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PLEASE REFER TO FILE NO:

11834.01

August 27, 2013

BY HAND DELIVERY or EMAIL to [patrice.lattimore@lacity.org](mailto:patrice.lattimore@lacity.org)

Honorable Los Angeles City Council  
c/o June Lagmay, City Clerk  
200 N. Spring Street, Room 395  
Los Angeles, CA 90012

**Re: COUNCIL FILE 13-0804-S1 -- REQUEST TO VOTE "NO" ON CHARTER  
SECTION 245 MOTION – ZA 2012-1395-ZV-ZAA-1A**

Dear Honorable Councilmembers:

I represent Henri and Janice Lazarof, the owners of 333 Copa de Oro Road, the property that is adjacent to the easterly boundary of 360 N. Stone Canyon Road.

I write to urge you to vote NO on your August 27, 2013, Agenda Item 47 - a motion to assert jurisdiction over the referenced appeal under City Charter Section 245.

On July 3, 2013, Councilmember Koretz stated that he believed that the Zoning Administrator in this matter erred and abused his discretion in his denial of the 50-foot height variance requested by the applicant for 360 N. Stone Canyon Road by failing to consider critical hardships. You then vetoed the unanimous denial by the West Los Angeles Area Planning Commission ("WLA APC" or "APC") of the applicant's appeal (Letter of Determination dated June 14, 2013) and remanded the matter back to the APC to be considered again.

On August 7, 2013, the WLA APC held a hearing on the appeal. The APC allowed the applicant and all others who wished to testify as much time as they wanted to present their information and arguments to the APC. Each of the five required zone variance findings were discussed by the applicant and the APC. In addition to the findings made by the ZA in his March 19, 2013 Letter of Determination, the APC made the following additional findings based on the

record on appeal (LAMC § 12.27 K), which included evidence introduced at the hearing before the ZA, the record, findings and decision of the ZA, and the arguments made orally and in writing to the APC:

**Additional Finding 1**

"The West Los Angeles Area Planning Commission further found that there are no practical difficulties or unnecessary hardships in finishing the house without the variance and that denying the variance will not prevent the applicant from finishing and using the home."

**Additional Finding 2**

"The West Los Angeles Area Planning Commission further found that special circumstances pertaining to the property must be such that the property is distinct in character from comparable nearby properties. In their findings, the Commission found that this is not the only property in the vicinity that has a stream running through it, that this is not the only property with varying elevations, and that the general topography of the property is essentially the same as the surrounding properties, and therefore there are no special circumstances that prevents [sic] the applicant from finishing the house without the variance."

**Additional Finding 3**

"The West Los Angeles Area Planning Commission further found that no special circumstances have been demonstrated, no practical difficulties or unnecessary hardships have been demonstrated, and that the property can be built upon and used similarly to other properties in the vicinity. The Commission found that there are no other properties in the vicinity with the same zoning that have received a height variance for the same or similar reasons that are being used to justify the applicant's present request and that the vast majority of nearby properties being used and enjoyed are without a height variance."

**Additional Finding 4**

"The West Los Angeles Area Planning Commission further found that the granting of a variance on this property will create an adverse visual effect as respect to neighboring properties. The granting of the variance will have a precedential effect as it would essentially raise the general height limit in the neighborhood and be used to justify other such height increase requests in the immediate area."

**Additional Finding 5**

"The West Los Angeles Area Planning Commission further found that granting of the variance will adversely affect the following sections of the Bel Air-Beverly Crest Community Plan which is an element of the General Plan.

"Chapter 2 (Purpose of the Community Plan) of the Bel Air-Beverly Crest Community Plan provides the following purposes:

*"• Preserving and enhancing the positive characteristics of existing residential neighborhoods while providing a variety of housing opportunities with compatible new housing.*

*"• Preserving and enhancing the positive characteristics of existing uses which provide the foundation for Community identity, such as scale, height, bulk, setbacks, and appearance.*

"Chapter 3 of the Bel Air-Beverly Crest Community Plan also provides the following Residential Land Use Policies:

*"The intensity of land use in the mountain and hillside areas and the density of the population which can be accommodated thereon should be limited in accordance with the following: ·*

*"• The compatibility of proposed developments with existing adjacent development.*

*"• Design should minimize adverse visual impact on neighboring single family uses.*

"The granting of a variance on this property will adversely affect the purpose and policies of preserving and enhancing the positive characteristics of the existing residential neighborhood as follows:

*"• The proposed height is excessive and not compatible with existing uses and appearances.*

*"• The proposed height does not minimize adverse visual impact on neighboring uses.*

*"• Granting the proposed height variance will set a precedent that will adversely affect the positive characteristics of the existing neighborhood.*

Honorable Los Angeles City Council  
August 27, 2013  
Page 4

A full copy of the WLA APC's Letter of Determination dated August 16, 2013 is attached hereto as Exhibit A. A full copy of the ZA's Letter of Determination dated March 19, 2013, is attached hereto as Exhibit B.

