



STAFF REPORT  
CITY OF BEVERLY HILLS

For the Planning  
Commission Meeting of  
June 25, 2009

TO: The Planning Commission

FROM:  Larry Sakurai, Principal Planner

SUBJECT: **View Preservation and Design Review in the Trousdale Estates and Hillside Areas:** A bus tour of Trousdale Estates Area and the Hillside Area to provide context to the Planning Commission's informal discussions currently underway on the view preservation and design review standards for these areas of the City

### SUMMARY

On June 25, 2009, the Planning Commission will take a bus tour of the City's Hillside Area and the Trousdale Estates Area. The purpose of the tour is primarily to view examples how foliage interferes with hillside views and secondarily, how hillsides affect design review of single-family residential development.

### ISSUES

#### View Preservation

At its May 28 meeting, the Planning Commission began its consideration of how panoramic views could be protected from impairment by foliage. Under consideration are proposals that rely initially on negotiation between private parties to address the subject foliage, with either a legal or public process to resolve issues that cannot be resolved between parties. Issues raised at that discussion included:

- Issues differ between Trousdale and the Hillside Area
- A view can be affected by non-contiguous property
- A view can be composed of a number of elements, near and far
- There are a number of options for mitigating impairment by foliage
- A view depends on vantage point
- Trees can be both an impediment and a contributor to view

- Protecting/restoring view can compete with privacy and other issues
- Restoration of view could affect as much as nine years of growth

### Design Review

At its June 11 meeting, the Planning Commission began its consideration of the extension of R-1 design review into the Hillside Area and the Trousdale Estates Area. The main objective of R-1 design review is to protect the character of neighborhoods. Issues raised at that discussion included:

- Trousdale's height and off-pad restrictions already substantially protect its character
- Hillside character is not as defined by development as it is the Central Area
- Aspects of residential development other than the front visually affect hillside areas
- Architectural style, purity, and consistency is limited as a factor in hillside character; therefore...
- Use of a style catalogue in determining the level of review may not be valid in the hillside area

### BUS TOUR

12 sites/views have been selected for the tour. Staff will point out various issues as the tour proceeds. After the bus returns to City Hall, staff would like to debrief the Commission.

### NEXT STEPS

Full discussion of design review was postponed to a later date when the full Commission was available to have the discussion. This is tentatively scheduled for the Commission's next meeting on July 9. Points made on the tour could be further discussed together with the other issues introduced in the June 11 staff report.

Staff will take the bus tour comments and consult further with other agencies experienced with view preservation. The next discussion on view preservation is tentatively scheduled for July 23.

### Attachments:

Tour Itinerary

May 28, 2009 Planning Commission Staff Report (View Preservation)

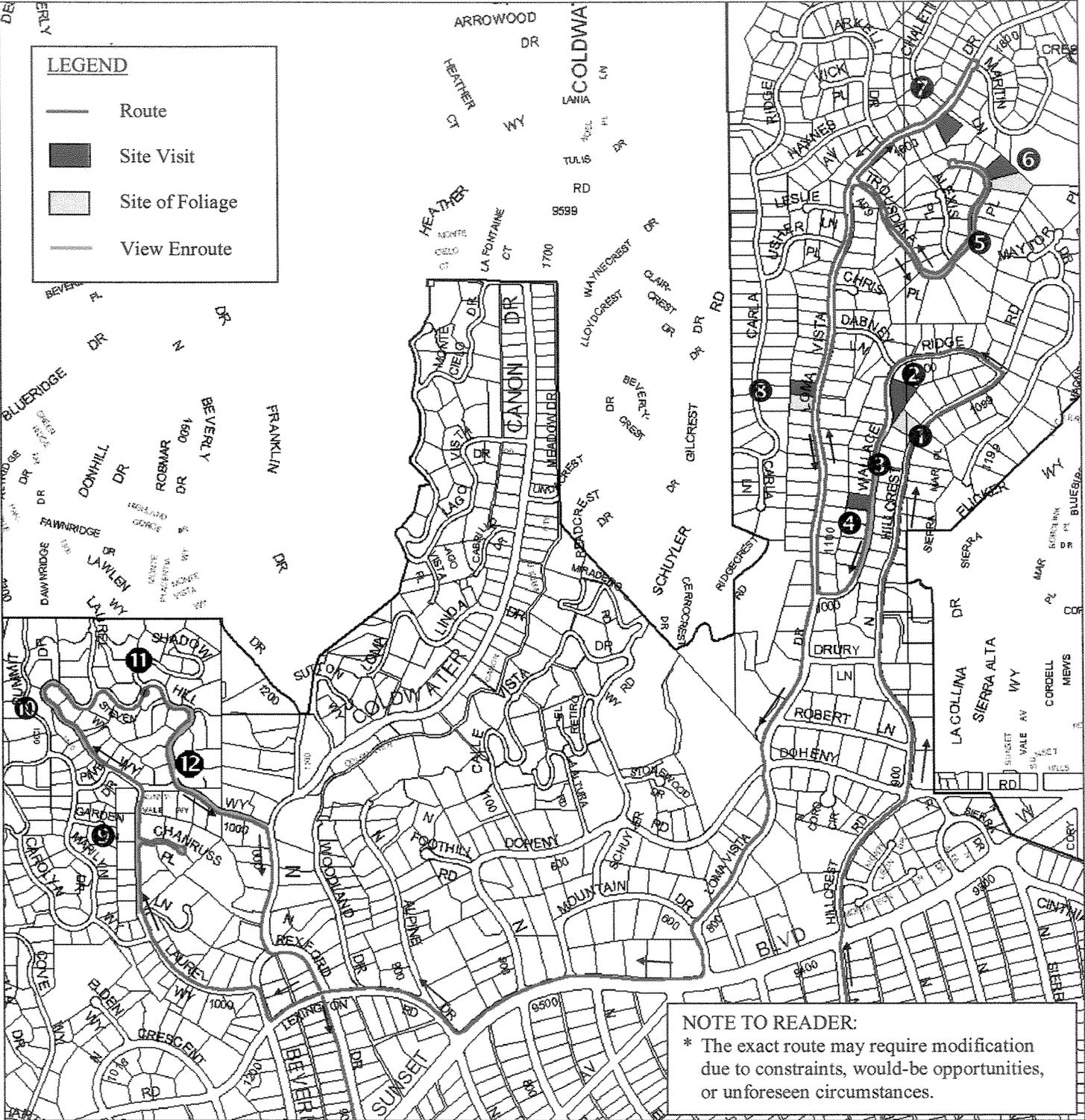
June 11, 2009 Planning Commission Staff Report (Extension of R-1 Design Review)

# Tour Itinerary

# Bus Tour Route\*

## Planning Commission Meeting

**June 25, 2009 at 2:00 p.m.**  
**Trousdale Estates Area • Hillside Area**  
**View Preservation • R-1 Design Review**

























May 28, 2009 Staff Report  
View Preservation



STAFF REPORT  
CITY OF BEVERLY HILLS

For the Planning  
Commission Meeting of  
May 28, 2009

TO: The Planning Commission  
FROM: Larry Sakurai, Principal Planner  
THROUGH: Jonathan Lait, AICP, City Planner  
SUBJECT: View Preservation in the Trousdale Estates and the Hillside Areas

