



AGENDA REPORT

Meeting Date: November 3, 2011

Item Number: D-2

To: Honorable Mayor & City Council

From: Susan Healy Keene, AICP, Director of Community Development

Subject: ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO ADOPT A VIEW RESTORATION PROGRAM FOR THE TROUSDALE ESTATES AREA OF THE CITY.

Attachments:

1. Proposed Ordinance
2. Planning Commission Resolution
3. Letters from the Public
4. Public Review Process
5. Safe Harbor Area Issues
6. 500' View Distance
7. Early Photos of Trousdale Estates
8. Cost Tables (Review and Enforcement)
9. Environmental Initial Study and Negative Declaration

RECOMMENDATION

It is recommended that the City Council introduce an ordinance amending the Municipal Code to establish a view restoration program for properties in Trousdale Estates that addresses views obstructed by foliage on private property.

INTRODUCTION

In response to a request by Trousdale Estates residents, the City Council, on April 7, 2009, directed staff to consider regulations addressing views obstructed by foliage in the Trousdale Estates and Hillside Areas. Because of the complexity of developing such regulations, the Planning Commission focused its view restoration discussion on Trousdale Estates as a pilot area to develop view restoration standards, with regulations for the larger Hillside Area to follow.

View restoration in Trousdale Estates is being addressed by the City in two ways: a) an ordinance regulating maximum hedge and fence heights on certain slopes in Trousdale that was adopted by the City Council on August 16, 2011; and, b) a set of regulations and a review process to assist property owners in restoring and maintaining views in Trousdale. This report presents a proposed view restoration ordinance for Trousdale Estates.

After over two years of work developing regulations, including twelve Planning Commission meetings, nine Planning Commission Subcommittee meetings, two bus tours, a City Council Study Session, and a City Council/Planning Commission Ad Hoc meeting, the Planning Commission, on September 8, 2011, adopted a resolution, on a four to one vote, forwarding to the City Council an ordinance recommending a view restoration program for Trousdale Estates. A summary of the public review process is included as Attachment 4.

BACKGROUND

The City of Beverly Hills annexed Trousdale Estates' 596 single-family residential lots on July 26, 1955. Major grading, including removal of most existing foliage, was completed to create flat building pads (Attachment 7). View preservation standards were included in many, if not all, of the Codes, Covenants and Restrictions documents (CC&Rs), placed on the Trousdale tracts beginning in 1955. Although the CC&Rs had expired by 2000, much of their content and intent was incorporated by the City Council into the City's Zoning Code in 1985. One regulation that was not incorporated into the City's Codes was a standard preventing obstruction of views by foliage. Since the CC&Rs expired, there have been no regulations in Trousdale Estates requiring the maintenance of foliage so that it does not obstruct views.

The City's intent in developing a view restoration ordinance is expressed by the Planning Commission in the attached ordinance under "Purpose and Intent" (Attachment 1, page 2): "restore and preserve certain views from substantial disruption by the growth of privately owned trees, vegetation" while also providing for the following important City goals:

- Residential privacy and security;
- Garden quality of the City;
- Safety and stability of the hillsides; and,
- Importance of trees and vegetation in the City as an integral part of a sustainable environment.

The ordinance proposes to achieve these goals by establishing view criteria and a review process with an emphasis on:

- early neighbor resolution of view restoration complaints;
- understanding that there should be no expectation that any particular view or views will be restored or preserved;
- outreach and education so residents consider the potential to block neighbors' views before planting foliage and when maintaining foliage; and,
- development of a view restoration process that will not result in any significant additional cost to the City.

ORDINANCE PROVISIONS

The ordinance recommended by the Planning Commission includes four main components:

1. View Regulations (definitions and findings);
2. Exemption (establish parameters for foliage not subject to the regulations);
3. Review Process;
4. Enforcement.

Below is a summary of the four components of the view restoration ordinance.

1. View Regulations

The definitions in the ordinance (page 2 of the ordinance), used in conjunction with the findings (page 10 of the ordinance), provide a guide to residents and reviewing authorities to determine if a view owner has a protectable view that is substantially disrupted by foliage on private property. The ordinance does not address view disruption by City trees.

Key elements of the definitions:

- Only foliage on properties up to 500 feet from other private properties is subject to regulation (See Attachment 6);
- A protectable view may include any view of the Los Angeles area basin from a viewing area and the protectable view is determined from a point thirty-six inches above finished grade of the viewing area;
- A viewing area is an area from which a protectable view is assessed, located on the level pad that contains the primary residential structure and must be a room in that structure (excluding hallways, laundry rooms, closets and garages), or a patio, deck or landscaped area adjacent to the primary residential structure that does not extend beyond the level pad. There may be one or more viewing areas on a property and the reviewing authority shall establish the viewing area(s) as part of its review.

Key elements of the findings:

- Criteria to determine substantial disruption (is the foliage in the center of the view, is it of a size or density to obstruct a large portion of a view, is the view already diminished by other factors);
- Determining that removal of trees that are subject to the City's existing tree preservation ordinance will not have an adverse effect;
- The Reviewing Authority may allow foliage to substantially disrupt views if it makes a finding(s) that:
 - The foliage is important to the integrity of an existing landscape plan;

- Alteration of the foliage will unreasonably impact the privacy and security of the foliage owner;
- Alteration of the foliage will have a substantial adverse impact on stability of a hillside, drainage or erosion control.
- Restoration of the Protectable View would not substantially enhance a reasonable person's enjoyment of the view owner's property taken as a whole.

The ordinance is clear that actions to restore views such as trimming, removal or removal and replacement of foliage (restorative actions) should avoid removal of a healthy tree not on a list of nuisance trees unless the reviewing authority determines such removal is necessary to avoid substantial disruption of a protected view.

Privacy and Shade

At the July 7, 2011 City Council meeting, the City Council, in response to a number of public speakers, directed the Planning Commission to further consider protection of privacy and shade. The Planning Commission determined that privacy was already appropriately addressed in the ordinance through language in three sections of the ordinance: Section 10-8-101, "Purpose and Intent;" Section 10-8-106 (I), "Findings;" and Section 10-8-106 (J) "Restorative Action." While acknowledging that trees and foliage can be a valuable source of shade, the Planning Commission discussed the practical difficulties in assessing shade since it changes throughout the day and year and also discussed the fact that there are many other ways to achieve desired shade such as umbrellas, awnings, roof eaves, blinds and drapes. As a result, a majority of the Planning Commission agreed that no changes were needed in the "findings" section of the ordinance to address shade provided by foliage and that the language already included in Section 10-8-106 (3), "Restorative Action," regarding shade is adequate.

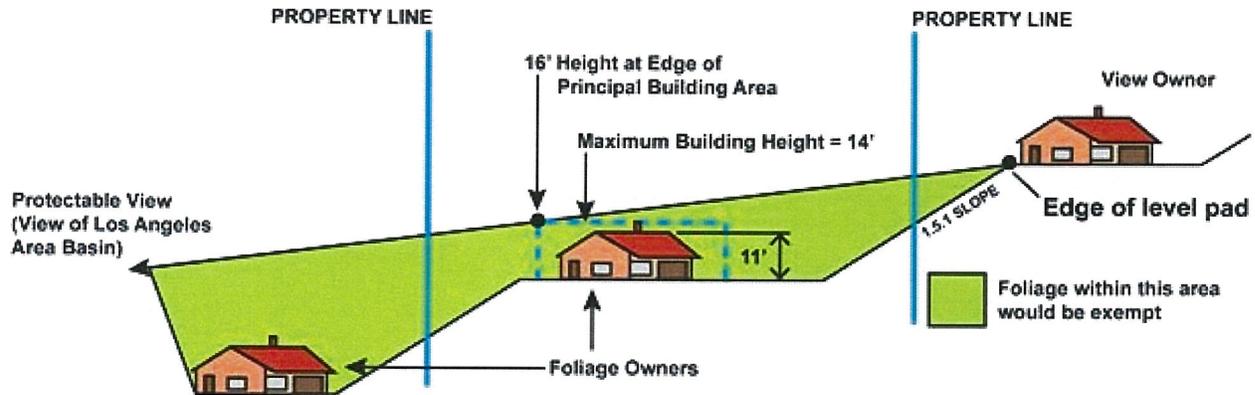
2. Exemption (Safe Harbor Area)

The Planning Commission took steps to exempt from the ordinance foliage that could be reasonably seen not to block views. The purpose of the exemption is two-fold:

- (1) eliminate frivolous complaints that might arise from issues unrelated to actual view obstruction; and,
- (2) provide guidance to residents as to foliage that is acceptable and not subject to a view restoration complaint.

The exemption area or "safe harbor area," as proposed in the draft ordinance is represented in the illustration below, with the safe harbor area shown in green for the hypothetical properties depicted. Foliage growing outside of this safe harbor area would potentially be subject to the proposed view restoration regulations if a neighbor wished to pursue a view restoration claim (see "Review Process" below).

Safe Harbor Area



Prepared by the Community Development Department

Revisions to Safe Harbor Area Definition

Subsequent to recommendation of the ordinance by the Planning Commission, staff realized that the safe harbor definition cannot be used for adjacent properties where the flat pad of the upslope property is below the roofline of the house on the downslope property. Much like the recently adopted Trowsdale fence and hedge height ordinance, language is proposed that addresses this "shallow slope" situation (new language in red):

SAFE HARBOR PLANE: The plane defined by points at the edge of view owner's level pad to points at a maximum height of sixteen feet (16') as measured from grade at the edge of an adjacent downslope foliage owner's principal building area that is farthest from the edge of view owner's level pad located in a line of sight to a protectable view. (See illustration in section 10-8-103.) For purposes of this definition, downslope and upslope properties separated by a public street shall be deemed to be adjacent. **If a view owner's level pad is less than 16 feet above the level pad of the foliage owner's property, the safe harbor area shall be defined as the area below a height of 16 feet measured from the foliage owner's level pad.**

Other Safe Harbor Area Issues

There has been support at public meetings for a safe harbor area but differing views as to how the safe harbor area should be calculated. Since the Planning Commission adopted the resolution recommending the ordinance in September, members of the public have expressed concern about the safe harbor area definition. In anticipation of potential discussion of this issue, please see additional information in Attachment 5.

3. View Restoration Review Process

The review model recommended by the Planning Commission includes the following steps:

- | | |
|----------------------------------|--|
| 1. Initial Neighbor Outreach | 4. Planning Commission Review |
| 2. Mediation | 5. Appeal to City Council (if pursued) |
| 3. City Advisory Opinion Option* | 6. One-Time City Enforcement. |

*voluntary and available to the view owner at any point in the process.

Neighbors with view issues may address their issues in any manner they choose; however, if a view owner wishes to preserve the opportunity to have a case heard by the Planning Commission, the view owner must complete steps 1 and 2 above.

Arbitration

The City Council/Planning Commission Ad Hoc Committee in May, 2011, expressed concern about the cost and length of the view restoration review process to view owners. In response to this concern, the Planning Commission removed a non-binding arbitration step from the review process (it followed mediation), reducing cost and time for the parties involved. The ordinance now clarifies that interested parties may agree to binding arbitration at any time to resolve their disputes in which case compliance with the proposed view restoration procedures would not be required.

City Advisory Opinion

A new feature of the process since last January's Study Session presentation to the City Council is an optional City advisory opinion. Because of the potential high cost of the proposed view restoration permit process (see "Indemnification" section below), the April, 2011 Ad Hoc meeting participants expressed a desire to provide tools or alternatives that could be less costly and time-consuming for parties involved in a view dispute to resolve issues. The ordinance gives view owners the option to obtain a non-binding City advisory opinion with regard to cases of alleged view obstruction.

If a view owner wishes to apply for a Planning Commission hearing after receiving a City advisory opinion, the view owner must wait twelve months to apply. This is intended to ensure that a decision of the Planning Commission regarding a view restoration case could not be seen to conflict with an earlier City opinion regarding a view obstruction claim.

It is noted that staff has consistently supported the "Tiburon Model," which would establish nonbinding guidelines and a voluntary review process for residents to resolve issues but would not provide for a city decision (see table below). Tiburon's ordinance was one of the first view restoration ordinances in the state and has stood the test of time and legal challenges. As a result, most cities in California that have adopted view restoration/preservation ordinances have adopted this model. In response to public testimony, a majority of Planning Commissioners agreed that the Tiburon model would not provide enough assistance to Beverly Hills residents.

The following table outlines various models for a view restoration review process.

Tiburon (& most other cities)	Rolling Hills Estates/ Sausalito	Beverly Hills	Rancho Palos Verdes
Private Cause of Action	Private Cause of Action w/City Advisory Opinion Option	City Decision w/ City Advisory Opinion Option & Limited City Enforcement	City Decision w/ Enforcement
Informal Negotiation	Initial Discussion	Neighbor Outreach	Negotiation
Mediation	Mediation	Mediation	Mediation
Binding Arbitration	Binding Arbitration	City Advisory Opinion Option	
	City Advisory Opinion Option	Planning Commission	Planning Commission
Private Court Action	Private Court Action	(appeal)	(appeal)
		City Council	City Council
No City Enforcement	No City Enforcement	One-Time City Enforcement of Decision; Indemnification of City	City Enforcement of Decision
Little City Involvement		Maximum City Involvement	

City Fees

Pursuant to City Council direction that the ordinance should be cost-neutral to the City, the Planning Commission resolution includes a recommendation to the City Council that all City fees associated with the proposed ordinance should achieve full cost recovery for the City.

Apportionment of Costs

The ordinance requires that all procedural costs (application fees), for the Initial Neighbor Outreach, Mediation and Planning Commission hearing steps in the process are to be paid by the view owner. The Planning Commission could find no other effective way to ensure that the review process would be cost-neutral to the City and it was acknowledged that the view owner receives the most benefit from the process. The ordinance requires restorative action costs to be paid by the view owner at the Initial Neighbor Outreach and Mediation steps to encourage foliage owner participation. If a case is heard by the Planning Commission, the foliage owner would pay fifty percent (50%) of restorative action cost if the foliage owner participated in mediation, and one hundred percent (100%) of the restorative action cost if the foliage owner did not participate in mediation. The escalating cost in time and dollars and the transfer of costs from the view owner to the foliage owner, based on level of participation, is intended to encourage early resolution of view obstruction disputes. It is noted that in some cases view owners may not negotiate in good faith with the aim of obtaining a Planning Commission hearing, even if a foliage owner has cooperated at the earlier steps in the process. The Planning Commission felt that the high cost to the view owner of the Planning Commission

hearing would encourage view owners to cooperate and discourage unnecessary View Restoration Permit applications to the Planning Commission.

View Restoration Guidelines

The ordinance includes a requirement that the City develop View Restoration Guidelines that would be approved by the Planning Commission. The Guidelines would provide a step-by-step guide for property owners interested in view restoration, including process flow charts, sample letters, sample agreements and information about hiring consultants. The intent of the Guidelines would be to make the process as transparent and time and cost efficient for property owners as possible.

4. Enforcement

The ordinance recommends City enforcement of a City view restoration decision but any subsequent enforcement action would be the responsibility of view owners and foliage owners (private right of action). This addresses the concern, experienced by other cities with view preservation ordinances, that these cases require continuous enforcement due to the growth of foliage that is not maintained in accordance with city decisions.

To assist view owners and foliage owners in subsequent enforcement actions, the ordinance now states, "...the prevailing party in any such civil action between view owner and foliage owner shall be entitled to recover its attorney's fees and costs incurred in the litigation."

Indemnification of the City

This type of ordinance is often subject to facial challenges. In addition, legal exposure rises if a view restoration process includes City review of individual cases because the City can be drawn into any challenge to a decision. Cases that are heard by the Planning Commission will be those in which parties could not reach resolution at an earlier step and there will be at least one party, possibly more, who will likely not be satisfied by a Planning Commission decision, with a higher likelihood that such cases could result in litigation and high costs for the City. The indemnification language in the ordinance (Section 10-8-106 (L)), requires a view owner to be responsible for any and all costs incurred by the City in enforcing any View Restoration Permit, except for those costs of enforcement as the City may recover from a foliage owner. The Planning Commission agreed, at its August 4, 2011 meeting, that it would prefer not to include this indemnification language; however, the Commission stated that it believed the language to be necessary so the proposed ordinance would be cost-neutral to the City. As discussed previously in this report, the Commission has added a City Advisory Opinion to the ordinance as a tool to assist property owners who may not wish to pursue a View Restoration Permit through the Planning Commission because of potential enforcement and/or litigation costs.

The attached Planning Commission resolution includes a recommendation to the City Council to consider a cap on the maximum dollar amount a view owner would have to pay to satisfy the indemnification requirements.

Trial Period

A report regarding the implementation of this ordinance shall be provided to the Planning Commission and City Council within 24 months of the effective date of the ordinance.

GENERAL PLAN CONSISTENCY

Based on the goal of the ordinance to balance the desire for views with the maintenance of trees and language that specifically limits the removal of healthy trees, it is anticipated that a relatively small number of trees would require removal as a result of the ordinance; therefore, the ordinance would be consistent with the goals and policies of the General Plan. Additional discussion of general plan consistency can be found in the attached Planning Commission resolution.

ENVIRONMENTAL DETERMINATION

This project has been assessed in accordance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City, and no significant unmitigated environmental impacts are anticipated; therefore, a negative declaration was prepared (Attachment 9). The Planning Commission on September 8, 2011, adopted a resolution recommending that the City Council adopt a negative declaration for the ordinance. A Notice of Intent to Adopt a Negative Declaration was issued on January 3, 2011, and a period for public comment on the environmental documentation ran from January 6, 2011 through January 27, 2011.

FISCAL IMPACT

With regard to implementation of the ordinance, there would be staff costs associated with development of view restoration guidelines and outreach to, and education of Trousdale residents. Aside from these implementation costs, there are three main categories of cost to the City in adopting the proposed ordinance (see Attachment 8, "Cost Tables"):

- the processing of View Restoration Permit applications through the Planning Commission (and possibly the City Council on appeal);
- City enforcement of a View Restoration Permit if granted; and,
- potential cost of litigation.

The cost to the City to process a View Restoration Permit application through the Planning Commission is estimated at \$15,000 which can be covered by an application fee that would be adopted by the City Council. The cost to process an appeal to the City Council of a Planning Commission decision would be approximately the same amount; the City Council may choose to adopt an appeal fee for view restoration cases that reflects the actual cost of processing the appeal. The cost to enforce a City View Restoration decision, if necessary, is proposed to be covered by the View Owner as stated in the indemnification language in the ordinance (page 12). This would likely be accomplished through a deposit made by the View Owner to cover enforcement costs. The process would be set out in the View Restoration Guidelines to be adopted by the Planning Commission. There would also potentially be litigation costs from a challenge to the ordinance itself or challenges to specific permit decisions made by the City. The cost to defend a challenge to the ordinance on its face, absent an involved View Owner, would be borne by the City and is estimated on the attached cost tables to be \$250,000 to \$400,000. The cost to defend a challenge to a specific City View Restoration Permit decision would be borne by the View Owner, pursuant to the indemnification language in the ordinance.

If the City Council adopts view restoration application and appeal fees that reflect the actual cost of processing applications and appeals, and the proposed indemnification language in the ordinance is adopted, staff estimates that the ordinance could be close to cost-neutral to the City, not including potential litigation costs to defend a challenge to the ordinance; however, if the City receives the number of applications anticipated, there is the potential for significant impact on staff workload. Finally, the ordinance would not be cost-neutral if the City Council adopts a cap on the maximum dollar amount a view owner would have to pay to satisfy the indemnification requirements, pursuant to the Planning Commission's recommendation.

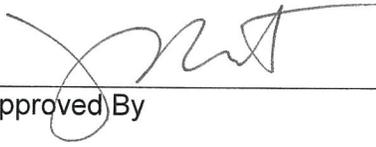
PUBLIC NOTICE

A public hearing notice was mailed on October 21, 2011 to all property owners in Trousdale Estates. Notice was published in the *Beverly Hills Courier* and the *Beverly Hills Weekly*, two newspapers of local circulation. Communications received from the public since the September Planning Commission meeting are attached to this report (Attachment 3). A file containing copies of all communications received from the public regarding review of a draft view restoration ordinance is available from staff.

RECOMMENDED ACTION

It is recommended that the City Council introduce an ordinance amending the Municipal Code to establish a view restoration program for properties in Trousdale Estates that addresses views obstructed by foliage on private property.

Susan Healy Keene, AICP
Director of Community Development



Approved By

Trousdale View Restoration

Attachment 1
Proposed Ordinance

ORDINANCE NO. 11-O- _____

ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO
ADOPT A VIEW RESTORATION PROGRAM FOR THE
TROUSDALE ESTATES AREA OF THE CITY

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY

ORDAINS AS FOLLOWS:

Section 1. The City Council considered this Ordinance at a duly noticed public hearing on November 3, 2011, and, at the conclusion of the hearing, introduced this Ordinance. Evidence, both written and oral, was presented during the hearing.

Section 2. An initial study of the potential environmental impact of this ordinance was prepared. The initial study concluded that the ordinance would not result in significant adverse environmental impacts; thus a negative declaration is the appropriate document to adopt in order to comply with the California Environmental Quality Act (CEQA). A notice of intent to adopt a negative declaration was published on January 3, 2011, and the proposed negative declaration and initial study were made available for a 20-day public review period from January 6, 2011 through January 27, 2011. No public comments on the proposed negative declaration or initial study were submitted during the comment period. Based on the information in the records regarding this ordinance, the City Council finds that there is no evidence suggesting that the ordinance may result in significant adverse impacts on the environment, and hereby adopts the negative declaration for this ordinance. The records related to this determination are on file with the City's Community Development Department, 455 N. Rexford Drive, Beverly Hills, California, 90210. The custodian of records is the Director of Community Development.

Section 3. City Council hereby adds a new Chapter 8 to Title 10 to the Beverly Hills Municipal Code (BHMC) regarding View Restoration as follows:

“Chapter 8. VIEW RESTORATION.

Article 1. Trousdale Estates View Restoration

10-8-101 PURPOSE AND INTENT. The intent of this ordinance is to restore and preserve certain views from substantial disruption by the growth of privately owned trees, vegetation, or a combination thereof while providing for residential privacy and security; maintaining the garden quality of the City; insuring the safety and stability of the hillsides; and, acknowledging the importance of trees and vegetation in the City as an integral part of a sustainable environment. It is the further intent to establish a process by which residential property owners in Trousdale Estates may seek to restore and preserve certain views, with an emphasis on early neighbor resolution of view restoration issues. It is also the intent of this ordinance to educate residents to consider the potential to block neighbors’ views before planting foliage and in maintaining foliage. It is not the intent of this ordinance to create an expectation that any particular view or views would be restored or preserved.

10-8-102 DEFINITIONS.

Unless the context otherwise requires, the definitions set forth in this article shall govern the construction of this chapter:

(A) ARBORIST: An individual certified as an arborist by the International Society of Arboriculture (ISA), or an individual who is currently listed as a Consulting Arborist by the American Society of Consulting Arborists (ASCA).

(B) CITY ADVISORY OPINION: A non-binding opinion rendered by the Director of Community Development or his/her designee, to a view owner who requests such an opinion and pays a fee as set by the City Council.

(C) DAMAGE: Any action which may cause death or significant injury to a tree, or which places the tree in a hazardous condition or an irreversible state of decline. Such action may be taken by, but is not limited to, cutting, topping, girdling, poisoning, trenching, grading, or excavating within the drip line of the tree.

(D) FOLIAGE: The aggregate of leaves, branches and trunks of one or more plants. Trees and hedges, including hedges that otherwise meet the standards of the Zoning Code, are included in the definition of foliage.

(E) FOLIAGE OWNER: An owner of real property in Trousdale Estates upon which is located foliage that is subject to an action filed pursuant to this Article and which property is within five hundred feet (500’) of a view owner’s property. “Foliage owner” shall reference one or more owners of the same property.

(F) FORESTER: An individual licensed in California as a Registered Professional Forester (RPF).

(G) HEDGE: The term “Hedge” shall have the same meaning as set forth in BHMC 10-3-100.

(H) LANDSCAPE ARCHITECT: A landscape architect registered by the State of California.

(I) PRIMARY RESIDENTIAL STRUCTURE: The main structure or building on a site zoned for residential use and used or occupied as a private one-family residence.

(J) PROTECTABLE VIEW: A protectable view may include any view of the Los Angeles area basin from a viewing area as defined in this section. The view of the Los Angeles area basin may include but is not limited to city lights (Beverly Hills and other cities), ocean, and horizon. The term “protectable view” does not mean an unobstructed panorama of all or any of the above. A protectable view shall not include views of vacant land that is developable under the Beverly Hills Municipal Code. For purposes of this section, a protectable view shall be determined from a point thirty-six inches (36”) above the finished grade of the viewing area.

(K) PROTECTED VIEW: A protectable view that has been determined by the reviewing authority to merit restoration. A protected view shall not include an area that may otherwise be developed in the future pursuant to applicable codes and regulations.

(L) RESTORATIVE ACTION: Any specific steps taken affecting foliage that would result in the restoration or preservation of a protected view.

(M) SAFE HARBOR AREA: The area below a Safe Harbor Plane.

(N) SAFE HARBOR PLANE: The plane defined by points at the edge of view owner’s level pad to points at a height of sixteen feet (16’) as measured from grade at the edge of an adjacent downslope foliage owner’s principal building area that is farthest from the edge of view owner’s level pad located in a line of sight to a protectable view. (See illustration in section 10-8-103.) For purposes of this definition, downslope and upslope properties separated by a public street shall be deemed to be adjacent.

(O) TREE: A woody perennial plant, consisting usually of a single elongated main stem or trunk and many branches.

(P) TREE SURVEY: A tree survey includes the following information for trees alleged to impair a view and all trees within the vicinity of the alleged view-impairing trees as determined by a Landscape Architect, Arborist, or Forester:

(1) Species of each tree, based on scientific name, and the common name;

- (2) Tree identifying number and location recorded on a map;
- (3) Physical measurements of the tree such as height and circumference: (tree circumference shall be measured on the primary trunk at a height of four feet, six inches (4' - 6") above natural grade;
- (4) Age of the tree;
- (5) Report of overall health and structural condition of the tree;
- (6) Life expectancy and suitability for preservation;
- (7) Potential restorative actions to address trees alleged to disrupt a view, impact of such restorative actions on trees, and long-term maintenance activities to prevent future potential view disruption; and,
- (8) Tree management recommendations.

The survey shall be signed or stamped by a registered Landscape Architect, Arborist or Forester.

If a foliage owner does not grant access to his/her property for the purpose of conducting a tree survey, a tree survey report shall be prepared with as much of the above information as possible, using other information sources such as photographs taken from other properties, satellite photographs from commercially available sources, public record permit information for work performed on foliage owner's property, and other similar information sources.

(Q) VIEW OWNER: Any owner or owners of real property in Trousdale Estates that has a protectable view and who alleges that the growth of foliage located on a property within five hundred feet (500') of their property is causing substantial disruption of a protectable view. "View owner" shall include one or more owners of the same property.

(R) VIEW RESTORATION GUIDELINES:

Guidelines for implementation of the ordinance prepared by the Community Development Department, adopted by the Planning Commission, and made available to the public.

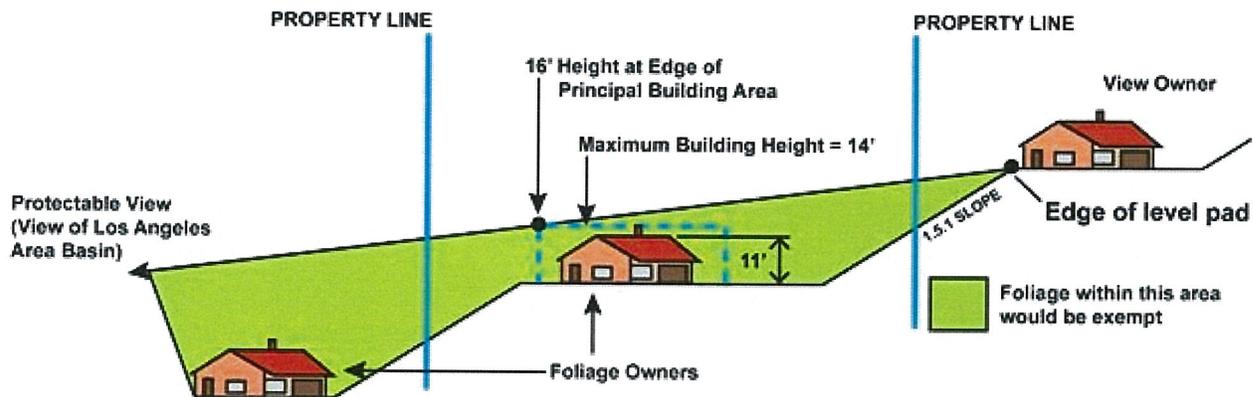
(S) VIEW RESTORATION PROPERTY SURVEY: A survey completed by a certified professional, such as an ALTA (American Land Title Association) survey, of view owner's site and foliage owner's site that may include calculation of the safe harbor plane as defined in this Article and any other information or calculations as may be of assistance to a reviewing authority pursuant to this section.

(T) VIEWING AREA: An area from which a protectable view is assessed, located on the level pad that contains the primary residential structure. A viewing area shall be a room of the primary residential structure (excluding hallways, laundry rooms, closets and garages), or a patio, deck or landscaped area adjacent to the primary residential structure that

does not extend beyond the level pad. There may be one or more viewing areas on a property. The Reviewing Authority shall establish the Viewing Area or Areas as part of its finding that the View Owner has a Protectable View. The Reviewing Authority may designate a location as a Viewing Area if, in the opinion of the Reviewing Authority, an average resident would often observe a Protectable View from that area.

10-8-103 EXEMPTION. The provisions of this article shall not apply to foliage where the highest point of the foliage is below a safe harbor plane as defined in this Article. The exemption applies to foliage on foliage owner's property. Foliage shall be maintained in accordance with all other requirements of this Code, including landscape maintenance standards.

Safe Harbor Area



Prepared by the Community Development Department

10-8-104 PROCEDURES. Except for violations of Section 10-3.2616, complaints received by the City regarding foliage blocking views in Trousdale Estates shall be addressed through the View Restoration Permit pre-application procedures in this Article. The procedures in this Article will be augmented by the View Restoration Guidelines.

The procedures set forth below shall be followed in order for a view owner to pursue remedies available in this Article. More than one view owner may pursue remedies simultaneously with one or more foliage owners as determined by the parties involved.

(A) Parties' Option to Enter Binding Arbitration; Effect of Arbitration Decision. Nothing in this ordinance is intended to preclude interested parties from agreeing to resolve the dispute or disputes through binding arbitration, in which case compliance with the procedures set forth in this Section shall not be required. View Owners who are subject to a

binding arbitration decision shall be precluded from applying for a View Restoration Permit as to any Foliage Owner who is a party to the binding arbitration decision.

(B) Initial Neighbor Outreach.

