



**CITY OF GLENDALE, CALIFORNIA
REPORT TO THE CITY COUNCIL**

AGENDA ITEM

Report: Appeal Case No. PAPP-003276-2024 – Public Hearing on Appeal of a Portion of Historic Preservation Commission’s Conditional Approval of Design Review Case No. PDR-003119-2024 for the Property Located at 1239 Rossmoyne Avenue.

1. Motion to Sustain Historic Preservation Commission’s Decision to Approve the Project with All Original Conditions of Approval Imposed by Commission;
2. Motion to Modify the Decision of the Historic Preservation Commission to Approve the Project by Removal of Two Conditions of Approval;
3. Motion to Modify the Decision of the Historic Preservation Commission to Approve the Project with Any Alternative Combination of Conditions of Approval;
4. Motion to Continue the Appeal, Directing the City Attorney to Draft Findings Reversing the Historic Preservation Commission’s Decision and Denying the Project.

COUNCIL ACTION

Item Type: Public Hearing
Approved for <u>August 13, 2024</u> calendar

EXECUTIVE SUMMARY

This hearing is an appeal of a decision made by the Historic Preservation Commission (HPC) on April 18, 2024, to conditionally approve Design Review Case No. PDR-003119-2024 for the project located at 1239 Rossmoyne Avenue (“HPC Decision”). The existing two-story Spanish Colonial Revival style single-family house contains 2,413 square-foot (SF), was built in 1927, and is a contributor to the Rossmoyne Historic District. The HPC approved the project with five conditions for a 1,012 SF two-story rear addition, a 377 SF addition to the rear of the existing detached two-car garage, and a new detached patio cover in the rear yard that includes a 62 SF restroom (“Project”).

In this case, the appellant is the property owner and is requesting the removal of two of the HPC-imposed conditions of the Project approval related to the enclosure of the existing second-floor balcony at the front façade, and the replacement of certain existing wood windows. Specifically, HPC did not approve the enclosure of the balcony with new windows to create a “sun porch” and did not approve the removal of twelve wood windows located at the front (east) façade and the portions of the two side facades (north and south) closest to the street. The Commission did approve fiberglass windows for the more street-distant openings at the side facades and throughout the rear addition. HPC

also, as part of the balcony condition, did not approve removing several decorative attic vents, which the applicant has agreed to keep and are not part of this appeal. The owner has agreed to revise the proposal to address the remaining three conditions related to the style and material of new driveway, the texture of the new stucco, and a size reduction for the detached patio cover.

The appellant is requesting that the City Council modify the HPC Decision approving the Project by eliminating or modifying two of the conditions of approval for the Project as noted above. The appellant contends that in rendering its decision to approve the Project with conditions, HPC violated specific provisions of law, exceeded its authority by virtue of any of the provisions of law, failed to fulfill its mandatory duty, refused to hear or consider certain facts before rendering its decision, and that the evidence before the board was insufficient or inadequate to support its decision. The appellant also claims to have new evidence of material facts not previously presented, which if considered should change the act, determination or ruling. The appellant's concerns related to the HPC conditions of approval to maintain the second-floor balcony facing the street and preserving the existing visible wood windows are related to safety and security.

RECOMMENDATION

That the City Council sustain the HPC Decision to approve Design Review Case No. PDR-003119-2024 with all of the original HPC-imposed conditions based on all of the evidence, reasoning and findings of the HPC articulated at the April 18, 2024, hearing and set forth in the HPC's Record of Decision for the project, dated April 18, 2024 and included as Exhibit 4.

ANALYSIS

This is an appeal of the HPC's April 18, 2024, decision to approve the Project at 1239 Rossmoyne Avenue that involves two-story additions, window replacements, a garage addition, and a new detached accessory structure.

GENERAL INFORMATION

Appellant: Lermont Akopyan
Status of Appellant: Property Owner of 1239 Rossmoyne Avenue
Project Applicant: Edgar Markosyan, ArcStem Inc (Project Designer)

Requested Action:
The appellant is requesting that the City Council modify the HPC Decision to approve Design Review Case No. PDR-003119-2024 by eliminating conditions related to the second-floor balcony and existing windows. (Exhibit 9).