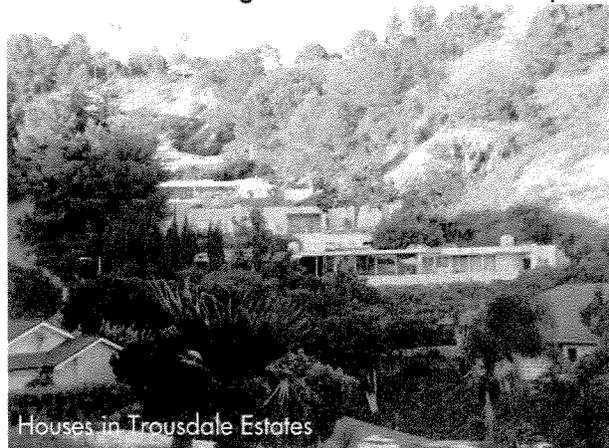
**INTRODUCTION**

In response to a request of the Board of Directors of the Trousdale Estates Homeowners Association, the City Council on April 7, 2009 directed staff to consider regulations to protect views in the Trousdale Estates Area and the Hillside Area. At issue in particular is how trees can eventually impair the views from private residences when their growth is not managed to protect these views. This future ordinance, if adopted, is not directed at this time toward building or other improvements; it only focuses on trees and landscaping.

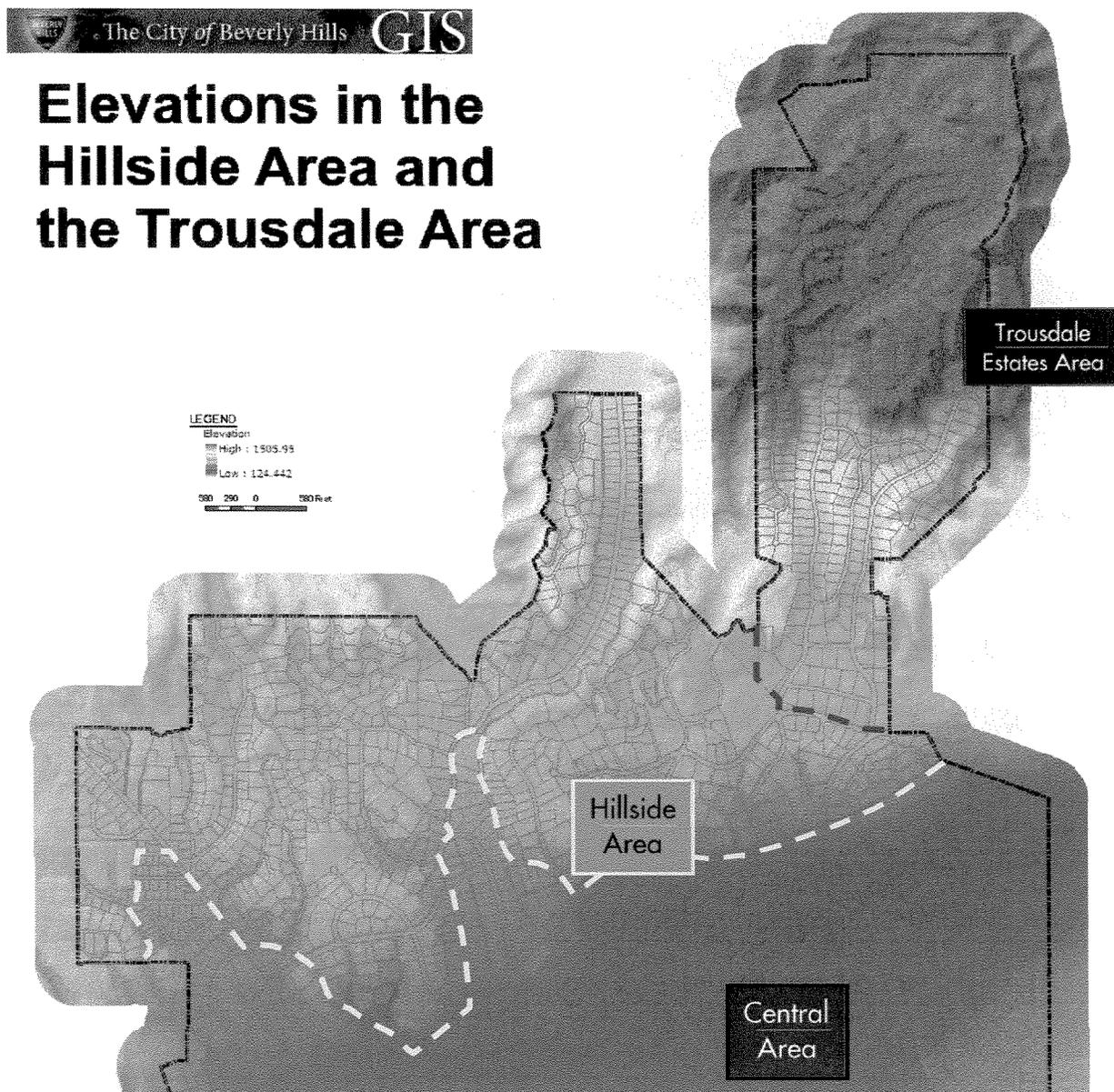
The purpose of this report and study session is to begin a discussion between the Planning Commission, the public and staff to evaluate the appropriateness of a future view preservation ordinance, the geographic areas of the city in which it would apply and to formulate regulations, as appropriate. There are advantages and disadvantages to such regulations which are highlighted in this report and will be examined in greater detail in subsequent reports.

**BACKGROUND**

The Trousdale Estates Area was developed during the late 1950s and early 1960s and it possesses a distinct character that is the result of the original development of the tracts that make up the Area. Virtually all of the lots in the Trousdale Area consist of a



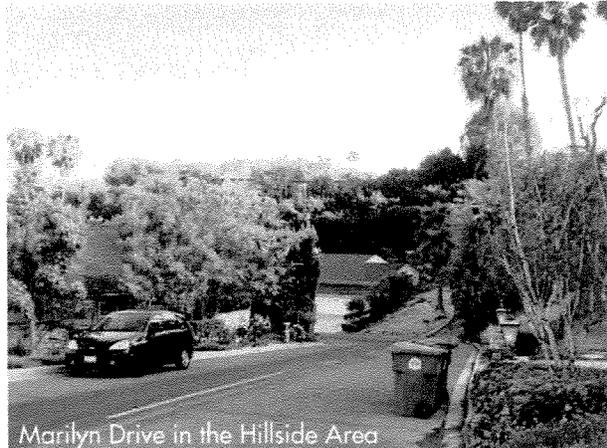
level building pad and a 2:1 slope<sup>a</sup> in between the pads, which are sized in a manner that generally provides a view from each lot. Lots in the Trousdale Estates Area originally included Covenants, Conditions, & Restrictions (CC&Rs) that protected the views from its lots. These CC&Rs lapsed in 2000. During the 1980s the City instituted zone standards for



<sup>a</sup> 2:1 slope means that the ground rises (or falls) one foot for every two feet of horizontal distance. This ratio is an engineering convention that provides slope stability. Steeper slopes generally require more engineering to stabilize them and prevent slides.

