



## Planning Commission Report

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**Meeting Date:** November 9, 2010

**Subject:** **9481 Sunset Boulevard**  
**Resnick Residence Accessory Structure**

Request for a Hillside R-1 Permit to allow the construction of a 108 square foot accessory structure that would be located within 100 feet of a front property line.

PROJECT APPLICANT: Farrel Stevens

**Recommendation:** That the Planning Commission:

1. Conduct a public hearing and receive testimony on the project; and
  2. Adopt the attached resolution conditionally approving the request for a Hillside R-1 Permit.
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### REPORT SUMMARY

The proposed project involves the construction of a 108 square foot accessory structure/entry pavilion near the southeast corner of the subject property. The proposed structure would be 10'6" tall at its highest point and be set back 10 feet from the front property line. The purpose of the structure is to provide an area for guests to be greeted before entering the property and to improve security. The project includes landscaping intended to screen the structure from view, and staff recommends special conditions to ensure that the screening complies with zoning requirements.

**Attachment(s):**

- A. [Zoning Compliance Table](#)
- B. [Staff Recommended Findings and Conditions of Approval](#)
- C. [Public Notice](#)
- D. [Draft Planning Commission Resolution](#)
- E. [Planning Commission Resolution No. 1424](#)
- F. [Planning Commission Resolution No. 1563](#)
- G. [Architectural Plans](#)

**Report Author and Contact Information:**

Ryan Gohlich, Associate Planner

(310) 285-1194

[rgohlich@beverlyhills.org](mailto:rgohlich@beverlyhills.org)

## **BACKGROUND**

File Date	8/2/2010
Application Complete	9/15/2010
Subdivision Deadline	N/A
CEQA Deadline	60 days from CEQA Determination
Permit Streamlining	8/14/2010 (without extension request from applicant)
Applicant(s)	Farrell Stevens
Owner(s)	Stewart and Lynda Resnick
Representative(s)	Farrell Stevens
Prior Project Previews	None
Prior PC Action	Planning Commission Resolutions 1424 and 1563 granting a Hillside R-1 Permit and Variance to allow the construction of multiple accessory structures and an over-height fence within the front setback (see attached resolutions).
Prior Council Action	None

## **PROPERTY AND NEIGHBORHOOD SETTING**

### Property Information

Address	9481 Sunset Boulevard
Legal Description	Tract 7447, Lots 2, 3, and 4
Zoning District	R-1.X
General Plan	Single-Family Residential - Low Density
Existing Land Use(s)	Single-Family Residential
Lot Dimensions & Area	561' (average width) x 278' (average depth) = 3.55 acres
Year Built	1928
Historic Resource	The primary residence on the property is considered to be a historic resource; however, the project does involve modifications to the primary residence.
Protected Trees/Grove	A grove of citrus trees exists within the front setback, but would not be impacted by the project.

### Adjacent Zoning and Land Uses

North	Single-Family Residential
South	Single-Family Residential
East	Single-Family Residential
West	Single-Family Residential

### Circulation and Parking

Adjacent Street(s)	Sunset Boulevard
Adjacent Alleys	None
Parkways & Sidewalks	16' wide parkway/sidewalk along Sunset Boulevard
Parking Restrictions	No parking permitted along north side of Sunset Boulevard
Nearest Intersection	Sunset Boulevard and Mountain Drive
Circulation Element	Sunset Boulevard is considered an arterial roadway

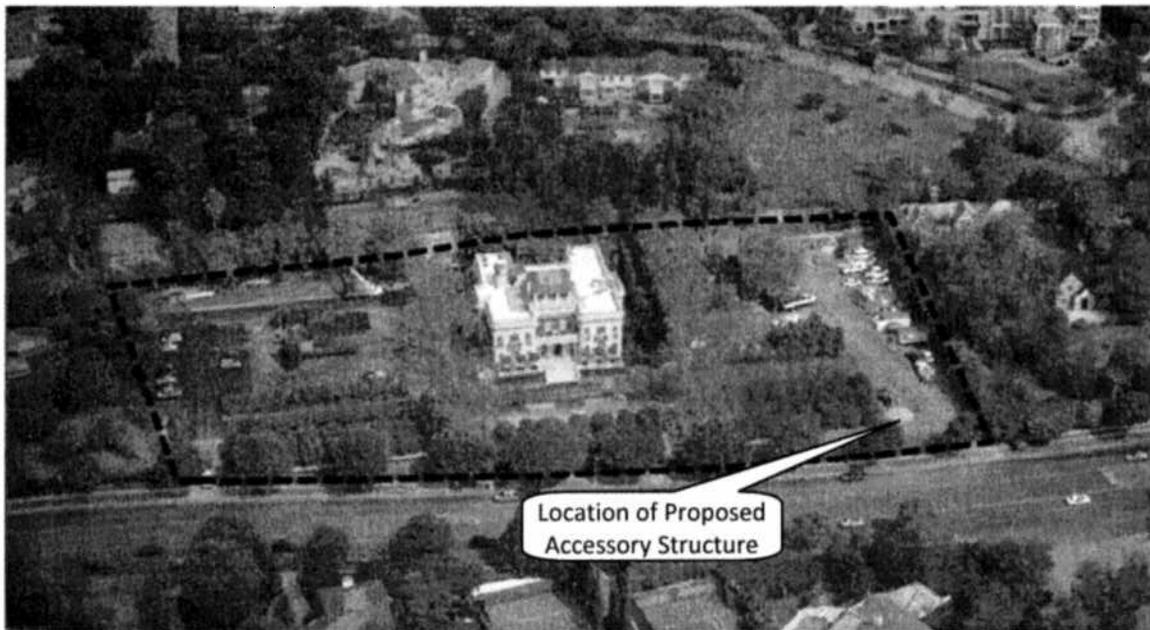
Estimated Daily Trips 36,540 daily trips along Sunset Boulevard

Neighborhood Character

The project site is located in the Hillside Area of the city, which tends to be developed with larger estates on larger properties. The subject property is somewhat unique in that it consists of three lots that have been tied together, while most properties in the vicinity remain as individual lots. The built environment predominantly consists of two-story residences surrounded by large, lushly landscaped yards. The majority of homes are set back significantly from Sunset Boulevard, and the landscaping screens views of many of the residences.



