



AGENDA REPORT

Meeting Date: September 6, 2016

Item Number: H-4

To: Honorable Mayor & City Council

From: Ryan Gohlich, AICP, Assistant Director of Community Development

Subject: AN APPEAL OF THE COMMUNITY DEVELOPMENT DEPARTMENT'S APRIL 13, 2016 DETERMINATION REGARDING VIEW PRESERVATION ASSOCIATED WITH NEW CONSTRUCTION AT 1200 STEVEN WAY.

Attachments:

1. Resolution
2. View Preservation Determination
3. Appeal Petition
4. Applicant's Supporting Documentation and Correspondence
5. July 14, 2016 Planning Commission Report (without attachments)
6. BHMC §10-3-2522

RECOMMENDATION

It is recommended that the City Council review the Community Development Department's determination that the proposed new construction located at 1200 Steven Way will not substantially disrupt a view of the Los Angeles area basin, consider the Planning Commission's recommendation, and adopt a resolution denying the appeal and finding that the new construction at 1200 Steven Way will not substantially disrupt a view of the Los Angeles basin from the property at 1211 Laurel Way.

INTRODUCTION

This is an appeal of the Community Development Department's April 13, 2016 determination that proposed new construction located at 1200 Steven Way will not substantially disrupt a view of the Los Angeles area basin. The determination was made in accordance with BHMC §10-3-2522 (Attachment 6). On April 26, 2016, a timely appeal of the Community Development

Department's determination was filed by Sean Topp of Steckbauer Weinhart, LLP on behalf of the property owners of 1211 Laurel Way, the Ramin Delijani Trust. The appeal petition is provided as Attachment 3. Summaries of the appeal petition and the Community Development Department's determination are provided further in this report.

On June 21, 2016 the City Council considered the subject appeal and directed staff to present the matter to the Planning Commission so that the Commission could conduct a site visit and provide the City Council with its recommendation regarding any potential view impacts. The Commission's deliberations and recommendation are summarized below.

BACKGROUND

Municipal Code Provisions

Development in the Hillside Area of the City (generally the area north of Sunset Boulevard) is subject to a view preservation ordinance. The full text of the ordinance is provided as Attachment 6, and a summary of the provisions is provided as follows:

- Structures are allowed to be built by-right up to 14' in height, regardless of whether the structure would substantially disrupt a view of the Los Angeles area basin.
- Structures over 14' in height are subject to the City's view preservation ordinance, unless a 14' tall structure would have already caused substantial view disruption.
- Views are taken from 6' above the level pad on which the view owner's primary residence is located. A view must be of the Los Angeles area basin to be protected under the ordinance.
- A structure that is over 14' in height and does not substantially disrupt a view of the Los Angeles area basin is allowed to proceed with building permits and is not subject to additional review.
- A structure that is over 14' in height and does substantially disrupt a view of the Los Angeles area basin is subject to review by the Planning Commission pursuant to a Hillside R-1 Permit.

Proposed Project and Determination

The proposed project consists of a new single-family residence on the property located at 1200 Steven Way. The proposed project has a maximum height of approximately 27', and is therefore subject to review under the City's view preservation ordinance. As a component of this review, the project applicant was required to install story poles (flags outlining the proposed building envelope) on the subject property in order to provide visual reference as to how the property would be viewed from adjacent properties, and whether it would substantially disrupt a view of the Los Angeles area basin. After installation of the story poles, staff conducted a site visit to the appellant's property at 1211 Laurel Way in order to document the view and how it might be affected by the proposed new construction at 1200 Steven Way. Photographs were taken from the appellant's property to show the visibility of the proposed new construction, and are provided in Attachment 2 for reference.

Based on staff's review of the project, in conjunction with the story poles, site visit, and photographs of the view, it was determined that the proposed new construction at 1200 Steven Way would not substantially disrupt a view of the Los Angeles area basin. This conclusion was based on the overall

panoramic view of the Los Angeles area basin from the appellant's property relative to the minimal disruption caused by the 1200 Steven Way project. The appellant currently enjoys a panoramic view of the Los Angeles area basin that stretches from Westwood and Century City to the west, to downtown Los Angeles to the east. While the proposed project would be visible from the appellant's property, and would be included in the overall view if constructed, it does not represent a "substantial disruption" to the basin view enjoyed by the appellant, because the proposed project occupies a very small fraction of the total available Los Angeles area basin view with downtown Los Angeles remaining viewable both beyond and around the proposed project. Importantly, in implementing the view preservation codes, a "view" is considered to be the entire view, and is not narrowly limited to a single view corridor from a neighboring property that passes through the proposed development envelope.

Planning Commission Review

At the conclusion of the City Council's June 21, 2016 meeting, a majority of the City Council voted to refer the matter to the Planning Commission for its input prior to taking any final City Council action on the appeal. Accordingly, the view preservation determination was presented to the Planning Commission on July 14, 2016. At that meeting, the Planning Commission conducted a site visit at the project site (1200 Steven Way) and the appellant/view site (1211 Laurel Way). In order to assist the Planning Commission with its assessment, story poles were installed at the project site in order to depict the massing outline of the proposed new residence. While at the appellant/view site, the Commission studied the view from 6' above the level pad in accordance with Municipal Code provisions. Upon returning to City Hall, the Planning Commission heard testimony from representatives of the appellant, the project applicant, and a concerned neighbor located immediately south of the project site.

During the deliberations a majority of the Commission (Commissioners Block, Fisher, and Licht) commented that the proposed project occupied just a fraction of the total view, and that the limited disruption was not substantial or significant. The majority further concluded that the entire panoramic view should be taken into consideration, and that the review should not be limited strictly to the portion of the view through the proposed building envelope in which the new house is proposed. However, Chair Shooshani and Vice Chair Gordon expressed concern that the proposed project would disrupt a view of the Los Angeles area basin. At the conclusion of public comment and deliberations, a majority of the Planning Commission (3-2 with Chair Shooshani and Vice Chair Gordon dissenting) voted to recommend that the Council find that any view disruption caused by the project is not substantial or significant.

APPEAL ANALYSIS

The full content of the appeal petition is provided as Attachment 2. A summary of the appellant's arguments and staff responses are as follows:

1. The proposed project at 1200 Steven Way would substantially disrupt views of the Los Angeles area basin from the property located at 1211 Laurel Way.

Staff Response: As noted above, the proposed project at 1200 Steven Way will be visible within the overall panoramic view from 1211 Laurel Way; however, the project will occupy a small fraction of the overall panoramic view and does not constitute a "substantial disruption."

2. The view determination should not take vegetation into consideration, as vegetation is regulated under the CC&Rs for the Hillside Area.

Staff Response: The City does not enforce the CC&Rs for the area because the CC&Rs are a private agreement between the group of property owners subject to the CC&Rs. Accordingly, the City has no authority to require the trimming of vegetation that disrupts views, and must make its view determinations based on the present circumstances, rather than speculation on what views might exist if existing vegetation were to be removed. Regardless, the vegetation referenced by the appellant generally sits below the views of downtown Los Angeles, and even if the vegetation were to be removed it is unlikely that the views would be enhanced significantly.

3. Views should be assessed in accordance with the guidelines offered in the Trousdale view restoration ordinance.

Staff Response: Trousdale Estates is subject to its own, specific provisions and definitions for view restoration purposes, and the Trousdale Estates provisions are not transferable to the Hillside Area of the City, as the Hillside Area of the City has its own provisions. Although not applicable, even if the Trousdale Estates provisions were to be applied, they clearly state that a protectable view is not an unobstructed panorama of basin views. In the case of the subject property, the panoramic views of the basin are preserved even with the new construction, so there would still not be a substantial disruption.

4. The appellant asserts that the project is possibly over height, and that the height should be reviewed.

Staff Response: The building's height has been thoroughly reviewed on multiple occasions by the Community Development Department (including in response to City Council comments at the June 21, 2016 meeting) and has been confirmed to be in compliance with all applicable Municipal Code provisions. Furthermore, the City Attorney has confirmed that review of the building's height is a ministerial action that does not involve discretionary review, and is therefore not an appealable item. Therefore, the Council's review is limited only to the question of whether the project at 1200 Steven Way causes a "substantial disruption" to views of the Los Angeles area basin.

5. The appellant asserts that the project is possibly over the allowed maximum floor area for the property, and that the floor area should be reviewed.

Staff Response: The building's floor area has been thoroughly reviewed on multiple occasions by the Community Development Department (including in response to City Council comments at the June 21, 2016 meeting) and has been confirmed to be in compliance with all applicable Municipal Code provisions. Furthermore, the City Attorney has confirmed that review of the building's floor area is a ministerial action that does not involve discretionary review, and is therefore not an appealable item. Therefore, the Council's review is limited only to the question of whether the project at 1200 Steven Way causes a "substantial disruption" to views of the Los Angeles area basin.

Based on the foregoing, the appeal petition does not appear to contain any new information that would change the manner in which the project was reviewed against the City's view preservation ordinance, and staff continues to find, consistent with the determination of the majority of the Planning Commission, that the project would not substantially disrupt a view of the Los Angeles area basin.

ENVIRONMENTAL REVIEW

The Project has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.* ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*), and the City's Local CEQA Guidelines (hereafter the "Guidelines"). Staff recommends that the City Council, in its independent judgment, find that the project is exempt from CEQA pursuant to a Class 3 Categorical Exemption in accordance with the requirements of Sections 15303 of the Guidelines for the Project. The Class 3 exemption is applicable because the Project consists of the construction of one single-family residence and associated accessory structures.

RECOMMENDED ACTION

It is recommended that the City Council adopt a resolution finding that the new construction at 1200 Steven Way will not substantially disrupt a view of the Los Angeles basin from the property at 1211 Laurel Way.

FISCAL IMPACT

No fiscal impact to the City is anticipated from a Council decision in this matter.

PUBLIC NOTICE AND COMMENTS

The appellant and applicant were notified of the subject appeal hearing a minimum of 10 days in advance, and both parties indicated availability for a September 6, 2016 hearing date. In addition, the project applicant has submitted additional supporting documentation and correspondence, which is provided as Attachment 4.

Susan Healy Keene, AICP
Director of Community Development


Approved By

ATTACHMENT 1

RESOLUTION

RESOLUTION NO. 16-R-_____

RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS FINDING THAT NEW CONSTRUCTION AT 1200 STEVEN WAY WILL NOT SUBSTANTIALLY DISRUPT A VIEW OF THE LOS ANGELES AREA BASIN FROM THE PROPERTY AT 1211 LAUREL WAY.

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

Section 1. On April 13, 2016, the Community Development Department issued a determination finding that proposed new construction at 1200 Steven Way would not substantially disrupt a view of the Los Angeles area basin from the property located at 1211 Laurel Way. Said determination was made in accordance with BHMC §10-3-2522, and was based on the installation of story poles, site visits, photographs, and assessment of the proposed project in relation to the overall panoramic view available to the property located at 1211 Laurel Way.

Section 2. On April 26, 2016, a timely appeal of the Community Development Department's determination was filed by Sean Topp of Steckbauer Weinhart, LLP on behalf of the property owners of 1211 Laurel Way, the Ramin Delijani Trust (collectively the "Appellant"). Said appeal was filed in accordance with BHMC §1-4-101 et seq.

Section 3. On June 21, 2016, the City Council held a duly noticed public hearing to consider the appeal. Evidence, both written and oral, was presented at said hearing. Based upon the evidence contained in the record on this matter, the City Council requested that

the project first be referred to the Planning Commission so that the Planning Commission could conduct a site visit, study the issues, and forward a recommendation to the City Council.

Section 4. On July 14, 2016, in accordance with the City Council's request, the Planning Commission conducted a site visit of the properties located at 1200 Steven Way and 1211 Laurel Way, and held a duly noticed public hearing to consider the appeal. Evidence, both written and oral, was presented at said hearing. A majority of the Commission (Commissioners Block, Fisher, and Licht) commented that the proposed project occupied just a fraction of the total view of the Los Angeles area basin, and that the limited disruption was not substantial or significant. The majority further concluded that the entire panoramic view should be taken into consideration, and that the review should not be limited strictly to a single view corridor from a neighboring property that passes through the proposed development site. Based upon the evidence contained in the record on this matter, a majority of the Planning Commission (3-2 with Chair Shooshani and Vice Chair Gordon dissenting) determined that the proposed new construction at 1200 Steven Way would not result in a substantial disruption of a view of the Los Angeles area basin from the property located at 1211 Laurel Way, and voted to recommend that the City Council deny the appeal.

Section 5. On September 6, 2016, the City Council held a duly noticed public hearing to consider the appeal. Notice of the Project and appeal hearing was mailed on August 26, 2016 to the Appellant, applicant, and interested parties. Evidence, both written and oral, including the Planning Commission's recommendation, was presented at said hearing.

Section 6. The Project has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.* (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*), and the City’s Local CEQA Guidelines (hereafter the “Guidelines”), and the City Council, in its independent judgment, finds the project exempt from CEQA pursuant to a Class 3 Categorical Exemption in accordance with the requirements of Section 15303 of the Guidelines for the Project. The Class 3 exemption is applicable because the Project consists of the construction of one single-family residence and associated accessory structures.

Section 7. Based upon the evidence contained in the record on this matter, the City Council hereby finds that the proposed new construction at 1200 Steven Way will not substantially disrupt a view of the Los Angeles area basin from the Appellant’s property at 1211 Laurel Way. More specifically, the City Council, taking into consideration the panoramic view of the Los Angeles area basin and not the single view corridor from the Appellant’s property through the building envelope on the project site, finds that the proposed project occupies just a fraction of the total view of the Los Angeles area basin, and that the limited disruption is not substantial or significant.

Section 8. The City Clerk shall certify to the adoption of this resolution and shall cause this resolution and her certification to be entered in the Book of Resolutions of the Council of this City.

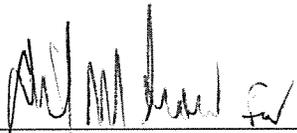
Adopted:

JOHN A. MIRISCH
Mayor of the City of Beverly Hills, California

ATTEST:

(SEAL)
BYRON POPE
City Clerk

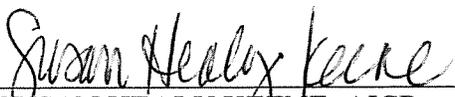
Approved as to form:



LAURENCE S. WIENER
City Attorney

Approved as to content:

MAHDI ALUZRI
City Manager



SUSAN HEALY KEENE, AICP
Director of Community Development

ATTACHMENT 2

VIEW PRESERVATION DETERMINATION



Ryan Gohlich, AICP, Assistant Director / City Planner
Community Development Department

April 13, 2016

Mark Egerman
280 S. Beverly Dr.
Suite 304
Beverly Hills, CA 90212

Re: 1200 Steven Way View Preservation

Dear Mr. Egerman:

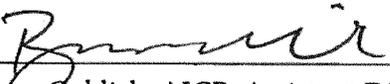
The purpose of this letter is to update you, as legal counsel for the property owners of 1211 Laurel Way, as to the City's decision regarding view preservation pertaining to proposed new construction at 1200 Steven Way.