Trousdale that limited heights to 14 feet and prohibited development off of the building pads, which essentially maintains the building envelopes of original tract development. There is, however, no similar City standard in Trousdale with respect to landscaping.

The Hillside Area of the City does not possess the same ordered terrain as the Trousdale Estates Area. Compared to Trousdale, the Hillside Area has proportionately fewer "view lots" (those that have a panoramic view of the city) and is generally lower in elevation than Trousdale. While there are many lots in the Hillside Area that possess a panoramic city vista, the orientation of the hillsides in the area are generally more varied than in Trousdale and much of the character of the Hillside



Area provides more of an idyllic hill-and-canyon setting. As such, landscaping tends to function in different roles between the two Areas. It should be noted the above discussion is a broad and general characterization, as neither the Trousdale Estates Area nor the Hillside Area is a homogeneous setting. The Trousdale Board has suggested that the Planning Commission could take a bus tour of the Trousdale Area. Including the Hillside Area on such a tour could allow the Commission to compare and contrast the areas and see how regulations might apply to different settings.

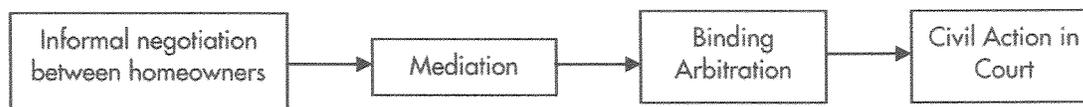
It should be noted that Beverly Hills does preserve views in the Hillside Area, but its regulations apply to structures rather than foliage. Whenever a structure is proposed with a height in excess of 14 feet, it is checked against the lines of sight from the properties upslope from it. If there appears to be a view issue (e.g., more view is blocked compared to existing development, the case proceeds through a Hillside R-1 Permit public hearing process (Planning Commission). View impacts can be onerous to ascertain, requiring the applicant to obtain considerable topographic information and at times, access to a neighboring property is warranted.

## DISCUSSION

In requesting that the City consider a view preservation ordinance, the Board of the Trousdale Homeowners Association had provided a general proposal (attached) for addressing its view preservation issue. The main points of the proposal include:

- Trees and other vegetation are not to obstruct the view of any other homeowner;

- The process for is largely through progressive (i.e. escalating levels) civil proceedings between neighbors:



- Costs of the proceedings and corrective actions are suggested to be borne equally by the parties, with maintenance being the responsibility of the owner of the landscaping;
- Landscaping on new development should be reviewed for height (no higher than neighbor's pad) and appropriateness of plant material.
- In addition, the Board requests that street trees be addressed (outside of a zoning ordinance).

Staff consulted with the staff of Rancho Palos Verdes regarding its view preservation/restoration ordinance. Rancho Palos Verdes has had an ordinance in effect since 1989, enacted by the voter initiative. Staff has also reviewed the ordinance adopted (1991) by the City of Tiburon,<sup>b</sup> a town in Marin County on a peninsula in San Francisco Bay. This ordinance comes closer to the Board's proposal than the Rancho Palos Verdes Ordinance in that it relies entirely on civil actions between private parties to carry out the requirements of the ordinance. These two ordinances have a long history and have been unsuccessfully challenged repeatedly in court. Accordingly, they provide a good framework in which to evaluate view protection in Beverly Hills. Other city ordinances have and will continue to be evaluated throughout the Planning Commission's consideration of these issues.

#### Views: Definition and Restoration

Perhaps the most fundamental issues in a view preservation ordinance are defining what a view is and developing standards to objectively evaluate potential view impacts. The Board's proposal indicates that "unrestricted views" are desired. But in much of the Hillside Area (some parts of Trousdale as well), the views afforded the residents are of the neighborhood and the local setting. If it is the distant, panoramic views that are intended to be protected, it is suggested that a distinction between "near views" and "far views" be made, wherein the regulations can then focus on the distant views. The distinction can be important because in areas where a distant view is not an issue, vegetation can be an asset that contributes positively to the local setting. The definitions in the Rancho Palos Verdes ordinance provides an example:

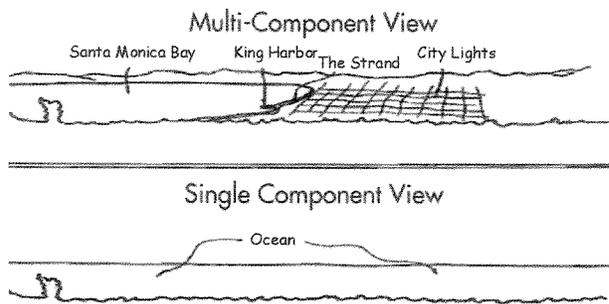
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<sup>b</sup> The Malibu Country Estates View Restoration & Preservation Ordinance is similar, and the Sausalito Ordinance follows similar procedures.

"On the Palos Verdes Peninsula, it is quite common to have a near view and a far view because of the nature of many of the hills on the peninsula. Therefore, a 'view', which is protected by this section, is as follows:

- a. A 'near view' which is defined as a scene located on the peninsula including, but not limited to, a valley, a ravine, equestrian trail, pastoral environment or any natural setting; and/or
- b. A 'far view' which is defined as a scene located off the peninsula including, but not limited to, the ocean, Los Angeles basin, city lights at night, harbor, Vincent Thomas Bridge, shoreline or off shore islands."

In a Beverly Hills ordinance, different landmarks would be identified in defining a "far view". The Rancho Palos Verdes ordinance also specifies elements of view that aren't protected under the ordinance, such vacant developable lots, sky over distant landmarks, and distant mountains that are visible only under rare meteorological circumstances. Defining "view" also involves defining a "view area", the area from where a person observes the view. Examples of where a view is protected could include living rooms, bedrooms, and other primary living areas (as opposed to closets, bathrooms, garages, hallways, etc.), and balconies, patios, and yards outside of the residence.



From Rancho Palos Verdes Guidelines & Procedures

One other aspect of view is defining when a view is impaired. Minor encroachments into a view might not warrant action. Both Tiburon and Rancho Palos Verdes consider whether significant elements/landmarks are blocked in the vista. Rancho Palos Verdes also considers the position of the vegetation in the view (e.g. in the middle or at the edge).

Besides the removal of trees or shrubs impairing a view, a number of other techniques for reducing the impediments are commonly employed. These include:

- Culling: the removal of dead, decayed, or weak limbs or foliage from a tree or shrub.
- Lacing: a comprehensive method of pruning that systematically removes excess foliage from a tree or shrub, where the plant maintains its shape.

