



CITY OF GLENDALE, CALIFORNIA REPORT TO THE CITY COUNCIL

AGENDA ITEM

Report: Appeal of Design Review Board's approval of DRB Case No. PDR2105697 for 420 Nesmuth Road.

1. Motion to sustain the Design Review Board's decision and approve the project.
2. Motion to reverse the Design Review Board's decision and deny the project.
3. Motion to remand the project to the Design Review Board for consideration.

COUNCIL ACTION

Item Type: Public Hearing

Approved for September 27, 2022 **calendar**

EXECUTIVE SUMMARY

This hearing is an appeal of a decision made by the Design Review Board on July 8, 2021, to approve Design Review Board Case No. PDR 2105697 for the construction of a new 2,268 square-foot three-story, single-family residence with an attached two-car garage on a 7,566 square-foot vacant lot located in the R1R-II (Restricted Residential - Floor Area Ratio District II) zone.

COUNCIL PRIORITIES

Balanced, Quality Housing

One of the City's major goals is to maintain, preserve, and develop of balanced housing opportunities. The development of the existing vacant lot with the proposed single-family residence will create housing opportunity.

RECOMMENDATION

It is recommended that the City Council sustain the Design Review Board's approval of Case No. PDR 2105697, based on the rationale used in the staff report.

BACKGROUND

Appellants: Joseph R. Ashby (411 Nolan Avenue), Haik Mesropian (417 Nolan Avenue), and Nicola Montuschi (412 Nesmuth Road)

Status of Appellant: Neighbors

Applicant: Domus Design (C/O Garo Nazarian)

Owner: Alfred and Anahid Babayans

Legal Description: Lot 49, Tract No. 4881

APN: 5630-022-015

Zone: R1R-II (Restricted Residential) Zone - Floor Area Ratio District II.

Land Use Element: Low Density Residential.

Lot Size and Frontage: The project site is an interior lot with 7,566 square feet in area and 76.8 linear feet of frontage along Nesmuth Road.

Existing Site Characteristics: The project site is a vacant lot with approximately 54 percent average current slope for the area of construction. The irregularly-shaped lot slopes upward from Nesmuth Road towards the rear. The lot contains one protected Oak tree (6 inches in diameter) at the southeast corner of the lot, at the rear. The tree will not be impacted by the proposed development. There is also one protected street tree (Deodar Cedar) within the public right-of-way, adjacent to the project's site, which is proposed to remain. The project will involve approximately 803 cubic yards of cut and export; and 48 percent of the site will remain as ungraded open space.

Circulation Element: Nesmuth Road is classified as a local street in the Circulation Element of the General Plan and is capable to accommodate the traffic generated by the residential uses.

Surrounding Land Use/Zoning: The properties immediately surrounding the subject site are zoned R1R, FAR District II. The majority of the neighboring properties consist of vacant lots; however, the immediate properties at the east and south of the subject site are developed with single family dwellings.

PROJECT HISTORY:

April 7, 2021 – Applicant submitted a design review application (DRB Case No. PDR2105697) to construct a new 2,268 square-foot three-story, single-family residence with an attached two-car garage on a 7,566 square-foot vacant lot located in the R1R-II Zone.

June 1, 2021 – Incomplete letter was sent to the applicant.

June 18, 2021 – The application was deemed complete.

July 8, 2021 – Design Review Board approved the project (4-0) with three conditions.

July 23, 2021 – Neighbors filed an appeal.

SUMMARY OF DESIGN REVIEW BOARD'S DISCUSSION:

Of the five (5) Board members, Board member Minas recused himself from voting due to a conflict and Board members Simonian, Welch, Smith, and Tchaghayan, unanimously voted in favor (4-0) to approve the project with three (3) conditions. Below, is a summary of discussions made by Board members during the DRB public hearing:

