

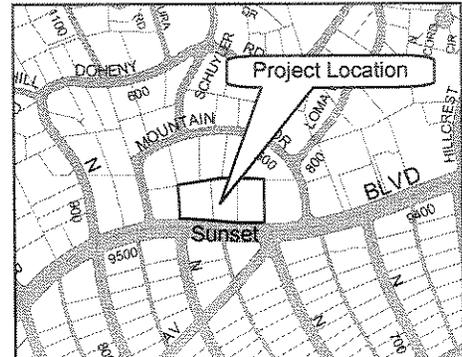


**STAFF REPORT**  
**CITY OF BEVERLY HILLS**

**For the Planning Commission  
Meeting of November 19, 2009**

**TO:** Planning Commission  
**FROM:** Ryan Gohlich, Associate Planner  
**THROUGH:** Jonathan Lait, AICP, City Planner

**SUBJECT:** A request for a Variance to allow the construction of a fence within 3 feet of a front property line that varies in height between 10 feet and 17 feet 1 inch, for the property located in the Hillside Area of the City at 9481 Sunset Boulevard.



**RECOMMENDATION**

It is recommended that the Planning Commission adopt the attached resolution approving the requested variance to allow over-height fences and denying the requested variance to allow the construction of fencing within 3 feet of the front property line for the property located at 9481 Sunset Boulevard.

**EXECUTIVE SUMMARY**

The applicant requests a variance to allow the relocation of existing fencing and construction of new fencing that varies in height between 10 feet and 17 feet 1 inch and is within 3 feet of the front property line. Fences located on Hillside properties are limited to a maximum height of 6 feet within a front setback and may not be located within 3 feet of a front property line. Because the proposed fencing does not comply with the height or placement requirements of the Beverly Hills Municipal Code a variance is being requested.

Pursuant to BHMC Section 10-3-37, if required findings can be made in the affirmative, an applicant that demonstrates unique hardships associated with a particular property may receive approval to deviate from specific code standards in order to allow the development of the property in a manner consistent with other properties within the same zone that are not unique. The applicant asserts the historic nature of the property and its prominent exposure to Sunset Boulevard as unique issues supporting the subject request. This report recommends that the Planning Commission approve the request for over-height fences, but deny the request to allow fencing within 3 feet of the front property line.

<b>GENERAL INFORMATION</b>	
<b>Applicant</b>	Farrel Stevins
<b>Project Owner</b>	Stewart and Lynda Resnick
<b>Zoning District</b>	Residential (R-1.X)
<b>Permit Streamlining Act Deadline</b>	January 4, 2010 (without extension)

### **BACKGROUND**

The house located on the subject property was constructed in approximately 1928. The applicant has provided photographs (Attachment 2) that are reported to have been taken at the time the house was constructed. The photographs appear to show that existing fencing located along the front property line was installed at the same time the main house was constructed. Much of the existing fencing in front of the primary residence is approximately 10 feet in height with large hedges growing in front of the fencing. Additionally, there are two vehicular access gates located in front of the primary residence that are approximately 12 feet in height with 17 foot tall pilasters.

In researching the proposed project staff determined that at the time of its construction there were no zoning requirements related to fencing, therefore, all existing fencing within the front setback is considered to be legally nonconforming. Additionally, staff found that many other properties located along Sunset Boulevard have a similar condition of legally nonconforming fencing, as tall fences and walls were a common component of many of the older estates. Staff has identified two other properties along Sunset Boulevard that have been granted variances for over height fences, one at 9599 Sunset Boulevard (granted in 1964) and the other at 9901 Sunset Boulevard (granted in 1994 and then modified in 1998).

### **PROJECT DESCRIPTION**

The applicant proposes to construct new fencing that is 10 feet in height and replicates the style and placement of the property's existing fencing. The new 10 foot tall fencing would extend across the entire Sunset Boulevard street frontage along the front property line. The applicant also proposes to relocate two existing 12 foot tall vehicular access gates to accommodate a new circular driveway configuration. The existing vehicular gates are flanked by 17 foot tall pilasters, and these pilasters would be removed from their current location and re-fabricated at the new driveway locations. The westernmost vehicular entrance gate and pilasters would be set back 27 feet 7 inches from Sunset Boulevard and the easternmost vehicular access gate would be set back approximately 43 feet from Sunset Boulevard. Setting back the vehicular access gates is intended to allow for queuing of a minimum of two vehicles without obstructing

Sunset Boulevard, which is classified as an arterial street. The 10 foot tall sections of fencing are proposed to be located at the front property line with no setback, and are comprised of a 3 foot tall garden wall with 7 foot tall wrought iron fencing on top. The existing vehicular entrance gates that would be reused are constructed entirely of wrought iron. All wrought iron sections of the fence are open to view and all existing hedges and screening materials are proposed to be removed.