- **Windowing:** A form of thinning by which openings or "windows" are created to restore views.
- **Trimming:** Removal of limbs or foliage from a tree or shrub, typically done when the obstruction is minor and maintenance is assured. There are two forms of trimming of note:
  - "Crown reducing," which is a comprehensive method of pruning that reduces a tree's or shrub's height and/or spread. It entails the reduction of the top, sides, or individual limbs by means of removal of leader.
  - "Crown raising," which is a comprehensive method of pruning that removes limbs and foliage from the lower part of a tree or shrub in order to raise the canopy of a tree or shrub over the view.
- **Topping:** Cutting of branches and/or trunk of a tree or shrub in a manner which substantially reduces the overall height. Topping can have deleterious effects on a tree's health, appearance, and maintenance. It frequently results in stump growth, and removal/replacement can be a preferable alternative.

In considering corrective measures such as those above, factors that often come into play include, among others:

- The effects on the health of the tree,
- Potential effects on slope stability (particularly with tree removal),
- Potential environmental effects such as raptor nesting, impact on migratory birds, carbon footprint implications,
- Effects on trees as an asset (financial value of trees).

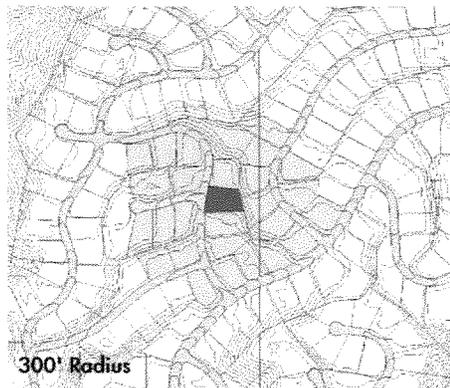
As vegetation changes over time, view restoration ordinances typically include a baseline point of reference which defines an entitled view. Rancho Palos Verdes, for example, sets this point at 1989, when the ordinance was enacted. In essence, the view that a residence had in 1989 is the view that residence is entitled to, and any corrective action on foliage does not have to provide any greater vista than that baseline. For Tiburon, the baseline is when a residence (the one with the view) was purchased. In order to establish an entitled view, photodocumentation is usually required which includes some proof of when the photographs were taken. For the Rancho Palos Verdes ordinance, film negatives often served this purpose. In the age of digital photography, proof could be more difficult since digital file information can be manipulated. It's common that photographs don't coincide

with the baseline date. In these cases, the date of the photographs then serve as the baseline, provided that it's no earlier than baseline established by the ordinance (as a residence is not entitled to any earlier views than those established by the ordinance). The baseline view issue is more likely to be an issue in the Hillside Area. The Trousdale Estates Board points to its CC&Rs as a point of reference in terms of what restorative action is supposed to achieve:

"No hedge or hedgerow, or wall or fence or other structure shall be planted, erected, located or maintained upon any lot in such location or in such height as to unreasonably obstruct the view from any other lot or lots in said Tract."

It should be noted that if the Trousdale CC&Rs are utilized as the baseline for views, corrective action could result in addressing nine years of growth in some cases. The Board has also suggested some basic entitlement for the owner of the landscaping of 14 feet in height measured from the building pad, or the level of the neighboring uphill building pad, whichever is higher. Rancho Palos Verdes allows 16 feet or the ridgeline of the roof, whichever is less.

One other issue is the proximity to the view site. In general, view regulations are seen as an issue between neighboring properties. However, in hilly terrain, properties thousands of feet away can have some effect on view, and in absence of some proximity criteria, cases could involve parties substantial distances apart. Beverly Hills' view preservation regulations, which only applies to structures, utilizes a 300-foot radius. The mediator for Rancho Palos Verdes suggests a 300 to 500 foot radius, though some cases included distances as great 1,000 feet.



### Competing Issues

Among the most challenging aspects of a view preservation ordinance is the balance between someone's right to views with another person's right to privacy. Privacy is cited as a consideration in remedial action in Tiburon. Unreasonable infringement of privacy is addressed in findings in Rancho Palos Verdes. Due to the uniqueness of each circumstance, the issue is addressed on a case-by-case basis, but there is little definition as to what an unreasonable infringement of privacy may include.

Trees and landscaping are integral to a neighborhood setting. Cases are likely to arise where trees that are cherished in a neighborhood are the subject of view preservation actions. Since 1993, the City has protected trees in the community, in particular:

- Native trees with a trunk diameter of 24 inches or greater,
- Large trees with a trunk diameter of 48 inches or greater ("heritage trees"), and
- Groves of 50 or more trees.

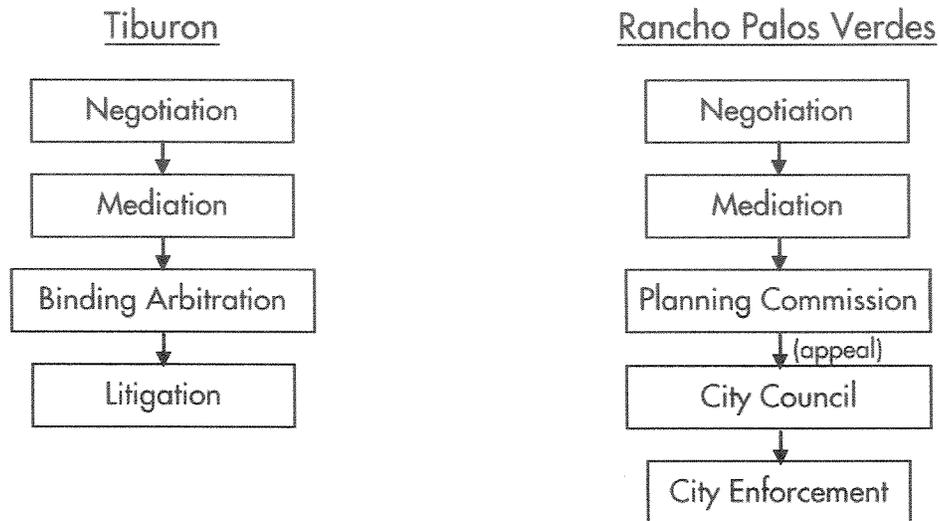
In general, the ordinance addresses damage or removal of trees between the street and the residence, though groves are protected anywhere on a property. Any view preservation ordinance would need to address situations where protected trees are involved.

### Process

View preservation ordinances typically prescribe a succession of processes for resolving issues between parties, in a progression of increasing rigor if issues aren't resolved at earlier stages. While this overall approach is employed by both Tiburon and Rancho Palos Verdes, they differ in the role the city plays in the overall process. Tiburon relies on the parties to work privately, with the City ordinance providing a "basic right" to view (and access to sunlight), declaring unreasonable obstruction a nuisance, and prescribing the process for resolution of disputes which includes binding arbitration.<sup>c</sup> The Rancho Palos Verdes model also requires negotiation and mediation early in the process, which resolves approximately 90% of reported disputes. Instead of binding arbitration, cases that are not resolved through mediation would then proceed through a Planning Commission hearing process similar to other R-1 cases. Tiburon's model has the advantage of minimal demand on City resources, but it can be costly to the parties in terms of legal fees. The Rancho Palos Verdes model provides more public access and City control. The caseload in Rancho Palos Verdes has been growing over time because previous cases return as circumstances change (i.e growth of foliage).

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<sup>c</sup> In addition to Tiburon, the City of Malibu, the City of Sausalito, and the Palos Verdes Homes Association also utilize the arbitration process.