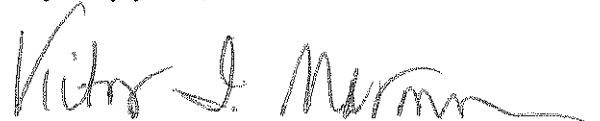
The applicant has now had three hearings on its zone variance, one before the ZA and two before the WLA APC. After each hearing, the decision maker determined that based on the record before him /it, none of the five required zone variance findings could be made.

The ZA did not err or abuse his discretion when he denied the applicant's variance request. The WLA APC has now confirmed this twice, both times unanimously. The applicant has not, and cannot show how the ZA erred or abused his discretion.

It is time to put an end to this saga. The applicant has been given a fair hearing . . . three times. None of the five zone variance findings can be made.

We therefore ask that you vote NO on the motion before you today as Agenda Item 47.

Very truly yours,

A handwritten signature in black ink that reads "Victor I. Marmon". The signature is written in a cursive style with a long horizontal flourish at the end.

Victor I. Marmon

VIM:et

Attachments

**EXHIBIT "A"**



# WEST LOS ANGELES AREA PLANNING COMMISSION

200 N. Spring Street, Room 272, Los Angeles, California, 90012-4801, (213) 978-1300  
[www.lacity.org/PLN/index.htm](http://www.lacity.org/PLN/index.htm)

Determination Mailing Date: AUG 16 2013

CASE NO: ZA 2012-1395-ZV-ZAA-1A  
CEQA: ENV 2005-8611-MND

Location: 360 North Stone Canyon Road  
Council District: 5  
Plan Area: Bel Air – Beverly Crest  
Zone: RE20-1

Applicant/appellant: M & A Gabae, LP  
Representative: Ben Kim

At its meeting on August 7, 2013, the following action was taken by the West Los Angeles Area Planning Commission:

1. Denied the appeal.
2. Sustained the decision of the Zoning Administrator and denied a request seeking a Variance from Section 12.21-A17(c)(1) to permit a height of 50 feet in lieu of the 36 feet height limit for the construction of a single-family dwelling in the RE20-1 Zone; approved a Zoning Administrator's Determination to permit the construction, use and maintenance of a maximum 8-foot in height wall within the front yard, in lieu of the maximum 3-1/2 feet otherwise permitted for said single-family dwelling.
3. Adopted the Revised Findings.
4. Adopted the environmental clearance Mitigated Negative Declaration ENV-2005-8611-MND.

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.

This action was taken by the following vote:

Moved: Commissioner Donovan  
Seconded: Commissioner Foster  
Ayes: Commissioners Donovan, Foster, and Halper  
Absent: Commissioners Linnick and Martinez

Vote: 3 - 0

**Effective Date**

Effective upon the mailing of this notice

**Appeal Status**

Not further appealable to City Council

  
Rhonda Ketay, Commission Executive Assistant  
West Los Angeles Area Planning Commission

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachment: Revised Findings

cc: Notification List  
Jim Tokunaga  
Linda Clarke

### FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith, the report of the Zoning Analyst thereon, the statements made at the public hearing on January 9, 2013 before the Zoning Administrator, and on August 7, 2013 before the West Los Angeles Area Planning Commission, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district; the West Los Angeles Area Planning Commission sustains the findings of the Zoning Administrator and finds that the five requirements and prerequisites for granting a variance as enumerated in Section 562 of the City Charter and Section 12.27-B,1 of the Municipal Code have not been established by the following facts:

### ZONE VARIANCE DENIAL FINDINGS

In order for a variance to be granted, all five of the legally mandated findings delineated in City Charter Section 562 and Municipal Code Section 12.27 must be made in the affirmative. Following (highlighted) is a delineation of the findings and the application of the relevant facts of the case to same:

- 1. The strict application of the provisions of the Zoning Ordinance would NOT result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.**

The applicant is requesting a variance to permit a maximum 50-foot in height single family dwelling that would otherwise be limited to 36 feet in height. The additional height is requested to allow a varied roof and attic. The basis for the request is that the definition for height measurement has now changed so that height is measured from "natural" grade instead of "finished" grade. In addition the applicant contends that if the measurement were taken from the previously used finished grade, the height of the project would only be 42.79 feet, a difference of 7.21 feet and require only a Zoning Administrator's adjustment and not a variance. The applicant has also cited a neighboring property which was granted a variance for a single family dwelling with a height of 59 feet.

Based on the applicant's submittal, photographs of the site and Department of Building and Safety's records, the property at 360 Stone Canyon Road has been issued a permit for the construction of a new single family dwelling with basement. The home under construction is designed with a flat roof so the height can comply with the zoning regulation. While it is possible that the granting of this instant variance would allow a greater height for the home under construction with a varied roof and attic space, there has been nothing presented to substantiate that there is a practical difficulty or unnecessary hardship imposed by the existing zoning regulation that makes the additional 14 feet of height necessary. There is no evidence to indicate that the attic space and a

varied roof could not be designed in a manner consistent with the height regulation. The site is fairly large and a more horizontal coverage of the home on the lot with same square footage may allow such features to be incorporated. *The argument that if the height were measured from the finished grade as opposed to the natural grade would make the height deviation less significant because it would be considered a Zoning Administrator's adjustment instead of a variance is not relevant since even the adjustment requires a discretionary approval to exceed the height limit and no guarantee that such adjustment would be approved.*

The West Los Angeles Area Planning Commission further found that there are no practical difficulties or unnecessary hardships in finishing the house without the variance and that denying the variance will not prevent the applicant from finishing and using the home.