As proposed, the project requires a variance to allow the fencing to be located within 3 feet of the front property line and to allow the fencing to exceed a maximum height of 6 feet. The applicant has filed the request for a variance on the grounds that the subject property is unique due to its size, location along Sunset Boulevard, and its historic nature of being a grand estate with appropriately sized fencing.

<b>Zoning Information</b>		
	<b>Proposed</b>	<b>Permitted</b>
<b>Use</b>	Single-Family Residential	Single-Family Residential
<b>Site Area</b>	3.55 Acres	1 Acre Minimum
<b>Fence Height</b>	10' - 17' 1" (Varies)	6' Maximum Within a Front Setback

**NEIGHBORHOOD SETTING**

The subject site is located on the north side of Sunset Boulevard, and is currently developed with an approximately 16,000 square foot residence and several accessory structures. Adjacent residential properties vary in size. The subject property consists of three individual parcels that have been legally tied together to form the subject property. The subject property has a total street frontage of 535 feet along Sunset Boulevard and a total area of approximately 3.55 acres. Properties in the immediate vicinity of the project site that are subject to the same development standards as the subject property average approximately 1.42 acres in size with approximately 180 feet of street frontage along Sunset Boulevard (see Table1). Existing fences and hedges along Sunset Boulevard vary in height and location, but typically exceed 6 feet in height and are commonly placed in close proximity to any property lines abutting Sunset Boulevard.

Properties that are not located along Sunset Boulevard but are subject to the same development standards as the subject property are commonly irregularly shaped, subject to varying topography, and have varying amounts of street frontage that typically do not exceed 200 feet. The subject property is unique when compared to other properties subject to the same development standards due to its large amount of street frontage (535 feet), its location along Sunset Boulevard which is an arterial street with high traffic volumes, and its overall size which causes the property to function as a large estate.

## ANALYSIS

The proposed project does not meet current zoning requirements for walls and fences. Rather than comply with current zoning requirements, the applicant seeks relief from these requirements through a variance in order to construct a fence that is taller than allowed and in a location not allowed. Local ordinance and state law set forth specific findings that must be made in order to grant such an approval. The findings relate to the special circumstances that physically differentiate the project site from its neighbors. Unnecessary hardships that would result from complying with regulations must be outlined in the findings made by the reviewing authority. The specific findings required to approve a variance are set forth in BHMC Section 10-3-3700<sup>1</sup>.

The subject property exhibits special circumstances that physically differentiate it from its neighbors due to its overall size and its large amount of street frontage along Sunset Boulevard (see Table 1 below), both of which are not similar to properties located in the surrounding area. The subject property is also differentiated from other properties located within the Hillside Area of the City in that it fronts along Sunset Boulevard, whereas most of the hillside properties are located north of Sunset Boulevard. Because of these unique circumstances, the subject property functions as a large estate that has historically enjoyed taller fences and walls, including pilasters that extend up to 17 feet in height. The proposed project would result in the expansion of existing fencing in an aesthetically compatible style and character, create a more useable driveway and front yard area, and maintain the architectural integrity of the subject property. The proposed design calls for a short masonry wall with wrought iron on top that maintains visual accessibility and does not add unnecessary mass to the project site.

In identifying a hardship associated with the requested variance, staff finds that constructing new fences at the code-compliant height of 6 feet would be inconsistent with the size, scale, and architectural character of the subject property, which was constructed over 80 years ago. Additionally, other properties in the area have comparably sized, legally nonconforming fences and walls that allow for enjoyment of the properties. However, staff finds that the size, scale, and architectural character of the subject property do not preclude the subject property from complying with the code-required 3 foot setback for fences located along a front property line. Although there are other fences located at the property line in the vicinity of the subject property,

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<sup>1</sup> BHMC Section 10-3-3700

- A. Because of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification; and
- B. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges in the vicinity and zone in which the subject property is situated.