(1) If a view owner wishes to pursue remedies available in the Article, the view owner shall notify each foliage owner in writing of concerns regarding disruption of the view owner's protectable view by foliage on foliage owner's property (the "Initial Neighbor Outreach"). This Initial Neighbor Outreach shall be on a form provided by the City in the View Restoration Guidelines on file in the City, shall be signed by the view owner, and shall include a signed statement from view owner that view owner or the view owner's representative shall offer to meet with each foliage owner. The Initial Neighbor Outreach notification shall clearly identify the remedy sought by view owner and include a good faith estimate of the cost of the remedy, and an offer to pay that amount.

(2) Agreement to participate in the Initial Neighbor Outreach by each foliage owner shall be voluntary, but each foliage owner shall have no more than thirty (30) days from service of written request to respond to the view owner, unless foliage owner requests a ten (10) business days extension in writing or the response period is otherwise extended by mutual agreement of the view owner and the foliage owner. Failure to respond shall be considered rejection by the foliage owner. The Initial Neighbor Outreach should be followed by discussions between view owner and each foliage owner to attempt to reach a mutually agreeable solution.

(3) If the view owner and a foliage owner are unable to resolve the matter, or if a foliage owner fails to respond to the Initial Neighbor Outreach, the view owner may proceed with a mediation process. To participate in the City-sponsored mediation process, the view owner shall submit to the City proof of the Initial Neighbor Outreach in the form of a certified letter and mailing receipt. If a foliage owner did not respond to the Initial Neighbor Outreach, then the view owner shall also provide an affidavit, signed under penalty of perjury, indicating the non-response of foliage owner.

(4) If, pursuant to an agreement between the view owner and a foliage owner, the view owner or foliage owner may damage or remove, or cause to be damaged or removed, any protected tree as defined in Section 10-3-2900 of this Code, a tree removal permit must first be obtained in accordance with the requirements of Section 10-3-2900.

(C) Mediation.

(1) If the parties are unable to reach agreement through the Initial Neighbor Outreach process and the view owner wishes to pursue remedies available in this Article, then, as a prerequisite, the view owner shall notify each foliage owner of an offer to mediate. The notice shall be on a form provided by the City in the View Restoration Guidelines, shall be signed by view owner, and shall include a signed statement from the view owner that the view owner or the view owner's representative shall offer to meet with each potential foliage owner and a mediator. The notice shall clearly identify the remedy sought by the view owner and include a good faith estimate of the cost of the remedy.

(2) Acceptance of mediation by each foliage owner shall be voluntary, but each foliage owner shall have no more than thirty (30) days from service of a written request for mediation to accept or reject the offer of mediation, unless the foliage owner requests a ten (10) business days extension in writing or the response period is otherwise extended by mutual agreement of the foliage owner and the view owner. Failure to respond shall be considered rejection. Each mediation session may involve one or more view owners and one or more foliage owners at the discretion of the parties involved.

(3) The view owner and each foliage owner shall comply with requirements in the View Restoration Guidelines regarding submittal of information to the mediator.

(4) The mediator shall not have the power to issue binding orders for restorative action but shall strive to enable the parties to resolve their dispute at this stage. If an agreement is reached between the parties as a result of mediation, the mediator will encourage the participants to prepare, and can assist in the preparation of, a private agreement for the parties to sign.

(5) If the view owner and a foliage owner are unable to resolve the matter, or if a foliage owner fails to respond to the mediation notice or to participate in the mediation process as prescribed in the View Restoration Guidelines, then the view owner may proceed to file for a View Restoration Permit.

(6) If, pursuant to an agreement between the view owner and a foliage owner, the view owner or foliage owner may damage or remove, or cause to be damaged or removed, any protected tree as defined in Section 10-3-2900 of this Code, a tree removal permit must first be obtained in accordance with the requirements of Section 10-3-2900.

(D) City Advisory Opinion. A view owner may request a non-binding advisory opinion at any time prior to the view owner filing an application for a view restoration permit in accordance with the requirements of Section 10-8-106. If the view owner wishes to pursue the process set forth in Section 10-8-106, the view owner must wait twelve (12) months from receipt of the City Advisory Opinion to file a view restoration permit application.

10-8-105 CONTINUATION OF PROCESS AFTER AGREEMENT. If the view owner and a foliage owner enter into a private agreement as a result of Initial Neighbor Outreach or mediation before the filing of a View Restoration Permit application, and that agreement is not adhered to by parties to the agreement, the parties may pursue civil litigation; however, if the view owner wishes to pursue remedies available in this Article, then the view owner may continue with the pre-application process at the step after the step at which the agreement was entered into, provided that less than two (2) years have passed since the date of the private agreement. If the view owner wishes to pursue remedies available in this Article and more than two (2) years have passed since the date of the private agreement, then the view owner shall begin view restoration procedures with the Initial Neighbor Outreach.

10-8-106 VIEW RESTORATION PERMIT.

(A) View Restoration Permit:

After exhaustion of the pre-hearing steps set forth in Section 10-8-104, and upon application by a view owner in a form satisfactory to the Director of Planning and Community Development, the reviewing authority may issue a View Restoration Permit to a view owner with a protectable view as defined in this section where the protectable view from a viewing area is substantially disrupted by foliage as defined in the Article and the reviewing authority makes all of the findings as set forth in this section.

(B) Reviewing Authority:

The reviewing authority for a View Restoration Permit application shall be the Planning Commission. If a View Restoration Permit application includes review of a protected tree or trees as defined in Section 10-3-2900 of the Beverly Hills Municipal Code, then the reviewing authority may order the removal of the tree or trees pursuant to Section 10-3-2902 as part of the restorative action required by a View Restoration Permit.

(C) Application:

Application for a View Restoration Permit shall be in writing on a form prescribed by the Director of Community Development and shall include but not be limited to the following information:

(1) Proof that view owner has attempted or completed the following procedures as required in this section:

Initial Neighbor Outreach; and,
Mediation.

(2) Identification of the specific remedy sought by view owner and an estimate of cost.

(3) A view restoration property survey documenting that the subject foliage is on foliage owner's property, that the foliage owner's property is within five hundred feet (500') of view owner's property, and the foliage is above the safe harbor plane.

(4) A Tree survey.

If an applicant does not submit the necessary information and the application remains incomplete for six (6) months after the City, in writing, deems the application incomplete, the Director of Community Development shall deny the application without prejudice, and shall provide notice to the applicant of that determination.

Once a complete application has been received, the City shall send a formal notice of the application to the foliage owner including a copy of the application, a copy of the View

Restoration Guidelines and a request for an invitation to staff and the reviewing authority to visit foliage owner's property with foliage owner's authorization.

(D) Verification of Information:

All applicants for a View Restoration Permit shall submit an affidavit, signed under penalty of perjury, that the information provided in the application and other submitted documents is complete, true, and accurate based on the applicants' knowledge and reasonable investigation.

(E) Public Hearing Notice:

The reviewing authority shall hold a public hearing concerning each application for a View Restoration Permit.

Notice of any hearing held pursuant to this section shall be mailed at least thirty (30) days prior to such hearing by United States mail, postage paid to the applicant and all owners and residential occupants of property within five hundred feet (500') of the view owner's and foliage owner's properties, as shown on the latest equalized assessment roll.

(F) Public Hearing:

The Director of Community Development or the reviewing authority may, at its discretion, require the review or additional review of any view restoration case by a qualified soils engineer, landscape architect, arborist, or other appropriate professional, based on the specific conditions of foliage owner's property. Foliage owner authorization shall be required prior to accessing the foliage owner's property. If foliage owner does not permit access to foliage owner's property, the reviewing authority shall review the case using other information as may be available, including information provided by the view owner.

(G) Restrictions and Conditions:

In approving a View Restoration Permit, the reviewing authority may impose such restrictions or conditions, including restorative action, as it deems necessary or proper to restore a Protected View; protect the foliage owner's reasonable enjoyment of its property; protect the public health, safety and welfare; or any combination thereof.

(H) Appeals; Effective Date:

Any decision of the Planning Commission made pursuant to this section may be appealed to the City Council by view owner or foliage owner pursuant to the provisions set forth in Title 1, Chapter 4, Article 1 of this Code. The appeal period shall commence at the date of mailing of the Notice of Decision.

Any decision of the Planning Commission made pursuant to this section takes effect fourteen (14) days from the issuance of a notice of decision unless an appeal is filed. If appealed, then the effective day is the date on which the City Council acts.

(I) Findings:

(1) The reviewing authority may issue a View Restoration Permit to remove or alter foliage on any lot that is all or partly within five hundred feet (500') of a View Owner's property if it makes all of the following findings:

(a) The View Owner has a Protectable View. The Reviewing Authority shall determine the Viewing Area or Areas in order to make this finding.

(b) The View Owner has substantially complied with the Initial Neighbor Outreach and mediation procedures of this Article.

(c) The View Owner's Protectable View is substantially disrupted by foliage on Foliage Owner's property that is not exempt under Section 10-8-103. The following criteria shall be considered in determining whether or not a Protectable View is substantially disrupted:

(i) Foliage Position within a Protectable View. Foliage located in the center of a Protectable View is more likely to be found to substantially disrupt a view than foliage located on the Protectable View's periphery.

(ii) Foliage Size and Density. Foliage that by virtue of its size and density obstructs a large portion of a protectable view is more likely to be found to substantially disrupt the view than is foliage that obstructs only a small portion of the Protectable View. Trees located in close proximity to each other and maintained in such a way as to collectively form an uninterrupted "green barrier" are more likely to be found to substantially disrupt a view than are individual trees.

(iii) View Diminished by Other Factors. The extent to which the view has been or is diminished by other factors such that removal of the foliage at issue will not substantially restore the Protectable View. Other factors that may be considered include, but are not limited to, permitted structures, and foliage that is not on a private property within five hundred feet (500') of the View Owner's property.

(d) With respect to any tree protected pursuant to Section 10-3-2902, removal of the tree will not:

(i) Adversely affect the neighboring properties or the general welfare or safety of the surrounding area; or,

(ii) Adversely affect the garden quality of the City.

(2) The Reviewing Authority may allow foliage to substantially disrupt a Protectable View if the Reviewing Authority makes one or more of the following findings:

(a) The foliage is important to the integrity of an existing landscape plan.

(b) Alteration of the foliage will unreasonably impact the privacy and security of the Foliage Owner.

(c) Alteration of the foliage will have a substantial adverse impact on stability of a hillside, drainage, or erosion control.

(d) Restoration of the Protectable View would not substantially enhance a reasonable person's enjoyment of the view owner's property taken as a whole.

(J) Restorative Action: The Reviewing Authority may, through issuance of a View Restoration Permit, require restorative action on foliage owner's property. All restorative action must be performed by a licensed and bonded tree or landscape service unless mutually agreed upon by the view owner and the foliage owner. Restorative action may include, but is not limited to the following:

(1) Trimming, culling, lacing, or reducing foliage to a height or width to be determined by the reviewing authority but not below the safe harbor plane.

(2) Requiring the complete removal of the foliage when the reviewing authority finds that the trimming, culling, lacing, or reduction of the foliage is likely to kill the foliage, threaten the public health, safety, or public welfare, or will destroy the aesthetic value of the foliage that is to be pruned or reduced. Removal of a healthy tree not on a list of nuisance trees maintained by the City is to be avoided unless the reviewing authority determines such removal is necessary to avoid substantial disruption of a protected view.

(3) Requiring replacement foliage when the reviewing authority finds that removal without replacement will cause a substantial adverse impact on one or more of: a) the public health, safety and welfare; b) the privacy of the property owner; c) shade provided to the dwelling or property; d) the energy efficiency of the dwelling; e) the stability of the hillside; f) the health or viability of the remaining landscaping; or g) the integrity of the landscape plan.

(K) Notice of Decision:

(1) Written Decision Required: The action taken by the reviewing authority shall be set forth in writing.

(2) Notice of Decision: Within five (5) days after the issuance of a decision by the reviewing authority, the Director of Community Development shall cause a copy of the decision to be mailed through the United States mail, postage prepaid, to each of the following persons:

(i) The view owner, using the mailing address set forth in the application;

(ii) Each foliage owner that is named on the application, as listed on a current Tax Assessor's roll and to the occupant of the Foliage Owner's property if the Foliage Owner's address is different than the property on which the foliage is located.

The failure of the person addressed to receive a copy of the decision shall not affect the validity or effectiveness of any decision.

(L) Indemnification:

View owner shall defend, indemnify and hold harmless the City, its agents, officers, attorneys and employees from any claim, action or proceeding (collectively "Action") against the city or its agents, officers, attorneys or employees to attack, set aside, void or annul the Entitlements that may be granted by the City through issuance of a View Restoration Permit, and for any and all costs incurred in enforcing the View Restoration Permit, except for those costs of enforcement as the City may recover from a foliage owner. Indemnitor shall reimburse the city for any court costs and attorney's fees that the City may be required by a court to pay as a result of such Action. City may, at its sole and absolute discretion (1) participate in the defense of such Action undertaken by View Owner, or (2) retain separate counsel whose attorneys' fees and costs shall be paid by View Owner. Such participation in the defense of such Action or the retention of separate counsel by the City shall not relieve View Owner's obligations under this provision. The City shall promptly notify the View Owner of any such Action.

View owner shall indemnify the City against any and all claims resulting from the issuance, defense, implementation, or enforcement of the View Restoration Permit.

10-8-107 DECISIONS INTENDED TO RUN WITH THE LAND; DISCLOSURE. Decisions regarding view restoration shall be binding on all current and future owners of view owner's property and foliage owner's property, and such decisions must be disclosed by each owner to subsequent owners of the property.

10-8-108 INITIAL CITY ENFORCEMENT; SUBSEQUENT ENFORCEMENT BY VIEW OWNER AND ATTORNEY'S FEES.

If a Foliage Owner fails to comply with the provisions of a View Restoration Permit, the City may, at its discretion, enforce its decision to gain initial compliance with the View Restoration Permit provisions.

Any decision not to enforce initial compliance with the View Restoration Permit shall be made by the City Council. If the City declines to enforce, the view owner shall have a private right of action.

Thereafter, any further disputes between a View Owner and a Foliage Owner regarding compliance with a View Restoration Permit may be resolved through filing a civil action in a court of competent jurisdiction. The prevailing party in any such civil action

between a View Owner and a Foliage Owner shall be entitled to recover its attorney's fees and costs incurred in the litigation.

10-8-109 LANDSCAPE STANDARDS.

The View Restoration Guidelines shall include landscape standards that include a list of nuisance trees that should not be planted in hillside view areas.

10-8-110 APPORTIONMENT OF COSTS.

It is the intent that procedural fees referenced in this section shall reflect the actual cost of administrative activities required of the City to implement this Ordinance. Additional clarification of fees and costs may be included in the View Restoration Guidelines.

(A) Initial Neighbor Outreach:

(1) Procedural Costs. Any costs associated with obtaining information, mailing the required notice, or preparing an agreement shall be borne by the view owner. The view owner shall pay the cost of a view restoration property survey or tree survey if such a survey is completed.

(2) Restorative Action. The cost of restorative action agreed upon by the view owner and the foliage owner shall be borne by the view owner unless otherwise agreed to by the foliage owner.

(3) Maintenance Costs. The cost of subsequent maintenance of foliage on the foliage owner's property shall be allocated as agreed upon by the parties.

(B) Mediation:

(1) Procedural Costs. Any costs associated with obtaining information, mailing the required notice, or preparing an agreement shall be borne by the view owner. The view owner shall pay the cost of a view restoration property survey or tree survey if such a survey is completed.

(2) Restorative Action. The cost of restorative action agreed upon by the view owner and the foliage owner shall be borne by the view owner unless otherwise agreed to by the parties.

(3) Maintenance Costs. The cost of subsequent maintenance of foliage on the foliage owner's property shall be allocated as agreed upon by the parties.

(C) View Restoration Permit with Public Hearing:

(1) Procedural Costs. View owner shall bear the cost of application fees and other application costs including the view restoration property survey and tree survey and the cost of any other information requested by the reviewing authority.

(2) Restorative Action.

(a) The foliage owner shall pay one hundred percent (100%) of the cost of restorative action if the foliage owner did not participate in mediation and the reviewing authority finds restorative action is required.

(b) The view owner and foliage owner shall each pay fifty percent (50%) of the cost of restorative action if the foliage owner participated in mediation and the reviewing authority finds restorative action is required.

(3) Maintenance After Initial Restorative Action. The foliage owner shall pay for subsequent maintenance of the foliage consistent with the View Restoration Permit.

(D) Appeal to City Council

(1) Procedural Costs. Appellant shall bear the costs of the appeal application including the appeal fee, public notice cost, and any other application costs.

(2) Restorative Action. The cost of restorative action resulting from an appeal to the City Council shall be apportioned in the same way as the cost of restorative action pursuant to a decision by the Planning Commission.

(3) Maintenance After Initial Restorative Action. The foliage owner shall pay for subsequent maintenance of the foliage consistent with the View Restoration Permit.

Section 4. To limit any fiscal impact of the Trousdale Estates View Restoration Program, the City shall conduct no more than ten (10) View Restoration Permit hearings per calendar year. The City may establish a means of accepting applications for View Restoration Permit hearings that ensures all property owners equal opportunity to receive a hearing.

Section 5. The City Council hereby amends the definitions of the terms “Arborist” and “Tree” set forth in Section 10-3-2900 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows, with all other definitions listed in Section 10-3-2900 remaining without amendment:

“ARBORISTS: An individual certified as an arborist by the International Society of Arboriculture (ISA), or an individual who is currently listed as a Consulting Arborist by the American Society of Consulting Arborists (ASCA).”

"TREE: A woody perennial plant, consisting usually of a single elongated main stem or trunk and many branches."

Section 6. The City Council hereby adds a new paragraph D. to Section 10-3-2904 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows, with all other portions of Section 10-3-2904 remaining without amendment:

"D. The removal of a protected tree pursuant to a View Restoration Permit issued by the City in accordance with the provisions of Section 10-8-106 of the City's Municipal Code."

Section 7. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 8. The City Council hereby finds on the basis of the whole record before it, including the initial study and any comments received, that there is no substantial evidence that this proposed ordinance will have a significant effect on the environment and that the negative declaration prepared in connection with this ordinance represents the independent judgment and analysis of the City and the City Council. Therefore, the City Council hereby adopts the Negative Declaration and approves this Ordinance, and authorizes the Mayor to execute the Ordinance on behalf of the City. The documents and other material which constitute the record of proceedings upon which this decision is based are located in the City's Community Development Department. The custodian of records is the Director of Community Development.

Section 9. Trial Period. A report regarding the implementation of this ordinance shall be provided to the Planning Commission and City Council within 24 months of the effective date of the ordinance.

Section 10. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance, and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 11. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

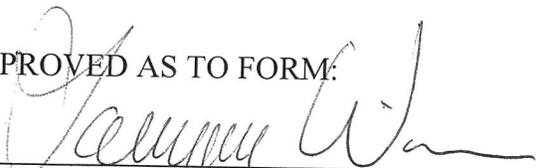
Adopted:
Effective:

BARRY BRUCKER
Mayor of the City of Beverly Hills,
California

ATTEST:

BYRON POPE (SEAL)
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY KOLIN
City Manager


SUSAN HEALY KEENE AICP
Director of Community Development

Trousdale View Restoration

Attachment 2

Planning Commission Resolution

RESOLUTION NO. 1620

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING ADOPTION OF AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO ADOPT A VIEW RESTORATION PROGRAM FOR THE TROUSDALE ESTATES AREA OF THE CITY

WHEREAS, the Planning Commission has considered the proposed amendment to the City of Beverly Hills Municipal Code, as set forth and attached hereto as Exhibit A and more fully described below (the "Ordinance"); and,

WHEREAS, the Planning Commission considered the zone text amendment set forth in the proposed Ordinance at study sessions on May 28, 2009 and June 25, 2009 and at duly noticed public hearings on June 24, 2010, October 28, 2010, November 23, 2010, December 16, 2010, May 26, 2011, June 9, 2011, August 4, 2011, and September 8, 2011, at which times it received oral and documentary evidence relative to the proposed Amendment; and,

WHEREAS, on December 16, 2010, the Planning Commission adopted Resolution No. 1599, recommending that the City Council adopt an ordinance enacting a View Restoration Program for the Trousdale Area of the City; and,

WHEREAS, the City Council appointed an ad hoc committee to further consider the issues related to a View Restoration Ordinance, which further consideration included further review by the Planning Commission; and,

WHEREAS, on June 23, 2011, the Planning Commission adopted Resolution No. 1614, recommending that the City Council adopt an ordinance enacting additional fence and hedge height standards for Trousdale Estates; and,

WHEREAS, the Planning Commission considered and hereby recommends to the City Council adoption of an ordinance substantially as set forth in Exhibit A, attached hereto and

incorporated herein by reference, which recommendation supersedes the prior recommendation embodied in Resolution No. 1599; and,

WHEREAS, the Planning Commission finds that the proposed Ordinance is required for the public health, safety, and general welfare, and that such Ordinance is consistent with the general objectives, principles, and standards of the General Plan;

NOW, THEREFORE, the Planning Commission of the City of Beverly Hills does resolve as follows:

Section 1. An initial study of the potential environmental impact of this ordinance was prepared. The initial study concluded that the proposed Ordinance would not result in significant adverse environmental impacts; thus a negative declaration is the appropriate document to adopt in order to comply with the California Environmental Quality Act (CEQA). A notice of intent to adopt a negative declaration was published on January 3, 2011, and the proposed negative declaration and initial study were made available for a 20-day public review period from January 6, 2011 through January 27, 2011. No public comments on the proposed negative declaration or initial study were submitted during the comment period. Based on the information in the records regarding the proposed Ordinance, the Planning Commission finds that there is no evidence suggesting that the Ordinance would result in significant adverse impacts on the environment, and hereby recommends that the City Council adopt a negative declaration for this ordinance. The records related to this determination are on file with the City's Community Development Department, 455 N. Rexford Drive, Beverly Hills, California, 90210.

Section 2. The Planning Commission does hereby find that the proposed Zone Text Amendment as set forth in the proposed Ordinance is intended to restore and preserve certain views from substantial disruption by the growth of trees, vegetation, hedges, or a combination thereof while providing for residential privacy and security; maintaining the garden quality of the City; insuring the safety and stability of the hillsides; and, acknowledging the importance of trees and vegetation in the City as an integral part of a sustainable environment. It is the further intent to establish a process by which residential property owners in Trousdale Estates may seek to restore and preserve certain views, with an emphasis on early neighbor resolution of view restoration issues. It is also the intent of this ordinance to educate residents to consider the potential to block neighbors' views before planting foliage and in maintaining foliage. It is not the intent of this ordinance to create an expectation that any particular view or views would be restored or preserved.

The City's General Plan includes the following policies that relate to this proposed Ordinance because they address maintenance of natural resources including vegetation: OS 1 Natural and Open Space Protection: OS 1.1 Resource Preservation; OS 6 Visual Resource Preservation: OS 6.1 Protection of Scenic Views and OS 6.4 Minimize Removal of Existing Resources. The proposed Ordinance stresses the importance of balancing the desire for views with the maintenance of trees and includes the following statement, "[r]emoval of a healthy tree not on a list of nuisance trees maintained by the City is to be avoided unless the reviewing authority determines such removal is necessary to avoid substantial disruption of a protected view." Based on the goal of the Ordinance to balance the desire for views with the maintenance of trees and language that specifically limits the removal of healthy trees, it is anticipated that a relatively small number of trees would require removal as a result of the Ordinance. The City's

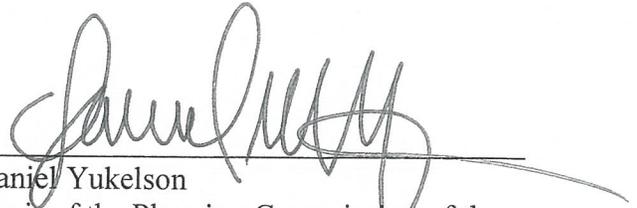
General Plan includes the following policy that also relates to this proposed Ordinance: "LU 2.1 City Places: Neighborhood, Districts, and Corridors. Maintain and enhance the character, distribution, built form, scale, and aesthetic qualities of the city's distinctive residential neighborhoods, business districts, corridors, and open spaces." Trousdale Estates was developed to take advantage of views of the Los Angeles Area Basin and such views are one of the most distinctive qualities of this neighborhood. The proposed amendment would assist some residents in restoring and maintaining this special quality of the area. It is anticipated the ordinance would help maintain and enhance the distinctive character of the Trousdale Estates residential neighborhood; therefore, the Ordinance would be consistent with the goals and policies of the General Plan.

Section 3. The Planning Commission does hereby recommend that the City Council adopt the proposed Ordinance approving and enacting the proposed Amendment substantially as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

Section 4. The Planning Commission does hereby recommend that the City Council consider the following when reviewing the proposed Ordinance: consideration of a cap on the maximum dollar amount a view owner would have to pay to the City to satisfy the indemnification requirements in the Ordinance; and, a recommendation that all City fees associated with the proposed Ordinance should be set at a rate to achieve full cost recovery for the City.

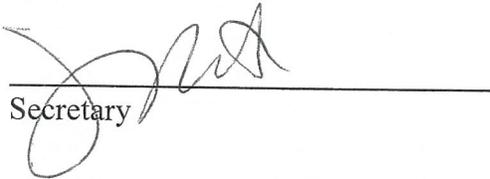
Section 5. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted:

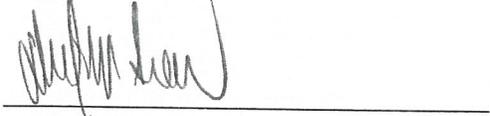


Daniel Yukelson
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:


Secretary

Approved as to form:


David M. Snow
Assistant City Attorney

Approved as to content:


Jonathan Lait, AICP
Assistant Director of Community Development /
City Planner

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF BEVERLY HILLS)

I, JONATHAN LAIT, Secretary of the Planning Commission and City Planner of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1620 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on September 8, 2011, and thereafter duly signed by the Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

AYES: Commissioners Furie, Rosenstein, Cole, Vice Chair Corman, and Chair Yukelson.

NOES: None.

ABSTAIN: None.

ABSENT: None.



JONATHAN LAIT, AICP
Secretary of the Planning Commission /
City Planner
City of Beverly Hills, California

EXHIBIT A

[Draft] ORDINANCE NO. 11-O- _____

ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO
ADOPT A VIEW RESTORATION PROGRAM FOR THE
TROUSDALE ESTATES AREA OF THE CITY

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY

ORDAINS AS FOLLOWS:

Section 1. The City Council considered this Ordinance at a duly noticed public hearing on _____ and, at the conclusion of the hearing, introduced this Ordinance. Evidence, both written and oral, was presented during the hearing.

Section 2. An initial study of the potential environmental impact of this ordinance was prepared. The initial study concluded that the ordinance would not result in significant adverse environmental impacts; thus a negative declaration is the appropriate document to adopt in order to comply with the California Environmental Quality Act (CEQA). A notice of intent to adopt a negative declaration was published on January 3, 2011, and the proposed negative declaration and initial study were made available for a 20-day public review period from January 6, 2011 through January 27, 2011. No public comments on the proposed negative declaration or initial study were submitted during the comment period. Based on the information in the records regarding this ordinance, the City Council finds that there is no evidence suggesting that the ordinance may result in significant adverse impacts on the environment, and hereby adopts the negative declaration for this ordinance. The records related to this determination are on file with the City's Community Development Department, 455 N. Rexford Drive, Beverly Hills, California, 90210. The custodian of records is the Director of Community Development.

Section 3. City Council hereby adds a new Chapter 8 to Title 10 to the Beverly Hills Municipal Code (BHMC) regarding View Restoration as follows:

“Chapter 8. VIEW RESTORATION.

Article 1. Trousdale Estates View Restoration

10-8-101 PURPOSE AND INTENT. The intent of this ordinance is to restore and preserve certain views from substantial disruption by the growth of privately owned trees, vegetation, or a combination thereof while providing for residential privacy and security; maintaining the garden quality of the City; insuring the safety and stability of the hillsides; and, acknowledging the importance of trees and vegetation in the City as an integral part of a sustainable environment. It is the further intent to establish a process by which residential property owners in Trousdale Estates may seek to restore and preserve certain views, with an emphasis on early neighbor resolution of view restoration issues. It is also the intent of this ordinance to educate residents to consider the potential to block neighbors’ views before planting foliage and in maintaining foliage. It is not the intent of this ordinance to create an expectation that any particular view or views would be restored or preserved.

10-8-102 DEFINITIONS.

Unless the context otherwise requires, the definitions set forth in this article shall govern the construction of this chapter:

(A) ARBORIST: An individual certified as an arborist by the International Society of Arboriculture (ISA), or an individual who is currently listed as a Consulting Arborist by the American Society of Consulting Arborists (ASCA).

(B) CITY ADVISORY OPINION: A non-binding opinion rendered by the Director of Community Development or his/her designee, to a view owner who requests such an opinion and pays a fee as set by the City Council.

(C) DAMAGE: Any action which may cause death or significant injury to a tree, or which places the tree in a hazardous condition or an irreversible state of decline. Such action may be taken by, but is not limited to, cutting, topping, girdling, poisoning, trenching, grading, or excavating within the drip line of the tree.

(D) FOLIAGE: The aggregate of leaves, branches and trunks of one or more plants. Trees and hedges, including hedges that otherwise meet the standards of the Zoning Code, are included in the definition of foliage.

(E) FOLIAGE OWNER: An owner of real property in Trousdale Estates upon which is located foliage that is subject to an action filed pursuant to this Article and which property is within five hundred feet (500’) of a view owner’s property. “Foliage owner” shall reference one or more owners of the same property.

(F) FORESTER: An individual licensed in California as a Registered Professional Forester (RPF).

(G) HEDGE: The term “Hedge” shall have the same meaning as set forth in BHMC 10-3-100.

(H) LANDSCAPE ARCHITECT: A landscape architect registered by the State of California.

(I) PRIMARY RESIDENTIAL STRUCTURE: The main structure or building on a site zoned for residential use and used or occupied as a private one-family residence.

(J) PROTECTABLE VIEW: A protectable view may include any view of the Los Angeles area basin from a viewing area as defined in this section. The view of the Los Angeles area basin may include but is not limited to city lights (Beverly Hills and other cities), ocean, and horizon. The term “protectable view” does not mean an unobstructed panorama of all or any of the above. A protectable view shall not include views of vacant land that is developable under the Beverly Hills Municipal Code. For purposes of this section, a protectable view shall be determined from a point thirty-six inches (36”) above the finished grade of the viewing area.

(K) PROTECTED VIEW: A protectable view that has been determined by the reviewing authority to merit restoration. A protected view shall not include an area that may otherwise be developed in the future pursuant to applicable codes and regulations.

(L) RESTORATIVE ACTION: Any specific steps taken affecting foliage that would result in the restoration or preservation of a protected view.

(M) SAFE HARBOR PLANE: The plane defined by points at the edge of view owner’s level pad to points at a maximum height of sixteen feet (16’) as measured from grade at the edge of an adjacent downslope foliage owner’s principal building area that is farthest from the edge of view owner’s level pad located in a line of sight to a protectable view. (See illustration in section 10-8-103.) For purposes of this definition, downslope and upslope properties separated by a public street shall be deemed to be adjacent.