2. **There are NO special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity.**

The property consists of two irregular-shaped, interior lots (Lots "C" and "D" of Parcel Map No. 2005-3998) totaling 94,949 square feet with a frontage on the south side of Bellagio Avenue and on the east side of Stone Canyon Road in the RE20-1-H Zone. The property is located in a designated Hillside Area, a Very High Fire Hazard Severity Zone, a Special Grading Area, a Fault Zone, and an area with an identified watercourse. The surrounding properties are all irregular-shaped hillside lots developed with single-family residences in the RE20-1-H Zone.

Charter Section 562 states that a variance shall neither be used to grant a special privilege nor to permit a use substantially inconsistent with the limitation on other properties. Granting a variance to allow a 38% increase in height would amount to a special privilege granted to the applicant. The proposed 14 feet increase in height above the LAMC regulation of 36 feet is significant in relation to what would otherwise be permitted by the zone. The applicant states that there are other homes in the immediate vicinity that exceed the height limit. This is not in contention, it is possible that other homes in the vicinity were constructed prior to changes in the zoning regulations. However the fact that other homes may have been constructed in compliance with regulations at that time with a greater height allowance does not transfer a special circumstance to the subject site because the owner now has to comply with newer zoning regulations. In essence, zoning regulations may change with time and as new development occurs, projects are expected to comply with zoning and building codes. There has been no evidence presented to indicate that there is a special circumstance applicable to the subject property that do not generally apply to other properties in the same zone and vicinity.



The West Los Angeles Area Planning Commission further found that special circumstances pertaining to the property must be such that the property is distinct in character from comparable nearby properties. In their findings, the Commission found that this is not the only property in the vicinity that has a stream running through it, that this is not the only property with varying elevations, and that the general topography of the property is essentially the same as the surrounding properties, and therefore there are no special circumstances that prevents the applicant from finishing the house without the variance.

3. **Such variance is NOT necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of such special circumstances and practical difficulties or unnecessary hardships, is denied the property in question.**

Variances may be approved if all five findings can be made in the affirmative based on special circumstances of the property. It is the applicant's burden to provide proof of the special circumstances. The denial of the variance does not prohibit the applicant from constructing a single-family residence on the property; it does prohibit the construction of a home that is 50 feet in height. The surrounding properties in the vicinity are developed with one-, two-, and three-story homes containing approximately 4,500 to 40,000 square feet of floor area. There are admittedly homes in the vicinity that exceed the 36-foot height limit but many predate the current Hillside regulations or received discretionary approvals.

The circumstances that granted relief to other homes in the area from height regulations are unique to each case and in itself not a justification to grant this variance otherwise every surrounding property owner would be entitled to a variance. The applicant requests the additional height to allow for a varied roof and attic area, however the 36-foot height limitation does not preclude the homeowner from these features if the home can be designed in a manner that complies with the regulations. The requested variance is not necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of such special circumstances and practical difficulties or unnecessary hardships, is denied the property in question.

The West Los Angeles Area Planning Commission further found that no special circumstances have been demonstrated, no practical difficulties or unnecessary hardships have been demonstrated, and that the property can be built upon and used similarly to other properties in the vicinity. The Commission found that there are no other properties in the vicinity with the same zoning that have received a height variance for the same or similar reasons that are being used to justify the applicant's present request and that the vast majority of nearby properties being used and enjoyed are without a height variance.

4. **The granting of such variance WILL be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.**

The proposed variance to permit the construction of a 26,957 square-foot home with a height of 50 feet in lieu of the 36 feet height otherwise permitted may be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.

Allowing the additional height, where no distinct special circumstance or hardships can be made establishes a precedent-setting approval which can be materially detrimental to the area even if there are homes in the vicinity with a greater height. The existing homes in the area which maintain heights greater than 36 feet may have been constructed prior to the imposition of the Hillside Ordinance or changes in definition. All new homes must comply with current regulations unless a variance can be approved. The applicant is proposing new construction of a single family dwelling and is not entitled to a greater height simply because preexisting neighborhood homes were built in compliance at a prior date. In most instances, if these homes were to be voluntarily demolished and reconstructed, they too would have to comply with current regulations.

The West Los Angeles Area Planning Commission further found that the granting of a variance on this property will create an adverse visual effect as respect to neighboring properties. The granting of the variance will have a precedential effect as it would essentially raise the general height limit in the neighborhood and be used to justify other such height increase requests in the immediate area.

