Beverly Hills
Planning Division
455 N. Rexford Drive Beverly Hills, CA 90210
TEL. (310) 285-1141 FAX. (310) 858-5966

Planning Commission Report

Meeting Date: May 22, 2014

Subject: **1127 Miradero Road**
Zone Text Amendment
Request for a Zone Text Amendment to Beverly Hills Municipal Code Section 10-3-2502(B)(2)(b) regarding development standards for the maximum allowed floor area on single-family properties located in the Hillside Area of the City that range from 15,001 and 25,000 square feet in area, and were constructed prior to 1997. Possible direction to staff regarding regulations pertaining to extending level pads in the Hillside Area.
PROJECT APPLICANT: Tom Levyn

Recommendation: That the Planning Commission:
1. Conduct a public hearing and receive testimony on the project;
2. Direct staff to prepare a resolution denying the requested Zone Text Amendment;
3. Provide direction as appropriate regarding the Hillside regulations.

REPORT SUMMARY

The proposed project consists of an applicant initiated Zone Text Amendment to the development standards for floor area on single-family properties located in the Hillside Area of the City. This amendment is being proposed as a result of desired development on the project site located at 1127 Miradero Road. The project site contains an existing two-story single-family residence. The first floor of the residence is partially subterranean. While some portions of the partially subterranean first floor are improved and count toward the maximum structure size, there are other unimproved areas that do not count toward the maximum structure size. If improved the currently unimproved space would be calculated as floor area. The proposed Zone Text Amendment would allow the existing unimproved space to be converted to improved space and remain exempt from floor area. As written, the proposed amendment would modify the floor area development standards only for properties within the Hillside Area of the City that range from 15,001 to 25,000 square feet in area, and have buildings or structures constructed prior to 1997.

This report provides information about existing development and floor area on the project site and analyzes the potential impacts of the proposed Zone Text Amendment, with particular focus on applicability to other properties in the Hillside Area and consideration of whether the amendment would contribute to further intensification of hillside development. As a result of the analysis, staff has identified multiple concerns with the proposed amendment and is recommending denial of the Zone Text Amendment Request.

Attachment(s):
A. Required Findings
B. Applicant Letter – May 13, 2014
C. Public Notice
D. Architectural Plans

Report Author and Contact Information:
Shena Rojemann
(310) 285-1192
srojemann@beverlyhills.org

BACKGROUND

File Date	3/24/2014
Application Complete	4/20/2014
Subdivision Deadline	N/A
CEQA Deadline	N/A for legislative actions
Permit Streamlining	N/A for legislative actions
Applicant(s)	Tom S. Levyn
Owner(s)	Brian D. Stevens 1998 Trust
Representative(s)	Tom S. Levyn
Prior PC Action	N/A
Prior Council Action	N/A
Site History	The property was developed in 1996.

PROPERTY AND NEIGHBORHOOD SETTING

Property Information

Address	1127 Miradero Road
Legal Description	LOT 22 OF TRACT NO. 7956, IN THE CITY OF BEVERLY HILLS, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 120 PAGES 87 TO 92 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.
Zoning District	R-1.X
General Plan	Single-Family Residential – Low Density
Existing Land Use(s)	Single-Family Residential
Lot Dimensions & Area	Irregularly shaped: 40,946 SF (.94 acres)
Year Built	Single-family residence constructed in 1996
Historic Resource	None
Protected Trees/Grove	None

Adjacent Zoning and Land Uses

North	R-1.X – Single-Family Residential
South	R-1.X – Single-Family Residential
East	R-1.X – Single-Family Residential
West	R-1.X – Single-Family Residential

Circulation and Parking

Adjacent Street(s)	Miradero Road, Schuyler Road, and Calle Vista Drive
Adjacent Alleys	None
Parkways & Sidewalks	Miradero Road – 4'; Schuyler Road – 7'-6"; Calle Vista Drive – 7'
Parking Restrictions	Miradero Drive – No parking on the east side of the street and overnight parking is prohibited on the west side of the street; Schuyler Road – No parking any time; Calle Vista Drive – Overnight parking is prohibited
Nearest Intersection	Miradero Road and Schuyler Road Schuyler Road and Calle Vista Drive
Circulation Element	Miradero Road, Schuyler Road, and Calle Vista Drive are local streets