(N) TREE: A woody perennial plant, consisting usually of a single elongated main stem or trunk and many branches.

(O) TREE SURVEY: A tree survey includes the following information for trees alleged to impair a view and all trees within the vicinity of the alleged view-impairing trees as determined by a Landscape Architect, Arborist, or Forester:

(1) Species of each tree, based on scientific name, and the common name;

(2) Tree identifying number and location recorded on a map;

- (3) Physical measurements of the tree such as height and circumference: (tree circumference shall be measured on the primary trunk at a height of four feet, six inches (4' - 6") above natural grade;
- (4) Age of the tree;
- (5) Report of overall health and structural condition of the tree;
- (6) Life expectancy and suitability for preservation;
- (7) Potential restorative actions to address trees alleged to disrupt a view, impact of such restorative actions on trees, and long-term maintenance activities to prevent future potential view disruption; and,
- (8) Tree management recommendations.

The survey shall be signed or stamped by a registered Landscape Architect, Arborist or Forester.

If a foliage owner does not grant access to his/her property for the purpose of conducting a tree survey, a tree survey report shall be prepared with as much of the above information as possible, using other information sources such as photographs taken from other properties, satellite photographs from commercially available sources, public record permit information for work performed on foliage owner's property, and other similar information sources.

(P) VIEW OWNER: Any owner or owners of real property in Trousdale Estates that has a protectable view and who alleges that the growth of foliage located on a property within five hundred feet (500') of their property is causing substantial disruption of a protectable view. "View owner" shall include one or more owners of the same property.

(Q) VIEW RESTORATION GUIDELINES:

Guidelines for implementation of the ordinance prepared by the Community Development Department, adopted by the Planning Commission, and made available to the public.

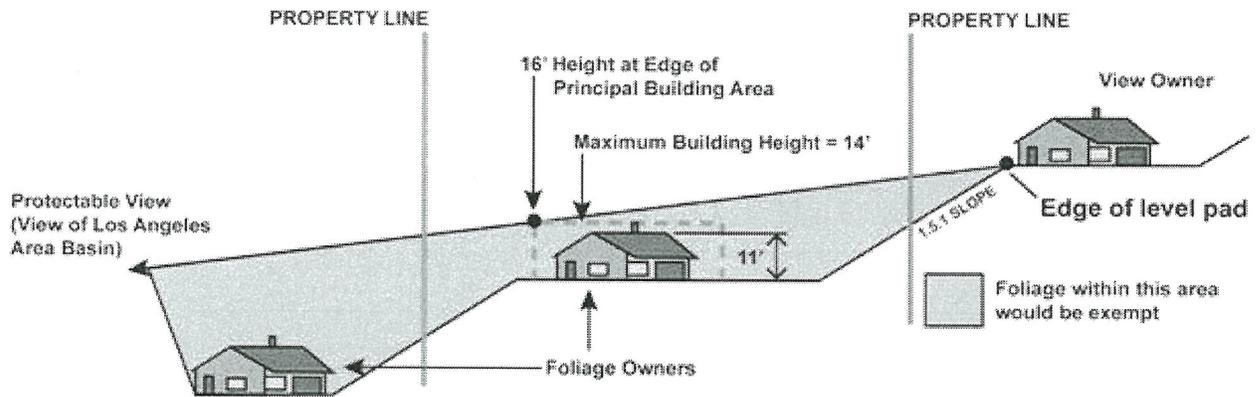
(R) VIEW RESTORATION PROPERTY SURVEY: A survey completed by a certified professional, such as an ALTA (American Land Title Association) survey, of view owner's site and foliage owner's site that may include calculation of the safe harbor plane as defined in this Article and any other information or calculations as may be of assistance to a reviewing authority pursuant to this section.

(S) VIEWING AREA: An area from which a protectable view is assessed, located on the level pad that contains the primary residential structure. A viewing area shall be a room of the primary residential structure (excluding hallways, laundry rooms, closets and garages), or a patio, deck or landscaped area adjacent to the primary residential structure that does not extend beyond the level pad. There may be one or more viewing areas on a property. The Reviewing Authority shall establish the Viewing Area or Areas as part of its finding that the

View Owner has a Protectable View. The Reviewing Authority may designate a location as a Viewing Area if, in the opinion of the Reviewing Authority, an average resident would often observe a Protectable View from that area.

10-8-103 EXEMPTION. The provisions of this article shall not apply to foliage where the highest point of the foliage is below a safe harbor plane as defined in this Article. The exemption applies to foliage on foliage owner's property. Foliage shall be maintained in accordance with all other requirements of this Code, including landscape maintenance standards.

Safe Harbor Area



Prepared by the Community Development Department

10-8-104 PROCEDURES. Except for violations of Section 10-3.2616, complaints received by the City regarding foliage blocking views in Trousdale Estates shall be addressed through the View Restoration Permit pre-application procedures in this Article. The procedures in this Article will be augmented by the View Restoration Guidelines.

The procedures set forth below shall be followed in order for a view owner to pursue remedies available in this Article. More than one view owner may pursue remedies simultaneously with one or more foliage owners as determined by the parties involved.

(A) Parties' Option to Enter Binding Arbitration; Effect of Arbitration Decision. Nothing in this ordinance is intended to preclude interested parties from agreeing to resolve the dispute or disputes through binding arbitration, in which case compliance with the procedures set forth in this Section shall not be required. View Owners who are subject to a binding arbitration decision shall be precluded from applying for a View Restoration Permit as to any Foliage Owner who is a party to the binding arbitration decision.

(B) Initial Neighbor Outreach.

(1) If a view owner wishes to pursue remedies available in the Article, the view owner shall notify each foliage owner in writing of concerns regarding disruption of the view owner's protectable view by foliage on foliage owner's property (the "Initial Neighbor Outreach"). This Initial Neighbor Outreach shall be on a form provided by the City in the View Restoration Guidelines on file in the City, shall be signed by the view owner, and shall include a signed statement from view owner that view owner or the view owner's representative shall offer to meet with each foliage owner. The Initial Neighbor Outreach notification shall clearly identify the remedy sought by view owner and include a good faith estimate of the cost of the remedy, and an offer to pay that amount.

(2) Agreement to participate in the Initial Neighbor Outreach by each foliage owner shall be voluntary, but each foliage owner shall have no more than thirty (30) days from service of written request to respond to the view owner, unless foliage owner requests a ten (10) day (business days) extension in writing or the response period is otherwise extended by mutual agreement of the view owner and the foliage owner. Failure to respond shall be considered rejection by the foliage owner. The Initial Neighbor Outreach should be followed by discussions between view owner and each foliage owner to attempt to reach a mutually agreeable solution.

(3) If the view owner and a foliage owner are unable to resolve the matter, or if a foliage owner fails to respond to the Initial Neighbor Outreach, the view owner may proceed with a mediation process. To participate in the City-sponsored mediation process, the view owner shall submit to the City proof of the Initial Neighbor Outreach in the form of a certified letter and mailing receipt. If a foliage owner did not respond to the Initial Neighbor Outreach, then the view owner shall also provide an affidavit, signed under penalty of perjury, indicating the non-response of foliage owner.

(4) If, pursuant to an agreement between the view owner and a foliage owner, the view owner or foliage owner may damage or remove, or cause to be damaged or removed, any protected tree as defined in Section 10-3-2900 of this Code, a tree removal permit must first be obtained in accordance with the requirements of Section 10-3-2900.

(C) Mediation.

(1) If the parties are unable to reach agreement through the Initial Neighbor Outreach process and the view owner wishes to pursue remedies available in this Article, then, as a prerequisite, the view owner shall notify each foliage owner of an offer to mediate. The notice shall be on a form provided by the City in the View Restoration Guidelines, shall be signed by view owner, and shall include a signed statement from the view owner that the view owner or the view owner's representative shall offer to meet with each potential foliage owner and a mediator. The notice shall clearly identify the remedy sought by the view owner and include a good faith estimate of the cost of the remedy.

(2) Acceptance of mediation by each foliage owner shall be voluntary, but each foliage owner shall have no more than thirty (30) days from service of a

written request for mediation to accept or reject the offer of mediation, unless the foliage owner requests a ten (10) day (business days) extension in writing or the response period is otherwise extended by mutual agreement of the foliage owner and the view owner. Failure to respond shall be considered rejection. Each mediation session may involve one or more view owners and one or more foliage owners at the discretion of the parties involved.

(3) The view owner and each foliage owner shall comply with requirements in the View Restoration Guidelines regarding submittal of information to the mediator.

(4) The mediator shall not have the power to issue binding orders for restorative action but shall strive to enable the parties to resolve their dispute at this stage. If an agreement is reached between the parties as a result of mediation, the mediator will encourage the participants to prepare, and can assist in the preparation of, a private agreement for the parties to sign.

(5) If the view owner and a foliage owner are unable to resolve the matter, or if a foliage owner fails to respond to the mediation notice or to participate in the mediation process as prescribed in the View Restoration Guidelines, then the view owner may proceed to file for a View Restoration Permit.

(6) If, pursuant to an agreement between the view owner and a foliage owner, the view owner or foliage owner may damage or remove, or cause to be damaged or removed, any protected tree as defined in Section 10-3-2900 of this Code, a tree removal permit must first be obtained in accordance with the requirements of Section 10-3-2900.

(D) City Advisory Opinion. A view owner may request a non-binding advisory opinion at any time prior to the view owner filing an application for a view restoration permit in accordance with the requirements of Section 10-8-106. If the view owner wishes to pursue remedies available in Section 10-8-106, the view owner must wait twelve (12) months from receipt of the City Advisory Opinion to file a view restoration permit application.

10-8-105 CONTINUATION OF PROCESS AFTER AGREEMENT. If the view owner and a foliage owner enter into a private agreement as a result of Initial Neighbor Outreach or mediation before the filing of a View Restoration Permit application, and that agreement is not adhered to by parties to the agreement, the parties may pursue civil litigation; however, if the view owner wishes to pursue remedies available in this Article, then the view owner may continue with the pre-application process at the step after the step at which the agreement was entered into, provided that less than two (2) years have passed since the date of the private agreement. If the view owner wishes to pursue remedies available in this Article and more than two (2) years have passed since the date of the private agreement, then the view owner shall begin view restoration procedures with the Initial Neighbor Outreach.

10-8-106 VIEW RESTORATION PERMIT.

(A) View Restoration Permit:

After exhaustion of the pre-hearing steps set forth in Section 10-8-104, and upon application by a view owner in a form satisfactory to the Director of Planning and Community Development, the reviewing authority may issue a View Restoration Permit to a view owner with a protectable view as defined in this section where the protectable view from a viewing area is substantially disrupted by foliage as defined in the Article and the reviewing authority makes all of the findings as set forth in this section.

(B) Reviewing Authority:

The reviewing authority for a View Restoration Permit application shall be the Planning Commission. If a View Restoration Permit application includes review of a protected tree or trees as defined in Section 10-3-2900 of the Beverly Hills Municipal Code, then the reviewing authority may order the removal of the tree or trees pursuant to Section 10-3-2902 as part of the restorative action required by a View Restoration Permit.

(C) Application:

Application for a View Restoration Permit shall be in writing on a form prescribed by the Director of Community Development and shall include but not be limited to the following information:

(1) Proof that view owner has attempted or completed the following procedures as required in this section:

Initial Neighbor Outreach; and,
Mediation.

(2) Identification of the specific remedy sought by view owner and an estimate of cost.

(3) A view restoration property survey documenting that the subject foliage is on foliage owner's property, that the foliage owner's property is within five hundred feet (500') of view owner's property, and the foliage is above the safe harbor plane.

(4) Tree survey.

If an applicant does not submit the necessary information and the application remains incomplete for six (6) months after the City, in writing, deems the application incomplete, the Director of Community Development shall deny the application without prejudice, and shall provide notice to the applicant of that determination.

Once a complete application has been received, the City shall send a formal notice of the application to the foliage owner including a copy of the application, a copy of the View Restoration Guidelines and a request for an invitation to staff and the reviewing authority to visit foliage owner's property with foliage owner's authorization.

(D) Verification of Information:

All applicants for a View Restoration Permit shall submit an affidavit, signed under penalty of perjury, that the information provided in the application and other submitted documents is complete, true, and accurate based on the applicants' knowledge and reasonable investigation.

(E) Public Hearing Notice:

The reviewing authority shall hold a public hearing concerning each application for a View Restoration Permit.

Notice of any hearing held pursuant to this section shall be mailed at least thirty (30) days prior to such hearing by United States mail, postage paid to the applicant and all owners and residential occupants of property within five hundred feet (500') of the view owner's and foliage owner's properties, as shown on the latest equalized assessment roll.

(F) Public Hearing:

The Director of Community Development or the reviewing authority may, at its discretion, require the review or additional review of any view restoration case by a qualified soils engineer, landscape architect, arborist, or other appropriate professional, based on the specific conditions of foliage owner's property. Foliage owner authorization shall be required prior to accessing the foliage owner's property. If foliage owner does not permit access to foliage owner's property, the reviewing authority shall review the case using other information as may be available, including information provided by the view owner.

(G) Restrictions and Conditions:

In approving a View Restoration Permit, the reviewing authority may impose such restrictions or conditions, including restorative action, as it deems necessary or proper to restore a Protected View; protect the foliage owner's reasonable enjoyment of its property; protect the public health, safety and welfare; or any combination thereof.

(H) Appeals; Effective Date:

Any decision of the Planning Commission made pursuant to this section may be appealed to the City Council by view owner or foliage owner pursuant to the provisions set forth in Title 1, Chapter 4, Article 1 of this Code. The appeal period shall commence at the date of mailing of the Notice of Decision.

Any decision of the Planning Commission made pursuant to this section takes effect fourteen (14) days from the issuance of a notice of decision unless an appeal is filed. If appealed, then the effective day is the date on which the City Council acts.

(I) Required Findings:

(1) The reviewing authority may issue a View Restoration Permit to remove or alter foliage on any lot that is all or partly within five hundred feet (500') of a View Owner's property if it makes all of the following findings:

(a) The View Owner has a Protectable View. The Reviewing Authority shall determine the Viewing Area or Areas in order to make this finding.

(b) The View Owner has substantially complied with the Initial Neighbor Outreach and mediation procedures of this Article.

(c) The View Owner's Protectable View is substantially disrupted by foliage on Foliage Owner's property that is not exempt under Section 10-8-103. The following criteria shall be considered in determining whether or not a Protectable View is substantially disrupted:

(i) Foliage Position within a Protectable View. Foliage located in the center of a Protectable View is more likely to be found to substantially disrupt a view than foliage located on the Protectable View's periphery.

(ii) Foliage Size and Density. Foliage that by virtue of its size and density obstructs a large portion of a protectable view is more likely to be found to substantially disrupt the view than is foliage that obstructs only a small portion of the Protectable View. Trees located in close proximity to each other and maintained in such a way as to collectively form an uninterrupted "green barrier" are more likely to be found to substantially disrupt a view than are individual trees.

(iii) View Diminished by Other Factors. The extent to which the view has been or is diminished by other factors such that removal of the foliage at issue will not substantially restore the Protectable View. Other factors that may be considered include, but are not limited to, permitted structures, and foliage that is not on a private property within five hundred feet (500') of the View Owner's property.

(2) With respect to any tree protected pursuant to Section 10-3-2902, removal of the tree will not:

(a) Adversely affect the neighboring properties or the general welfare or safety of the surrounding area; or,

(b) Adversely affect the garden quality of the City.

(3) The Reviewing Authority may allow foliage to substantially disrupt a Protectable View if the Reviewing Authority makes one or more of the following findings:

(a) The foliage is important to the integrity of an existing landscape plan.

(b) Alteration of the foliage will unreasonably impact the privacy and security of the Foliage Owner.

(c) Alteration of the foliage will have a substantial adverse impact on stability of a hillside, drainage, or erosion control.

(d) Restoration of the Protectable View would not substantially enhance a reasonable person's enjoyment of the view owner's property taken as a whole.

(J) Restorative Action: The Reviewing Authority may, through issuance of a View Restoration Permit, require restorative action on foliage owner's property. All restorative action must be performed by a licensed and bonded tree or landscape service unless mutually agreed upon by the view owner and the foliage owner. Restorative action may include, but is not limited to the following:

(1) Trimming, culling, lacing, or reducing foliage to a height or width to be determined by the reviewing authority but not below the safe harbor plane.

(2) Requiring the complete removal of the foliage when the reviewing authority finds that the trimming, culling, lacing, or reduction of the foliage is likely to kill the foliage, threaten the public health, safety, or public welfare, or will destroy the aesthetic value of the foliage that is to be pruned or reduced. Removal of a healthy tree not on a list of nuisance trees maintained by the City is to be avoided unless the reviewing authority determines such removal is necessary to avoid substantial disruption of a protected view.

(3) Requiring replacement foliage when the reviewing authority finds that removal without replacement will cause a substantial adverse impact on one or more of: a) the public health, safety and welfare; b) the privacy of the property owner; c) shade provided to the dwelling or property; d) the energy efficiency of the dwelling; e) the stability of the hillside; f) the health or viability of the remaining landscaping; or g) the integrity of the landscape plan.

(K) Notice of Decision:

(1) Written Decision Required: The action taken by the reviewing authority shall be set forth in writing.

(2) Notice of Decision: Within five (5) days after the issuance of a decision by the reviewing authority, the Director of Community Development shall cause a copy of the decision to be mailed through the United States mail, postage prepaid, to each of the following persons:

(i) The view owner, using the mailing address set forth in the application;

(ii) Each foliage owner that is named on the application, as listed on a current Tax Assessor's roll and to the occupant of the Foliage Owner's property if the Foliage Owner's address is different than the property on which the foliage is located.

The failure of the person addressed to receive a copy of the decision shall not affect the validity or effectiveness of any decision.

(L) Indemnification:

View owner shall defend, indemnify and hold harmless the City, its agents, officers, attorneys and employees from any claim, action or proceeding (collectively "Action") against the city or its agents, officers, attorneys or employees to attack, set aside, void or annul the Entitlements that may be granted by the City through issuance of a View Restoration Permit, and for any and all costs incurred in enforcing the View Restoration Permit, except for those costs of enforcement as the City may recover from a foliage owner. Indemnitor shall reimburse the city for any court costs and attorney's fees that the City may be required by a court to pay as a result of such Action. City may, at its sole and absolute discretion (1) participate in the defense of such Action undertaken by View Owner, or (2) retain separate counsel whose attorneys' fees and costs shall be paid by View Owner. Such participation in the defense of such Action or the retention of separate counsel by the City shall not relieve View Owner's obligations under this provision. The City shall promptly notify the View Owner of any such Action.

View owner shall indemnify the City against any and all claims resulting from the issuance, defense, implementation, or enforcement of the View Restoration Permit.

10-8-107 DECISIONS INTENDED TO RUN WITH THE LAND; DISCLOSURE. Decisions regarding view restoration shall be binding on all current and future owners of view owner's property and foliage owner's property, and such decisions must be disclosed by each owner to subsequent owners of the property.

10-8-108 INITIAL CITY ENFORCEMENT; SUBSEQUENT ENFORCEMENT BY VIEW OWNER AND ATTORNEY'S FEES.

If a Foliage Owner fails to comply with the provisions of a View Restoration Permit, the City may, at its discretion, enforce its decision to gain initial compliance with the View Restoration Permit provisions.

Any decision not to enforce initial compliance with the View Restoration Permit shall be made by the City Council. If the City declines to enforce, the view owner shall have a private right of action.

Thereafter, any further disputes between a View Owner and a Foliage Owner regarding compliance with a View Restoration Permit may be resolved through filing a civil action in a court of competent jurisdiction. The prevailing party in any such civil action between a View Owner and a Foliage Owner shall be entitled to recover its attorney's fees incurred in the litigation.

10-8-109 LANDSCAPE STANDARDS.

The View Restoration Guidelines shall include landscape standards that include a list of nuisance trees that should not be planted in hillside view areas.

10-8-110 APPORTIONMENT OF COSTS.

It is the intent that procedural fees referenced in this section shall reflect the actual cost of administrative activities required of the City to implement this Ordinance. Additional clarification of fees and costs may be included in the View Restoration Guidelines.

(A) Initial Neighbor Outreach:

(1) Procedural Costs. Any costs associated with obtaining information, mailing the required notice, or preparing an agreement shall be borne by the view owner. The view owner shall pay the cost of a view restoration property survey or tree survey if such a survey is completed.

(2) Restorative Action. The cost of restorative action agreed upon by the view owner and the foliage owner shall be borne by the view owner unless otherwise agreed to by the foliage owner.

(3) Maintenance Costs. The cost of subsequent maintenance of foliage on the foliage owner's property shall be allocated as agreed upon by the parties.

(B) Mediation:

(1) Procedural Costs. Any costs associated with obtaining information, mailing the required notice, or preparing an agreement shall be borne by the view owner. The view owner shall pay the cost of a view restoration property survey or tree survey if such a survey is completed.

(2) Restorative Action. The cost of restorative action agreed upon by the view owner and the foliage owner shall be borne by the view owner unless otherwise agreed to by the parties.

(3) Maintenance Costs. The cost of subsequent maintenance of foliage on the foliage owner's property shall be allocated as agreed upon by the parties.

(C) View Restoration Permit with Public Hearing:

(1) Procedural Costs. View owner shall bear the cost of application fees and other applications costs including the view restoration property survey and tree survey and the cost of any other information requested by the reviewing authority.

(2) Restorative Action.

(a) The foliage owner shall pay one hundred percent (100%) of the cost of restorative action if the foliage owner did not participate in mediation and the reviewing authority finds restorative action is required.

(b) The view owner and foliage owner shall each pay fifty percent (50%) of the cost of restorative action if the foliage owner participated in mediation and the reviewing authority finds restorative action is required.

(3) Maintenance After Initial Restorative Action. The foliage owner shall pay for subsequent maintenance of the foliage consistent with the View Restoration Permit.

(D) Appeal to City Council

(1) Procedural Costs. Appellant shall bear the costs of the appeal application including the appeal fee, public notice cost, and any other application costs.

(2) Restorative Action. The cost of restorative action resulting from an appeal to the City Council shall be apportioned in the same way as the cost of restorative action pursuant to a decision by the Planning Commission.

(3) Maintenance After Initial Restorative Action. The foliage owner shall pay for subsequent maintenance of the foliage consistent with the View Restoration Permit.

Section 4. To limit any fiscal impact of the Trousdale Estates View Restoration Program, the City shall conduct no more than ten (10) View Restoration Permit hearings per calendar year. The City may establish a means of accepting applications for View Restoration Permit hearings that ensures all property owners equal opportunity to receive a hearing.

Section 5. The City Council hereby amends the definitions of the terms “Arborist” and “Tree” set forth in Section 10-3-2900 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows, with all other definitions listed in Section 10-3-2900 remaining without amendment:

“ARBORISTS: An individual certified as an arborist by the International Society of Arboriculture (ISA), or an individual who is currently listed as a Consulting Arborist by the American Society of Consulting Arborists (ASCA).”

“TREE: A woody perennial plant, consisting usually of a single elongated main stem or trunk and many branches.”

Section 6. The City Council hereby adds a new paragraph D. to Section 10-3-2904 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows, with all other portions of Section 10-3-2904 remaining without amendment:

"D. The removal of a protected tree pursuant to a View Restoration Permit issued by the City in accordance with the provisions of Section 10-8-106 of the City's Municipal Code."

Section 7. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 8. The City Council hereby adopts a Negative Declaration and approves this Ordinance, and authorizes the Mayor to execute the Ordinance on behalf of the City.

Section 9. Trial Period. A report regarding the implementation of this ordinance shall be provided to the Planning Commission and City Council within 24 months of the effective date of the ordinance.

Section 10. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance, and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 11. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:
Effective:

BARRY BRUCKER
Mayor of the City of Beverly Hills,
California

ATTEST:

(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

LAURENCE S. WIENER
City Attorney

JEFFREY KOLIN
City Manager

SUSAN HEALY KEENE AICP
Director of Community Development

Trousdale View Restoration

Attachment 3
Letters from the Public

Office of

ROBERT A. FINKELSTEIN
8573 Olympic Boulevard
Los Angeles, California 90035
Telephone: (310) 289-0153
Fax: (310) 289-0165
Email: raflalaw@aol.com

To: The Beverly Hills City Council
From: Robert A. Finkelstein on behalf of Tina Sinatra
Date: September 19, 2011
Re: Proposed View Ordinance

Preliminary Statement

It is admirable that the City of Beverly Hills desires to educate its residents to consider the potential to their neighbor's views before planting foliage and in maintaining foliage. However, when the City makes a decision to utilize its police powers to compel behavior it must do so in a Constitutional manner.

The proposed Ordinance has numerous Constitutional infirmities. The Ordinance is vague and ambiguous, does not treat all citizens equally, and violates other safeguards of the California and United States Constitution.

The Ordinance is applicable to all residents of Beverly Hills, however, only certain residents (those within 500 feet) in a certain geographic area (Trousdale), of a certain number (10 per year) can **participate in a process** to have **certain views** (undefined in the Ordinance but determined on a case by case basis by a reviewing authority during the process) restored and preserved.

I. Equal Protection

The 14th Amendment, as incorporated in the California Constitution, provides that no state shall "deny to any person within its jurisdiction the equal protection of the laws." Equal protection review is triggered where similarly situated persons are treated differently. Beverly Hills Ordinance No. 11-0-____ creates a view statute that is not limited geographically within Beverly Hills, however, the **process** whereby a resident may seek to have a view restored, and thereupon protected, is only applicable to certain residents of Trousdale. Whereas, residents in other

neighborhoods of Beverly Hills and residents not within 500 feet of the “View” have no such option. The Ordinance reads, as follows:

“The intent of this ordinance is to restore and preserve **certain views** from substantial disruption... It is the further intent to establish a process by which residential property owners in **Trousdale Estates** may seek to restore and preserve certain views.”

Thus similarly situated persons, namely property owners and residents of Beverly Hills, are being treated differently based purely upon the location of their particular residence. This is not a zoning issue, because view and protected view and “certain views” are not limited in the statute to any particular zone in Beverly Hills, but only certain residents can avail themselves of a **process** to apply the View Ordinance.

Under intermediate scrutiny, the measure of only providing for certain Trousdale residents and not the city of Beverly Hills or its residents in general, to have a “certain” view restored is not substantially related to an important governmental interest. Under *Kucera v. Lizza*, (1997) 59 Cal. App. 4th 1141, the court found that the validity of a land use ordinance depended on whether the ordinance has “real or substantial relation to public health, safety, morals, or general welfare.” In clearly defined instances, the “preservation “of views and sunlight have been held to be valid government interests, but not important governmental interests. The restoration and thereupon protection of “**certain views**” by a limited subjective process available to only certain residents at certain times while excluding the City of Beverly Hills and other residents, demonstrates this ordinance does not support a valid government interest.

Even if this ordinance were merely subject to the rational basis standard of review rather than intermediate scrutiny, it would still fail because providing only a process for certain Trousdale residents and not Beverly Hills residents nor the City itself in general, is not rationally related to any legitimate interest. Beverly Hills may have an interest in protecting aesthetic views and sunlight, but it does not have a legitimate interest in restoring “**certain views**” for particular residents and property owners, and not others.

II. Due Process

Due Process dictates that governmental regulations must be drawn “with narrow specificity” and not be vague. This Ordinance is vague as well as ambiguous and capricious. *Echerarrieta v. City of Rancho Palos Verdes* citing *Ross v. City of Rolling Hills* (1987) 192 Cal.App.3d 370, 375, established the test for vagueness as follows:

- (1) The statute must not forbid nor require the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application;

(2) The language must be definite enough to provide a standard of conduct as well as a standard by which adjudicating agencies can ascertain compliance; (Id. at p. 375.)

Certain Views: As previously discussed, the Ordinance protects “certain views,” however, the Ordinance does not define what a “**certain view**” is. Therefore, a landowner cannot know what a “certain view” violation is unless there has been a determination by the reviewing authority or a city advisory opinion. The reviewing authority for a View Restoration Permit application shall be the Planning Commission. [A City Advisory Opinion is a non-binding opinion rendered by the Director of Community Development or his/her designee, to a view or foliage owner who requests such an opinion and pays a fee as set by the City Council.]

Thus, without actually being subject to an action under this ordinance, a landowner does not know whether they have violated a “certain view” to be restored by this ordinance. Thus, this ordinance is so vague that men of common intelligence must necessarily guess at its meaning. Creating a safe harbor as to what is not a potential violation of a “certain view” does not remedy the constitutional infirmity of vagueness as to what is a “certain view” that would violate the Ordinance. Furthermore, the determination of the “certain view” is made by either the Planning Commission or the Director of Community Development, only after a complaint process, therefore, there is significant potential for a substantial difference in the application of this ordinance, namely in the determination of whether a land-owner has a “certain view” to be restored, and whether a landowner’s foliage violates the Ordinance. Thus, this Ordinance is vague and capricious.

View: The Ordinance also does not define what a “view” or “certain view” is. In *Kucera v. Lizza*, the ordinance was upheld in part because the definition of a “view that was protected” was very specific, thus men of common intelligence could determine whether or not they had a “view” without having to resort to bringing or defending an action under the ordinance in order to determine whether or not the ordinance was applicable to them. Here, the Ordinance defines a **Protectable View** and a **Protected View**, but not a “certain view” which is the operative predicate of determination under the Ordinance.

Protectable View: The Ordinance defines as follows: a protectable view [may] include any view of the Los Angeles area basin from a viewing area as defined in this section. The view of the Los Angeles area basin may include but is not limited to city lights Beverly Hills and other cities, ocean, and horizon. The term “protectable view” does not mean an unobstructed panorama of all or any of the above. A protectable view shall not include views of vacant land that is developable under the Beverly Hills Municipal Code. For purposes of this section, a protectable view shall be determined from a point thirty-six inches (36) above the finished grade of the viewing area.

This definition of a “protectable view” is less vague than trying to determine a “certain view” or “view” but is still too vague as to determine the applicability of the Ordinance. Furthermore, as discussed above, the decision to offer a process to restore and protect a Protectable View to only certain residents and property owners of Trousdale, violates the equal protection clause of the state and federal Constitution as well as being vague and ambiguous.

Protected View: The Ordinance further defines a protected view as a protectable view that has been determined by the reviewing authority to merit **restoration**. A protected view shall not include an area that may otherwise be developed in the future pursuant applicable codes and regulations.

Therefore, the Beverly Hills residents still must guess at the meaning of a “**certain view;**” unless they bring an action under the ordinance, and a party seeking to restore a view can only bring such action if he is a resident or land-owner of Trousdale within 500 feet of potential application of the Ordinance. Thus, this Ordinance is vague and capricious and denies equal protection under the law.

III. Financial Ramifications

The passage of this Ordinance would have several financial ramifications for the City of Beverly Hills. If a city employee/reviewing authority determines that no “protected view” exists, then the City is asserting that the “View Owner” does not have a right for view restoration. This may result in legal implications for the City. If a City employee/reviewing authority determines that a “protected view” does exist, then the “Foliage Owner” will likely avail themselves of the appeal process and the resulting determination may also result in legal implications for the City. In either scenario, the City is exposing itself to unknown financial impact based on staff time to prepare staff reports, notices, public hearings, noticing fees, etc., let alone the cost of litigation itself.