- Board Member Smith acknowledged the simplicity of the proposed design and found the project to be well-designed in terms of scale and details. However, she suggested several conditions to further enhance the design including the reduction of the size of the second floor windows (front façade), simplifying the proposed balcony railings, eliminating the second floor balconies, using French doors instead of sliding doors (for the balconies), eliminating the header over the garage door, eliminating the arched header for the interior stairwell window (front façade), and redesigning the front curved staircase to be rectilinear.
- Board Member Tchaghayan found the design appropriate to the site and appreciated that the design truly reflected the architectural features of the proposed style (Spanish Colonial Revival). She acknowledged the challenges with the development in hillside properties; however, she found the proposed design an appropriate approach in terms of its site planning. With regard to the neighbors' concerns expressed during public testimony including the size of the lot, lot boundaries, loss of privacy and views, impermissible retaining walls in relation the current lot slope, infringement on an existing easement, and the project's failure to preserve native trees, Board Member Tchaghayan noted that most of the neighbors' concerns were not within DRB purview and would be appropriately addressed during the plan check and permit process. She particularly noted the proposed 10'-5" high retaining wall behind the house was lower than the maximum allowable height limit of 15'-0" and that the retaining wall could not exceed that height limit and would be verified during the plan check and permitting process.

Finally, she agreed with Board member Smith's suggestion for reducing the size of the second floor windows on the front façade and suggested a new condition for replacing the front facing hipped roof with a gabled roof on the front façade.

- Board Member Simonian found the proposed project successful in terms of its attention to details, high quality materials, simplicity, articulation, orientation in relation the site slope, and creation of a focal point. He supported the conditions to reduce the size of the second floor windows and replacing the front facing hipped roof with a gabled roof. In response to the neighbors' concern in regard to the amount of grading and lot slope being more than 50 percent, he strongly believed that the proposed construction would not result in more than 1,500 cubic yards of grading (cut and export) and if the grading would need to exceed the proposed approximately 803 cubic yards, the Board would not suggest any additional condition, because the proposed site planning was well oriented and appropriate to the site. In response to the neighbors' concern in regard to the project distance from the east property line, Mr. Simonian noted that the project met the minimum required 10'-0" interior setback along the east side property line (along the adjacent neighbor at 412 Nesmuth Road) and that any further distancing from the property line would create an unnecessary hardship for the developer of the subject site; and that it was unfortunate that the existing neighboring house at 412 Nesmuth Road was situated almost along the side property line, without adequate setback. He also acknowledged the existing drainage and sewer piping on the subject site belonged to the neighbor(s) and encroached on the subject site. He strongly believed that with implementation of some precautionary measures during construction, the construction would not cause any harm to the existing exposed piping.
- Chairman Welch concurred with Board Members and supported the proposed design. He also found the project's mass was appropriate and successful in response to the site topography. He appreciated the simplicity of the proposed design and details. He also echoed Board Member Simonian's comments that any further distancing from the east side property line would create an unnecessary hardship for the developer and that it was unfortunate that the existing neighboring house (to the east) was built along the side property line with no setback. However, he asked the developer to ensure the protection of the existing exposed piping system during construction. He supported the Board member's suggested conditions in addition to the staff recommended Condition No. 1 to obtain required permits from Urban Forestry to protect the street tree and the oak tree on the site; and update the landscape plan to include the protected trees.

Ultimately, Board Member Smith made a motion to approve the project with three (3) conditions. The motion was seconded by Board Member Simonian. The Board unanimously voted in favor (4-0) to approve the project with the following conditions:

1. Obtain required permits from Urban Forestry to protect the street tree and the oak tree on the site; and update the landscape plan to include the protected trees.
2. Replace the front facing hipped roof with a gabled roof at the left side (north) of the front façade (second floor).
3. Replace the French doors at the south side of the front façade (in the area above the entry and bedroom #3) with windows that are reduced in height and width to express a hierarchy of window sizes.

ANALYSIS

In the appeal application (Exhibit 7), the appellants contend that the applicant presented an incomplete application and false information such as the area of the lot, lot boundaries, lot slope, and location of the existing sidewalk; and that the DRB exceeded its authority and rendered the decision based on the applicant's false presentations. The appellants also contend that the adjacent neighboring property (412 Nesmuth Road) located at the east side of the subject project would suffer serious loss of privacy and views. Further, the appellants raised concern for the impermissible retaining walls, infringement on an existing easement, and the project's failure to preserve native trees. The appellants believe the subject development will adversely affect, at a minimum, the properties at 412 Nesmuth Road, 411 Nolan Avenue, and 417 Nolan Avenue.

