outdoor areas on a property subject to Division 36.340 (Hillside Protection), such as installation of an in-ground swimming pool, spa, patio covers, accessory structures less than 500 square feet, and similar feature not visible to the street.
- d. Not subject to a Certificate of Appropriateness from the Cultural Heritage Commission in accordance with Sections 2.58 through 2.68 of the South Pasadena Municipal Code.
- e. Not on a hillside area with a slope of 30% or greater in accordance with Division 36.340 (Hillside Protection) of the South Pasadena Municipal Code.

**E. Preliminary Review.** Applicants are encouraged to consult with the City's planning staff as early as possible in the formulation of a schematic design. At the City's discretion, a preliminary review may be required to determine the level of information to be required from the applicant for Design Review. No final or binding decisions shall result at the preliminary review stage.

**F. Scheduling of Design Review.**

1. **Design Review.** Once an application is deemed complete, the Director shall schedule an application for Design Review at the earliest available date following the required public notice period, concurrently with any Zoning Approval applications that may be required.
2. **Minor Design Review.** Minor Design Review by the DRB Chair or Planning Director shall be considered administratively without conducting a public hearing or providing public notice prior to taking action.

**G. Public notice.** Not less than 10 days before the hearing, the City shall give notice to the applicant, to owners of the subject property, to site occupants if the owner does not occupy the property, in compliance with Division 36.630 (Public Hearings), for all Design Review, with the exception of Minor Design Review, as follows:

1. **300-foot radius notice.** The following projects shall require that all owners of real property as shown on the County's latest equalized assessment roll and all legal occupants located within a 300-foot-radius of the proposed project received public notification of the hearing. The 300-foot radius shall be measured from the exterior boundaries of the subject parcel to the exterior boundaries of neighboring parcels within the 300-foot radius, without reference to structures existing on the parcels.
  - a. Any project in which Design Review will occur as part of a Zoning Approval for which the Planning Commission or Design Review Board is the designated Review Authority;
  - b. Any project in which Design Review will occur as part of a Zoning Approval for which the Cultural Heritage Commission is the designated Review Authority;
  - c. Any demolition of an existing structure that does not qualify for Minor Design Review;
  - d. The construction of a new house or non-residential structures;
  - e. A change from the existing architectural design (e.g., replacement of all existing windows with a different window style, removal and replacement of all existing exterior with different materials, a roof reconfiguration, or similar construction which alters the existing style);

f. An additional story to an existing structure;

g. Additions that are not subject to Minor Design Review.

2. Designated historic districts. In addition to the public noticing requirements of Subsection (G)(1), when a project is located within a designated historic district the City shall give notice to all properties within the historic district.

**H. Design Review action.** The following actions may be taken relating to any application in compliance with this Section.

1. Approval or disapproval. The Review Authority may approve or disapprove an application. Application approval may be subject to conditions as may be deemed reasonable and necessary to ensure that the findings required by Subsection (I) (Required findings), and all City development standards are met.

2. Continuance. The Review Authority may continue consideration of an application for a period of time not to exceed 90 days. The Director may extend this period to a total of 120 days, if the applicant has made material progress and can show good cause for the extension. Should the DRB not take an affirmative action, the matter shall automatically be referred to the Planning Commission.

**I. Required findings.** In order to approve a Design Review application, the Review Authority shall first find that the design and layout of the proposed development:

1. Is consistent with the General Plan, any adopted design guidelines and any applicable design criteria for specialized areas (e.g., designated historic or other special districts, plan developments, or specific plans);

2. Will adequately accommodate the functions and activities proposed for the site, will not unreasonably interfere with the use and enjoyment of neighboring, existing, or future developments, and will not create adverse pedestrian or traffic hazards;

3. Is compatible with the existing character of the surrounding neighborhood and that all reasonable design efforts have been made to maintain the attractive, harmonious, and orderly development contemplated by this Section, and the General Plan; and

4. Would provide a desirable environment for its occupants and neighbors, and is aesthetically of good composition, materials, and texture that would remain aesthetically appealing with a reasonable level of maintenance and upkeep.

**J. Appeal of a Review Authority action.** A decision of the Review Authority may be appealed within 15 days of the decision, in compliance with Division 36.610 (Appeals).

**K. Effect of Review Authority action.**

1. No final inspection or Occupancy Permit shall be granted unless the completed work fully complies with the plans approved and the conditions required by the Review Authority.

2. The materials and design shall be in compliance with the approved plans and shall be so maintained, unless otherwise approved by the Review Authority.

**L. Amendments.** The Review Authority may amend the terms and/or conditions originally approved by the Review Authority upon the written request of the applicant, or the Review Authority, after a duly noticed meeting has been conducted in compliance with this Section.

**M. Expiration.** The time limits and extensions set forth in Section 36.420.040 (Time Limits and Extensions) shall apply to this Section.

**N. Enforcement.** Failure to comply with an approval granted by the Review Authority is a violation of this Zoning Code in compliance with Division 36.640 (Enforcement). An approval may be revoked or modified in compliance with Section 36.640.070 (Zoning Approval Revocation or Modification).

(Ord. No. 2108 § 1; Ord. No. 2183 § 19, 2009; Ord. No. 2185 § 2, 2009; Ord. No. 2246 § 6, 2013; Ord. No. 2251 § 9, 2013; Ord. No. 2253 § 5, 2013.)

## 36.410.060 Conditional Use Permits and Administrative Use Permits.

- A. Purpose.** Conditional Use Permits and Administrative Use Permits are intended to allow for activities whose effect on a site and its surroundings can only be determined after the review of the configuration, design, location, and potential impacts of the proposed use and the suitability of the use to the site.
- B. Applicability.** A Conditional Use Permit or Administrative Use Permit is required to authorize proposed land uses and activities identified by Article 2 (Zoning Districts, Allowable Land Uses, and Zone-Specific Standards) as being allowable in the applicable zoning district subject to the approval of a Conditional Use Permit or Administrative Use Permit.
- C. Application filing and processing.** An application for a Conditional Use Permit or Administrative Use Permit shall be filed and processed in compliance with Division 36.400 (Application Filing and Processing).
- D. Review authority.**
1. **Planning Commission.** The Commission may grant a Conditional Use Permit for any use listed in Article 2 (Zoning Districts, Allowable Land Uses, and Zone-Specific Standards) as requiring a Conditional Use Permit.
  2. **Planning Director.** The Director may grant an Administrative Use Permit for any use listed in Article 2 as requiring an Administrative Use Permit, or may choose to instead refer the matter to the Commission for review, hearing, and decision.
- E. Project review, notice, and hearing.**
1. **Project review.** Each application shall be analyzed by the Director to ensure that the application is consistent with the purpose and intent of this Section. The Director shall submit a staff report and recommendation on Conditional Use Permit applications to the Commission for their consideration.
  2. **Concurrent review.** An Administrative Use Permit for a project that requires Commission review and discretionary approval requiring a public hearing shall be considered by the Commission concurrently with the discretionary zoning approval.
  3. **Notice and hearing..**
    - a. **Conditional Use Permits.** The Commission shall conduct a public hearing in compliance with Division 36.630 (Public Hearings) on an application for a Conditional Use Permit. Notice of the public hearing shall be provided in compliance with Division 36.630
    - b. **Administrative Use Permits.** A public hearing shall not be required for the approval of an Administrative Use Permit if the Director follows the procedure in this subsection and receives no request for a public hearing. If a public hearing is requested, the Director shall conduct a public hearing and provide notice of the public hearing in compliance with Division 36.630 (Public Hearings).
      - (1) **Posted Notice Required.** Public notice of a requested Administrative Use Permit shall be provided by posting at the project site of the requested Administrative Use Permit, with a minimum 11- by 17-inch legal notice, containing the information required by the Director. The notice shall be continuously posted for 10 days before the Director's action. The applicant shall be responsible for posting the notice, ensuring the notice will be on the project site for all ten days, and shall provide a photograph of the posting with a signed declaration under penalty of perjury confirming posting of the notice to the Director.
      - (2) **Notice distribution.** A notice shall be mailed or delivered, at least 10 days before the Director's scheduled action date through the United States mail with postage prepaid, to:
        - i. The owners of the property being considered or the owner's agent, and the applicants;
        - ii. Each local agency expected to provide water, sanitation, utility, or other essential facilities or services to the project, whose ability to provide the facilities and services may be significantly affected;

- iii. All owners of real property as shown on the County's latest equalized assessment roll and all legal occupants located within a 300-foot radius of the subject parcel. The 300-foot radius shall be measured from the exterior boundaries of the subject parcel to the exterior boundaries of neighboring parcels within the 300-foot radius, without reference to structures existing on the parcels.
- iv. Any person who has filed a written request for notice with the Director.

**(3) Notice to Property Owners & Occupants.** All required notices shall be provided at the sole cost of the applicant subject to the City Council's approved fee schedule. The above-referenced notice shall contain the following:

- i. **Application information.** The name of the applicant; the City's file number assigned to the application; a general explanation of the matter to be considered; a general description, in text and/or by diagram, of the location of the property that is the subject of the notice;
- ii. **Action.** A brief description of the action to be taken by the Director, the date of the scheduled action, and information for method of requesting a public hearing prior to the scheduled action date. The notice shall state that the Director will take action on the requested Administrative Use Permit if no public hearing request is received within 10 calendar days from the postage date on the notice. The notice shall include the phone number and street address of the Department where an interested person could call or visit to obtain additional information;
- iii. **Environmental Review.** A statement explaining compliance with California Environmental Quality Act.

**F. Findings and decision.** The Commission or Director, as applicable, may approve, conditionally approve, or disapprove an application for a Conditional Use Permit or Administrative Use Permit, and shall record the decision and the findings upon which the decision is based. The review authority may approve the permit only after first making all of the following findings, and any additional findings required for the approval of specific land uses by Division 36.350 (Standards for Specific Land Uses).

- 1. The proposed use is allowed with Conditional Use Permit or Administrative Use Permit approval within the applicable zoning district and complies with all applicable provisions of this Zoning Code;
- 2. The proposed use is consistent with the General Plan and any applicable specific plan;
- 3. The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;
- 4. The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City;
- 5. The subject site is adequate in terms of size, shape, topography, and circumstances and has sufficient access to streets and highways which are adequate in width and pavement type to carry the quantity and quality of traffic expected to be generated by the proposed use; and
- 6. 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 aesthetics, character, scale, impacts on neighboring properties.

**G. Conditions of approval.** In approving a Conditional Use Permit or Administrative Use Permit, the review authority may impose conditions deemed reasonable and necessary to ensure that the approval would be in compliance with the findings required by Subsection F. (Findings and decision), above, and to preserve the public health, safety, and general welfare.

(Ord. No. 2108 § 1.)

## **36.410.065 Hillside Development Permits.**

- A. Purpose. Hillside Development Permits provide a review process for the City to consider the appropriateness of proposed development on hillside parcels, to ensure that proposed projects minimize their visual and environmental impacts.
- B. Applicability.
  - 1. A Hillside Development Permit is required to authorize any proposed construction of new primary dwelling unit that is subject to the requirements of Division 36.340 (Hillside Protection).
  - 2. A Minor Hillside Development Permit is required to authorize any other proposed development that is subject to the requirements of Division 36.340 (Hillside Protection).
- C. Application filing and processing.
  - 1. A Preliminary Review application under Section 36.410.040.E (Preliminary Review) and an application under Division 36.400 (Application Filing and Processing) is required for a Hillside Development Permit or Minor Hillside Development Permit.
- D. Review authority.
  - 1. Hillside Development Permits may be approved or disapproved by the Planning Commission.
  - 2. Minor Hillside Development Permit may be approved or disapproved by the Design Review Board (DRB), DRB Chair, or Planning Director in accordance with Section 36.410.040.
- E. Project review, notice, and hearing.
  - 1. Each application shall be analyzed by the Director to ensure that the application is consistent with the purpose and intent of this Section. The Director shall submit a staff report and recommendation to the Commission for their consideration of a Hillside Development Permit.
  - 2. The Commission shall conduct a public hearing on an application for a Hillside Development Permit prior to the approval or disapproval of the permit.
  - 3. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Division 36.630 (Public Hearings).
- F. Findings and decision. The review authority may approve the permit only after first finding that:
  - 1. The proposed use complies with the requirements of Division 36.340 (Hillside Protection) and all other applicable provisions of this Zoning Code.
  - 2. The proposed use is consistent with the General Plan and any applicable specific plan;
  - 3. The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;
  - 4. The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City; and
  - 5. 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 aesthetics, character, scale, and view protection.
- G. Conditions of approval. In approving a Hillside Development Permit or Minor Hillside Development Permit, the review authority may impose conditions deemed reasonable and necessary to ensure that the approval would be in compliance with the findings required by Subsection F, and to preserve the public health, safety, and general welfare.