5. **The granting of the variance WILL adversely affect any element of the General Plan.**

There are eleven elements of the General Plan. Each of these elements establishes policies that provide for the regulatory environment in managing the City and for addressing environmental concerns and problems. The majority of the policies derived from these Elements are in the form of Code requirements of Los Angeles Municipal Code.

Except for the entitlements described herein, the project does not propose to deviate from any of the requirements of the Los Angeles Municipal Code. The Land Use Element of the City's General Plan divides the city into 35 Community Plans. The Bel Air-Beverly Crest Community Plan Map designates the property for Very Low I Density Residential land uses with a corresponding zone of RE20 and Height District No. 1. The Community Plan contains the following language in Chapter 3 pertaining to residential land use policies:

The intensity of land use in the mountain and hillside areas and the density of the population which can be accommodated thereon, should be limited in accordance with the following:

- The requirements of the City's Hillside Ordinance

The proposed use of the property as a single-family residence is consistent with the site's zoning and land use designation, however, the proposed height is not consistent with the plans intent to require compliance with regulations pertaining to development in the hillside areas including compliance with the Hillside Ordinance.

The proposed height is not permitted by the zone regulations and can only be approved through a variance approval subject to certain findings. As stated in the findings above, the findings have not been made in the affirmative. The zoning code is an implementing tool of the General Plan. The granting of the variance without the required findings to justify an approval of the request will adversely affect elements of the General Plan.

The West Los Angeles Area Planning Commission further found that granting of the variance will adversely affect the following sections of the Bel Air-Beverly Crest Community Plan which is an element of the General Plan.

Chapter 2 (Purpose of the Community Plan) of the Bel Air-Beverly Crest Community Plan provides the following purposes:

- Preserving and enhancing the positive characteristics of existing residential neighborhoods while providing a variety of housing opportunities with compatible new housing.
- Preserving and enhancing the positive characteristics of existing uses which provide the foundation for Community identity, such as scale, height, bulk, setbacks, and appearance.

Chapter 3 of the Bel Air-Beverly Crest Community Plan also provides the following Residential Land Use Policies:

The intensity of land use in the mountain and hillside areas and the density of the population which can be accommodated thereon should be limited in accordance with the following:

- The compatibility of proposed developments with existing adjacent development.
- Design should minimize adverse visual impact on neighboring single family uses.

The granting of a variance on this property will adversely affect the purpose and policies of preserving and enhancing the positive characteristics of the existing residential neighborhood as follows:

- The proposed height is excessive and not compatible with existing uses and appearances.
- The proposed height does not minimize adverse visual impact on neighboring uses.
- Granting the proposed height variance will set a precedent that will adversely affect the positive characteristics of the existing neighborhood.

**EXHIBIT "B"**



## WEST LOS ANGELES AREA PLANNING COMMISSION

200 N. Spring Street, Room 272, Los Angeles, California, 90012-4801, (213) 978-1300  
[www.lacity.org/PLN/index.htm](http://www.lacity.org/PLN/index.htm)

JUN 14 2013

Determination Mailing Date: \_\_\_\_\_

CASE NO: ZA 2012-1395-ZV-ZAA-1A

CEQA: ENV 2005-8611-MND

Location: 360 North Stone Canyon Road

Council District: 5

Plan Area: Bel Air – Beverly Crest

Zone: RE20-1

Applicant/appellant: M & A Gabae, LP  
Representative: Ben Kim

At its meeting on **June 5, 2013**, the following action was taken by the West Los Angeles Area Planning Commission:

1. Denied the appeal.
2. Sustained the decision of the Zoning Administrator and denied a request seeking a Variance from Section 12.21-A17(c)(1) to permit a height of 50 feet in lieu of the 36 feet height limit for the construction of a single-family dwelling in the RE20-1 Zone; approved a Zoning Administrator's Determination to permit the construction, use and maintenance of a maximum 8-foot in height wall within the front yard, in lieu of the maximum 3-1/2 feet otherwise permitted for said single-family dwelling.
3. Adopted the Findings.
4. Adopted the environmental clearance Mitigated Negative Declaration ENV-2005-8611-MND.

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.

This action was taken by the following vote:

Moved: Commissioner Donovan  
Seconded: Commissioner Foster  
Ayes: Commissioners Donovan, Foster, Halper Martinez, and Linnick

Vote: 5 - 0

Effective Date

Effective upon the mailing of this notice

Appeal Status

Not further appealable to City Council

  
Rhonda Ketay, Commission Executive Assistant  
West Los Angeles Area Planning Commission

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachment: Zoning Administrator's Decision Letter Dated March 19, 2013

cc: Notification List  
Jim Tokunaga  
Linda Clarke

LINN K. WYATT  
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

R. NICOLAS BROWN  
SUE CHANG  
LOURDES GREEN  
CHARLES J. RAUSCH, JR.  
JIM TOKUNAGA  
FERNANDO TOVAR  
DAVID WEINTRAUB  
MAYA E. ZAITZEVSKY