STAFF'S ANALYSIS OF APPEAL:

Below is a list of the statements made by the appellants in the appeal application in Part 4 "Statement of Error" (grounds for the appeal), as required by GMC section 2.88.030, together with staff responses:

- A. That there was a violation of a specific provision of law, which forms the basis of the appeal. The appellants cite GMC [section] 30.11.060(B) (lot size [is] less than 7,500 square feet), GMC [sections] 30.11.070 and 30.30.010(B)(2)(a) (retaining walls taller than the [allowable] 5 feet visible from street), GMC [section] 30.47.040 (B)(3) (failure to consider privacy), and Civil Code §1468 (infringement of use of easement/intent of easement).*

Staff's response:

With respect to GMC section 30.11.060(B), which requires seven-thousand five-hundred (7,500) square feet as the minimum lot size for purposes of constructing a new dwelling unit on lots divided prior to June 26, 1986, the applicant included a land survey as part of the submitted plans (Exhibit 3). The land survey was prepared by a licensed surveyor on April 28, 2020 and the area of the subject lot was shown to be 7,566 square feet. Staff did not find any discrepancies between the survey and lot information found in the City and County records. DRB also found the land survey accurate and acceptable.

With respect to GMC section 30.11.070, which regulates the required setbacks in residential district, no specific subsection of this code was cited by the appellants. Staff found the project in compliance with this code section and subsections.

With respect to GMC section 30.30.010(B)(2)(a), which regulates the height limit of retaining walls and crib walls in the ROS and R1R zones, the project is in compliance with this code section and subsection GMC section 30.30.010(B)(2)(a)(ii), because the proposed retaining walls, which are upslope from the public street access, have a maximum exposed height of 10'-5", which is less than the maximum allowable height of fifteen (15) feet and will be hidden from view from the public street by the primary house, as required by the code.

In regard to the appellants' reference to GMC section 30.47.040 (B)(3), this code section addresses privacy and conflicting relationships of proposed development to adjacent buildings including unreasonable impacts on privacy on adjacent buildings and outdoor spaces. According to this code section, privacy is judged by the view from the proposal's primary living spaces (living room, den, study, family room, great room, library, dining room) into the buildings and outdoor spaces of existing buildings. In addition, views from new balconies greater than 25 square feet and the placement and relationship of windows must also be considered. In the current project, the property to the west is a vacant lot and due to the site topography, there is no view from the subject site to the neighboring properties to the south (along Nolan Avenue); however, three windows of the subject three-story house will face the neighboring property to the east (412 Nesmuth Road). These windows include two small windows (18 inches by 30 inches) at the third floor bathroom, which according to above code section, should not be considered for privacy concerns. The third window is the proposed living room window (30 inches by 36 inches) at the second floor (east façade) and does not face directly toward the neighbor's large window (46 inches by 120 inches). Therefore, the DRB did not find any privacy issue caused by these window placements.

The project proposes a 57 square-foot balcony off the third floor bedroom and a 117 square-foot balcony off the living room on the second floor at the front façade. There

is no balcony proposed on the side façade (east), facing the neighbor and neither of the two balconies face directly toward the neighboring house or its backyard outdoor open spaces. Furthermore, a privacy wall is designed on the east façade of the second-floor balcony with a small opening (approximately 2 feet by 4 feet). The DRB did not find any privacy issue caused by the proposed balconies.

The appellant's argument regarding an infringement of use of easement/intent of easement (Civil Code §1468) is incorrect. The existence of a 5'-0" sewer easement and sewer lateral(s) along the east property line was noted by the City's Public Works/Engineering Division when the project was circulated for comments to various City departments during the application review process. According to the project plans, no building or structure is proposed within the 5'-0" easement, along the east property line. In fact, the proposed house is set back 10'-0" from the east side property line, as required by the zoning code. Therefore, the project does not infringe upon or violate any rights given by the easement.

B. That the DRB exceeded its authority. Final design review requires that the applicant file a complete application and that the DRB's discussion acknowledged that information about grading plan was absent and also the retaining walls would change based on the engineering and soil testing, which would necessarily change the design, but still the DRB approved the project. The appellants refer to GMC [section] 30.47.040.

Staff's response: Staff has analyzed appellant's contentions here and finds the DRB did not exceed its authority, because:

- 1) The list of items required for review of a final design review application is contained in GMC section 30.40.020. All information required for the DRB to review the project was completely provided. Regarding the grading plan requirement, the project was found to be acceptable by the Public Works Department and Building and Safety Division and was processed for DRB review after it was circulated to other departments/divisions for comments. Details about the grading plan and required permit(s) will be addressed in the permitting phase, when construction documents and details are submitted for review and permit. The design of the project, except for changes to meet the conditions of DRB approval, will remain unchanged during the permit process.
- 2) The DRB noted and considered the height of the retaining walls after hearing the public testimony during the meeting. Board Member Tchaghayan noted that the designer relied on a soils report to propose a retaining wall with the maximum exposed height of 10'-5" behind the house. However, she strongly believed if soil conditions and future grading permits require taller retaining

wall(s), the project would not exceed the height limit of 15'-0", as required by GMC section 30.30.010(B)(2)(a)(ii).