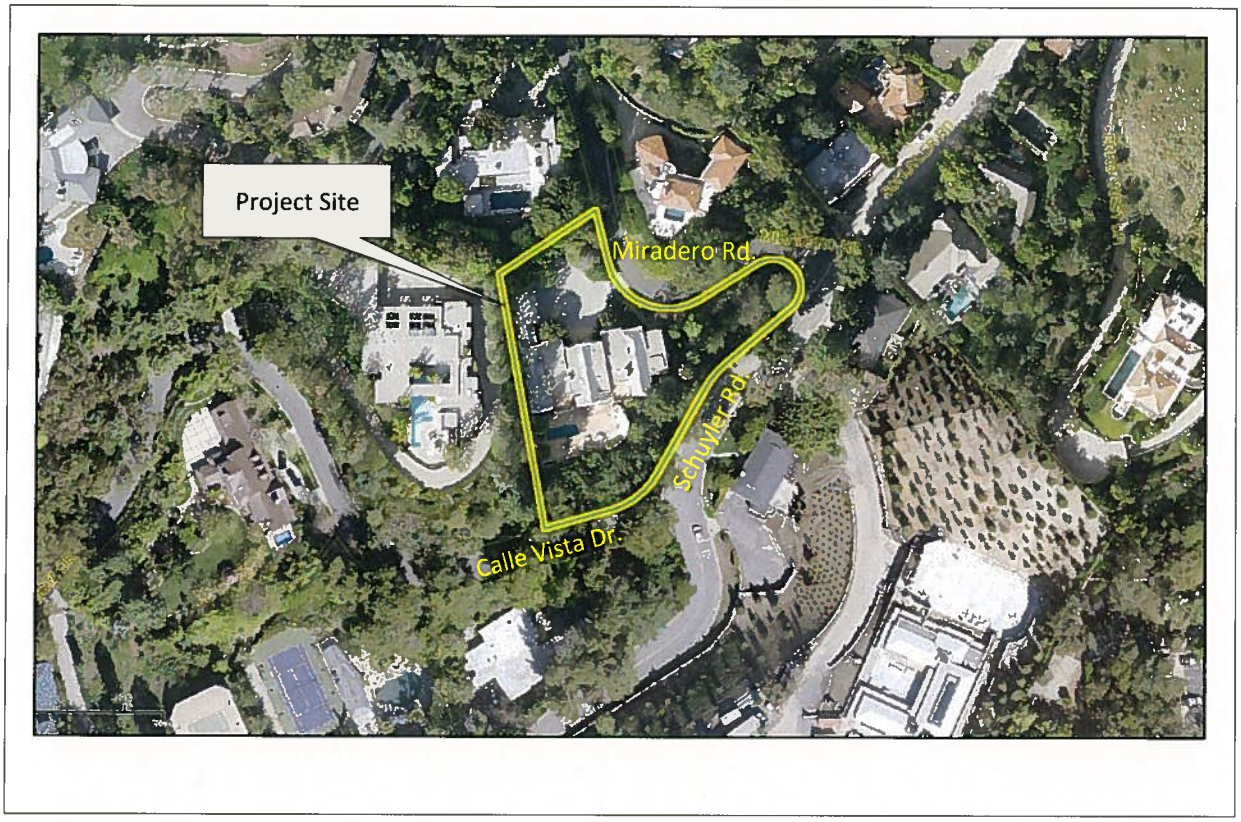
Zoning Compliance Table

ZONING REGULATIONS	ALLOWED/ REQUIRED	EXISTING CONDITION	PROPOSED	NOTES
Height	30' for the portion of the residence on the level pad, 55' for the maximum vertical distance between the lowest exposed point of the structure and the highest point	23'/55'-9"	No change	The project is legally nonconforming with respect to height. The proposed project would not result in any modifications to height.
Floor Area	8,504 SF	8,920.5 SF[1]	10,642.5 SF (addition of 1,722 SF)	Applicant requests a Zone Text Amendment to allow improvements to existing crawl spaces and to exempt the improved crawl space from floor area thereby not increasing the total amount of floor area on the project site.
North Setback (Miradero Road)	12'	Approximately 16'	No change	
East Setback (Schuyler Road)	25'	Approximately 35'	No change	
South Setback (Calle Vista Drive)	25'	Approximately 85'	No change	
West Setback	10'	Approximately 10'	No change	

[1] The floor area on the project site exceeds the maximum floor area permitted by approximately 417 square feet. Please refer to the Analysis section of this report ('Maximum Floor Area on the Site') for further explanation.

