



STAFF REPORT
CITY OF BEVERLY HILLS

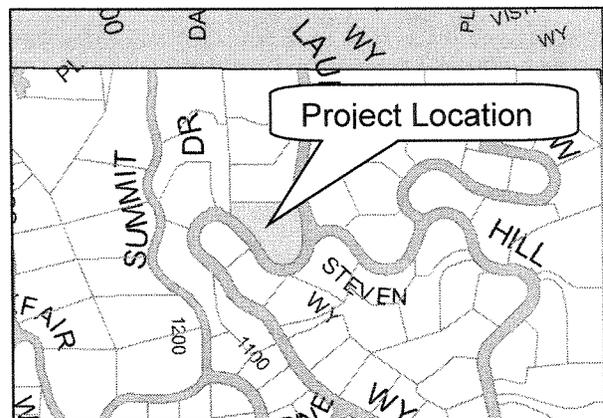
**For the Planning
Commission Special
Meeting of
March 24, 2009**

TO: Planning Commission

FROM: Ryan Gohlich,
Assistant Planner

THROUGH: Jonathan Lait, AICP
City Planner

SUBJECT: Application for a Hillside R-1 Permit (PL0858160) to allow an accessory structure to be located within 100 feet of the front lot line on an estate property located at **1201 Laurel Way**.



Application for a Hillside R-1 Permit to allow a swimming pool and deck to be located within 100 feet of the front lot line on an estate property pursuant to Beverly Hills Municipal Code §10-3-2526: Accessory Buildings on Estate Properties.

RECOMMENDATION

It is recommended that the Planning Commission approve the Hillside R-1 Permit subject to conditions listed in the staff report.

EXECUTIVE SUMMARY

The applicant, Mauricio Duk, requests approval of a Hillside R-1 Permit to construct an accessory structure, which consists of a pool, jacuzzi, and deck within 100-feet of the property's front lot line. The subject property is considered an "estate property" and is currently developed with a one-story single-family residence and detached garage. The subject site is currently developed with a pool and deck within 100 feet of the front property line, and the Hillside R-1 request calls for reconfiguring the pool's position and shape, and the addition of a jacuzzi.

The subject property is located within the Single-Family Residential (R-1.X) Zoning District in the Hillside Area of the City.

GENERAL INFORMATION	
Applicant	Mauricio Duk
Designer/Architect	Urban Networks Inc.
Project Owner	Papcap Laurel Way LLC.
Zoning District	One-Family Residential Zone (R-1.X)/ Hillside Area
Parcel Size	35,000 square feet (0.80 acres)
Permit Streamlining Act Deadline	May 3, 2009 (with 90 day extension request)

BACKGROUND

The applicant previously submitted an application for a Hillside R-1 Permit to allow the construction of a similar project within 100 feet of the front property line. The original application was reviewed by the Commission at its August 7, 2008 meeting, and was denied because the Commission was unable to make the required findings related to mass and scale, and the garden quality of the city. The applicant made significant revisions to the project's design and a new application was submitted. The revised project was reviewed by the Commission at its February 12, 2009 meeting; however, the Commission raised similar concerns related scale and mass, and the garden quality of the city.

In addition to concerns raised by the Commission, a neighbor adjacent to the subject site raised concerns regarding the City's view preservation ordinance. The concerns regarding view preservation are related to construction taking place on the primary residence itself, and are not related to the application for a Hillside R-1 permit. The construction taking place on the primary residence has been previously permitted and does not require any discretionary review. Further, staff has evaluated the concerns raised by the neighboring property owner as they relate to view preservation, and reconfirmed that the construction taking place is in compliance with the City's development standards.

In response to the Commission's most recent comments, the applicant revised the project to ensure that it is constructed at grade without creating a large overhang above the slope. In order to accomplish this design scheme the proposed pool was reduced in size by five feet along all dimensions facing the street and the size of the pool deck was reduced. Additionally, landscaping has been proposed along the southeast wall that runs adjacent to the pool and is in place for safety purposes. The proposed design

eliminates existing fencing and decking, thereby reducing the overall appearance of mass and scale as viewed from the adjacent street.