Pursuant to Beverly Hills Municipal Code Section 10-3-2522, new construction over 14' in height in the Hillside Area is subject to certain restrictions if said new construction over 14' in height would "substantially disrupt a view of the Los Angeles area basin..."

Based on a review of the story poles installed at 1200 Steven Way, as well as a site visit by staff (inclusive of review of view simulations) to your client's property at 1211 Laurel Way, I hereby find that the proposed new construction at 1200 Steven Way will not substantially disrupt a view of the Los Angeles area basin from your client's property, and that construction in excess of 14' is authorized in accordance with the plans submitted to and on file in the Community Development Department.

This is a final determination, which may be appealed directly to the City Council within 14 days of the date of this letter in accordance with the procedures set forth in Article 1 of Chapter 4 of Title 1 of the Beverly Hills Municipal Code. All applicable appeal fees are due at the time of appeal filing. Please feel free to contact me at 310-285-1118 or rgohlich@beverlyhills.org if you have any questions regarding this letter.

Sincerely,



Ryan Gohlich, AICP, Assistant Director / City Planner
Community Development Department

Attachments: 1200 Steven Way View Simulation

Sheldon Nemoj was retained by the owner of 1211 Laurel Way, Beverly Hills, California to conduct a pictorial onsite visibility study of the Los Angeles basin as viewed from 1211 Laurel Way, Beverly Hills, California, with particular reference as to the impact that the proposed development at 1200 Steven Way, Beverly Hills, California would have on the easterly view of the Los Angeles Basin.

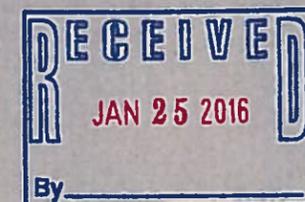
The study was done on November 4, 2015, by Sheldon Nemoj. The pictures were taken from the level pad of 1211 Laurel Way, Beverly Hills, California from a point six feet above the finished grade of the pad.

Present at the time of the study with Sheldon Nemoj were representatives of the City of Beverly Hills, representatives of the owner of 1211 Laurel Way, Beverly Hills, California, and representatives of the developer of 1200 Steven Way, Beverly Hills, California. The pictures were taken by Sheldon Nemoj on November 4, 2015, between approximately 4:00 p.m. and 5:30 p.m. and between 8:00 p.m. and 8:30 p.m.

Story poles connected by a red ribbon had been constructed by the developer on 1200 Steven Way, Beverly Hills, California and were represented to accurately represent the height of the proposed new development. Sheldon Nemoj assumed the height of the story poles correctly represented the height of the new project.

ONSITE VISABILITY STUDY OF THE LOS ANGELES BASIN FROM 1211 LAUREL WAY BEVERLY HILLS, CALIFORNIA

NOVEMBER 4, 2015



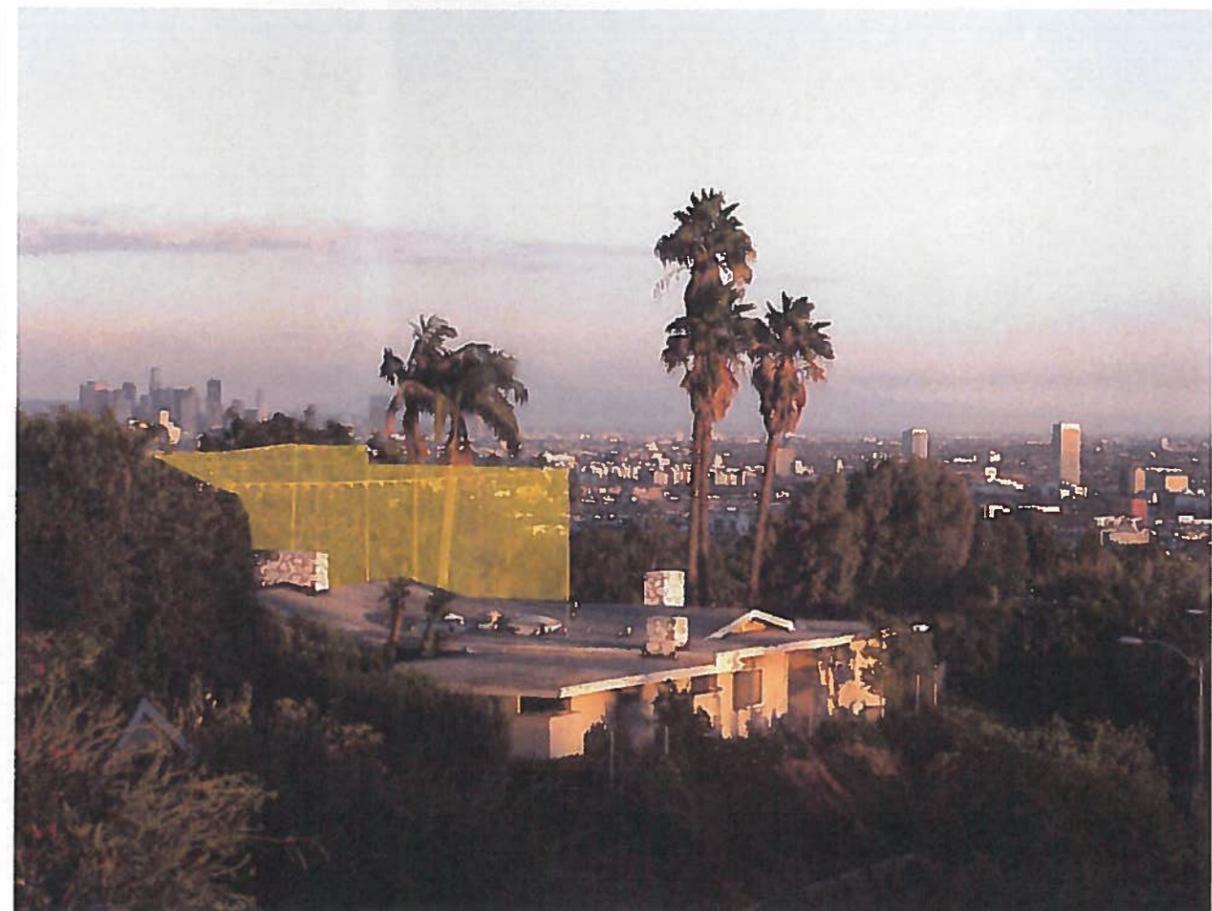
Objective of Visibility Study

The developer of 1200 Steven Way, Beverly Hills, California proposes to demolish the existing single story residence at 1200 Steven Way, Beverly Hills, California, raise the grade of the lot by three feet, and construct a

two story single family residence measuring 27 feet in height from the raised grade, or 30 feet in height from the existing grade.

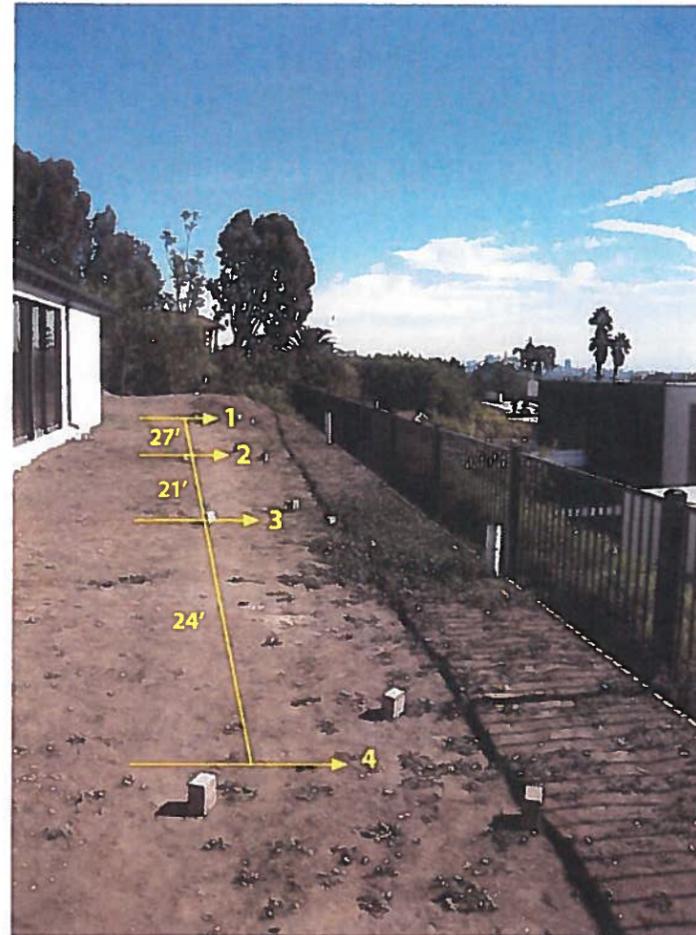
The purpose of this Visibility Study is to show the nature

and extent of the loss of view from 1211 Laurel Way, Beverly Hills, California if the currently proposed two story 30 foot high project is built at 1200 Steven Way, Beverly Hills, California.



Close up view from 1211 Laurel Way, Beverly Hills, looking east over 1200 Steven Way, Beverly Hills, showing blocked view area based on height of story poles placed on 1200 Steven Way.

View Points



Placement of View Points

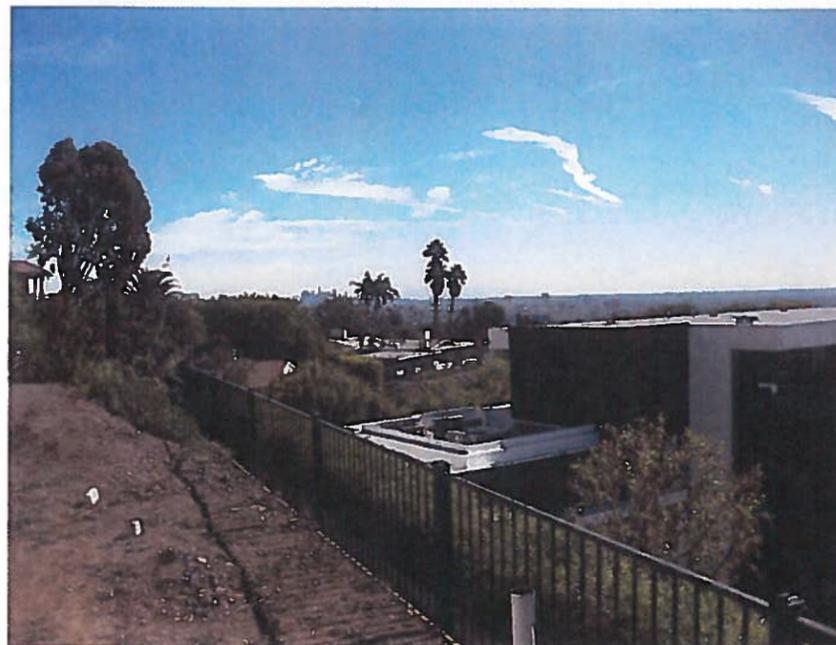
Placement of View Points: This picture depicts the view points at which the pictures for this study were taken at a height of 6 feet above grade. View point 1 is the easterly most view point, and view point 4 is the westerly most view point. The distance between view point 1 and 2 is 27 feet. The distance between view point 2 and 3 is 21 feet. The distance between view point 3 and 4 is 24 feet.



View Point 1



View Point 1 with blockage



View Point 2



View Point 2 with blockage



View Point 3



View Point 3 with blockage



View Point 4



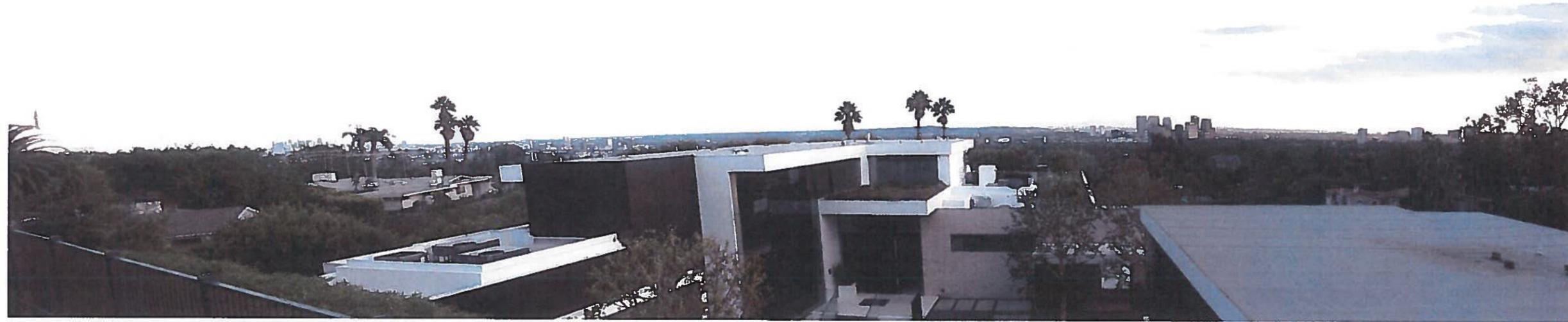
View Point 4 with blockage

Panorama Views

The two pictures below are a panoramic view from 1211 Laurel Way, Beverly Hills, California from the most easterly view to the most westerly view, one taken during the daytime and one taken at night. The view of the central section of the Los Angeles Basin is blocked by a large three story structure immediately south and

adjacent to 1211 Laurel Way, Beverly Hills, California. A substantial portion of the easterly view from 1211 Laurel Way, Beverly Hills, California will be blocked by the proposed project at 1200 Steven Way, Beverly Hills, California. If the project at 1200 Steven Way, Beverly Hills, California is constructed as presently designed, the

view from 1211 Laurel Way, Beverly Hills, California will be reduced to approximately one third of its potential view due to the existing structure to the south and the proposed development at 1200 Steven Way, Beverly Hills, California.



Without Blockage



With Blockage



Without Blockage



With Blockage

ATTACHMENT 3

APPEAL PETITION



STECKBAUER
WEINHART, LLP

333 S. Hope St., 36th Floor
Los Angeles, CA 90071

Phone: 213.229.2868
Fax: 213.229.2870

www.swesq.com

By: Sean A. Topp
stopp@swesq.com

April 26, 2016

VIA HAND DELIVERY

City Clerk
City of Beverly Hills
455 North Rexford Dr., Room 290
Beverly Hills, CA 90210

RECEIVED
CITY OF BEVERLY HILLS
2016 APR 26 A 11:40
CITY CLERK'S OFFICE

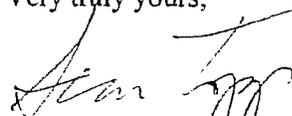
Re: Appeal of April 13, 2016 Decision by City Planner Ryan Gohlich

Dear City Clerk:

Pursuant to Beverly Hills Municipal Code section 1-4-101, et seq., enclosed is the Ramin Delijani Trust's appeal of the April 13, 2016 decision by City Planner Ryan Gohlich related to the planned development at 1211 Laurel Way, Beverly Hills, CA 90210 along with the applicable \$5,149.00 filing fee.

Based on the fact that a key exhibit to this appeal contains color photographs, we have enclosed eight (8) color copies of the appeal and its exhibits so that each council member and each city planning department staff member can have a complete color copy of this appeal. If you have any questions feel free to call me or Bill Steckbauer of my office at any time.