Neighborhood Character

The project site is located in the Hillside Area of the City and is accessed via Miradero Road. Surrounding properties are generally developed with one- and two-story homes built on level pads, while the areas surrounding level building pads are generally sloped. Based on the surrounding topography and previous subdivisions, many of the lots in the surrounding neighborhood are irregularly shaped.



PROJECT DESCRIPTION

The project site is currently developed with a two-story single-family residence. The first floor of the residence is partially subterranean and contains unimproved space that the applicant desires to improve. Pursuant to the Beverly Hills Municipal Code the existing partially subterranean first floor does not meet the definition of 'basement' and therefore is not considered exempt from floor area[2]. Consequently, under current code provisions, any unimproved space that is improved within the existing first floor will count as floor area. The applicant is requesting a Zone Text Amendment that would allow the existing unimproved space within the first floor to be improved and be exempt from floor area. As proposed, the project would not result in any modifications to the footprint of the existing single-family residence as the alterations would occur within the existing unimproved space within the first floor.

[2] Pursuant to Beverly Hills Municipal Code (BHMC) §10-3-100, a basement shall mean any floor level below a story which has finished floor level that is a maximum of three feet (3') above grade at any point along the perimeter of the building facing a front or street side setback line and which has no windows exceeding 18" above grate at any point along the perimeter of the building.

Requested Permits

The applicant is seeking approval of a Zone Text Amendment to modify the floor area requirements so that existing unimproved space that does not qualify as basement, may be improved and exempt from counting toward the maximum allowed floor area. If approved, the Zone Text Amendment would modify the floor area development standards only for properties within the Hillside Area of the City that range from 15,001 to 25,000 square feet in area, and were constructed prior to 1997. The applicant proposed Zone Text Amendment language is set forth below and shown in strikeout/underline format:

> *10-3-2502(B)(2)(b) – FLOOR AREA: If the area of the site is between fifteen thousand one (15,001) and twenty five thousand (25,000) square feet, then the maximum permitted cumulative floor area for buildings and structures on the site shall be thirty seven percent (37%) of the area of the level pad plus ten percent (10%) of the area of slope. Provided, however, that if the existing building or structure on the site was constructed prior to 1997 and contains a partial subterranean first floor with unimproved and uninhabitable space, then the owner may improve such space to become habitable and such improvement shall not be considered part of the calculation for maximum floor area.*

ZONING CODE[3] COMPLIANCE

A detailed review of the proposed project to applicable zoning standards has been performed. The applicant is seeking a Zone Text Amendment to allow existing unimproved space within the first floor to be improved and to be exempt from floor area. As proposed, the improved space would add a total of 1,722 square feet of habitable floor area to the project site.

GENERAL PLAN[4] POLICIES

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

- **Policy LU 2.1 City Places: Neighborhoods, Districts, and Corridors.** Maintain and enhance the character, distribution, built form, scale, and aesthetic qualities of the City's distinctive residential neighborhoods, business districts, corridors, and open spaces.

- **Policy LU 2.3 Hillside Development**. Maintain the natural landforms that define the City and require that development on hillsides and in canyon areas be located, designed, and scaled to respect the natural topography and landscape.

- **Policy LU 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.

---

[3] Available online at http://www.sterlingcodifiers.com/codebook/index.php?book_id=466

[4] Available online at http://www.beverlyhills.org/services/planning_division/general_plan/genplan.asp

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[5], and the environmental regulations of the City. Pursuant to CEQA Article 18, Section 15270(a) of the Guidelines, CEQA does not apply to projects which are disapproved by a public agency. In the event the Planning Commission elects to move forward with the project, an environmental assessment would be required to determine the full impacts of the proposed Zone Text Amendment and to determine the appropriate level of CEQA review necessary.

PUBLIC OUTREACH AND NOTIFICATION

Type of Notice	Required Period	Required Notice Date	Actual Notice Date	Actual Period
Posted Notice	N/A	N/A	5/19/2014	4 Days
Newspaper Notice	10 Days	5/12/2014	5/9/2014	13 Days
Mailed Notice (Owners & Residents - 300' Radius, Owners of Single-Family – 500' Radius)	10 Days	5/12/2014	5/7/2014	15 Days
Property Posting	N/A	N/A	N/A	N/A
Website	N/A	N/A	5/19/2014	4 Days

Public Comment

The City has not received any public comments regarding the project as of the writing of this report.