- 3) In regard to the appellants' reference to GMC section 30.47.040 related to the project's compatibility with the surrounding neighborhood, the DRB appropriately acted within its authority and found the proposed project, as conditioned, in compliance with the applicable subsections A, B, and C of this code section in terms of compatibility with the surrounding neighborhood, use of high quality materials, and incorporation of appropriate architectural details and design.
- 4) With respect to GMC section 30.47.040 (D), DRB acted within its authority and reviewed the proposed design and details, considered the public concerns, ensured the project's compatibility with the surrounding development, considered the staff-recommended condition (Condition No. 1), and found the project in compliance with the Zoning Code and the Hillside Design Guidelines after implementation of Conditions No. 2 and No. 3.

C. That the DRB failed to fulfill a mandatory duty by provision of GMC [section] 30.40.020 (G) (applicant filing), because the application was incomplete; GMC [section] 12.44 for protection of indigenous trees, because the proposed retaining walls will endanger the oak tree; GMC [sections] 30.47.040(B)(3) and 30.47.030, because the proposed development is not in reasonable conformance with the [Glendale] Municipal Code (GMC).

Staff's response:

With respect to GMC section 30.40.020 (G), as was noted above in the staff response to Item B (1), all information required for a complete design review application submittal was provided to staff and the application was deemed complete.

With respect to GMC section 12.44 for protection of indigenous trees, the lot contains one protected oak tree (6 inches in diameter) at the southeast rear corner of the lot, away from the construction area. The oak tree will not be impacted by the proposed development and all onsite activities must otherwise comply with the City's indigenous tree protection ordinance. There is also one protected street tree (Deodar Cedar) within the public right-of-way adjacent to the project site. The project plans were reviewed by the Urban Forestry Division during the application review process. The Urban Forestry Division supported the proposed development and required the applicant to obtain required permits to protect the street tree and the oak tree on the site. Condition No. 1 was recommended by staff and imposed by the DRB to satisfy the Urban Forestry Division requirement.

With respect to GMC section 30.47.040(B)(3), which addresses conflicting relationships of proposed development to adjacent buildings including unreasonable impacts on privacy of adjacent buildings and outdoor spaces privacy, please see staff response to Item A above.

With respect to GMC section 30.47.030, and the appellants' contention that the proposed development is not in reasonable conformance with the municipal code, no specific issue was raised by the appellants. In addition to the responses included for Items A and B above, the DRB carefully reviewed the development and imposed conditions of approval to ensure compatibility with surrounding development. In this case, the DRB considered the staff-recommended condition of approval (Condition No. 1) and added two more conditions to replace the front facing hipped roof with a gabled roof at the left side (north) of the front façade (second floor) and to replace the French doors at the south side of the front façade (in the area above the entry and bedroom #3) with windows. The goal of these changes was to reduce building height and width and to express a hierarchy of window sizes. The applicant subsequently provided a revised set of drawings appropriately addressing the DRB conditions of approval (Exhibit 8).

- D. That the DRB refused to hear or consider certain facts before rendering its decision. The appellants contend that the lot size submitted by applicant is inaccurate and the actual lot is less than 7,500 SF, [that there is an] easement held by adjoining property owners, [that there would be an] invasion of privacy of 412 Nesmuth Road due to large window, and that the slope of the subject site is exceeding an average current slope of 50 percent.*

Staff's response:

Most of these concerns are addressed in staff responses set forth in Items A, B, and C above. In addition, as proposed, the new three-story house will be built into the slope and will terrace and follow the natural topography as recommended by the Hillside Design Guidelines. The DRB carefully reviewed the project design and considered all facts presented before the Board, including public testimony, before rendering its decision. Board Member Simonian in particular noted that with the project exceeding the average current slope of fifty (50) percent, the Board would not suggest any additional conditions of approval because the proposed design was an appropriate and well-oriented site planning approach.