Very truly yours,


Sean A. Topp
STECKBAUER WEINHART, LLP

SAT
Enclosures
cc: Client

**APPEAL PETITIONS MUST BE FILED WITH THE CITY CLERK'S OFFICE WITHIN
14 CALENDAR DAYS AFTER THE DATE OF THE DECISION**

APPEAL TO _____ COMMISSION OR CITY COUNCIL

PLEASE TYPE OR PRINT CLEARLY IN BLACK INK

4/25/16

Date

In accordance with the appeals procedure as authorized by the provisions of the Beverly Hills Municipal Code, the undersigned hereby appeals from the decision of Ryan Gohlich, Asst. Director, City Planner (Official, Board or Commission involved) rendered on April 13, 2016, _____; which decision consisted of: The grounds submitted for this appeal are as follows: *(WARNING: State all grounds for appeal. Describe how decision is inconsistent with law. Use extra paper if necessary.)*

The owner of 1211 Laurel Way, the Ramin Delijani Trust hereby appeals the decision April 13, 2016 decision of Ryan Gohlich, Assistant Direct/City Planner of the Beverly Hills Community Development Department regarding the proposed development at 1200 Steven Way. The grounds for appeal are set forth in full in Attachment 1 hereto.

RECEIVED
CITY OF BEVERLY HILLS
2016 APR 26 P 2:23
CITY CLERK'S OFFICE

The undersigned discussed the decision being appealed with:

See Attachment 1 hereto

on _____

(Department Head(s) Involved)

Date

It is requested that written notice of the time and place for the hearing on this appeal before the City Council be sent to:

William W. Steckbauer, Esq.

333 S. Hope St., Los Angeles, CA 90071 (213) 229-2868

Name

Address



Signature of appealing party/Attorney for Ramin Delijani Trust

333 S. Hope St., Los Angeles, CA 90071

Address

Tel: (213) 229-2868 / Fax: (213) 229-2870

Telephone Number & Fax Number

Fee Paid \$5,149

(For City Clerk's use)

DATE RECEIVED 4/26/16

LOG NO. 21x16

Written Notice mailed to appellant:

Copies to: City Council, City Manager, City Attorney, Community Development
Involved Department

Attachment 1 to Appeal Petition to Beverly Hills City Council

I am the representative of the Ramin Delijani Trust, under declaration of trust dated August 17, 1981. ("Trust") The Trust is the fee owner of that certain real property located at 1211 Laurel Way, Beverly Hills, California 90210 ("1211 Property") and legally described as follows: Lot 26 of Tract No. 15008, as per Map recorded in Book 488, Pages 3 to 9, inclusive of Maps, recorded in the Office of the County Recorder of Los Angeles County, State of California.

I am informed and believe that Cojo Investments, LLC is the owner of the neighboring property located within 300 feet of the 1211 Property with a legal address of 1200 Steven Way. (the "Stevens Way Property"). The Stevens Way Property is currently improved with a single story residential home. The Stevens Way Property is slightly downhill to the South East of the 1211 Property. The owner of the Stevens Way Property is proposing to demolish the existing single story residence and construct an entirely new two story single family residence that will equal if not exceed the maximum height limit set forth in the City of Beverly Hills Code, Article 25, entitled Single-Family Residential Development Standards For The Hillside Area Of The City. The proposed development will measure twenty-seven feet (27') above a new raised grade, which results in the project being thirty feet (30') above the existing grade. I and my representatives have met on several occasions with the principal of Cojo Investments, LLC and with Beverly Hills City Planning officials to voice our sincere concerns that this spec home development, if allowed to be constructed, will substantially disrupt, destroy and interfere with the protected Los Angeles basin view from the 1211 Property. (See Municipal Code section 10-3-2522) .

On September 24, 2015, at the City of Beverly Hills a meeting was held regarding the proposed development at the Stevens Way Property. Present at the meeting were the following individuals:

1. Mr. Ray Balderas - City Planning Staff
2. Dr. and Mrs. Isaac Hakim (neighbor to the South)
3. Mr. Michael Delijani
4. Shahram Deljani
5. Mr. Hamid Gabbay, and
6. Mark Egerman, Esq.

Ray Balderas informed the group that based on a City review of the plans for the Stevens Way Property development, such plans appeared to comply with all code requirements of the City of Beverly Hills and, therefore, did not need to be reviewed by the Planning Commission. Mr. Balderas did indicate that he would require the owner of the Stevens Way Property to put up story poles for further review and inspection.

An additional meeting was subsequently held at the 1211 Property on November 4, 2015 to inspect the placement of the story poles on the Stevens Way Property and the view from the 1211 Property. In attendance at this meeting were representatives from and the attorney for the Stevens Way Property, City Officials, including Mr. Balderas, representatives and the attorneys for the owner of the 1211 Property and Mr. Sheldon Nemo, who was retained by the owners of the 1211 Property to photograph and prepare an onsite visibility study of the Los Angeles Basin

from the 1211 Property. This study was subsequently prepared and submitted to the City of Beverly Hills on January 25, 2016. A true and correct copy of the Visibility Study is attached hereto as Exhibit A.

On April 13, 2016, Beverly Hills City planner, Ryan Gohlich, issued a letter to our attorney stating that "I hereby find that the proposed new construction at 1200 Steven Way will not substantially disrupt a view of the Los Angeles area basin from your client's property, and that construction in excess of 14' is authorized in accordance with the plans submitted to and on file in the Community Development Department." He further noted that "[t]his is a final determination, which may be appealed directly to the City Council within 14 days of the date of this letter in accordance with the procedures set forth in Article 1 of Chapter 4 of Title 1 of the Beverly Hills Municipal Code. A true and correct copy of Mr. Gohlich's April 13, 2016 letter, along with the Visibility Study which was attached thereto are collectively attached hereto as Exhibit B. There has been no submittal, review or determination by the Beverly Hills Planning Department; the decision has been made by Mr. Gohlich alone. Mr. Gohlich's decision is arbitrary, improper and based upon his misreading of the Beverly Hills rules governing View preservation and must be reversed. There is no doubt that city planner Gohlich's arbitrary determination is in error and the proposed Steven Way Property project violates Beverly Hills Municipal Code section 10-3-2522. Views add millions of dollars of value to properties in Beverly Hills and the arbitrary and unsupportable decision of the Assistant Director/City Planner will result in the destruction of protected view and substantially diminish the value of the 1211 Property. Such decision must be overturned.

Specifically, Beverly Hills Municipal Code section 10-3-2522 provides:

A. Except as authorized by a Hillside R-1 permit issued pursuant to article 25.5 of this chapter, and notwithstanding the provisions of section 10-3-2503 of this article concerning building heights, no structure in the Hillside Area shall be constructed to a height in excess of fourteen feet (14') if such construction in excess of fourteen feet (14') would substantially disrupt a view of the Los Angeles area basin from the level pad which contains the primary residential building on a property within three hundred feet (300') of the subject property, and such view would not have been substantially disrupted by development of a fourteen foot (14') structure. Notwithstanding the provisions of subsection D of the definition of "height of building", section 10-3-100 of this chapter, for purposes of this section, measurement of the height of the building or structure to be constructed at any point shall mean the vertical distance between that point and the point below it on a plane defined by ground level as it existed on September 4, 1992, at all points along the building or structure perimeter. (emphasis added).

Thus, it is clear that in order to permit the proposed development at the Stevens Way Property to proceed in the manner in which it has been approved, its developer must prove to the City ("no structure ... shall be constructed in excess of 14 feet...") that the proposed development in excess of fourteen feet (14') would not "substantially disrupt a view of the *Los Angeles area basin*" from a qualifying neighboring residence. The 1211 Property is a qualifying residence within 300 feet of the subject. Mr. Gohlich does not state that he visited the subject properties and was not present during the November 4, 2015 meeting at the 1211 Property to

view the substantial disruption of view from the 1211 Property in reaching his arbitrary decision. It appears from his April 13th letter that he merely reviewed the View Study commissioned by the owner of the 1211 Property (See, Exhibit B hereto).

As explained in the Visibility Study attached hereto as Exhibit A, including in the pictures contained therein, the development at the Stevens Way Property will most certainly result in a substantially disruption of the view of the Los Angeles area basin from my home at 1211 Laurel Way. In fact, as the Visibility Study concludes **“the view from 1211 Laurel Way, Beverly Hills, California will be reduced to approximately one third of its potential view due to the existing structure to the south and the proposed development at 1200 Steven Way, Beverly Hills, California.”** Neither the developer of 1200 Steven Way nor any member of the city planner’s office has offered any evidence to dispute these findings. This further proves that city planner Gohlich’s April 13, 2016 decision is truly arbitrary and capricious and made in error and in violation of Article 25, 10-3-2522.

Section 10-3-2522 provides for the consideration of two elements in the conjunctive. In other words, this section requires that two separate considerations must be reviewed and must both exist in order to reach a proper determination under 10-3-2522. The section provides in pertinent part:

“no structure in the Hillside Area shall be constructed to a height in excess of fourteen feet (14’) [(1)] if such construction in excess of fourteen feet (14’) would substantially disrupt a view of the Los Angeles area basin from the level pad which contains the primary residential building on a property within three hundred feet (300’) of the subject property, and [(2)] such view would not have been substantially disrupted by development of a fourteen foot (14’) structure.

No logical or reasonable neutral person giving consideration to these two expressed considerations could have possibly concluded that the proposed development would not violate this section. First, it is without a doubt that the existing single story residential unit on the Stevens Way Property does not disrupt, substantially or otherwise the Los Angeles area basin view from the 1211 Property . One need only look at the pictures attached to the View Study. While one may at first glance look at these pictures and conclude that the Los Angeles view is impaired by the existing foliage, foliage is not the issue here and may not be considered in the analysis under 10-3-2522. Foliage and its impact upon views is addressed in this neighborhood by the governing CC&R’s which protect views impaired by the overgrowth of foliage. The owner of the Stevens Way Property is imminently aware of these CC&R’s as the owner has filed legal action against another third party neighbor seeking to have that neighbor perform view restoration tree trimming of trees that they claim block the existing view from the Stevens Way Property. (See attached complaint filed by the owner of the Stevens Way Property on November 26, 2014 attached hereto as Exhibit C). Moreover, the owner of the Stevens Way Property has already told the owner of the 1211 Property that they will be trimming and removing trees that impair the view from the 1211 Property.

In the analysis made pursuant to 10-3-2522, the City is not considering a view disruption from the growth of foliage, it is considering the allowance of the construction of a **permanent**

structure, and a permanent blockage and permanent and substantial disruption of views that may not be addressed by the association CC&R's. Therefore, one must look beyond the trimable foliage in making a determination under section 10-3-2522. This, Mr. Gohlich most certainly failed to do.

Section 10-3-2522 defines the protectable view of a homeowner as "...view of the Los Angeles area basin from the level pad which contains the primary residential building..." There is no further clarification of what constitutes the view of the Los Angeles area basin. However, in preparing the Trousdale Estates View Restoration ordinance, Beverly Hills Staff recently prepared a staff report that defined the "Protectable View" in pertinent part as:

"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." (See Exhibit D hereto).

This staff report also noted the use of the same Los Angeles area basin view in the view preservation regulations for the Hillside Area of the City, i.e., 10-3-2522.

Although the City Council members may not be able to physically inspect the substantial view disruption from the soon to be permitted development at the Stevens Way Property, Council members are directed to the array of pictures in the View Study, and in particular the night pictures depicted on the last page of the View Study. In these pictures the substantial disruption, no almost total destruction, of the view of the city lights of the Los Angeles basin is clearly depicted and can be seen through the yellow colored building envelop of the proposed development. This viewing will also note the abomination and view destruction that the City of Beverly Hills previously allowed through the permitted construction of the adjacent structure just to the South of the 1211 Property. The southern view is all but gone through the City's previous approvals of other development and the south easterly view is now proposed to be destroyed. This must not happen.

Moreover, during at least one meeting at the 1211 Property regarding this issue, city planning staff informed various of my representatives, in my presence, that that the proposed Steven Way Property development would not substantially disrupt my view of the "buildings downtown." Disrupting the view of the buildings is not the standard under the Municipal Code which nowhere mentions or even infers a view of the downtown buildings. Instead, the standard provided by Section 10-3-2522 is that the view of the "Los Angeles area basin" as a whole cannot be substantially disrupted. City planner Gohlich failed to recognize this standard in making his determination, failed to view the properties himself, failed to make his determination with the aid of the full planning commission and failed to consider the substantially disrupted view independent of any temporary view interference of the overgrown foliage on the Stevens Way Property, all of which failures results in his findings running afoul of Municipal Code section 10-3-2522 and constitute an abuse of discretion which must be overturned.

Based on these facts, the City Planner clearly erred and abused his discretion in making his arbitrary finding that the Steven Way Property development would not run afoul of

Municipal Code section 10-3-2522 and the City Planner's April 13, 2016 decision violates Municipal Code section 10-3-2522 . The April 13, 2016 determination by city planner Ryan Gohlich must be overturned and the project at 1200 Steven Way must be required to comply with Municipal Code section 10-3-2522 and be limited to a height of no more than 14 feet above the existing grade.

In addition, it must be further investigated whether the project at 1200 Steven Way is actually a two story residence less than thirty feet above the existing pad or whether it is actually a three story residence that improperly exceeds the thirty foot (30') height limit provided by Municipal Code section 10-3-2503. Specifically, the plans for this project claim that the bottom floor is simply a "basement" and therefore this alleged basement has not been included in determining the height of the building. Identifying this bottom floor as a "basement" is suspect and improper as the project proposes that this bottom floor basement will have open windows facing the street on the east and west side of the building. Basements do *not* have windows. This mislabeled "basement", is actually a first floor and this proposed new development is actually a three story structure disguised as a two story structure to improperly evade the height restrictions clearly set forth in the City Code. The height measurement must be taken from this newly excavated first floor pad which if done, would clearly demonstrate a violation of 10-3-2503 and provide an independent grounds or the reversal of the City planning commissioner's sole determination and a disapproval of the proposed plans as presented to the City.

It also must be investigated whether the total square footage of the 1200 Steven Way project exceeds the 15,000 square foot limit provided by 10-3-2502 once the full square footage of the true first floor (alleged basement) is actually included in the total square footage of the project. This was not considered by the city planner's department and this City Council must order the city planner's department to conduct such an investigation and include all appropriate square footage in its determination.

For these reasons, city planner Ryan Gohlich's April 13, 2016 determination that the Steven Way Property development does not violate the Beverly Hills' municipal code must be overturned and no development permits issued for the construction of any new dwelling structure with a height in excess of 14 feet.

Exhibit A

Sheldon Nemoy was retained by the owner of 1211 Laurel Way, Beverly Hills, California to conduct a pictorial onsite visibility study of the Los Angeles basin as viewed from 1211 Laurel Way, Beverly Hills, California, with particular reference as to the impact that the proposed development at 1200 Steven Way, Beverly Hills, California would have on the easterly view of the Los Angeles Basin.