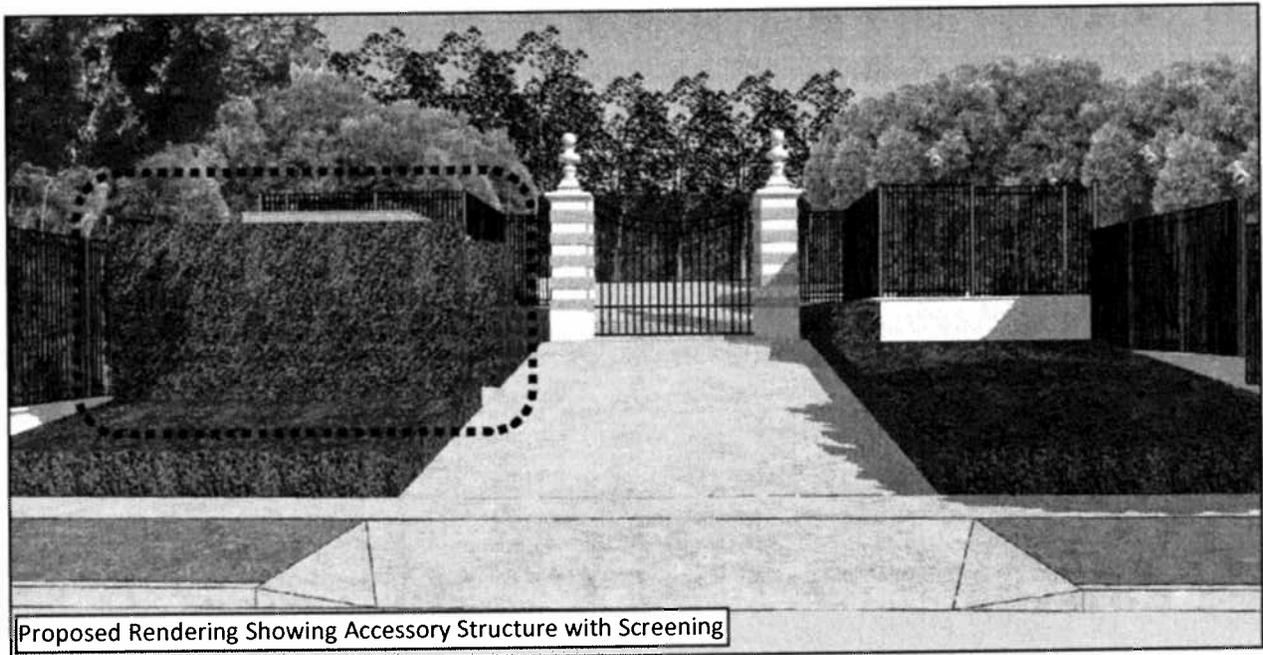
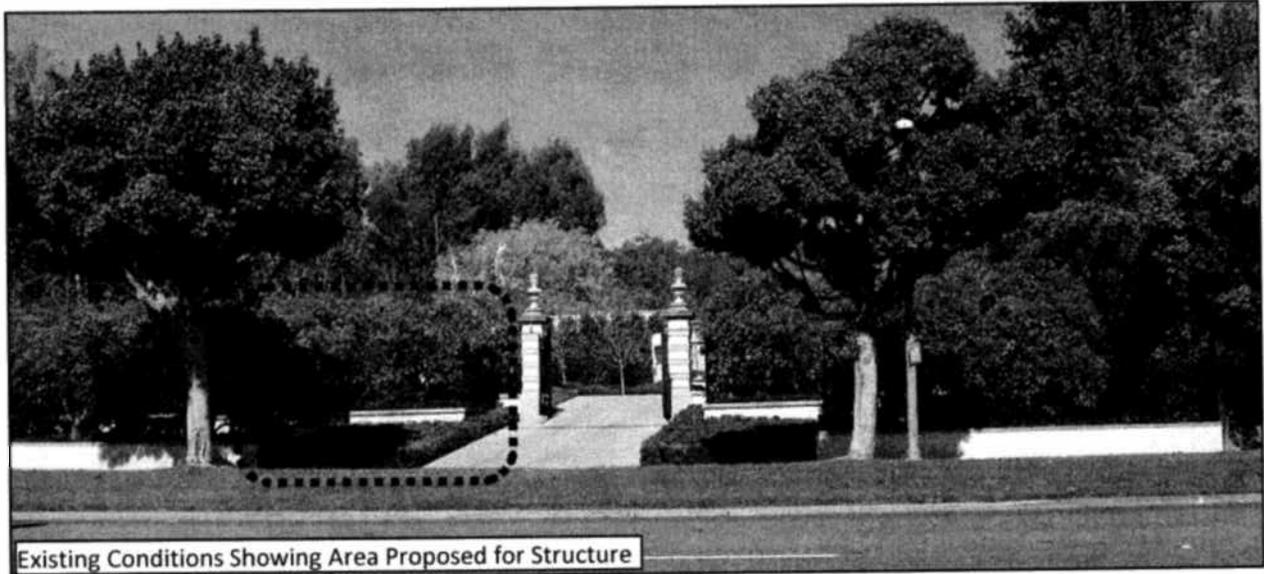
Project Site Looking East

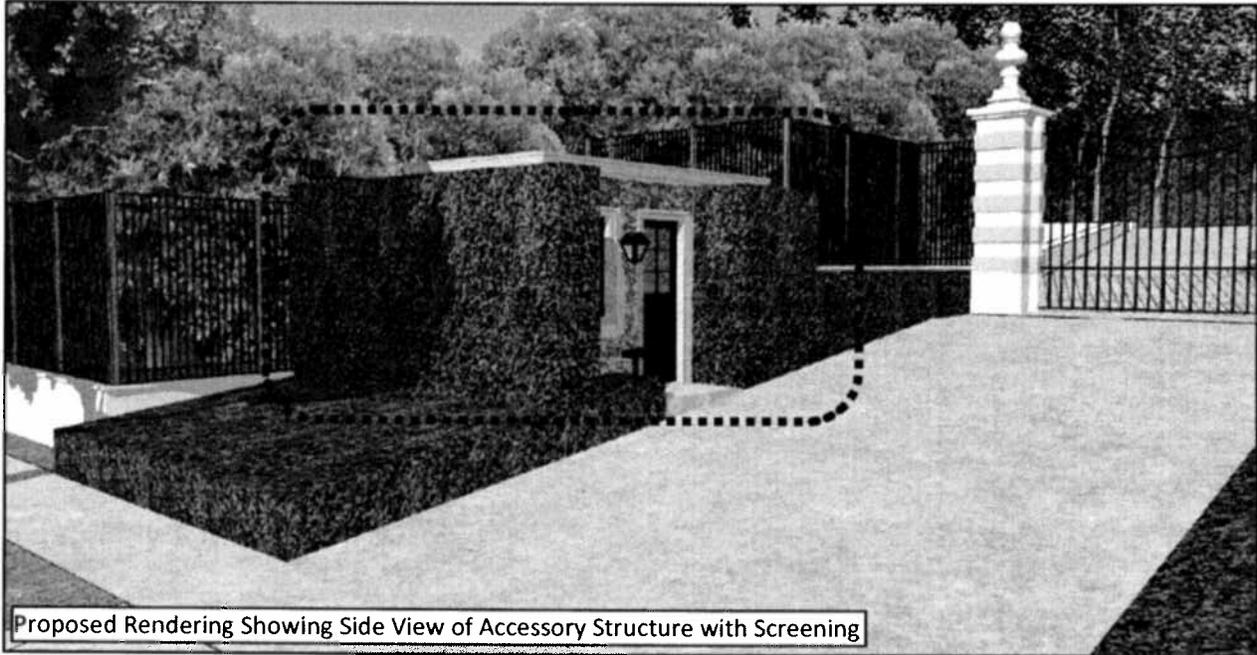


Project Site Looking North

**PROJECT DESCRIPTION**

The proposed accessory structure/entry pavilion would be located near the southeast corner of the subject property. As proposed, the structure is 108 square feet in size, 10 feet 6 inches tall, set back 10 feet from the front property line, and located adjacent to the property's main driveway. The nearest adjacent property is located to the east of the subject property, and the structure is proposed to be located approximately 70 feet from the shared property line between the two properties. Landscaping, in the form of ficus hedges, is proposed to surround the structure and provide substantial screening. The project would not result in the loss or modification of any existing structures on the property.