Beverly Hills currently offers 3 hours of free mediation to resolve disputes between neighboring residents. This process is already available and in place, and can be used with regards to restoring views, without requiring city involvement or exposing the city to additional legal and/or financial ramifications, nor the additional legislative process and expense necessary to render this Ordinance constitutional.

The City has wisely attempted to reduce its financial exposure by requiring any Trousdale resident who seeks to implement the Ordinance’s benefits to them to indemnify the City against [any] costs. The City requiring indemnification from its Citizens to avail themselves of the enforcement of City Ordinance may or may not be Constitutional. The City has never sought indemnification from a resident to enforce a zoning ordinance, a parking violation, a trespassing or to prosecute a nuisance. Why does an Ordinance framed as permissive require indemnification from residents? Because the City planners must know the proposed Ordinance does not meet Constitutional muster. The Ordinance fails on many other Constitutional

grounds; it is outside the scope of this memorandum to further evaluate the Constitutionality of the indemnification requirement itself.

However, from a financial perspective, the indemnification in the Ordinance does not insulate the City from an action by residents who do not seek the application of the Ordinance but challenge the Ordinance on its face.

This Ordinance attempts to limit the fiscal impact on the City by creating a limit of only 10 hearings per year, however, the method to determine which cases are heard and which are not is also vague, ambiguous, and capricious. Is the application of laws in Beverly Hills now to be determined by lottery or the first 10 each year to sign up? This is likely to subject the City to further litigation. The provision also underscores the premise that the City does not view the Ordinance as a compelling state interest or zoning issue.

IV. Ex Post Facto

Article 1, Section 9 of the California Constitution provides that a bill of attainder, ex post facto law, or law impairing the obligation of contracts may not be passed. This Ordinance violates the California Constitution primarily because it is an ex post facto law but also because it impairs the obligation of contracts.

The Ordinance violates the ex post facto law in that it imposes a penalty on foliage owners who have planted or maintained foliage that is permissible prior to the passage of the Ordinance. The City of Tiburon recognized that a law that impacted a lawful pre-existing condition would be unfair and unconstitutional and accordingly applied it to when the homeowner acquired the property... and the future.

The Ordinance under consideration does not do so. Lawful considerations of specimen trees, shade and privacy are abandoned for a certain class of Beverly Hills residents and potentially preserved for others. Residents who have cultivated landscape permissible when they planted or purchased their property will be unjustly penalized by application of this Ordinance if it is determined that their foliage obstructs a "certain view".

V. California Constitution: Taking Without Just Compensation/Privacy:

The California Constitution provides:

SECTION 1. All people are by nature free and independent and have Inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and **privacy**.

SECTION. 19. (a) Private property may be taken or damaged for a public use and **only when just compensation**, ascertained by a jury unless waived, has first been paid to, or into court for, the owner...

The California Constitution enumerates a right to privacy, it does not, nor does the common law of California recognize the law of ancient lights (views). (California law does not recognize the doctrine of ancient lights (Taliaferro v. Salyer, supra, 162 Cal. App. 2d 685, 690) or a landowner's "natural right to air, light or an unobstructed view" (Pacifica Homeowners' Assn. v. Wesley Palms Retirement Community, supra, 178 Cal. App. 3d 1147, 1152), a landowner cannot have obstructions enjoined as a private nuisance.

While the Ordinance refers to privacy considerations, it does not address individual constitutional privacy considerations. In defining the safe harbor height of foliage the Planning Commission has arbitrarily recommended a height that is tied directly to the maximum permissible zoning height of residents in the area of Trousdale. This recommendation was based solely on having a bright line standard for View restoration.

This bright line standard diminishes the constitutional privacy considerations and enhances the likelihood that the application of the Ordinance will result in impermissible taking of private property, both on a policy basis and on a Constitutional basis without compensation.

Foliage is property and the privacy it provides is a Constitutional protected right. This Ordinance has so many special interest considerations it cannot be regarded as a significant public policy. Accordingly, in providing that the foliage owner can be required to pay 50% of restorative action and 100% of maintaining the "determined" certain view (at all times?) results in an unconstitutional taking without compensation. There are additional considerations with respect to the potential to severely damage or destroy expensive landscaping. Furthermore, the determinations once made become "an easement" running with the land for all time. This raises other constitutional issues that can be discussed in a supplemental memorandum.

Conclusion

Almost all of the View Ordinances enacted in the state of California have been subject to litigation. A view ordinance applicable to only a select constituency that has retroactive and financial consequences to the foliage owner will certainly be challenged on constitutional grounds.

View ordinances applicable to only a select constituency that are "retroactive" rather than prospective are constitutionally and emotionally radioactive. It would be instructive in an open meeting to request the unqualified opinion of the City Attorney as to the Constitutionality of this Ordinance.

The City may be better served by enacting a proclamation that the City of Beverly Hills desires to educate its residents to consider the potential to neighbors

views before planting foliage and in maintaining foliage; and thereupon suggest guidelines and make available 3 hours of a city mediator to help negotiate private agreements. The City could evaluate the success of such a program and then revisit the necessity and wisdom of a View Ordinance based upon experience with a voluntary program.

Oct. 25th, 2011

Michele McGrath
Planning Commission
City of Beverly Hills

**RE: Ordinance(s) Amending BH Municipal Code Section 10-3-2612
& Adoption of View Restoration Program**

Dear Michelle,

I am writing to address my concerns regarding the above referenced ordinances. As a resident who has been effected by this matter and understands how truly complex and problematic it can be, I wanted to bring some of my issues to your attention.

Firstly, I want to be clear that I fully understand and respect the intentions of and needs for the ordinance(s). That being said, I am concerned by several of the ambiguous and subjective portions of the latter ordinance, and the repercussions such ambiguous language may provoke. Namely, the concept of a *protected* or *protectable view* (though assigned a definition in the body of the ordinance) remains subjective and inadequately defined. The following language, found in Required Findings section, illustrate some of the dangerous ambiguities used in the classification process – “*substantially* disrupted by foliage”, “*large* portion of a protectable view”, “important to the *integrity* of the existing landscape”, “*unreasonably* impact the privacy and security”. A mere glance at these definitions reveals highly subjective concepts with a wide range of interpretations. Such subjectivity can and will, I believe, lead to a host of unintended consequences for both the city and its residents.

Furthermore, although it is stated that the intent of the ordinance is “(not) to create an expectation that any particular view or views would be restored or preserved” I believe this ordinance in its current form does create the potential for unacceptable expectations. In my own personal case, I am dealing with a neighbor who believes he is entitled to essentially an unobstructed, 360 degree view. I am concerned that the language in this document does not adequately address the fact that such a view is by no means one's right.

In closing, I understand and agree with the need for an infrastructure for view restoration in Beverly Hills, but I believe that in its current form, this ordinance leaves the city and its residents exposed to unintended consequences and the ambiguities in the document may create more problems than solutions.

Respectfully,

Ebrahim Younesi
455 Martin Ln
Beverly Hills CA 90210
(310)274-8207

Attachment 4
Public Review Process

Attachment 4

Trousdale View Restoration Ordinance

Public Review Process

- April 7, 2009 In response to a request from Trousdale Estates residents, the City Council directed the Planning Commission and staff to consider regulations to protect views in the City's hillside areas that have been impaired by foliage.
- May 28, 2009 The Planning Commission began a discussion of view preservation in the hillside areas.
- June 25, 2009 Planning Commission bus tour as part of public meeting.
- Feb. 11, 2010 The Planning Commission took public testimony and discussed how different hillside areas of the City may require unique view preservation standards. As a result, the Commission decided to focus the view restoration discussion on Trousdale Estates as a pilot area to develop view restoration standards. A subcommittee of Commissioners Cole and Corman was appointed to meet with staff and develop an ordinance framework.
- Feb/June 2010 The Planning Commission Subcommittee had seven meetings including a tour to test potential ordinance provisions in the field.
- June 24, 2010 Planning Commission public hearing to consider a draft ordinance framework. Considerable public testimony was heard and direction was provided by the Planning Commission to revise the draft ordinance language.
- Sept. 7, 2010 Planning Commission Subcommittee meeting to discuss revisions.
- Oct. 28, 2010 Planning Commission public hearing to consider draft ordinance.
- Nov. 23, 2010 Planning Commission public hearing to consider final draft ordinance.
- Dec. 16, 2010 Planning Commission adopts resolution recommending draft ordinance to City Council.
- Jan. 25, 2011 City Council Study Session on draft ordinance; Mayor directs a City Council/Planning Commission Ad Hoc Committee to review the ordinance.
- April 20, 2011 City Council/Planning Commission Ad Hoc Committee meeting with public input.
- May 26, 2011 Planning Commission public hearing to review draft ordinance with the benefit of Ad Hoc Committee comments and additional public comments.
- May 31, 2011 Planning Commission Subcommittee meeting to review proposed revisions to ordinance.
- June 9, 2011 Planning Commission public hearing to review revisions to draft ordinance.
- June 23, 2011 Planning Commission public hearing to review draft Trousdale fence and hedge height ordinance.
- Aug. 2, 2011 City Council public hearing on Trousdale fence and hedge ordinance; moved for second reading. Ordinance approved August 16, 2011 and became effective September 15, 2011.
- Aug. 4, 2011 Planning Commission Public Hearing to review revisions to draft Trousdale View restoration ordinance.
- Sept. 8, 2011 Planning Commission public hearing on draft Trousdale View Restoration ordinance; ordinance recommended to City Council and Negative Declaration adopted.

Trousdale View Restoration

Attachment 5
Safe Harbor Area Issues

Safe Harbor Area Issues

The intent of the safe harbor area is to provide foliage owners with certainty as to foliage that may be planted or maintained without the concern that a view restoration action could be initiated by a neighbor. The safe harbor area was previously called the safe harbor plane and, until the August 4, 2011 Planning Commission meeting, the height of the proposed safe harbor area low point (on the downslope property) was 14' rather than 16'. Fourteen feet was used because it is the maximum height of a new structure that may be built in Trousdale today. It was reasoned that if a structure may be built to fourteen feet on the flat pad in the principle building area, trees could be allowed on the flat pad at that same height.

At the August 4, 2011 Planning Commission meeting, the Commission raised the low point of the safe harbor area from 14' to 16' as a result of public comment. Speakers raised the concern that the safe harbor area calculation does not take into consideration the fact that many trees should only be cut once or twice a year at specific times; therefore, to maintain the allowed maximum height of 14', trees would have to be cut much lower than 14', potentially depriving some homeowners of the shade, privacy or aesthetic benefits of trees

Following are some alternatives that were discussed by the Planning Commission and which the City Council may wish to consider:

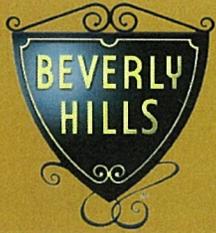
- 1) maintain the current height measurement in the safe harbor definition (height as measured from grade at the edge of the downslope principal building area) but consider using the original 14' height or a 15' height rather than 16 feet;
- 2) rather than using a consistent height as described above, instead base the safe harbor definition on the existing roof height of the primary residential structure on the downslope property. This could be the roof height at the time an ordinance is adopted or the existing roof height at any time, with a height cap for legally non-conforming homes that exceed 14'. While the maximum building height in Trousdale is 14', many houses in Trousdale have a maximum roof height of eleven or twelve feet. Setting the low point of the safe harbor area at a height lower than 14' feet where houses are 11' or 12' high may afford an upslope neighbor more opportunity for a view.

Staff has supported using a consistent height as measured from grade, not existing roof height, as part of the safe harbor definition. Staff has concerns about basing the safe harbor definition on the height of existing or former structures for the following reasons:

- Consistency. If foliage is limited by the height of an existing or former home on a site, residents with lower-profile homes would be penalized in terms of foliage height.
- Borrowed View. If a safe harbor definition is adopted that encourages foliage to be trimmed below 14' (maximum Trousdale roof height) at sites where homes are ten or eleven feet high, a nearby view owner may gain a view that is a borrowed view since the foliage owner may, in the future, build a structure on the flat pad that is 14 feet high. The owner may currently build a wall or fence that is 14' high in the principal building area.

Trousdale View Restoration

Attachment 6
500' View Distance

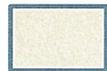


500' Distance

View Owner



100'



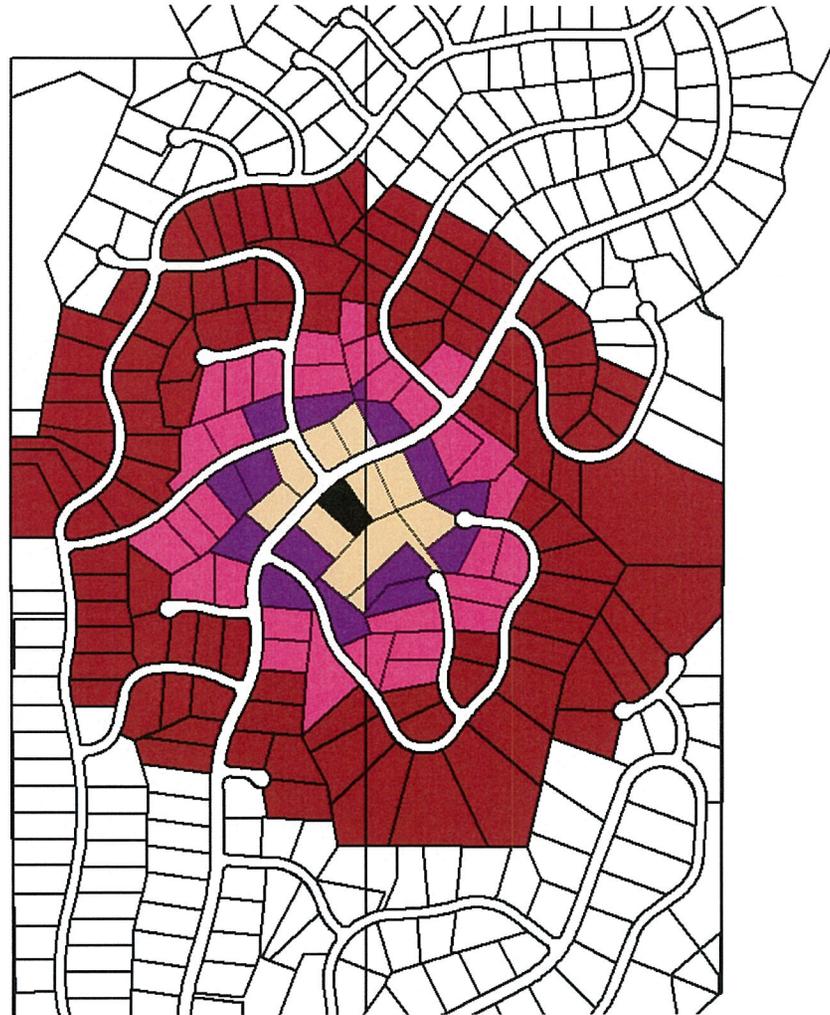
300'



500'



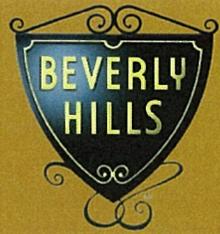
1,000'



Trousdale View Restoration

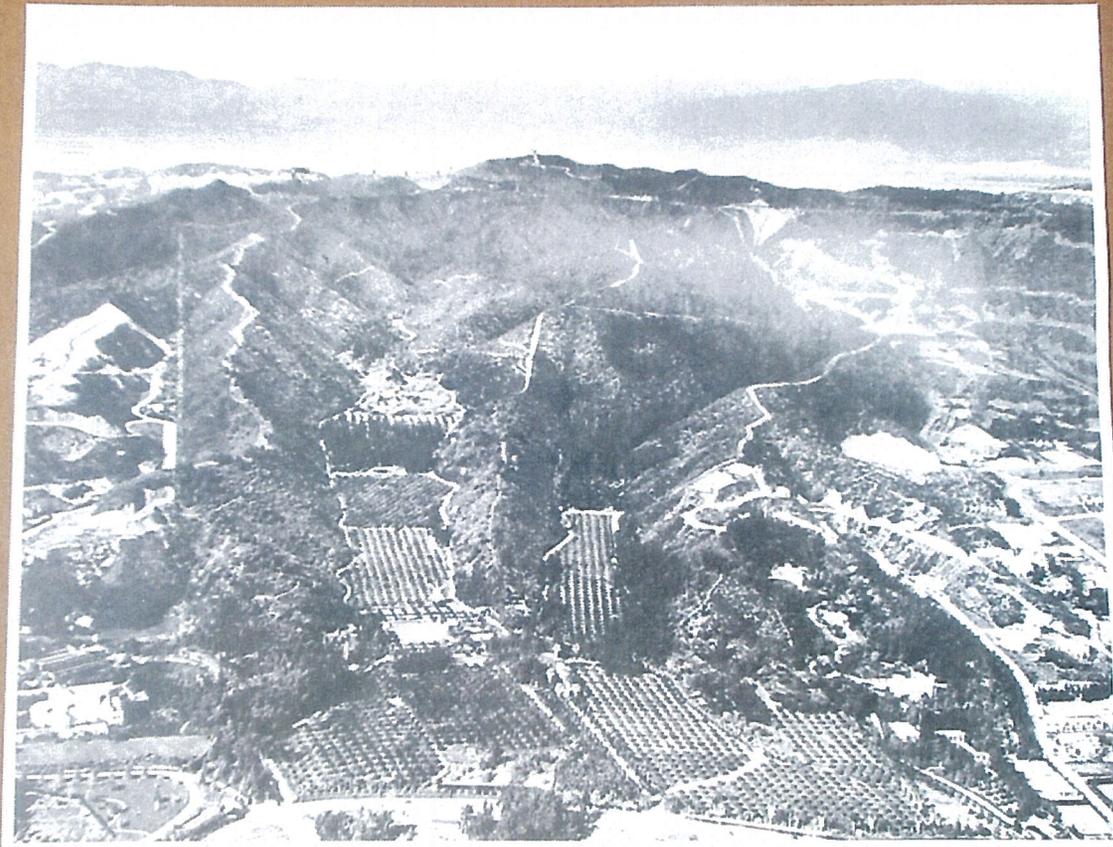
Attachment 7

Early Photos of Trousdale Estates

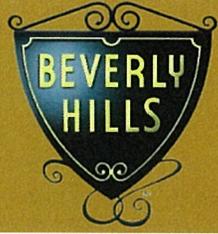


History

1932 - Area is devoted to agricultural uses

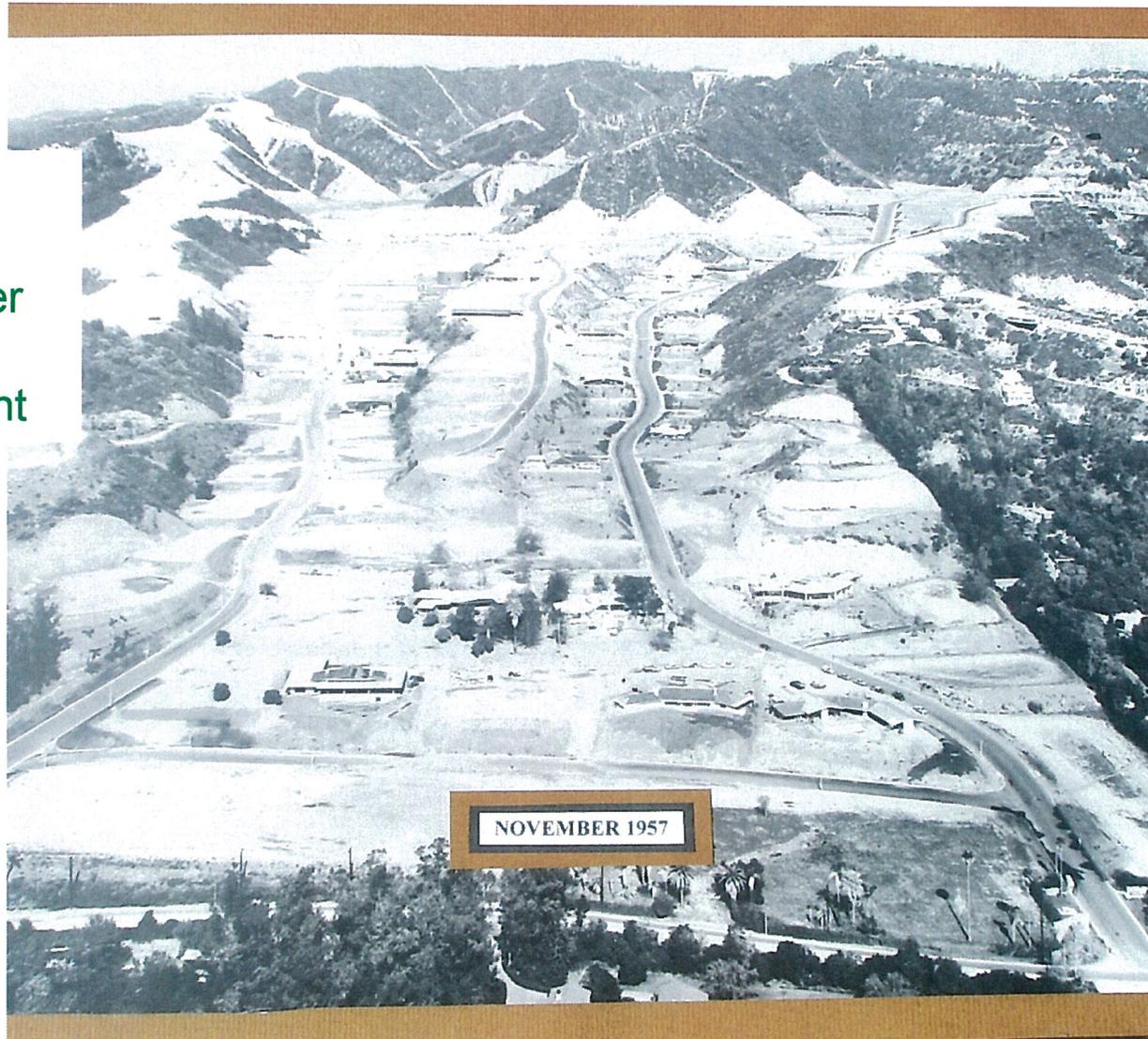


FEBRUARY 1932 DOHENY RANCH.



History

1957 –
Trousdale
Estates after
grading for
development



Trousdale View Restoration

Attachment 8

**Cost Tables:
Review/Enforcement**

Recommended by Planning Commission

Process Steps	Cost to Applicant*		City Costs		Issues/Notes
	Time	Fees	Staff	Legal	
• City Adopts Regulations	2 years (2009-2011)	NA	\$100,000+	If Ordinance is challenged = \$250,000 - \$400,000	No reimbursement to City for costs of developing ordinance. Indemnification language in ordinance (proposed Code Section 10-8-106 L) requires a view owner to cover City's litigation costs.
Cost for One Case:					
• Initial Neighbor Outreach	1.5–2 mos.	N/A	\$500	N/A	<p>Planning Commission and City Council directed that the review process should be cost-neutral to the City. The City fees reflect the City's cost to administer the process.</p> <p>This is a new process so it is unclear how many cases will require PC review; Staff expects 50 view claims in the first 18 months with 10 that could require a PC hearing. Fees can pay the cost but PC and staff will not be available to work on other City priorities.</p> <p>Due to the nature of these cases and experience of other cities, staff expects many appeals; potentially 5+ in first 18 months. An appeal affects CC caseload and parties may litigate anyway. City does not recoup full cost of appeal but City Council may choose to set a higher appeal fee for these cases and this was recommended by the PC.</p> <p>NOTE: All dollar figures on this table are estimates. Each case will be different and costs can vary.</p>
• Mediation	2-3 mos.	\$1,500**	N/A	N/A	
• PC Hearing	2-5 mos.	\$15,000	\$15,000	Challenge of PC/CC decision =	
• Appeal to City Council (potential)	2.5–4.5 mos.	\$5,000	\$15,000	\$100,000 \$150,000	
	TOTAL 13-20.5 mos.	TOTAL \$21,500	TOTAL \$30,500		
City Advisory Opinion (optional)	2 – 12 mos.	\$2,500	\$2,500		
Restorative Action Cost***	1 mo. – 1 yr.	\$500 – \$50,000	Depends on need for City enforcement	Depends on need for City enforcement	

* This figure does not include the cost for personal legal fees, if incurred.

** Cost for a professional mediator (not a city staff cost)

*** The draft ordinance includes a section whereby restorative action costs can be transferred from View Owner to Foliage Owner based on the level of cooperation of Foliage Owner in the process (proposed Code Section 10-8-110)

November 3, 2011

Enforcement

View Restoration Decision Enforcement Process
(process for enforcement of PC/CC decision when non-compliance)

Recommended by Planning Commission

Enforcement Steps	City Prosecutor	City Staff Costs	Comments
<p>No City enforcement of private agreements</p> <hr/> <p>1. Referral to City Code Enforcement (CE):</p> <p>CE verifies (inspects) violation of decision; CE staff prepares report</p> <p>City Prosecutor (CP) prepares Demand Letter w/ date for compliance</p> <p>CE compliance inspection</p> <hr/> <p>2. Noncompliance/Partial Compliance = City Prosecutor Process:</p> <p>CE prepares Prosecution Report; submits to CP who files complaint in Superior Court; CP determines civil or criminal action; Court</p> <p>CE verifies violation; CP prepares abatement notice</p> <p>Owner Appeals Abatement to City Council</p> <p>Failure to Comply = City Abatement Action</p>	<p>\$290 - \$725</p> <hr/> <p>TOTAL \$290 - \$725</p> <hr/> <p>TOTAL \$11,600 - \$17,400</p>	<p>\$1,016 – \$1,524</p> <p>\$508 - \$1,016</p> <hr/> <p>TOTAL 1,500 - \$2,600</p> <p>Prepare report; appear at depositions or in court; abatement to include BHPD</p> <hr/> <p>TOTAL \$ \$3,500 - \$8,000</p>	<p>Initial Enforcement of PC/CC Decision (View Restoration)</p> <p><u>One-time City Enforcement</u></p> <ul style="list-style-type: none"> City enforces initial restorative action but not subsequent restorative actions (Private right of Action) <p>City has a civil enforcement process (Administrative Penalty Process – Step #1) for which the City can gain some restitution of the City's costs. PC and Ad Hoc agreed that view restoration cases, having already gone through a lengthy review process, should bypass most of this process and go straight to the City Prosecutor (Step #2).</p> <p>Note: City cannot gain restitution of some prosecution costs.</p> <p>Planning Commission and City Council directed that the review process should be cost-neutral to the City. To achieve this goal, City must receive a substantial deposit from View Owner to be reimbursed to View Owner if City gains restitution from Foliage Owner. If no deposit, City would pay all enforcement costs with minimal restitution except for abatement costs for which the City may place a lien on a property and be reimbursed when the property is sold, which may be years later.</p> <p>Each step in the abatement process (Step #2) may be appealed to the City Council.</p>

<p>3. Restitution of City Abatement Cost</p> <p>CP Notice of Assessments to Owner to pay abatement costs</p> <p>City Files Assessments</p> <p>No payment = City imposes lien</p> <p>Owner appeals lien to City Council</p> <p>Appeal unsuccessful = City records lien</p> <p>Sale/Foreclosure: lien paid after sale</p>	<p style="text-align: center;">_____</p> <p style="text-align: center;">TOTAL \$5,000</p>	<p style="text-align: center;">_____</p> <p style="text-align: center;">TOTAL \$5,000</p>	<p><u>Contract Code Enforcement</u></p> <p>City may contract with an outside company to provide View Restoration enforcement. This may not save cost in enforcement (contractor's hourly cost may be lower than City's but City staff must administer contract and monitor work); however, it will save City staff hours that can be spent on other priorities and potentially save staff time that might be spent drawn into legal actions (research, depositions, court appearances)</p>
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NOTE: All dollar figures on this table are estimates. Each case will be different and costs can vary depending on the specifics of a case.

Trousdale View Restoration

Attachment 9
Environmental Initial Study
&
Negative Declaration



City of Beverly Hills
Environmental Initial Study
View Restoration Ordinance

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1. **Project Title:** View Restoration Ordinance in Trousdale Estates
2. **Lead Agency Name and Address:** City of Beverly Hills, 455 North Rexford Drive, Beverly Hills, CA 90210
3. **Contact Person and Phone Number:** Michele McGrath, Senior Planner, (310) 285-1135
4. **Project Location:** Trousdale Estates area of the City of Beverly Hills, County of Los Angeles, 34° 4' 23" N / 118 ° 23' 58" W. Trousdale Estates is defined in the Zoning Code as all property located north of Doheny Road and east of Schuyler Road, except that land zoned R-1.X, and that portion of Lot A of the Doheny Ranch tract northwesterly of tract numbers 24485 and 24486, commonly referred to as the Greystone Mansion property. A map of the area is attached.
5. **Project Sponsor's Name and Address:** City of Beverly Hills, 455 North Rexford Drive, Beverly Hills, CA 90210
6. **General Plan Designation:** Low Density Single Family Residential
7. **Zoning:** R-1 (Single Family Residential).
8. **Project Description:** An ordinance of the City of Beverly Hills amending various sections of the Beverly Hills Municipal Code to establish regulations regarding the restoration and maintenance of certain defined views from single-family residential property in the Trousdale Estates area of the City substantially impaired by certain foliage maintained on other private property. The proposed standards articulate the City's goal to restore and maintain certain views while providing for residential privacy and security, maintaining the garden quality of the City, insuring the safety and stability of the hillsides, and acknowledging the importance of trees and vegetation in the City as an integral part of a sustainable environment. The ordinance establishes a process by which residential property owners in Trousdale may seek to restore and preserve certain views with an emphasis on neighbors resolving issues prior to application to the Planning Commission for resolution. Although this ordinance involves no development, an initial study has been prepared because adoption of this ordinance may result in some mature, healthy landscape trees on private property being trimmed, topped or cut down to restore or maintain views for single family residential property owners. No specific projects affecting mature, healthy trees are contemplated as part of this ordinance. The proposed ordinance does not apply to the City's street trees which are regulated by a Street Tree Master Plan in accordance with the City's General Plan.
9. **Surrounding Land Uses and Setting:**

The City of Beverly Hills is located in Los Angeles County, approximately ten (10) miles west of downtown Los Angeles and six (6) miles east of the Pacific Ocean, as shown in Figure 1 (Regional Location). The City extends into the southern foothills of the Santa Monica Mountains, which form the City's northern boundary. Surrounding communities in the City of Los Angeles include Bel Air and Westwood to the west, Hollywood and the Fairfax district to the east, West Los Angeles and Century City to the southwest and south. The City of West Hollywood is located adjacent to the northeast. Beverly Hills currently is a built-out urban community with a central commercial core, civic center, established residential neighborhoods, parks, schools and other community serving facilities and a well developed public service and utility infrastructure. Opportunities for additional growth and development are limited and primarily confined to the redevelopment and recycling of



existing developed properties. The project area, Trousdale Estates, is in a hillside area at the northeast corner of the City, famous for its upscale residences which were built to take advantage of views of the Los Angeles area basin. Directly adjacent to Trousdale Estates on all sides are other upscale single family residential areas in Beverly Hills, Los Angeles and West Hollywood. At the southwest corner of the subject area but outside of it is the Greystone Mansion property which is owned by the City and operated as a public park. The City is located within the South Coast Basin which enjoys a Mediterranean climate with mild winters and warm summers. The basin suffers from various natural and man-made hazards, including generally poor air quality, unpredictable earthquake activity, wildfires, high winds, flooding, and periods of drought.