## 36.420.040 Time Limits and Extensions.

### A. Time limits.

1. Unless conditions of approval or other provisions of this Zoning Code establish a different time limit, any Zoning Approval granted in compliance with Division 36.410 (Zoning Approval or Disapproval) that is not exercised within 12 months of its approval shall expire and become void, except where an extension of time is approved in compliance with Subsection B of this Section.
2. The Zoning Approval shall not be deemed “exercised” until the permittee has submitted construction plans to the Building Official for plan review and paid the requisite fees for plan check. The Zoning Approval for a project that requires construction shall remain valid provided that the plan review process remains active in the Building Division. The plan review process shall be considered active for no more than 18 months from the date construction plans are submitted to the Building Official and the requisite plan check fees are paid until a Building Permit is issued. The Zoning Approval shall expire at the end of the aforementioned 18 months, if a building permit has not been issued or an extension granted pursuant to the procedures set forth herein. If no construction is required, the Zoning Approval shall be deemed “exercised” when the permittee has actually commenced the allowed use on the subject site in compliance with the conditions of approval.
3. Zoning Approval shall remain valid after it has been exercised as long as a Building Permit is active for the project, or a final building inspection or Certificate of Occupancy has been granted. A Building Permit issued by the Building Official remains active provided it has not expired pursuant to the Building Code.
4. If a project is to be developed in approved phases, each subsequent phase shall be exercised within 12 months from the date that the previous phase was exercised, unless otherwise specified in the Zoning Approval, or the Zoning Approval shall expire and be deemed void. If the project also involves the approval of a Tentative Map, the phasing shall be consistent with the Tentative Map and the Zoning Approval shall be exercised before the expiration of the Tentative Map, or the Zoning Approval shall expire and be deemed void.

### B. Extensions of time. Upon request by the applicant, the review authority may extend the time for a Zoning Approval to be exercised as follows.

1. **Application Filing.** The applicant shall file a written request for an extension of time with the Department at least 10 days before the expiration of the Zoning Approval, together with the filing fee required by the Council’s Fee Resolution.
2. **Burden of Proof.** The burden of proof is on the permittee to establish with substantial evidence that the Zoning Approval should be extended.
3. **Administrative Approval:** The Director may grant no more than one administrative time extension for a period not to exceed 12 months from the expiration date of the Zoning Approval provided that the Director finds that:
  - a. The project has not changed and there have been no material changes to the surrounding neighborhood;
  - b. The permittee has proceeded in good faith and has exercised due diligence in complying with the conditions in a timely manner;
  - c. The proposed extension is consistent with the General Plan, and any applicable specific plan and the overall project remains consistent with those plans as they exist at the time the extension request is being considered; and
  - d. There are adequate provisions for public services and utilities, e.g., access, drainage, fire protection, sewers, water, etc., to ensure that the proposed change would not endanger, jeopardize, or otherwise

- constitute a hazard to the public health, safety, or general welfare, or be injurious to the property or improvements in the vicinity and applicable zoning district.
- e. Use of the Zoning Approval is likely to or has been delayed by causes outside the applicant's control, e.g., project complexities, legal challenges, an economic downturn, requirements imposed by other governmental agencies.
4. **Review Authority.** The Review Authority which originally approved the Zoning Approval may extend the time for a Zoning Approval beyond 12 months and up to a maximum of 36 months from the effective date of original approval, provided that the applicant meets the requirements for time limits and extensions as required in this Subsection and the Review Authority makes the findings in Subsection B.3.
- a. **Hearing on extension.** The Review Authority which originally approved the Zoning Approval shall hold a hearing on any proposed extension, in compliance with Division 36.630 (Public Hearings).

(Ord. No. 2108 § 1; Ord. No. 2227 § 3, 2012.)



## **36.600.050 Design Review Board (DRB).**

- A. Establishment.** The Design Review Board, referred to in this Zoning Code as the DRB, is hereby established.
- B. Appointment.** The DRB members shall be appointed by the Mayor, with the approval of the Council.
- C. Membership.**
1. The DRB shall consist of five members, each being a resident elector of the City. To the greatest extent feasible, they shall represent the following professions/occupations:
    - a. At least two members shall be State licensed architects, or retired from that status;
    - b. At least one member shall be State licensed as a contractor or landscape architect, or retired and/or inactive from that status;
    - c. At least one lay member who has demonstrated special interest, competence, experience, or knowledge in urban design.
- D. Terms of office.**
1. All members shall be appointed to a term of office of three years or until their respective successors are appointed and qualify.
  2. A person that was appointed to serve a partial term may be appointed to serve not more than two consecutive full terms thereafter.
  3. Each member shall not serve more than two consecutive full terms. A DRB member may be re-appointed after at least a twelve-month absence from the DRB.
  4. Any vacancy on the DRB shall be filled by the Mayor, with the approval of the Council.
- E. Organization.** The DRB shall elect its chairperson from among its appointed members for a term of one year and, subject to other provisions of law, may create and fill the other offices as it may deem necessary, subject to the approval of the Council.
- F. Compensation.** The DRB members shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in the performance of their duties.
- G. Quorum.** Three members of the DRB shall constitute a quorum. No action of the DRB shall be valid without the affirmative vote of at least three members.
- H. Authority.**
1. Decision making responsibility. The DRB shall be the final review authority for projects only requiring Design Review that are not subject to Design Review by the Planning Commission or Cultural Heritage Commission, unless its determination is appealed to the Commission.
- I. Limits of responsibility.** The DRB may not:
1. Determine the location or appropriateness of a land use, if the use is in compliance with this Zoning Code;
  2. Restrict development beyond the development standards identified in this Zoning Code, except as specifically provided herein; or
  3. Authorize a sign prohibited by Section 36.320.040 (Prohibited Signs).

- J. Delegation of responsibility.** In order to allow the DRB flexibility in performing its duties in as efficient a manner as possible, the DRB may adopt criteria under which the Chairperson, acting alone, or a subcommittee of the full DRB, may implement and administer the policies of the DRB on a case-by-case basis for specified review, of an aspect of a project, an entire specific project, or a category of projects or aspects thereof. The criteria shall be the same for both DRBs and be subject to the approval of the Council.
- K. Term of Chairperson.** The person selected as Chairperson shall serve no more than two consecutive one-year terms as Chairperson. A Chairperson may be re-elected as Chairperson after at least a 12-month vacancy from that position.
- L. DRB secretary.** The Planning Director shall act as secretary to the DRB, shall record all actions, and shall provide written communications to the applicants.

(Ord. No. 2108 § 1; Ord. No. 2176, § 2, 2008.)

## **36.610.050 Appeal Filing, Processing, and Decisions.**

### **A. Timing and form of appeal.**

1. An appeal application shall be submitted in writing, within 15 calendar days after the date of the decision of the Director, DRB, or Commission, as applicable, that is being appealed.
2. An appeal application addressed to the Commission shall be filed with the Department, while an appeal addressed to the Council shall be filed with the City Clerk.
3. An appeal application shall:
  - a. Specifically identify the grounds upon which the appeal will be taken and summarize the facts and points of law in support of the appeal. Additional facts or points of law may be presented at the hearing;
  - b. Be accompanied by the information identified in the Department handout for appeal applications; and
  - c. Be accompanied by the filing fee established by the Council's Fee Resolution.

**B. Delay of proceedings.** The filing of an appeal shall delay (or suspend) the effective date of the Director, DRB, or Commission action until the date the decision on appeal becomes final or the appeal is withdrawn.

**C. Withdrawal.** An appeal may be withdrawn by the appellant before the scheduled public hearing.

### **D. Joining an appeal.**

1. Only those persons who file an appeal within the specified appeal period shall be considered appellants of the matter under appeal.
2. Any person who wishes to join an appeal shall follow the same procedures for an appellant.
3. A person shall not be allowed to join an appeal after the end of the specified appeal period.

**E. Action on appeals.** Notice and hearing of an appeal shall be given in the same manner as any hearing required for the action being appealed. If no notice was required, then the appeal body shall give notice as it deems fair and appropriate.

1. Scope of review and decision. When reviewing an appeal the review authority may:
  - a. Consider any issues associated with the decision being appealed, in addition to the specific grounds for the appeal. The review authority shall also consider any environmental determination applicable to the zoning approval or decision being appealed;
  - b. By resolution, uphold, uphold in part, or reverse the action, the determination, or decision that is the subject of the appeal; or
  - c. Adopt additional conditions of approval deemed reasonable and necessary.
2. New evidence. If new or different evidence, related only to the subject of the appeal, is presented during the appeal hearing, the Commission or Council, may refer the matter back to the Director, DRB, or Commission, as applicable, for a report on the new or different evidence before a final decision on the appeal.
3. Findings. The appeal body shall be governed by the same criteria which governed the action being appealed.

4. Time limits. Unless otherwise specified by law, including this Zoning Code, the appeal body shall render its decision on the appeal within 30 days after the closing of the hearing for the appeal.

**F. Mailing of resolution.** Within five days after a decision on an appeal is rendered, notice of the decision shall be mailed to the person who filed the appeal and to any person who received notice of the action that was appealed.

(Ord. No. 2108 § 1.)

## Division 36.630. Public Hearings

### Sections:

- 36.630.010 Purpose of Division.
- 36.630.020 Notice of Hearing.
- 36.630.030 Scheduling of Hearing.
- 36.630.040 Review Authority Decision and Notice.
- 36.630.050 Recommendation by Commission.
- 36.630.060 Effective Date of Decision.
- 36.630.070 Hearing Procedures.

### **36.630.010 Purpose of Division.**

This Division establishes procedures for public hearings before the Director, DRB, Commission, and Council. When a public hearing is required by this Zoning Code, public notice shall be given and the hearing shall be conducted as provided by this Division.

(Ord. No. 2108 § 1.)

### **36.630.020 Notice of Hearing.**

When a zoning approval or other matter requires a public hearing, the public shall be provided notice of the hearing in compliance with State law (Government Code Sections 65090, 65091, 65094, and 66451.3, and Public Resources Code 21000 et seq.), and as required by this Division.

#### **A. Contents of notice.** Notice of a public hearing shall include:

1. **Hearing information.** The date, time, and place of the hearing and the name of the hearing body; a brief description of the City's general procedure concerning the conduct of hearings and decisions; and the phone number and street address of the Department, where an interested person could call or visit to obtain additional information;
2. **Application information.** The name of the applicant; the City's file number assigned to the application; a general explanation of the matter to be considered; a general description, in text and/or by diagram, of the location of the property that is the subject of the hearing;
3. **Statement on environmental document.** If a draft Negative Declaration or Environmental Impact Report has been prepared for the project in compliance with the South Pasadena Environmental Review Guidelines, the hearing notice shall include a statement that the hearing body will also consider approval of the draft Negative Declaration or certification of the final Environmental Impact Report; and
4. **Effect of City action.** The following statements, which are intended to alert the recipient to the possible effects that could result from the City approving the subject amendment:
  - a. **General Plan or specific plan.** A General Plan or specific plan amendment could result in a change in the manner (e.g., a change from residential to commercial, commercial to business park, or commercial or business park to residential) in which the subject parcels may be used or in the allowed intensity or density of the project.
  - b. **Zoning Code.** A Zoning Code amendment could modify any allowable land use, standard, requirement, or procedure applicable to construction of a project within the City.
  - c. **Zoning Map.** A Zoning Map amendment could have the effect of rezoning property from one zoning district to another (e.g., a change from residential to commercial, commercial to business park, or commercial or business park to residential) or in the allowed intensity or density of the project.

#### **B. Method of notice distribution.** Notice of a public hearing required by this Division for an amendment, appeal, or entitlement shall be given as follows, as required by State law:

1. **Mailing.**
  - a. Notice shall be mailed, or delivered, at least 10 days before the hearing, through the United States mail with postage prepaid, to:

- (1) The owners of the property being considered or the owner's agent, and the applicants;
- (2) Each local agency expected to provide schools, water, or other essential facilities or services to the project, whose ability to provide the facilities and services may be significantly affected;
- (3) All owners of real property as shown on the County's latest equalized assessment roll and all legal occupants located within a 300-foot radius of the subject parcel. The 300-foot radius shall be measured from the exterior boundaries of the subject parcel to the exterior boundaries of neighboring parcels within the 300-foot radius, without reference to structures existing on the parcels; and
- (4) Any person who has filed a written request for notice with the Director.

b. The 300-foot radius shall be measured from the exterior boundaries of the subject parcel to the exterior boundaries of the neighboring parcels within the 300-foot radius, without reference to structures existing on either parcels.

2. Additional required notice. In addition to the mailing or delivery identified in Subsection B.1, the notice shall also be published at least once in a local newspaper of general circulation within the City at least 10 days before the hearing.

C. Alternative to mailing. If the number of property owners to whom notice would be mailed in compliance with Subsection B.1 above is more than 1,000, the Director may choose to provide the alternative notice allowed by State law (Government Code Section 65091(a)(3)).

D. Additional optional notice. In addition to the types of notice required by Subsection B. and C., above, the Director may provide additional notice with content or using a distribution method as the Director determines is necessary or desirable (e.g., use of a greater radius for notice, on the Internet, etc.).

(Ord. No. 2108 § 1.)

### **36.630.030 Scheduling of Hearing.**

After the completion of the public comment period for an environmental document required by the California Environmental Quality Act (CEQA) and the South Pasadena Environmental Review Guidelines, the matter shall be scheduled for public hearing on a Director, DRB, CHC, Commission, or Council agenda (as applicable) at the earliest available date after the end of the public notification period in compliance with Section 36.630.020 (Notice of Hearing).