#### Requested Permits

The applicant requests approval of a Hillside R-1 Permit to allow the proposed accessory structure to be located within 100 feet of a front property line, as the structure is proposed to be located 10 feet from the front property line. Because the subject property is considered to be an “estate property” (larger than 24,000 square feet), the Planning Commission has the authority to approve the siting of an accessory structure anywhere on the property.

#### **ZONING CODE<sup>1</sup> COMPLIANCE**

A detailed review of the proposed project to applicable zoning standards is provided in Attachment A. The proposed project complies with all applicable codes, or is seeking through the requested permits, permission to deviate from certain code standards, in a manner that is consistent with the Zoning Ordinance. Zoning issues specific to the proposed project are discussed as follows:

- The landscaping proposed for the purpose of screening the structure would use ficus hedges. The hedges would be approximately 10 feet in height, and as a result would not be in compliance with the hedge height standards set forth in the City’s Municipal Code. Consequently, staff recommends installing a climbing vine species that would be attached to the structure. By being attached to the structure, rather than being planted adjacent to the structure and creating a hedge, a climbing vine would not be in violation of the Municipal Code, and would accomplish the goals of the applicant and City.

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<sup>1</sup> Available online at [http://www.sterlingcodifiers.com/codebook/index.php?book\\_id=466](http://www.sterlingcodifiers.com/codebook/index.php?book_id=466)

- In addition to the request to place the structure 10 feet from the front property line, the cumulative floor area on the subject property exceeds 15,000 square feet. Typically, exceeding a cumulative floor area of 15,000 square feet would be part of the Hillside R-1 application. However, the Commission previously set a maximum cumulative floor area of 35,278 square feet for the subject property in 2006 (Planning Commission Resolution No. 1424). With incorporation of the proposed accessory structure, the cumulative floor area on the subject property would be 21,288 square feet, which is 13,990 square feet less than the maximum established for the property by the Planning Commission. Therefore, the cumulative floor area on the subject property does not require further review by the Commission.

**GENERAL PLAN<sup>2</sup> POLICIES**

The General Plan includes several goals and policies. Some policies relevant to the Planning Commission’s review of the project include:

- Policy 5.1 Neighborhood Conservation. Maintain the uses, densities, character, amenities, character, and quality of the City’s residential neighborhoods, recognizing their contribution to the City’s, identity, economic value and quality of life.
- Policy 6.1 Neighborhood Identity. Maintain the characteristics that distinguish the City’s single-family neighborhoods from one another in such terms as topography, lot size, housing scale and form, and public streetscapes.

**ENVIRONMENTAL ASSESSMENT**

The subject project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines<sup>3</sup>, and the environmental regulations of the City. The project qualifies for a categorical exemption pursuant to Section 15303 (Class 3(e)) of the Guidelines. Specifically, a Class 3(e) exemption allows for the construction of new accessory structures. The proposed project is a 108 square foot accessory structure that is subordinate to the main residence, and is therefore eligible for the exemption.

**PUBLIC OUTREACH AND NOTIFICATION**

Type of Notice	Required Period	Required Notice Date	Actual Notice Date	Actual Period
Posted Notice @ Library	N/A	N/A	11/4/2010	6 Days
Newspaper Notice	N/A	N/A	N/A	N/A
Mailed Notice (Owners & Residents - 300' Radius)	10 Days	10/30/2010	10/29/2010	11 Days
Property Posting	N/A	N/A	N/A	N/A
Website	N/A	N/A	11/4/2010	6 Days

Applicant Outreach Efforts

Other than the required public noticing, no public outreach has been conducted by the applicant.

<sup>2</sup> Available online at [http://www.beverlyhills.org/services/planning\\_division/general\\_plan/genplan.asp](http://www.beverlyhills.org/services/planning_division/general_plan/genplan.asp)

<sup>3</sup> The CEQA Guidelines and Statue are available online at <http://ceres.ca.gov/ceqa/guidelines>

### Public Comment

As of the date of the preparation of this report, staff has not received any public correspondence regarding the project.

### **ANALYSIS<sup>4</sup>**

Project approval, conditional approval or denial is based upon specific findings for each discretionary application requested by the applicant. Draft findings are included with this report in Attachment B and may be used to guide the Planning Commission's deliberation of the subject project.

### Summary

In reviewing the requested Hillside R-1 Permit specific findings must be made with regard to the scale and character of the area, neighbors' privacy and access to light and air, and the streetscape. The proposed structure has been designed with the above criteria in mind, and occupies as small a footprint as possible while still achieving the goals of the property owner. The structure provides sufficient setbacks from all neighboring properties so as to not be visible. Additionally, the structure will be sufficiently screened in order to maintain the character of the existing streetscape along Sunset Boulevard, and not result in a substantial change from existing conditions. As a result, staff recommends approval of the project. Key issues related to the required findings are discussed as follows:

**Streetscape.** As discussed above, the proposed project will not be visible from neighboring properties; however, there will be visibility from Sunset Boulevard given the proposed 10 foot front setback. The proposed structure is 9 feet wide as viewed from Sunset Boulevard, which results in the structure occupying approximately 1.6% of the property's street frontage. Additionally, proposed/conditioned landscaping will surround all sides of the structure in order to preserve existing views of greenery and landscaping seen from Sunset Boulevard. Based on this analysis, the project will not degrade the character of the existing streetscape and will be a compatible addition to the subject property.

### Special Conditions of Approval

The recommendation in this report is for approval. In addition to standard conditions of approval, the following project-specific conditions are recommended (also see Attachment B):

- Special Condition #1: Staff recommends incorporation of Special Condition #1, which modifies the landscaping proposed by the applicant in order to achieve code compliance, and also requires maintenance of landscaping around the accessory structure in order to provide sufficient screening as viewed from Sunset Boulevard.

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<sup>4</sup> The analysis provided in this section is based on draft findings prepared by the report author prior to the public hearing. The Planning Commission in its review of the administrative record and based on public testimony may reach a different conclusion from that presented in this report and may choose to modify the findings. A change to the findings may result in a final action that is different from the staff recommended action in this report.

### **NEXT STEPS**

It is recommended that the Planning Commission adopt the attached resolution conditionally approving the project.

Alternatively, the Planning Commission may consider the following actions:

1. Approve the project with modified findings or conditions of approval.
2. Deny the project, or portions of the project, based on revised findings.
3. Direct staff or applicant as appropriate and continue the hearing to a date (un)certain, consistent with permit processing timelines, and at applicant's request or consent.

Report Reviewed By:

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David Reyes, Principal Planner

**ATTACHMENT A**  
**Table - Zoning Compliance**

REGULATIONS	PERMITTED / ALLOWED	PROPOSED PROJECT	NOTES
<b><u>Accessory Structure</u></b>			
Height	14 feet	10 feet 6 inches	
Lot Coverage / Floor Area	35,278	Structure is 108 square feet, cumulative on site will be 21,288 square feet	
Front Setback	100 feet	10 feet	
Rear Setback	5 feet	275 feet	
East Side Setback	5 feet	70 feet	
West Side Setback	5 feet	450 feet	
Modulation	N/A	N/A	
Open Space	N/A	N/A	
<b><u>Parking &amp; Circulation</u></b>			
Parking Spaces	4	No change - property has more than 40 spaces	
<b><u>Landscaping</u></b>			
Front Yard Paving	N/A	N/A	
Light Wells	N/A	N/A	
Excavation	N/A	N/A	

## ATTACHMENT B

### Draft Findings and Conditions of Approval

#### DRAFT FINDINGS

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##### Hillside R-1 Permit

1. *The structure will not have a substantial adverse impact on the scale or character of the area;*

The project is small in scale, totaling 108 square feet of floor area and having a maximum height of 10 feet 6 inches. As conditioned, landscaping is provided to screen the structure on all sides. Based on the structure's size and landscaping, the project will not alter the built environment of the area and will therefore not have an adverse impact on the scale or character of the area.