ANALYSIS[6]

Project approval, conditional approval, or denial is based upon specific findings for each discretionary application requested by the applicant. The required findings, which relate to the amendment's impact on the public interest and general welfare, are included with this report in Attachment A and may be used to guide the Planning Commission's deliberation of the subject project. In reviewing the requested entitlements, the Commission may wish to consider the following information as it relates to the project and required findings.

As proposed, the Zone Text Amendment has been drafted to address a specific condition that exists on the property located at 1127 Miradero Road; however, as drafted, the amendment would apply to all residential properties in the Hillside Area that range from 15,001 to 25,000 square feet in site area, contain existing unimproved and uninhabitable space within a partially subterranean first floor, and were constructed prior to 1997. If approved, the amendment would create a by-right path through which properties that meet the qualifications could increase the habitable floor area on a project site beyond the maximum floor area permitted, as is the case with the project site. As drafted, the

[5] The CEQA Guidelines and Statue are available online at http://ceres.ca.gov/ceqa/guidelines

[6] 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.

amendment presents a number of concerns specifically pertaining to development regulations. The concerns include:

- The proposed amendment does not define what qualifies as 'unimproved and uninhabitable space'. Consequently, it is possible that property owners could seek to improve small crawl spaces or space currently occupied by earth.
- The amendment does not establish a maximum area of existing unimproved/uninhabitable space that can be improved and does not regulate the type of use, such as a bedroom or kitchen that could be provided in the improved space, potentially increasing the intensity and use on the site
- The proposed amendment has been designed around a specific condition that exists on the property located at 1127 Miradero. Although the improved space proposed for the project site may not result in a significant change to the exterior of the existing residence, it is feasible that the improved space will intensify development on the site.
- It is unclear how many properties in the Hillside Area may contain existing unimproved and uninhabitable space that could be converted to habitable space. Due to this uncertainty, it is not possible to adequately determine the overall effects the amendment could have on development in the Hillside Area and makes it difficult to assess the appropriate level of environment review required to evaluate the amendment.
- The amendment has been drafted around a specific property; however, the amendment could apply to multiple properties in the Hillside Area. Approving a Zone Text Amendment that caters to a specific set of circumstances on a specific property is not an ideal approach to promote comprehensive planning in the City.
- From an equality perspective, it is unclear why the property of 1127 Miradero Road would be allowed to exceed the maximum floor area permitted pursuant to Code while other properties, including neighboring properties of the project site, cannot benefit from increased floor area and onsite intensity. Additionally, it is unclear why the City would promote such a policy.

Applicant Letter – May 13, 2014. The applicant has submitted a letter for the Commission's consideration (see Attachment B). The letter outlines an alternative development option for the project site in the event that the Commission should choose to deny the proposed Zone Text Amendment. The alternative development option identified would involve the construction of a retaining wall along the southern elevation of the residence that would enable the extension of the existing level pad on the project site, thereby increasing the total floor area permitted on the site.

As presented, the alternative development option identified which may or may not require discretionary review, raises concerns with respect to the aesthetics of the neighborhood and the intensity of development on the project site. Furthermore, the proposed alternative may not be consistent with the General Plan Policy's shown on page 6 of this report.

Additionally, the alternative design option would result in increased development activity on the project site. Increasingly, concerns have been raised by residents and the Planning Commission regarding the increased development activity within the Hillside Area of the City, particularly with respect to the extensions of level pads. Therefore, as part of its review of the proposed Zone Text Amendment, staff is encouraging the Planning Commission to have a discussion and consider providing direction to staff regarding regulations pertaining to extending level pads in the Hillside Area.

Maximum Floor Area on the Site. In preparing the proposed Zone Text Amendment for review by the Planning Commission staff discovered that the existing development on the site exceeds permitted floor area and this condition was exacerbated by the issuance of a building permit last year. The plan for that permit appears to inaccurately represent the floor area allowances and has caused the development on the project site to exceed the maximum floor area permitted by approximately 417 square feet. Consequently, a stop work order was issued on May 16, 2014 to halt construction on the additions to the single-family residence. Staff is currently working with the applicant to resolve this matter.

Potential Pros and Cons. At this time, considering the information provided, staff is unable to identify any potential pros associated with the proposed Zone Text Amendment and several concerns have been previously identified in the Analysis section of this report.

NEXT STEPS

It is recommended that the Planning Commission conduct the public hearing and direct staff to prepare a resolution denying the requested Zone Text Amendment.