The study was done on November 4, 2015, by Sheldon Nemoy. The pictures were taken from the level pad of 1211 Laurel Way, Beverly Hills, California from a point six feet above the finished grade of the pad.

Present at the time of the study with Sheldon Nemoy were representatives of the City of Beverly Hills, representatives of the owner of 1211 Laurel Way, Beverly Hills, California, and representatives of the developer of 1200 Steven Way, Beverly Hills, California. The pictures were taken by Sheldon Nemoy on November 4, 2015, between approximately 4:00 p.m. and 5:30 p.m. and between 8:00 p.m. and 8:30 p.m.

Story poles connected by a red ribbon had been constructed by the developer on 1200 Steven Way, Beverly Hills, California and were represented to accurately represent the height of the proposed new development. Sheldon Nemoy assumed the height of the story poles correctly represented the height of the new project.

ONSITE VISABILITY STUDY OF THE LOS ANGELES BASIN FROM 1211 LAUREL WAY BEVERLY HILLS, CALIFORNIA

NOVEMBER 4, 2015

Objective of Visibility Study

The developer of 1200 Steven Way, Beverly Hills, California proposes to demolish the existing single story residence at 1200 Steven Way, Beverly Hills, California, raise the grade of the lot by three feet, and construct a

two story single family residence measuring 27 feet in height from the raised grade, or 30 feet in height from the existing grade.

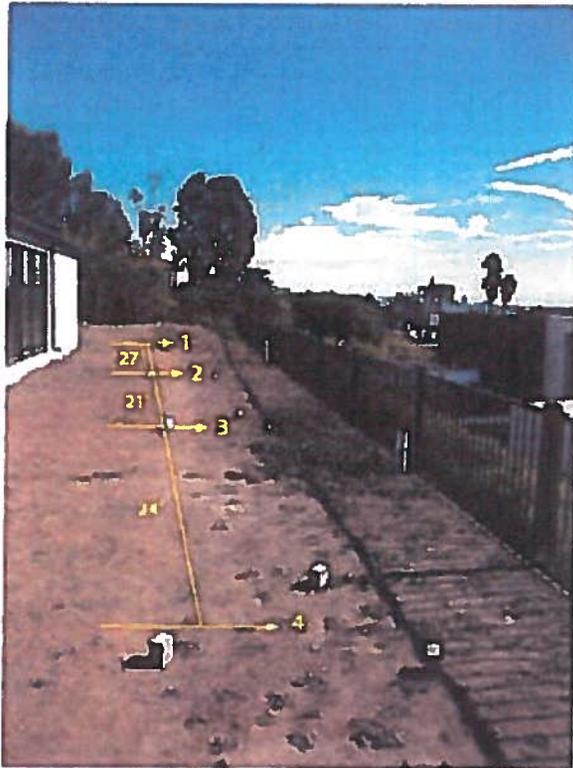
The purpose of this Visibility Study is to show the nature

and extent of the loss of view from 1211 Laurel Way, Beverly Hills, California if the currently proposed two story 30 foot high project is built at 1200 Steven Way, Beverly Hills, California.



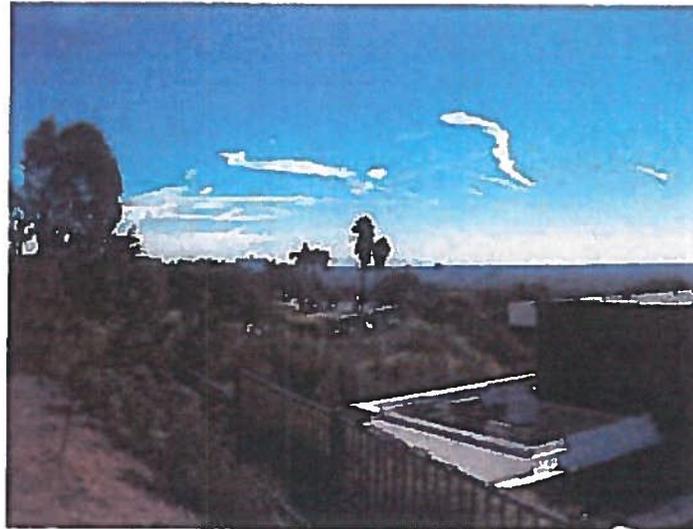
Close up view from 1211 Laurel Way, Beverly Hills, looking east over 1200 Steven Way, Beverly Hills, showing blocked view area based on height of story poles placed on 1200 Steven Way.

View Points

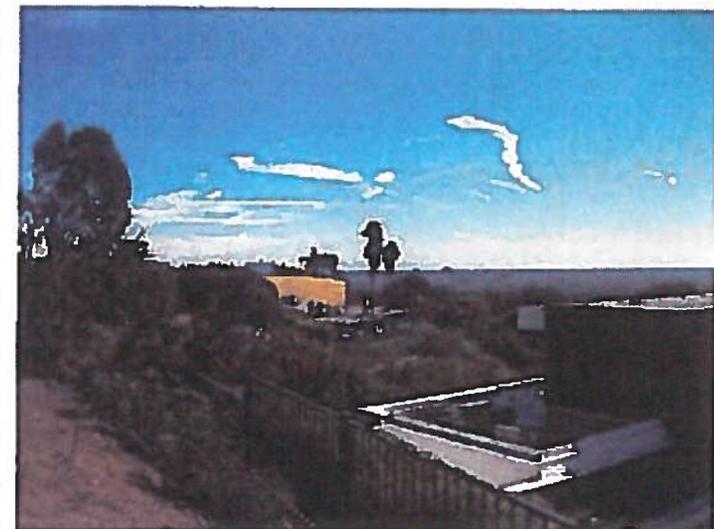


Placement of View Points

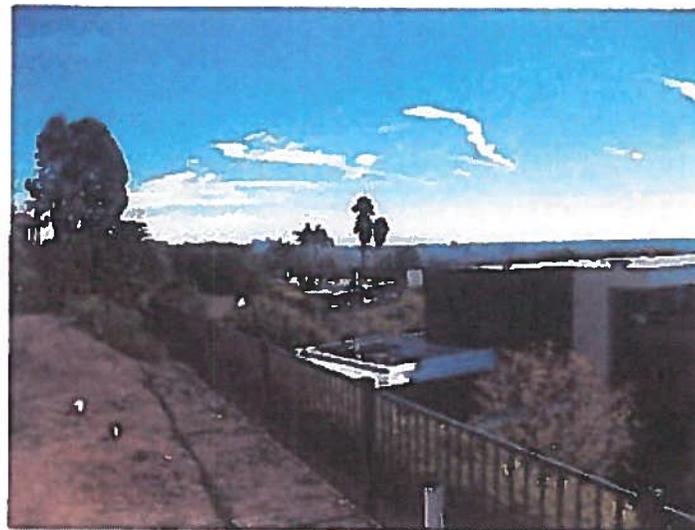
Placement of View Points: This picture depicts the view points at which the pictures for this study were taken at a height of 6 feet above grade. View point 1 is the easterly most view point, and view point 4 is the westerly most view point. The distance between view point 1 and 2 is 27 feet. The distance between view point 2 and 3 is 21 feet. The distance between view point 3 and 4 is 24 feet.



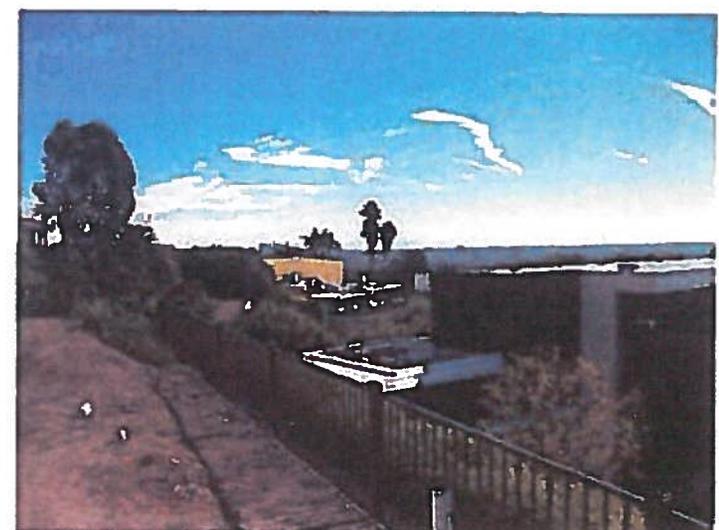
View Point 1



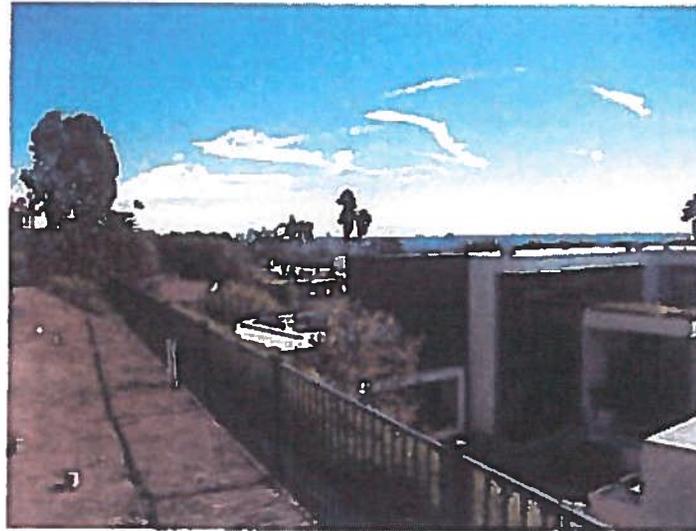
View Point 1 with blockage



View Point 2



View Point 2 with blockage



View Point 3



View Point 3 with blockage



View Point 4



View Point 4 with blockage

Panorama Views

The two pictures below are a panoramic view from 1211 Laurel Way, Beverly Hills, California from the most easterly view to the most westerly view, one taken during the daytime and one taken at night. The view of the central section of the Los Angeles Basin is blocked by a large three story structure immediately south and

adjacent to 1211 Laurel Way, Beverly Hills, California. A substantial portion of the easterly view from 1211 Laurel Way, Beverly Hills, California will be blocked by the proposed project at 1200 Steven Way, Beverly Hills, California. If the project at 1200 Steven Way, Beverly Hills, California is constructed as presently designed, the

view from 1211 Laurel Way, Beverly Hills, California will be reduced to approximately one third of its potential view due to the existing structure to the south and the proposed development at 1200 Steven Way, Beverly Hills, California.



Without Blockage



With Blockage



Without Blockage



With Blockage

Exhibit B



Ryan Gohlich, AICP, Assistant Director / City Planner
Community Development Department

April 13, 2016

Mark Egerman
280 S. Beverly Dr.
Suite 304
Beverly Hills, CA 90212

Re: 1200 Steven Way View Preservation

Dear Mr. Egerman:

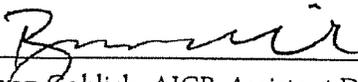
The purpose of this letter is to update you, as legal counsel for the property owners of 1211 Laurel Way, as to the City's decision regarding view preservation pertaining to proposed new construction at 1200 Steven Way.

Pursuant to Beverly Hills Municipal Code Section 10-3-2522, new construction over 14' in height in the Hillside Area is subject to certain restrictions if said new construction over 14' in height would "substantially disrupt a view of the Los Angeles area basin..."

Based on a review of the story poles installed at 1200 Steven Way, as well as a site visit by staff (inclusive of review of view simulations) to your client's property at 1211 Laurel Way, I hereby find that the proposed new construction at 1200 Steven Way will not substantially disrupt a view of the Los Angeles area basin from your client's property, and that construction in excess of 14' is authorized in accordance with the plans submitted to and on file in the Community Development Department.

This is a final determination, which may be appealed directly to the City Council within 14 days of the date of this letter in accordance with the procedures set forth in Article 1 of Chapter 4 of Title 1 of the Beverly Hills Municipal Code. All applicable appeal fees are due at the time of appeal filing. Please feel free to contact me at 310-285-1118 or rgohlich@beverlyhills.org if you have any questions regarding this letter.

Sincerely,



Ryan Gohlich, AICP, Assistant Director / City Planner
Community Development Department

Attachments: 1200 Steven Way View Simulation

Exhibit C

1 MARC E. ROHATINER (State Bar No. 82709)
2 WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP
3 11400 West Olympic Boulevard, 9th Floor
4 Los Angeles, California 90064-1582
5 Telephone: (310) 478-4100
6 Facsimile: (310) 479-1422

7 Attorneys for plaintiff, COJO
8 INVESTMENTS, LLC

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Superior Court of California
County of Los Angeles

NOV 26 2014

Sherri R. Carter, Executive Officer/Clerk
By _____, Deputy
Nelly Valles

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, WEST DISTRICT

COJO INVESTMENTS, LLC, a California
limited liability company

Plaintiff,

vs.

ISAAC HAKIM, individually and as
Trustee of the Isaac and Shirley Hakim
Living Trust; SHIRLEY HAKIM,
individually and as Trustee of the Isaac and
Shirley Hakim Living Trust; and DOES 1
through 30, inclusive,

Defendants.

Case No. SC123452

COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF

Trial Date: None

CASE MANAGEMENT CONFERENCE
DATE: 3/14/15
HART COLE
Date

Dept 0
8301

FIRST CAUSE OF ACTION

(Breach of Written Covenants As Against All Defendants)

1. The true names or capacities, whether individual, corporate, associate,
governmental or otherwise, of defendants sued herein as DOES 1 through 30, inclusive,
are unknown to plaintiffs at the present time and plaintiffs, therefore, sues said defendants
by such fictitious names; plaintiffs after obtaining leave of Court, if necessary, will amend
this complaint to show such true names and capacities when they have ascertained same.

2. Plaintiffs are informed and believe, and thereon allege, that defendants, and
each of them, designated herein as DOES 1 through 30, inclusive, are responsible in some
manner for the occurrences and happenings herein alleged, and that plaintiffs' injuries and

1 damages as herein alleged were and are the direct and proximate result of the actions of
2 said defendants, and each of them. Said defendants are sued as principals or agents,
3 partners, servants and employees of said principals, or any combination thereof, and all of
4 the acts performed by them as agents, partners, servants and employees were performed
5 within the course and scope of their employment, and with the knowledge, consent,
6 approval and ratification of said principals, and each of them.

7 3. Plaintiffs are informed and believe, and thereon allege, that at all times
8 mentioned herein, each of the defendants was the agent, employee and partner of each of
9 the remaining defendants, and was acting within the scope and authority of such agency,
10 employment and partnership and with the knowledge, consent, approval and ratification of
11 the remaining defendants, and each of them.

12 4. Whenever in this complaint reference is made to any act of a defendant, such
13 allegation shall be deemed to mean the acts of the defendants named in the particular cause
14 of action, and each of them, acting individually, jointly and severally.

15 5. At all times mentioned herein, plaintiff, COJO Investments, LLC
16 ("Plaintiff"), was and now is a limited liability company organized and existing under the
17 laws of the State of California and is authorized to and is doing business in Los Angeles
18 County, California. Since on or about May 24, 2013, Plaintiff has owned a single family
19 residence located at 1200 Steven Way, Beverly Hills, California 90210 (the "COJO
20 Property").

