



# Planning Commission Report

**Meeting Date:** September 11, 2014

**Subject:** **1127 Miradero Road**  
**Zone Text Amendment and Variance**

A resolution denying a Zone Text Amendment to Beverly Hills Municipal Code Section 10-3-2502(B)(2)(d) regarding development standards for the maximum allowed floor area on single-family properties located in the Hillside Area of the City, and a resolution approving a Variance to allow an addition to the existing single-family residence that would cause the floor area on the site to exceed the maximum floor area permitted pursuant to Beverly Hills Municipal Code Section 10-3-2502.

PROJECT APPLICANT: Tom Levyn

**Recommendation:** That the Planning Commission:

1. Adopt the attached resolutions denying a Zone Text Amendment and conditionally approving a Variance.

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## REPORT SUMMARY

At its August 7, 2014 meeting, the Planning Commission directed staff to prepare resolutions denying a requested Zone Text Amendment and approving a Variance. The attached resolutions are intended to memorialize the Commission's findings and establish the conditions of approval outlined by the Planning Commission.

## NEXT STEPS

It is recommended that the Planning Commission adopt the attached resolutions memorializing the Commission's findings.

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.

Attachment(s):

- A. Resolution Denying Zone Text Amendment
- B. Resolution Approving Variance

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Report Reviewed By:



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Ryan Gohlich, Senior Planner

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Amendment\Variance\_Text Amendment Continued 8-7-14\Staff Report - 1127 Miradero Drive 9-11-2014.docx

# **ATTACHMENT A**

## **RESOLUTION DENYING ZONE TEXT AMENDMENT**

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS DENYING A ZONE TEXT AMENDMENT TO BEVERLY HILLS MUNICIPAL CODE SECTION 10-3-2502(B)(2)(d) REGARDING DEVELOPMENT STANDARDS FOR THE MAXIMUM ALLOWED FLOOR AREA ON SINGLE-FAMILY PROPERTIES LOCATED IN THE HILLSIDE AREA OF THE CITY THAT HAVE A SITE AREA OF MORE THEN 30,000 SQUARE FEET.

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

Section 1. Thomas S. Levyn, on behalf of the Brian D. Stevens 1998 Trust (collectively the "Applicant"), has submitted an application for a Zone Text Amendment to modify the floor area development standards for single-family properties located in the Hillside Area of the City that have a site area of more than 30,000 square feet. The Zone Text Amendment was submitted as a result of desired development on the property located at 1127 Miradero Road (the "Project").

The Project site is located in the Hillside Area of the City and 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 allowed floor area, there are other unimproved areas that do not count toward the maximum allowed floor area. The Zone Text Amendment would allow for the existing unimproved space to be converted to improved space and remain exempt from floor area.

The Project site 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

Section 2. The 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. Pursuant to Section 15270(a) of the Guidelines, CEQA does not apply to projects which are disapproved by a public agency.

Section 3. Notice of the Project and public hearing was mailed on May 7, 2014 to all property owners and residential occupants within a 300-foot radius of the property, and all single-family zoned properties within a 500-foot radius of the exterior boundaries of the Project site. The hearing notice was also published in the *Beverly Hills Courier* on May 9, 2014 and in the *Beverly Hills Weekly* on May 15, 2014. On May 22, 2014, the Planning Commission conducted a site visit and considered the application at a duly noticed public meeting. Evidence, both written and oral, was presented at said meeting. At that meeting, the Planning Commission continued the public hearing to June 26, 2014.

Notice of the Project and the public hearing held on June 26, 2014 was mailed on June 12, 2014 to all property owners and residential occupants within a 300-foot radius of the property, and all single-family zoned properties within a 500-foot radius of the exterior boundaries of the Project site. The hearing notice was also published in the *Beverly Hills Courier* on June 13, 2014 and in the *Beverly Hills Weekly* on June 19, 2014. The Planning Commission meeting was cancelled prior to the public hearing due to an unexpected event at City Hall, and the hearing was rescheduled for July 17, 2014.