CITY OF LOS ANGELES  
CALIFORNIA



ANTONIO R. VILLARAIGOSA  
MAYOR

DEPARTMENT OF  
CITY PLANNING

MICHAEL J. LOCGRANDE  
DIRECTOR

OFFICE OF  
ZONING ADMINISTRATION

200 N. SPRING STREET, 7<sup>TH</sup> FLOOR  
LOS ANGELES, CA 90012  
(213) 978-1318  
FAX: (213) 978-1334  
[www.planning.lacity.org](http://www.planning.lacity.org)

March 19, 2013

M.A. Gabaeé (O)  
9034 W. Sunset Boulevard  
West Hollywood, CA 90069

Fred Gaines (R)  
Gaines & Stacey, LLP  
16633 Ventura Boulevard, #1220  
Encino, CA 91436-1872

CASE NO. ZA-2012-1395-ZV-ZAA  
ZONE VARIANCE – ZONING  
ADMINISTRATOR'S DETERMINATION  
– FENCE HEIGHT

360 N. Stone Canyon Road  
Bel Air-Beverly Crest Planning Area  
Zone : RE20-1  
D. M. : 141B149  
C. D. : 5  
CEQA: ENV-2005-8611-MND  
Legal Description: Lot 165, Bel Air Tract

Pursuant to Charter Section 562 and Los Angeles Municipal Code Section 12.27-B, I hereby DENY:

A Variance from Section 12.21-A.17(c)(1) to permit a height of 50 feet in lieu of the 36 feet height limit for the construction of a single-family dwelling in the RE20-1 Zone;

Pursuant to Los Angeles Municipal Code Section 12.24-X,7, I hereby APPROVE:

a Zoning Administrator's Determination granting the construction, use and maintenance of a maximum 8-foot in height wall within the front yard, in lieu of the maximum 3-1/2 feet otherwise permitted, in conjunction with a single-family dwelling in the RE20-1 Zone

upon the following additional terms and conditions:

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.

3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
5. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Development Services Center and the Department of Building and Safety for purposes of having a building permit issued.
6. The applicant shall defend, indemnify and hold harmless the City, its agents, officers, or employees from any claim, action or proceedings against the City or its agents, officers, or employees relating to or to attack, set aside, void or annul this approval which action is brought within the applicable limitation period. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim action or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.
7. The materials for the fence shall consist of decorative wrought iron fence on top of the existing wall with the wrought iron to a maximum height of 8 feet.
8. Prior to the issuance of any permits relative to this matter, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Development Services Center for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.

**OBSERVANCE OF CONDITIONS - TIME LIMIT - LAPSE OF PRIVILEGES - TIME EXTENSION**

All terms and conditions of the approval shall be fulfilled before the use may be established. The instant authorization is further conditional upon the privileges being utilized within three years after the effective date of approval and, if such privileges are not utilized or substantial physical construction work is not begun within said time and carried on diligently to completion, the authorization shall terminate and become void.



**TRANSFERABILITY**

This authorization runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent upon you to advise them regarding the conditions of this grant.

**VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR**

Section 12.29 of the Los Angeles Municipal Code provides:

"A variance, conditional use, adjustment, public benefit or other quasi-judicial approval, or any conditional approval granted by the Director, pursuant to the authority of this chapter shall become effective upon utilization of any portion of the privilege, and the owner and applicant shall immediately comply with its conditions. The violation of any valid condition imposed by the Director, Zoning Administrator, Area Planning Commission, City Planning Commission or City Council in connection with the granting of any action taken pursuant to the authority of this chapter, shall constitute a violation of this chapter and shall be subject to the same penalties as any other violation of this Code."

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than \$2,500 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

**APPEAL PERIOD – EFFECTIVE DATE**

The applicant's attention is called to the fact that this variance is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any condition of this grant is violated or not complied with, then this variance shall be subject to revocation as provided in Section 12.27 of the Municipal Code. The Zoning Administrator's determination in this matter will become effective after **April 3, 2013**, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://planning.lacity.org>.** Public offices are located at:

Figueroa Plaza  
201 North Figueroa Street,  
4th Floor  
Los Angeles, CA 90012  
(213) 482-7077

Marvin Braude San Fernando  
Valley Constituent Service Center  
6262 Van Nuys Boulevard, Room 251  
Van Nuys, CA 91401  
(818) 374-5050

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

#### NOTICE

The applicant is further advised that all subsequent contact with this office regarding this determination must be with the Zoning Administrator who acted on the case. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **BY APPOINTMENT ONLY**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

#### FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith, the report of the Zoning Analyst thereon, the statements made at the public hearing on January 9, 2013, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find that the five requirements and prerequisites for granting a variance as enumerated in Section 562 of the City Charter and Section 12.27-B, 1 of the Municipal Code have been established by the following facts:

#### BACKGROUND

The property consists of two irregular-shaped, interior lots (Lots "C" and "D" of Parcel Map No. 2005-3998) totaling 94,949 square feet with a frontage on the south side of Bellagio Avenue and on the east side of Stone Canyon Road. It is located in the Bel Air-Beverly Crest Community Plan area and designated for Very Low Residential uses in Height District No. 1.