10. Other public agencies whose review/approval is required: (e.g., permits, financing approval, or participation agreement).

Approving Agency: The City of Beverly Hills is the approving agency. No other agency approvals are required. The City of Beverly Hills is responsible for all permits and approvals. An amendment to the Zoning Code requires a public hearing before the Planning Commission and a public hearing before the City Council which would adopt the change to the Municipal Code.

Reviewing Agencies: The following agencies will be sent a copy of this document at the commencement of the review period as a courtesy in the event that members would like to provide comments: Department of Fish and Game, Region 5.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

X Aesthetics	X Greenhouse Gas Emissions	Population/Housing
Agriculture Resources	Hazards & Hazardous Materials	Public Services
Air Quality	X Hydrology/Water Quality	Recreation
X Biological Resources	Land Use/Planning	Transportation/Traffic
X Cultural Resources	Mineral Resources	Utilities/Service Systems
X Geology/Soils	X Noise	Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency).

On the basis of this initial evaluation:

X	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
	I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation



measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.


Michele McGrath
Senior Planner

June 18, 2010
Date

	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
1. AESTHETICS: Would the project:				
a) Have a substantial adverse effect on a scenic vista?				X
There are no officially designated scenic vistas in the City including in the Trousdale Estates area where the ordinance would be implemented; however, topographic and natural resources, such as hillsides and ridgelines, are visible from various properties and neighborhoods. The ordinance proposes restoring and maintaining views for individual property owners and this may include views of hillsides and ridges. Specific policies to protect aesthetic resources are included in the City's General Plan. In particular, Policy OS 6.1 states that the City "seek to protect scenic views and vistas from public places". Specific view restoration permit requests would be reviewed in accordance with the ordinance.				
Therefore, the ordinance would result in <i>no impact</i> .				
b) Substantially damage scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a State scenic highway			X	
c) Substantially degrade the existing visual character or quality of the site and its surroundings?			X	

The proposed ordinance may involve the removal of trees on private property in the Trousdale Estates area. The City's General Plan includes policies that maintain and enhance the City's urban forest (OS 2 "Urban Forest") and minimize the removal of existing resources (OS 6 "Visual Resource Preservation"). The ordinance stresses the importance of balancing the desire for views with the maintenance of trees. It includes the following statement, "Removal of a healthy tree not on a list of nuisance trees maintained by the City is to be avoided unless the reviewing authority determines such removal is necessary to restore a protected view in accordance with the findings." The City has a tree preservation ordinance that protects trees of certain size or species in the front or street side yards of private residential property. The intent of that ordinance is to protect trees that can be seen



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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from the public right of way and therefore contribute to the City's aesthetic environment. It is anticipated that trees designated as "protected" pursuant to the Tree Preservation ordinance will continue to be subject to that ordinance, even if found to be obstructing a view. It is also anticipated that only a small number of trees would require removal as a result of the ordinance and that such limited removal would not substantially degrade the existing visual character or quality of the area. No specific projects affecting mature, healthy trees are contemplated as part of this ordinance. Specific view restoration permit requests would be reviewed in accordance with the ordinance. There are currently no designated State scenic highways in the City of Beverly Hills.

Therefore, any impacts would be *less than significant*.

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?				X
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Implementation of the ordinance would involve no development and would not create a new source of substantial light and glare that would adversely affect day or nighttime views.

Therefore, the ordinance would result in *no impact*.

e) Create a new source of shade or shadow that would adversely affect shade/shadow sensitive structure or uses?			X	
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The creation of shadows and the resultant shading of nearby land and buildings are not formally regulated in the City of Beverly Hills. The Beverly Hills Zoning Code addresses visual effects in sections that set standards for building construction, height, setback, landscaping, lighting, and signage, although the Code does not directly address shadow creation or shading. Implementation of the ordinance would involve no development and, rather than creating shade, would more likely reduce shade if trees are trimmed or removed to restore a view. The only caveat is if, pursuant to the ordinance, a tree is relocated, replaced in a different location or replaced by a different species with a larger canopy, it is possible additional shade could result. It is anticipated that only a small number of trees would require relocation or replacement as a result of the ordinance. A particular application that may result in reduction of shade would be regulated by State laws addressing energy consumption. Any impacts associated with specific view restoration permit applications would be assessed when such permits are reviewed.

Therefore, any impacts would be *less than significant*.

2. AGRICULTURE AND FOREST RESOURCES. Would the project:
(In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the State's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and the forest carbon measurement methodology provided in the Forest Protocols adopted by the California Air Resources Board.)



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X

There is no farmland of Statewide importance in the City of Beverly Hills.

There would be *no impact*.

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
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There is no zoning for agricultural use in the City of Beverly Hills.

There would be *no impact*.

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)) or timberland (as defined in Public Resources Code section 4526)?				X
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There is no zoning for forest land or timberland in the City of Beverly Hills.

There would be *no impact*.

d) Result in the loss of forest land or conversion of forest land to non-forest use?				X
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There is no forest land in the City of Beverly Hills.

There would be *no impact*.

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?				X
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There is no farmland in the City of Beverly Hills.

There would be *no impact*.

3. AIR QUALITY: Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?				X

The South Coast Air Quality Management District (SCAQMD) is the agency principally responsible for comprehensive air pollution control in the Los Angeles Basin. SCAQMD, a regional agency, works directly with the South Coast Association of Governments (SCAG), county transportation commissions, local governments, and cooperates actively with all federal and State government agencies. SCAQMD develops rules and regulations,



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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establishes permitting requirements, inspects emissions sources, and enforces such measures through educational programs or fines, when necessary. SCAQMD is directly responsible for reducing emissions from stationary (area and point), mobile, and natural sources. It has responded to this requirement by preparing a series of Air Quality Management Plans (AQMPs).

The 2007 Air Quality Management Plan (AQMP) was prepared to reduce the high pollutant levels within areas under the jurisdiction of SCAQMD, comply with the federal and State Clean Air Acts and amendments, meet federal and State ambient air quality standards associated with regional growth, and minimize the fiscal impact that pollution control measures have on the local economy. Projects that are considered to be consistent with the AQMP would not interfere with attainment because this growth is included in the projections used during the preparation of the AQMP. The ordinance involves no development and so is consistent with the AQMP.

Therefore, there would be *no impact*.

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X
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The ordinance involves no development; therefore implementation would not result in additional emissions being generated.

Therefore, there would be *no impact*.

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in a State of non-attainment under an applicable federal or State ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?				X
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The Los Angeles basin is currently in a State of non-attainment for ozone, CO, PM₁₀, and PM_{2.5}, however, this ordinance includes no changes in land use, allowable development envelopes or intensity of use and proposes no development; therefore implementation would not result in additional emissions being generated.

Therefore, there would be *no impact*.

d) Expose sensitive receptors to substantial pollutant concentrations?				X
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Air Quality Management Plans maintained by SCAQMD and updated every three years identify control measures to reduce major sources of pollutants (AQMP, 2007). These planning efforts have substantially decreased the population's exposure to unhealthful levels of pollutants, even while substantial population growth has occurred within the Los Angeles basin, the total number of days on which the basin exceeded the federal 8-hour standard has decreased dramatically over the last two decades from about 150 days to less than 90, while basin station-days (number of days a station location exceeded the standards) decreased by approximately 80 percent (AQMP 2007).



Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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The ordinance does not include any development, changes in land use, allowable development envelopes or intensity of use; therefore implementation would not result in generation of additional emissions.

Therefore, there would be *no impact*

e) Create objectionable odors affecting a substantial number of people?				X
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The ordinance does not include any development, changes in land use, allowable development envelopes or intensity of use; therefore implementation would not result in objectionable odors.

Therefore, there would be *no impact*

4. BIOLOGICAL RESOURCES. Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			X	

Lands in the City are largely urbanized and contain few significant biological resources. Areas that may provide habitat for special-status species are primarily located in the chaparral areas in the Santa Monica Mountains north of Sunset Boulevard. While the California Natural Diversity Database (California Department of Fish and Game, 2009) listed native plant communities that could be found within a five mile radius vicinity of the City, none of these vegetation communities are present within the City's boundaries (Figure 6).

There is marginal foraging habitat within the City for the Hoary bat, a State Species of Special Concern (California Department of Fish and Game, 2009). The level of historical disturbance in the City has resulted in a low prey – primarily moths - population levels. Marginal or better habitats exist in proximity to the City that are more likely to attract the bat's prey (e.g., coastal and mountain areas) and therefore would provide better foraging habitat (California Department of Fish and Game, 2009). No impacts to roosting individuals would be expected because the habitat the bats prefer (areas within dense foliage of woodlands and forests with medium to large size trees that have ground cover of low reflectivity) does not occur within the City limits.

It is anticipated that only a small number of trees would require removal as a result of the ordinance and no change in land use or allowable development envelopes is contemplated. The ordinance proposes to include the following finding that must be made for approval of a view restoration permit, "Trimming or removal of foliage on Foliage Owner's property will not have a substantial adverse impact on stability of a hillside, drainage of the property, erosion control, energy usage (loss of shade) or on biological resources." No specific projects affecting mature, healthy trees are contemplated as part of this ordinance. Specific view restoration permit requests would be reviewed in accordance with the ordinance. Implementation of the ordinance would not result in adverse impacts either directly or indirectly through habitat modifications, to candidate, sensitive or special status plant and



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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wildlife species.

Therefore, any impacts would be *less than significant*.

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?				X
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There are no riparian or sensitive habitats that are known to occur in the City of Beverly Hills (Figure 6). Based on review of the California Natural Diversity Database (California Department of Fish and Game, 2009), sensitive terrestrial communities identified within 5 miles of the City include the following: 1) California Walnut Woodland, 2) Southern Coast Live Oak Riparian Forest, 3) Southern Cottonwood Willow Riparian Forest, and 4) Southern Sycamore Alder Riparian Woodland. The distribution of these sensitive vegetation communities are shown in Figure 6, and are found primarily within canyon park areas to the north and northeast of the City.

It is anticipated that only a small number of landscape trees on private property would require removal as a result of the ordinance and no change in land use or allowable development envelopes is contemplated. The ordinance includes the following finding that must be made for approval of a view restoration permit, "Trimming or removal of foliage on Foliage Owner's property will not have a substantial adverse impact on stability of a hillside, drainage of the property, erosion control, energy usage (loss of shade) or on biological resources." No specific projects affecting mature, healthy trees are contemplated as part of this ordinance. Specific view restoration permit requests would be reviewed in accordance with the ordinance. Implementation of the ordinance would not result in substantial adverse effects on any identified riparian habitat or other sensitive natural community.

Therefore, the project will result in *no impact* to riparian or other sensitive natural communities.

c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
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No federally protected wetlands or blueline streams occur in the City. The ordinance includes no development and does not include changes in land use, allowable development envelopes or intensity of use.

Therefore, the project will result in *no impact*.

d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident migratory wildlife corridors, or impede the use of native wildlife nursery sites.			X	
e) Conflict with any local policies or ordinances protecting			X	



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
biological resources, such as a tree preservation policy or ordinance?				

Although some local movement of wildlife would be expected to occur throughout the City, the City of Beverly Hills is not recognized as an existing or proposed Significant Ecological Area that links migratory wildlife populations. The ordinance includes no new development and does not include changes in land use or allowable development envelopes.

The proposed ordinance may involve the removal of trees on private property in the Trousdale Estates area; however, the ordinance stresses the importance of balancing the desire for views with the maintenance of trees. It includes the following statement, "Removal of a healthy tree not on a list of nuisance trees maintained by the City is to be avoided unless the reviewing authority determines such removal is necessary to restore a protected view in accordance with the findings." It is anticipated that only a small number of trees would require removal as a result of the ordinance.

Implementation of the ordinance would be subject to all applicable federal, State, regional and local policies and regulations related to the protection of important biological resources. Specifically, permits issued pursuant to the ordinance would be required to comply with the following policies and regulations:

- *Federal Endangered Species Act*
- *Federal Migratory Bird Treaty Act*
- *California Endangered Species Act*
- *California Fish and Game Code*
- *California Environmental Quality Act—Treatment of Listed Plant and Animal Species*
- *City of Beverly Hills Municipal Code—Regulations of Trees on Private Property.*

The City has a tree preservation ordinance that protects trees of certain size or species in the front or street side yards of private residential property. The intent of that ordinance is to protect trees that can be seen from the public right of way and therefore contribute to the City's aesthetic environment. It is anticipated that trees designated as "protected" pursuant to that ordinance will continue to be subject to the tree preservation ordinance, even if found to be obstructing a view. It is also anticipated that only a small number of trees would require removal as a result of the ordinance. The ordinance does not include changes in land use, allowable development envelopes or intensity of use. No specific projects affecting mature, healthy trees are contemplated as part of this ordinance. Specific view restoration permit requests would be reviewed in accordance with the ordinance.

Therefore, any impacts would be *less than significant*.

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, and other approved local, regional, or State habitat conservation plan?				X
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There is no Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plans that apply to the City and the number of trees that may require removal would be limited.



Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Therefore, there would be no impact.

5. CULTURAL RESOURCES. Would the project:			
a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?			X

The City of Beverly Hills has seven sites listed as federal and/ or State resources (listed on the National Register of Historical Place or California Register of Historic Resources, or otherwise listed as historic or potentially historic in the California Historic Resources Information System (CHRIS) maintained by the State Office of Historic Preservation. These structures meet the definition of historical resources under Section 15064.5(a) of the CEQA Guidelines.

New General Plan policies call for establishment of a local historic register and historic preservation program (Policies CON 1.1 – 1.9, CON 2.1). This could involve landscape features such as trees. There is no site in Trousdale Estates or any tree that is currently included on a list of historic resources. The General Plan also has a goal of retaining trees of significance. Where removal of significant trees cannot be avoided, there should be replacement with appropriate species. (OS 2.1 "Trees of Significance"). The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and the potential removal of any mature, healthy trees is expected to be limited.

Therefore, any impacts would be *less than significant*.

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?			X
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?			X
d) Disturb any human remains, including those interred outside of formal cemeteries?			X

No archaeological resources were identified during a records search conducted at the South Central Coastal Information Center (2009) and potential for the existence of archaeological or paleontological resources is low due to previous construction-related, ground disturbing activities. Human burials outside of formal cemeteries often occur in prehistoric archeological contexts, although the potential still exists for these resources to be present. The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property. Additionally, the General Plan includes Policies CON 1.8 and CON 1.9 which require all construction work to cease if a potential archeological or paleontological resource is discovered and only continue once the potential resource has been evaluated.

Therefore, any impacts would be *less than significant* in these regards.



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
6. GEOLOGY AND SOILS. Would the project				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42)			X	
ii) Strong seismic ground shaking?			X	

The City of Beverly Hills is located in the Los Angeles basin, at the southern edge of the Transverse Range, in an area exposed to risk from multiple earthquake fault zones. The highest risks originate from the Hollywood fault zone, the Santa Monica fault zone, and the Newport-Inglewood fault zone, each with the potential to generate moderate to large earthquakes that could cause ground shaking in Beverly Hills and nearby communities. While it appears that at least a portion of the Santa Monica fault may run along the base of the Santa Monica Mountains within the City limits of Beverly Hills, the depth of the fault in this area makes it impossible to map with any accuracy, for which reason there are no Alquist-Priolo zones within the City of Beverly Hills (Dolan, 2000).

The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property but may involve the removal of mature, healthy trees which removal could impact land stability if located on a hillside. The proposed ordinance includes the following finding that must be made for approval of a view restoration permit, "Trimming or removal of foliage on Foliage Owner's property will not have a substantial adverse impact on stability of a hillside." This ordinance does not propose any projects and specific applications for view restoration would be reviewed in accordance with the ordinance.

Therefore, any impacts would be *less than significant*.

iii) Seismic-related ground failure, including liquefaction?				X
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Strong ground shaking occurring in areas with high ground water tables and poorly consolidated soils can result in liquefaction. Figure 9 identifies areas within the City limits which are believed to be susceptible to liquefaction during long-duration, strong seismic events (earthquake). The Trousedale Estates area is not included in the area subject to liquefaction.

The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property

Therefore, there would be *no impact*.

iv) Landslides?			X	
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Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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In addition to liquefaction, strong ground motions can worsen existing unstable slope conditions, particularly when coupled with saturated ground conditions. Seismically-induced landslides can overrun structures, people or property, sever utility lines, and block roads, and hinder rescue operations after an earthquake. Hillside areas in the northern reaches of the City are susceptible to landslides (refer to Figure 9). This includes a portion of the City approximately 2,000 feet north of Sunset Boulevard and includes portions of the Trousdale Estates area.

The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property but may involve the removal of mature, healthy trees which removal could impact land stability if located on a hillside. The proposed ordinance includes the following finding that must be made for approval of a view restoration permit, "Trimming or removal of foliage on Foliage Owner's property will not have a substantial adverse impact on stability of a hillside." Specific applications for view restoration would be reviewed in accordance with the ordinance.

Therefore, any impacts would be *less than significant*.

b) Result in substantial soil erosion or the loss of topsoil?			X	
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Topsoil is the uppermost 6–8 inches of soil. It has the highest concentration of organic matter and microorganisms, and is where most biological soil activity occurs. Topsoil erosion is of concern when the topsoil layer is blown or washed away, which reduces biological content and soil productivity. Since most of the City of Beverly Hills is built out and there is no agricultural production within the City limits, topsoil erosion is of limited concern. The ordinance does not include changes in land use or allowable development envelopes. The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property but may involve the removal of mature, healthy trees which removal could impact land stability if located on a hillside. The General Plan includes policies that reduce run-off from irrigation (CON 5.5), require grading plans to be designed to capture stormwater and allow for on-site dissipation (CON 8.2), and continue to implement the National Pollutant Discharge Elimination System's (NPDES) and the South Coast Air Quality Management District's (SCAQMD) regulations, including the use of best management practices (CON 10.3). Specific view restoration permit requests would be reviewed in accordance with the ordinance.

Therefore, any impacts would be *less than significant*.

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			X	
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As previously discussed, potential impacts due to landslides and liquefaction would be less than significant; therefore, this analysis addresses impacts related to unstable soils as a result of lateral spreading, subsidence, or collapse.



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Lateral spreading occurs as a result of liquefaction. As such, liquefaction-prone areas could also be susceptible to lateral spreading. Further, subsidence has been identified as a potential hazard in the area from groundwater withdrawal in excess of groundwater recharge.

The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property. Any permits issues pursuant to the ordinance would be required to comply with the latest adopted Building Code.

Therefore, any impacts would be *less than significant*.

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
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Alluvium, which generally consists of fine particles such as silt and clay along with larger particles like sand and gravel, is generally highly susceptible to ground shaking and is considered an expansive soil. Soils in the City are predominantly alluvium within the flat areas of the City and bedrock at the base of and on the side of the Santa Monica Mountains. The Trousdale Estates area is on the side of the Santa Monica Mountains and therefore, mostly bedrock. The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X
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The City of Beverly Hills is almost entirely built out with established utility services, including sewer systems. This ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

7. GREENHOUSE GAS EMISSIONS. Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			X	
b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?			X	

The ordinance does not include changes in land use, allowable development envelope or intensity of use. Additionally, no project is proposed at this time. Currently, no State or regional regulatory agency has formally



Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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adopted or widely agreed upon thresholds of significance for greenhouse gas emissions. CEQA Guidelines §15064.7 States that "each public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects." This provides justification for lead agencies to determine their own climate change thresholds. The Association of Environmental Professionals (AEP) recommends that "If a Lead Agency chooses to address GCC [Global Climate Change] in a [CEQA] document, it should be addressed in the context of a cumulative (versus project-specific) impact." Additionally, the California Air Pollution Control Officers Association (CAPCOA) States, "To determine what emission reductions are required for new projects one would have to know accurately the 1990 budget and efficacy of other GHG promulgated regulations as a function of time. Since the California Air Resources Board (CARB) will probably not outline its regulation strategy for several more years, it is difficult to determine accurately what the new project reductions should be in the short term." Additional guidance was given by the legislature in 2007 under SB 97, amending CEQA to establish that GHG emissions and their impacts are appropriate subjects for CEQA analysis. But the law does not address the evaluation and determination of "significance." The law simply directs the state's Office of Planning and Research ("OPR") to develop draft CEQA guidelines "for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions" and directs the state Resources Agency to certify and adopt the CEQA guidelines. Until that time, the OPR has issued a Technical Advisory ("Addressing Climate Change through CEQA Review") to help guide agencies through the process by providing suggested standards on calculating GHG emissions, determining potential significance, and implementing mitigation measures, if necessary and feasible.

The City has begun requiring reductions in greenhouse gas emissions through adoption of a green building ordinance in 2008 that requires new commercial and multi-family construction to exceed Title 24 energy efficiency requirements by 15-percent and requires the installation of photo-voltaic energy generation systems. Additionally, all future construction occurring in the City would be subject to evolving State green house gas emission regulations and specific impacts would be evaluated on a case-by-case basis assuring that as thresholds and regulations develop, new construction will be evaluated using the most up to date evaluation criteria and will be constructed consistent with the most current requirements.

The ordinance proposes no projects and involves no development beyond landscaping activities on private property but may result in the removal of some healthy, mature trees and healthy, mature trees help remove CO₂ from the atmosphere. It is anticipated that only a small number of trees would require removal as a result of the ordinance so the amount of CO₂ remaining in the atmosphere due to the removal of some trees would be negligible. The ordinance would not result in a project-level or cumulatively significant impact with respect to greenhouse gas emissions.

Therefore, any impacts would be *less than significant*.

c) Would the project require or result in the construction of new energy production or transmission facilities, or expansion of existing facilities the construction of which could cause a significant environmental impact?				X
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The State is currently experiencing constraints related to electrical energy supply and delivery. These constraints are



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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generally limited to peak demand days during the summer months. The current electrical and natural gas demand of the City of Beverly Hills is within the capacity limitations of the electrical and natural gas production and transmission facilities serving the City. The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

d) Would the Proposed Project encourage the wasteful or inefficient use of energy?			X	
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The ordinance would not change land use or the allowable development envelopes and involves no development. Energy could be consumed during removal, planting or maintenance of trees and foliage, primarily in the form of petroleum fuels and electricity including hauling, but this level of activity is expected to be little different from the current level of activity. Fuel would be needed for vehicles and construction equipment for uses such as power tools. Fuel would also be consumed during the production and transport of materials and workers; however, construction would consist of temporary activities that would not result in long-term demand for energy. The California Air Resources Board recently passed amendments to Title 13 of the CCR which would require heavy diesel vehicles to restrict idling to five minutes or less. While this requirement was implemented to reduce pollutant emissions (see Section 4.2 [Air Quality]), the anti-idling amendments have the added benefit of reducing fuel consumption.

Therefore, any impacts would be *less than significant*.

8. HAZARDS AND HAZARDOUS MATERIALS. Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X

The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
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The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Therefore, there would be *no impact*.

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
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The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
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The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
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The City of Beverly Hills is not within any airport land use plan or within two miles of a public use airport. The nearest public airport is Los Angeles International Airport, approximately 7 miles south of the City limits.

Therefore, the amendments would result in *no impact*.

f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
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There are no existing private airstrips within the City. Therefore, no safety hazard associated with location to near a private airstrip would occur.

Therefore, the amendments would result in *no impact*.

g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
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	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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The Beverly Hills Office of Emergency Management published a Hazard Mitigation Plan in 2004. The Plan provides guidance for the City's response to emergency situations associated with natural and manmade disasters. The Plan concentrates on management concepts and response procedures relative to large-scale disasters. Such disasters could pose major threats to life, the environment and property, and can impact the well being of a large number of people. The ordinance would not change land use or the allowable development envelopes and would not increase the residential or daily working populations in the City beyond those contemplated by the existing general plan and Hazard Mitigation Plan.

Therefore, there would be *no impact*

h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?			X	
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There are no "Wildland Areas" in the City, however the area of the City north of Elevado Avenue is considered a "Very High Fire Hazard Severity Zone" (Figure 12) and owner's of property located within this zone are subject to maintenance requirements in Section 51182 of the California Government Code (California Department of Forestry and Fire Protection, 2009). In addition, Policies S 1.2 and S 1.3 require property owners to maintain their property to reduce fire potential. The ordinance would not change land use or the allowable development envelopes and involves no development. Additionally, no individual development project is contemplated at this time. The ordinance does involve the removal, planting and maintenance of landscaping and this would need to be done in accordance with all applicable State and Local Codes.

Therefore, any impacts would be *less than significant*.

9. HYDROLOGY AND WATER QUALITY. Would the project:				
a) Violate any water quality standards or waste discharge requirements?				X

The City of Beverly Hills is almost entirely built out with established utility services and discharges wastewater to the Los Angeles Hyperion Wastewater Treatment Plant (HTP), which provides secondary treatment to wastewater and dry-weather stormwater within its service area.

The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater				X
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	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				

The ordinance would not change land use or the allowable development envelopes and involves no development. Any new landscaping planted pursuant to the ordinance would be encouraged to be water-conserving landscaping that could result in a minor improvement in overall water quality.

Therefore, there would be *no impact*.

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?			X	
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The ordinance would not change land use or the allowable development envelopes, and involves no development. The City of Beverly Hills does not discharge to a water body that would be susceptible to erosion and siltation caused by alteration of drainage properties. Additionally, drainage patterns in the City would not be substantially altered in a manner that could cause or contribute to increased erosion or siltation. The ordinance includes restrictions and findings designed to minimize erosion impacts from the removal or relocations of trees.

Therefore, any impacts would be *less than significant*.

d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?			X	
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The ordinance would not change land use or the allowable development envelopes and involves no development. General Plan policies and the Building Code would ensure adequate drainage with regard to landscape activities associated with the ordinance and would eliminate any illegal discharges that could contribute to capacity exceedances and localized flooding. Therefore, storm drain system capacity exceedances and associated flood impacts would be minimized.

Therefore, any impacts would be *less than significant*.

e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?			X	
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The City of Beverly Hills is almost entirely built out with established utility services and discharges stormwater to the Los Angeles Hyperion Wastewater Treatment Plant (HWTP), which provides secondary treatment to dry-weather stormwater within its service area. Since no development is contemplated as part of the ordinance and the ordinance would not change land use or development intensity, the ordinance would not exceed the effluent volume limitations. Additionally, several policies in the General Plan are designed to minimize runoff so that the stormwater system does not contribute to water quality contamination (CON 14.1 – CON 14.3). In accordance



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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with policies included in the General Plan, the City's storm drain system would continue to be maintained and upgraded, the amount of pervious surfaces that could infiltrate stormwater runoff would be increased and flood mitigation including flood hazard mitigation would continue to be addressed as part of the City's Hazard Mitigation Action Plan to minimize potential risks associated with flooding. Any permits issued pursuant to the ordinance would be subject to all applicable State laws.

Therefore, any impacts would be *less than significant*.

f) Otherwise substantially degrade water quality?				X
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Figure 14 provides the approximate boundaries and locations of the three ground water basins underlying the City. Common sources of groundwater contamination during construction include earth-disturbing activities, such as trenching for underground utilities and pile driving for foundations. Another source of ground water contamination is from spillage resulting from improper handling, or storage of hazardous materials used during construction, which, could contaminate surface water or percolate into the groundwater. Common sources of groundwater contamination following construction include leaking underground storage tanks, septic systems, oil fields, leaking sewer systems, use of recycled water, and general industrial land uses. The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X

The City of Beverly Hills is not located within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map; however, the City's Building and Safety Division delineated two local flood zone areas within the City (Figure 15) as a result of repeated basement flooding events caused by exceedances of the storm drainage system during peak storm events. A 2009 stormwater study has demonstrated that recent storm drainage improvements in the two areas have adequately mitigated flooding issues; however the City has not had an opportunity to remove the local flood area designations. The ordinance would not change land use or the allowable development envelopes and involves no development and neither of the City-designated flood areas is in or near Trousdale Estates.

Therefore, there would be *no impact*.

i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure				X
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	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
of a levee or dam?				

The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

j) Inundation by seiche, tsunami, or mudflow?			X	
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Development in Beverly Hills is subject to hazards associated with seiche, tsunami, and mudflow. The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

A seiche is wave generated on the surface of a landlocked body of water, such as a lake, reservoir or swimming pool (Merriam-Webster, 2009). A tsunami is a great sea wave produced by submarine earth movement or volcanic eruption (Merriam-Webster, 2009). Both seiches and tsunamis are known to occur following earthquakes. After a major earthquake it can be assumed that there may be minor flooding and damage caused by water sloshing out of swimming pools (resulting from a seiche); however this is not anticipated to be substantial. The City maintains 10 partially above ground storage reservoirs, including the Greystone Reservoir (City of Beverly Hills, pg. 151). If a seiche were to occur in one of the City's reservoirs there is a potential that residential properties near the structure could be damaged; however this also is not anticipated to be substantial (City of Beverly Hills, pg. 151). The City of Los Angeles maintains the Upper Franklin Reservoir which is located in the Santa Monica Mountains, above the Coldwater Canyon Park and Recreational Center in Coldwater Canyon. In addition to the summary on flooding due to failure of a dam above, there is a risk of flooding in the City resulting from water sloshing out of the reservoir after an earthquake. Escaping water would flow into the Higgins-Coldwater Channel, a below-ground concrete channel located on the easterly side of Coldwater Canyon Drive (City of Beverly Hills, pg. 152) and therefore resulting flooding would be minimized and would not be substantial. The City of Beverly Hills is located 6 miles east of the Pacific Ocean and at the lowest point is 120 feet above median sea-level along Olympic Boulevard (City of Beverly Hills, pg. 77). Due to the City's distance from the ocean and elevation, there would be little to no risk of flooding from a tsunami.

Mudflows are often triggered by periods of heavy rainfall. Earthquakes, subterranean water flow and excavation can also trigger mudflows (City of Beverly Hills, pg. 160). Factors contributing to rain-caused mudslides are barren earth, steep slopes and roads. Although landslides are natural processes, the incidence of mudslides and their impacts on people and structures can be exacerbated by human activities. Grading and construction can decrease the stability of a slope by adding weight to the top, removing support at the base, or increasing water content. Other activities that can increase the potential for mudslides include: excavation, improper drainage, ground water alteration, and vegetation removal – due to construction or wildfire. An estimated 20-percent



Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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(approximately 600 parcels) of the City is located in areas where the existing slope grade exceeds a 2:1 ratio of horizontal to vertical distance, which is the measure used by the City's Building and Safety Division to identify potentially unstable slopes (City of Beverly Hills, pg. 163). The General Plan includes policies that reduce mudslides triggered by construction include Policy CON 12.6 which continues to implement existing flood mitigation strategies including storm drainage system cleaning and replacement of aging pipes and Policy OS 1.1 which encourages preservation of natural features in hillside areas. Landscape activities such as tree removal may affect hillside stability as discussed in the "Geology and Soils" section above; however, the level of landscape activity pursuant to the ordinance is anticipated to be very limited and would be regulated by applicable State and local codes regarding water conservation and drainage and irrigation which would limit the potential for mudslides.