(Ord. No. 2108 § 1.)

### **36.630.040 Review Authority Decision and Notice.**

A. Decision.

1. The review authority (Director, DRB, CHC, Commission, or Council, as applicable) may announce and record their decision on the matter being considered at the conclusion of a scheduled hearing, defer action and continue the matter to a later meeting agenda in compliance with Section 36.630.070 (Hearing Procedure), or, in the case of the Director, take the matter under advisement.
2. The Director or Chair may instead refer the matter to the Planning Commission or Design Review Board for determination. A referral will require a new noticed hearing before the Planning Commission or Design Review Board.
3. The action of the Planning Commission shall be by resolution, adopted by the affirmative vote of not less than three members.

B. Notice of decision. The notice of decision identified in Subsection A., above, shall contain any conditions of approval, and reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the public convenience, health, interest, safety, or general welfare of the City.

C. Mailing of the notice.

1. Within five business days following the date that the final decision or recommendation is rendered by the review authority, notice of the decision shall be mailed to the applicant at the address shown on the application.
2. A copy of the notice of decision shall also be sent to the property owner, if different from the applicant, to all other persons who have filed a written request for notice, and to each member of the Council.

D. Planning Commission or Cultural Heritage indecision. When, for any reason, the Planning Commission or Cultural Heritage Commission rereis unable to reach a decision within 40 days after the close of the public hearing, the matter shall be deemed automatically appealed to the Council, without decision by the Commission. The City Clerk shall place the matter on the Council's agenda and a de novo public hearing shall be held by the Council.

(Ord. No. 2108 § 1.)

**36.630.050 Recommendation by Planning Commission.**

- A. Planning Commission action. At the conclusion of any public hearing on an amendment (e.g., General Plan, Zoning Map, or Zoning Code), a development agreement, or a specific plan the Commission shall forward a recommendation, including all required findings, to the Council for final action.
- B. Mailing of recommendation. Within five business days following the hearing, a copy of the Commission's recommendation shall be mailed to the applicant at the address shown on the application.

(Ord. No. 2108 § 1.)

**36.630.060 Effective Date of Decision.**

A decision of the Director, DRB, CHC, or Commission (other than a recommendation in compliance with Section 36.630.050) is final and effective at the end of the business day on the 15th day following the decision, unless an appeal is filed in compliance with Division 36.610 (Appeals).

(Ord. No. 2108 § 1.)

**36.630.070 Hearing Procedures.**

- A. Holding of hearings. Hearings shall be held at the date, time, and place described in the public notice required by this Division.
- B. Continuances. If a hearing cannot be completed on the scheduled date, the presiding Councilperson or Commissioner, before the adjournment or recess of the hearing, may continue the hearing by publicly announcing the date, time, and place to which the hearing will be continued. Additional notice for a continued hearing is not required.

(Ord. No. 2108 § 1.)



**ATTACHMENT 2**  
Redline of Proposed  
Zoning Code Amendment Sections

## Division 36.340. Hillside Protection

Sections:

- 36.340.010 Purpose of Division.
- 36.340.020 Applicability.
- 36.340.030 Permit and Application Requirements.
- 36.340.040 Hillside Development Design Guidelines.
- 36.340.050 Hillside Project Development Standards.

### 36.340.010 Purpose of Division.

The standards of this Division are intended to:

- A. Preserve the City's scenic resources by encouraging retention of natural topographic features and vegetation;
- B. Acknowledge that as the slope of a development site increases so does the potential for environmental degradation including slope failure, increased erosion, sedimentation and stormwater run-off; and
- C. Encourage grading practices that are appropriate in hillside areas; and
- D. Encourage structures on hillside parcels to be designed with scale, massing, architectural design and detailing appropriate to maintain hillsides in a natural, open character.

(Ord. No. 2108 § 1.)

### 36.340.020 Applicability.

- A. Sloping sites. The standards in this Division apply to subdivisions, uses, structures, and to all other development on sites with an average of slope of 20 percent or greater.
- B. Exceptions. The provisions of Section 36.340.050 (Hillside Project Development Standards) shall not apply to parcels within the AM (Altos de Monterey) overlay zone, which are instead subject to the requirements of Section 36.250.030 (Altos de Monterey (AM) Overlay District).
- C. Determination of average slope. Average slope shall be determined by applying the following formula.

$$\text{Average Slope Formula: } S = \frac{100 (I \times L)}{A}$$

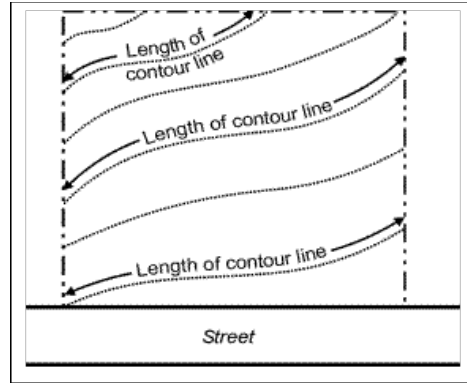
Where:

S = Average natural slope in percent.

I = Contour interval in feet, at not more than 10 foot intervals, resulting in at least five contour lines being shown on the contour map.

L = The sum of the length of all the contour lines across the parcel in scale feet. See Figure 3-25.

A = The gross area of the building site in square feet.



**Figure 3-25.** Measurement of Contour Line Length to Determine “L” in Slope Formula

- D. Guest parking spaces. Section 36.340.050H applies only to properties located on the following streets in the Southwest Monterey Hills area of the city: Hanscom Drive, Peterson Avenue, Illinois Drive, Hill Drive, Harriman Avenue, Randolph Avenue, Hulbert Avenue, Elkins Street, Moffatt Street.

(Ord. No. 2108 § 1 Ord. No. 2166, § 1, 2007.)

### **36.340.030 Permit and Application Requirements.**

Development that is subject to this Division shall require a Hillside Development Permit (Section 36.410.065) and Design Review ~~by the Planning Commission~~ (Section 36.410.040). The application shall include:

- A. Basic application contents. All information and materials required by Section 36.400.040 (Application Preparation and Filing), and all additional materials required by the application contents handout provided by the Department for hillside development; and
- B. Geotechnical report. A preliminary geotechnical report that identifies and proposes mitigation measures for any soils or geological problems that may affect site stability or structural integrity. Depending upon the site characteristics and project design, a final geotechnical report may also be required as part of a subsequent Building Permit application.
- C. Constraints analysis. For properties that have sensitive environmental resources including endangered plants and animals, or a wildlife corridor designated by the City, a qualified professional approved by the Director shall prepare a site constraints analysis in compliance with Section 36.380.030. The report shall include proposed mitigation measures to effectively protect important biological features identified.

(Ord. No. 2108 § 1; Ord. No. 2183 § 15, 2009.)

### **36.340.040 Hillside Development Design Guidelines.**

Proposed hillside development should satisfy as many of the following objectives as feasible, as determined through the Design Review process.

- A. Terrain alteration. The project should be designed to fit the terrain rather than altering the terrain to fit the project. Development patterns that form visually protruding horizontal bands or steeply cut slopes for roads or lots shall be avoided. Large-scale slope terracing, cribwalls, or significant slope modification is discouraged. Where alteration of the terrain is necessary, contour grading techniques should be utilized to help achieve a natural appearing slope. (See Section 36.340.050.F and Figure 3-33.)
- B. Street layout. Any new streets should follow the natural contours of the terrain to minimize the need for grading. Cul-de-sacs and loop roads are encouraged where necessary to fit the natural topography, subject to the approval of the City Engineer and Fire Chief.
- C. Location of structures. Structures should be located in the most accessible, least visually prominent, and most geologically stable portion or portions of the site. They should also be oriented with the natural contours of the

site. Siting structures in the least visually prominent locations is especially important on open hillsides where the prominence of construction should be minimized by placing structures so that they will be screened by existing vegetation, depressions in topography, or other natural features.

D. Site layout and structure design. Building and site design should utilize varying setbacks and structure heights, split-level foundations, and low retaining walls to blend structures into the terrain.

E. Architectural design.

1. Form. Building forms should complement the character of the hillsides and avoid massive structures that dominate views of the hills.
2. Scale and windows—Infill lots. The scale of homes proposed on infill lots should be compatible with buildings on adjacent parcels. Where feasible, windows, balconies, and outdoor living areas should be located to protect the privacy of adjacent homes and yards.
3. Exterior wall surfaces. The apparent size of exterior wall surfaces visible from off the site should be minimized through the use of single story elements, setbacks, overhangs, roof pitches, landscaping, and/or other means of horizontal and vertical articulation to create changing shadow lines and break up massive forms.
4. Roofs. Roof pitches should generally be placed to follow the angle of the slope; but with variations to avoid a monotonous appearance. See Figure 3-26.

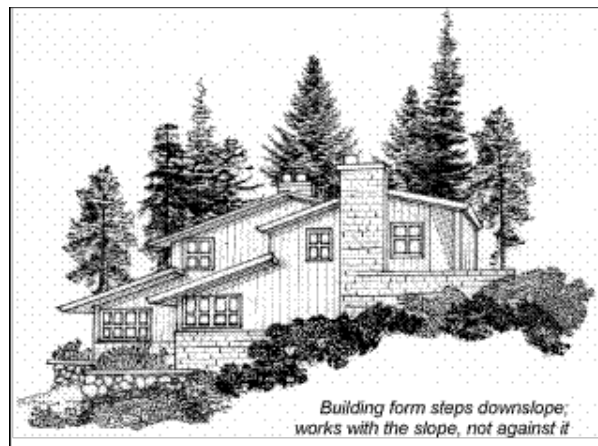


Figure 3-26. Design Sensitive to Terrain

Note: This diagram is intended to provide an example of building form, and is not intended to show a preferred architectural style.

5. Support structures. Support structures (for example, columns, pilings, etc.) below the lowest floor on the downhill side of a house, should be enclosed unless visible structural members are an integral feature of the architectural design. Support structure wall surfaces shall not exceed six feet in height.
- F. View protection. New construction should not block views from other properties.
1. Where feasible, new structures and tall landscaping should not be placed directly in the view of the primary living areas on a neighboring parcel.
  2. New structures should be placed on the lower areas of a hillside site.

3. Mechanical equipment may be placed on rooftops or below a deck only if the equipment is not visible from off the site, except for unobtrusive solar collectors that are compatible with the roof line and architecturally integrated with the structure.

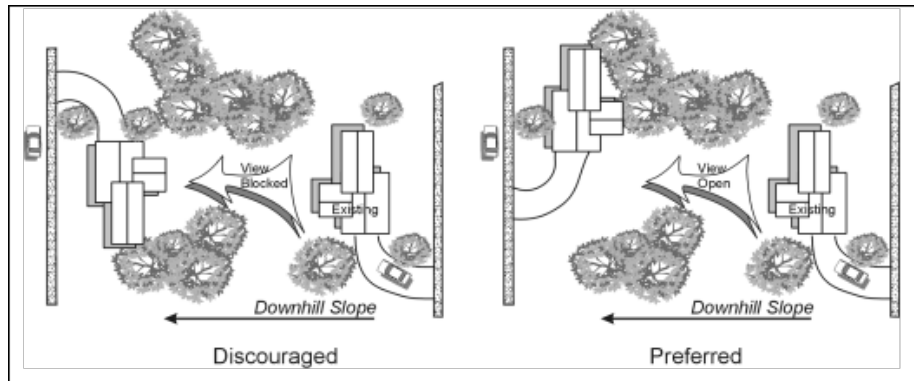


Figure 3-27. View Protection

- G. Colors and materials. A mixture of materials, color, and forms should be used to blend structures with the natural appearance of the hillsides:
  1. Based upon the graphic principle that dark colors are less noticeable than light colors, darker tones, including earth tones should be used for building walls and roofs on highly-visible sites so that buildings appear to blend in with the natural terrain.
  2. Surface materials should be appropriate for the architectural style of the structure and compatible with the hillside environment.
- H. Exterior lighting. Night views of the hillsides should not be dominated by bright lights. Lighting within high-visibility areas should be properly shielded to avoid glare and the spill of light to surrounding areas. Low-level lighting and the use of multiple low profile fixtures is encouraged, as opposed to the use of fewer, but taller fixtures.
- I. Retaining walls. Large retaining walls in a uniform plane shall be avoided. Retaining walls shall be divided into terraces with variations in plane and include landscaping to break up the length of walls and to screen them from view. No retaining wall shall be higher than six feet, and should incorporate a three foot recessed offset feature every 30 feet, or other methods of articulation. Retaining walls more than three feet high that are visible from off the site should be screened with landscaping. See Figure 3-28.