Legal Description: Portion of Lot 8, Block 21, Rossmoyne Tract

APN: 5646-002-008

Zone: R1 (Low Density Residential), Floor Area Ratio District II
Rossmoyne Historic District Overlay Zone

Land Use Element: Low Density

Site Description:

The Project site is a 10,920 SF, irregularly shaped interior lot with frontage on Rossmoyne Avenue. Originally developed in 1927, the site currently features a two-story, 2,413 SF single-family dwelling with a 363 SF detached, two-car garage. In 1977 a 238 SF 2-story addition was approved at the rear. The Project site is accessed via an existing driveway along Rossmoyne Avenue that will be maintained. The subject property is a contributor to Rossmoyne Historic District. It retains many of its original character-defining features and maintains high historic integrity.

RELEVANT PROJECT HISTORY

March 22, 2024 – Design Review Case No. PDR-003119-2024 was submitted by the Project applicant, Edgar Markosyan, for the proposed 2-story addition.

April 18, 2024 –Design Review Case No. PDR-003119-2024 was presented to the HPC with a staff recommendation to approve the Project with conditions. The HPC voted unanimously (4-0) to approve the Project with five conditions (Exhibit 4):

1. The second-floor balcony shall not be enclosed.
2. The existing decorative gable vents shall be retained.
3. The damaged “Hollywood” driveway must be either repaired or replaced in kind using either a grass or gravel center and side strips. The existing front walkway is not original but can be retained due to its unobtrusive visual character. The concrete paving at the porte-cochere and rear portions of the driveway shall be retained or, if damaged, replaced in kind and must be consistent extending past the porte-cochere.
4. The following existing wood windows, as shown on Drawing Sheet A-05 in the project plan that was reviewed by HPC, shall be retained: Windows 1, 2, 3, 4, 8, 11, 12, 13, 14, 15, 16, and 19. New windows shall be limited to the addition and less visible portions of the side facades.
5. Stucco must be smooth with appropriate textures for Spanish Colonial Revival and not flat smooth stucco.
6. Applicant shall work with staff to reduce the size of the covered patio and attached bathroom for Zoning code compliance.

May 03, 2023 – The appellant submitted their appeal of the HPC’s approval – Case No. PAPP-003276-2024 (Exhibit 9).

SUMMARY OF HPC’S DISCUSSION OF CASE NO. PDR-003119-2024 ON APRIL 18, 2024

Generally, the HPC were in favor of the Project and discussion of the Project was limited.

- Four HPC members were present at the April 18, 2023 meeting at which the Project was discussed. Commissioner Paul was absent.
- Commissioner Doom supported preserving the “Hollywood” driveway.
- Commissioner Jurca indicated that staff’s recommended conditions were important to preserve the qualities that makes the home a district contributor and agreed with Commissioner Doom that the existing “Hollywood” driveway was an important character defining feature that should be preserved and suggested the option to replace the existing brick center strip with grass. She also felt strongly about retaining the existing original wood windows at the front façade and prominent areas of the side facades as they are essential character-defining features of the property. Finally, she supported keeping the existing open front balcony and decorative vents because they are also character-defining features of the property.
- Commissioner Head indicated that he agreed with all the comments made by other Commissioners and that the existing driveway, many of the original wood windows, and balcony all be preserved to maintain these character defining features.
- Chair Cragnotti preferred to have the existing bricks replaced with grass on the driveway, commented that the enclosing of the balcony is not emblematic of the style historically. He also echoed the concerns of other Commissioners regarding the preservation of the original wood windows.
- All four commissioners supported the rear addition, the addition to the garage, and the rear yard patio cover, with the latter receiving a condition to reduce its size to ensure Zoning Code compliance.
- Staff received eight letters of opposition from the public prior to the hearing and four members of the public provided testimony at the hearing in opposition to the Project. The concerns from the members of the public were in regard to the incompatibility of the rear addition’s massing and the preservation of the historical defining features of the existing house. A copy of the comment letters are attached as Exhibit 8.
- Following review of the staff report and attachments, including the submitted correspondence, and having heard all testimony at the public hearing, Commissioner Jurca made a motion to approve the Project with conditions. The motion was seconded by Commissioner Head. The Record of Decision is attached as Exhibit 4.