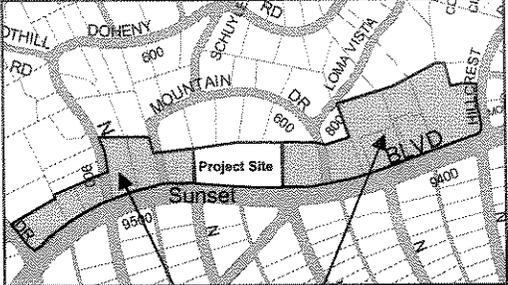
Address	Lot Size	Linear Frontage Along Sunset Blvd.	Location Map
630 Mountain Dr.	1.05 Acres	205 Feet	 <p>Properties Used for Comparison Analysis</p>
9463 Sunset Blvd.	1.59 Acres	242 Feet	
9501 Sunset Blvd.	1.15 Acres	142 Feet	
9521 Sunset Blvd.	1.41 Acres	173 Feet	
9451 Sunset Blvd.	1.14 Acres	218 Feet	
9439 Sunset Blvd.	1.99 Acres	55 Feet	
9431 Sunset Blvd.	1.33 Acres	233 Feet	
9425 Sunset Blvd.	1.18 Acres	25 Feet	
9419 Sunset Blvd.	1.19 Acres	175 Feet	
9401 Sunset Blvd.	3.81 Acres	330 Feet	
901 Foothill Rd.	0.64 Acres	127 Feet	
9451 Sunset Blvd.	0.59 Acres	143 Feet	
900 Alpine Dr.	1.5 Acres	282 Feet	
<b>Averages:</b>	<b>1.42 Acres</b>	<b>180 Feet</b>	
<b>Subject Property</b>	<b>3.55 Acres</b>	<b>535 Feet</b>	

TABLE 1

setting the proposed fence three-feet back from the front property line would not deprive the property owner of establishing a appropriately scaled and architecturally compatible fence. The subject property is nearly 300-feet in depth and satisfying the code's setback requirement could be accomplished while accomplishing the project's objectives of establishing an appropriately sized fence of compatible architectural style.

These circumstances are used as the basis for recommending approval of the requested variance in regard to fence height, and denial of the requested variance in

regard to fence location, as delineated under the draft Findings 1 and 2 below.

**FINDINGS**

To approve the requested variance the Planning Commission must make certain findings. Those findings are provided below along with staff's analysis supporting, as conditioned, approval of the project. These findings are included in the Draft Planning Commission Resolution (Attachment 1), and may be modified by the Planning Commission as appropriate.

- 1) Because of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.***

The subject property is located in the Hillside Area of the City and is similar to other properties in the immediate area insofar as its topography and surroundings; however, the size and large amount of street frontage of the property differentiate it from surrounding properties. The subject property contains approximately 535 linear feet of frontage along Sunset Boulevard, while properties in the vicinity of the project site contain an average of approximately 180 linear feet of street frontage along Sunset Boulevard. Additionally, the subject property is approximately 3.55 acres in size, while properties in the vicinity of the project site average approximately 1.42 acres in size. Because the subject property is generally two and a half times larger, and contains approximately three times more street frontage than surrounding properties, the strict application of the BHMC denies the subject property and its owners the enjoyment of having fences that are consistent in size, scale, and architectural compatibility with the property and existing residence. The existing residence is over 80 years old and functions as a large estate that has historically enjoyed taller fences and walls that are consistent with the grand nature of the property. Table 1, above, identifies the size and street frontages associated with adjacent properties. Therefore, the unique characteristics of the subject property support the granting of a variance for over-height fences.

In regard to the placement of fences within 3 feet of a front property line, the unique characteristics associated with the subject property do not preclude it from complying with this code requirement. The subject property is nearly 300-feet in depth and satisfying the code's setback requirement of 3 feet could be accomplished while accomplishing the project's objectives of establishing an appropriately sized fence of compatible architectural style. Therefore, requiring the subject property to provide a 3 foot setback for fences along the front property line does not substantiate a hardship, as this requirement can be appropriately accommodated within the constraints of the subject property.