2. *The structure will not have a substantial adverse impact on the privacy of neighboring properties;*

The project would be located 70 feet from the nearest neighboring property. Further, due to existing landscaping and elevation changes between properties, the structure will not be visible from neighboring properties, nor will it have views into neighboring properties. As a result, the project will not have a substantial adverse impact on the privacy of neighboring properties.

3. *The structure will not have a substantial adverse impact on the neighbors' access to light and air; and*

The project would be located 70 feet from the nearest neighboring property and would have a maximum height of 10 feet 6 inches. Further, due to existing landscaping and elevation changes between properties, the structure will not be visible from neighboring properties, nor will it be taller than the level pad of the nearest neighboring property. As a result, the project will not have a substantial adverse impact on the neighbors' access to light and air.

4. *The structure will not have a substantial adverse impact on the streetscape.*

The project occupies approximately 1.6% of the subject property's street frontage, and is designed to minimally alter the character of the existing streetscape. As conditioned, landscaping will provide screening of the project in order to maintain existing views of greenery as seen from Sunset Boulevard. Based on the landscaping and the limited scale of the project, adverse impacts to the character of the streetscape are not anticipated.

#### DRAFT CONDITIONS

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##### Project Specific Conditions

1. In lieu of the ficus hedge proposed by the Applicant, a climbing vine shall be planted on all sides of the accessory structure. The climbing vine shall be configured in such a manner so as to encourage complete coverage of the structure's exterior walls, and shall be maintained throughout the life of the Project. The species of climbing vine shall be selected by the applicant and presented to the Community Development Director for final review and approval. Said climbing vine shall be planted immediately adjacent to the structure, and shall not be permitted to grow above the highest point of the structure.

Standard Conditions

2. The Project shall be constructed in substantial compliance with the plans and specifications approved by the Planning Commission on November 9, 2010.
3. These conditions shall run with the land and shall remain in full force for the duration of the life of the Project.
4. This resolution granting the requested Hillside R-1 Permit shall not become effective until the owner of the Project site records a covenant, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this resolution. The covenant shall include a copy of this resolution as an exhibit. The Applicant shall deliver the executed covenant to the Department of 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.

# **ATTACHMENT C**

## **Public Notice**



**NOTICE OF PUBLIC HEARING**

**DATE:** November 9, 2010

**TIME:** 1:30 PM

**LOCATION:** Council Meeting Room 280A  
Beverly Hills City Hall  
455 North Rexford Drive  
Beverly Hills, CA 90210

The Planning Commission of the City of Beverly Hills, at its SPECIAL meeting on Tuesday, November 9, 2010, will hold a public hearing beginning at or after **1:30 PM** to consider:

A request for a Hillside R-1 Permit to allow the construction of an accessory structure within 100 feet of a front property line, for a property located in the Hillside Area of the City at **9481 Sunset Boulevard**. The proposed accessory structure would be located approximately 10 feet from the front property line, near the southeast corner of the subject property. The proposed structure would be 108 square feet in size, 10 feet 6 inches in height, and located adjacent to the property's driveway for the purpose of greeting guests.

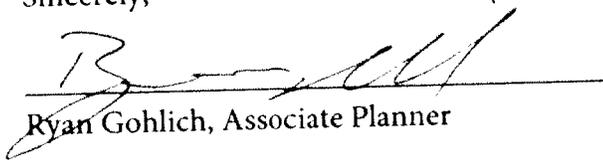
This project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The project is eligible for a Class 3(e) Categorical Exemption for the construction of a residential accessory structure, and the project has been determined to not have a significant environmental impact and is exempt from the provisions of CEQA.

Any interested person may attend the meeting and be heard or present written comments to the Commission.

According to Government Code Section 65009, if you challenge the Commission's action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City, either at or prior to the public hearing.

If there are any questions regarding this notice, please contact **Ryan Gohlich, Associate Planner** in the Planning Division at 310.285.1194, or by email at [rgohlich@beverlyhills.org](mailto:rgohlich@beverlyhills.org). Copies of the applications, plans, and environmental review are on file in the Community Development Department, and can be reviewed by any interested person at 455 North Rexford Drive, Beverly Hills, CA 90210.

Sincerely,

  
Ryan Gohlich, Associate Planner

Mailed October 29, 2010

# **ATTACHMENT D**

## **Draft Planning Commission Resolution**

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY GRANTING A REQUEST FOR A HILLSIDE R-1 PERMIT TO ALLOW THE CONSTRUCTION OF A 108 SQUARE FOOT ACCESSORY STRUCTURE WITHIN 100 FEET OF A 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 Hillside R-1 Permit to allow the construction of a 108 square foot accessory structure/entry pavilion within 100 feet of the front property line on the property located in the Hillside Area of the City at 9481 Sunset Boulevard (the "Project"). The Project would be located 10 feet from the front property line, near the southeast corner of the subject property, and would be used for the purpose of greeting guests before entering the property and providing added security. Accessory structures within the Hillside Area of the City are required to provide a 100 foot front setback, or be located entirely within 50 feet of a rear property line. The Project does not comply with either of these setback standards.

Pursuant to Beverly Hills Municipal Code (BHMC) Section 10-3-2526 and 10-3-2550 the Planning Commission may grant a Hillside R-1 Permit to allow the placement of an accessory structure anywhere on an "estate property" (a property that exceeds 24,000 square feet

in area) without conforming to the standard setback requirements, provided specific findings can be made in support of siting the accessory structure.

Section 2. 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, but are typically considered to be larger estates. 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.

Section 3. The Applicant proposes to construct an accessory structure that would be located near the southeast corner of the subject property. As proposed, the structure is 108 square feet in size, 10 feet 6 inches tall, set back 10 feet from the front property line, and located adjacent to the property's main driveway. The nearest adjacent property is located to the east of the subject property, and the structure is proposed to be located approximately 70 feet from the shared property line between the two properties. Landscaping, in the form of climbing vines would cover all exterior walls of the structure and provide substantial screening. The Project would not result in the loss or modification of any existing structures on the property.

Section 4. 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 a new accessory/appurtenant structure.

Section 5. The Project does not meet the standard setback requirements for an accessory structure. Rather than comply with the standard setback requirements, the Applicant seeks relief from these requirements through a Hillside R-1 Permit in order to construct the accessory structure approximately 10 feet from the front property line. Because the subject property is considered to be an “estate property” it is eligible to qualify for the necessary Hillside R-1 Permit associated with siting the accessory structure 10 feet from the front property line.