SUMMARY OF THE APPELLANT’S BASIS FOR APPEAL AND STAFF RESPONSES

In the appeal application, the appellant contends that the conditions of approval imposed by the HPC violated specific provisions of law and exceeded its authority by virtue of any

of the provisions of law, that it failed to fulfill its mandatory duty and refused to hear or consider certain facts before rendering its decision, that the evidence before it was insufficient or inadequate to support its decision, and that the appellant has new evidence of material facts not previously presented, which if considered should change the act, determination, or ruling. Below is a summary of the statements made by the appellant in their appeal application (Exhibit 9), as well as staff's responses to the claims.

The appellant contends that the HPC violated the law because it failed to address building code requirements related to balconies and windows.

The appellant has made a general statement that the existing balconies and windows do not meet building code requirements. Additionally, the appellant does not cite any specific provisions of law with their response to the question, nor provide any further detail or explanation. As it relates to this application, the HPC acts as the design review authority and their purview in rendering a decision is related to the design of a project, including conformance with the Historic District Design Guidelines, the Secretary of the Interior's Standards for the Treatment of Historic Properties, and the Comprehensive Design Guidelines.

The City's Building Official has authority over the California Building Code (CBC), and it is not within the purview of the HPC. In addition, because the subject property is a contributor to a designated historic district, it is mandatory that the provisions of the California Historical Building Code (CHBC) be applied in reviewing the project. Building permit application(s) for this project would be subject to the Building Code's California Residential Code (CRC) which does not require existing nonconforming structures to be brought up to current code standards, which would include the second-floor balcony and existing wood windows. Under the provisions of the CBC, only the proposed changes to this project would be subject to the current building code requirements. Since the regulations of CBC and CHBC are outside of the Commission's purview and because the CBC does not require the balcony height or windows to be brought into conformance, the HPC did not violate the law.

The appellant contends that the HPC exceeded its authority by virtue of any of the provisions of the law because its concern was based on preserving the aesthetics of the front façade and not considering the safety and code requirements.

This is a general statement with no other specific information or evidence included with the appeal. Staff's response to this contention is addressed in the section above.

The appellant contends that the HPC failed to fulfill a mandatory duty when it failed to address the safety impacts of the existing balcony, alleged to be below the height required by California Building Code, and the windows, alleged to be in a hazardous location and allegedly required to be replaced with tempered glass windows.

The HPC did not fail to fulfill a mandatory duty when they approved the Project with conditions. As noted above, the HPC does not have authority over b=Building Code requirements; that authority lies with the City's Building Official. Moreover, the CBC does

not require existing nonconforming dwellings to be brought to current code standards. The authority of the HPC for this Project is to act as the design review authority and their purview in rendering a decision is related to the Project design's conformance with the Historic District Design Guidelines, the Secretary of the Interior's Standards for the Treatment of Historic Properties, and the Comprehensive Design Guidelines.

The appellant contends that the HPC refused to hear or consider certain facts before rendering its decision because there was no consideration for safety requirements, security issues, or noise concerns regarding the existing balcony and windows.

Prior to rendering its decision, the HPC takes into consideration all public comments, including written and oral testimony from the applicant, owner and members of the public. Requirements relating to life safety, structural safety, and provisions of minimum standards to safeguard life or limb and health by regulating and controlling design, construction, quality of materials, and maintenance of all buildings and structures are subject to CBC, along with CHBC since the subject property is historic. As noted above, the HPC does not have authority over the Building Code requirements; that lies with the City's Building Official. Moreover, the CBC/CHBC does not require existing nonconforming dwellings to be brought to current code standards. The authority of HPC for this Project is to act as the design review authority and their purview in rendering a decision is related to the Project's design conformance with the Historic District Design Guidelines, the Secretary of the Interior's Standards for Rehabilitation, and the Comprehensive Design Guidelines. As it relates to noise concerns, HPC did not find the noise-reduction argument presented at the hearing for replacing the existing windows compelling on this residential street. With regard to the energy efficiency of the proposed double-paned windows, the Commission indicated that other methods could be employed to increase energy efficiency while preserving the existing wood windows.