21 6. Plaintiff is informed and believes, and thereon alleges that at all times
22 mentioned herein, defendant, Isaac Hakim, individually and as Trustee of the Isaac and
23 Shirley Hakim Living Trust and Shirley Hakim, individually and as Trustee of the Isaac
24 and Shirley Hakim Living Trust (collectively "Defendants"), were and now are the
25 residents and owners of 1211 Steven Way, Beverly Hills, California 90210, County of Los
26 Angeles, State of California (the "Hakim Property").

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1 7. The COJO Property and the Hakim Property are adjoining properties and are
2 located within the boundaries of Beverly Hill Estates. The COJO Property is upslope from
3 the Hakim Property.

4 8. The single family residences in Beverly Hills Estates, including the COJO
5 Property and the Hakim Property, are governed by a recorded Declaration of
6 Establishment of Protective Covenants and Restrictions ("Declaration") which was dated
7 August 12, 1953 and recorded in the Los Angeles County Recorder's Office on September
8 4, 1953. A true and correct copy of the Declaration is attached hereto as Exhibit "A" and
9 incorporated herein by reference.

10 9. The Declaration was Amended on three occasions with the following
11 recorded documents:

12 a. A first amendment dated on or about September 29, 1953 (the "First
13 Amendment"). A true and correct copy of the First Amendment is attached hereto as
14 Exhibit "B" and incorporated herein by reference.

15 b. A second amendment dated on or about June 2, 1989 (the "Second
16 Amendment"). A true and copy of the Second Amendment is attached hereto as Exhibit
17 "C" and incorporated herein by reference; and,

18 c. A third amendment dated on or about February 28, 1992 (the "Third
19 Amendment"). A true and correct copy of the Third Amendment is attached hereto as
20 Exhibit "D" and incorporated herein by reference.

21 10. The First Amendment added a new Section 11 to Article I of the Declaration
22 entitled "Right to Maintain Trees, Hedges, Shrubbery, and Plants Above A Certain
23 Height." This section provides in pertinent part:

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1 Section 11. Right to Maintain Trees, Hedges,
2 Shrubbery, and Plants Above A Certain Height.
3 No lot or home owner, or contract purchaser
4 thereof shall maintain, cause to be maintained, or
5 permit to be maintained on any such lot, trees,
6 shrubbery, or planting of such a height as to
7 wholly or partially block out, interfere with,
8 screen, or obstruct the view to the east, west,
9 and south, outward and downward, toward
10 the City of Los Angeles and of Beverly Hills,
11 of an from the buildable areas of the next
12 adjoining owner or owners of lots lying about
13 the level of the first lot or home owner or
14 contract purchaser, and should any such lot or
15 home owner or contract purchaser fail to keep
16 and maintain such trees, shrubbery, and planting
17 below such height, the Declarant or its successors
18 shall have the right to enter upon the property or
19 such lot or home owner or contract purchaser
20 thereof to cut down such trees, shrubbery, and
21 planting to the point that they do not interfere
22 with, screen out, or obstruct the view of the
23 next adjoining upper lot owners, and the
24 expenses thereof shall become due and
25 payable from such owner and purchaser to
26 Declarant or its successors within five (5) days
27 after the written demand therefor.

11. The Third Amendment provides for these same protections in Section 8 of
Article I entitled "Right to Maintain Trees, Hedges, Shrubbery, and Plants Above A
Certain Height." This section provides in pertinent part :

18 Section 8. Right to Maintain Trees, Hedges,
19 Shrubbery, and Plants Above A Certain Height.
20 No lot or home owner, or contract purchaser
21 thereof shall maintain, cause to be maintained, or
22 permit to be maintained on any such lot, trees,
23 shrubbery, or planting of such a height as to
24 wholly or partially block out, interfere with,
25 screen, or obstruct the view to the east, west,
26 and south, outward and downward, toward
27 the Cities of Los Angeles and of Beverly Hills,
28 of and from the buildable areas of the next
adjoining owner or owners of lots lying above
the level of the first lot or home owner or
contract purchaser.

The above-referenced sections contained in the First Amendment and the Third
Amendment are collectively referred to as the "Landscaping Restrictions."

///

1 12. The Declaration and the amendments were duly recorded and created and
2 are enforceable covenants.

3 13. Both as a matter of common law and under the express terms of the
4 Declaration and the amendments, Plaintiff has the right to enforce the Landscaping
5 Restrictions against Defendants.

6 14. Defendants are currently maintaining landscaping on the Hakim Property
7 that is in violation of the Landscaping Restrictions (the "Non-complying Landscaping")
8 and as a result, are in breach of the Declaration and the amendments.

9 15. Despite repeated demand therefor, Defendants have refused to bring the
10 Non-complying Landscaping into compliance with the Landscaping Restrictions.

11 16. The maintenance of the Non-complying Landscaping has a very negative
12 impact on the views from and the value of the COJO Property. By reason of the foregoing,
13 Plaintiff has sustained general, special, consequential and incidental damages in an amount
14 not yet ascertained. The exact amount will be established according to proof at time of
15 trial.

16 17. Unless Defendants are restrained by this Court from violating the
17 Landscaping Restrictions and are affirmatively ordered to comply with the Landscaping
18 Restrictions by removing the Non-complying Landscaping, Plaintiff will suffer great and
19 irreparable injury.

20 18. Plaintiff has no plain, speedy or adequate remedy at law for all of the
21 damages that it will sustain in that by the nature of the injury, a loss of view from real
22 property, the amount of such damage will be extremely difficult to ascertain

23 WHEREFORE, Plaintiff prays for judgment as follows:

24 First Cause of Action

25 1. For general, special, consequential and incidental damages according to
26 proof;

27 2. For a temporary restraining order, a preliminary injunction and a permanent
28 injunction both enjoining defendant, their agents, servants and employees, and all persons

1 acting under, in concert with, or on their behalf from violating the Landscaping
2 Restrictions and affirmatively ordering Defendants to comply with the Landscaping
3 Restrictions by removing the Non-complying Landscaping;

4 3. For costs of suit incurred herein; and,

5 4. For such other relief as the Court deems proper and just.

6 DATED: November 26, 2014

WOLF, RIFKIN, SHAPIRO,
SCHULMAN & RABKIN, LLP

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By: 

MARC E. ROHATINER

Attorneys for plaintiff, COJO INVESTMENTS,
LLC

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Exhibit D



CITY OF BEVERLY HILLS STAFF REPORT

Meeting Date: January 25, 2011
To: Honorable Mayor & City Council
From: Susan Healy Keene, AICP, Director of Community Development
Subject: Trousdale Estates View Restoration
Attachments: Draft Ordinance
View Restoration Process Flow Chart

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. Staff is introducing a proposed Trousdale Estates view restoration ordinance during a study session to provide an opportunity for Councilmembers to become familiar with the proposed ordinance. Staff took the preliminary step of arranging a meeting on January 7, 2011 for the City Council liaison to the Planning Commission (Vice Mayor Brucker and Councilmember Brien) to review the proposed ordinance with Planning Commissioners Nanette Cole and Craig Corman (the Planning Commission View Restoration Subcommittee).

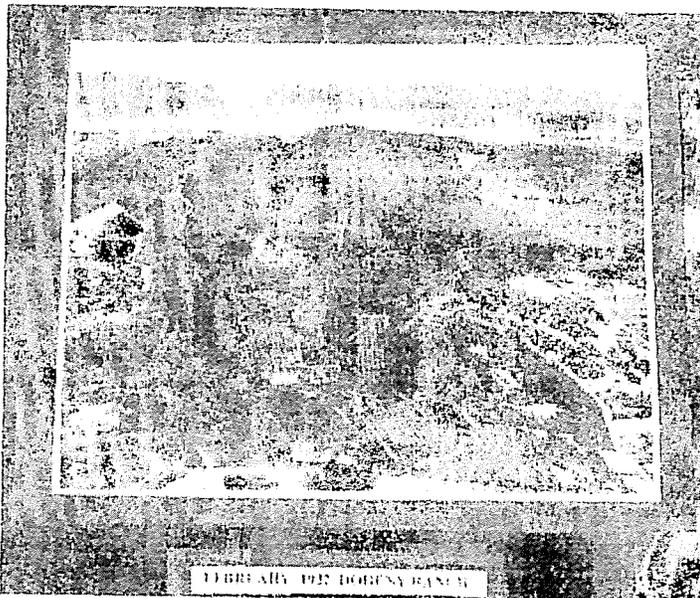
The ordinance was recommended to the City Council by the Planning Commission in December, 2010 and represents a year and a half of work by the Planning Commission and City residents to develop regulations with broad support. There are, however, policy considerations regarding staffing and cost to the City related to enforcement of view restoration determinations that would be made pursuant to the ordinance if an ordinance is adopted. This report introduces this policy issue and staff recommends further, detailed discussion of various enforcement options be directed to an ad hoc committee. Staff is also seeking direction as to any additional information the City Council may require in preparation for a public hearing on the proposed ordinance.

BACKGROUND

Pursuant to Council's direction, on May 28, 2009, the Planning Commission began a discussion of view preservation in the hillside areas that ultimately included seven public meetings with

dozens of speakers, eight Planning Commission subcommittee meetings and two bus tours. Early in the review process, the Planning Commission realized the complexity of developing view restoration standards and determined that the City's two hillside areas, the Hillside Area and Trousdale Estates, may require different standards due to their different characteristics. As a result, the Commission decided to focus its view restoration discussion on Trousdale Estates as a pilot area to develop view restoration standards that could also serve as a model for the larger and more complex Hillside Area.

The City Council was advised by the Community Development Department of the change in scope of the view restoration ordinance in a staff report presented at the City Council's November 30, 2010 study session. In addition to narrowing the focus of the view restoration discussion to Trousdale, the Planning Commission, in response to public comment, clarified that the present discussion would address only foliage and trees on private property, not City trees and foliage that may be blocking private views.



The City of Beverly Hills annexed Trousdale Estates' 402 acres on July 26, 1955. Trousdale Estates required major grading to create 596 single-family residential lots with flat building pads and a majority of lots with views (see photo below). The 596 lots in Trousdale represent ten percent (10%) of the single-family homes in the City and almost four percent (4%) of total housing units in the City. This is compared with the 984 lots in the Hillside Area, developed individually or in small tracts over a period of time with a variety of building pad and view situations. Trousdale has a history of view preservation standards since such standards

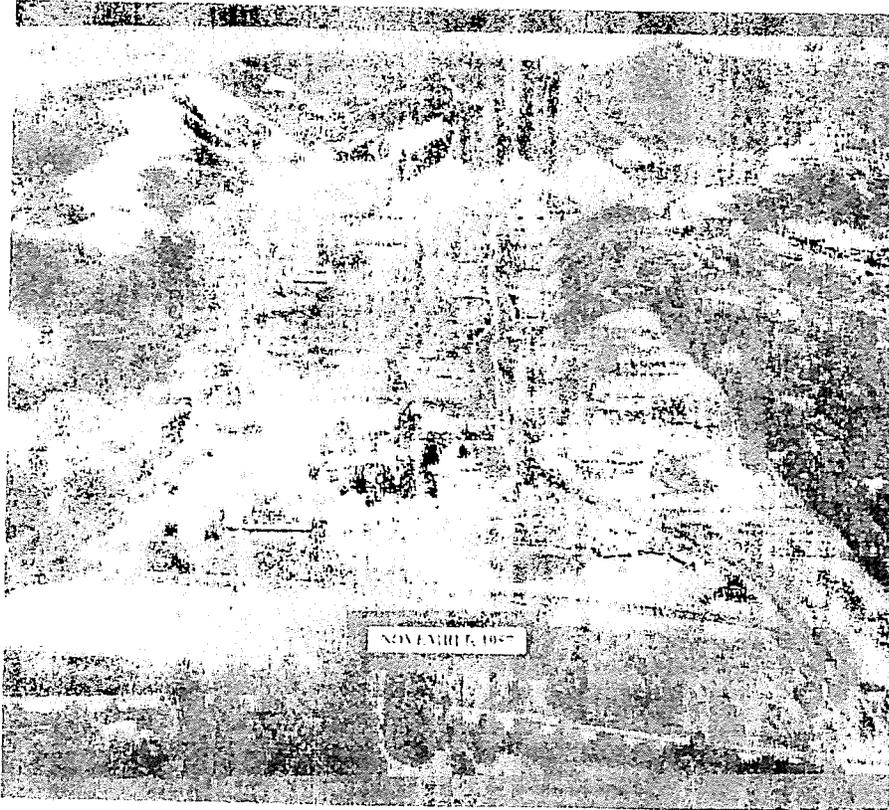
were included in many, if not all, of the Codes, Covenants and Restrictions documents (CC&Rs), that were placed on the Trousdale tracts by the developer, Paul W. Trousdale, beginning in 1955. These CC&Rs regulated development in Trousdale Estates including height, density, setbacks and maintenance of views:

"No hedge or hedgerow, or wall or fence or other structure shall be planted, erected, located or maintained upon any lot in such location or in such height as to unreasonably obstruct the view from any other lot or lots in said tract." (language from a set of Trousdale CC&Rs)

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 such that it does not obstruct a view; however, the City's Zoning Code does include standards that address the obstruction of views by structures in both the Hillside Area and

Meeting Date: January 25, 2011

Trousdale Estates. In the Hillside area there is a view preservation review that applies to new development and in Trousdale, the maximum fourteen-foot height limit for structures essentially prevents structures from obstructing views.



Trousdale Estates Graded 1957

DISCUSSION

The City's goal in developing a view restoration ordinance, as expressed by the Planning Commission in the attached ordinance in the "Purpose and Intent" section (page 2 of the attached ordinance) and reinforced in the "Required Findings" section (page 10 of the attached ordinance), is as follows:

Restore and preserve certain views from substantial disruption by the growth of privately owned trees and foliage while also providing for the following important City values:

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

This goal would be accomplished by establishing a process by which residential property owners in Trousdale Estates may seek to restore and preserve certain views with an emphasis on the following key issues:

- early neighbor resolution of view restoration complaints;
- an understanding that there should be no expectation that any particular view or views would 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 would not result in any significant additional cost to the City.

View Restoration Ordinance Proposed by the Planning Commission

View restoration ordinances typically have three main components:

1. Regulations: establishment of a right to a view, definition of a view, criteria to determine views that merit protection, and findings to determine when a protected view has been disrupted;
2. Review Process: development of a process to administer the above regulations; and,
3. Enforcement: direction as to how decisions resulting from the process shall be enforced.

Below is a summary of the three components of the view restoration ordinance proposed by the Planning Commission.

1. Regulations

The ordinance defines key terms and certain defined terms used in this report are included below for reference:

A. Definitions

Foliage: A general term used to refer to an aggregation of plants and trees including hedges.

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.

The distance at which foliage could be considered to be blocking a view was the subject of much public discussion and 500' represents a consensus that is also consistent with a number of other cities' view preservation ordinances.

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.

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.