The process suggested by the Board of the Trousdale Estates Homeowners Association comes closer to Tiburon's largely private model, but with somewhat greater City involvement in the notification procedures.

#### Next steps

At this time staff is requesting direction from the Planning Commission, specifically:

- The Commission may or may not desire to further pursue view preservation in the Trousdale Estates and Hillside Areas with respect to foliage.
- If the Commission wishes to further pursue such regulation, there may be other information the Planning Commission may wish staff to research and provide to the Commission.
- In addition to any information that staff provides to the Commission, a bus tour can provide the Planning Commission with the opportunity to personally observe the conditions to be addressed by view preservation and compare/contrast the Trousdale Area with the Hillside Area.
- After further direction from the Planning Commission, staff can draft a set of regulations for addressing view preservation. A uniform set of regulations could be developed for both the Hillside and Trousdale Estates Areas, or regulations could be more tailored to the conditions unique to each.

- An ordinance could proceed through the public hearing process during the Fall.

LARRY SAKURAI

Attachments:

- Proposal of the Trousdale Estates Homeowners Association Board of Directors
- Rancho Palos Verdes Guidelines and Procedures for Restoration of Views Where Foliage Is Involved (View Restoration Permits) and Preservation of Views Where Foliage Is Involved (Code Enforcement)
- Tiburon Ordinance Addressing View and Sunlight Obstruction from Trees

June 11, 2009  
Extension of R-1 Design Review



**STAFF REPORT**  
**CITY OF BEVERLY HILLS**

**For the Planning  
Commission Meeting of  
June 11, 2009**

**TO:** The Planning Commission  
**FROM:** Larry Sakurai, Principal Planner  
**THROUGH:** Jonathan Lait, AICP, City Planner  
**SUBJECT:** Communitywide Single-Family Residential Development Review

**INTRODUCTION**

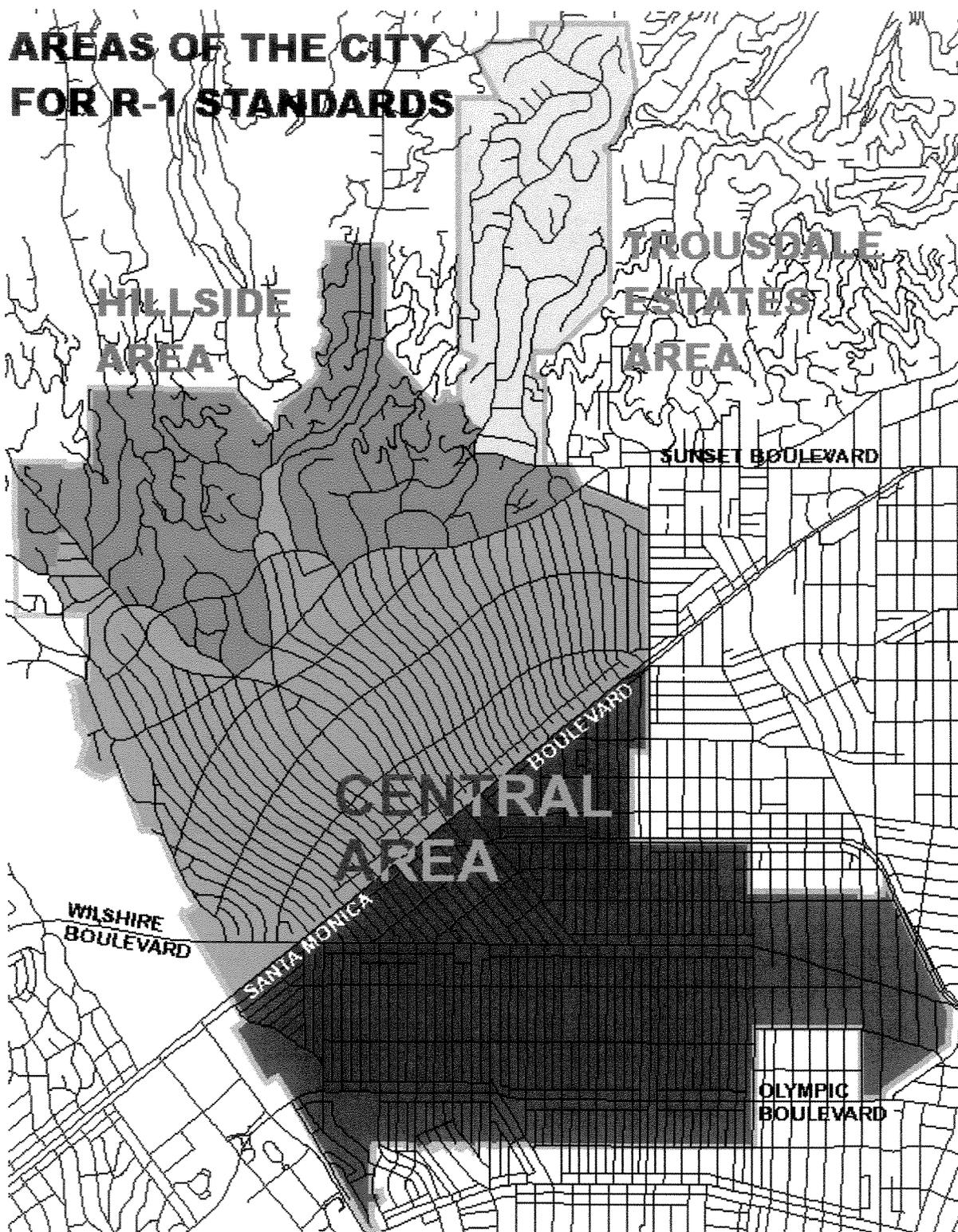
At its January 22, 2009 study session, City Council directed staff to proceed with amendments to the Zoning Code that would 1) transfer discretionary authority on five R-1 processes from the Planning Commission to the Design Review Commission, and 2) expand R-1 design review from the current Central Area coverage to all single-family residential zones throughout the community. On May 27, 2009, the City Council adopted an ordinance transferring authority from the Planning Commission to the Design Review Commission. This report initiates the Planning Commission's discussion of the expansion of design review to the Hillside and Trousdale Estates Areas of the City. The Design Review Commission had suggested such an expansion after its retreat in 2007.

**BACKGROUND**

The Design Review process was established in 2004 to preserve prevailing styles, scale, and neighborhood character, while respecting contemporary demands for living space and lifestyle in homes. While the process was intended to address concerns regarding emerging trends in single-family residential design and construction ("mansions") in neighborhoods throughout the City, it was initially implemented in the R-1 Zones south of Santa Monica Boulevard. In 2005, design review was extended to the rest of the Central Area of the City, north of Santa Monica Boulevard, and a former three-track system<sup>a</sup> was simplified into today's two-track review system.

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<sup>a</sup> The original system included an intermediate track with six incentives intended to promote design and massing compatibility to the neighborhood. The incentives did not achieve harmonious design and proposals formerly under this track are now reviewed by the Design Review Commission.