- E. That the evidence before the DRB was insufficient or inadequate to support its decision. The appellants state that evidence was necessary, but lacking including:*
- *Independent evaluation of the lot size*

- *Document regarding the easement (that applicant told the DRB there were no easement, but DRB should have required a letter from a title search company)*
- *Grading report*
- *Photos assessing privacy*

Staff's response:

Most of the concerns are addressed in staff responses set forth in Items A, B, C, and D (above). Furthermore, the additional photos assessing privacy that were submitted by the appellants (Appellant's Statement of Additional Facts - Exhibit 7) do not show any privacy conflict. As mentioned above, the DRB did not find the proposed project would cause any privacy conflict with the neighboring properties.

F. That the details of the project were not posted to the Design Review Board until seven days before the hearing. The additional evidence required the appellants to contact third parties to obtain documents and that could not be accomplished with the short window when the DRB posted the design. The issues were raised with the DRB and the applicant responded by providing false information that the applicant could not benefit from providing false information to the DRB.

Staff's response:

The project drawings and staff report, along with the application materials, were posted on the City's website a week prior to the DRB hearing in accordance with Planning Division policy. However, the submitted development plans and project documents were available for public review by request upon design review application submittal and when the DRB hearing was noticed. The project was noticed at least 10 days prior to the DRB hearing for public comments in accordance with GMC section 30.61. In addition, the project installed story poles (temporary frames) reflecting the project footprint and size, in accordance with GMC section 30.40.020, approximately four weeks prior to the Design Review Board hearing. These should have given the appellants and all interested parties adequate time to inquire and obtain additional evidence.

Furthermore, the appellants submitted the following three documents with the appeal application for "Appellant's Statement of Additional Facts" (Exhibit 7) as additional documents as follows:

- 1) Tree Report prepared by Sims Tree Health Specialists, Inc. (dated July 20, 2021). The report states that the project will not damage the existing oak tree as long as

precautions are taken and that the tree will survive the development; however, the street tree (*Cedrus Deodora*) will likely not survive the construction. As noted in staff response to Item C above, the City's Urban Forestry Division reviewed and supported the proposed development and required the applicant to obtain applicable permits prior to construction to protect the street tree and the oak tree on the site. DRB Condition No. 1 will ensure there will not be any negative impacts to the trees.

- 2) A letter ("Statement of facts for 420 Nesmuth RD., Glendale, CA") prepared by Hennon Surveying & Mapping, Inc. (dated July 22, 2021). The letter states that according to records obtained from the Los Angeles County Recorder Office, the lot size at 420 Nesmuth Road (proposed project) appears to be approximately 7,272 square feet or about 7,270 square feet. The letter is attached with copies of older survey records (corner records). As noted in staff response to Item A, the land survey (dated April 28, 2020) was prepared by a licensed surveyor and submitted with the project drawings by the applicant. The survey indicates the lot area to be 7,566 square feet. Staff did not find any discrepancies between the survey and information found in the City and County records in terms of the property line dimensions and boundaries. The DRB also found the land survey accurate and acceptable.
- 3) A photographic survey was submitted showing the subject site and the window of the neighboring house at 412 Nesmuth Road, with the focus on privacy and view concern for 412 Nesmuth Road to support the appellants' argument for privacy conflict and blocking the view. However, the photographic survey does not reveal any new evidence supporting an argument that the project impacts privacy in violation of applicable standards. As mentioned above (staff response to Item A), the DRB did not find the proposed project would cause any privacy conflict with the neighboring properties and, in addition, the City of Glendale does not have a view protection ordinance for the Board to consider.

In addition, the appellants' claim that DRB relied on the applicant's false information is incorrect. The four DRB members present at the hearing listened to the neighboring concerns and discussed the site planning, mass and scale, and details of the project. The DRB did not find the information provided by the applicant to be false or incomplete. The plans and information provided to the DRB were sufficient and adequate to enable the DRB to render a decision within its purview, and based on its review and consideration of all the materials and testimony the DRB conditionally approved the application unanimously (4-0). In addition, the DRB did not think the approved conditions would warrant a second review by the DRB; otherwise, the DRB would have voted for "return for redesign".