The appellant contends that the HPC had insufficient or inadequate evidence to supports its decision.

This is a general statement with no other specific information or evidence included with the appeal. Staff's response to this contention is addressed in the sections above.

The appellant contends to have new evidence and a new understanding of the Building Code, in addition to a new discovery that the front facing balcony has previously been altered, all of which the appellant claims are facts not previously presented, which if considered should change the act, determination or ruling.

The codes cited by the appellant are not applicable to the project. The balcony alteration claims is based on speculation that the roof above the front balcony is not original to the design of the home based on the roof configuration. This information was discussed with the appellant during the preliminary design review phase with staff, included in the staff report (see Exhibit 3, pg. 8), and discussed during the HPC hearing on April 18, 2024, and the consideration does not change the act, determination, or ruling of the HPC's decision regarding the enclosure of the balcony.

Under the “Statement of additional facts related to the appeal” section, the appellant references California Code of Regulations (“CCR”), Title 8, Section 3209 Standard Guardrails.

The appellant’s appeal references CCR, Title 8, Section 3209 and states that this section requires certain minimum guardrail heights and other requirements related to windows. This is a general statement, and the regulation is not applicable to this Project. (See Exhibit 9 and attached referenced CCR section). The California Code of Regulations are established by the State of California Department of Industrial Relations (DIR), which serves to protect and improve the health, safety, and economic well-being of wage earners and helps their employers comply with state labor laws. The DIR administers and enforces laws governing wages, hours and breaks, overtime, retaliation, workplace safety and health, apprenticeship training programs, and medical care and other benefits for injured workers. Accordingly, the CCR section cited by the appellant does not apply to single-family development; rather, the regulation is applicable to occupational safety and health standards in the workplace. Additionally, the DIR does not administer or enforce the CBC that contains general building design and construction requirements related to fire and life safety, structural safety, and access compliance. In addition, both staff and the Commission indicated to the owner that the addition of a secondary railing at the balcony wall could be accomplished in a manner that would address the safety concerns, while being designed in a manner that would not affect the overall historic character of the property.

SUMMARY

Based on the analysis of the appeal and the reasoning above, staff recommends that the City Council sustain the HPC’s decision to approve the Project with all of the original HPC-imposed conditions. The Commissioners considered not only the site planning, but also the Project’s massing, scale, height, setback, landscaping, window placement, use of materials and colors and other architectural design elements and historically character defining features in determining compatibility. The Project, as conditioned, was determined by a unanimous vote (4-yes, 0-no) of the HPC to be compatible with the surrounding neighborhood and consistent with the City’s Historic Design Guidelines.

The basis of the HPC’s decision (the Record of Decision, Exhibit 4) includes the following:

Site Planning: The proposed site planning is appropriate to the site and its surroundings for the following reasons:

- Overall, the site planning is appropriate with the two-story addition appropriately setback from the interior property lines. The expanded garage footprint, new covered patio and accessory buildings will be located at the rear behind the existing house. The property will remain accessible from Rossmoyne Avenue and the main entrance will remain as-is.
- The placement of the addition at the rear façade is in keeping with the recommendations of the Historic District Design Guidelines.

- The existing detached two-car garage will be extended towards the rear in a manner that will not be visible from the street and with the overall design being preserved.
- The existing landscaping is proposed to remain and the partially enclosed patio at the rear, new swimming pool, and garage extension creates a courtyard landscape that complements the Spanish Colonial Revival style of the house.