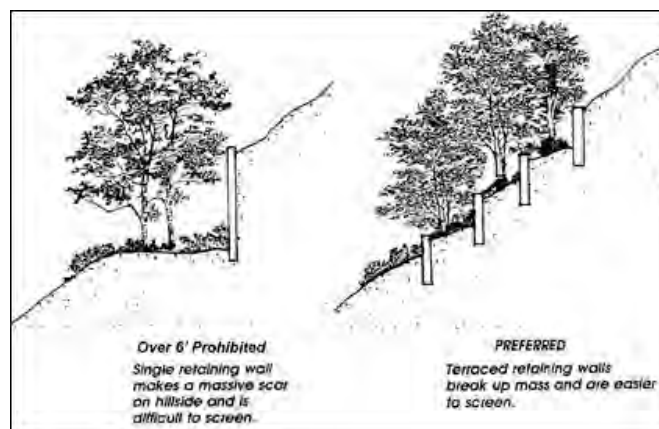


Figure 3-28. Retaining Wall Design

(Ord. No. 2108 § 1.)

**36.340.050 Hillside Project Development Standards.**

A. Setbacks. Hillside developments shall comply with the following setback requirements, and with the limitations on the allowable uses of setbacks in Section 36.300.030.E.3.

TABLE 3-10. HILLSIDE SETBACKS	
Property Setback	Setback Distance
Front	10 ft.
Side	10% of width, minimum 4 ft., maximum 10 ft.
Corner Side	10% of width, minimum 10 ft., maximum 15 ft.
Ridgeline (1)	50 vertical feet from ridgeline. Also see 36.340.050.C, and Figure 3-31.
Notes: (1) New structures or additions are prohibited within 50 feet of a ridgeline unless this restriction precludes development of the property. An exception may be granted if the review authority finds the following: a. There are no site development alternatives that avoid ridgeline development; b. The density has been reduced to the minimum standards consistent with the General Plan density range; c. No new subdivision of parcels is created that will result in ridgeline development; and d. The proposed development will not have significant adverse visual impacts due to modifications in structural design including height, bulk, size, foundation, siting, and landscaping that avoid or minimize the visual impacts of the development.	

B. Setbacks between structures and toes/tops of slopes. On adjacent lots having a difference in vertical elevation of three feet or more, the required side yard shall be measured from the nearest toe or top of slope to the structure, whichever is closer. See Figure 3-29.

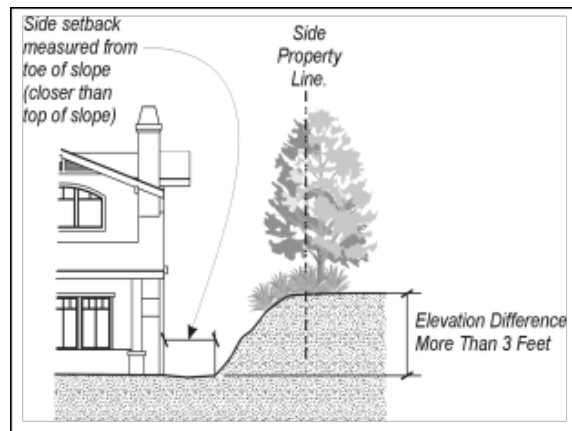


Figure 3-29. Side Setback Measurement

C. Height limitations. The maximum height for structures with a roof pitch of 3:12 or greater shall be 28 feet. If a roof pitch is less than 3:12, the maximum height shall be 24 feet.

1. Siting restrictions. Structures shall not be placed so that they appear silhouetted against the sky when viewed from a public street, except where the review authority determines that the only feasible building site cannot comply with this standard. See Figure 3-30.

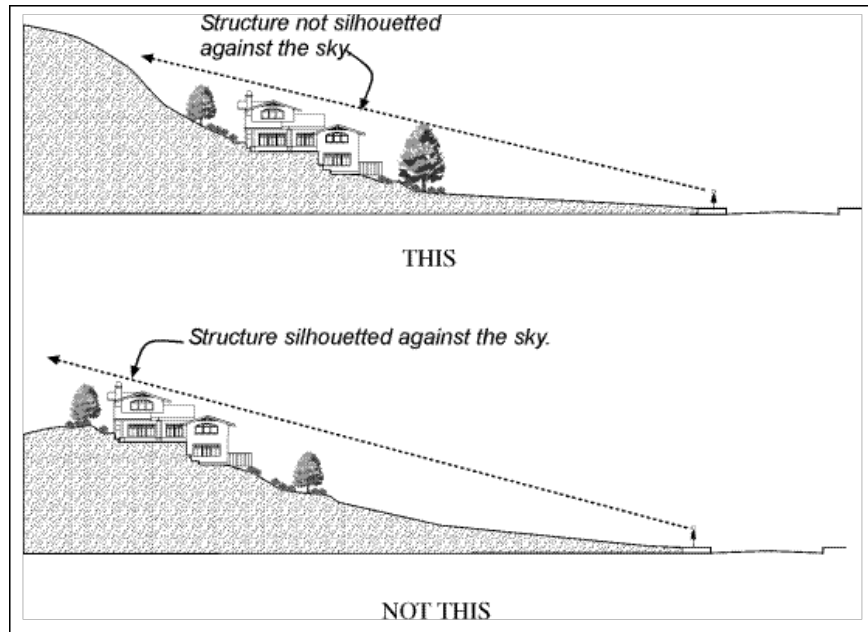


Figure 3-30. Silhouetted Structures

2. Placement below ridgeline. Except as provided by Subsection C.3, structures shall be located so that a vertical separation of at least 50 feet is provided between the top of the structure and the top of the ridge or knoll to maintain the natural appearance of the ridge. Grading should also be avoided within 50 vertical feet of the top of a ridge or knoll. Placement of structures should also take advantage of existing vegetation for screening, and should include the installation of additional native plant materials to augment existing vegetation, where appropriate. See Figure 3-31.

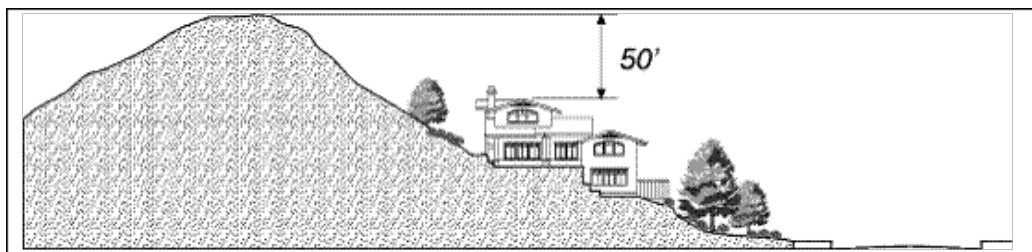


Figure 3-31. Location of Structures Below Ridgelines

3. Height limit above ridgeline. Where the review authority determines that a parcel contains no feasible building site other than where a structure will extend above the ridgeline, proposed structures shall not exceed a height of 16 feet above the highest point on the ridgeline or hilltop within 100 feet of the proposed structure.
4. 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.
5. Downhill building walls. No single building wall on the downhill side of a house shall exceed 15 feet in height above grade. Additional building height on a downhill side may be allowed in 15-foot increments, where each increment is stepped-back from the lower wall a minimum of 10 feet (see Figure 3-32).

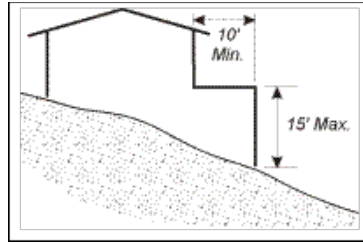


Figure 3-32. Height Limit for Downhill Building Walls

- D. Decks. No portion of the walking surface of a deck with visible underpinnings shall exceed a height of six feet above grade. Decks should be integrated into the architecture of the house, not appearing as an “add-on” to the primary building mass.
- E. Driveways. The ramp to any garage or carport shall not have a grade steeper than five percent within 10 feet of the garage or carport entry. The finished grade of driveways shall not exceed an average of 15 percent.
- F. Natural state. A minimum of 25 percent of the lot area plus the percentage figure of the average slope must be remediated to its natural state in terms of slope and vegetation.
- G. Grading. Grading plans shall be prepared in compliance with the Municipal Code, and the General Plan, ~~which prohibits~~ Grading on slopes over 30 percent shall be permitted when sufficient technical information has been provided to support the determination that such development would have no negative impacts on the subject property, adjacent properties, or on the safety and welfare of the public. Grading shall utilize landform grading techniques. See Figure 3-33.

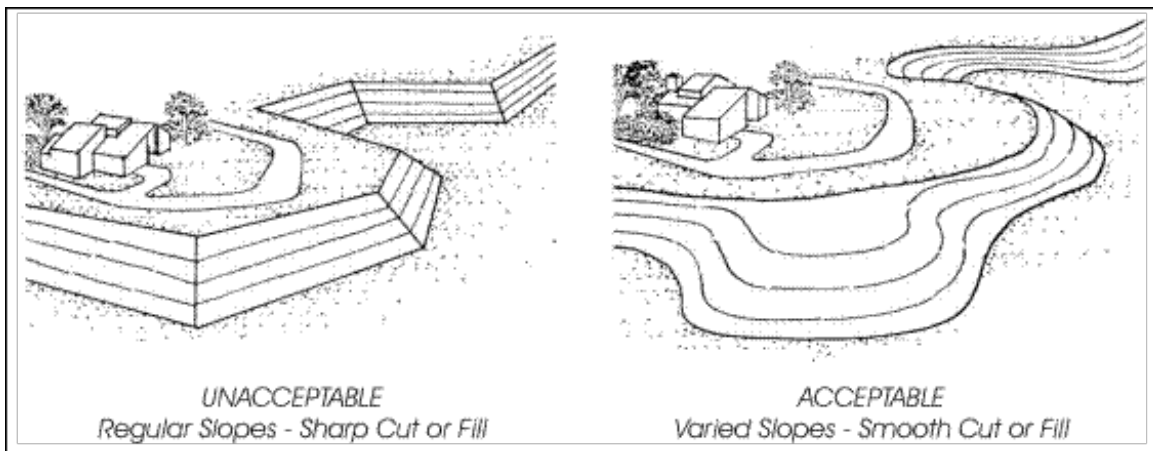


Figure 3-33. Appropriate Grading

- H. Southwest Monterey Hills guest parking spaces. The following guest parking space standards apply only to hillside properties (as defined in Section 36.340.020A) in the Southwest Monterey Hills area as defined by Section 36.340.020D.
  - 1. Required off-street guest parking spaces shall be provided in accordance with Section 36.310.040, Table 3-6 (Parking Requirements by Land Use). An application for a new house, or addition to an existing house that lacks the required off-street parking, shall provide details on the location and dimensions of required guest parking space/s, which shall be located perpendicular (or as close as possible to 90 degrees) to the right-of-way, and within or partially within the required front setback. If physical constraints preclude this location, the applicant shall provide written documentation of these constraints and provide the required off-street guest parking in the following order of preference:



- a. Parallel to the street and at least 10 feet wide by 24 feet deep. Access to a parallel parking space shall not be impeded by landscaping, trees, retaining walls, fences, the alignment of the right-of-way, or any other obstacle. Clear access shall be permanently retained; or
  - b. Other locations as approved by the Director. (The onus is placed on the applicant to demonstrate to the satisfaction of the Director that such a location will be functional and allow vehicles to be parked with no portion encroaching into the right-of-way.)
2. Paving limits. Front yard paving limits as listed in Section 36.300.030E.3.c (Setback Measurement and Exceptions) shall be observed, except when the required guest parking space/s can only be located in the front yard.
3. Slope. The slope of uncovered parking space/s shall comply with the standards in Sections 36.310.080G.2 (Parking Design Standards) and 36.340.050E (Hillside Project Development Standards).
4. Dimensions. Uncovered perpendicular spaces shall be at least 9 feet wide by 18 feet deep. Uncovered parallel spaces shall be at least 10 feet wide by 24 feet deep.
5. Allowable materials. Parking space materials shall conform to the standards listed in 36.310.090C.2 (Driveways and Site Access).

(Ord. No. 2108 § 1; Ord. No. 2166, 2007.)

## Division 36.400. Application Filing and Processing

Sections:

- 36.400.010 Purpose of Division.
- 36.400.020 Authority for Land Use and Zoning Decisions.
- 36.400.030 Concurrent Permit Processing.
- 36.400.040 Application Preparation and Filing.
- 36.400.050 Application Fees.
- 36.400.060 Application Review.
- 36.400.070 Environmental Assessment.

### 36.400.010 Purpose of Division.

This Division provides procedures and requirements for the preparation, filing, and processing of applications for the zoning approvals (e.g., Administrative Modifications, Conditional Use Permits, Home Occupation Permits, Temporary Use Permits, Variances, etc.) required by this Zoning Code.

(Ord. No. 2108 § 1.)

### 36.400.020 Authority for Land Use and Zoning Decisions.

Table 4-1 (Review Authority) identifies the City official or body responsible for reviewing and making decisions on each type of application, land use permit, and other approvals required by this Zoning Code.