Therefore any impacts would be *less than significant*.

k) Would the proposed project require or result in the construction and/or expansion of new storm drain infrastructure that would cause significant environmental effects?			X	
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Areas of existing flooding occur within the City of Beverly Hills and the storm drain system is in continuing need of repairs. General Plan policies CON 12.1 and CON 12.2 establish policy that the City will upgrade the storm drain system as appropriate to protect lives and property and to ensure contamination is minimized. No development is contemplated pursuant to the proposed ordinance and any additional run-off from landscape activity pursuant to the proposed ordinance is anticipated to be minimal.

Therefore, any impacts would be *less than significant*.

10. LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?				X

The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

b) Conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?			X	
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Applicable regionally adopted plans, policies, and regulations include the 2007 Air Quality Management Plan (AQMP), the Regional Transportation Plan (RTP), and SCAG's Regional Comprehensive Plan and Guide (RCPG).



Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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The SCAG regional plans cover Los Angeles County, which includes the City of Beverly Hills, and five other counties within Southern California. The SCAG regional plans that require a consistency discussion in this section are the RCPG and the 2004 RTP, which is administered by SCAG. Applicable locally adopted plans would include the Beverly Hills General Plan and the Beverly Hills Street Tree Master Plan. Applicable local zoning and building ordinances include the City's Tree Preservation ordinance and the City's Green Building Ordinance.

The proposed ordinance would not change land use or the allowable development envelopes and involves no development. Implementation of the ordinance would be consistent with applicable adopted plans, regulations, or policies as discussed in various section of this document.

Therefore, any impacts would be *less than significant*.

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X
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The City does not have any habitat conservation or natural community conservation plans. Further, based on the California Natural Diversity Database, the City does not contain any significant habitat capable of supporting sensitive species and does not contain any significant ecological areas. A majority of the City has been developed, paved, or landscaped, and is either denuded of vegetation or contains mainly ornamental and non-native plant species. Suitable habitat for sensitive mammal, reptile, amphibian, or fish species occurring in the region does not occur within the City limits. No major regional wildlife migration corridors have been identified and there is no native riparian habitat, mapped blueline streams (Figure 4), or sensitive natural communities within the City (Figure 6).

Therefore, there would be *no impact*.

11. MINERAL RESOURCES. Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X

Mineral resource zones underlying the City are provided in Figure 18. The State Mining and Geology Board (SMGB) classifies significance of mineral resources in accordance with the California Surface Mining and Reclamation Act of 1975 (SMARA) using a system that classifies land into one of four possible Mineral Resources Zones (MRZ) based on quality and significance of mineral resources (California Department of Conservation, Division of Mines and Geology, 1983). According to the State of California (Miller, 1994), the City of Beverly Hills is located in an area classified as MRZ-3, which is defined as "...areas of known or inferred mineral occurrence." The City of Beverly Hills is also located in a highly urbanized area and is almost completely built out and therefore any potential access to mineral resources, such as gravel and sand, is limited or does not exist.



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Oil Fields underlying the City are provided in Figure 19. Oil and gas deposits are not considered "minerals", however a summary of impacts to oil and gas production has been provided because the City is within a region underlain by oil deposits. The City is located on the San Vicente, East Beverly Hills and South Salt Lake Fields; these fields have produced over 100 million barrels of oil and 200 billion cubic feet of gas (City of Beverley Hills, 2005).

The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

12. NOISE. Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X	
b) Exposure of persons to or generation of excessive ground-borne vibration or ground-borne noise levels?			X	

Due to the existing character of the City, residential and commercial uses are located relatively close to one another and, in some instances, co-exist. Noise that would be experienced by sensitive uses is determined at the property lines and the nearest sensitive uses would vary at different locations in and around the City. Specific development is not contemplated pursuant to the proposed ordinance; however, there is the potential that future landscaping activities pursuant to the ordinance could be close to sensitive receptors (single- and multi-family residential, educational, and medical uses). It is anticipated that noise from such landscaping activities would be of a temporary nature. Policies in the General plan tend to limit noise generation and provide better protections to noise-sensitive receptors. For example, the amendments contain Goal N 1, which states, "Minimize land use conflicts between various noise sources and other human activities." and Goal N 3, stating, "Minimize non-transportation-related noise impacts on sensitive noise receptors." To achieve these goals the General Plan contains several policies intended to reduce the potential exposure of sensitive receptors to noise related impacts (N 1.1 - N 1.6, N 3.1 and N 3.2). Implementation of these policies, as well as compliance with the City of Beverly Hills Noise Ordinance would ensure that potential impacts to sensitive receptors due to exposure to noise levels that exceed the established local standards are minimized. Beverly Hills is subject to ground-borne vibration and noise levels associated with traffic and construction activities. Existing Roadway Noise Contours are provided in Figure 20. Policies included in the General Plan would tend to limit noise generation and provide better protections to noise-sensitive receptors (Policies N 1.1 – N 1.6, N 2.1 – N 2.3, N 3.1 – 3.2, and N 4.1). In addition to the new policies and programs the protective measures already required would remain in place (BHMC 5-1-104: General Standards Relative to Disturbance of the Peace).

Therefore, any impacts would be *less than significant*.



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?			X	

Noise created by activities pursuant to the proposed ordinance would be expected to be of a temporary nature related to planting, removal and maintenance of landscaping. It is possible that landscaping removed pursuant to the ordinance could result in an increase in noise if the landscaping removed was perceived as a noise screen. The ordinance includes no projects and view restoration permits approved pursuant to the ordinance would be subject to restrictions and findings in the ordinance.

Therefore, any impacts would be *less than significant*.

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
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Noise created by activities pursuant to the proposed ordinance would be expected to be of a temporary nature related to planting, removal and maintenance of landscaping. It is possible that landscaping removed pursuant to the ordinance could result in an increase in noise if the landscaping removed was perceived as a noise screen. The ordinance includes no projects and view restoration permits approved pursuant to the ordinance would be subject to restrictions and findings in the ordinance.

Therefore, any impacts would be *less than significant*.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
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The City is not in the vicinity of any commercial airport nor does any area of the City fall within an airport land use plan.

Therefore the amendments would have *no impact*.

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X
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There are no private airstrips in the vicinity of the City.

Therefore the amendments would have *no impact*.

13. POPULATION AND HOUSING. Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?			X	

The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

14. PUBLIC SERVICES: Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

a) Fire protection?				X
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The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

b) Police protection?				X
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The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

c) Schools?				X
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The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

d) Parks?				X
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The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Other public facilities?				X

The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

15. RECREATION. Would the project:				
a) Increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X

The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

16. TRANSPORTATION/TRAFFIC. Would the project:				
a) Exceed the capacity of the existing circulation system, based on an applicable measure of effectiveness (as designated in a general plan policy, ordinance, etc.), taking into account all relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?				X
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?				X

The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

c) Result in a change in air traffic patterns, including either an increase in traffic levels, or a change in location, that result in substantial safety risks?				X
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The ordinance proposes no projects and involves no development beyond landscaping activities on private



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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property.

Therefore, there would be *no impact*.

d) Substantially increase hazards to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e. g. farm equipment)?				X
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The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

e) Result in inadequate emergency access?				X
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The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

f) Conflict with adopted policies supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X
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The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

g) Result in inadequate parking capacity?				X
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The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

17. UTILITIES AND SERVICE SYSTEMS. Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
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Implementation of the ordinance is expected to have no impact on wastewater treatment requirements as the ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

b) Require or result in the construction of new water or				X
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	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				

The City of Beverly Hills is almost entirely built out and the ordinance would not change land use, the allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
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The City of Beverly Hills sends approximately 6 Million Gallons per Day (MGD) to the Los Angeles County Hyperion Treatment Plant. The plant has a dry weather capacity of 450 MGD for full secondary treatment and an 850 MGD wet weather capacity. Current flow is 340 MGD, well below the facility's design capacity (City of Los Angeles Regional Water Quality Control Board, 2008). The ordinance proposes no projects and involves no development beyond landscaping activities on private property. It is anticipated that any run-off from landscape activities associated with the ordinance would be negligible, since the number of view restoration permits approved would be limited and larger landscape projects would be subject to the City's water conservation ordinance.

Therefore, any impacts would be *less than significant*.

d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?			X	
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Goals and policies in the General Plan direct the City to continue to implement water conservation measures to limit water consumption and meet the current and projected future daily and peak water demands, which are designed to increase reliability. As a member of the California Urban Water Conservation Council, the City has a demonstrated commitment to efficient water use by integrating urban water conservation Best Management Practices into the planning and management of California's water resources. The ordinance proposes no projects and involves no development beyond landscaping activities on private property. It is anticipated that any water use associated with the ordinance would be consistent with or even less than current use, since the number of view restoration permits approved would be limited, larger landscape projects would be subject to the City's water conservation ordinance and as part of the proposed ordinance, the City is reviewing additional landscape guidelines that promote water conservation including the planting of appropriate water-conserving trees and plants.

Therefore, any impacts would be *less than significant*.

e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the				X
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	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
provider's existing commitments?				

Implementation of the ordinance is expected to have no impact on wastewater treatment requirements as the ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*

f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
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The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

g) Comply with federal, State, and local statutes and regulations related to solid waste?				X
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The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*

	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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18. MANDATORY FINDINGS OF SIGNIFICANCE. Would the project:				
a) Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?				X

Degrade the quality of the environment. As previously summarized under Item 9, in at the beginning of this document, – "Location, Plan Area and Regional Access", the City is 5.7 square miles, located in an urbanized area, and surrounded by the cities of West Hollywood to the east and Los Angeles to the south, west and north.

The proposed ordinance would include standards, restrictions and findings that articulate the City's goal to restore and maintain certain views while providing for residential privacy and security, maintaining the garden quality of



the City (aesthetics), insuring the safety and stability of the hillsides, and acknowledging the importance of trees and vegetation in the City as an integral part of a sustainable environment. Although this ordinance involves no development, an initial study has been prepared because adoption of this ordinance may result in some mature, healthy landscape trees on private property being trimmed, topped or cut down to restore or maintain views for single family residential property owners. No specific projects affecting mature, healthy trees are contemplated as part of this ordinance. Specific view restoration applications would have to be consistent with the General Plan and landscape activities consistent with the Building Code. The General Plan includes policies regarding aesthetics (Policy OS 6.1 States that the City "seek to protect scenic views and vistas from public places"). The ordinance stresses the importance of balancing the desire for views with the maintenance of trees. It includes the following statement, "Removal of a healthy tree not on a list of nuisance trees maintained by the City is to be avoided unless the reviewing authority determines such removal is necessary to restore a protected view in accordance with the findings." The City has a tree preservation ordinance that protects trees of certain size or species in the front or street side yards of private residential property. The intent of that ordinance is to protect trees that can be seen from the public right of way and therefore contribute to the City's aesthetic environment. It is anticipated that trees designated as "protected" pursuant to the Tree Preservation ordinance will continue to be subject to that ordinance, even if found to be obstructing a view. A particular application that may result in reduction of shade would be regulated by State laws addressing energy consumption. The proposed ordinance does not apply to the City's street trees which are regulated by a Street Tree Master Plan in accordance with the City's General Plan. General Plan policies adopted in 2010 will improve the quality of the environment by conserving water, requiring additional protections for stormwater quality and reducing greenhouse gas emissions. It is anticipated that only a small number of trees would require removal as a result of the ordinance and that such limited removal would not substantially degrade the existing visual character or quality of the area, affect hillside stability or, with regard to landscaping activities, would not result in additional water use, impact on the storm drain system or water quality, and would not impact greenhouse emissions.

Therefore, there would be *no impact*.

Substantially reduce the habitat of a fish or wildlife species. As summarized above and previously in Section 4 – "Biological Resources", lands in the City are largely urbanized and contains few to no significant biological resources. Areas that may provide habitat for special-status species are primarily located in the chaparral areas in the Santa Monica Mountains north of Sunset Boulevard. No native plant communities are present within the City's boundaries (Figure 6). Although there is marginal foraging habitat within the City for the Hoary bat, a State Species of Special Concern (California Department of Fish and Game, 2009), the level of historical disturbance in the City has most likely resulted in a low prey - primarily of moths- population level and it is assumed based on the California Natural Diversity Database that marginal or better habitats would exist in proximity to the City that are more likely to attract the bat's prey (e.g., coastal and mountain areas) and therefore would provide better foraging habitat. No impacts to roosting individuals would be expected because the habitat they prefer (areas within dense foliage of woodlands and forests with medium to large size trees that have ground cover of low reflectivity) does not occur within the City limits.

The ordinance does not change land uses, allowable development envelopes or intensity of use and implementation would not result in either a direct or an indirect loss of a plant or animal community. In addition the General Plan encourages preservation of natural features in the hillside areas, (generally, all areas of the City above Sunset Boulevard, which is also the area of the City in the foothills of the Santa Monica Mountains), thereby conserving areas potentially suitable for native plants and animals (Policy OS 1.1). It is anticipated that only a small number of trees would require removal as a result of the ordinance. The ordinance proposes to include the following finding that must be made for approval of a view restoration permit, "Trimming or removal of foliage on Foliage Owner's property will not have a substantial adverse impact on stability of a hillside, drainage of the



property, erosion control, energy usage (loss of shade) or on biological resources." Implementation of the ordinance would not result in adverse impacts either directly or indirectly through habitat modifications, to candidate, sensitive or special status plant and wildlife species.

The ordinance proposes no projects and involves no development beyond limited landscaping activities on private property; implementation would not reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, or reduce the number or restrict the range of a rare or endangered plant or animal.

Therefore, there would be *no impact*.

Eliminate important examples of the major periods of California history or prehistory. As summarized in Section 5 – "Cultural Resources", no archeological resources have been identified in the City and the potential existence of resources is low, due to previous construction-related, ground disturbing activities. No specific development is proposed and therefore the amendments would not affect any potentially existing paleontological or historical resources. Additionally, the amendments would conserve any potential archeological, paleontological or historical resources through Policies CON 1.8 and CON 1.9. There is no site in Trousdale Estates or any tree that is currently included on a list of historic resources. Additionally, the General Plan includes Policies CON 1.8 and CON 1.9 which require all construction work to cease if a potential archeological or paleontological resource is discovered and only continue once the potential resource has been evaluated. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)				X

The City of Beverly Hills is almost entirely built out and the ordinance would not change land use, the allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property. It is anticipated that only a small number of trees would require removal as a result of the ordinance. Specific view restoration permit requests would be reviewed in accordance with the ordinance and development regulations established in the municipal code. Considering these factors, it is unlikely that implementation of the ordinance would have physical impacts that are individually limited but cumulatively considerable.

Therefore, there would be *no impact*.

	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?				X

The City of Beverly Hills is almost entirely built out and the ordinance would not change land use, the allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property. It is anticipated that only a small number of trees would require removal as a result of the ordinance. Specific view restoration permit requests would be reviewed in accordance with the ordinance and development regulations established in the municipal code. Considering these factors, it is unlikely that implementation of the ordinance would have physical impacts that are individually limited but cumulatively considerable.

Therefore, there would be *no impact*.



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Appendix A

List of Figures

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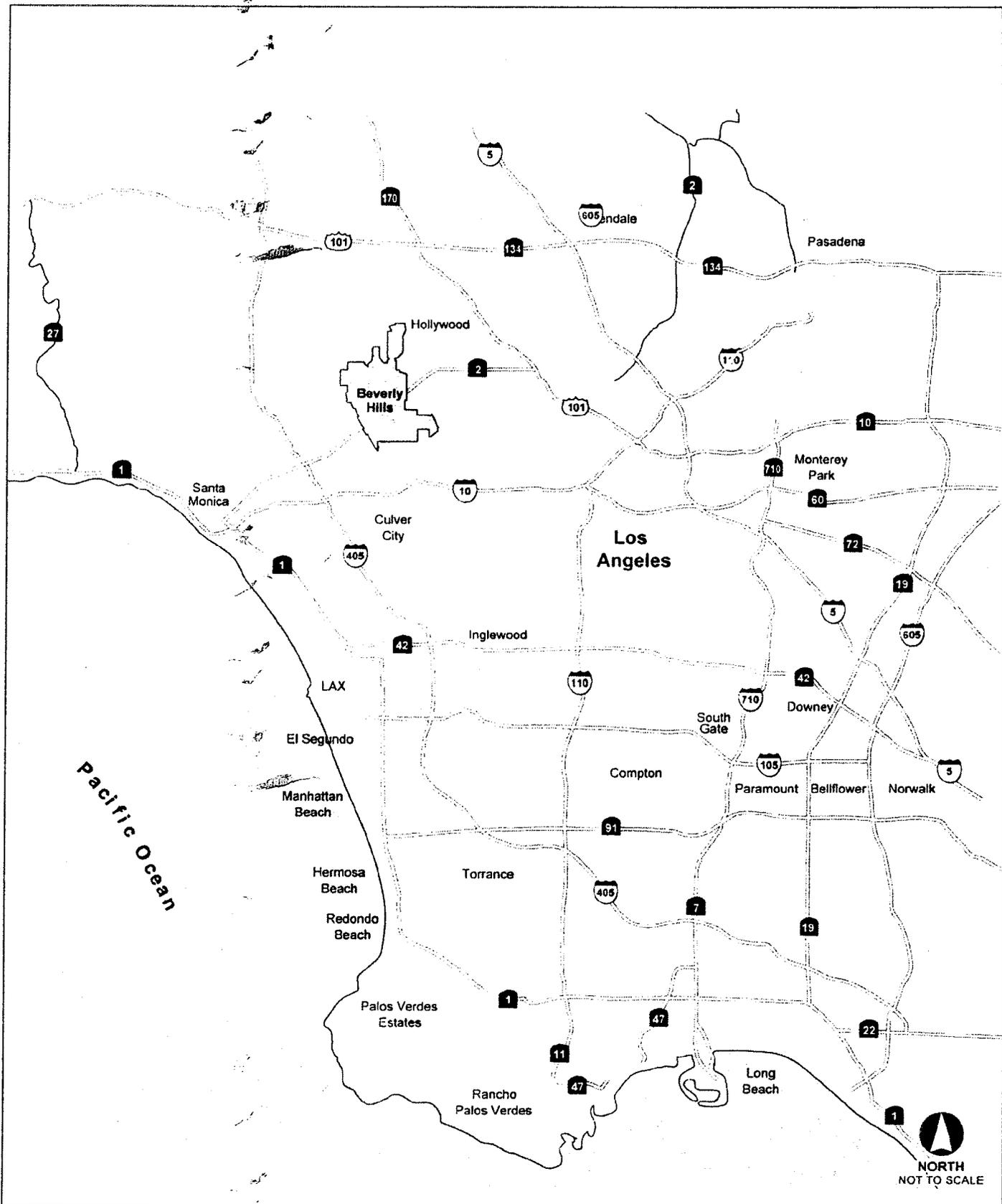


FIGURE 1
Regional Location

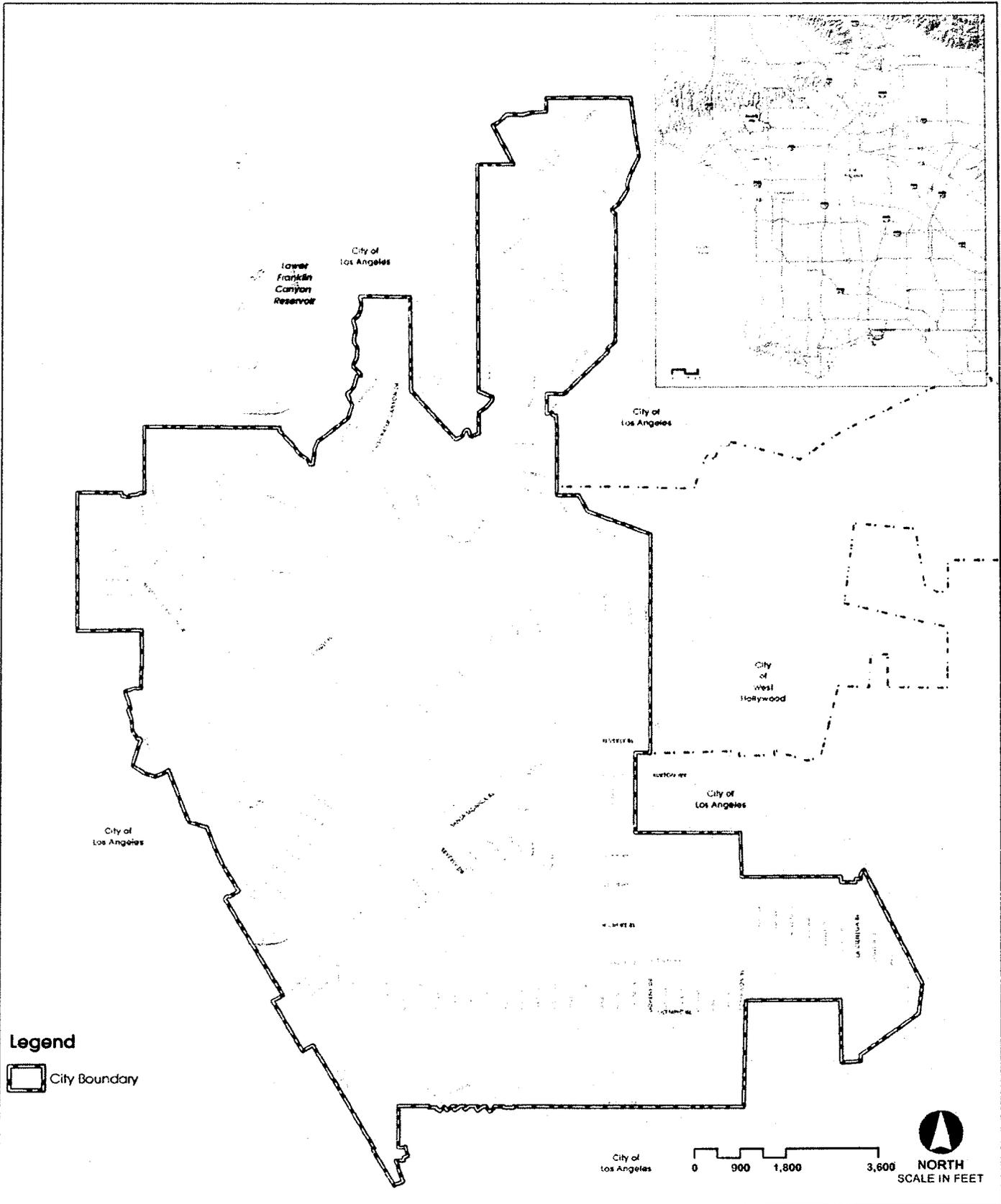
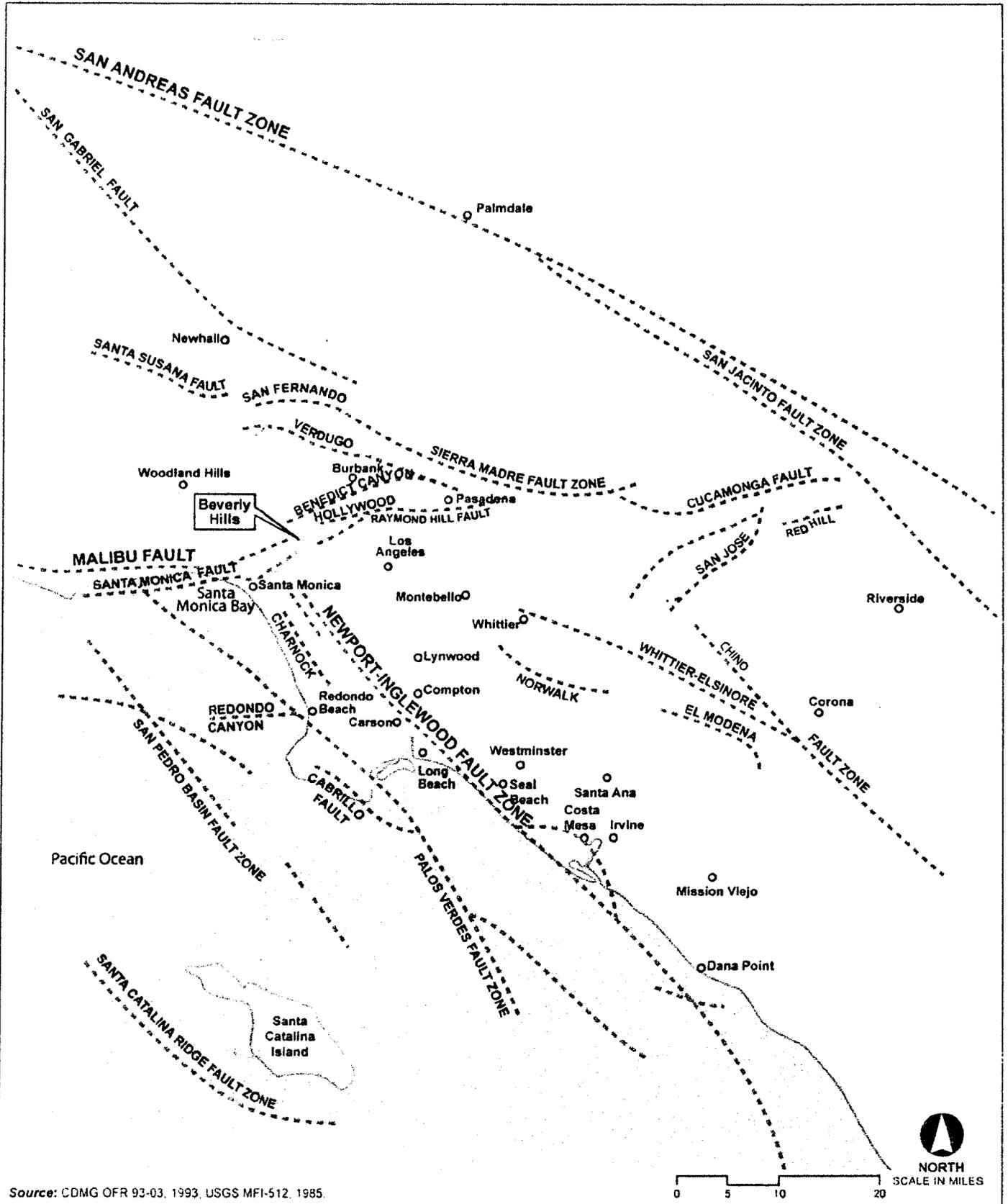


FIGURE 2
Planning Area



Source: CDMG OFR 93-03, 1993, USGS MFI-512, 1985.