At its February 12, 2009 meeting a majority of the Commission requested that all elements of the project be pulled in from the sloped area; however, the Commission primarily focused on the southeast corner of the project. It should be noted that a small portion of the pool's catch basin (located at the southwest corner of the pool) remains exposed, but that all other elements of the pool and deck are designed to be at level grade. The proposed design addresses the issues related to scale and mass by preventing large extensions of the project onto the sloped area of the property, and the proposed landscaping addresses issues related to the garden quality of the city. Additionally, the Commission should be aware that if the applicant is required to remove all elements of the project from the sloped area, the project would no longer qualify as an accessory structure, and would therefore not require the issuance of a Hillside R-1 permit.

PROJECT DESCRIPTION

The applicant proposes to construct the pool and deck on the south portion of the subject property approximately 30 feet behind the front lot line (15 feet more than the original application proposed), which is beyond the required 15 foot front setback.

The proposed accessory structure will be built into the existing level pad, with the corner of the pool's southwest catch basin to be exposed. Landscaping has been proposed at the corners of the pool to provide enhanced landscaping and screening.

The existing pool and deck will be demolished to accommodate the proposed project. The proposed pool and deck will be located in a location similar to the existing pool and deck; however, the proposed location will generally increase the size of the front setback provided, and the structure will be located at grade to limit visibility from the adjacent street and residences. Based on the proposed location, increased front setback, construction at grade, and installation of new landscaping, it is anticipated that the proposed structure will be less visible than the existing structure, as viewed from the adjacent street.

AREA CHARACTERISTICS

The subject property is located on the north side of Laurel Way within the R-1.X zoning district (Hillside Area, north of Santa Monica), fronting approximately 500-feet along Laurel Way (front yard). The subject site is surrounded by lush landscaping, and a landscape plan has been submitted in conjunction with the project to aid in greening the slope and screening the proposed structure. Additionally, the applicant has removed all dead vegetation from the subject site, which was previously discussed as a fire hazard at the Commission's August 7, 2008 meeting.

PROJECT DESCRIPTION CHART

1201 LAUREL WAY			
Zoning District	Single-Family Residential (R-1.X) Hillside Area		
Parcel Size	67,000 square feet		
Category	Existing	Proposed	Required/Allowed (Per BHMC)
General Development Standards			
Lot Size:	35,000 square feet or 0.8 acres	No Change	1 acre (minimum lot size)
Floor Area:	4,300 square feet (Main residence)	No Change	31% of the Level Pad Area + 10% of the sloped area (BHMC 10-3-2502)
Height of Proposed Accessory Structures:	N/A	N/A	22 feet (Measured from adjacent grade)
Setbacks for Proposed Accessory Structures:	N/A	30 feet (from the front lot line)	100 feet (from the front lot line) (BHMC 10-3-2510)
Paving:	N/A	N/A	N/A
Landscaping:	N/A	A landscape plan has been submitted which complies with the BHMC regulations.	All unpaved portions of a front yard shall be improved and maintained with landscaping. (BHMC 10-3-2519)

Zoning Analysis

Hillside R-1

Accessory Structures:

Pursuant to Beverly Hills Municipal Code §10-3-2510, accessory structures are required to be located 100 feet behind the front lot line. The proposed accessory structure is located approximately 26 feet behind the front lot line, between the main residence and the front lot line. However, BHMC §10-3-2526 allows accessory structures located on an estate property (24,000 square feet or greater) to be located on any part of the site if authorized by the Planning Commission as part of a Hillside R-1 permit.

Findings for Hillside R-1 Permit:

Pursuant to Beverly Hills Municipal Code Section 10-3-2550, the Planning Commission may issue a Hillside R-1 permit if it finds that the project will not have a substantial adverse impact on any of the following:

The scale and massing of the streetscape.

The pool and deck will be at grade along the level pad. The vertical elements of the pool have been eliminated, which prevents the pool from overhanging the hill that slopes steeply downhill toward the street. Because the structure will be built at or below grade, and provides additional setbacks and reduced height when compared to the existing conditions on the subject site, the accessory structure will not significantly affect the scale and massing of the streetscape, and may actually improve upon the existing conditions at the subject site.

Neighbors' access to light and air.