TABLE 4-1. REVIEW AUTHORITY						
Type of Decision	Procedure is in Section:	Role of Review Authority (1)				
		Director	DRB (2)	CHC (3)	Planning Commission	City Council
<b>Administrative and Amendments</b>						
Affordable Housing Review	36.370				Decision	Appeal
Density Bonus Review	36.370	Decision				
Development Agreement	36.430				Recommend	Decision
General Plan amendment	36.620				Recommend	Decision
<u>Zoning Code Interpretation</u>	36.110	Decision (4)			Appeal	Appeal
Specific Plan	36.440				Recommend	Decision
Zoning Map amendment	36.620				Recommend	Decision
Zoning Text amendment	36.620				Recommend	Decision
<b>Zoning Approvals</b>						
Administrative Modification	36.410.070	Decision (4)			Appeal	Appeal
Administrative Use Permit	36.410.060	Decision (4)			Appeal	Appeal
Certificate of Appropriateness	See Municipal Code			Decision (9)		Appeal
Conditional Use Permit	36.410.060				Decision	Appeal
EIR Certification	36.400.070			<u>Certify (5)</u>	Certify (5)	Certify (5)
Emergency Shelters	36.350.250	Decision				

**TABLE 4-1. REVIEW AUTHORITY**

Type of Decision	Procedure is in Section:	Role of Review Authority (1)				
		Director	DRB (2)	CHC (3)	Planning Commission	City Council
Hillside Development Permit – <u>New structures</u>	36.410.065				Decision	Appeal
<u>Minor Hillside Development Permit – Modifications to existing structures</u>	<u>36.410.065</u>		<u>Decision</u>		<u>Appeal</u>	<u>Appeal</u>
Home Occupation Permit	36.410.030	Issued				
Valet Parking Use Permit	36.310.111				Decision	Appeal
Parking Use Permit	36.410.090	Decision			Appeal	Appeal
Planned Development Permit	36.410.100				Decision	Appeal
Planning Clearance	36.410.020	Issued				
Reasonable Accommodation	36.400.110	Decision			Appeal	Appeal
Sign Permit	36.320		Decision		Appeal	Appeal
Single Room Occupancy	36.350.260	Decision				
Temporary Use Permit	36.410.050	Issued				
Variance	36.410.080				Decision	Appeal
<u>Design Review</u>						
<u>Administrative Modification</u>		<u>Decision (4)</u>			<u>Appeal</u>	<u>Appeal</u>
<u>Administrative Use Permit</u>		<u>Decision (4)</u>			<u>Appeal</u>	<u>Appeal</u>
<u>Certificate of Appropriateness</u>	<u>See Municipal Code</u>			<u>Decision</u>		<u>Appeal</u>
<u>Conditional Use Permit</u>					<u>Decision</u>	<u>Appeal</u>
Design Review (6)	36.410.040		Decision		Appeal	Appeal
Design Review for <u>Mixed-Use or Multi-Family of 7 dwelling units or more units</u> , or Not-Exempt from CEQA (7)	36.410.040		<u>Subcommittee (10)</u>		Decision	Appeal
<u>Minor Design Review</u>	<u>36.410.040</u>	<u>Decision (8)</u>			<u>Appeal</u>	<u>Appeal</u>
<u>Hillside Development Permit</u>					<u>Decision</u>	<u>Appeal</u>
<u>Planned Development Permit</u>					<u>Decision</u>	<u>Appeal</u>

TABLE 4-1. REVIEW AUTHORITY						
Type of Decision	Procedure is in Section:	Role of Review Authority (1)				
		Director	DRB (2)	CHC (3)	Planning Commission	City Council
<u>Sign Permit</u>			<u>Decision</u>		<u>Appeal</u>	<u>Appeal</u>
<u>Variance</u>					<u>Decision</u>	<u>Appeal</u>

Notes:

(1) "Recommend" means that the review authority makes a recommendation to a higher decision-making body; "Decision" means that the review authority makes the final decision on the matter; "Appeal" means that the review authority may consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with Division 36.610 (Appeals); and "Issued" means the nondiscretionary permit shall be granted by the Director.

(2) "DRB" means the Design Review Board. (See Section 36.410.040.)

(3) "CHC" means the Cultural Heritage Commission. (See Municipal Code.)

(4) The Director may defer action on zoning approval applications and refer the items to the Commission for the final decision. In a similar manner, the Director may defer action on a Design Review application and refer the item to the DRB for the final decision.

(5) The Commission shall certify the Environmental Impact Report, except in those instances where the Council has final review authority for the application.

(6) Design Review of all structures is required pursuant to Section 36.410.040.

(7) CEQA means the California Environmental Quality Act.

(8) Decision is by the Planning Director or Chair of the Design Review Board

(9) If a Certificate of Appropriateness is associated with an application requiring approval by the Planning Commission, the Cultural Heritage Commission shall be the recommending body for the Certificate of Appropriateness to the Planning Commission (see Section 36.400.030).

(10) A subcommittee (two members) of the Design Review Board shall work with staff in reviewing the design component of the project.

(Ord. No. 2108 § 1; Ord. No. 2183 § 18, 2009; Ord. No. 2185 § 1, 2009; Ord. No. 2246 § 5, 2013; Ord. No. 2248 § 3, 2013; Ord. No. 2251 § 8, 2013; Ord. No. 2252 § 3, 2013; Ord. No. 2253 § 4, 2013; Ord. No. 2297 § 3, 2016.)

### 36.400.030 Concurrent Zoning Approval Processing.

When a single project incorporates different land uses or features so that this Zoning Code requires more than one zoning approval, the Director may determine that all of the applications should be reviewed, and approved or disapproved, by the highest level review authority identified by Table 4-1 as having authority over the separate approvals required. This action shall not be interpreted as bypassing the applicable review authority identified by Table 4-1, but rather to have their action take the form of a recommendation to the highest level of review authority identified by Table 4-1. (For example, a project that requires a Zoning Map amendment and a Conditional Use Permit should be reviewed and approved by the Council, where a Conditional Use Permit application by itself may be reviewed and acted upon by the Commission.)

**A. Certificate of Appropriateness.** If a Certificate of Appropriateness is associated with an application requiring approval by the Planning Commission, the Cultural Heritage Commission shall be the recommending body for the Certificate of Appropriateness to the Planning Commission. The Planning Commission's decision shall not be contradictory to the Cultural Heritage Commission's recommendation. If during the review of the project, the Planning Commission decision could potentially be contradictory to the Cultural Heritage Commission's recommendation, could result in changes to the project that could affect the historic component of the project, or the applicant requested changes that could affect the historic component, the Planning Commission shall take one of the following actions:

1. Refer the project back to the Cultural Heritage Commission for reconsideration; or
2. Conduct a joint meeting of the Planning Commission and the Cultural Heritage Commission to consider the changes to the project that could affect the historic component of the project.

(Ord. No. 2108 § 1.)

### 36.400.040 Application Preparation and Filing.

The preparation and filing of applications for zoning approvals, amendments (e.g., General Plan, Zoning Code, Zoning Map, and specific plan), and other matters pertaining to this Zoning Code shall comply with the following requirements.

#### A. Pre-application review.

1. A prospective applicant or agent is strongly encouraged to request a pre-application review with the Department before completion of project design and the formal submittal of a zoning approval application.

a. If the project is for development on slopes greater than 30%, a pre-application review is required prior to applying for the Hillside Development Permit.

2. A ~~request by an applicant for~~ pre-application review, accompanied by preliminary project plans and designs and the required filing fee, will be reviewed by affected City departments and other selected agencies.
3. The reviewing City staff members will inform the applicant of requirements as they apply to the proposed project, provide a preliminary list of issues that will likely be of concern during formal application review, suggest possible alternatives or modifications to the project, and identify any technical studies that may be necessary for the environmental review process when a formal application is filed.
4. Neither the pre-application review nor information and/or pertinent policies provided by the Department shall be construed as a Department recommendation for approval or disapproval of the application or project.

**B. Application contents and fee.** Applications shall include the forms provided by the Department, and all information and materials required by the application content requirements handout provided by the Department for the specific type of application (e.g., Conditional Use Permit, Variance, or others), and the filing fee required by the Council's Fee Resolution.

**C. Eligibility, filing.** All zoning approval and other applications required by this Zoning Code shall be filed with the Department. Applications may be made by:

1. The owner of the subject property; or
2. Any agent or representative, with the written consent of the property owner.

**D. Filing date.** The filing date of an application shall be the date on which the Department receives the last submission, map, plan, or other material required as a part of that application by Subsection A., in compliance with Section 36.400.060 (Application Review) and deemed complete by the Director.

(Ord. No. 2108 § 1.)

## **36.400.050 Application Fees.**

**A. Filing fees required.** The Council shall, by resolution, establish a schedule of fees for amendments, zoning approvals, and other matters pertaining to this Code, referred to as the Council's Fee Resolution. The schedule of fees may be changed from time to time only by resolution of the Council.

**B. Fee waivers.** The Council may waive any of the fees required by the Council's Fee Resolution for sufficient cause being demonstrated by the applicant. The determination of what shall constitute "sufficient cause" shall be at the discretion of the Council.

**C. Refunds and withdrawals.**

1. Recognizing that filing fees are utilized to cover City costs of public hearings, mailing, posting, transcripts, and staff time involved in processing applications, no refunds due to a disapproval of an application are allowed.
2. In the case of an application withdrawal, the Director may authorize a partial refund based upon the pro-rated costs to-date and determination of the status of the application at the time of withdrawal.

(Ord. No. 2108 § 1.)

## **36.400.060 Application Review.**

All applications filed with the Department in compliance with this Zoning Code shall be initially processed as follows.

**A. Completeness review.** No application will be scheduled for review until deemed complete in compliance with the following requirements.

1. Notification of applicant. The applicant shall be informed in writing within 30 days of submittal, either that the application is complete and has been accepted for processing, or that the application is incomplete and that additional

information, specified in the letter, shall be provided. All additional information needed shall be identified in the letter providing notice of an incomplete application.

2. Environmental information. The Director may require the applicant to submit additional information needed for the environmental review of the project in compliance with Section 36.400.070 (Environmental Assessment), below.
3. Second notification. If no response to the first letter is received by the Director within 30 days, a second letter shall be sent to the applicant giving an additional 30 days in which to provide the information specified in the first letter.
4. Withdrawal of application. The Director may deem the application withdrawn if the specified information is not provided within 30 days from the date of the second letter, unless, at a minimum, the applicant submits a letter requesting a mutually agreed upon appointment with the Director to discuss the establishment of a schedule for submittal of the specified information. Application processing shall not resume thereafter until a new application is filed, including fees, plans, exhibits, and other materials that are required for any project on the same site.
5. Criteria for acceptance. An application shall not be accepted as complete unless or until the Director determines that it:
  - a. Includes all information and materials required by Section 36.400.040.B (Application contents and fees);
  - b. Includes any other technical studies or supplemental information deemed necessary by the Director; and
  - c. Is accompanied by the application fee, or a deposit if appropriate, in compliance with the Council's Fee Resolution.

**B. Referral of application.** At the discretion of the Director, or where otherwise required by this Zoning Code, State, or Federal law, any application filed in compliance with this Zoning Code may be referred to any public agency that may be affected by or have an interest in the proposed land use activity.

(Ord. No. 2108 § 1.)

**36.400.070 Environmental Assessment.**

After acceptance of a complete application, the project shall be reviewed as required by the California Environmental Quality Act (CEQA) and the South Pasadena Environmental Review Guidelines.

(Ord. No. 2108 § 1.)

## 36.410.040 Design Review.

**A. Purpose.** This Section establishes procedures for the City's review of the design aspects of proposed development (for example, building design, landscaping, site planning and development, and signs). These procedures are not intended to restrict imagination, innovation, or variety in design, but rather to focus on design issues and solutions that will have the greatest effect on community character and aesthetics, to encourage imaginative solutions and high-quality urban design. The purposes of this Section are to:

1. Recognize the interdependence of land values and aesthetics and encourage the varied, yet orderly and harmonious appearance of:
  - a. Most publicly perceived structures and property within South Pasadena; and
  - b. Associated facilities (e.g., landscaping, open space areas, parking, and signs);
2. Ensure that new uses and structures enhance their sites and are compatible with the highest standards of improvement in the surrounding neighborhoods;
3. Better protect the increasing values, standards, and importance of land and development in the community;
4. Retain and strengthen the visual quality of the community;
5. Assist project developers in understanding the public's concerns for the aesthetics of development;
6. Ensure that development complies with all applicable City standards and design guidelines, and does not result in an adverse affect on the City's aesthetics, architectural, health, and safety related qualities of adjoining properties or upon the City in general; and
7. Foster attainment of the actions, goals, objectives, policies, and programs of the General Plan and any applicable specific plan by preserving the particular character and unique assets of South Pasadena.