APPELLANTS' STATEMENT OF ADDITIONAL FACTS AND STAFF RESPONSES:

The appeal listed eight (8) statements of additional facts, which mainly support the Statement of Error (see above, Items A to F). A summary of the appellant's arguments under statement of additional facts are listed below together with the staff responses:

1. Obstruction of view and invasion of privacy: *The appellants contend that the project significantly invades the privacy of 412 Nesmuth Road by looking into the neighbor's panoramic window (46 inches by 12 inches) located at the second floor (east side) and materially blocks the main view of canyon for 412 Nesmuth Road and that this will cause the market value of the property to be decreased. The appellants refer to the older developments in the neighborhood (along Nolan Avenue towards the north, canyon facing side) as successful examples for protecting the privacy and window placements of adjacent neighbors. The appellants further contend the proposed project fails to account for the privacy concerns inherent in the hillside development. The appellants also state that the above issues were brought to the DRB's attention during the hearing and that the applicant did not find the proposed two small windows facing the neighboring house at 412 Nesmuth causing privacy issue and that the DRB failed to consider the privacy conflict. The appellants also contend that the DRB should have required the project to be redesigned and be reduced in scale and the overall size to not obscure 412 Nesmuth Road.*

Staff's response:

As noted in the staff response in Item A above, the Board acted within its authority and reviewed the relation between the subject development and neighboring properties (in particular, the immediate neighbor to the east) and did not find any privacy issue caused by any conflicting relationships between the proposed development and the adjacent building with respect to window placements. Therefore, the Board did not fail to consider privacy issues. Regarding the project's scale and the overall size, the DRB found the overall size and scale of the proposed 2,268 square-foot house, as conditioned with Condition No. 2, compatible with the average 2,472 square-foot home sizes in the neighborhood (within 300 linear feet of subject property).

2. Retaining walls visible from street exceed permitted height: *The appellants believe that the proposed retaining walls, behind the proposed house (south side of project) will exceed the permitted height limit of 5'-0" for the visible portion of the wall from the street, because the proposed retaining walls can be seen when driving on Valentine Drive and Cardigan Avenue; therefore, the project should comply with*

GMC section 30.30.010(2)(a)(i), instead of GMC section 30.30.010(2)(a)(ii). In addition, the appellants believe the future stages in the permitting process which require soil testing and engineering, may alter the design and likely require taller retaining walls and that the public including the appellants won't have the opportunity to voice their concern or appeal the next phase of the project after design is altered during permitting process.

Staff's response:

See staff response in Item A above. In addition, GMC section 30.30.010(2)(a)(i) only regulates the height of the retaining walls which have a toe within fifteen (15) feet of a street front and street side property lines and run essentially parallel to the street. This code subsection is not applicable to the proposed retaining walls which are located behind the house, at the rear. The project is in compliance with GMC section 30.30.010(2)(a)(ii) which states that a *"new retaining wall behind the house, which are hidden from view from the public street by primary or accessory structures that are upslope from their public street access may have a maximum exposed height of fifteen (15) feet at any point along the wall."*

3. *Infringement on Easement: The appellants state that the project infringes the existing 5'-0" easement recorded for the sewer and drainage lines between 417 Nolan Avenue, 411 Nolan Avenue, and the subject property at 420 Nesmuth (along the east property line) and that the DRB failed to consider the neighbor request (411 Nolan Avenue) during the DRB hearing to grant additional 3'-0" setback from the sewer and drainage lines to minimize disruptions, which would allow assessment for any leaks, and ensure adequate access for repairs. The appellants also argue that the applicant should have noted the easement on the project plans and be aware of such easement because he falsely presented the project before the DRB without the notation for such easement.*

Staff's response:

See staff response on Item A above.

4. *Misrepresentation of incline of parcel slope: The appellants believe the plans submitted to DRB misrepresented average actual slope of approximately 70 percent. The appellant state that the soil is unstable and the existence of vegetation is necessary to keep the soil together. The appellants also contend that the DRB failed to impose additional condition to address the impacts related to construction and grading for the subject property, which exceeds the average current slope of 50 percent by referring to GMC section 30.47.030 (l)(1) and this will endanger the adjoining residents.*

Staff's response:

The DRB found that the plans were adequate for a decision and proceeded to conditionally approve the project. With respect to GMC section 30.47.030 (I)(1), this code section states that *"the review authority may impose conditions to address impacts related to construction and grading, including, but not limited to, haul routes, protection of indigenous trees and requirements and conditions of approval of any city department that are reasonably related to the public health, safety or welfare, where the property has an average current slope exceeding fifty (50) percent, or where the project grading will exceed one thousand five hundred (1,500) cubic yards"*. This code section also states that *"the review authority (DRB) shall have the authority to impose conditions in order to ensure compatibility with surrounding development and shall consider alternative arrangement of windows or building massing or site layout to avoid conflicting relationships; however, the review authority shall not reduce the size or scale of a project or shall not prohibit construction with a reasonable number or size of windows in a new or remodeled building, or an addition thereto"*.