In addition to the request to site the structure 10 feet from the front property line, the cumulative floor area on the subject property exceeds 15,000 square feet. Exceeding a cumulative floor area of 15,000 square feet would require the issuance of a Hillside R-1 Permit. However, the Commission previously set a maximum cumulative floor area of 35,278 square feet for the subject property in 2006 (Planning Commission Resolution No. 1424). With incorporation of the proposed accessory structure, the cumulative floor area on the subject property would be 21,288 square feet, which is 13,990 square feet less than the maximum established for the property by the Planning Commission. Therefore, the cumulative floor area on the subject property does not require further review by the Commission.

Section 6. Notice of the Project and public hearing was mailed on October 29, 2010 to all property owners and residential occupants within a 300-foot radius of the property. On November 9, 2010 the Planning Commission considered the application at a duly noticed public meeting. Evidence, both written and oral, was presented at said meeting.

Section 7. In considering the request for a Hillside R-1 Permit, the Planning Commission considered whether the Project complied with the following criteria:

1. The structure will not have a substantial adverse impact on the scale or character of the area;
2. The structure will not have a substantial adverse impact on the privacy of neighboring properties;
3. The structure will not have a substantial adverse impact on the neighbors' access to light and air; and
4. The structure will not have a substantial adverse impact on the streetscape.

Section 8. Based on the foregoing, the Planning Commission hereby finds and determines as follows:

1. The Project is small in scale, totaling 108 square feet of floor area and having a maximum height of 10 feet 6 inches. As conditioned, landscaping is provided to screen the structure on all sides. Based on the structure's size and

landscaping, the Project will not alter the built environment of the area and will therefore not have an adverse impact on the scale or character of the area.

2. The Project would be located 70 feet from the nearest neighboring property. Further, due to existing landscaping and elevation changes between properties, the structure will not be visible from neighboring properties, nor will it have views into neighboring properties. As a result, the Project will not have a substantial adverse impact on the privacy of neighboring properties.

3. The Project would be located 70 feet from the nearest neighboring property and would have a maximum height of 10 feet 6 inches. Further, due to existing landscaping and elevation changes between properties, the structure will not be visible from neighboring properties, nor will it be taller than the level pad of the nearest neighboring property. As a result, the Project will not have a substantial adverse impact on the neighbors' access to light and air.

4. The Project occupies approximately 1.6% of the subject property's street frontage, and is designed to minimally alter the character of the existing streetscape. As conditioned, landscaping will provide screening of the Project in order to maintain existing views of greenery as seen from Sunset Boulevard. Based on the landscaping and the limited scale of the Project, adverse impacts to the character of the streetscape are not anticipated.

Section 9. Based on the foregoing, the Planning Commission hereby grants the requested Hillside R-1 Permit, subject to the following conditions:

1. In lieu of the ficus hedge proposed by the Applicant, a climbing vine shall be planted on all sides of the accessory structure. The climbing vine shall be configured in such a manner so as to encourage complete coverage of the structure's exterior walls, and shall be maintained throughout the life of the Project. The species of climbing vine shall be selected by the Applicant and presented to the Community Development Director for final review and approval. Said climbing vine shall be planted immediately adjacent to the structure, and shall not be permitted to grow above the highest point of the structure.

2. The Project shall be constructed in substantial compliance with the plans and specifications approved by the Planning Commission on November 9, 2010.

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

4. This resolution granting the requested Hillside R-1 Permit shall not become effective until the owner of the Project site records a covenant, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this resolution. The covenant shall include a copy of this resolution as an exhibit. The Applicant shall deliver the executed covenant to the Department of 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 10. 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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Lili Bosse  
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 E**

**Planning Commission Resolution No. 1424**

RESOLUTION NO. 1424

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A HILLSIDE R-1 PERMIT AND APPROVING A TREE REMOVAL PERMIT IN CONNECTION WITH THE CONSTRUCTION OF THREE ACCESSORY STRUCTURES ON AN ESTATE PROPERTY LOCATED AT 9481 SUNSET BOULEVARD

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

Section 1. Jon Black, Rios Clementi Hale Studio, on behalf of the Stewart and Lynda Resnick Trust, property owner (hereinafter referred to as "Applicant"), has applied for a Hillside R-1 Permit to allow the construction of three new accessory buildings totaling 16,707 square feet (including a 7,628 square foot gallery, a 1,000 square foot garden storage building and a 8,079 square foot spa building) to a property with an existing main residence and garage/guest house of 18,571 square feet for the property located at 9481 Sunset Boulevard (the "Project"). The Project also includes the lot tie of three individual lots (9475, 9481, and 9491 Sunset Boulevard) that are proposed to be tied together with a Lot Tie Covenant. The Hillside R-1 Permit is required in order to permit the following:

1. The export of earth material in excess of 3,000 cubic yards;
2. The total floor area of the site to exceed 15,000-square feet, which is the threshold for mandatory discretionary review.
3. An accessory structure on an estate lot to be located on any part of the lot.

In addition to the Hillside R-1 Permit request, the Project includes a request for a Tree Removal Permit to allow the removal of heritage trees as well as removal of trees within an urban grove.

Pursuant to Beverly Hills Municipal Code Section 10-3.2521 the Planning Commission may issue a Hillside R-1 Permit to allow 8,398 (in excess of 3,000 cubic yards) of earth material to be imported or exported from a single site in the Hillside area within a five year period provided the Commission makes certain findings.

Pursuant to Beverly Hills Municipal Code Section 10-3.2502, for a site that exceeds 30,000 square feet, the maximum allowable floor area is 31 percent of the level pad area plus 10 percent of the slope area. The total floor area of the proposed Project is 35,278 square feet which is under the total allowable floor area. Also pursuant to Section 10-3.2502, if the cumulative floor area developed on the site in combination with the floor area of any basements exceeds 15,000 square feet, the Planning Commission may issue a Hillside R-1 Permit provided the Commission makes certain findings.

Pursuant to Beverly Hills Municipal Code Section 10-3.2526, the Planning Commission may issue a Hillside R-1 Permit to allow an accessory structure to be located on any part of the lot if the site area equals or exceeds 24,000 square feet in area, provided the Commission makes certain findings.

Pursuant to Beverly Hills Municipal Code Section 10-3-2901(f) the Planning Commission may issue a Tree Removal Permit to allow a protected tree or ten percent (10%) or more of an urban grove to be removed as part of a development which is subject to a discretionary permit, provided the Commission makes certain findings.

Section 2. The Project has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. ("CEQA")), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the City's Local CEQA Guidelines. The City prepared an initial study and, based on the information contained in the initial study, determined that there was no substantial evidence that approval of the Project may have significant environmental impact. Accordingly, the City prepared a negative declaration in accordance with Section 15070 of the State CEQA Guidelines. Pursuant to Section 15074(b) of said Guidelines, the Planning Commission independently reviewed and considered the contents of the initial study and the negative declaration prior to deciding whether to approve the Project. Based on the initial study, the negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that the negative declaration prepared for the Project represents the independent judgment of the City and that there is no substantial evidence that the approval of the Project may have any significant environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Community Development and are in the custody of the Director of Community Development.

Section 3. On May 11, 2006, the Planning Commission held a duly noticed public hearing to consider the application. Evidence, both written and oral, including the staff report and supporting documentation, was presented at said hearing.