## **B. Applicability.**

1. **Required review.** The exterior impacts of all projects within the following categories are subject to Design Review.
  - a. Residential development. Any single-family and multi-family residential project that requires a Building Permit for any exterior construction or modification ~~(except re-roofing where no structural modifications are required).~~
  - b. Commercial and industrial development. Any project involving the construction of, or exterior change to, any structure, landscaping, or permanent signs on a parcel or lot zoned commercial and/or industrial.
2. **Exemption from review.** All projects within the following categories shall be exempt from the provisions of this Section.
  - a. All construction, work, or labor on structures or for replacement or repair, which uses the same materials and colors and which does not alter the design of the structure, including re-roofing of like-for-like material and where no structural modifications are required;
  - b. Emergency shelters;
  - c. Single room occupancy;
  - d. ~~Second dwelling units.~~

## **C. Application filing and processing.**

- ~~1.~~ **Submittal requirements.** Application for consideration of Design Review shall be made to the Planning Director on the application form provided by Planning Division, shall be accompanied by the required filing fee, and shall include such information and documents required in the Design Review Submittal Checklist form provided by the Planning

~~Director. Design Review Submittal Checklist form provided by the Planning Division, shall be accompanied by the required filing fee, and shall include such information and documents as may be required by the Planning Director. The following materials shall be required for Design Review. Separately listed requirements may be combined if not detrimental to the clear understanding of the Design Review action.~~

- ~~2. A site or plot plan reflecting the proposed project, including existing and proposed topography, property lines, and all recorded and proposed easements and public rights of way, at an appropriate scale.~~
- ~~3. Structure floor plans and elevations, at a scale of at least one eighth inch equals one inch, specifying all exterior materials with critical vertical dimensions clearly indicated.~~
- ~~4. A landscaping plan which shall accurately and clearly display the following:~~
- ~~5. Existing trees on the project site that are subject to this City's adopted Tree Ordinance;~~
- ~~6. Species of all trees, and their appropriate trunk diameter, height, and condition;~~
- ~~7. Final disposition of all existing trees;~~
- ~~8. The extent of proposed vegetation;~~
- ~~9. Species and planting sizes of all proposed landscaping along with the provisions for irrigation and ongoing maintenance;~~
- ~~10. Irrigation plan; and~~
- ~~11. Indication of all hardscape along with the exterior of all structures and amenities, including colors and materials keyed to a materials and colors board as appropriate.~~
- ~~12. Photographs of the site and its surroundings, including the use of the site and adjacent properties for a distance of 300 feet from each end of the principal street frontage, as well as properties opposite the subject and adjacent properties. The photos shall be mounted color prints, supplied from continuous views along the principal streets, along with a key map provided indicating the relationship of all views to the parcels, streets, and related features.~~
- ~~13. Materials, colors, and finishes clearly indicated on elevation drawings and keyed to a materials and colors board including light reflectance values (LRVs), a clear indication of the appearance, location, and light effects of all exterior lighting fixtures, and a two point perspective rendering showing proposed structures with profile drawings of the adjoining structures from an eye level elevation.~~
- ~~14. Although not a mandatory requirement, it is strongly recommended for a complete understanding of the proposal, that a three dimensional scale model of the projects site, on site erection of a full scale mockup (either balloons denoting the structure's corners or a story pole frame), perspective view, or other similar types of graphic information also be provided.~~
- ~~15. A statement indicating the manner and extent in which the proposed project is consistent with the adopted design guidelines.~~
- ~~16.1. Additional materials may be required as part of the DRB submittal, as determined to be necessary by the Director or DRB.~~
- ~~17.2. Retention of materials. All application materials shall be retained by the City to ensure full compliance with all formal Design Review DRB actions/decisions.~~

## **D. Design Review Authority.**

1. **Planning Commission review.** The Planning Commission will be responsible for the Design Review of the following developments:



- a. As identified in Subsection B (Applicability) of this Section, all developments which require a Hillside Development Permit, a Conditional Use Permit, a Variance, a Planned Development Permit;
- b. Multi-family developments containing seven or more units;
- c. Multi-family developments containing six or fewer units not exempt from CEQA; or
- d. Any other application in which the Planning Commission is the Review Authority.

**2. Cultural Heritage Commission (CHC) review.** The CHC will be responsible for the Design Review of the following:

- a. All of the developments identified in Subsection B (Applicability) of this Section, which require a Certificate of Appropriateness as required by Chapter 2.58A Article IVH (Cultural Heritage Commission) of the Municipal Code; -
- b. All in addition, the CHC will be responsible for Design Review of properties within a designated historic district; -
- c. Where a proposed project is subject to a Certificate of Appropriateness from the CHC and also requires an application in which the Planning Commission is the Review Authority, the CHC shall review take action first on the Certificate of Appropriateness and provide recommendations to the and may provide the Planning Commission for the Certificate of Appropriateness and may also provide with recommendations on the subject zoning approval portion of the application in which the Planning Commission is the Review Authority.

**3. DRB review.** The DRB will be responsible for the Design Review of all of the developments identified in Subsection B (Applicability) of this Section, which are not subject to Design Review by the Planning Commission, or the CHC, DRB Chair, or Planning Director as specified in SPMC Section 36.410.040.

- a. A subcommittee consisting of two members of the Design Review Board shall be formed to work with staff for the Design Review of Mixed-Use or Multi-Family of seven (7) dwelling units or more, or not-exempted from CEQA, as listed in Table 4-1 (Review Authority).

~~2. (D)(1) and (D)(2). The Chair of the DRB may be responsible for the Design Review in compliance with SPMC Section 36.600.050(I) (Delegation of Responsibility).~~

**4. DRB Review Authority Chair review.** ~~DRB Review Authority Chair review~~ shall be responsible for Minor Design Review for projects that do not change the architectural design style of existing structures. These projects are as follows:

~~3. eligible for only the following minor projects. A proposed project shall not be:~~

- a. ~~Above the first story of the subject structure;~~
- b. ~~Readily visible from the street or prominently visible to any adjoining properties;~~
- a. Exterior modifications to all elevations of existing structures that would not change the architectural design style of the structures. This includes elevations that are visible to the street and/or above the first floor. Exterior modifications include new and different siding materials, new windows, new roofing materials, and replacement of existing front porch posts, balcony railing, and other similar changes as determined by the Planning Director and/or DRB Chair to not change the architectural design style of the existing structures.
- e.b. Additions of no more than 500 square feet in area, or more than 25 percent of the existing structure, whichever is less, for an outdoor structure or a habitable space that is not visible to street. Such The additions are allowed above the first on the second floor as long as they are not visible to the street, and do not exceed the height of the existing structure.;

~~d. Subject to a Hillside Development Permit in accordance with Division 36.340 (Hillside Protection);~~

c. Subject to a Certificate of Appropriateness from the Cultural Heritage Commission in accordance with Sections 2.58 through 2.68 of the South Pasadena Municipal Code.

~~d. Not subject to a Planning Commission review in accordance with this Division and Division 36.340 (Hillside Protection).~~

5. **Planning Director.** ~~The Planning Director shall be responsible for Minor Design Review for projects that involve minor modifications or additions to only the first floor of an existing structure, are not visible to the street, and does not change the architectural design style of the structures. These minor projects are as follows:~~

~~a. Exterior modifications to existing structures that are not visible from the street or prominently visible to any adjoining properties, and not above the first floor of the structure. Exterior modifications include new siding materials, windows, and new roofing materials.~~

~~b. Additions of no more than 500 square feet in area, or no more than 25 percent of the existing structure, whichever is less for an outdoor structure or a habitable space that is not visible to the street or not above the first floor, except for development subject to a Minor Hillside Development Permit.;~~

~~c. Modifications to existing graded and/or improved outdoor areas on a property subject to Division 36.340 (Hillside Protection), such as installation of an in-ground swimming pool, spa, patio covers, accessory structures less than 500 square feet, and similar feature not visible to the street.~~

~~d. Not subject to a Certificate of Appropriateness from the Cultural Heritage Commission in accordance with Sections 2.58 through 2.68 of the South Pasadena Municipal Code.~~

~~a-e. Not on a hillside area with a slope of 30% or greater in accordance with Division 36.340 (Hillside Protection) of the South Pasadena Municipal Code.~~

E. **Preliminary Review.** Applicants are encouraged to consult with the City's planning staff as early as possible in the formulation of a schematic design. At the City's discretion, a preliminary review may be required to determine the level of information to be required from the applicant for Design Review. No final or binding decisions shall result at the preliminary review stage.

#### **F. Scheduling of Design Review.**

1. **Design Review.** Once an application is deemed complete, the Director shall schedule an application for Design Review at the earliest available date following the required public notice period, concurrently with any Zoning Approval applications that may be required.

~~1.2. Minor Design Review. Minor Design Review by the DRB Chair or Planning Director shall be considered approved administratively without conducting a public hearing or providing public notice prior to taking action.~~

**F.G. Public notice.** Not less than 10 days before the hearing, the City shall give notice to the applicant, to owners of the subject property, ~~and~~ to site occupants if the owner does not occupy the property, in compliance with Division 36.630 (Public Hearings), ~~for all Design Review, with the exception of Minor Design Review, and~~ as follows:

1. 300-foot radius notice. The following projects shall require that all owners of real property as shown on the County's latest equalized assessment roll and all legal occupants located within a 300-foot-radius of the proposed project received public notification of the hearing. The 300-foot radius shall be measured from the exterior boundaries of the subject parcel to the exterior boundaries of neighboring parcels within the 300-foot radius, without reference to structures existing on the parcels. ;

a. Any project in which Design Review will occur as part of a Zoning Approval for which the Planning Commission or Design Review Board is the designated Review Authority;

- b. Any project in which Design Review will occur as part of a Zoning Approval for which the Cultural Heritage Commission is the designated Review Authority;
- c. Any demolition of an existing structure that does not qualify for Minor Design Review;
- d. The construction of a new house or non-residential ~~or other~~ structures;
- e. A change from the existing architectural design (e.g., replacement of all existing windows with a different window style, removal and replacement of all existing exterior with different materials, a roof reconfiguration, or similar construction which alters the existing style);
- f. An additional story to an existing structure;
- g. Additions that are not subject to Minor Design Review. A 50 percent increase to the existing structure or 500 square feet, whichever is less.

~~2. 100-foot notice. A project that does not meet the criteria in Subsection (G)(1) shall require a 100-foot radius public notification.~~

~~3.2.~~ Designated historic districts. In addition to the public noticing requirements of Subsection (G)(1), when a project is located within a designated historic district the City shall give notice to all properties within the historic district.

**G.H. Design Review action.** The following actions may be taken relating to any application in compliance with this Section.

- 1. Approval or disapproval. The Review Authority may approve or disapprove an application. Application approval may be subject to conditions as may be deemed reasonable and necessary to ensure that the findings required by Subsection (I) (Required findings), and all City development standards are met.
- 2. Continuance. The Review Authority may continue consideration of an application for a period of time not to exceed 90 days. The Director may extend this period to a total of 120 days, if the applicant has made material progress and can show good cause for the extension. Should the DRB not take an affirmative action, the matter shall automatically be referred to the Planning Commission.

**H.I. Required findings.** In order to approve a Design Review application, the Review Authority shall first find that the design and layout of the proposed development:

- 1. Is consistent with the General Plan, any adopted design guidelines and any applicable design criteria for specialized areas (e.g., designated historic or other special districts, plan developments, or specific plans);
- 2. Will adequately accommodate the functions and activities proposed for the site, will not unreasonably interfere with the use and enjoyment of neighboring, existing, or future developments, and will not create adverse pedestrian or traffic hazards;
- 3. Is compatible with the existing character of the surrounding neighborhood and that all reasonable design efforts have been made to maintain the attractive, harmonious, and orderly development contemplated by this Section, and the General Plan; and
- 4. Would provide a desirable environment for its occupants and neighbors, and is aesthetically of good composition, materials, and texture that would remain aesthetically appealing with a reasonable level of maintenance and upkeep.

**H.J. Appeal of a Review Authority action.** A decision of the Review Authority may be appealed within 15 days of the decision, in compliance with Division 36.610 (Appeals).

**J.K. Effect of Review Authority action.**

- 1. No final inspection or Occupancy Permit shall be granted unless the completed work fully complies with the plans approved and the conditions required by the Review Authority.

2. The materials and design shall be in compliance with the approved plans and shall be so maintained, unless otherwise approved by the Review Authority.

~~K.L.~~ **Amendments.** The Review Authority may amend the terms and/or conditions originally approved by the Review Authority upon the written request of the applicant, or the Review Authority, after a duly noticed meeting has been conducted in compliance with this Section.

~~L.M.~~ **Expiration.** ~~Expiration- The time limits and extensions set forth in per Section 36.420.040 (Time Limits and Extensions) shall apply to this Section of this Code.~~

- ~~1. The Review Authority may extend the time limit in compliance with Section 36.420.040 (Time Limits and Extensions).~~
- ~~2. Alternatively, the Director may grant no more than one administrative extension for a period not to exceed 12 months if the project has not changed and if there have been no material changes to the surrounding neighborhood in compliance with Section 36.420.040 (Time Limits and Extensions).~~

~~M.N.~~ **Enforcement.** Failure to comply with an approval granted by the Review Authority is a violation of this Zoning Code in compliance with Division 36.640 (Enforcement). An approval may be revoked or modified in compliance with Section 36.640.070 (Zoning Approval Revocation or Modification).

(Ord. No. 2108 § 1; Ord. No. 2183 § 19, 2009; Ord. No. 2185 § 2, 2009; Ord. No. 2246 § 6, 2013; Ord. No. 2251 § 9, 2013; Ord. No. 2253 § 5, 2013.)