***2) Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges in the vicinity and zone in which the subject property is situated.***

As discussed above, the subject property is much larger and contains much more street frontage than properties in the surrounding area, which causes the subject property to be subject to unique circumstances. Because the subject property exhibits unique circumstances, the granting of a variance will not constitute a grant of special privileges, but will instead allow the subject property to be enjoyed in a manner similar to that of surrounding properties. Additionally, the proposed fencing is consistent with many existing fences in the vicinity of the subject property in terms of placement and height, as many surrounding properties contain over-height fences that were constructed prior to current zoning requirements. Project-specific conditions are recommended to ensure compatibility with the existing streetscape.

## **PUBLIC NOTICE AND COMMENTS**

Notice of the proposed project and public hearing was mailed on November 6, 2009 to all property owners and residential tenants within a 300-foot radius of the property. Additionally, notice was published in two newspapers of general circulation. As of the date of preparation of this staff report, no comments have been received in regard to the proposed project.

## **ENVIRONMENTAL DETERMINATION**

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

## **RECOMMENDATION**

Based on the foregoing analysis staff recommends that the Planning Commission adopt the attached resolution approving the requested variance to allow over-height fences within the front setback and denying the request to allow fencing within 3 feet of the front property line, subject to the following project-specific conditions of approval:

1. All fencing and pilasters that are not used for vehicular access shall be limited to a maximum height of 10 feet.
2. All new and relocated fencing shall be set back a minimum of 3 feet from the front property line.
3. The westernmost vehicular access gate shall be set back a minimum of 27 feet 7 inches from the front property line.
4. The easternmost vehicular access gate shall be set back a minimum of 42 feet 11 inches from the front property line.
5. Vehicular access gates shall be limited to a maximum height of 12 feet.
6. All pilasters adjacent to vehicular access gates shall be limited to a maximum height of 17 feet 1 inch.
7. All wrought iron fencing shall be maintained as open-to-view throughout the life of the project, and any existing fabric screening shall be removed.

8. The 26 inch space between the sidewalk and the existing fencing, as well as the 36 inch space between the sidewalk and any new fencing, shall be planted with low-growing vegetation not to exceed a maximum height of 3 feet. Said vegetation shall be maintained throughout the life of the project and shall be consistent with the landscape plan submitted for review by the Planning Commission.

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Ryan Gohlich  
Associate Planner

Attachments:

1. Draft Planning Commission Resolution
2. Historic Photographs of Project Site

ATTACHMENT 1  
DRAFT RESOLUTION

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY GRANTING A REQUEST FOR A VARIANCE TO ALLOW THE CONSTRUCTION OF A FENCE WITHIN A FRONT SETBACK THAT EXCEEDS 6 FEET IN HEIGHT, AND DENYING A REQUEST FOR A VARIANCE TO ALLOW THE CONSTRUCTION OF THE FENCE WITHIN 3 FEET OF THE FRONT PROPERTY LINE ON THE PROPERTY LOCATED IN THE HILLSIDE AREA OF THE CITY AT 9481 SUNSET BOULEVARD.

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

Section 1. Farrel StevIns, Applicant, on behalf of Stewart and Lynda Resnick, (collectively the "Applicant") has submitted an application for a Variance to allow the relocation of existing fencing and construction of new fencing that varies in height between 10 feet and 17 feet 1 inch and is within 3 feet of the front property line on the property located in the Hillside Area of the City at 9481 Sunset Boulevard (the "Project"). Fences located on Hillside properties are limited to a maximum height of 6 feet within a front setback and may not be located within 3 feet of a front property line. Because the proposed fencing does not comply with the height or placement requirements of the Beverly Hills Municipal Code a variance is being requested

Pursuant to BHMC Section 10-3-3700 an applicant that demonstrates unique hardships associated with the property and not shared by other properties in the district may receive approval to deviate from specific code standards in order to mitigate a demonstrated hardship. The applicant asserts the historic nature of the property and its prominent exposure to Sunset Boulevard as unique issues supporting the subject request.

Section 2. The house located on the subject property was constructed in approximately 1928. The Applicant provided photographs that are reported to have been taken at the time the house was constructed. The photographs appear to show that existing fencing located along the front property line was installed at the same time the main house was constructed. Much of the existing fencing in front of the primary residence is approximately 10 feet in height with large hedges growing in front of the fencing. Additionally, there are two vehicular access gates located in front of the primary residence that are approximately 12 feet in height with 17 foot tall pilasters.