This definition is, in part, based on the existing view preservation regulations for the Hillside Area of the City which specifies a view as a view of the Los Angeles area basin from the level pad which contains the primary residential building on a property. The definition here of "protectable view" and the definition of view in the existing Hillside Area development standards also differ in that the Hillside Area view is a view within 300' (not 500') of the subject property.

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 may be a room of the primary residential structure at level finished grade, or a patio, deck or landscaped area at level finished grade that does not extend beyond the level pad. There may be one or more viewing areas on a property. For purposes of this section, a protectable view shall be determined from a point thirty-six inches (36") above the finished grade of the level pad.

There was a great deal of discussion as to whether this definition was too broad as it allows the viewing area to be from a number of locations on the property rather than requiring the applicant or staff to choose one view to be considered. In addition, it is noted that for the purposes of this Trousdale view restoration section, the point at which the protectable view is determined (36" above finished grade; approximately a seated position) is different than the point at which view is determined under the existing Hillside Area view preservation code section in which the view is determined from a point six feet (6') above the finished grade of the pad (approximately a standing position at eye-level). A majority of the Planning Commission agreed that more flexibility to determine the viewing area was warranted because of the limits on the definition of protectable view (Los Angeles Area basin only) and the further limits imposed by the required findings for a view restoration permit (Page 10 of the ordinance, "J Required Findings").

Protected View: A protectable view that has been determined by the reviewing authority to merit restoration.

Restorative Action: Any specific steps taken affecting foliage that would result in the restoration or preservation of a protected view.

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

ATTACHMENT 4

**APPLICANT'S SUPPORTING DOCUMENTATION AND
CORRESPONDENCE**

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August 22, 2016

VIA E-MAIL (atarazon@beverlyhills.org) AND OVERNIGHT DELIVERY

Honorable John A. Mirisch, Mayor
Honorable Nancy H. Krasne, Vice Mayor
Honorable Lili Bosse, Councilmember
Honorable Julian A. Gold, M.D., Councilmember
Honorable Kathy Reims, Councilmember
Attention: Adrienne Tarazon
City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, California 90210

RECEIVED
AUG 22 2016
CITY OF BEVERLY HILLS
OFFICE OF THE CITY MANAGER

Re: 1200 Stevens Way, Beverly Hills
Hearing Date: September 6, 2016

Dear Mayor Mirisch, Vice Mayor Krasne and Councilmembers Bosse, Gold and Reims:

This office is counsel to COJO Investments, LLC ("Applicant"), the owner of the property located at 1200 Stevens Way (the "Property") in the City of Beverly Hills (the "City") and applicant for ministerial building permits for the development of the Property. This letter is sent in advance of the City Council hearing—currently scheduled for September 6, 2016—in respect to the appeal (the "Appeal") filed by the Ramin Delijani Trust ("Appellant"), which concerns the determination made by City staff under Beverly Hills Municipal Code § 10-3-2522 (the "2522 Determination") that the Applicant's proposed home would not substantially disrupt a view of the Los Angeles area basin from the Appellant's property. The 2522 Determination was sustained by the Planning Commission following a public hearing on July 14, 2016.

Staff's 2522 Determination Was Undoubtedly Correct; Any Contrary Decision Would Be Arbitrary and Capricious

Section 10-3-2522.A of the Beverly Hills Municipal Code provides that:

Except as authorized by a Hillside R-1 permit issued pursuant to article 25.5 of this chapter, and notwithstanding the provisions of section 10-3-2503 of this article concerning building heights, no structure in the Hillside Area shall be constructed to a height in excess of fourteen feet (14') *if such construction in excess of fourteen feet (14') would substantially disrupt a view of the Los Angeles area basin* from the level pad which contains the primary residential

Honorable John A. Mirisch, Mayor; Honorable Nancy H. Krasne, Vice Mayor; and members of the City Council of the City of Beverly Hills

August 22, 2016

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building on a property within three hundred feet (300') of the subject property, and such view would not have been substantially disrupted by development of a fourteen foot (14') structure. Notwithstanding the provisions of subsection D of the definition of "height of building", section 10-3-100 of this chapter, for purposes of this section, measurement of the height of the building or structure to be constructed at any point shall mean the vertical distance between that point and the point below it on a plane defined by ground level as it existed on September 4, 1992, at all points along the building or structure perimeter.

A "view 'from the level pad which contains the primary residential building'" is defined by Beverly Hills Municipal Code § 10-3-2522.B as, "a view from a point six feet (6') above the finished grade of the pad."

The evidence submitted in connection with the Appeal, which we understand will be bolstered when the City Council personally views the subject properties prior to the Council hearing, makes two things abundantly clear. One, Appellant enjoys a 180 degree view of the Los Angeles area basin. And two, the development of Applicant's Property—which is located a football field away from the Appellant's—will have only a *de minimus* impact upon Appellant's expansive view of the basin. The portion of the proposed home above 14 feet in height represents just an inconsequential sliver of the overall view from Appellant's property.

In fact, these points are so apparent from the evidence that there is no room for reasonable debate. The Appeal is simply frivolous and any contrary conclusion would be arbitrary, capricious and a plain misapplication of the Municipal Code. Moreover, the Applicant's development has already been unduly delayed by these proceedings. This is now the third public hearing being held on the Appeal. The 2522 Determination that is the subject of these proceedings was made nearly a year ago. At the time, the City issued right to issue ("RTI") notices indicating that the Applicant's proposed development met each and every requirement of the Municipal Code. The City suddenly, and without explanation, subsequently cancelled those RTIs. Now, ten months later, the Applicant remains stalled solely as result of this frivolous Appeal and the Applicant has incurred enormous additional costs threatening the viability of its entire investment.

Even further, the Appeal is based upon an outright mischaracterization of the Municipal Code. Appellant contends that the Municipal Code's reference to "a view of the Los Angeles area basin" means *any portion* of a view of the basin such that if a home would obstruct any portion of a view of the basin—no matter how minor or trivial—the development cannot proceed in the absence of an R-1 permit. That argument, however, is absurd. It would mean that any time a development is visible from another property that enjoys a view of the Los Angeles basin, an R-1 permit will *always* be required because it can *always* be said that the home will obstruct *some portion* of the view.

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In short, Appellant's argument is nothing more than a tautology. It is not supported by the Municipal Code. The City has never before interpreted or applied its Municipal Code in the manner urged by the Appellant. In fact, in the prior hearing before this Council, the City Attorney explicitly rejected Appellant's interpretation of the Municipal Code on the record. The City Council should do likewise and deny the Appeal.

The Proceedings Are Being Conducted in Excess of the City Council's Jurisdiction

In addition, we write to make clear our continuing objection to this Appeal, which we believe is being conducted in excess of the City Council's jurisdiction. Although these proceedings were ostensibly commenced when the Appellant filed an appeal from the Staff's 2522 Determination, no such appeal lies under the Municipal Code. This is so because there is no right to appeal under the Municipal Code from a ministerial decision of a City official:

No right of appeal to the council from any administrative decision made by an official of the city pursuant to any of the provisions this code shall exist when such decision is ministerial and thus does not involve the exercise of administrative discretion or personal judgment exercised pursuant to any of the provisions of this code.

Beverly Hills Municipal Code § 1-4-101(B).

A 2522 Determination is made by a member of the City's staff during a field check. The applicant installs story poles at the height of the proposed house, and the staff member stands on the level pad of an upslope property within 300 feet of the new house. The staff member views the story poles and determines whether a home constructed at the height of the poles would substantially impair the view of the Los Angeles area basin from where the staff member is standing. That call—especially in the case of the 2522 Determination made here—does not require the exercise of judgment or deliberation on the part of the staff member and is typical of the many ministerial determinations made by building officials on a daily basis in connection with their review of ordinary building permit applications. Importantly, the staff member does not have the power to impose conditions upon a project in connection with a 2522 Determination. No notice is required to be given of a 2522 Determination and there is no requirement under the Municipal Code that a 2522 Determination be issued in writing. In short, a 2522 Determination is a routine ministerial decision of a staff member from which there is no right to appeal. *See Friends of Westwood, Inc. v. City of Los Angeles*, 191 Cal. App. 3d 259 (1987) (building permits are generally ministerial).

City representatives have indicated to the Applicant that, notwithstanding the above, the City considers a determination made under Section 10-3-2522 to be discretionary from which a right to appeal to City Council exists under Municipal Code § 1-4-101(A). Section 1-4-101(A) is the City's general appeal provisions. It makes no mention of 2522 Determinations.

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the City Council of the City of Beverly Hills
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It is also subject to and qualified by Section 1-4-101(B), which, as set forth above, provides that no appeal lies from a ministerial decision.

In addition, contrary to the current position of the City, the City does not and has not historically treated 2522 Determinations as being discretionary. In fact, if it were correct that a 2522 Determination is discretionary, the construction of *all* homes in the Hillside Areas of the City over 14 feet in height would be subject to environmental review under the California Environmental Quality Act ("CEQA"). This is true because CEQA requires environmental review whenever a proposed development requires a discretionary determination. Yet, City representatives have confirmed that the City conducts *no* CEQA analysis in connection with a 2522 Determination.

Instead, City representatives have stated that single-family homes are generally exempt from CEQA review. But that is not the case in all instances. For example, a categorical exemption may not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. *See* CEQA Guidelines § 15300.2(c). The City conducts no such analysis as part of a 2522 Determination and makes no determination as to whether the subject project is appropriate for a categorical exemption. But even more telling, as representatives have confirmed, the City does not issue a Categorical Exemption as it does in other cases where it relies upon an exemption in connection with its approval of a project subject to CEQA and issues no notice of exemption.

What this means is that one of two things are true. Either (1) a 2522 Determination is ministerial and not discretionary, in which case this Appeal is improper, or (2) the City serially and repeatedly violates CEQA every time it approves the construction of a home in the hillside areas.

The reality is that the City has always treated 2522 Determinations as ministerial and has unjustifiably singled out the Applicant here for disparate treatment. In our discussions with City officials, no person could identify any other written determination being issued in connection with a 2522 Determination except the written determination issued here. Nor, tellingly, could any City official identify any other appeal filed in connection with a 2522 Determination. In short, the historical record establishes that the City has always deemed a 2522 Determination to be ministerial from which no appeal lies.

But even further, even if an appeal is theoretically available, it is apparent that the Appeal filed in this instance was untimely. Under BHMC § 1-4-102, "[a]ny appeal petition shall be filed with the city clerk within fourteen (14) calendar days after the date of the decision." The 2522 Determination was made here in November 2015, months before the Appeal was filed. In fact, the City issued to the Applicant RTIs shortly after the 2522 Determination was made, which could not have been issued had no 2522 Determination been made or if the City staff member had determined there was a substantial view obstruction. Subsequently, the City cancelled the RTIs for reasons that were never explained. Nevertheless, those reasons were exposed for what

Honorable John A. Mirisch, Mayor; Honorable Nancy H. Krasne, Vice Mayor; and members of
the City Council of the City of Beverly Hills
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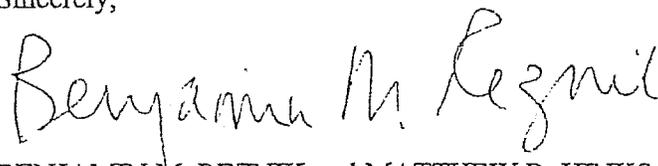
they where when the City, following the cancellation, drafted and issued a written 2522 Determination supposedly documenting the decision that had been made the previous November all for the purpose of fabricating a right to appeal when one was not available, and even if it were, had long expired. The City then, without authorization in or required by the code, sent the notice of the written determination to a selected owner inviting an appeal, no doubt with full knowledge that an untimely appeal would be filed.

Consequently, it is our firm belief that the ongoing City proceedings in connection with the 2522 Determination in respect to the Property are being conducted in excess of the Council's jurisdiction. We also believe that, since the Applicant has met all of the Municipal Code requirements for the construction of a single-family residence and seeks no adjustments, variations or deviations from the code, the City has a present and ministerial duty to issue the Applicant's building permits. Accordingly, the Applicant is proceeding with this hearing under protest and reserving its position as stated herein.

* * * * *

For each of the foregoing reasons, the Applicant respectfully submits that the subject Appeal should be denied.

Sincerely,



BENJAMIN M. REZNIK and MATTHEW D. HINKS
of
Jeffer Mangels Butler & Mitchell LLP

BMR:mh

cc: David Snow, Assistant City Attorney (via electronic mail)

VICTOR GURA, M.D.

June 2, 2016

I, Dr. Victor Gura, lived and owned the property located at 1211 Laurel Way with my wife Ronit, for approximately over 10 years.

As the owner and resident of said house, I am very familiar with the views of the south side of the house. This is the side that Mr. Delijani is claiming has been impacted and that his view has substantially been impaired.

The view that we had of the LA Basin faced directly south and west from this side of our house. We had a very limited view of the east portion of the LA Basin, as it was hidden by large trees and houses on the eastern hills.

I have reviewed the pictures presented by Mr. Delijani and totally disagree with his claim that his view of the LA Basin is substantially impaired or that this is the main view of the LA Basin.

I have noted that on Exhibit A, which is attached to the Delijani's appeal, that there are arrows on the ground. Those arrows truly reflect the view corridor which goes directly to the south of the Appellant's property and not to the eastern portion of his property.

Further, I have attached Exhibit B, which is a diagram of the rooms of the houses on the south side, starting with the master bedroom which is at the southeastern corner of the house, then the living room which is directly west of that, and to the right of the living room is the dining room. All of these rooms face directly to the south and the LA Basin is the view corridor looking south and west.

In fact when either standing or sitting in these rooms to look out the window, the view was unimpaired and straight out of the window, and not directed towards the east end of the property, as that end looked at an angle into other houses.

Further, at one time, on the south side of the house which was our side yard and not our primary recreation area, we had hedges approximately four feet (4') to block the view from the house to our immediate south. The house to our immediate south is 1201 Laurel Way.

In fact, when that house was going through its entitlement process, I raised the issue of the view corridor, as the site of that house materially affected our visibility of the LA Basin looking both south and west. That is why it was important to let our hedges grow to a height of four (4') feet so that we were not looking directly into the house on to the south.

**60 N La Cienega Blvd, Suite 310
Beverly Hills, CA 90211**

**Tel: (310)550-6240
Fax: (310) 289-0142**

VICTOR GURA, M.D.

Again, when that house came through its entitlement process we raised the view corridor issue with the City of Beverly Hills Planning Department who told us that the view corridor was to the south and west of our location. The view that existed at the time is still the view that exists today and is the main view of the LA Basin.

In order for anyone to claim a view of the eastern portion of the LA Basin, one would have to stand at the most eastern portion of that side yard and look directly to the east. As stated earlier, what they would see would be primarily trees and other houses in the area.

I declare under penalty of perjury that the above stated contents herein are true and correct, and if called as a witness, would competently testify thereto.