Notice of the Project and the public hearing held on July 17, 2014 was mailed on July 3, 2014 to all property owners and residential occupants within a 300-foot radius of the property, and all single-family zoned properties within a 500-foot radius of the exterior boundaries of the Project site. The hearing notice was also published in the *Beverly Hills Courier* on July 4, 2014 and in the *Beverly Hills Weekly* on July 10, 2014. Since the full Commission was not present at the July 17, 2014 Planning Commission meeting, the Applicant requested that the project be continued to the August 7, 2014 meeting so that all five Commissioners would be present for the review.

At the August 7, 2014 meeting, the Planning Commission considered evidence, both written and oral, and directed staff to prepare a resolution denying the Zone Text Amendment. On September 11, 2014, the Commission considered this resolution denying the Zone Text Amendment.

Section 4. In considering the application for a Zone Text Amendment, the Planning Commission considered the following criteria:

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

Section 5. Based on the foregoing, the Planning Commission hereby finds and determines as follows:

As proposed, the Zone Text Amendment has been designed around a specific condition that exists on the property located at 1127 Miradero Road, and the overall impact of

the proposed amendment has not analyzed. Therefore, it is unclear how many properties could utilize the amendment. Additionally, the amendment could allow for intensified development in the Hillside Area. Since the Zone Text Amendment was designed for a specific property and the overall impacts have not been studied, the Zone Text Amendment cannot be found to result in a benefit to the public interest, health, safety, morals, peace, comfort, convenience, or general welfare, and therefore, the finding cannot be made to support the Zone Text Amendment.

Section 6. Based on the foregoing, the Planning Commission hereby denies the Zone Text Amendment and finds that this action is exempt from the provisions of the California Environmental Quality Act, pursuant to California Public Resources Code Section 21080(b)(5) and the State CEQA Guidelines Section 15270.

Section 7. 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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Howard S. Fisher  
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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Jay Trevino, AICP  
Interim City Planner



**ATTACHMENT B**  
**RESOLUTION APPROVING VARIANCE**

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A VARIANCE TO ALLOW AN ADDITION TO AN EXISTING SINGLE-FAMILY RESIDENCE THAT WOULD CAUSE THE FLOOR AREA ON THE SITE TO EXCEED THE MAXIMUM FLOOR AREA PERMITTED PURSUANT TO BEVERLY HILLS MUNICIPAL CODE SECTION 10-3-2502 ON THE PROPERTY LOCATED IN THE HILLSIDE AREA OF THE CITY AT 1127 MIRADERO ROAD.

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

Section 1. Thomas S. Levyn, representative on behalf of the Brian D. Stevens 1998 Trust (collectively the “Applicant”), has submitted an application for a Variance to allow the existing unimproved and uninhabitable space located within the first story of the existing single-family residence to be improved, resulting in an increase in total floor area on the site beyond the maximum floor area otherwise permitted by the Municipal Code (the “Project”). The Variance can be granted by the Planning Commission if specific findings can be made in support of the Project.

Section 2. 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.

The project site is currently developed with a two-story single-family residence. The proposed project consists of making improvements to the partially subterranean portions of the first floor of the residence.

Section 3. 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 environmental regulations of the City. The project qualifies for a Categorical Exemption pursuant to Section 15301(e)(1) of the Guidelines. Specifically, a Class 1 Categorical Exemption is applicable for additions to existing structures that do not result in an increase of more than 2,500 square feet of floor area.

Section 4. Notice of the Project and the public hearing held on June 26, 2014 was mailed on June 12, 2014 to all property owners and residential occupants within a 300-foot radius of the property, and all single-family zoned properties within a 500-foot radius of the exterior boundaries of the Project site. The hearing notice was also published in the *Beverly Hills Courier* on June 13, 2014 and in the *Beverly Hills Weekly* on June 19, 2014. The Planning Commission meeting was cancelled prior to the public hearing due to an unexpected event at City Hall, and the hearing was rescheduled for July 17, 2014.