As noted in staff's response to Item F above, the DRB acted within its authority and rendered its decision to conditionally approve the project after careful consideration of the neighbors' concerns and proposed site planning, mass and scale, and details and the project's compatibility with the surrounding development. The DRB found the size and scale of the project and number and size of the proposed windows reasonable and in conformance with the surrounding neighborhood and the site.

With respect to GMC section 30.47.030 (I)(1), which requires the DRB to impose conditions to address the impacts related to construction and grading for the projects that have an average current slope exceeding fifty (50) percent, or where the project grading will exceed one thousand five hundred (1,500) cubic yards, the DRB noted that the proposed construction would not cause more than 1,500 cubic yards of grading (cut and export) and if the grading would need to exceed the proposed approximately 803 cubic yards, the Board would not suggest any additional condition, because the proposed site planning was well oriented and appropriate to the site.

5. *Endangering native and purported tree*: The appellants present an arborist report, prepared by Sims Tree Health Specialists Inc., (dated July 20, 2021), stating that *the project will endanger native and protected trees in violation of GMC and that loss imperils long term hillside stability. The main appellant's argument is about the health and stability of the street tree (Cedrus Deodora).*

Staff's response:

See staff response on Item C and F above.

6. *Actual lot size does not permit development:* *The appellants argue that the actual lot size does not permit the subject development because according to a letter (Statement of facts for 420 Nesmuth RD., Glendale, CA) prepared by Hennon Surveying & Mapping, Inc. (dated July 22, 2021), the 420 Nesmuth Road lot size appears to be approximately 7,272 square feet or about 7,270 square feet; and that the lot size of the subject project is less than what presented to DRB and required by GMC section 30.11.060(B); and that the proposed development is attempting to use approximately 294 square feet of land that is not part of 420 Nesmuth in order to permit the development. The appellants also believe that DRB failed to hold the project for a future hearing to allow time for investigation by the appellants or the City regarding the lot size.*

Staff's response:

See staff response on Item A above.

7. *Plans submitted to DRB show a non-existent sidewalk:* *The appellants contend that plans submitted to DRB show a non-existent sidewalk. An image was submitted as part of the appeal application for "Appellant's Statement of Additional Facts" (Exhibit 7) showing the current street frontage at 420 Nesmuth Road.*

Staff's response:

The project drawings correctly show the portion of existing sidewalk on the existing site plan. According to the Public Works Department the future sidewalk requirements are also correctly shown on the proposed site plan. The Board appropriately reviewed and considered the proposed improvements along the street frontage before rendering its decision.

8. *Majority of neighbors oppose project as currently proposed:* *The appellants contend that the majority of residents and adjacent homeowners (listed below) supported the appeal and oppose project as currently proposed: Annette Shirinian, Haik Mesropian, Joseph R. Ashby, Lorenzo M. Rivera, Mary Esparrago.*

Staff's response:

The appeal application was signed by Joseph R. Ashby (411 Nolan Avenue), Haik Mesropian (417 Nolan Avenue), and Nicola Montuschi (412 Nesmuth Road). During the DRB hearing, in addition to the applicant, four speakers spoke in opposition to the proposed project: Joseph R. Ashby (411 Nolan Avenue), Haik Mesropian (417 Nolan Avenue), Nicola Montuschi (412 Nesmuth Road), and Annette Shirinian (412 Nesmuth Road). The Board considered the public testimony, responded to the public concerns, and rendered its decision. The additional opponents as listed by the appellants are Annette Shirinian (412 Nesmuth Road) and Lorenzo M. Rivera and Mary Esparrago reside at 437 Nolan Avenue (located three blocks away, southwest of the subject project).

SUMMARY

Based on the analysis of the appeal and the reasoning above, staff recommends that the City Council sustain the DRB decision to approve the project.