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:

for

Jonathan Lait, AICP, City Planner

I:\Planning\Shena Rojemann\PC\Commission Level\Miradero Rd_1127 - Zone Text Amendment\Staff Report - 1127 Miradero Drive DRAFT 2.docx

ATTACHMENT A
Required Findings

ZONE TEXT AMENDMENT

1. *The Zone Text Amendment will result in a benefit to the public interest, health, safety, morals, peace, comfort, convenience, or general welfare.*

ATTACHMENT B

Applicant Letter – May 13, 2014

Glaser Weil Fink Jacobs
Howard Avchen & Shapiro LLP

10250 Constellation Blvd.
19th Floor
Los Angeles, CA 90067
310.553.3000 TEL
310.556.2920 FAX

Thomas S. Levyn

Direct Dial
310.282.6214
Direct Fax
310.785.3514
Email
tlevyn@glaserweil.com

May 13, 2014

VIA E-MAIL
rgohlich@beverlyhills.org

Ryan Golich
Senior Planner
City of Beverly Hills
455 North Rexford Drive
Beverly Hills, CA 90210

Re: Rendering for 1127 Miradero Road

Dear Ryan:

As you know, we have applied for a zoning text amendment to allow the improvement of a currently existing but unimproved above-grade space for 1127 Miradero Road.

The application is set for hearing before the Planning Commission on May 22.

If the Planning Commission and/or City Council determines not to approve the proposed text amendment, the owner will have no other alternative but to expand his level building pad to enable his project to move forward. This would require that he build a large retaining wall along the street-side of the property. The construction of the retaining wall would also require the removal of a substantial amount of foliage.

To illustrate the significant negative aesthetic impact of the retaining wall, the architect has prepared the attached rendering showing the property as it currently appears and as it would appear with the retaining wall constructed and foliage removed. You may wish to include the rendering in your presentation to the Planning Commission.

As you can see, the retaining wall would likely be an eye-sore to neighbors and pedestrians on the street. The house, currently screened from views by the foliage, also becomes clearly visible. Presumably neighbors would prefer viewing the lush greenery on the property to an imposing retaining wall towering over the street.

The proposed zone text amendment would lead to no change in the exterior of the current residence, only improvements to the interior. Without the text amendment, the property owner would be required to construct a retaining wall that could only be described as undesirable to the neighbors, as well as the removal of beautiful trees and shrubs which now provide a sea of green for the neighborhood.