Section 4. The subject site is located on the north side of Sunset Boulevard between the two sides of Mountain Drive, in the Hillside area of the City. The property slopes upward to the north from Sunset Boulevard, the property abuts the rear of properties that front on Mountain Drive. From Sunset Boulevard to the level pad portion of the properties the difference in elevation is approximately 10-11 feet in height. The site is currently developed as three independent properties; the middle lot has an existing main residence, garage/guest house and pool while the other two lots have no existing structures other than walls and fences.

The Hillside R-1 Permit will allow three new accessory buildings with a total square footage of 16,707 square feet (including a 7,628 square foot gallery, a 1,000 square foot garden storage building and a 8,079 square foot spa building) on a property with an existing main residence and garage/guest house of 18,571 square feet. The subject site consists of three individual lots (9475, 9481, and 9491 Sunset Boulevard) that are proposed to be tied together with a Lot Tie Covenant. Once the lots are tied, the total square footage of the site will be 154,638 square feet (3.55 acres). The middle lot contains the existing main residence and the garage/guest house while the two lots flanking this lot are currently devoid of structures however extensive mature landscaping exists that serves to screen the properties. A 7.5 foot public utility easement is located along the northern property line of all three parcels and a 15 foot public utility easement is located between the two western lots (9481 and 9491 Sunset Boulevard). No structures may be constructed within these easements.

The proposal seeks to incorporate all three lots into one site with a seamless connection of landscaping. The existing main residence and garage/guest house accessory structure on the middle lot will remain. The proposal calls for the addition of three new

accessory buildings to this main residence. The existing three lots each have a circular driveway with two driveway cuts off of Sunset Boulevard. The proposal calls for the elimination of four of the driveway cuts and the relocation of two new entry points with a new driveway that will extend along the front portion of the lots and around the rear and sides to provide access to parking.

The site area of the eastern lot (9475 Sunset Boulevard) is 54,886 square feet (1.26 acres). A single story gallery building of 7,628 square feet with a maximum total height of 26 feet is proposed along with a garden storage building of 1,000 square feet with a maximum height of 14 feet. The gallery building contains three gallery rooms, a workroom and storage room on the main floor. It also has a full basement with mechanical rooms and a storage room. With the three lots tied into one large lot, the required side yard setbacks becomes 67 feet, 1 inch. If developed individually, the eastern lot would require a side yard setback of 21 feet, 1 inch. As proposed, the gallery accessory building will encroach into the required side yard setback with a side yard setback of 27 feet, 8 inches. This encroachment is permitted with the granting of a Hillside R-1 permit for accessory structures on estate lots.

The site area of the middle lot (9481 Sunset Boulevard) is 48,787 square feet (1.12 acres). The existing main residence is located on this lot with a garage/guest house accessory structure located to the rear of the residence. The main residence is 16,621 square feet in size and the garage/guest house structure is 1,950 square feet with a total square footage of 18,571 square feet. These structures will remain with the current proposal.

The site area of the western lot (9491 Sunset Boulevard) is 50,965 square feet (1.17 acres). The proposal calls for the addition of a new spa accessory building of 8,079 square

feet with a total height of 26 feet. As proposed, the spa contains an indoor pool, fitness gymnasium, entertainment room, men's and women's restrooms/changing rooms, massage, steam and sauna rooms and a kitchen. The building also has a full basement that contains mechanical equipment rooms, storage, staff lounge, and a flower preparation room. The building does not contain any sleeping/guest rooms. As proposed, the spa building has a side yard setback of 41 feet, 9.25 inches. With the three lots tied into one large lot, the required side yard setbacks become 67 feet, 1 inch. If developed individually, the western lot would require a side yard setback of 24 feet, 8 inches. A 9 foot, 10 inch portion of the southwestern corner of the building encroaches into the required 100 foot Sunset Boulevard front yard setback and the northern portion of the building encroaches 12 feet, 7.25 inches into the rear yard setback. These encroachments may be permitted with the granting of a Hillside R-1 Permit, if the appropriate findings can be made.

Parking on-site consists of an existing three car garage to the rear of the main residence with three parking spaces designated for the spa building to the west of the garage. Ample additional parking areas outside the required front yard setback are available to the rear and sides of the property along the concrete driveway providing access to the rear of the property. The Applicant has submitted a parking plan that could accommodate 34 cars on-site.

Construction of the proposed accessory structures, including the basements and site improvements will require the grading of 10,116 cubic yards of cut and 1,718 cubic yards of fill. The grading will be necessary to accommodate the construction of the accessory structure basements and the new driveway entrances.

The site contains an “urban grove” which is defined as 50 or more trees whose canopies are within six feet of the other. The existing landscaping on the site includes 230 mature dense non-native trees and shrubs. Many of the trees are in a state of compromised health and are in danger of falling, are interfering with the growth of the canopies of the street trees along Sunset Boulevard, or both. The proposal calls for the removal of a total of 90 of the existing trees, of which 20 are “heritage trees” (having a trunk circumference of forty eight inches or more, measured at a height of four feet six inches above natural grade); none are native trees. The proposed landscape plan calls for approximately 180 new trees.

The surrounding area is characterized by large single-family residences on large lots of which those on the north of this portion of Sunset Boulevard are considered the Hillside Area and those on the south side are the Central Area. Adjoining properties within a 300-foot radius have pads that are at a higher elevation, however no view of the Los Angeles basin exists from the properties; therefore potential view impacts from the proposed Project are not an issue.

Section 5. Pursuant to Section 10-3.2521 of the Beverly Hills Municipal Code, no more than 3,000 cubic yards of earth material may be imported or exported from a single site in the Hillside area within a five-year period. These limitations may be modified by issuance of a Hillside R-1 Permit provided the reviewing authority determines that the import or export will not create a substantial adverse impact on the surrounding neighborhood, considering the street widths and street configuration in the neighborhood. Haul routes, scheduling, phasing and safety precautions should also be considered.

Section 6. Based upon the evidence presented at the hearings, including the Staff Report and oral and written testimony, the Planning Commission, hereby finds as follows with respect to the request for a Hillside R-1 permit to allow the export of more than 3,000 cubic yards of earth material:

6.1. The Applicant's plans include a construction staging and hauling plan that addresses construction related impacts and provides for the following measures in order to minimize impacts:

- Construction access to the Project site will be via the existing driveway cuts from Sunset Boulevard.
- All construction related parking will be staged at various locations on-site as construction of the proposed structures progress.
- Construction hours will be limited to those allowed under Code.
- Heavy hauling will be limited to the hours of 9:00 a.m. to 3:00 p.m.

6.2. The Project's design entails landform alterations which include a total net export of 8,398 cubic yards of earth material. The amount of export of earth material will require approximately 840 truck trips in order to complete the export of all the earth material that needs to be removed from the site (each truck holds approximately 10 cubic yards). The Applicant has estimated that the proposed grading will take 40 working days (eight weeks) and proposed a grading schedule of three trucks per hour (18 trucks per day). Heavy hauling to and from the site will be limited to the hours of 9:00 a.m. to 3:00 p.m. As conditioned by this resolution, hauling will be limited to four trucks per hour which is more than the Applicant proposed but which will expedite the grading process. The Applicant submitted a hauling plan

with a haul route designated by the City's Public Works, Engineering Department. The haul route calls for trucks to make a right turn on Sunset Boulevard to either Beverly Drive or Canon Drive south to Santa Monica Boulevard east out of the City. The Applicant will be required to cover all truck loads, implement dust control methods, hose off the tires of trucks prior to leaving the site to reduce the tracking of dirt off-site and overall keep the site and adjacent areas clean during construction.