The applicant proposes to construct a 26,957 square foot single-family home on the property. The majority of Lot "D" will remain as open space with landscaping except for a pool and similar accessory structures. In addition, the applicant seeks to construct a wrought iron fence on top of an existing stone and masonry wall that exists in the public right of way adjacent to the subject property.

The residences adjoining properties to the south and are largely obstructed from view due to the size of the lots, the dense vegetation and the change in grade. To the west of the property is the Bel Air Country Club, and to the north of the property are two vacant lots under the same ownership of the subject property that will be developed with a single family home. The houses in the area range from approximately 4,504 square feet to approximately 38,662 square feet.

The adjoining properties to the north, east and south are zoned RE20-1 and are developed with single family residences/estates. The property to the west is zoned A1-1XL, and is developed with a golf course.

North Stone Canyon Road, adjoining the property on the west, a northerly-southerly Hillside Local Street, dedicated a width of approximately 60 feet, is improved with a roadway of 30 feet in width, curbs and gutters. Street parking is permitted on the west side of the street only.

Previous zoning related actions on the site/in the area include:

Subject Site:

Case No. AA 2005-3998-PMLA – On December 6, 2006, the West Los Angeles Area Planning Commission sustained the Advisory Agency's approval of a four lot subdivision of a 4.13 acre site.

Surrounding Properties:

Case No. ZA 2006-0982(ZV)(ZAA)(ZAD) – On March 22, 2007, the Zoning Administrator approved variances to permit the construction, use and maintenance of a 59-foot high, two-story single-family dwelling with two kitchens. Denied determinations to permit an 8 foot block wall in the front yard setback and retaining walls of 11 feet in height in the side and rear yard setbacks. Approved adjustments to allow an 8 foot block wall in the front yard setback, an 8 foot block walls in the northerly and southerly side yards, an 8 foot high retaining wall in the side and rear yards and to permit the construction, use and maintenance of accessory structures within 55 feet from the front property line. Approved a determination to allow multiple retaining walls ranging from 7 feet 6 inches to 16 feet in height.

Case No. ZA 2004-3117(ZAA) – On August 26, 2004, the Zoning Administrator approved an adjustment to permit the construction, use and maintenance of a retaining wall that varies in height from 5 feet 6 inches to 9 feet 4 inches in the required front and side yards; and a 5-foot pool enclosure and a swimming pool with a spa in the required side yard at 385 Copa De Oro Road.

Case Nos. ZA 2002-5061(YV)(ZAA)(ZAD) and ZA 2002-5061(YV)(ZAA)(ZAD)-A-1 – On February 27, 2003, the Zoning Administrator denied a variance at 457 Bel Air Road, to permit a series of retaining walls up to 9.5 feet in height in the front yard setback area in lieu of the permitted 3 ½ feet, a variance to permit the construction and continued maintenance of a single family dwelling of height varying from 36 feet at the front to 46 feet 6 inches at the rear, a variance to permit the height of an accessory living quarters to be 39 feet 1.5 inches in lieu of the maximum height of 36 feet. Dismissed a variance to permit retaining walls up to 22 feet in height in lieu of the permitted 6 feet within side and rear yards. Dismissed an adjustment to permit the construction, use and maintenance of a tennis court to observe a 21-foot

setback in lieu of the 50-foot required setback. Approved an adjustment to permit an accessory structure (studio) to be located 39 feet 11 inches from the property line in lieu of the required 55 feet. Conditions include: a landscape and automatic irrigation plan to be submitted to the Zoning Administrator for approval and no structures on the subject site shall be rented out as an additional dwelling unit.

On July 11, 2003, the West Los Angeles Area Planning Commission granted the appeal resulting in a variance to permit a series of retaining walls up to 9.5 feet in height in the front yard setback area, permit the construction and continued maintenance of a single-family dwelling a height varying from 36 feet at the front to 44 feet at the rear, and to permit the height of an accessory living quarters to be 39 feet in lieu of the maximum height of 36 feet. An adjustment to permit an accessory structure (studio) to be located 39 feet 11 inches from the property line in lieu of the required 55 feet.

Case No. ZA 2002-7094(ZAA) – On March 26, 2003, the Zoning Administrator approved an adjustment to permit the construction, use and maintenance of a concrete block/red brick wall and pilasters with a maximum height of 8 feet, topped with maximum 2-foot 6-inch lights, and wooden gates of a maximum height of 8 feet within the front yard setback area at 385 Copa De Oro Road.