Dated:

06/02/2017

Executed at:



By Dr. Victor Gura

**60 N La Cienega Blvd, Suite 310
Beverly Hills, CA 90211**

**Tel: (310)550-6240
Fax: (310) 289-0142**

View Points

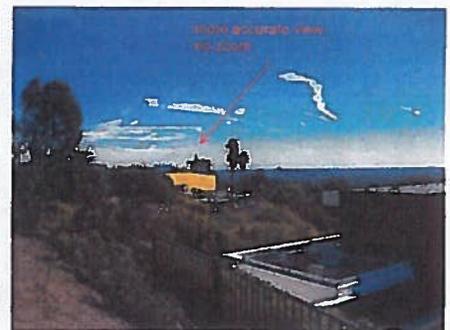


Placement of View Points

Placement of View Points: This picture depicts the view points at which the pictures for this study were taken at a height of 6 feet above grade. View point 1 is the easterly most view point, and view point 4 is the westerly most view point. The distance between view point 1 and 2 is 27 feet. The distance between view point 2 and 3 is 21 feet. The distance between view point 3 and 4 is 24 feet.



View Point 1



View Point 1 with blockage



View Point 2



View Point 2 with blockage

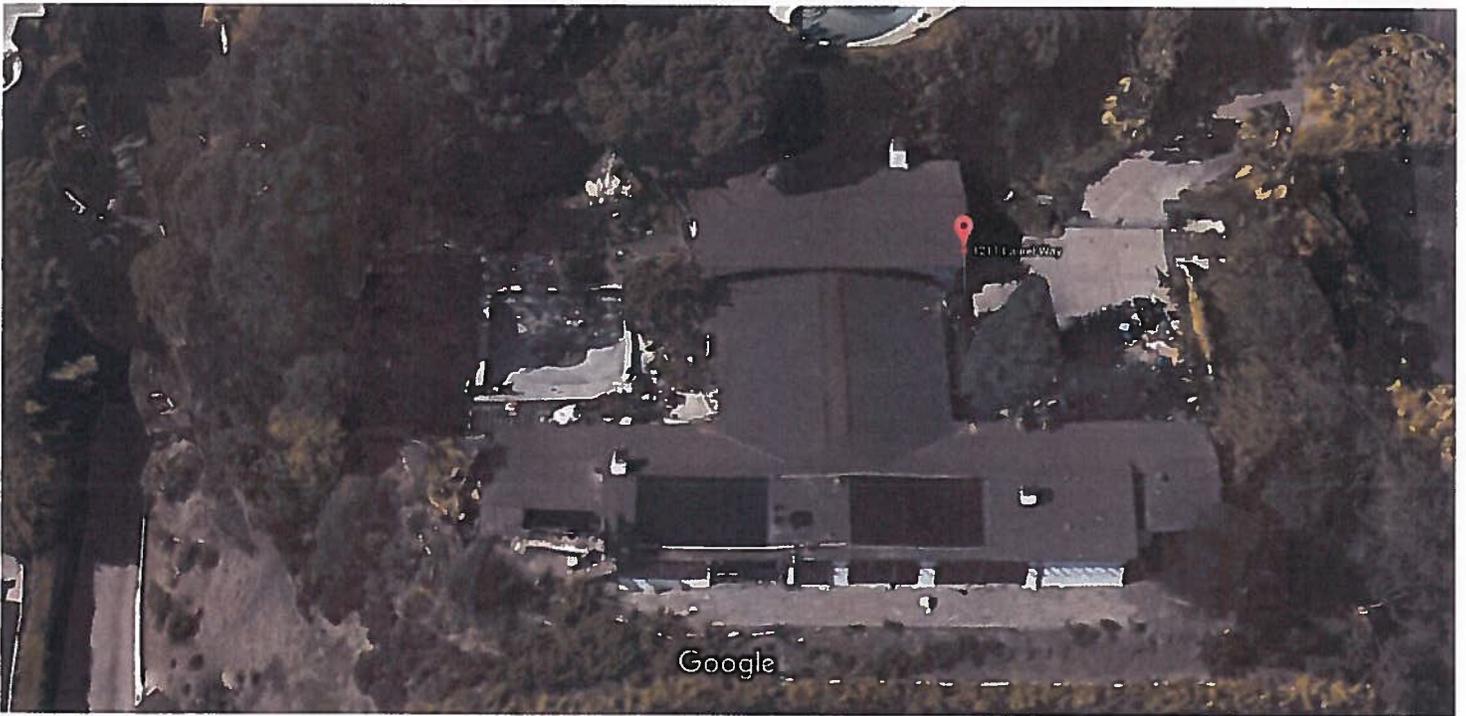
A A"
==

6/7/2016

1211 Laurel Way - Google Maps



Google Maps 1211 Laurel Way



Imagery ©2016 Google, Map data ©2016 Google 20 ft

A "B"



EXHIBIT 4: PANORAMIC DAYTIME VIEW OF LA BASH FROM 1211 LAUREL WAY
1/32" = 1'-0"



EXHIBIT 5: PANORAMIC NIGHTTIME VIEW OF LA BASH FROM 1211 LAUREL WAY
1/32" = 1'-0"



EXHIBIT 6: AERIAL VIEW OF CONCRETE WITH VIEW CORROBOR DISPLAY
3/8" = 1'-0"



EXHIBIT 7: LINE OF SIGHT FROM 8' 6" ABOVE LEVEL, PWD AT 1211 LAUREL WAY TO THE SUBJECT
1" = 10'-0"

BOWERY
DESIGN + DEVELOPMENT



Private Residence
1211 STEVEN WAY
BERKELEY, CALIFORNIA 94704

DATE: JUNE 13, 2016
VIEW PRESERVATION EXHIBIT

A-1.1

1211 LAUREL WAY
PAD EL. = 675'

VIEW PRESERVATION LINE

LEVEL PAD

Excerpts from Beverly Hills Municipal Code, Section 10-3-2522: View Preservation.

A. ...no structure in the Hillside Area shall be constructed to a height in excess of fourteen feet (14') if such construction in excess of fourteen feet (14') would substantially disrupt a view of the Los Angeles area basin from the level pad which contains the primary residential building on a property within three hundred feet (300') of the subject property...

B. ...a view "from the level pad which contains the primary residential building" shall mean a view from a point six feet (6') above the finished grade of the pad...

LAUREL WAY

PROPERTY LINE

LEVEL PAD = 847'

1200 STEVEN WAY

PROPERTY LINE

STEVEN WAY

EXHIBIT 1: VIEW PRESERVATION BY SECTION AS APPROVED BY CITY OF BEVERLY HILLS 1" = 1" = 1" = 1"



Private Residence
1200 STEVEN WAY
BEVERLY HILLS, CA 90210

DATE	APR 13, 2016
PROJECT	VIEW PRESERVATION EXHIBIT
DESIGNER	JOHN KENNEDY
CHECKER	JOHN KENNEDY

APR 13, 2016
VIEW PRESERVATION EXHIBIT
PROJECT NO. 160101

A-1.0



View Points



Placement of View Points

THE PHOTOS AS PRESENTED IN THE VIEW POINTS' EXHIBIT OF THE APPEAL ARE NOT ACCURATELY DESCRIBED IN THE PLACEMENT OF VIEW POINTS' EXHIBIT. THE PHOTOS PRESENTED WERE NOT TAKEN PERPENDICULAR TO THE WINDOWS OF THE HOME, RATHER THEY ARE AT AN OBLIQUE PERIPHERAL ANGLE TO THE SOUTH EAST.

EXHIBIT 3: CORRECTION TO THE VIEW POINTS EXHIBIT IN THE APPEAL 1" = 1" = 1" = 1"

EXHIBIT 2: VIEW CORRIDOR OF 1211 LAUREL WAY 1" = 1" = 1" = 1"

SLIDE 1 - NEIGHBORHOOD CONTEXT



1211 Laurel Way

305'-0"

FOOTPRINT OF PROPOSED
NEW CONSTRUCTION AT
1200 STEVEN WAY

J Stuart Hillard

SLIDE 2 - 1211 LAUREL WAY

AERIAL VIEW OF SOUTH FACE OF 1211 LAUREL WAY, NO WINDOWS FACING VIEW AT SOUTH EAST, DIRECTION OF 1200 STEVEN WAY



1211 Laurel Way

PRIMARY POOL/VIEW DECK AREA WITH EXPANSIVE VIEWS TO THE SOUTHWEST

LIVING ROOM/ ENTERTAINING AREA WITH EXPANSIVE VIEWS TO THE SOUTHWEST

UNUSED REAR YARD, IN VERY CLOSE PROXIMITY TO NEIGHBOR AT 1201 LAUREL

UNUSED SIDE YARD, IN VERY CLOSE PROXIMITY TO NEIGHBOR AT 1201 LAUREL. NO WINDOWS ON HOME THAT FACE SOUTHEAST

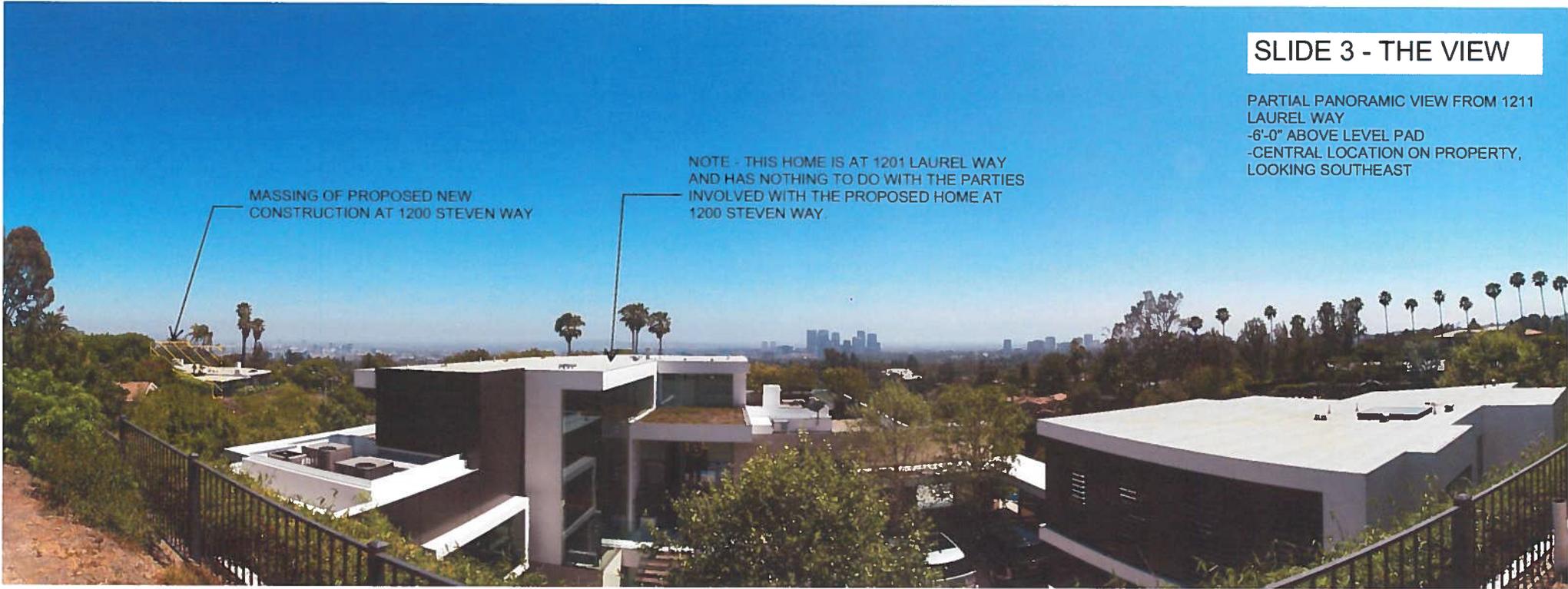


SLIDE 3 - THE VIEW

PARTIAL PANORAMIC VIEW FROM 1211
LAUREL WAY
-6'-0" ABOVE LEVEL PAD
-CENTRAL LOCATION ON PROPERTY,
LOOKING SOUTHEAST

MASSING OF PROPOSED NEW
CONSTRUCTION AT 1200 STEVEN WAY

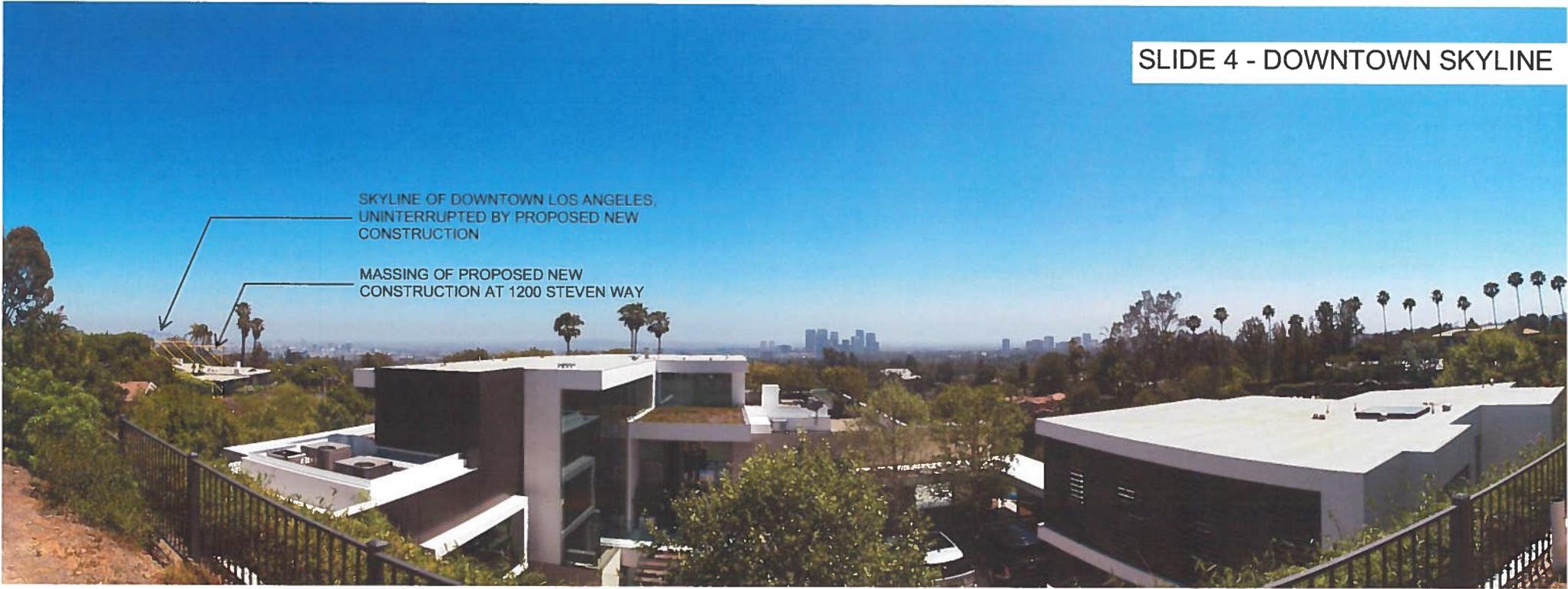
NOTE - THIS HOME IS AT 1201 LAUREL WAY
AND HAS NOTHING TO DO WITH THE PARTIES
INVOLVED WITH THE PROPOSED HOME AT
1200 STEVEN WAY.