6.3. Storm Water regulations and Standard Urban Storm Waste Mitigation Plan (SUSMP) will be required prior to the commencement of any site grading. The Applicant submitted a drainage concept plan to the Public Works Department, Engineering Division, and the Building and Safety Department. This plan has received conceptual approval from all the departments; final approval will be issued prior to issuance of building permits.

Section 7. In accordance with Beverly Hills Municipal Code Section, for a site that exceeds 30,000 square feet, the Planning Commission may issue a Hillside R-1 Permit to allow a cumulative floor area over 15,000 square feet if the Project is under the total allowable floor area for the site and if they find that the development will not have a substantial adverse impact on the:

1. Scale, integrity, or character of the area; or
2. Privacy of the neighboring properties

Section 8. Based upon the evidence presented at the hearings, including the Staff Report and oral and written testimony, the Planning Commission, hereby finds as follows

with respect to the request for a Hillside R-1 permit to allow a cumulative floor area over 15,000 square feet:

8.1. The proposal calls for the tying of the existing three large lots into one estate site of 3.55 acres and the addition of an accessory structure to the existing two vacant lots flanking the lot where the main residence and garage/guest house are located. The area is characterized by large estate lots, of which this is the largest in the immediate area. The overall floor area of the proposal is considerable, however it is divided among four main buildings of which the largest is the existing main residence. The new accessory buildings proposed are in keeping with the size and scale of the improvements on neighboring lots, and will not result in substantial adverse impact to the scale, integrity, or character of the area .

8.2. The Project will not result in a substantial adverse effect of the privacy of neighboring properties because the new structures are one-story and the Project includes extensive new landscaping along property lines in addition to maintaining some of the existing mature landscaping. The extensive landscaping proposed along the front setback area adjacent to Sunset Boulevard and the perimeter of the property will serve to provide a screen to mitigate potential scale and massing impacts from the street, blend the structures into the surrounding area and to provide privacy.

Section 9. Pursuant to Beverly Hills Municipal Code Section 10-3.2526, the Planning Commission may issue a Hillside R-1 Permit to allow an accessory structure to be located on any part of the lot if the site area equals or exceeds 24,000 square feet in area,

provided the reviewing authority finds that the structure will not have a substantial adverse impact on:

1. The scale or character of the area;
2. Privacy of neighboring properties;
3. Neighbors' access to light and air, and
4. The streetscape.

Section 10. Based upon the evidence presented at the hearings, including the Staff Report and oral and written testimony, the Planning Commission, hereby finds as follows with respect to the request for a Hillside R-1 permit to allow an accessory structure to be located on any part of the lot:

10.1. The proposed accessory structures are setback considerably from both the front and side yard property lines. The floor areas of the two structures are in keeping with adjacent structures on single lots in the area. The maximum height of each structure is 26 feet which is less than the maximum 30 foot height limit and is less than the height of the main residence on the middle lot. Existing mature landscaping, as well as proposed new landscaping on the site, serves to largely obscure the view of the interior of the property from both adjacent residences and Sunset Boulevard. The structures both are in keeping with the overall scale and character of the area and will not adversely impact the area.

10.2. The proposed accessory structures are both one-story structures and are set back a considerable distance from the closest adjacent side property line. The spa accessory building on the western lot is set back 41 feet, 9.25 inches (if developed as an individual parcel,

the setback required would be 24 feet, 8 inches) from the western side property line. The gallery accessory building is proposed to be setback 27 feet, 1.5 inches (if developed individually, the required side yard setback would be 21 feet, 9 inches) from the eastern side property line. Extensive tall mature landscaping exists on the property and along the property lines which serves to obscure visual access from the proposed structures to the adjacent neighbors' properties. Therefore, the two proposed accessory buildings will not result in adverse impact to the neighbors' privacy.

10.3. The distance from the proposed structures to the nearest adjacent neighboring properties is a minimum of 27 feet, 9 inches at the closest point of the eastern accessory structure and 41 feet, 9 inches at the western accessory structure. The distances are more than sufficient to prevent any substantial adverse impact to any neighbors' access to light and air.

10.4. As proposed, the accessory structures are set back 90 feet, 10.75 inches for the western spa structure and 136 feet, 1.25 inches for the eastern gallery structure from the front property line along Sunset Boulevard. The street trees in this area are lush with large mature canopies. The proposal calls for the removal of trees along the front property line of the subject property which are interfering with the growth of the street tree canopies; however the area from the proposed driveway to the front property line is proposed to be planted with terraces of orange trees. The distance from the street to the structures along with the existing street trees and proposed citrus trees will sufficiently soften and blend the appearance, if not substantially obscure the appearance of the structures from the street. Therefore, no substantial adverse impact to the streetscape will result from the proposed structures.

Section 11. In accordance with Beverly Hills Municipal Code Section 10-3-2901(f), when reviewing the application for a Tree Removal Permit to remove a protected tree or 10 percent or more of an urban grove as part of a development which is subject to a discretionary permit, the Planning Commission considered the following:

1. The removal of the protected trees cannot be reasonably avoided by redesigning the location or nature of any proposed improvements or the property which have caused the need to remove the protected trees.

2. The removal of the protected trees will not have any significant environmental effects or otherwise harm the public health or general welfare.

3. The removal of the protected trees will not significantly and adversely affect erosion, soil retention, or the flow of surface water.

4. The removal of the protected trees will not significantly and adversely affect the aesthetic quality and appearance of the surrounding neighborhood.

Section 12. Based upon the evidence presented at the public hearings, including the staff report and oral testimony, the Planning Commission hereby finds the following with regard to the request for the tree removal permit:

12.1. The site contains an "urban grove" which is defined as 50 or more trees whose canopies are within 6 feet of the other. The existing landscaping on the site includes 230 mature dense non-native trees and shrubs. Many of the trees are in a state of compromised health and are in danger of falling, are interfering with the growth of the canopies of the street trees

along Sunset Boulevard or both, as supported by the arborist's report on the state of health of the trees. The proposal calls for the removal of a total of 90 of the existing trees, of which 20 are "heritage trees" (having a trunk circumference of forty eight inches or more, measured at a height of four feet six inches above natural grade). None are native trees.

12.2. Extensive new landscaping is proposed for the Project with the intent of creating a seamless large estate property. The proposed landscape plan submitted with the Project calls for approximately 180 new trees to replace trees removed as part of the overall project design and those in compromised health and in danger of falling. The proposed landscape plan adequately retains the aesthetic quality and appearance of the surrounding neighborhood.

Section 13. Based upon the foregoing, the Planning Commission hereby adopts the negative declaration and grants a Hillside R-1 Permit and a Tree Removal Permit for the Project, subject to the following conditions:

1. The Applicant shall record a lot-tie covenant satisfactory in form to the City Attorney to tie the three lots comprising the Project site together into one site prior to the issuance of any building permits for the Project.
2. The Applicant shall prepare a Standard Urban Storm Water Mitigation Plan (SUSMP) and submit the plan to the City Engineer for review and approval prior to the issuance of grading and building permits for the Project.