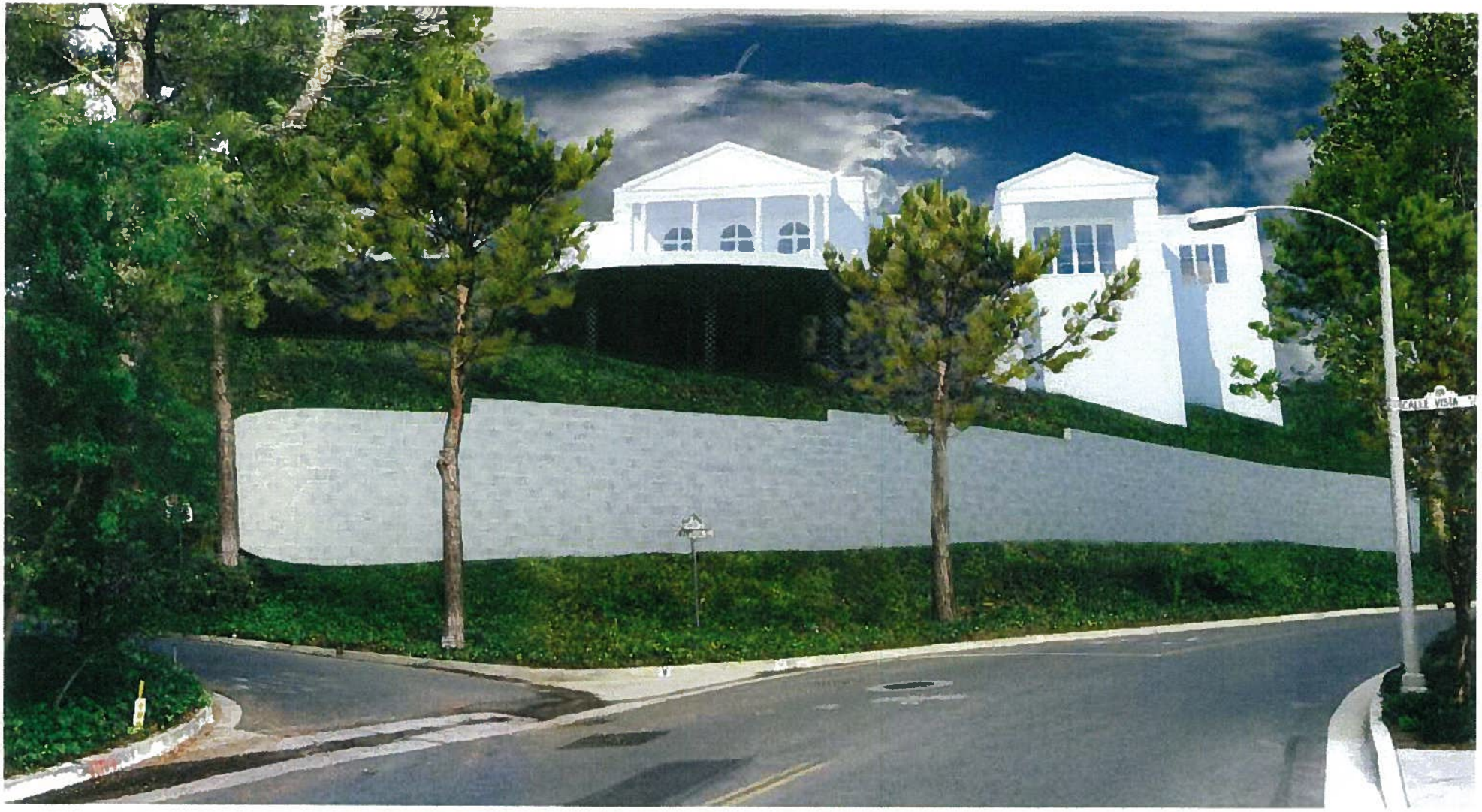
As always, thank you for your consideration.

Cordially,

THOMAS S. LEVYN
of GLASER WEIL FINK JACOBS HOWARD AVCHEN & SHAPIRO LLP

TSL:ph

CALLE VISTA


CALLE VISTA

ATTACHMENT C
Public Notice

NOTICE OF PUBLIC HEARING

DATE:	May 22, 2014
TIME:	1:30 PM, or as soon thereafter as the matter may be heard
LOCATION:	Commission 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 REGULAR meeting on Thursday, May 22, 2014, will hold a public hearing beginning at **1:30 PM**, or as soon thereafter as the matter may be heard to consider:

A request for a Zone Text Amendment to amend the Beverly Hills Municipal Code regarding development standards for floor area on single-family properties located in the Hillside Area of the City. Currently, the Municipal Code requires that any existing unimproved and uninhabitable space that is converted to habitable space, and does not otherwise meet the definition of a basement, be calculated as floor area. If approved, the proposed Zone Text Amendment would allow for existing unimproved and uninhabitable space to be converted to habitable space and remain exempt from floor area even if the space does not meet the definition of a basement. As proposed, this amendment would modify the floor area development standards only for properties within the Hillside Area of the City that range from 15,001 to 25,000 square feet area, and were constructed prior to 1997.

This particular amendment is being requested in conjunction with a remodel and addition at the property located at 1127 Miradero Road; however, the amendment would apply to all Hillside properties with a lot area between 15,001 and 25,000 square feet and constructed prior to 1997.

The proposed Zone Text Amendment 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, and have been determined to be exempt from CEQA pursuant to Article 5, Section 15061 (b)(3) of the Guidelines, which states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Since the proposed Zone Text Amendment would only apply to spaces contained within the footprint of the existing residence, no potential for causing a significant effect on the environment exists, and therefore, the project is exempt from 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.

ATTACHMENT C
Public Notice

If there are any questions regarding this notice, please contact **Shena Rojemann, Associate Planner** in the Planning Division at **310.285.1192** or by email at **srojemann@beverlyhills.org**. Application materials associated with the project are on file with the Community Development Department and can be reviewed by any interested person. Please contact the project planner listed above to schedule an appointment to view the application materials. Appointments should be scheduled 72 hours in advance to ensure the documents are available for viewing.

Approved as to form:

Ryan Gohlich, Senior Planner

Mailed: May 7, 2014

ATTACHMENT D
Architectural Plans

Begins on the next page.