SLIDE 4 - DOWNTOWN SKYLINE

SKYLINE OF DOWNTOWN LOS ANGELES,
UNINTERRUPTED BY PROPOSED NEW
CONSTRUCTION

MASSING OF PROPOSED NEW
CONSTRUCTION AT 1200 STEVEN WAY



SLIDE 6 - RENDERING



BOWERY
DESIGN GROUP

ATTACHMENT 5

JULY 14, 2016 PLANNING COMMISSION REPORT

(WITHOUT ATTACHMENTS)



Planning Commission Report

Meeting Date: July 14, 2016

Subject: **1200 Steven Way, New Residential Construction**
An appeal of the Community Development Department's April 13, 2016 determination regarding view preservation associated with new construction.

Project Applicant: Cojo Investments, LLC

Recommendation: That the Planning Commission:

1. Conduct a public hearing to receive testimony on the Project; and
2. Direct staff to forward a recommendation to the City Council to deny the appeal of the Community Development Department's view determination at 1200 Steven Way.

REPORT SUMMARY

This is an appeal of the Community Development Department's April 13, 2016 determination that proposed new construction located at 1200 Steven Way will not substantially disrupt views of the Los Angeles area basin. The determination was made in accordance with BHMC §10-3-2522 (Attachment D). On April 26, 2016, a timely appeal of the Community Development Department's determination was filed by Sean Topp of Steckbauer Weinhart, LLP on behalf of the property owners of 1211 Laurel Way, the Ramin Delijani Trust. The appeal petition is provided as Attachment B, and summaries of the appeal petition and the Community Development Department's determination are provided further in this report.

BACKGROUND

Appellant	The Ramin Delijani Trust
Appellant Representative	Sean Topp of Steckbauer Weinhart, LLP
Applicant(s)	Cojo Investments, LLC
Owner(s)	Cojo Investments, LLC
Representative(s)	Murry Fisher
Prior Council Action	On 6/21/2016 referred appeal of proposed project to the Planning Commission

PROPERTY AND NEIGHBORHOOD SETTING

Property Information

Address	1200 Steven Way
Assessor's Parcel No.	4348002032

Attachments:

- A. View Preservation Determination
- B. Appeal Petition
- C. Applicant's Supporting Documentation
- D. BHMC §10-3-2522

Report Author and Contact Information:
Fernando Solis, Associate Planner
(310) 285-1107
fsolis@beverlyhills.org



Zoning District	R-1.X
General Plan	Single Family
Existing Land Use(s)	Residential
Lot Dimensions & Area	(Irregular Lot), approximately 24,000
Year Built	1955
Historic Resource	The subject property was not designed by a Master Architect and was not identified as a historic resource.
Protected Trees/Grove	None

Adjacent Zoning and Land Uses

North	R1.X – Single Family Residential
East	R1.X – Single Family Residential
South	R1.X – Single Family Residential
West	R1.X – Single Family Residential

Neighborhood Character

The project site is located along Steven Way. The neighborhood surrounding the project site consists of single family residential homes. The project site consists of one lot located on the north side of the Steven Way between Laurel Way and Shadow Hill Way. The existing one-story residence at the 24,000 square foot project site is approximately 4,927 square feet in size.

Aerial View of Project Site





CITY COUNCIL REVIEW

Pursuant to BHMC §1-4-1, appeals of staff-level decisions are appealable directly to the City Council. At the June 21, 2016 City Council meeting staff presented an appeal of the staff-level view determination for proposed new construction located at 1200 Steven Way. Staff recommended that the City Council deny the appeal and find that the new construction at 1200 Steven Way will not substantially disrupt views of the Los Angeles area basin from the property located at 1211 Laurel Way. During the public hearing representatives of neighboring property owners expressed opposition of the proposed project to the City Council. The representative for the property owner residing at 1211 Laurel Way stated the proposed project does not meet Beverly Hills Municipal Code view preservation requirements and that the new construction will substantially impact the property owner's Los Angeles area basin views. The representative for the property owner residing at 1211 Steven Way stated the proposed project exceeds the overall height and basement requirements allowed by the Local home owners association Covenants, Codes and Restrictions (CC&Rs) that are applicable to the 1200 Steven Way site.

Upon conclusion of public testimony and deliberation by the City Council, the City Council asked that the appeal be forwarded to the Planning Commission to evaluate the project further in further detail, conduct a site visit to assess the views first-hand, and develop a recommendation for City Council consideration. In accordance with the Council's direction, the matter is being presented to the Planning Commission for review and a recommendation.

MUNICIPAL CODE PROVISIONS

Development in the Hillside Area of the City (generally the area north of Sunset Boulevard) is subject to a view preservation ordinance. The full text of the ordinance is provided as Attachment D, and a summary of the provisions is provided as follows:

- Structures are allowed to be built by-right up to 14' in height, regardless of whether the structure would substantially disrupt views of the Los Angeles area basin.
- Structures over 14' in height are subject to the City's view preservation ordinance, unless a 14' tall structure would have already caused substantial view disruption.
- Views are taken from 6' above the level pad on which the view owner's primary residence is located. Only views of the Los Angeles area basin are protected.
- A structure that is over 14' in height and does not substantially disrupt views of the Los Angeles area basin is allowed to proceed with building permits and is not subject to additional review.
- A structure that is over 14' in height and does substantially disrupt views of the Los Angeles area basin is subject to review by the Planning Commission pursuant to a Hillside R-1 Permit.

PROPOSED PROJECT AND DETERMINATION

The proposed project consists of a new single-family residence on the property located at 1200 Steven Way. The proposed project has a maximum height of approximately 27' and is therefore subject to review under the City's view preservation ordinance. As a component of this review, the project applicant was required to install story poles (flags outlining the



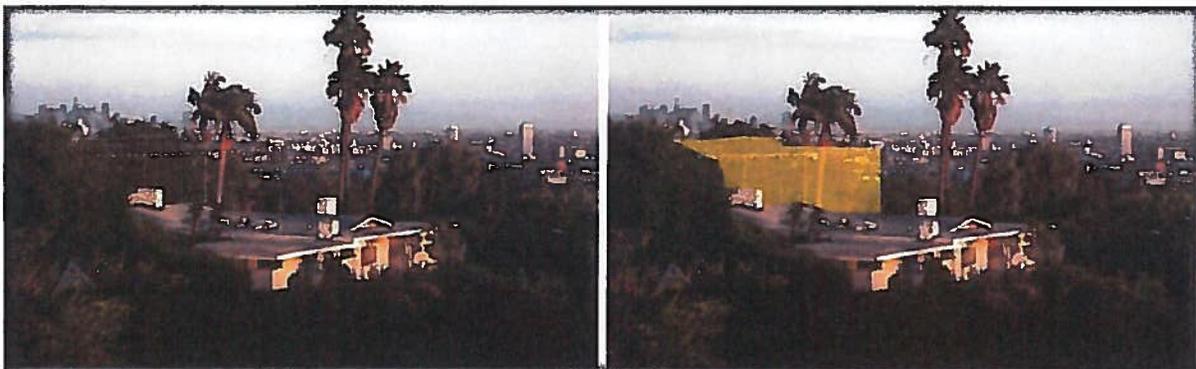
proposed building envelope) on the subject property in order to provide visual reference as to how the property would be viewed from adjacent properties, and whether it would substantially disrupt views of the Los Angeles area basin. After installation of the story poles, staff conducted a site visit to the appellant's property at 1211 Laurel Way in order to document the views and how they would be affected by the proposed new construction at 1200 Steven Way. Photographs were taken from the appellant's property to show the visibility of the proposed new construction, and are provided in Attachment A for reference.

Based on staff's review of the project, in conjunction with the story poles, site visit, and photographs of the views, it was determined that the proposed new construction at 1200 Steven Way would not substantially disrupt views of the Los Angeles area basin. This conclusion was based on the overall views of the Los Angeles area basin from the appellant's property relative to the minimal disruption caused by the 1200 Steven Way project. The appellant currently enjoys panoramic views that stretch from Westwood and Century City to the west, to downtown Los Angeles to the east. While the proposed project would be visible from the appellant's property, and would be included in the overall view if constructed, it does not represent a "substantial disruption" to the basin views enjoyed by the appellant, as the proposed project occupies just a fraction of the total available views with downtown Los Angeles remaining viewable both beyond and around the proposed project.

VISIBILITY STUDY PREPARED BY THE APPELLANTS CONSULTANT

Sheldon Nemoj was retained by the owner of 1211 Laurel Way, Beverly Hills, California to conduct a pictorial onsite visibility study of the Los Angeles basin as viewed from 1211 Laurel Way, Beverly Hills, California, with particular reference as to the impact that the proposed development at 1200 Steven Way, Beverly Hills, California would have on the easterly view of the Los Angeles Basin.

The study was done on November 4, 2015 between the hours of 4:00 p.m. to 8:30 p.m. The pictures were taken from the level pad of 1211 Laurel Way, Beverly Hills, California from a point six feet above the finished grade of the pad. The illustrations below show close-up views of the proposed project in a yellow color. The full study is provided in Attachment A for reference.



Looking east over 1200 Steven Way, showing story poles outlining envelope of proposed new structure.



APPEAL ANALYSIS

The full content of the appeal petition is provided as Attachment B. A summary of the appellant's arguments and staff responses are as follows:

1. The proposed project at 1200 Steven Way would substantially disrupt views of the Los Angeles area basin from the property located at 1211 Laurel Way.

Staff Response: As noted above, the proposed project at 1200 Steven Way will be visible within the overall views from 1211 Laurel Way; however, the project will occupy a small fraction of the overall panoramic views and does not constitute a "substantial disruption."

2. The view determination should not take vegetation into consideration, as vegetation is regulated under the CC&Rs for the Hillside Area.

Staff Response: The City does not enforce the CC&Rs for the area, as the CC&Rs are a private agreement between the group of property owners subject to the CC&Rs. Accordingly, the City has no authority to require the trimming of vegetation that disrupts views, and must make its view determinations based on the present circumstances, rather than speculation on what views might exist. Regardless, the vegetation referenced by the appellant generally sits below the views of downtown Los Angeles, and even if the vegetation were to be removed it is unlikely that the views would be enhanced significantly.

3. Views should be assessed in accordance with the guidelines offered in the Trousdale view restoration ordinance.

Staff Response: Trousdale Estates is subject to its own, specific provisions and definitions for view restoration purposes, and the Trousdale Estates provisions are not transferable to the Hillside Area of the City, as the Hillside Area of the City has its own provisions. Although not applicable, even if the Trousdale Estates provisions were to be applied, they clearly state that a protectable view is not an unobstructed panorama of basin views. In the case of the subject property, the panoramic views of the basin are preserved even with the new construction, so there would still not be a substantial disruption.

4. The appellant asserts that the project is possibly over height, and that the height should be reviewed.

Staff Response: The building's height has been thoroughly reviewed by the Community Development Department and is in compliance with all applicable Municipal Code provisions. Furthermore, the City Attorney has confirmed that review of the building's height is a ministerial action that does not involve discretionary review, and is therefore not an appealable item. Therefore, the Council's review is limited only to the question of whether the project at 1200 Steven Way causes a "substantial disruption" to views of the Los Angeles area basin.



5. The appellant asserts that the project is possibly over the allowed maximum floor area for the property, and that the floor area should be reviewed.

Staff Response: The building's floor area has been thoroughly reviewed by the Community Development Department and is in compliance with all applicable Municipal Code provisions. Furthermore, the City Attorney has confirmed that review of the building's floor area is a ministerial action that does not involve discretionary review, and is therefore not an appealable item. Therefore, the Council's review is limited only to the question of whether the project at 1200 Steven Way causes a "substantial disruption" to views of the Los Angeles area basin.

Based on the foregoing, the appeal petition does not appear to contain any new information that would change the manner in which the project was reviewed against the City's view preservation ordinance, and staff continues to find that the project would not substantially disrupt views of the Los Angeles area basin.

PUBLIC NOTICE AND COMMENTS

On July 1, 2106 a mailed notice was mailed to the appellant and applicant of the subject appeal hearing before the Planning Commission. No additional correspondence beyond what was already presented to the City Council (and is included as attachments) has been received as of the writing of this report.

NEXT STEPS

Based upon the City Council's June 21, 2016 direction, it is recommended that the Planning Commission review the Community Development Department's determination that the proposed new construction located at 1200 Steven Way will not substantially disrupt views of the Los Angeles area basin, and direct staff to forward a recommendation to the City Council to deny the appeal and find that the proposed new construction at 1200 Steven Way will not substantially disrupt views of the Los Angeles area basin from the property located at 1211 Laurel Way.

Report Reviewed By:

Ryan Gohlich, AICP, Assistant Director of
Community Development / City Planner

ATTACHMENT 6
BHMC §10-3-2522

10-3-2522: VIEW PRESERVATION:

- A. Except as authorized by a Hillside R-1 permit issued pursuant to article 25.5 of this chapter, and notwithstanding the provisions of section 10-3-2503 of this article concerning building heights, no structure in the Hillside Area shall be constructed to a height in excess of fourteen feet (14') if such construction in excess of fourteen feet (14') would substantially disrupt a view of the Los Angeles area basin from the level pad which contains the primary residential building on a property within three hundred feet (300') of the subject property, and such view would not have been substantially disrupted by development of a fourteen foot (14') structure. Notwithstanding the provisions of subsection D of the definition of "height of building", section 10-3-100 of this chapter, for purposes of this section, measurement of the height of the building or structure to be constructed at any point shall mean the vertical distance between that point and the point below it on a plane defined by ground level as it existed on September 4, 1992, at all points along the building or structure perimeter.
- B. For the purposes of this section, a view "from the level pad which contains the primary residential building" shall mean a view from a point six feet (6') above the finished grade of the pad. If no primary residential building has been constructed on a property within three hundred feet (300') of the subject property, then a "view from a level pad which contains the primary residential building" shall mean the view from a point six feet (6') above the finished grade of the pad upon which, in the judgment of the director of planning, the primary residential building is most likely to be constructed.
- C. Notwithstanding the provisions of subsection A of this section, for purposes of this section, if a driveway is located adjacent to a perimeter wall of a building, and the driveway leads to a subterranean garage, then the plane described in subsection A of this section that is defined by the September 4, 1992, ground level at all points along the building perimeter shall, for that portion of the building located adjacent to the driveway, be defined instead by the points along the building perimeter at the elevation of the highest point of the driveway. However, if the high point of the driveway exceeds the highest point of the September 4, 1992, ground level along the building perimeter, then the high point of the driveway shall not be used to define the plane and the plane shall be defined by the natural ground level along the building perimeter excluding that portion of the perimeter located adjacent to the driveway.

Also, notwithstanding the provisions of subsection A of this section, for purposes of this section, if a lightwell is located adjacent to a building, then the plane defined by the September 4, 1992, ground level at all points along the building perimeter shall, for that portion of the perimeter located adjacent to the lightwell, be defined instead by the September 4, 1992, grade at all points along the perimeter of the lightwell. (Ord. 92-O-2147, eff. 9-4-1992; amd. Ord. 94-O-2228, eff. 1-13-1995; Ord. 95-O-2239, eff. 7-7-1995; Ord. 99-O-2339, eff. 12-31-1999)