The City's design review process has two levels or "tracks". Track I is an administrative review for projects prepared by a licensed architect that maintain a purity of architectural style (also known as "character-based review"). The determination is made by staff based on a style catalogue initially approved by the City Council. Projects that do not meet these requirements proceed on Track II, requiring review by the Design Review Commission.

Projects proceeding through the Track II process require a public hearing and a public notice to be mailed to property owners and residents within a 100-foot radius. The Design Review Commission may approve, conditionally approve, or deny projects based on the following required findings:

- The proposed development's design exhibits an internally compatible design scheme;
- The proposed development's design appropriately minimizes the appearance of scale and mass and enhances the garden-like quality of the City and appropriately maximizes the use of required open space within the proposed architectural style;
- The proposed development will enhance the appearance of the neighborhood;
- The proposed development is designed to balance the reasonable expectation of development for the owner with the reasonable expectation of privacy of neighbors; and
- The proposed development respects prevailing site design patterns, carefully analyzing the characteristics of the surrounding group of homes, and integrates appropriate features that will ensure harmony between old and new.

Decisions of the Design Review Commission are appealable to the Planning Commission.

## **DISCUSSION**

### **The Function of the Ordinance**

At the heart of the R-1 Design Review Ordinance is neighborhood character, and as such the Ordinance focuses on residential development as viewed from the public street. In the Central Area, the layout of the lots relative to the street is generally uniform and it is usually the front of the site that is the subject of Design Review. The existing homes in the Central Area also define a scale to the streetscape, and the houses together with the uniformity of the lots create a visual "rhythm" along the streetscape. Breaks in the rhythm are generally viewed as out of harmony with the neighborhood and a change its character. Such breaks can be created by a house with

a different height or mass than others, or a house that stands out because of ungainly or inept design. In this context, the criteria (findings) applied through the design review process achieve the broader objective of maintaining neighborhood character. However, in the Hillside Areas, the lots are not as uniform, and the topography adds another dimension to how the design of not just a home but the overall property development can affect the character of a neighborhood.



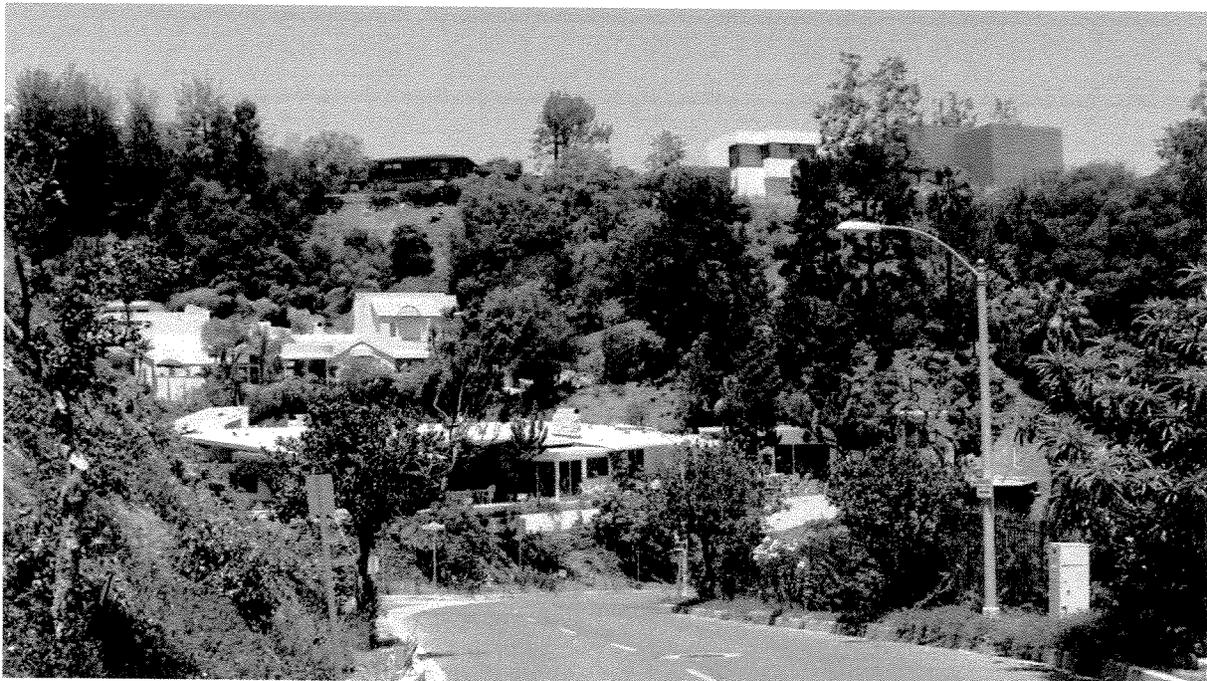
**SINGLE FAMILY RESIDENTIAL DEVELOPMENT IN THE CENTRAL AREA  
Roxbury Drive (above) and Bedford Drive (below)**



**SOUTH ROXBURY DRIVE**



**SINGLE FAMILY RESIDENTIAL DEVELOPMENT IN THE HILLSIDE AREA**  
Stevens Way (below) and Shadow Hill Way (cul-de-sac at top)



**STEVENS WAY NEAR SHADOW HILL WAY**

Whereas the character of a Central Area neighborhood is largely defined by development along the street, the character of a hillside neighborhood is often equally defined by the terrain and natural setting in which it is situated. In contrast to Central Area, it is

often the sides and/or rear of property that visibly affects the setting, and the effects are not limited to the residence, but accessory structures also contribute to the setting. In absence of the "rhythm" of the Central Area development described above, consistency in architecture and prevailing site design patterns is a much smaller contributing factor in neighborhood character. How much the visible aspect of a development affects the public streetscape also depends to some degree on the proximity of the development to the vantage point. In some cases, changes on a single-family property can be visible from thousands of feet away but have a minimal effect on some public views because it involves a very small portion of the field of vision.



**VIEW FROM HILLCREST ROAD IN TROUSDALE**  
(Carla Ridge, center)

With the expansion of R-1 Design Review to the Hillside Area, if protecting neighborhood character is to remain as the central goal of the ordinance, the findings for approval/conditions, together with criteria defining what aspect of site development needs design review, may need some further consideration and refinement to better address hillside neighborhood issues. In addition, as consistency in architecture and architectural purity do not appear to be as great a factor in hillside neighborhood character, a style catalogue may not be the appropriate tool to determine which cases are reviewed by the Design Review Commission versus administratively by staff. If the two-track review system is to be retained, it is suggested that alternative screening criteria should be explored.

The Trousdale Estates Area possesses greater regularity in its development compared to the Hillside Area. Not only do the lots in the Trousdale Area have greater uniformity than the Hillside Area, but Trousdale possesses a key standard that does much to define the design of homes in the area: a 14-foot height limit. In contrast to any zone standard in the Central Area, this Trousdale standard together, with restrictions on off-pad development, has maintained the neighborhood character of the Trousdale Area, even with its diversity of architectural styles. In light of this, the Trousdale Estates Area may not see as much benefit from design review as other areas of the City. The "mansionization" phenomenon, while not entirely absent in Trousdale, is not as great as

experienced in the other areas of the City. Therefore, the Planning Commission should consider whether design review in Trousdale is appropriate.