Case No. ZA 2000-0559(ZV)(YV)(ZAI) – On August 9, 2000, the Zoning Administrator dismissed a variance at 10550 Bellagio Road for an over-in-height wall equivalent to a linear distance of 192 feet along the front yard extending westerly from the northeasterly property line along the street frontage on Bellagio Road, inasmuch as the proposed wall along this segment will not encroach into the required 5-foot front yard setback and therefore is permitted by right. Approved a variance to permit the construction, use and maintenance of a second kitchen in a caretaker's gatehouse in conjunction with the construction of a new main residence. Approved a determination to permit a height of 45 feet in lieu of the maximum 36 feet otherwise permitted. Conditions include: specifications of the wall height at specific places of the wall, landscaping plan including treatment that upon maturity will provide for full coverage of the wall along the two street frontages, no portion of the main house shall exceed 36 feet as measured from adjacent grade, no other kitchens are permitted in any other structure other than the main house and the gatehouse, and not affect the water flow of the creek.

Case No. ZA 99-0246(YV) – On April 14, 1999, the Zoning Administrator approved a variance to permit the construction, use and maintenance of a solid block wall varying in height from 15 feet to 4 feet within the required rear yard setback at 729 Bel Air Road.

Case No. ZA 94-0463(ZV) – On September 15, 1994, the Zoning Administrator approved a variance at 642 Siena Way, to permit the construction, use and maintenance of a recreation/entertainment accessory building, in terrace under an existing legal nonconforming tennis court structure, to observe a maximum height of

approximately 53 feet in lieu of the 36 feet permitted; a freestanding elevator tower which will observe a maximum height of approximately 44.5 feet in lieu of the permitted 36 feet; and a kitchen apart from the main dwelling, located in the accessory building. Conditions include: overnight occupancy within the accessory building is prohibited. There shall be no rooms or furniture for sleeping of any type permitted within the accessory building.

Case No. ZA 92-0608(YV) – One June 24, 1992, the Zoning Administrator granted the remodel, use and maintenance of an existing swimming pool and deck structure observing a westerly side yard setback from 5 feet to 10 feet for a lineal distance of 35 feet in lieu of the 10 feet required at 10539 Bellagio Road.

Case No. ZA 92-0032(YV) – On March 20, 1992, the Zoning Administrator approved a variance to permit a 19-foot height fence and wall enclosures, in conjunction with a tennis court, instead of the 12 feet permitted by Code. Approved a reduced front yard setback from 5 feet to 25 feet, located at 10539 Bellagio Road.

### PUBLIC HEARING

A public hearing for the subject case was held on January 9, 2013 and was attended by the applicant's representatives and representatives of the neighbors, other interested persons, and a representative from Council District 5. The following is a summary of the points made by the speakers.

*Fred Gaines, Gaines & Stacey LLP (representative for the applicant):*

The property consists of two interior lots located in a hillside area. The property has a relatively flat building pad and a single family residence is currently under construction. The site slopes downward only at the westerly end of the property towards Stone Canyon Creek near the property line at Stone Canyon Road. According to the representative, it is because of the small sloped portion of the property that the Applicant will require a Zone Variance for the proposed residence. While the calculated height as measured by the applicable provisions of the Los Angeles Municipal Code is up to 50 feet maximum, the height of the structure as measured from the finished floor to the highest point does not exceed 42 feet. Due to the large setbacks and existing landscaping, the additional height will have no impacts to the surrounding properties.

In addition, the property is currently enclosed by a decorative stone and masonry wall that was constructed in the public right-of-way decades ago and before the Applicant's ownership of the property. The wall ranges in height from about 50-inches to about 54-inches as measured from the street. The Applicant's proposal to construct a wrought iron fence on top of the existing wall, to a maximum total height of 8 feet as measured from the street, is consistent with other over-in-height walls and fences in the neighborhood.

*Dale Goldsmith, Armbruster Goldsmith & Delvac LLP, (representing a neighbor to the south at 295 Strada Corța Road):*

Mitigation measures protecting Stone Canyon Creek should not be removed. As owners of property that Stone Canyon Creek crosses downstream from the subject property, they are concerned about negative impacts to the stream.

*Santa Monica Bay Restoration,*

A representative testified about the organization's efforts to restore Stone Canyon Creek.

*Mark Barron, owner of a property across the street from the project, testified in support of the project.*

*Victor Marmon, representing the adjacent neighbor to the east (333 Copa de Oro Road):*

The MND is incomplete. The height variances should be denied because the Applicant created the need. Stone Canyon Creek is a public resource, so development of the property should not impact the stream.

*Mike Fisher, an engineer representing the adjacent neighbor to the east (333 Copa de Oro Road):*

The height of the proposed structure will loom over the neighbor to the south, and will block views from the east. It will also cast shadows on Stone Canyon Creek.

*Leonard Liston, (PE, LC Engineering Group, Inc. representing the applicant):*

Provided a rebuttal of points raised by the project's opponents.

*Shawn Bayliss, Planning Deputy for Council District 5, stated the following:*

The Council Office is not opposed to the Applicant's request for additional height to accommodate the proposed varied roof. Likewise, the Council Office is not opposed to the proposal to construct a wrought iron fence on top of the existing stone and masonry wall in the front yard, up to a total height of 8 feet as measured from the street. The Council Office requests that the wrought iron fence have a flat top. Finally, the Council Office requests that no development occur within the 15 foot sanitary and storm drain sewer easement. However, the Council Office is not opposed to deletion of the requirement that the Applicant maintain a 10 foot buffer from the easement.