## 36.410.060 Conditional Use Permits and Administrative Use Permits.

- A. Purpose.** Conditional Use Permits and Administrative Use Permits are intended to allow for activities whose effect on a site and its surroundings can only be determined after the review of the configuration, design, location, and potential impacts of the proposed use and the suitability of the use to the site.
- B. Applicability.** A Conditional Use Permit or Administrative Use Permit is required to authorize proposed land uses and activities identified by Article 2 (Zoning Districts, Allowable Land Uses, and Zone-Specific Standards) as being allowable in the applicable zoning district subject to the approval of a Conditional Use Permit or Administrative Use Permit.
- C. Application filing and processing.** An application for a Conditional Use Permit or Administrative Use Permit shall be filed and processed in compliance with Division 36.400 (Application Filing and Processing).

### D. Review authority.

1. Planning Commission. The Commission may grant a Conditional Use Permit for any use listed in Article 2 (Zoning Districts, Allowable Land Uses, and Zone-Specific Standards) as requiring a Conditional Use Permit.
- ~~+2. Planning Director.~~ The Director may grant an Administrative Use Permit for any use listed in Article 2 as requiring an Administrative Use Permit, or may choose to instead refer the matter to the Commission for review, hearing, and decision.

### ~~D-E.~~ Project review, notice, and hearing.

1. Project review. Each application shall be analyzed by the Director to ensure that the application is consistent with the purpose and intent of this Section. The Director shall submit a staff report and recommendation on Conditional Use Permit applications to the Commission for their consideration.
- ~~+2. Concurrent review.~~ An Administrative Use Permit for a project that requires Commission review and discretionary approval requiring a public hearing shall be considered by the Commission concurrently with the discretionary zoning approval.
- ~~2.3. Notice and hearing.~~ A decision to approve or deny an application for a Conditional Use Permit or Administrative Use Permit shall follow a public hearing conducted in compliance with Division 36.630 (Public Hearings), and as follows. Notice of the public hearing shall be provided in compliance with Division 36.630.
- a. **Conditional Use Permits.** The Commission shall conduct a public hearing in compliance with Division 36.630 (Public Hearings) on an application for a Conditional Use Permit. Notice of the public hearing shall be provided in compliance with Division 36.630
- b. **Administrative Use Permits.** A public hearing shall not be required for the approval of an Administrative Use Permit if the ~~Planning~~ Director follows the procedure in this subsection and receives no request for a public hearing. If a public hearing is requested, the ~~Planning~~ Director shall provide conduct a public hearing and provide notice of the public hearing in compliance with Division 36.630 (Public Hearings).
- (1) Posted Notice Required. The Director shall conduct a public hearing on an application for an Administrative Use Permit. Public notice of a requested Administrative Use Permit shall be provided by posting at the project site of the requested Administrative Use Permit, with a minimum 11- by 17-inch legal notice, containing the information required by the Director. The notice shall be continuously posted for 10 days before the Director's action. The applicant shall be responsible for posting the notice, ensuring the notice will be on the project site for all ~~seventen~~ days, and shall

provide a photograph of the posting with a signed ~~affidavit~~ declaration under penalty of perjury confirming posting of the notice to the Director.

**(2) Notice distribution.** A notice shall be mailed or delivered, at least 10 days before the Director's scheduled action date through the United States mail with postage prepaid, to:

- i. The owners of the property being considered or the owner's agent, and the applicants;
- ii. Each local agency expected to provide ~~schools,~~ water, sanitation, utility, or other essential facilities or services to the project, whose ability to provide the facilities and services may be significantly affected;
- iii. All owners of real property as shown on the County's latest equalized assessment roll and all legal occupants located within a 300-foot radius of the subject parcel. The 300-foot radius shall be measured from the exterior boundaries of the subject parcel to the exterior boundaries of ~~the neighboring parcels~~ within the 300-foot radius, without reference to structures existing on ~~the either~~ parcels.
- iv. Any person who has filed a written request for notice with the Director.

**(3) Notice to Property Owners & Occupants.** All required notices shall be provided at the sole cost of the applicant subject to the City Council's approved fee schedule. The above-referenced A-notice shall ~~be provided to all property owners and occupants with a 300-foot radius of the project site~~ containing the following:

- i. **Application information.** The name of the applicant; the City's file number assigned to the application; a general explanation of the matter to be considered; a general description, in text and/or by diagram, of the location of the property that is the subject of the notice;
- ii. **Action.** A brief description of the action to be taken by the ~~Planning~~ Director, the date of the scheduled action, and information for method of requesting a public hearing prior to the scheduled action date. The notice shall state that the ~~Planning~~ Director will take action on the requested Administrative Use Permit if no public hearing request is received within 10 calendar days from the postage date on the notice. The notice shall include the phone number and street address of the Department where an interested person could call or visit to obtain additional information;
- iii. **Environmental Review.** A statement explaining compliance with California Environmental Quality Act.

**E.F. Findings and decision.** The ~~Following a public hearing,~~ the Commission or Director, as applicable, may approve, conditionally approve, or disapprove an application for a Conditional Use Permit or Administrative Use Permit, and shall record the decision and the findings upon which the decision is based. The review authority may approve the permit only after first making all of the following findings, and any additional findings required for the approval of specific land uses by Division 36.350 (Standards for Specific Land Uses).

1. The proposed use is allowed with Conditional Use Permit or Administrative Use Permit approval within the applicable zoning district and complies with all applicable provisions of this Zoning Code;
2. The proposed use is consistent with the General Plan and any applicable specific plan;

3. The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;
4. The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City;
5. The subject site is adequate in terms of size, shape, topography, and circumstances and has sufficient access to streets and highways which are adequate in width and pavement type to carry the quantity and quality of traffic expected to be generated by the proposed use; and
6. 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 aesthetics, character, scale, impacts on neighboring properties.

**F.G. Conditions of approval.** In approving a Conditional Use Permit or Administrative Use Permit, the review authority may impose conditions deemed reasonable and necessary to ensure that the approval would be in compliance with the findings required by Subsection F. (Findings and decision), above, and to preserve the public health, safety, and general welfare.

(Ord. No. 2108 § 1.)

## 36.410.065 Hillside Development Permits.

A. Purpose. Hillside Development Permits provide a review process for the City to consider the appropriateness of proposed development on hillside parcels, to ensure that proposed projects minimize their visual and environmental impacts.

### B. Applicability.

1. A Hillside Development Permit is required to authorize any proposed ~~construction of new primary dwelling unit new development~~ that is subject to the requirements of Division 36.340 (Hillside Protection).

~~—A Minor Hillside Development Permit is required to authorize any other proposed development that is subject to the requirements of Division 36.340 (Hillside Protection).~~

~~+2.~~

### C. Application filing and processing.

1. A Preliminary Review application under Section 36.410.040.E (Preliminary Review) ~~is an application for and an application under Division 36.400 (Application Filing and Processing) is required for~~ a Hillside Development Permit or Minor Hillside Development Permit. ~~shall be filed and processed in compliance with Division 36.400 (Application Filing and Processing). An applicant whose property has a slope greater than 30 percent must submit a Preliminary Hillside Application in addition to an application for a Hillside Development Permit or Minor Hillside Development Permit.~~

### D. Review authority.

1. Hillside Development Permits may be ~~The Commission may~~ approved or disapproved by the Planning Commission. ~~, or approve a Hillside Development Permit subject to conditions of approval, in compliance with this Section.~~

2. Minor Hillside Development Permit may be approved or disapproved by the Design Review Board (DRB), DRB Chair, or Planning Director in accordance with Section 36.410.040.

1. ~~The Director of Planning and Community Development may approve, disapprove, or approve a Minor Hillside Development Permit subject to conditions of approval, in compliance with this Section.~~

### B.E. Project review, notice, and hearing.

1. Each application shall be analyzed by the Director to ensure that the application is consistent with the purpose and intent of this Section. The Director shall submit a staff report and recommendation to the Commission for their consideration of a Hillside Development Permit.

2. The Commission shall conduct a public hearing on an application for a Hillside Development Permit prior to the approval or disapproval of the permit.

3. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Division 36.630 (Public Hearings).

C.F.F. Findings and decision. ~~Following a public hearing, the Commission may approve, conditionally approve, or disapprove the application, and shall record the decision and the findings upon which the decision is based.~~ The review authority may approve the permit only after first finding that:

1. The proposed use complies with the requirements of Division 36.340 (Hillside Protection) and all other applicable provisions of this Zoning Code.

2. The proposed use is consistent with the General Plan and any applicable specific plan;



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3. The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;
4. The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City; and
5. 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 aesthetics, character, scale, and view protection.

D.G. Conditions of approval. In approving a Hillside Development Permit or Minor Hillside Development Permit, the review authority may impose conditions deemed reasonable and necessary to ensure that the approval would be in compliance with the findings required by Subsection F, and to preserve the public health, safety, and general welfare.

## 36.420.040 Time Limits and Extensions.

### A. Time limits.

1. Unless conditions of approval or other provisions of this Zoning Code establish a different time limit, any Zoning Approval granted in compliance with Division 36.410 (Zoning Approval or Disapproval) that is not exercised within 12 months of its approval shall expire and become void, except where an extension of time is approved in compliance with Subsection B of this Section.
2. The Zoning Approval shall not be deemed “exercised” until the permittee has submitted construction plans to the Building Official for plan review and paid the requisite fees for plan check. The Zoning Approval for a project that requires construction shall remain valid provided that the plan review process remains active in the Building Division. The plan review process shall be considered active for no more than 18 months from the date construction plans are submitted to the Building Official and the requisite plan check fees are paid until a Building Permit is issued. The Zoning Approval shall expire at the end of the aforementioned 18 months, if a building permit has not been issued or an extension granted pursuant to the procedures set forth herein. If no construction is required, the Zoning Approval shall be deemed “exercised” when the permittee has actually commenced the allowed use on the subject site in compliance with the conditions of approval.
3. Zoning Approval shall remain valid after it has been exercised as long as a Building Permit is active for the project, or a final building inspection or Certificate of Occupancy has been granted. A Building Permit issued by the Building Official remains active provided it has not expired pursuant to the Building Code.
4. If a project is to be developed in approved phases, each subsequent phase shall be exercised within 12 months from the date that the previous phase was exercised, unless otherwise specified in the Zoning Approval, or the Zoning Approval shall expire and be deemed void. If the project also involves the approval of a Tentative Map, the phasing shall be consistent with the Tentative Map and the Zoning Approval shall be exercised before the expiration of the Tentative Map, or the Zoning Approval shall expire and be deemed void.

### B. Extensions of time. Upon request by the applicant, the review authority may extend the time for a Zoning Approval to be exercised as follows.

1. **Application Filing.** ~~1.~~—The applicant shall file a written request for an extension of time with the Department at least 10 days before the expiration of the Zoning Approval, together with the filing fee required by the Council’s Fee Resolution.
2. **Burden of Proof.** ~~2.~~—The burden of proof is on the permittee to establish with substantial evidence that the Zoning Approval should be extended.
3. **Administrative Approval:** ~~The If the Planning Director review authority may grant no more than one administrative time extension for a period not to exceed 12 months from the expiration date of the Zoning Approval provided that the Planning Director finds that:~~
  - ~~a. The project has not changed and there have been no material changes to the surrounding neighborhood;~~
  - ~~b. The permittee has proceeded in good faith and has exercised due diligence in complying with the conditions in a timely manner;~~~~a. determines that the permittee has proceeded in good faith and has exercised due diligence in complying with the conditions in a timely manner, the review authority may grant a time extension for up to an additional 12 months from the effective date of approval to extend the Zoning Approval, provided that the review authority first finds that:~~

~~b.c. a.~~—The proposed extension is consistent with the General Plan, and any applicable specific plan and the overall project remains consistent with those plans as they exist at the time the extension request is being considered; and

~~e.d. b.~~—There are adequate provisions for public services and utilities, e.g., access, drainage, fire protection, sewers, water, etc., to ensure that the proposed change would not endanger, jeopardize, or otherwise constitute a hazard to the public health, safety, or general welfare, or be injurious to the property or improvements in the vicinity and applicable zoning district.

~~2. e.~~—~~Use Exercise of the Zoning Approval is likely to or has been will be delayed by causes outside the applicant's control, e.g., project complexities, legal challenges, an economic downturn, requirements imposed by other governmental agencies.~~

~~e.~~

~~3.4. Review Authority. 3.~~—The ~~R~~review ~~A~~authority ~~which originally approved the Zoning Approval~~ may extend the time for a Zoning Approval beyond 12 months ~~and (up to a maximum of 36 months)~~ from the effective date of ~~original~~ approval, provided that the applicant meets the requirements for time limits and extensions as required in this Subsection and the ~~R~~review ~~A~~authority makes the ~~following findings in Subsection B B b. 3.:~~

~~d. a.~~—~~The findings set forth in subsection (B)(2) of this section; and~~

~~a. b.~~—~~Exercise of the Zoning Approval will be delayed by causes outside the applicant's control, e.g., project complexities, legal challenges, an economic downturn, requirements imposed by other governmental agencies.~~

~~b.a. C.~~—~~Hearing on extension.~~ The ~~applicable R~~review ~~A~~authority ~~which originally approved the Zoning Approval~~ shall hold a hearing on any proposed extension ~~of a Zoning Approval~~, in compliance with Division 36.630 (Public Hearings).

(Ord. No. 2108 § 1; Ord. No. 2227 § 3, 2012.)