The proposed accessory structure is located on the southern portion of the property, surrounded by Laurel Way to the south, east, and west, and the existing single-family residence on the subject property to the north. The structure, as proposed, will be built at grade and into the existing slope, and would be located approximately 75 feet from the closest neighboring property, which is across Laurel Way to the south. Therefore, as proposed the structure will not have a negative impact on the neighbors' access to light and air.

Neighbors' privacy.

As discussed above, the proposed structure is located on the southern portion of the subject site, and is primarily surrounded by the adjacent street and landscaping. As proposed the structure would be approximately 75 feet from the closest neighboring property, which is located across Laurel Way to the south. Given the location of the proposed pool and deck, and the proposed landscaping, no adverse impact to the neighbors' privacy is expected.

The garden quality of the city.

The proposed accessory structure will be set back a minimum of 30 feet from the front lot line. The applicant is proposing new landscaping within the front yard and around the structure, which will help to limit visibility of the proposed project. The design of the project and the proposed landscaping will ensure that that the project is a harmonious addition to the neighborhood and will help to enhance the garden quality of the city.

PUBLIC NOTICE AND COMMENTS

Notice of the proposed project and public hearing was mailed on January 28, 2009 and March 12, 2009 to all property owners and residential tenants within a 300-foot radius of the property from the exterior boundaries of the property. As of the date of the preparation of this report, no new correspondence has been received.

ENVIRONMENTAL DETERMINATION

The project has been reviewed pursuant to the California Environmental Quality Act (CEQA), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.), and the City's Local CEQA guidelines. Pursuant to the State CEQA Guidelines Section 15303 (e), new construction of accessory structures, a Class 3(e) Categorical Exemption has been issued, and the project has been determined not to have a significant environmental impact and is exempt from the provisions of CEQA.

RECOMMENDATION

Based on the foregoing analysis staff believes the appropriate findings can be made to grant the Hillside R-1 Permit to construct the proposed accessory structures. Staff recommends that the Planning Commission adopt the attached resolution approving the Hillside R-1 Permit request, subject to the following conditions of approval:

1. Sufficient landscaping, in conformance with the landscaping plan submitted in conjunction with the proposed accessory structure, shall be installed and maintained throughout the life of the project.


Ryan Gohlich, Assistant Planner

Attachments:

1. Draft Planning Commission Resolution

ATTACHMENT 1

Draft Planning Commission Resolution

RESOLUTION NO.

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A HILLSIDE R-1 PERMIT TO ALLOW CONSTRUCTION OF A SWIMMING POOL AND DECK WITHIN 100 FEET OF THE FRONT PROPERTY LINE OF AN ESTATE PROPERTY LOCATED AT 1201 LAUREL WAY.

The Planning Commission of the City of Beverly Hills hereby finds, resolves and determines as follows:

Section 1. Mauricio Duk, applicant on behalf of the property owner, Papcap LLC (collectively the “Applicant”), has applied for a Hillside R-1 Permit to allow the construction of a swimming pool and deck within 100 feet of the front property line for an estate property located at 1201 Laurel Way (the “Project”). The proposed structure will be set back approximately 30 feet from the front property line.

Beverly Hills Municipal Code Section 10-3-2526 authorizes the Planning Commission to issue a Hillside R-1 Permit to allow accessory structures on properties over 24,000 square feet in area to be located anywhere on the site, provided the Commission makes certain findings.

A similar project was reviewed by the Planning Commission, and ultimately denied at its September 11, 2008 meeting. Planning Commission Resolution 1522 memorializes this action. The Project reviewed and approved by the Commission at its March 24, 2009 meeting was reviewed as a new application, which incorporates design changes to address concerns raised by the Commission during the hearing process for the previously submitted project.

Section 2. The Project has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.* (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*), and the City’s Local CEQA Guidelines (hereafter the “Guidelines”), and the City’s environmental guidelines, and a Class 3 Categorical Exemption has been issued in accordance with the requirements of Section 15303(e) of the Guidelines.

Section 3. The Planning Commission conducted a duly noticed public hearing on February 12, 2009 and March 24, 2009, at which time oral and documentary evidence was received concerning the application.