In researching the Project staff determined that at the time of its construction there were no zoning requirements related to fencing, therefore, all existing fencing within the front setback is considered to be legally nonconforming. Additionally, staff found that many other properties located along Sunset Boulevard have a similar condition of legally nonconforming fencing, as tall fences and walls were a common component of many of the older estates. Staff was unable to identify any other variances issued to properties along Sunset Boulevard for the purpose of fencing within the past ten years.

Section 3. The Project site is located on the north side of Sunset Boulevard, and is developed with an approximately 16,000 square foot residence and several accessory structures. Adjacent residential properties vary in size. The subject property consists of three individual parcels that have been legally tied together to form the subject property. The subject property has a total street frontage of 535 feet along Sunset Boulevard and a total area of approximately 3.55 acres. Properties in the immediate vicinity of the project site that are subject to the same development standards as the subject property average approximately 1.42 acres in

size with approximately 180 feet of street frontage along Sunset Boulevard. Existing fences and hedges along Sunset Boulevard vary in height and location, but typically exceed 6 feet in height and are commonly placed in close proximity to any property lines abutting Sunset Boulevard.

Properties that are not located along Sunset Boulevard but are subject to the same development standards as the subject property are commonly irregularly shaped, subject to varying topography, and have varying amounts of street frontage that typically do not exceed 200 feet. The subject property is unique when compared to other properties subject to the same development standards due to its large amount of street frontage (535 feet), its location along Sunset Boulevard which is an arterial street with high traffic volumes, and its overall size which causes the property to function as a large estate.

Section 4. The Applicant proposes to construct new fencing that is 10 feet in height and replicates the style and placement of the property's existing fencing. The new 10 foot tall fencing would extend across the entire Sunset Boulevard street frontage along the front property line. The Applicant also proposes to relocate two existing 12 foot tall vehicular access gates to accommodate a new circular driveway configuration. The existing vehicular gates are flanked by 17 foot tall pilasters, and these pilasters would be removed from their current location and re-fabricated at the new driveway locations. The westernmost vehicular entrance gate and pilasters would be set back 27 feet 7 inches from Sunset Boulevard and the easternmost vehicular access gate would be set back approximately 43 feet from Sunset Boulevard. Setting back the vehicular access gates is intended to allow for queuing of a minimum of two vehicles without obstructing Sunset Boulevard, which is classified as an arterial street. The 10 foot tall sections of fencing would be located at the front property line with no setback, and are

comprised of a 3 foot tall garden wall with 7 foot tall wrought iron fencing on top. The existing vehicular entrance gates that would be reused are constructed entirely of wrought iron. All wrought iron sections of the fence are open to view and all existing hedges and screening materials would be removed.

As proposed, the Project requires a variance to allow the fencing to be located within 3 feet of the front property line and to allow the fencing to exceed a maximum height of 6 feet within the front setback. The Applicant has filed the request for a variance on the grounds that the subject property is unique due to its size, location along Sunset Boulevard, and its historic nature of being a grand estate with appropriately sized fencing.

Section 5. The Project has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.* (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*), and the City’s Local CEQA Guidelines (hereafter the “Guidelines”), and the City’s environmental guidelines, and a Class 3 Categorical Exemption has been issued in accordance with the requirements of Section 15303(e) of the Guidelines for the construction of new accessory/appurtenant structures.

Section 6. The Project does not meet current zoning requirements for walls and fences. Rather than comply with current zoning requirements, the Applicant seeks relief from these requirements through a variance in order to construct a fence that is taller than allowed and in a location not allowed. Local ordinance and state law set forth specific findings that must be made in order to grant such an approval. The findings relate to the special

circumstances that physically differentiate the project site from its neighbors. Unnecessary hardships that would result from the denial of a variance must be outlined in the findings made by the reviewing authority. The specific findings required to approve a variance are set forth in BHMC Section 10-3-3700.

The subject property exhibits special circumstances that physically differentiate it from its neighbors due to its overall size and its large amount of street frontage along Sunset Boulevard, both of which are not similar to properties located in the surrounding area. Because of these unique circumstances the subject property functions as a large estate, which has historically enjoyed taller fences and walls, including pilasters that extend up to 17 feet in height. Relocating fencing and constructing new fencing is intended to seamlessly expand upon existing fencing, create a more useable driveway and front yard area, and maintain the architectural integrity of the subject property.