## **36.600.050 Design Review Board (DRB).**

**A. Establishment.** The Design Review Board, referred to in this Zoning Code as the DRB, is hereby established.

**B. Appointment.** The DRB members shall be appointed by the Mayor, with the approval of the Council.

### **C. Membership.**

1. The DRB shall consist of five members, each being a resident elector of the City. To the greatest extent feasible, they shall represent the following professions/occupations:
  - a. At least two members shall be State licensed architects, or retired from that status;
  - b. At least one member shall be State licensed as a contractor or landscape architect, or retired and/or inactive from that status;
  - c. At least one lay member who has demonstrated special interest, competence, experience, or knowledge in urban design.

### **D. Terms of office.**

1. All members shall be appointed to a term of office of three years or until their respective successors are appointed and qualify.
2. A person that was appointed to serve a partial term may be appointed to serve not more than two consecutive full terms thereafter.
3. Each member shall not serve more than two consecutive full terms. A DRB member may be re-appointed after at least a twelve-month absence from the DRB.
4. Any vacancy on the DRB shall be filled by the Mayor, with the approval of the Council.

**E. Organization.** The DRB shall elect its chairperson from among its appointed members for a term of one year and, subject to other provisions of law, may create and fill the other offices as it may deem necessary, subject to the approval of the Council.

**F. Compensation.** The DRB members shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in the performance of their duties.

**G. Quorum.** Three members of the DRB shall constitute a quorum. No action of the DRB shall be valid without the affirmative vote of at least three members.

### **H. Authority.**

~~1. Advisory responsibility. The DRB is advisory to the Commission with regard to projects requiring Commission approval and has the responsibility to review all plans in compliance with the adopted guidelines.~~

2.1. Decision making responsibility. The DRB shall be the final review authority for projects only requiring Design Review that are not subject to Design Review by the Planning Commission or Cultural Heritage Commission, unless its determination is appealed to the Commission.

**I. Limits of responsibility.** The DRB may not:

1. Determine the location or appropriateness of a land use, if the use is in compliance with this Zoning Code;

2. Restrict development beyond the development standards identified in this Zoning Code, except as specifically provided herein; or
3. Authorize a sign prohibited by Section 36.320.040 (Prohibited Signs).

**J. Delegation of responsibility.** In order to allow the DRB flexibility in performing its duties in as efficient a manner as possible, the DRB may adopt criteria under which the Chairperson, acting alone, or a subcommittee of the full DRB, may implement and administer the policies of the DRB on a case-by-case basis for specified review, of an aspect of a project, an entire specific project, or a category of projects or aspects thereof. The criteria shall be the same for both DRBs and be subject to the approval of the Council.

**K. Term of Chairperson.** The person selected as Chairperson shall serve no more than two consecutive one-year terms as Chairperson. A Chairperson may be re-elected as Chairperson after at least a 12-month vacancy from that position.

**L. DRB secretary.** The [Planning](#) Director shall act as secretary to the DRB, shall record all actions, and shall provide written communications to the applicants.

(Ord. No. 2108 § 1; Ord. No. 2176, § 2, 2008.)

## 36.610.050 Appeal Filing, Processing, and Decisions.

### A. Timing and form of appeal.

1. An appeal application shall be submitted in writing, ~~within prior to the~~ 15<sup>th</sup> calendar days after the date of the decision of the Director, DRB, or Commission, as applicable, that is being appealed.
2. An appeal application addressed to the Commission shall be filed with the Department, while an appeal addressed to the Council shall be filed with the City Clerk.
3. An appeal application shall:
  - a. Specifically identify the grounds upon which the appeal will be taken and summarize the facts and points of law in support of the appeal. Additional facts or points of law may be presented at the hearing;
  - b. Be accompanied by the information identified in the Department handout for appeal applications; and
  - c. Be accompanied by the filing fee established by the Council's Fee Resolution.

**B. Delay of proceedings.** The filing of an appeal shall delay (or suspend) the effective date of the Director, DRB, or Commission action until the date the decision on appeal becomes final or the appeal is withdrawn.

**C. Withdrawal.** An appeal may be withdrawn by the appellant before the scheduled public hearing.

### D. Joining an appeal.

1. Only those persons who file an appeal within the specified appeal period shall be considered appellants of the matter under appeal.
2. Any person who wishes to join an appeal shall follow the same procedures for an appellant.
3. A person shall not be allowed to join an appeal after the end of the specified appeal period.

**E. Action on appeals.** Notice and hearing of an appeal shall be given in the same manner as any hearing required for the action being appealed. If no notice was required, then the appeal body shall give notice as it deems fair and appropriate.

1. Scope of review and decision. When reviewing an appeal the review authority may:
  - a. Consider any issues associated with the decision being appealed, in addition to the specific grounds for the appeal. The review authority shall also consider any environmental determination applicable to the zoning approval or decision being appealed;
  - b. By resolution, uphold, uphold in part, or reverse the action, the determination, or decision that is the subject of the appeal; or
  - c. Adopt additional conditions of approval deemed reasonable and necessary.
2. New evidence. If new or different evidence, related only to the subject of the appeal, is presented during the appeal hearing, the Commission or Council, may refer the matter back to the Director, DRB, or Commission, as applicable, for a report on the new or different evidence before a final decision on the appeal.
3. Findings. The appeal body shall be governed by the same criteria which governed the action being appealed.

4. Time limits. Unless otherwise specified by law, including this Zoning Code, the appeal body shall render its decision on the appeal within 30 days after the closing of the hearing for the appeal.

**F. Mailing of resolution.** Within five days after a decision on an appeal is rendered, notice of the decision shall be mailed to the person who filed the appeal and to any person who received notice of the action that was appealed.

(Ord. No. 2108 § 1.)

## **Division 36.630. Public Hearings**

Sections:

- 36.630.010 Purpose of Division.
- 36.630.020 Notice of Hearing.
- 36.630.030 Scheduling of Hearing.
- 36.630.040 Review Authority Decision and Notice.
- 36.630.050 Recommendation by Commission.
- 36.630.060 Effective Date of Decision.
- 36.630.070 Hearing Procedures.

### **36.630.010 Purpose of Division.**

This Division establishes procedures for public hearings before the Director, DRB, Commission, and Council. When a public hearing is required by this Zoning Code, public notice shall be given and the hearing shall be conducted as provided by this Division.

(Ord. No. 2108 § 1.)

### **36.630.020 Notice of Hearing.**

When a zoning approval or other matter requires a public hearing, the public shall be provided notice of the hearing in compliance with State law (Government Code Sections 65090, 65091, 65094, and 66451.3, and Public Resources Code 21000 et seq.), and as required by this Division.

A. **Contents of notice.** Notice of a public hearing shall include:

1. **Hearing information.** The date, time, and place of the hearing and the name of the hearing body; a brief description of the City's general procedure concerning the conduct of hearings and decisions; and the phone number and street address of the Department, where an interested person could call or visit to obtain additional information;
2. **Application information.** The name of the applicant; the City's file number assigned to the application; a general explanation of the matter to be considered; a general description, in text and/or by diagram, of the location of the property that is the subject of the hearing;
3. **Statement on environmental document.** If a draft Negative Declaration or Environmental Impact Report has been prepared for the project in compliance with the South Pasadena Environmental Review Guidelines, the hearing notice shall include a statement that the hearing body will also consider approval of the draft Negative Declaration or certification of the final Environmental Impact Report; and
4. **Effect of City action.** The following statements, which are intended to alert the recipient to the possible effects that could result from the City approving the subject amendment:
  - a. **General Plan or specific plan.** A General Plan or specific plan amendment could result in a change in the manner (e.g., a change from residential to commercial, commercial to business park, or commercial or business park to residential) in which the subject parcels may be used or in the allowed intensity or density of the project.
  - b. **Zoning Code.** A Zoning Code amendment could modify any allowable land use, standard, requirement, or procedure applicable to construction of a project within the City.
  - c. **Zoning Map.** A Zoning Map amendment could have the effect of rezoning property from one zoning district to another (e.g., a change from residential to commercial, commercial to business park, or commercial or business park to residential) or in the allowed intensity or density of the project.

B. **Method of notice distribution.** Notice of a public hearing required by this Division for an amendment, appeal, or entitlement shall be given as follows, as required by State law:



## 1. Mailing.

a. Notice shall be mailed, or delivered, at least 10 days before the hearing, through the United States mail with postage prepaid, to:

- (1) The owners of the property being considered or the owner's agent, and the applicants;
- (2) Each local agency expected to provide schools, water, or other essential facilities or services to the project, whose ability to provide the facilities and services may be significantly affected;
- (3) All owners of real property as shown on the County's latest equalized assessment roll and all legal occupants located within a 300-foot radius of the subject parcel. The 300-foot radius shall be measured from the exterior boundaries of the subject parcel to the exterior boundaries of neighboring parcels within the 300-foot radius, without reference to structures existing on the parcels; and
- (4) Any person who has filed a written request for notice with the Director.

b. The 300-foot radius shall be measured from the exterior boundaries of the subject parcel to the exterior boundaries of the neighboring parcels within the 300-foot radius, without reference to structures existing on either parcels.

~~2.~~—Additional required notice. In addition to the mailing or delivery identified in Subsection B.1, the notice shall also ~~either be:~~

~~a.2. All public hearings except DRB.~~Published at least once in a local newspaper of general circulation within the City at least 10 days before the hearing. ~~for all except DRB matters; or~~

~~b. DRB hearings only. Posted, at least 10 days before the hearing, in at least three public places in the City, in compliance with the Department's handout on public hearing requirements for DRB matters.~~

C. Alternative to mailing. If the number of property owners to whom notice would be mailed in compliance with Subsection B.1 above is more than 1,000, the Director may choose to provide the alternative notice allowed by State law (Government Code Section 65091(a)(3)).

D. Additional optional notice. In addition to the types of notice required by Subsection B. and C., above, the Director may provide additional notice with content or using a distribution method as the Director determines is necessary or desirable (e.g., use of a greater radius for notice, on the Internet, etc.).

(Ord. No. 2108 § 1.)

### **36.630.030 Scheduling of Hearing.**

After the completion of the public comment period for an environmental document required by the California Environmental Quality Act (CEQA) and the South Pasadena Environmental Review Guidelines, the matter shall be scheduled for public hearing on a Director, DRB, CHC, Commission, or Council agenda (as applicable) at the earliest available date after the end of the public notification period in compliance with Section 36.630.020 (Notice of Hearing).

(Ord. No. 2108 § 1.)

### **36.630.040 Review Authority Decision and Notice.**

A. Decision.

1. The review authority (Director, DRB, CHC, Commission, or Council, as applicable) may announce and record their decision on the matter being considered at the conclusion of a scheduled hearing, defer action and continue the matter to a later meeting agenda in compliance with Section 36.630.070 (Hearing Procedure), or, in the case of the Director, take the matter under advisement.
  2. The Director or Chair may instead refer the matter to the Planning Commission or Design Review Board for determination. A referral will require a new noticed hearing before the Planning Commission or Design Review Board.
  3. The action of the Planning Commission shall be by resolution, adopted by the affirmative vote of not less than three members.
- B. Notice of decision. The notice of decision identified in Subsection A., above, shall contain any conditions of approval, and reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the public convenience, health, interest, safety, or general welfare of the City.
- C. Mailing of the notice.
1. Within five business days following the date that the final decision or recommendation is rendered by the review authority, notice of the decision shall be mailed to the applicant at the address shown on the application.
  2. A copy of the notice of decision shall also be sent to the property owner, if different from the applicant, to all other persons who have filed a written request for notice, and to each member of the Council.
- D. Planning Commission or ~~and~~ Cultural Heritage indecision. When, for any reason, the Planning Commission or Cultural Heritage Commission ~~re~~is unable to reach a decision within 40 days after the close of the public hearing, the matter shall be deemed automatically appealed to the Council, without decision by the Commission. The City Clerk shall place the matter on the Council's agenda and a de novo public hearing shall be held by the Council.

(Ord. No. 2108 § 1.)

### **36.630.050 Recommendation by Planning Commission.**

- A. Planning Commission action. At the conclusion of any public hearing on an amendment (e.g., General Plan, Zoning Map, or Zoning Code), a development agreement, or a specific plan the Commission shall forward a recommendation, including all required findings, to the Council for final action.
- B. Mailing of recommendation. Within five business days following the hearing, a copy of the Commission's recommendation shall be mailed to the applicant at the address shown on the application.

(Ord. No. 2108 § 1.)

### **36.630.060 Effective Date of Decision.**

A decision of the Director, DRB, CHC, or Commission (other than a recommendation in compliance with Section 36.630.050) is final and effective at the end of the business day on the 15th day following the decision, unless an appeal is filed in compliance with Division 36.610 (Appeals).

(Ord. No. 2108 § 1.)

## **36.630.070 Hearing Procedures.**

- A. Holding of hearings. Hearings shall be held at the date, time, and place described in the public notice required by this Division.
- B. Continuances. If a hearing cannot be completed on the scheduled date, the presiding Councilperson or Commissioner, before the adjournment or recess of the hearing, may continue the hearing by publicly announcing the date, time, and place to which the hearing will be continued. Additional notice for a continued hearing is not required.

(Ord. No. 2108 § 1.)