**CHALETTE DRIVE (TROUSDALE)**



**MARILYN DRIVE (HILLSIDE)**

Workload Considerations

It is difficult to predict how much the case load would change with the extension of design review into the Trousdale Estates and Hillside Areas because, among other reasons, it is not yet known how the standards might apply to these areas. On purely a geographic basis, proposed extension of R-1 design review to the rest of the single-family residential zones in the community would result in a 31 percent increase the number of lots potentially under design review. However, as there are a greater number of considerations in hillside development relative to neighborhood character, 1) each case may place greater demands on the Commission and staff in addressing the issues, and 2) depending on which aspects of development merit design review, there could be an increase (or decrease) in the proportion of R-1 development that undergoes design review.

R-1 Lots in Beverly Hills		
Area		Number of Lots
Central Area	South of Santa Monica Boulevard	2,490
	North of Santa Monica Boulevard	2,005
Hillside Area		804
Trousdale Estates Area		596
Total		4,495

Whether or not a different set of screening criteria is developed for a two-track review system, it is also not known how the case load would be handled by staff as opposed to the Commission. When the criteria and process for hillside design review is further defined, staff will be better able to estimate the work load implications. However, the complexity of the issues together with the geographic increase in area are expected to result in increases in work load and corollary demands on City resources at a time when planning positions are being eliminated and planning staff resources are being dedicated to plan check review, which was formerly handled by building & safety. Moreover, when the economy improves, applications can be expected to increase, creating further demands on existing resources. In order to maintain the highest standard of review and analysis to the Commission and community, the timeline in processing applications may expand if corresponding resources are not added.

Transfer of Authority on R-1 Permits and Minor Accommodations

On May 27, 2009, the City Council adopted Ordinance 09-O-2566, which transferred review authority for four Central R-1 permits and one minor accommodation from the Planning Commission to the Design Review Commission. The purpose of the

Ordinance is to streamline the review of single-family residential development and to provide a more integrated review of R-1 permits and minor accommodations with the design review considerations of single-family residential development. The Hillside and Trousdale Estates Areas each have their own set of R-1 permits, and minor accommodations might warrant some further consideration in the context of these areas. Below is a list of R-1 Permits and minor accommodations, for future discussion of regarding the transfer of authority from the Planning Commission to the Design Review Commission. It is not expected that all of the following would be transferred, but they are provided for information.

**Hillside R-1 Permits:**

- Import and export of material during construction
- Cut and fill (grading) as a necessity to a project and its compatibility to the neighborhood
- Game courts in proximity to the property line
- Game court fences and lighting standards
- Cumulative Floor Area
- Large Site Floor Area (2-acre sites and greater)
- View Preservation (for structures)
- Accessory structures
- Extension of Nonconforming Side Setback

- Wall Height In Front Or Street Side Yard

**Trousdale R-1 Permits**

- Additions Greater than 14' in Height to Nonconforming Residences
- Game court fences and lighting standards

**Minor Accommodations**

- Front Yard Paving
- Nonconforming Side Setback Extensions
- Accessory Structure Height
- Fences in the Front and Side Yards in the Hillside Area
- Elevator Encroachments

One other review was suggested to be transferred previously: Tree Removal Permits. Staff notes that tree removals are often significant to the integrity of site development and neighborhood character. Staff is checking with the Planning Commission for reaffirmation of the policy.

Recap of Considerations

- Design review's central purpose—protection of neighborhood character
- How well the findings achieve the central purpose in hillside neighborhoods
- Design review as an effective tool for addressing Hillside Area issues

- Design review as an effective tool for addressing Trousdale Estates Area issues
- Topography changes the focus of review from the front of a property to potentially all elevations, the roof (e.g. downslope from street), and accessory structures
- Tiered review levels: Commission-level, staff-level, and exemptions
- Use of a style catalogue to determine the level of review and alternative screening criteria
- Need for updates to the style catalogue or expansion into a procedural manual

### **NEXT STEPS**

Staff intends to consult with the Design Review Commission on the extension of R-1 to the Hillside and Trousdale Estates Areas. It is suggested that either a joint study session with both the Planning Commission and the Design Review Commission could be productive. Alternatively, a meeting could be set up between liaisons of the Planning Commission and the Design Review Commission. Staff proposes to add design review considerations to the upcoming view preservation bus tour, tentatively scheduled for June 25. Staff will return to the Planning Commission at a later study session with a proposed body of standards for the extension of design review.

LARRY SAKURAI

Letter from Charles and Andrew Flack  
June 3, 2009

June 3, 2009

Planning Commission  
City of Beverly Hills  
455 North Rexford Drive  
Beverly Hills, CA 90210

Commissioners,

First let me thank you for allowing me to make my presentation to you on May 28, 2009 prior to your scheduled bus tour. My brother Charles Flack and I have reviewed the four page View Preservation Proposal submitted to the Beverly Hills City Council on April 7, 2009 by The Trousdale Estate Homeowners Association (TEHA) Board of Directors as well as Mr. Larry Sakurai's, Principal Planner, Staff Report dated May 28, 2009.

Enclosed you will find excerpts of The Declaration Of Restrictions Of Trousdale Estates expired CC&R's to be used as examples and guidelines. Please note the sections highlighted in yellow.

We wish to make several comments regarding the View Preservation Proposals of the TEHA and the Staff Report dated May 28, 2009:

1. The Mediation/Binding Arbitration process is already provided by the City of Beverly Hills through the L.A. County Bar Association (as noted in our presentation dated May 28, 2009 - it was to "no avail"). The mediation process and possibly binding arbitration, to our understanding, is inadmissible in a civil action in court. We have been advised for this process to have any long standing value and be enforceable to us or future owners of said properties in question it must be recorded with the L.A. County Recorder as a Covenant attached to the property or properties. The other alternative is to have a City ordinance and or code to provide perpetuity. Also it is our understanding if there are no City ordinances or codes regarding view preservation civil action /litigation is highly likely to be unsuccessful.

2. POINTS TO CONSIDER REGARDING THE TEHA PROPOSAL AND THE STAFF REPORT. The following statements are made:

A. The TEHA states "No tree or landscaping should be above the height of the North( higher elevation) neighbors pad". "Appropriate landscaping plans for new construction. IE: height and type of plant and tree - the right plant in the right place".

B. The Staff Report states "Landscaping on new development should be reviewed for height( no higher than neighbor's pad) and appropriateness of plant material".

June 3, 2009

We take issue with the above quoted statements/proposals:

1. To use the height of the neighboring north pad as a height limitation is totally UNACCEPTABLE as the pad of the northern property EXCEEDS the fourteen foot (or higher) limitation of the southern structure's roof line below as delineated in Article 26. SINGLE - FAMILY RESIDENTIAL DEVELOPMENT STANDARDS FOR TROUSDALE ESTATES, Article 26.5 TROUSDALE R - 1 PERMIT. The result still being an obstruction of the northern property view. This proposal does not take into account the property line between the two properties of the south facing slope.