In identifying a hardship associated with the requested variance, constructing new fences at the code-compliant height of 6 feet would be inconsistent with the size, scale, and architectural character of the subject property, which was constructed over 80 years ago. Additionally, other properties in the area have comparably sized, legally nonconforming fences and walls that allow for enjoyment of the properties. However, the size, scale, and architectural character of the subject property do not preclude the subject property from complying with the code-required 3 foot setback for fences located along a front property line.

These circumstances are used as the basis for approval of the requested variance in regard to fence height, and denial of the requested variance in regard to fence location, and are more specifically outlined below.

Section 7. Notice of the Project and public hearing was mailed on November 6, 2009 to all property owners and residential tenants within a 300-foot radius of the property, and notice was published in two newspapers of local circulation, the Beverly Hills Courier and Beverly Hills Weekly. On November 19, 2009 the Planning Commission considered the application at a duly noticed public meeting. Evidence, both written and oral, was presented at said meeting.

Section 8. In considering the request for a Variance, the Planning Commission considered the following criteria:

1. Because of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification; and
2. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges in the vicinity and zone in which the subject property is situated.

Section 9. Based on the foregoing, the Planning Commission hereby finds and determines as follows:

1. The subject property is located in the Hillside Area of the City and is similar to other properties in the immediate area insofar as its topography and surroundings; however, the size and large amount of street frontage of the property

differentiate it from surrounding properties. The subject property contains approximately 535 linear feet of frontage along Sunset Boulevard, while properties in the vicinity of the project site contain an average of approximately 180 linear feet of street frontage along Sunset Boulevard. Additionally, the subject property is approximately 3.55 acres in size, while properties in the vicinity of the project site average approximately 1.42 acres in size. Because the subject property is generally two and a half times larger, and contains approximately three times more street frontage than surrounding properties, the strict application of the BHMC denies the subject property and its owners the enjoyment of having fences that are consistent in size, scale, and architectural compatibility with the property and existing residence. The existing residence is over 80 years old and functions as a large estate that has historically enjoyed taller fences and walls that are consistent with the grand nature of the property. Therefore, the unique characteristics of the subject property support the granting of a variance for over-height fences.

In regard to the placement of fences within 3 feet of a front property line, the unique characteristics associated with the subject property do not preclude it from complying with this code requirement. The subject property is nearly 300-feet in depth and satisfying the code's setback requirement of 3 feet could be accomplished while accomplishing the project's objectives of establishing an appropriately sized fence of compatible architectural style. Therefore, requiring the subject property to provide a 3 foot setback for fences along the front property line does not substantiate a hardship, as this requirement can be appropriately accommodated within the constraints of the subject property.

5. Vehicular access gates shall be limited to a maximum height of 12 feet.

6. All pilasters adjacent to vehicular access gates shall be limited to a maximum height of 17 feet 1 inch.

7. All wrought iron fencing shall be maintained as open-to-view throughout the life of the project, and any existing fabric screening shall be removed.

8. The 26 inch space between the sidewalk and the fencing, as well as the 36 inch space between the sidewalk and any new fencing, shall be planted with low-growing vegetation not to exceed a maximum height of 3 feet. Said vegetation shall be maintained throughout the life of the project and shall be consistent with the landscape plan submitted for review by the Planning Commission.

9. The Project shall substantially comply with the plans submitted to and reviewed by the Planning Commission at its meeting of November 19, 2009.

10. These conditions shall run with the land and shall remain in full force for the duration of the life of the Project.

11. This resolution granting the requested Variance shall not become effective until the owner of the Project site records a covenant, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this resolution. The covenant shall include a copy of this resolution as an exhibit. The Applicant shall deliver the executed covenant to the Department of Planning & Community Development **within 60 days** of the Planning Commission decision. At the time that the Applicant delivers the covenant to the City, the Applicant shall also provide the City with all fees necessary to record the document with the County

Recorder. If the Applicant fails to deliver the executed covenant within the required 60 days, this resolution approving the Project **shall be null and void and of no further effect.** Notwithstanding the foregoing, the Director of Planning & Community Development may, upon a request by the Applicant, grant a waiver from the 60 day time limit if, at the time of the request, the Director determines that there have been no substantial changes to any federal, state or local law that would affect the Project.

Section 11. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted:

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

Attest:

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Secretary

Approved as to form:

Approved as to content:

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David M. Snow  
Assistant City Attorney

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Jonathan Lait, AICP  
City Planner

ATTACHMENT 2  
HISTORIC PHOTOGRAPHS