Notice of the Project and the public hearing held on July 17, 2014 was mailed on July 3, 2014 to all property owners and residential occupants within a 300-foot radius of the property, and all single-family zoned properties within a 500-foot radius of the exterior boundaries of the Project site. The hearing notice was also published in the *Beverly Hills Courier* on July 4, 2014 and in the *Beverly Hills Weekly* on July 10, 2014. Since the full

Commission was not present at the July 17, 2014 Planning Commission meeting, the Applicant requested that the project be continued to the August 7, 2014 meeting so that all five Commissioners would be present for the review.

At the August 7, 2014 meeting, the Planning Commission considered evidence, both written and oral, and directed staff to prepare a resolution conditionally approving the Variance. On September 11, 2014, the Commission considered this resolution conditionally approving the Variance.

Section 5. In reviewing the request for a Variance, the Planning Commission considered whether it could make the following findings in support of the Project:

1. Because of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the provision 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 6. Based on the foregoing, the Planning Commission hereby finds and determines as follows with respect to the Variance:

1. The Project is situated such that three of the property's lot lines are adjacent to surrounding streets, causing the property to be treated as a through lot. Based on the property's designation as a through lot, and as a result of the property's

unique topography that slopes down and away from the main residence, the lower level of the residence, which is largely subterranean, does not qualify as a basement, and therefore counts toward the maximum allowed floor area on the Project site. If the subject property was a more traditional lot that was not surrounded by streets on three sides and was not a through lot, the lower level would qualify as a basement, and would not count toward the maximum floor area permitted on the Project site. These special circumstances deprive the property owner of the privilege of constructing a basement in a manner similar to what would be allowed on surrounding properties.

2. The Variance does not grant special privileges to the Project site, as the Variance only allows the type of development that would otherwise be permitted on surrounding properties. Additionally, conditions have been imposed to limit the use and intensity of the new floor area in order to ensure that the Project site continues to function in a manner similar to surrounding properties.

Section 7. Based on the foregoing, the Planning Commission hereby grants the requested Variance, subject to the following conditions:

1. No plumbing shall be added to the converted space, except as may be required for laundry facilities and/or a bar sink.
2. No bedrooms shall be added to the converted space.
3. No windows or doors shall be added to the exterior of the converted space except as may be required by the Fire and/or Building Code.
4. As of the adoption date of this resolution, no new retaining

walls shall be constructed on the Project site for the purpose of establishing additional level pad area.

5. Prior to the issuance of permits for the converted space, the City shall engage a third-party surveyor to survey the Project site for the purpose of confirming the area of level pad and sloped area. The cost of the third-party survey shall be borne entirely by the Applicant.

6. The Project shall be constructed in substantial compliance with the plans and specifications approved by the Planning Commission on September 11, 2014.

7. APPROVAL RUNS WITH LAND. These conditions shall run with the land and shall remain in full force for the duration of the life of the Project.

8. Minor amendments to the plans shall be subject to approval by the Director of Community Development. A significant change to the approved Project shall be subject to Planning Commission Review. Construction shall be in conformance with the plans approved herein or as modified by the Planning Commission or Director of Community Development.

9. Project Plans are subject to compliance with all applicable zoning regulations, except as may be expressly modified herein. Project plans shall be subject to a complete Code Compliance review when building plans are submitted for plan check. Compliance with all applicable Municipal Code and General Plan Policies is required prior to the issuance of a building permit.

10. APPEAL. Decisions of the Planning Commission may be appealed to the City Council within fourteen (14) days of the Planning Commission

action by filing a written appeal with the City Clerk. Appeal forms are available in the City Clerk's office. An appeal fee is required.

11. RECORDATION. This resolution approving the 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 the 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 Project 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 Project.

12. EXPIRATION. Variance: Pursuant to Beverly Hills Municipal Code §10-3-207, the exercise of rights granted in this Resolution shall be commenced within three (3) years after the adoption of such Resolution.

13. VIOLATION OF CONDITIONS: A violation of any of these conditions of approval may result in termination of the entitlements granted herein.

Section 8. 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: September 11, 2014

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Howard S. Fisher  
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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Assistant City Attorney

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Interim City Planner

*RG*