The basis of the staff's recommendation and DRB's finding for approval as incorporated in the final DRB Record of Decision include the following:

Site Planning: The proposed site planning is appropriate, as modified by any conditions, to the site and its surroundings for the following reasons:

- The proposed 3-story house follows the topography of the site, which slopes upward sharply from the street frontage.
- New retaining walls (split face concrete blocks) at the sides and rear of the new house will help to minimize landform alterations and keep almost 48 percent of the existing site as ungraded open space. The new retaining walls meet Zoning Code requirements.
- New drought-tolerant landscape is complementary to the building design. Landscaping is proposed along the retaining walls, facing neighboring properties to reduce visual impacts.
- The design and location of the attached garage and driveway (with decorative pavers) are compatible with the primary structure.

Mass and Scale: The proposed mass and scale are appropriate, as modified by any conditions, to the site and its surroundings for the following reasons:

- The new 3-story house with the overall height of 34'-6" presents appropriate proportions and transitions in mass and scale.
- The new design follows the Hillside Design Guidelines because it is built into the up-sloped lot and creates appropriate articulations following the natural terrace.
- The hipped roofs reinforce the design concept and are appropriate to the context.

- However, a condition of approval is added to replace the front facing hipped roof with a gabled roof at the left side (north) of the front façade (second floor) to better reinforce the architectural style and design concept.

Building Design and Detailing: The proposed building design and detailing are appropriate, as modified by any conditions, to the site and its surroundings for the following reasons:

- The project's architectural details and colors including stone veneer, smooth stucco finish, two-piece roof tiles, roof eave details, trim and exposed beams, windows and exterior doors, railings, light fixtures, and front staircase are consistent and reinforce the project's Spanish Colonial Revival design concept. However, for better design consistency, a condition of approval is added to replace the French doors at the south side of the front façade (in the area above the entry and bedroom #3) with windows that are reduced in height and width to express a hierarchy of window sizes.
- The entryway is well integrated into the overall design.
- The new three-story house will not create a privacy issue because the project's balcony and a small window of the living room at the second floor will not overlook the adjacent neighboring property to the east. A majority of the neighborhood consists of vacant lots.
- The new windows (weathered brown wood clad windows) are recessed within walls with sills and represent the project's architectural style with an appropriate combination of hung, fixed, and casement windows.

STAKEHOLDERS/OUTREACH

The Code requires public notice when the Council considers an appeal of a design review decision. Staff has mailed copies of the notice to all property owners and occupants within 500' radius of the project site. Also, a public notice was posted on-site and on the City's website.

FISCAL IMPACT

There is no fiscal impact associated with this item.

ENVIRONMENTAL REVIEW

The project is exempt from CEQA review as a Class 3 "New Construction or Conversion of Small Structures" exemption pursuant to Section 15303 of the State CEQA Guidelines, because the project is the construction of a new single-family house, and there are no unusual circumstances associated with the project that would cause any significant environmental impact that would except the project from a Class 3 exemption.

CAMPAIGN DISCLOSURE

In accordance with Council direction pursuant to the adopted City Campaign Finance Ordinance, the names and addresses of all owners and applicable parties involved in this project proposal in this Agenda Item Report are attached as Exhibit 9.

ALTERNATIVES

Alternative 1: The City Council may approve the attached motion to sustain the Design Review Board's decision to approve Case No. PDR2105697.

Alternative 2: The City Council may approve the attached motion to continue the matter, directing the City Attorney to draft findings overturning the Design Review Board's decision and denying the project.

Alternative 3: The City Council may make a motion to remand the case to the Design Review Board for further consideration.

Alternative 4: The City Council may consider any other alternative not proposed by staff.

ADMINISTRATIVE ACTION

Submitted by:

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Prepared by:

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Reviewed by:

Jay Platt, Principal Urban Designer

Chris Baghdikian, Senior Planner

Jason Bradford, Director of Finance and Information Technology

Michael J. Garcia, City Attorney

Approved by:

Roubik R. Golanian, P.E., City Manager

EXHIBITS / ATTACHMENTS

1. Location Map
2. Photos of Subject and Neighboring Properties, and Neighborhood Survey
3. Reduced Plans for current DRB case No. PDR2105697
4. DRB staff Report, July 8, 2021 (without attachments)
5. Urban Forestry Comments (dated April 22, 2021) and Indigenous Tree Report (dated June 5, 2021)
6. DRB's Record of Decision
7. Appeal application of DRB's Decision
8. Applicant's revised drawings addressing DRB conditions
9. Campaign Disclosure Form