2. The above quoted statements do NOT INCLUDE REMODELS OR RELANDSCAPING and this should be included in any ordinance/code. Landscaping plans must be submitted to the appropriate commission/building and safety department for review and approval ( with soil /geotech studies as needed) and permits issued.

Thank you for your consideration.



Andrew Flack



Dr. Charles Flack

Cc: Nanette H. Cole  
Lili Bosse  
Daniel Yukelson  
Noah D. Furie  
Craig Corman

(b) No building, structure or improvement shall be constructed, erected, altered, placed or permitted to remain on any of said lots or any building site on said property in such location or manner as will unreasonably obstruct or interfere with the view from other lots in said tract or which exceeds fourteen feet (14') in height above the ground level of said lot or building site, except with the prior written consent and approval of the Architectural Committee; nor shall the grade or ground level or drainage of any lot or building site be materially altered or changed in any manner without the prior written consent and approval of the Architectural Committee.

(c) Outbuildings or garages erected and maintained upon any lot or building site shall conform generally in architectural design and exterior material to the finish of the dwelling houses to which they are appurtenant, and may be, but need not be, attached to said dwellings.

(d) No shed or tent or trailer or temporary buildings shall be erected, maintained or used on any lot or building site.

(e) No building shall be in any manner occupied while in the course of original construction or until it complies with all requirements as to area and all other conditions and restrictions applicable thereto. Construction of any building or structure shall be prosecuted with reasonable diligence continuously from the time of commencement until fully completed. No building constructed elsewhere shall be moved to or constructed on said property.

(f) None of the lots hereinabove described shall be divided, subdivided or resubdivided, nor shall any portion thereof be consolidated with any other parcel of land unless the resulting lot, parcel or building site shall contain at least one-half (1/2) acre in area measured to the center of any adjacent streets, alleys and ways, and no residential building or structure shall be constructed, erected, altered, placed or permitted to

remain upon any of said lots, parcels or building sites having a ground floor area, exclusive of open porches, outbuildings and garages, of less than twenty-five hundred (2,500) square feet.

IV.

No hedge or hedgerow or wall or fence or building or other structure shall be planted, erected, located or maintained upon any lot in such location or in such height as to unreasonably obstruct the view from any other lot or lots on said Tract.

V.

No sign or other advertising device of any character shall be erected or maintained upon any part of said property or on any lot or building site advertising the property for sale or rent; provided, however, that Declarants may erect and maintain on said property such signs and other advertising devices or structures as may be permitted by the ordinances of the City of Beverly Hills as they may deem necessary or proper in connection with the conduct of their operations for the development, improvement, subdivision and sale of said property.

VI.

No stable, poultry house or yard, or rabbit hutch or house, shall be constructed or maintained on any building site. No horses, cattle, cows, goats, sheep, rabbits, hares, game, game birds, or other animals, fowls, or poultry shall be kept, raised or permitted upon said property or any part thereof; except that domestic dogs, cats, birds and fish may be kept as household pets upon said property, provided that they are not kept, bred or raised thereon for commercial purposes or in unreasonable quantities.

VII.

(a) The owner of each lot of said tract shall keep said property free and clear of all weeds and rubbish and do all other things necessary or desirable to keep the premises neat and in good order, and it is hereby

operating public service wires, and conduits for lighting, heating, power, telephone and other methods of conducting and performing any public or quasi-public utility service or function as such easements and rights of way are shown and designated on the map of said real property recorded in the office of the County Recorder of Los Angeles County, California, and all of said easements and rights of way are reserved for the purposes herein and in said map set forth.

XI.

Declarants hereby expressly reserve the right to make any and all such cuts and fills on said property and on the lots and building sites included therein and to do such grading as in their judgment may be necessary to grade streets, lots and building sites designated or delineated upon any map of said property or any part thereof, and to do such works of improvement thereon as may be necessary to complete the subdivision, development and improvement of said property in accordance with such map or any part thereof until said subdivision and all improvements thereon shall have been accepted by the City of Beverly Hills.

XII.

(a) No building, structure, garage, outbuilding, fence, pole or other structure shall be constructed, erected, altered, remodeled, placed, maintained or be permitted to remain on said property or any portion thereof unless and until two complete sets of plans and specifications therefor prepared by a duly licensed architect or a draftsman approved by the Architectural Committee, including finished grading plans, drainage, plot plan showing the location of such structures on the building site, height, floor and roof plan, exterior elevations, sections and salient exterior details and color schemes, and landscaping and planting plans, including the type and location of trees, fences, hedges and walls, shall have been

features and intent of such building and improvements subject to the preparation, submission and approval of the building plans and specifications as provided in subparagraph (a) hereof.

(e) All plans and specifications for original construction or for the remodeling or any alteration affecting the exterior of any building shall be submitted in writing for approval over the signature of the owner of the lot or building site or over the signature of his duly authorized agent, together with the sum of \$200.00 to be paid to the designated representative of the Architectural Committee as provided in subparagraph (c) hereof. One set of said plans shall be returned to the owner and one set shall be retained by the Architectural Committee.

(f) Said Architectural Committee or its designated representative shall have power and authority to approve or disapprove the plans and specifications and the approval of said plans, specifications and plot plans may be withheld not only because of the non-compliance with any of the specific conditions, covenants and restrictions contained in this Declaration, but also by reason of the reasonable dissatisfaction of the Committee with the grading plan, drainage provisions, location of the structure on lot or building site, the finished ground elevation, the color scheme, finish, design, proportions, architecture, shape, height, style and appropriateness of the proposed structures or altered structures, the materials used the rein,

the kind, pitch or type of roof proposed to be placed thereon, the planting, landscaping, size, height or location of trees on the lot or building site, or because of its reasonable dissatisfaction with any or all other matters or things which, in the reasonable judgment of the Committee, which will unreasonably obstruct or interfere with the view from other lots in the tract, or which will render the proposed structure inharmonious or out of keeping with the general plan of improvement of the said property or with

of the lots and building sites in said real property with each other, both as to servient and dominant tenements as against all other lots in said tract.

(b) At any time, or from time to time, the owners of record of lots or building sites in said property then subject to this Declaration having an aggregate area equivalent to not less than 65% of the total area of all said property, and who shall include in their number the owners of record of not less than 75% of the building sites thereon or therein on which dwelling houses or other principal structures are then located, may modify, amend, cancel and annul, with respect to all or any of the covenants, conditions and restrictions contained in this Declaration and any supplement or amendment thereto by instrument in writing signed by said owners and acknowledged by them so as to entitle it to be recorded in the Office of the Recorder of Los Angeles County, California.

#### XIV.

(a) Violation or breach of any of the conditions, covenants, restrictions or reservations herein contained shall give the Declarants and/or any owner or owners of lots or building sites in said property, the right to enter upon said property upon or as to which such violation or breach exists, and to abate and remove at the expense of the owner thereof, any structure, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof, or to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of the covenants, conditions, restrictions and reservations, to prevent or enjoin them from so doing, to cause said violation to be remedied or to recover damages for the said violation.

(b) The result of every act or omission whereby any conditions, covenants, restrictions or reservations herein contained is violated in whole or in part, is hereby declared to be and constitutes a nuisance, and