Section 4. The subject site is located in the Hillside Area of the City on a curve on the north side of Laurel Way. The site has an area of 35,000 square feet. The site slopes steeply downhill to the east, west, and south, with the street approximately thirty-five feet lower in elevation than the level pad. The property is improved with a two-story single-family residence (currently under construction) and pool, with detached garage. The Project proposes to reconfigure the existing swimming pool and install a deck. A detailed landscaping plan has been submitted in conjunction with the Project, which assists in screening the pool and deck from the street. The proposed landscaping consists of bamboo placed at the corners of the pool, and ivy used for groundcover and erosion control.

Section 5. In accordance with the requirements of Beverly Hills Municipal Code Section 10-3-2550, in reviewing the application for the Hillside R-1 Permit to allow accessory structures on properties over 24,000 square feet in area to be located anywhere on the site, the Planning Commission considered whether the proposed development will have a substantial adverse impact on:

- (1) The scale and massing of the streetscape;
- (2) Neighbors' access to light and air;
- (3) Neighbors' privacy; and
- (4) The garden quality of the city.

Section 6. Based upon the evidence presented at the hearings, including the Staff Report and oral and written testimony, the Planning Commission, hereby finds as follows:

6.1. As conditioned, the proposed Project will not have a substantial adverse impact on the scale and massing of the streetscape. The Project will be built at grade, with no portions of the Project extending beyond the level pad, and will be set back approximately 15 feet behind the required front yard setback (15 feet). The addition of new landscaping will help to screen the Project, which will help to reduce views of the Project from the adjacent street. Thus, the structure will not significantly impact the scale and massing of the streetscape.

6.2. As conditioned, the proposed Project will not substantially impact the neighbors' access to light and air. The proposed structure is located on the southern portion of the property, surrounded by Laurel Way to the south, east, and west, and the existing single-family residence on the subject property to the north. The structure, as proposed, will be

constructed at grade, no portions extending beyond the level pad, and will be located approximately 60 feet from the closest neighboring property, which is across Laurel Way to the south. As proposed the structure will not have a substantial adverse impact on the neighbors' access to light and air.

6.3. As conditioned, the proposed Project will not have a substantial adverse impact on neighbors' privacy. As discussed above, the proposed structure is located on the southern portion of the subject site, and is primarily surrounded by the adjacent street and landscaping. As proposed the structure would be approximately 60 feet from the closest neighboring property, which is located across Laurel Way to the south. Therefore, an adverse impact to the neighbor's privacy is not expected.

6.4. As conditioned, the proposed Project will not adversely affect the garden quality of the city. The proposed accessory structure will be set back 30 feet from the front lot line. The applicant is proposing lush landscaping within the front yard and around the structure, which will help to screen the Project. The landscaping will ensure that that the project is a harmonious addition to the neighborhood and will help to enhance the garden quality of the city.

Section 7. Based on the foregoing, the Planning Commission hereby grants a Hillside R-1 Permit subject to the following conditions:

1. Sufficient landscaping, in conformance with the landscaping plan submitted in conjunction with the Project, shall be installed and maintained throughout the life of the project.
2. No construction shall be permitted to extend beyond the level pad.

3. The Project shall substantially comply with the plans submitted to and reviewed by the Planning Commission at its meeting of March 24, 2009.

4. These conditions of approval shall run with the land and shall remain in full force and effect for the duration of the life of this approval. This resolution approving the Hillside R-1 Permit shall not become effective until the owner of the Project site records a covenant, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this resolution. The covenant shall include a copy of this resolution as an exhibit.

The Applicant shall deliver the executed covenant to the Department of Community Development **within 60 days** of the Planning Commission decision. At the time that the Applicant delivers the covenant to the City, the Applicant shall also provide the City with all fees necessary to record the document with the County Recorder. If the Applicant fails to deliver the executed covenant within the required 60 days, this resolution approving the Hillside R-1 Permit shall be **null and void** and of **no further effect**. Notwithstanding the foregoing, the Director of Community Development may, upon a request by the Applicant, grant a waiver from the 60-day time limit if, at the time of the request, the Director determines that there have been no substantial changes to any federal, state or local law that would affect the Hillside R-1 Permit.

Section 8. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted:

Nanette Cole
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:

Secretary

Approved as to form:

Approved as to content:

David M. Snow
Assistant City Attorney

Jonathan Lait, AICP R.G.
City Planner