Figure 3
Regional Fault Map

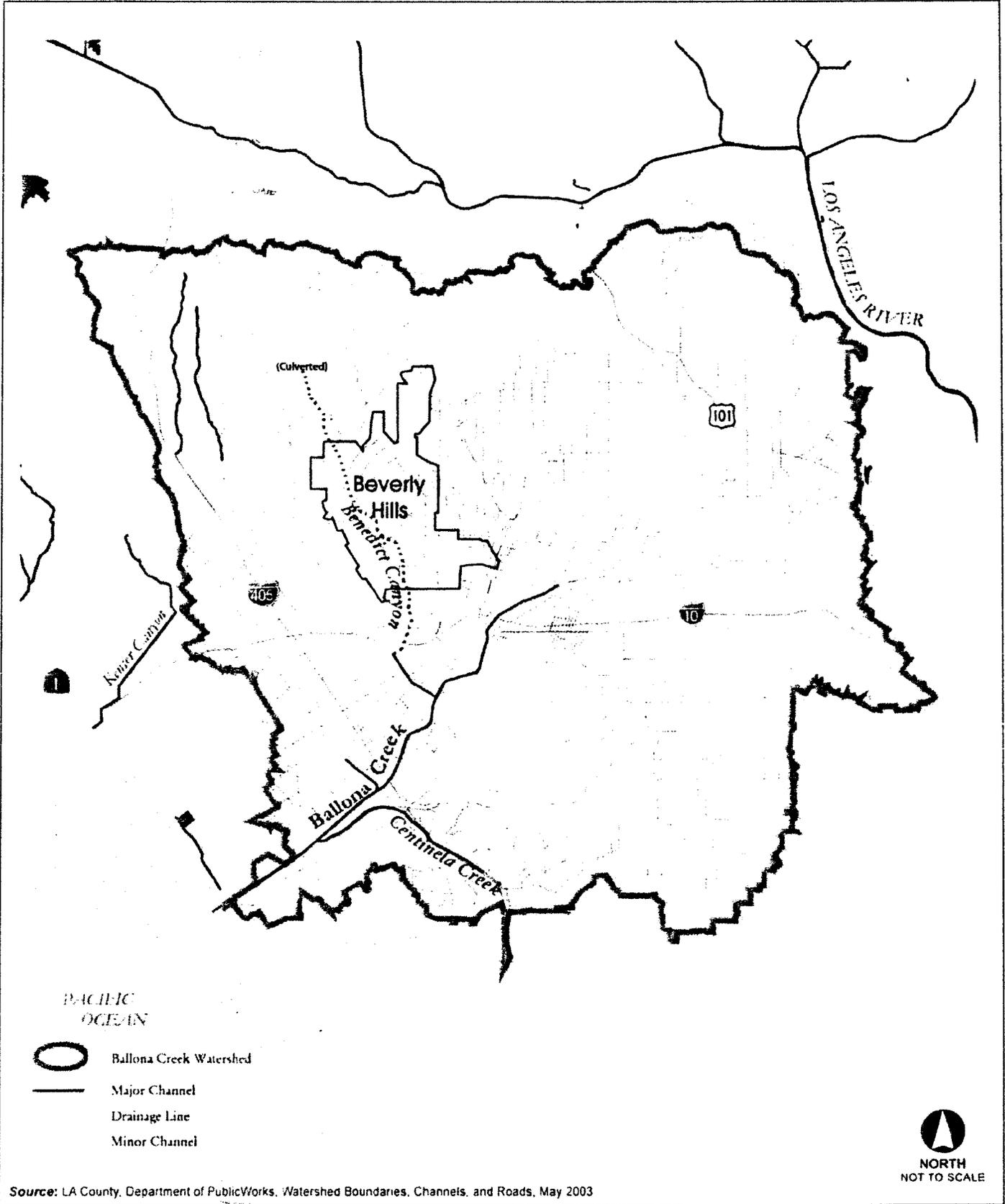


Figure 4
Watershed Plan

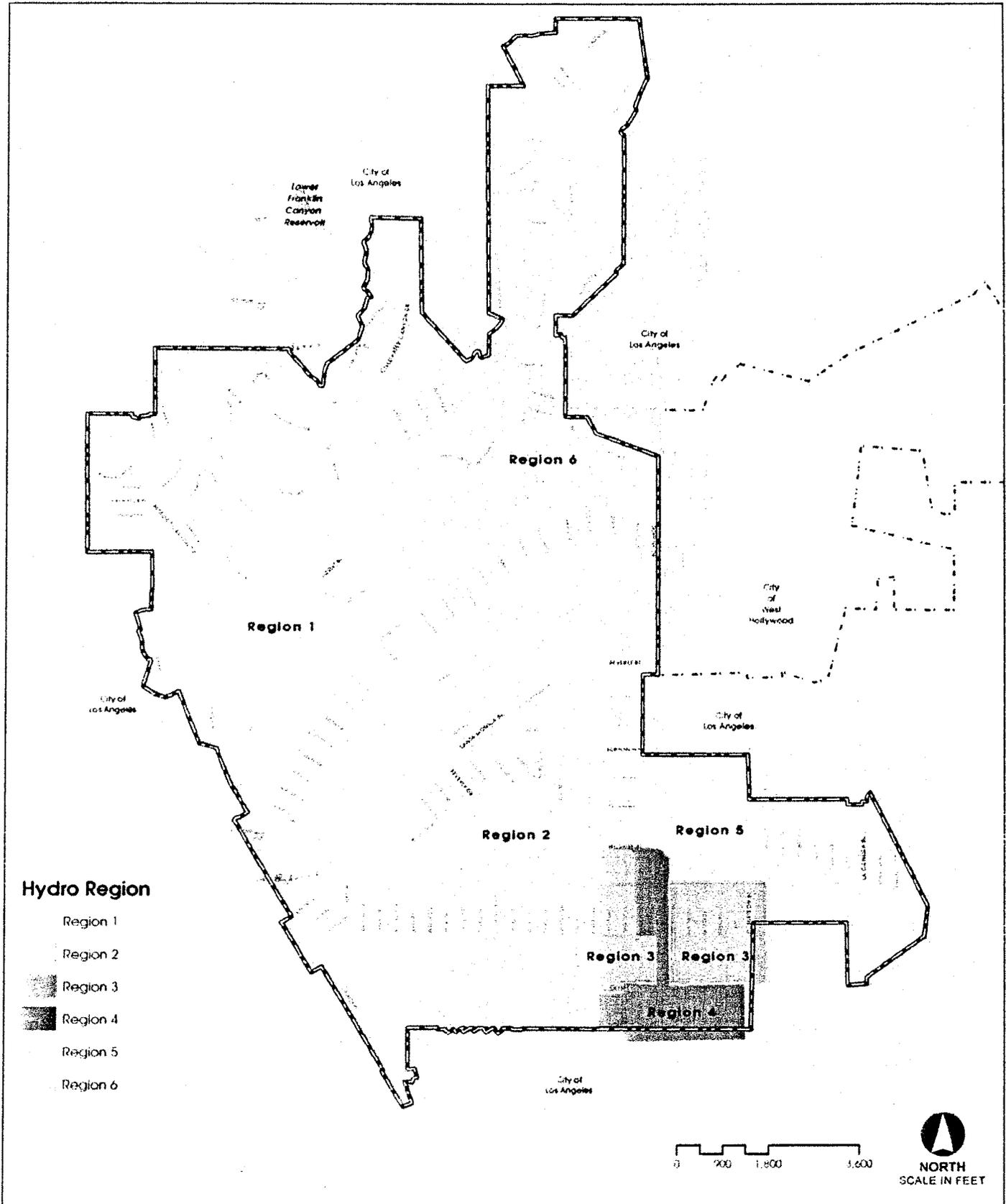
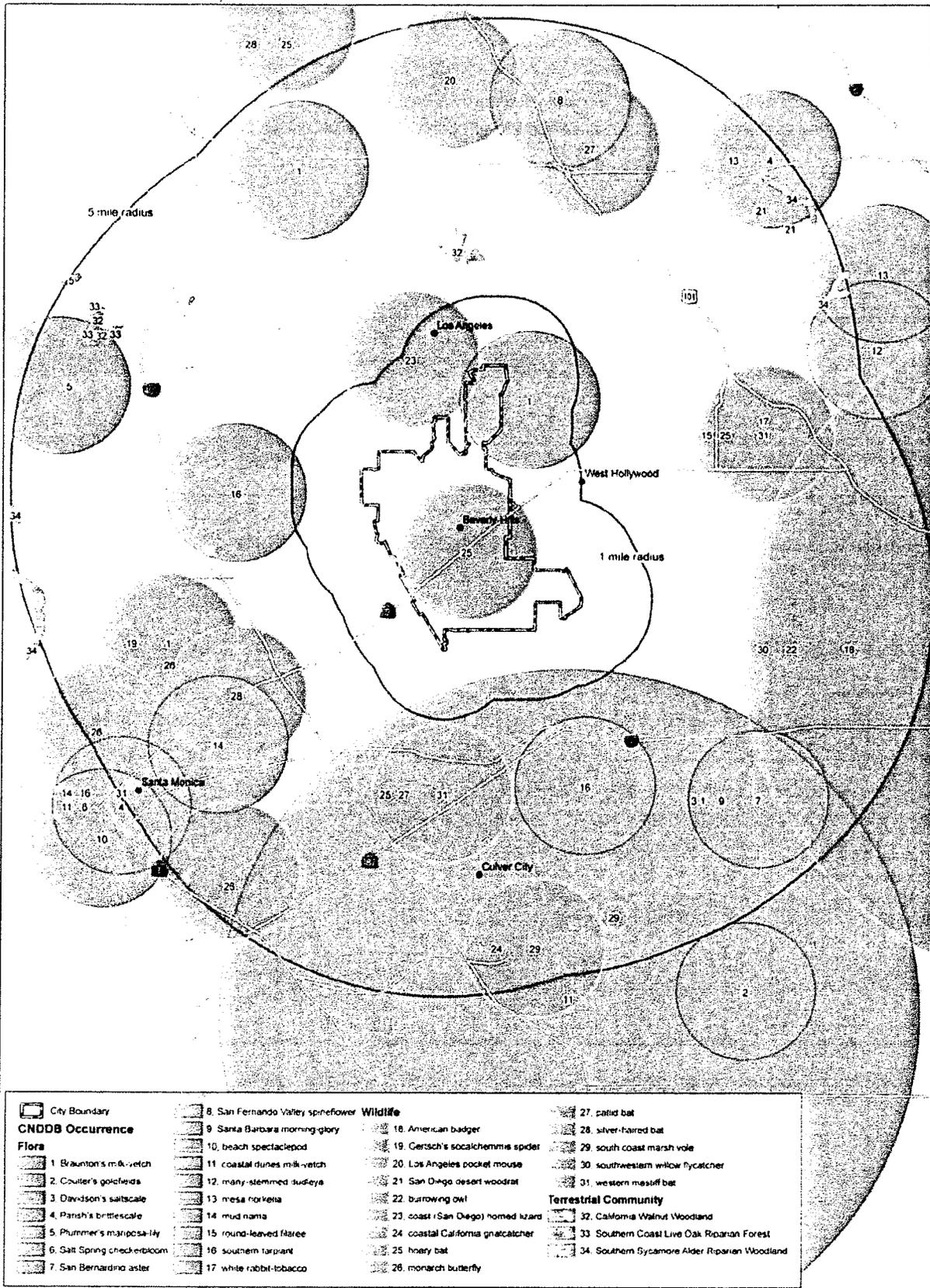


Figure 5
Hydro Regions



Source: SDFG CNDDB

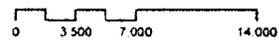
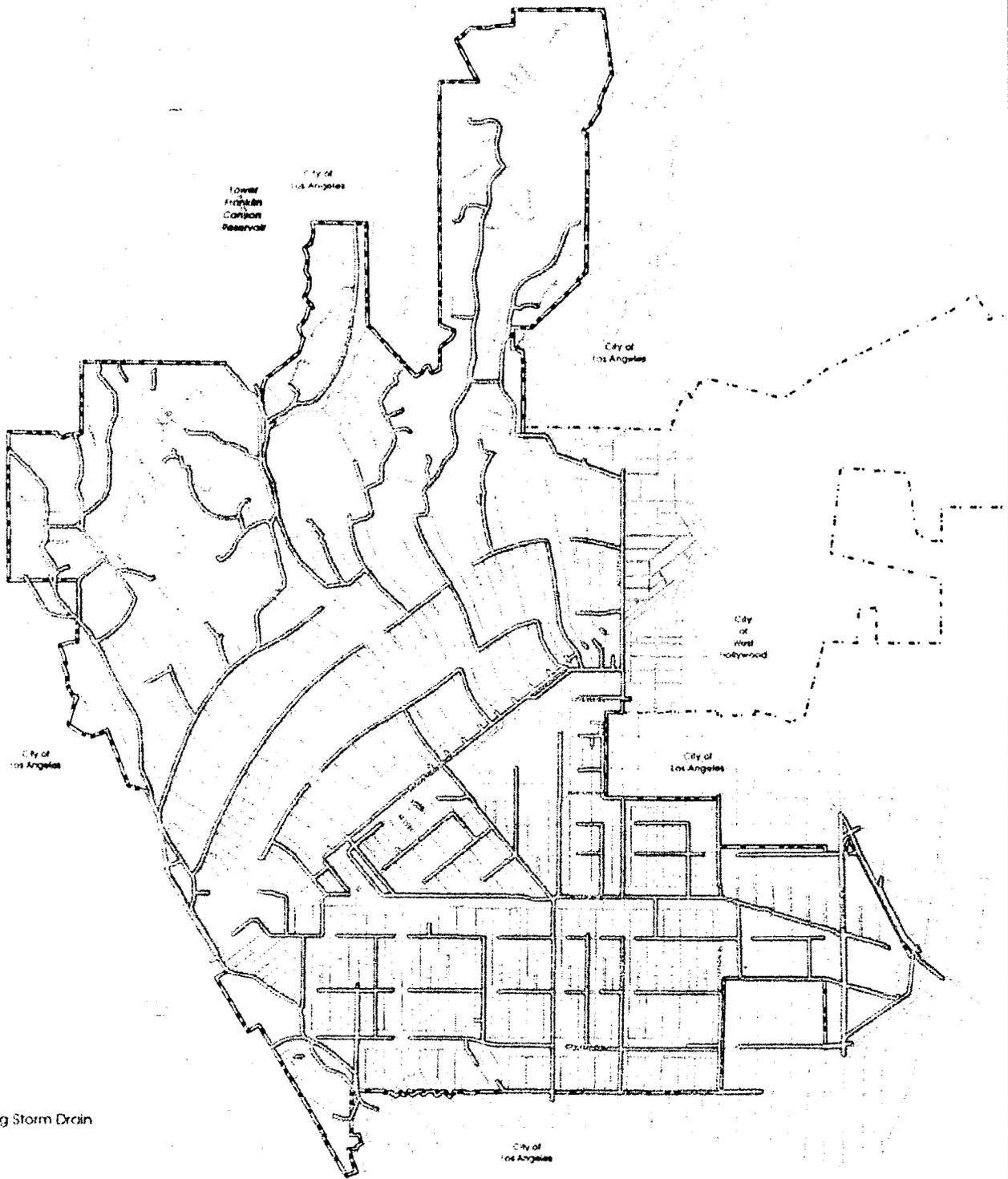
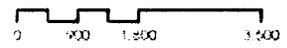


Figure 6
Sensitive Species and Vegetation Communities



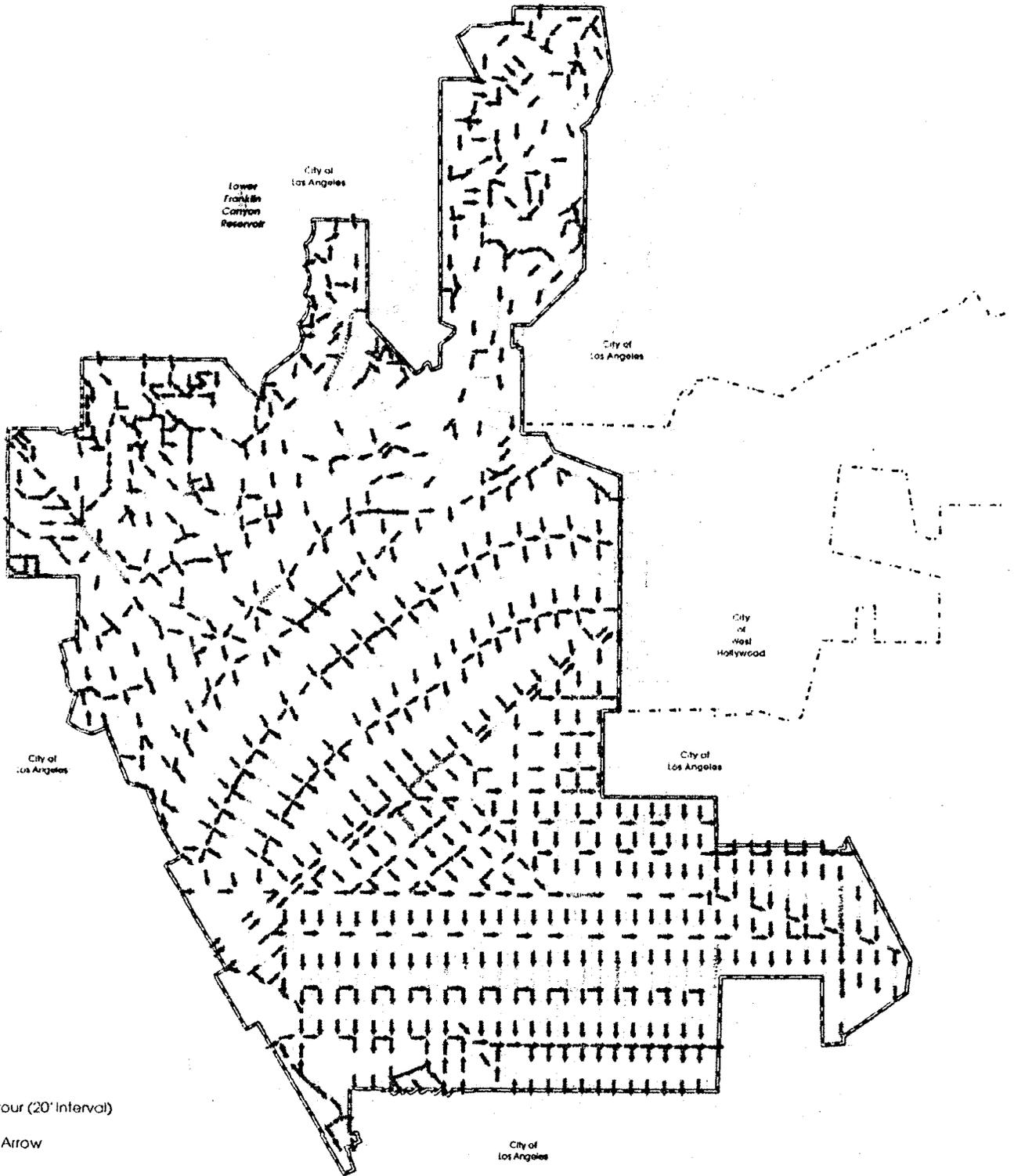
Legend

— Existing Storm Drain



Source: City of Beverly Hills

Figure 7
Existing Storm Drain Locations



Legend

Contour (20' Interval)

Flow Arrow

Source: City of Beverly Hills.

Figure 8

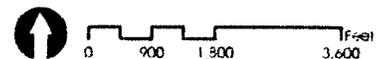
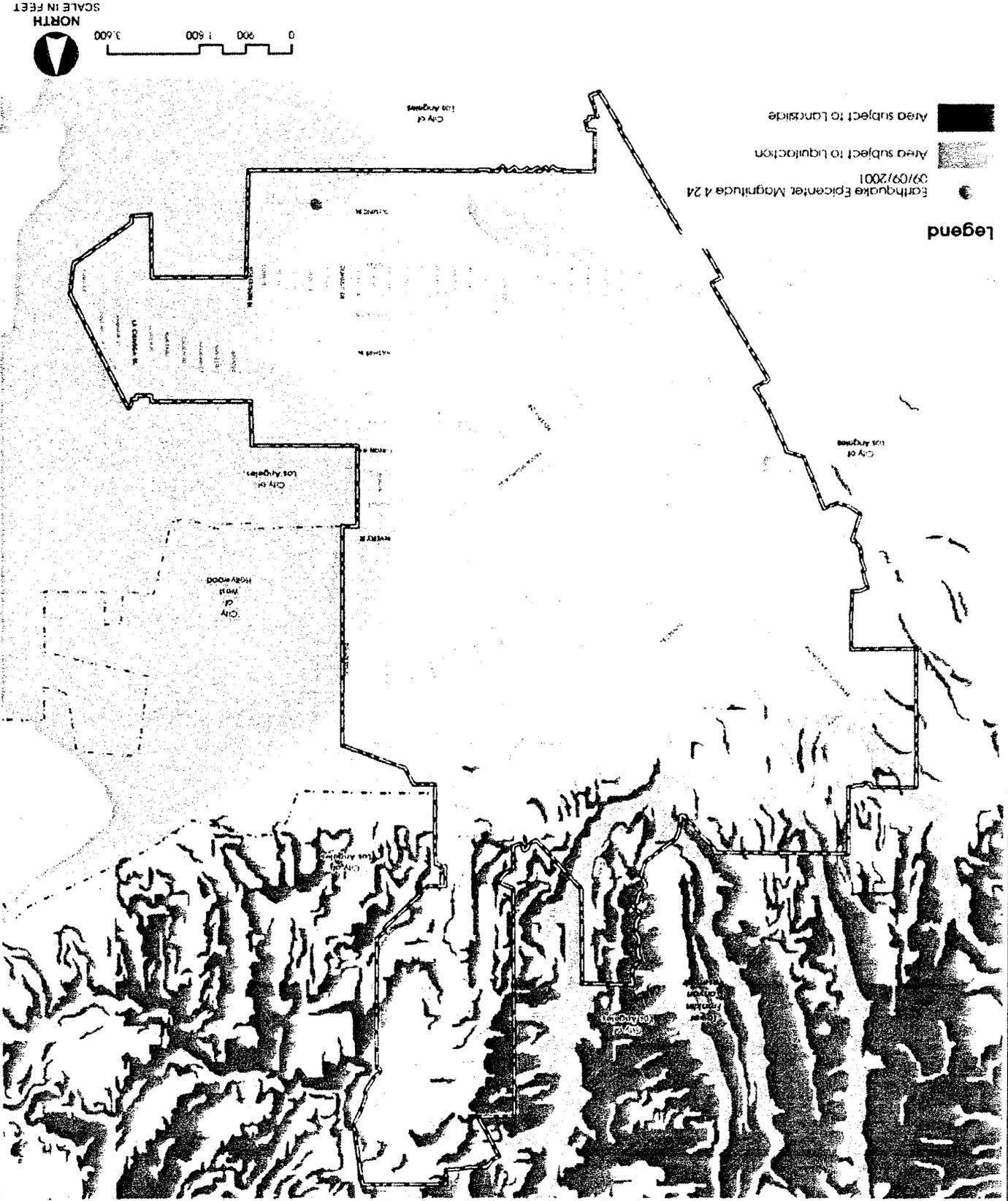


Figure 9
Landslide Prone Areas and Soil Liquefaction Zones

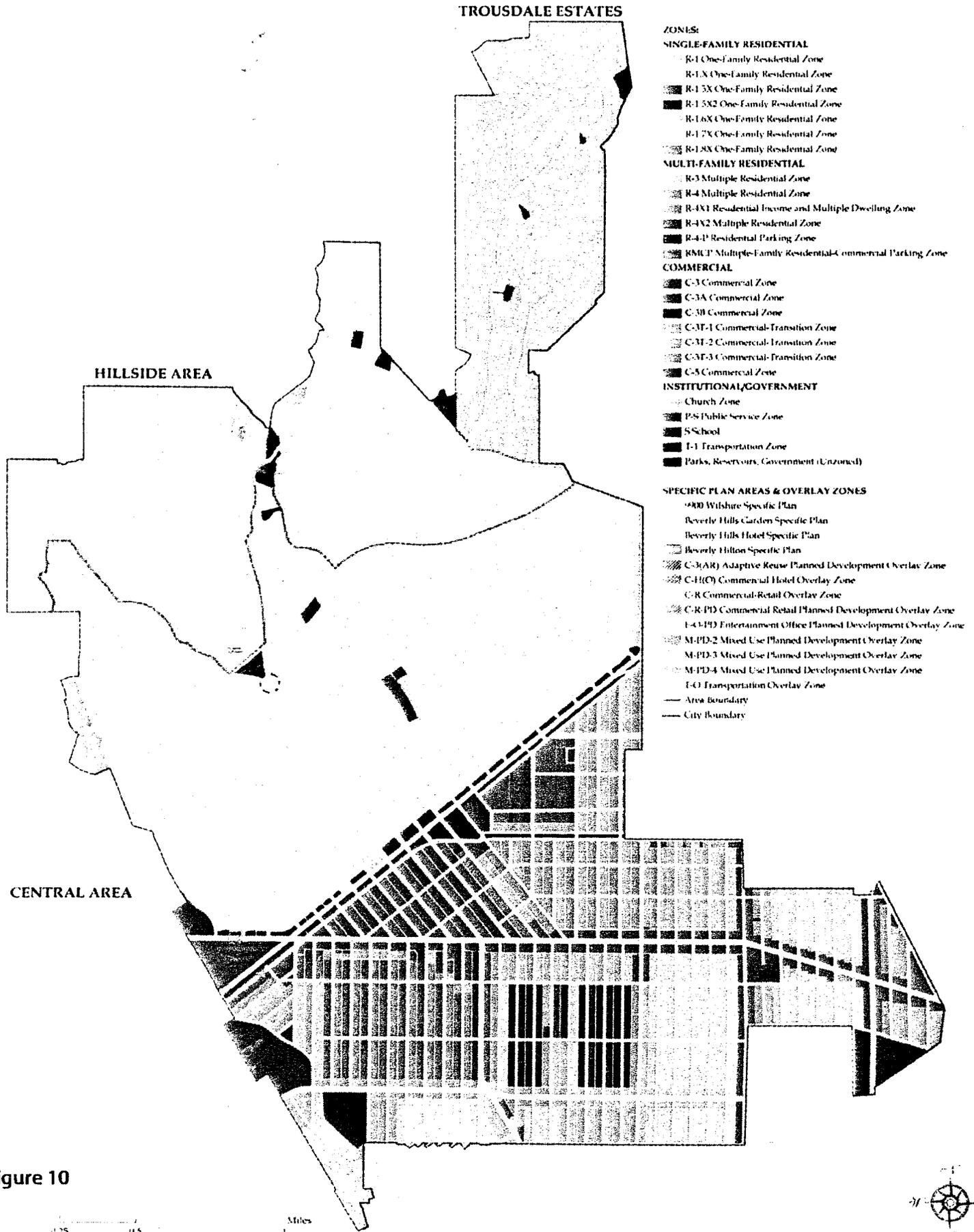
Source: City of Beverly Hills

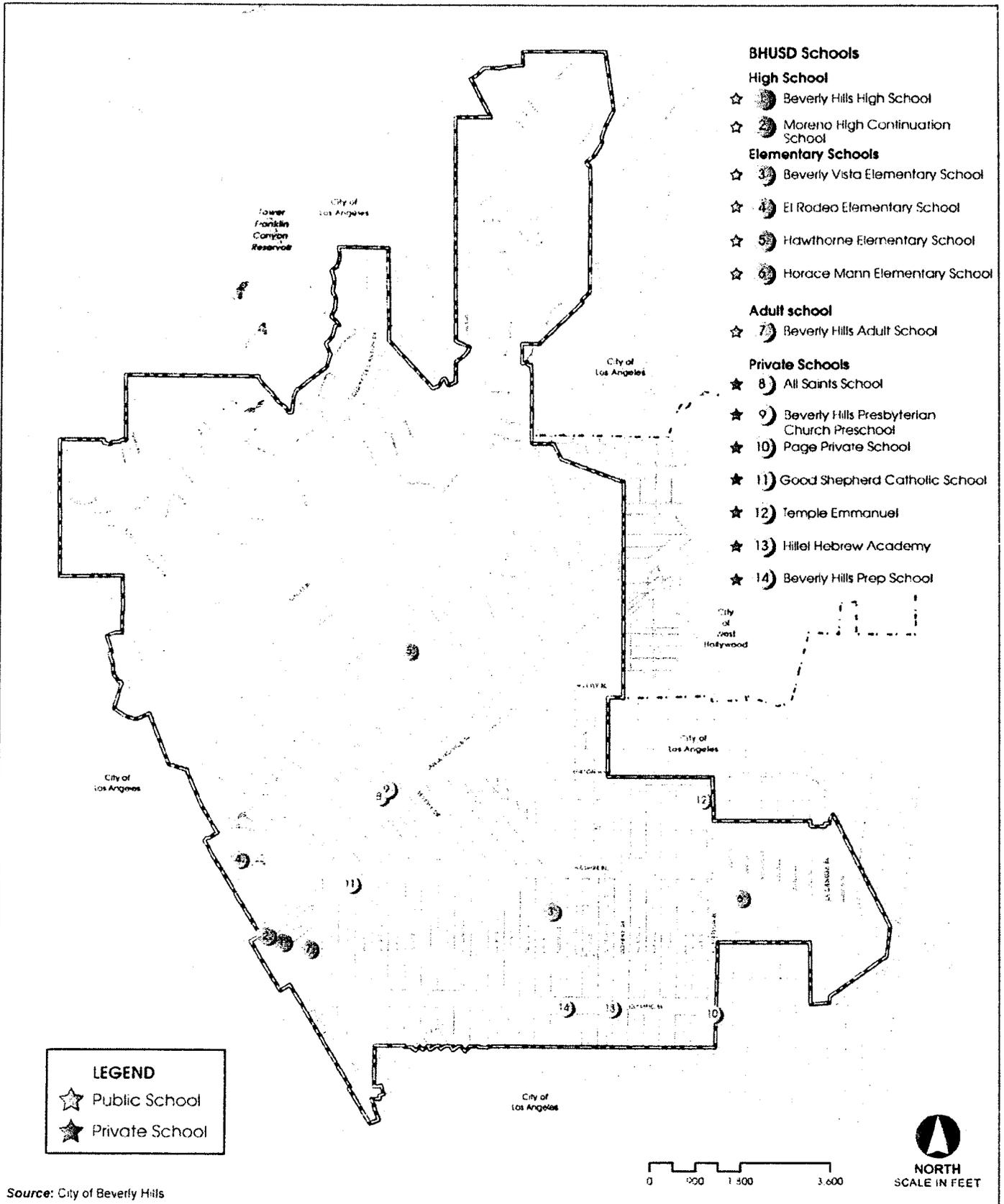




City of Beverly Hills Zoning Map

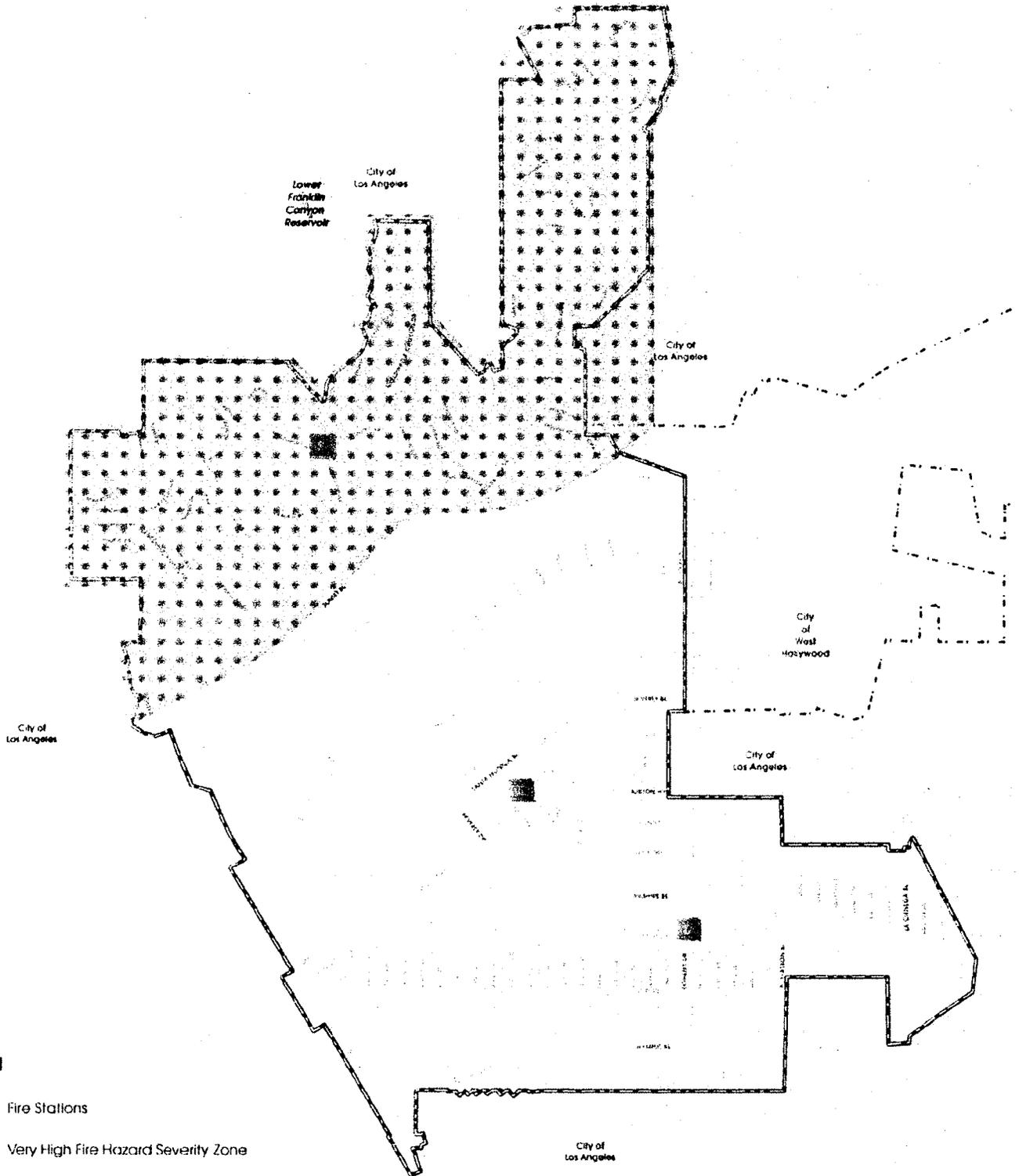
Planning Division, October 2008





Source: City of Beverly Hills

**Figure 11
Schools**

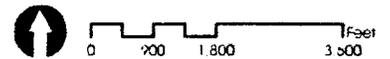


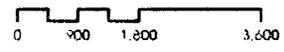
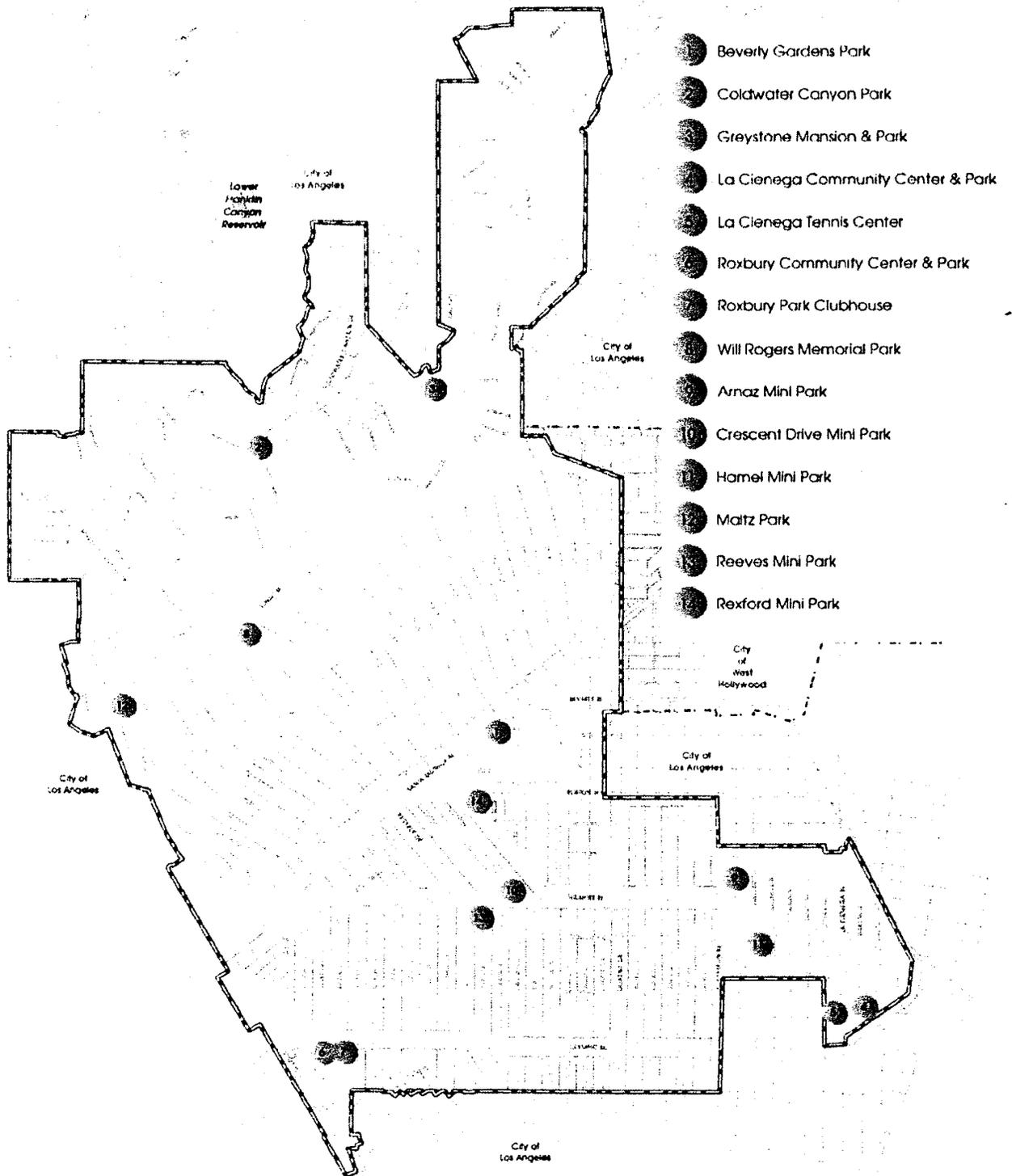
Legend

-  Fire Stations
-  Very High Fire Hazard Severity Zone

Source: City of Beverly Hills.