3. All construction-related parking shall be accommodated on-site and shall be in accordance with an approved construction management and parking plan. Material deliveries and food service vehicles shall park on-site in accordance with an approved construction management and parking plan.
4. All hauling activities shall be in accordance with the approved construction management and parking plan, which shall include a hauling plan approved by the Director of Community Development and the Director of Engineering and Transportation..
5. No heavy hauling or export of earth material shall occur outside the hours of 9:00 a.m. to 3:00 p.m. Monday through Friday. To the extent feasible, the Applicant shall utilize “Super 10” export trucks to expedite the export of the earth material.
6. A limit of four hauling trucks per hour shall be permitted during the grading phase of the Project.
7. All mitigation measures in the attached arborist’s report, including protection of trees during construction shall be incorporated by reference and shall be complied with at all times during construction of the Project.
8. The Applicant shall post the names and telephone numbers of two construction representatives for the Project on all construction fence signs. Said signs shall also include the name and number for a City contact from the Community Development Department. The representatives’ contact information shall be clearly visible to the general public from the street elevation for the duration of the construction activities and the phone numbers provided shall be manned at all times. The Applicant shall transmit

the names and telephone numbers of the representatives to the Director of Community Development.

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

The Applicant shall deliver the executed covenant to the Department of Community Development **within 60 days** of the Planning Commission decision. At the time that the Applicant delivers the covenant to the City, the Applicant shall also provide the City with all fees necessary to record the document with the County Recorder. If the Applicant fails to deliver the executed covenant within the required 60 days, this resolution approving the Permits shall be **null and void** and of **no further effect**.

Notwithstanding the foregoing, the Director of Community Development may, upon a request by the Applicant, grant a waiver from the 60-day time limit if, at the time of the request, the Director determines that there have been no substantial changes to any federal, state or local law that would affect the Permits.

10. A cash deposit of \$10,000 shall be deposited with the City to ensure compliance with the conditions of this Resolution regarding construction activities. Such deposit shall be returned to Applicant upon completion of all construction activities for the new residence and in the event that no more than two violations of such conditions or the Beverly Hills

Municipal Code occur. In the event that three or more such violations occur, the City may: (a) retain the deposit to cover costs of enforcement; (b) notify the Applicant that the Applicant may request a hearing before the City within ten (10) days of the notice; and (c) issue a stop work notice until such time that an additional deposit of \$10,000 is deposited with the City to cover the costs associated with subsequent violations. Work shall not resume for a minimum of two days after the day that the additional deposit is received by the City. If the Applicant timely requests a hearing, said deposit will not be forfeited until after such time that the Applicant has been provided an opportunity to appear and offer evidence to the City, and the City determines that substantial evidence supports forfeiture. Any subsequent violation will trigger forfeiture of the additional deposit, the issuance of a stop work notice, and the deposit of an additional \$10,000, pursuant to the procedure set forth herein above. All amounts deposited with the City shall be deposited in an interest bearing account. The Applicant shall be reimbursed all interest accruing on monies deposited.

The requirements of this condition are in addition to any other remedy that the City may have in law or equity and shall not be the sole remedy of the City in the event of a violation of the conditions of this resolution or the Beverly Hills Municipal Code.

11. Within three working days after approval of this resolution, the Applicant shall remit to the City a cashier's check, payable to the County Clerk, in the amount of \$25.00 for a documentary handling fee in connection with Fish and Game Code requirements. If the Department of Fish and Game determines that this Project is not exempt from a filing fee imposed pursuant to Fish and Game Code Section 711.4, then the Applicant shall also

pay to the Department such fee and any fine which the Department determines to be owed.

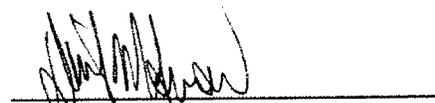
Section 14. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: June 22, 2006

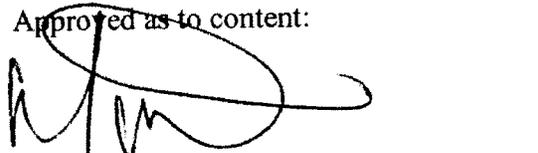
  
Stacy Marks  
Chairman of the Planning Commission of  
the City of Beverly Hills, California

Attest:  
  
Secretary

Approved as to form:

  
David M. Snow  
Assistant City Attorney

Approved as to content:

  
Mahdi Aluzri  
Director of Community Development

  
David D. Gustavson  
Director of Public Works

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

I, MAHDI ALUZRI, Secretary of the Planning Commission and Director of Community Development (the "Director") of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1424 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on June 22, 2006, and thereafter duly signed by the Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

AYES:           Commissioners Furie, Krasne, Reims, Melamed and Marks.

NOES:           None.

  
\_\_\_\_\_  
MAHDI ALUZRI  
Secretary of the Planning Commission/  
Director of Community Development  
City of Beverly Hills, California

# **ATTACHMENT F**

**Planning Commission Resolution No. 1563**

RESOLUTION NO. 1563

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 CONDITIONALLY GRANTING 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 higher 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 with a 3 foot setback 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.

These circumstances are used as the basis for approval of the requested variance in regard to fence height and 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 along Sunset Boulevard 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 that are located within 3 feet of the front property line.

2. 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 outlined in this resolution ensure compatibility with the existing streetscape.

Section 10. Based on the foregoing, the Planning Commission hereby grants the requested Variance, subject to the following conditions:

1. All fencing and pilasters that are not used for vehicular access shall be limited to a maximum height of 10 feet.
2. The westernmost vehicular access gate shall be set back a minimum of 27 feet 7 inches from the front property line.
3. The easternmost vehicular access gate shall be set back a minimum of 42 feet 11 inches from the front property line.
4. Vehicular access gates shall be limited to a maximum height of 12 feet.
5. All pilasters adjacent to vehicular access gates shall be limited to a maximum height of 17 feet 1 inch.
6. All wrought iron fencing shall be maintained as open-to-view throughout the life of the project, and any existing fabric screening or hedges shall be removed.
7. The space between the sidewalk and the front property line 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.
8. The Project shall substantially comply with the plans submitted to and reviewed by the Planning Commission at its meeting of November 19, 2009.

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

10. 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: 11/19/2009

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

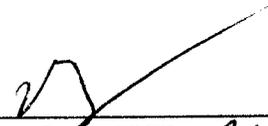
Attest:

  
\_\_\_\_\_  
Secretary

Approved as to form:

  
\_\_\_\_\_  
David M. Snow  
Assistant City Attorney

Approved as to content:

  
\_\_\_\_\_  
Jonathan Lant, AICP  
City Planner *RG.*

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

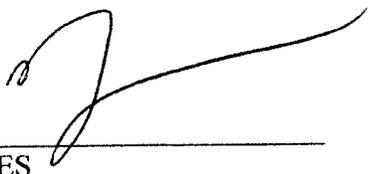
I, DAVID REYES, Acting Secretary of the Planning Commission and Acting City Planner of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1563 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on November 19, 2009, and thereafter duly signed by the Acting Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

AYES:           Commissioners Furie, Vice Chair Bosse and Chair Cole.

NOES:           Commissioner Corman.

ABSTAIN:       None.

ABSENT:         Commissioner Yukelson.

  
\_\_\_\_\_  
DAVID REYES  
Acting Secretary of the Planning Commission/  
Acting City Planner  
City of Beverly Hills, California