Mass and Scale: The proposed mass and scale is appropriate to the site and its surroundings for the following reasons:

- The immediate neighborhood surrounding the subject property features one- and two-story homes. The existing residence is two stories and the applicant’s proposal to expand the existing two-story house is consistent with the neighborhood and the existing conditions of the site.
- At the first floor, the addition is proposed to be built in line with the existing walls. The new two-story addition at the rear portion of the house will extend towards the north. The massing will be broken up using recessed building forms, with the second-floor setback approximately 1 foot from the first floor along the east and west facades. A new shed roof is also proposed that visually breaks up the massing of the first and second floor addition.
- The addition will feature gabled roof forms that match the existing single-family residence and the use of a 4:12 roof pitch is consistent throughout.

Design and Detailing: The proposed design and detailing is appropriate to the site and its surroundings for the following reasons:

- The proposed addition will be in keeping with the existing design and details including the use of red mission clay tiles, exposed rafter tails, decorative vents, smooth stucco with a color that matches the existing house, and aluminum gutters and downspouts in bronze
- The condition to retain wood windows: 1, 2, 3, 4, 8, 11, 12, 13, 14, 15, 16, 19; and having the new windows be limited to the addition and less visible portions of the side facades will preserve the design and detailing of the existing home.
- The condition to retain the front balcony and the decorative vents will preserve the original design and detailing.

STAKEHOLDERS/OUTREACH

The Code requires public notice when the Council considers approval of entitlements such as design review. Staff has published all required notices and has mailed copies of the notice to all property owners and occupants within 500 feet of the project. A public notice has also been posted on-site.

FISCAL IMPACT

There is no fiscal impact associated with this report.

ENVIRONMENTAL REVIEW (CEQA/NEPA)

Staff has conducted environmental review and has concluded that the Project is exempt from any further review under the California Environmental Quality Act (“CEQA”) because it meets the requirements of the Class 1 “Existing Facilities” exemption pursuant to Section 15301 of the State CEQA Guidelines because it is a minor addition to an existing building, and of the Class 31 “Historic Restoration or Rehabilitation” exemption pursuant to Section 15331 of the State CEQA Guidelines because the Project meets the Secretary of the Interiors Standards for the Treatment of Historic Properties.

CAMPAIGN DISCLOSURE

The names and business addresses of the members of the board of directors, the chairperson, CEO, COO, CFO, Subcontractors and any person or entity with more than 10% interest in the company proposed for contract in this Agenda Item Report are attached in Exhibit 10, in accordance with the City Campaign Finance Ordinance No. 5744.

ALTERNATIVES TO STAFF RECOMMENDATION

- Alternative 1:** Sustain the HPC decision to approve the Project with all original HPC-imposed conditions.
- Alternative 2:** Modify the HPC decision to approve the Project by eliminating or modifying two of the original HPC-imposed conditions related to the second-floor balcony and windows, as requested by the appellant.
- Alternative 3:** Modify the HPC decision to approve the Project by adding additional Council-imposed conditions and/or modifying or eliminating any other original HPC-imposed conditions.
- Alternative 4:** Continue the Appeal and direct the City Attorney to return with draft findings reversing the Historic Preservation Commission’s decision and denying the Project.
- Alternative 3:** Any other alternative for the Appeal not proposed by staff.

ADMINISTRATIVE ACTION

Submitted by:
Bradley Calvert, Director of Community Development

Prepared by:
Eric Ji, Planning Associate

Approved by:
Roubik R. Golanian, P.E., City Manager

EXHIBITS/ATTACHMENTS

- Exhibit 1: Location Map
- Exhibit 2: Photos of Existing Property
- Exhibit 3: HPC Staff Report and Reduced Plans for Current Design Review Application (PDR-003119-2024) from April 18, 2024
- Exhibit 4: HPC Record of Decision for Current Design Review Application (PDR-003119-2024) from April 18, 2024
- Exhibit 5: Neighborhood Survey
- Exhibit 6: Interdepartmental Comments
- Exhibit 7: DPR Survey Form
- Exhibit 8: Correspondence
- Exhibit 9: Notice of Appeal of HPC's Decision to City Council and California Code of Regulations, Title 8, Section 3209 Standard Guardrails
- Exhibit 10: Campaign Disclosure