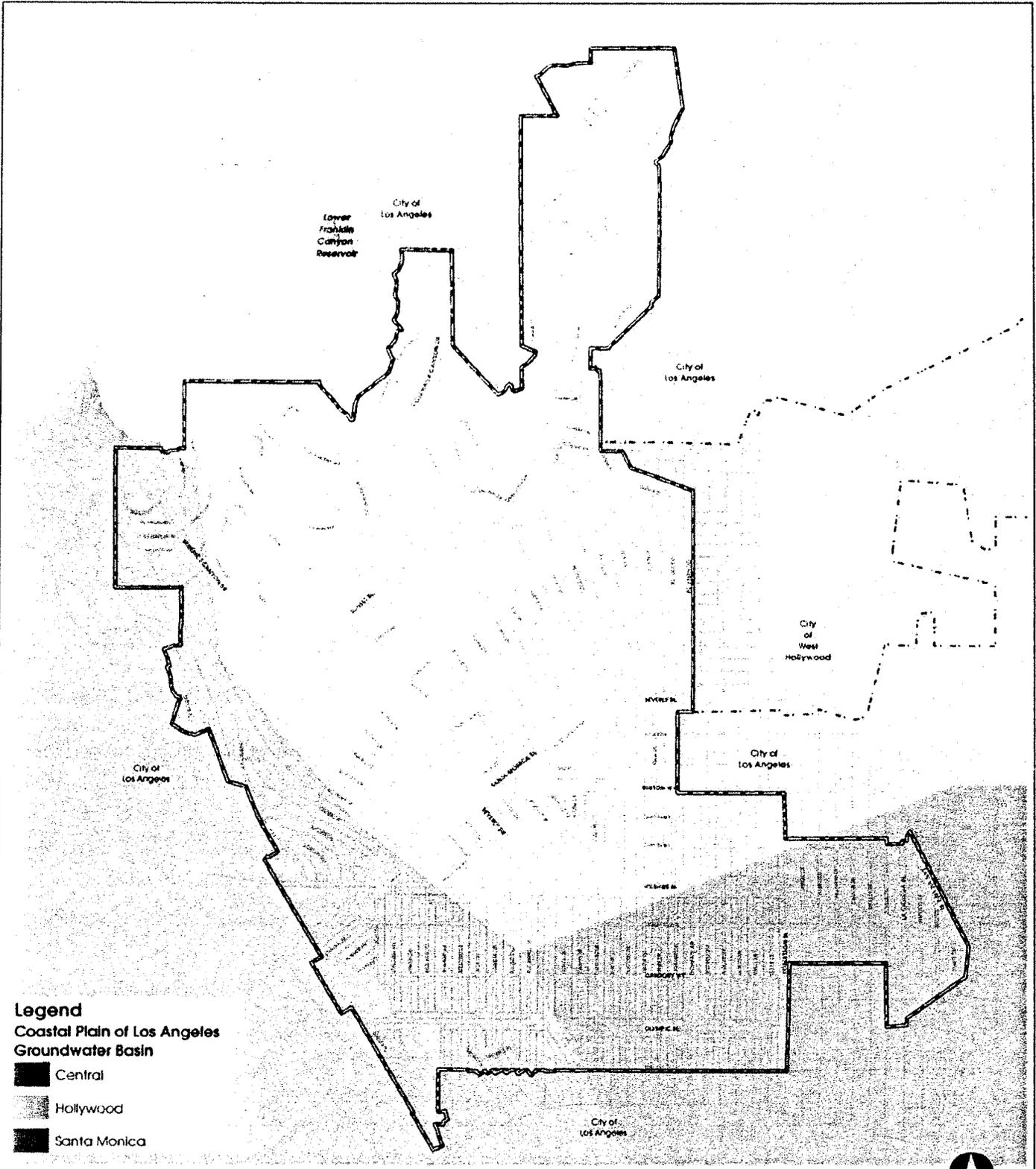
Figure 12





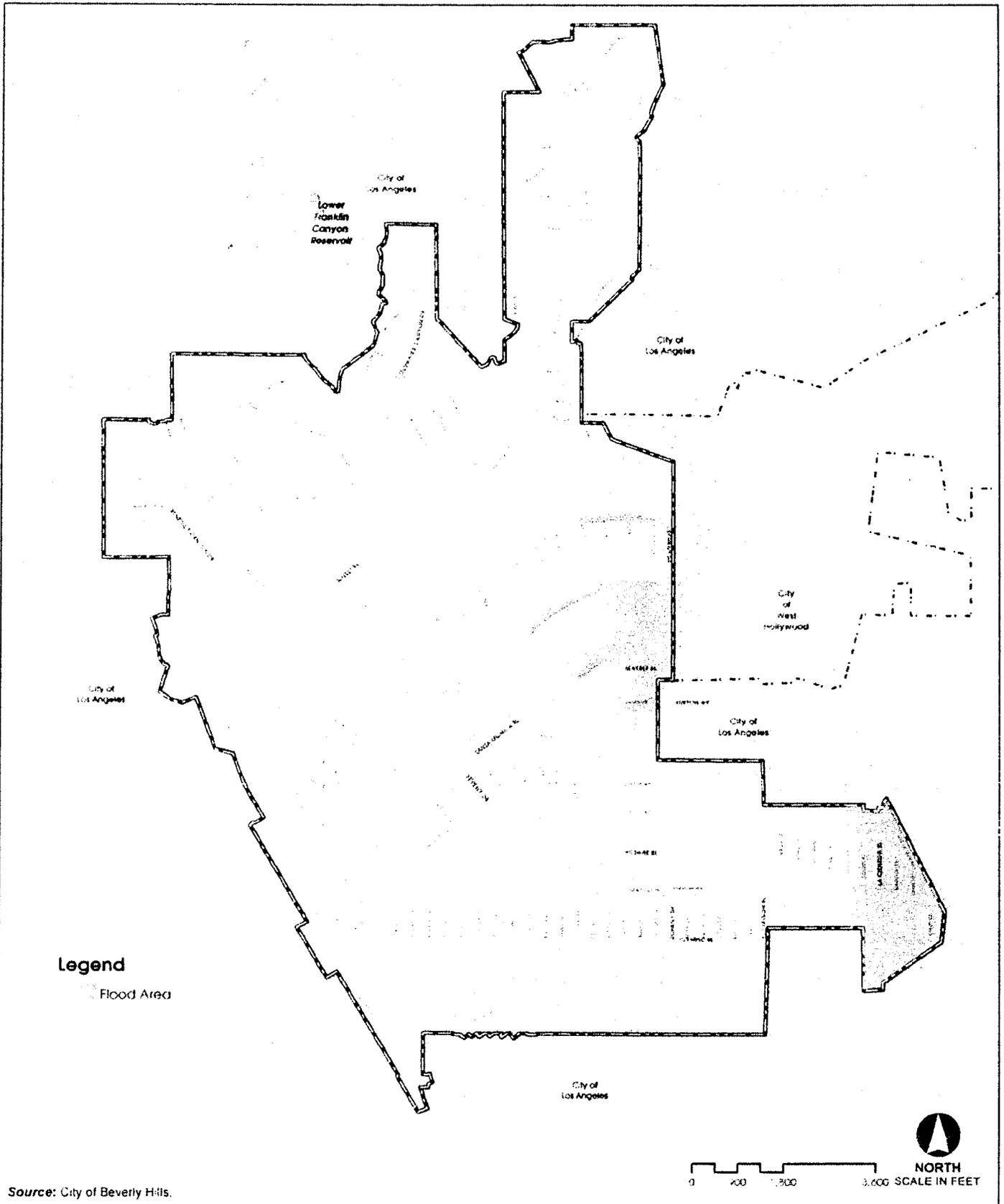
Source: City of Beverly Hills.

Figure 13
Park Facilities



Source: City of Beverly Hills.

Figure 14
Water Basin Resources

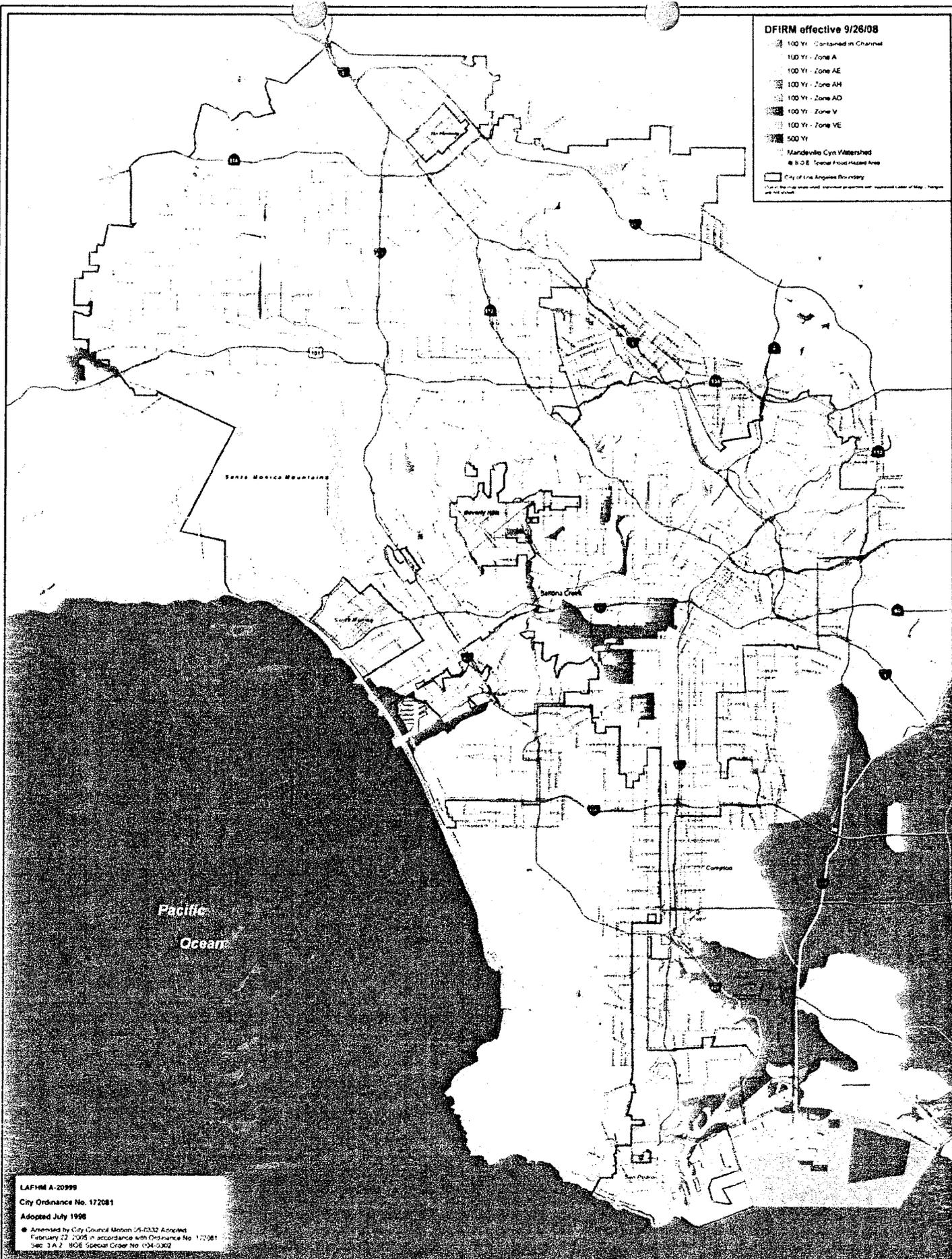


Source: City of Beverly Hills.

**Figure 15
Flood Zones**

DFIRM effective 9/28/08

- 100 Yr - Contained in Channel
- 100 Yr - Zone A
- 100 Yr - Zone AE
- 100 Yr - Zone AH
- 100 Yr - Zone AD
- 100 Yr - Zone V
- 100 Yr - Zone VE
- 500 Yr
- Mandalay Cyn Watershed
- B.O.E. Special Flood Hazard Area
- City of Los Angeles Boundary



LAFHM A-20999
 City Ordinance No. 172081
 Adopted July 1998
 • Amended by City Council Motion 05-0332 Adopted
 February 22, 2005 in accordance with Ordinance No. 172081
 Sec. 3.A.2 BOE Special Order No. 034-0302



Figure 16

LOS ANGELES FLOOD HAZARD MAP (LAFHM)

CITY OF LOS ANGELES



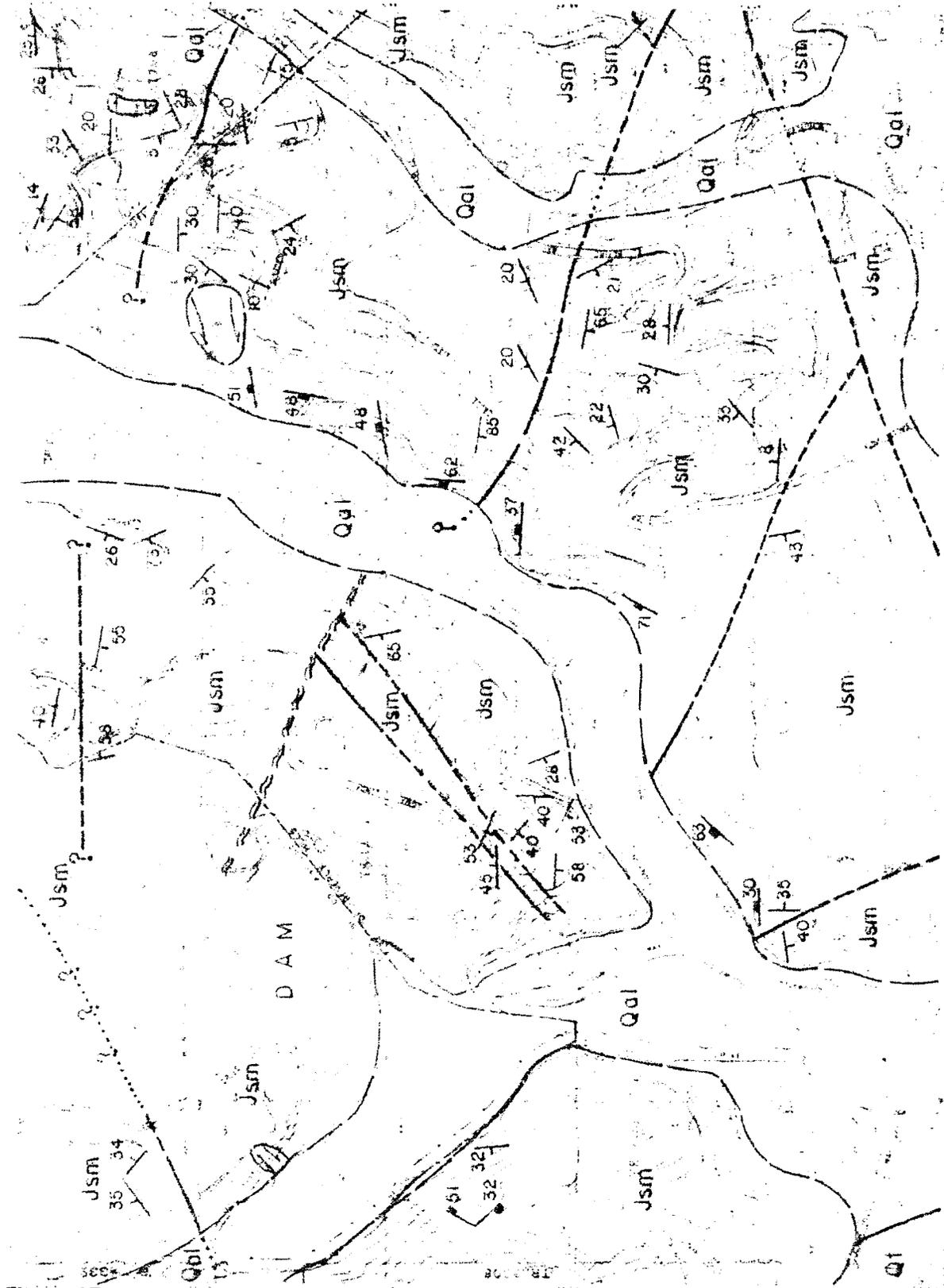
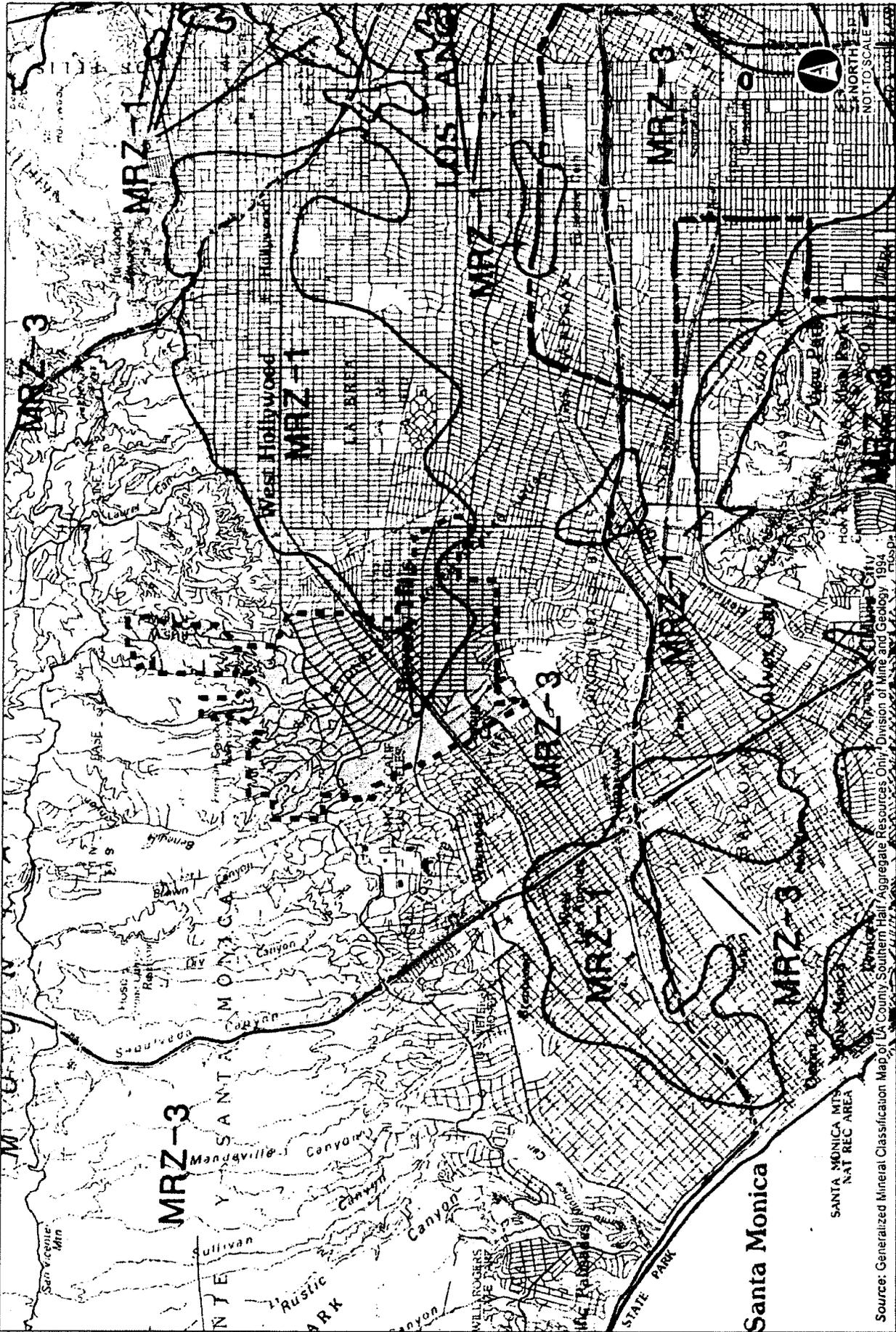


Figure 17



Mineral Resource Zones

Figure 18

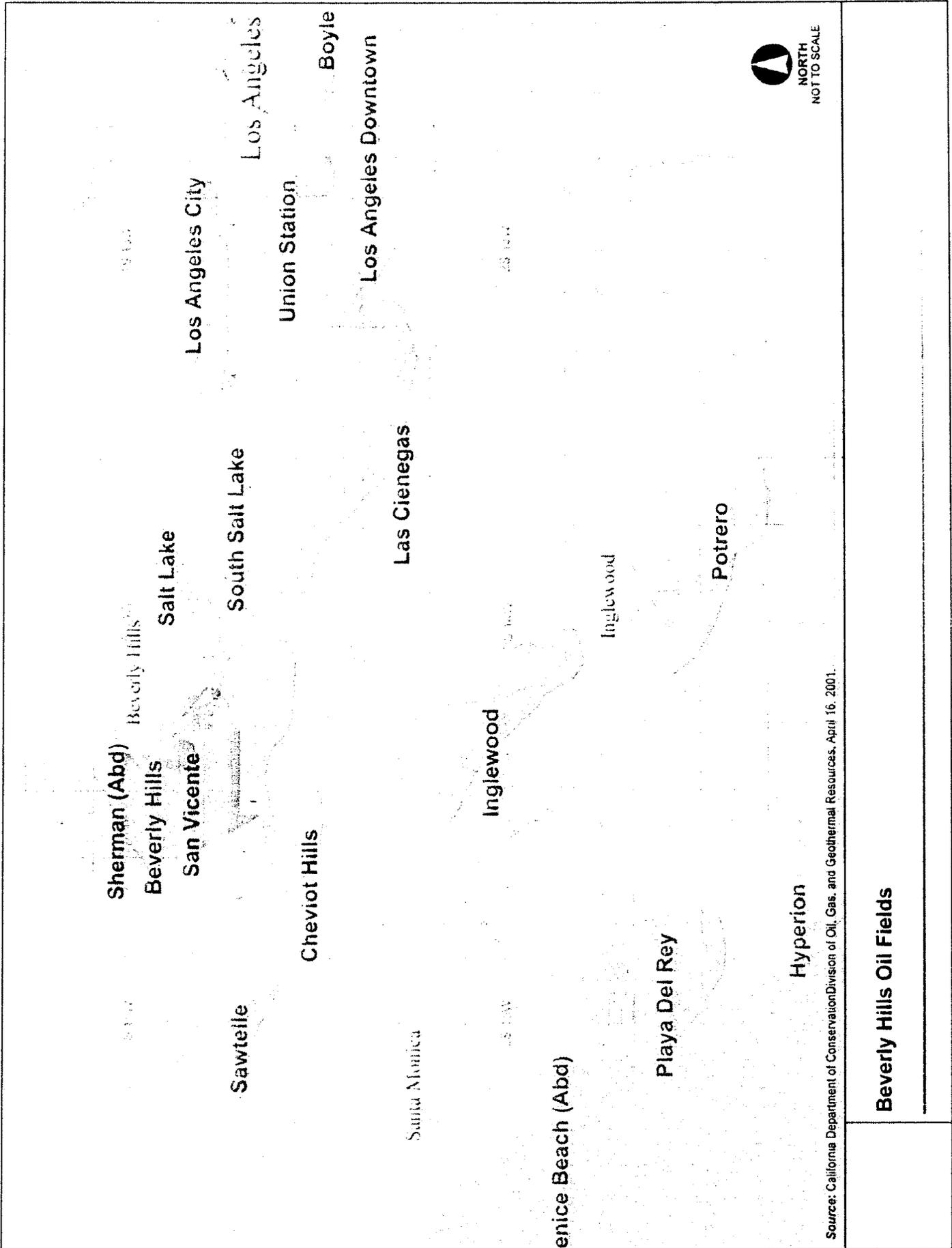
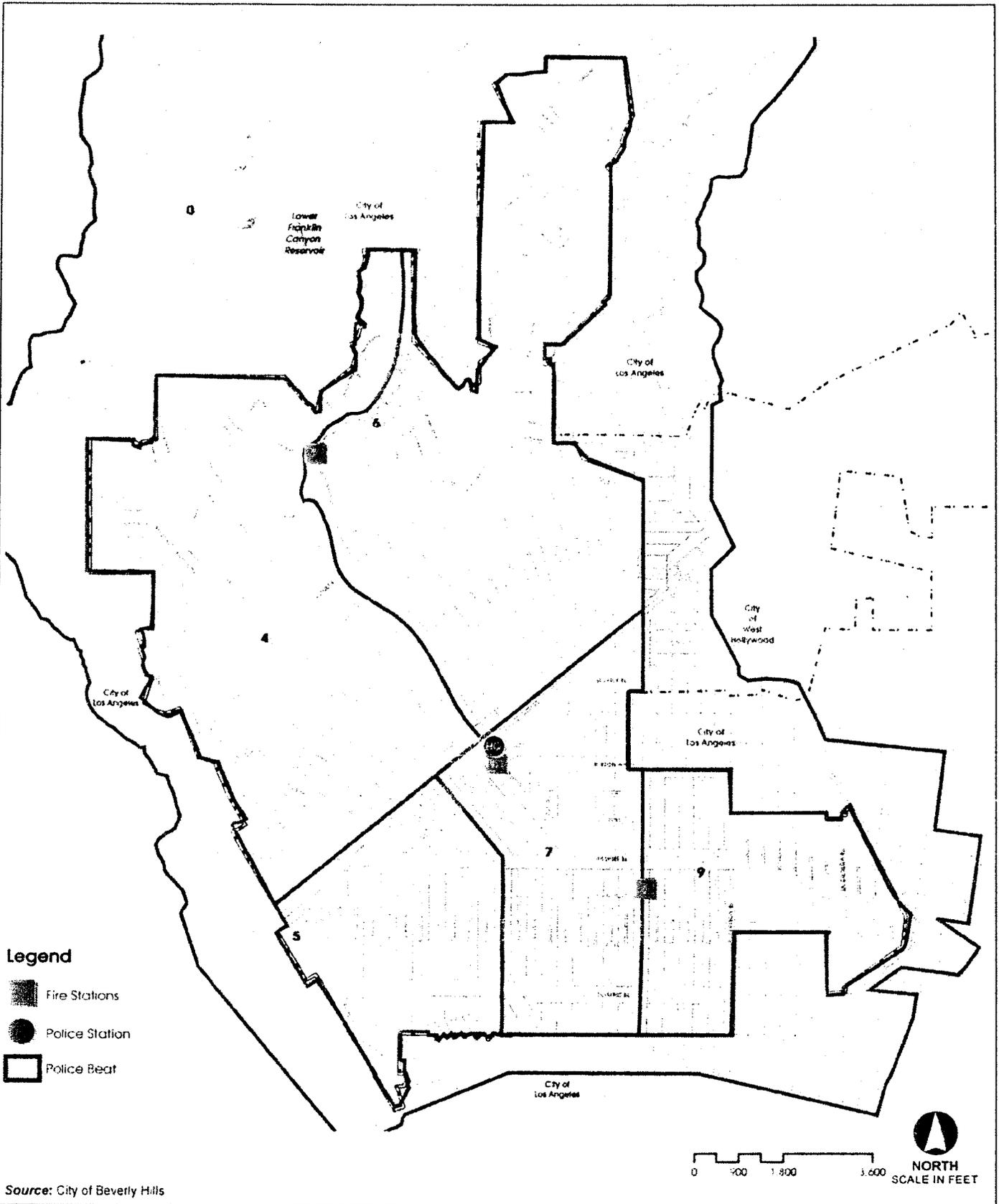


Figure 19



Source: City of Beverly Hills

Figure 21
Police and Fire Facilities