After the hearing, the Zoning Administrator took the case under advisement for four weeks to allow the neighbors additional time to review the proposed plans and submit additional comments. The following additional comment was received:

A representative of the Bel Air Country Club opposed the project due to concern that the height of the proposed residence will not be consistent with the neighborhood.

### MANDATED FINDINGS

In order for a variance to be granted, all five of the legally mandated findings delineated in City Charter Section 562 and Municipal Code Section 12.27 must be made in the affirmative. Following (highlighted) is a delineation of the findings and the application of the relevant facts of the case to same:

1. **The strict application of the provisions of the Zoning Ordinance would not result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.**

The applicant is requesting a variance to permit a maximum 50-foot in height single family dwelling that would otherwise be limited to 36 feet in height. The additional height is requested to allow a varied roof and attic. The basis for the request is that the definition for height measurement has now changed so that height is measured from "natural" grade instead of "finished" grade. In addition the applicant contends that if the measurement were taken from the previously used finished grade, the height of the project would only be 42.79 feet, a difference of 7.21 feet and require only a Zoning Administrator's adjustment and not a variance. The applicant has also cited a neighboring property which was granted a variance for a single family dwelling with a height of 59 feet.

Based on the applicant's submittal, photographs of the site and Department of Building and Safety's records, the property at 360 Stone Canyon Road has been issued a permit for the construction of a new single family dwelling with basement. The home under construction is designed with a flat roof so the height can comply with the zoning regulation. While it is possible that the granting of this instant variance would allow a greater height for the home under construction with a varied roof and attic space, there has been nothing presented to substantiate that there is a practical difficulty or unnecessary hardship imposed by the existing zoning regulation that makes the additional 14 feet of height necessary. There is no evidence to indicate that the attic space and a varied roof could not be designed in a manner consistent with the height regulation. The site is fairly large and a more horizontal coverage of the home on the lot with same square footage may allow such features to be incorporated. The argument that if the height were measured from the finished grade as opposed to the natural grade would make the height deviation less significant because it would be considered a Zoning Administrator's adjustment instead of a variance is not relevant since even the adjustment requires a discretionary approval to exceed the height limit and no guarantee that such adjustment would be approved.

2. **There are no special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity.**

The property consists of two irregular-shaped, interior lots (Lots "C" and "D" of Parcel Map No. 2005-3998) totaling 94,949 square feet with a frontage on the south side of Bellagio Avenue and on the east side of Stone Canyon Road in the RE20-1-H Zone. The property is located in a designated Hillside Area, a Very High Fire Hazard Severity Zone, a Special Grading Area, a Fault Zone, and an area with an identified watercourse. The surrounding properties are all irregular-shaped hillside lots developed with single-family residences in the RE20-1-H Zone.

Charter Section 562 states that a variance shall neither be used to grant a special privilege nor to permit a use substantially inconsistent with the limitation on other properties. Granting a variance to allow a 38% increase in height would amount to a special privilege granted to the applicant. The proposed 14 feet increase in height above the LAMC regulation of 36 feet is significant in relation to what would otherwise be permitted by the zone. The applicant states that there are other homes in the immediate vicinity that exceed the height limit. This is not in contention, it is possible that other homes in the vicinity were constructed prior to changes in the zoning regulations. However the fact that other homes may have been constructed in compliance with regulations at that time with a greater height allowance does not transfer a special circumstance to the subject site because the owner now has to comply with newer zoning regulations. In essence, zoning regulations may change with time and as new development occurs, projects are expected to comply with zoning and building codes. There has been no evidence presented to indicate that there is a special circumstance applicable to the subject property that do not generally apply to other properties in the same zone and vicinity.

3. **Such variance is not necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of such special circumstances and practical difficulties or unnecessary hardships, is denied the property in question.**

Variances may be approved if all five findings can be made in the affirmative based on special circumstances of the property. It is the applicant's burden to provide proof of the special circumstances. The denial of the variance does not prohibit the applicant from constructing a single-family residence on the property; it does prohibit the construction of a home that is 50 feet in height. The surrounding properties in the vicinity are developed with one-, two-, and three-story homes containing approximately 4,500 to 40,000 square feet of floor area. There are admittedly homes in the vicinity that exceed the 36-foot height limit but many predate the current Hillside regulations or received discretionary approvals.



The circumstances that granted relief to other homes in the area from height regulations are unique to each case and in itself not a justification to grant this variance otherwise every surrounding property owner would be entitled to a variance. The applicant requests the additional height to allow for a varied roof and attic area, however the 36-foot height limitation does not preclude the homeowner from these features if the home can be designed in a manner that complies with the regulations. The requested variance is not necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of such special circumstances and practical difficulties or unnecessary hardships, is denied the property in question.

4. **The granting of such variance will be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.**

The proposed variance to permit the construction of a 26,957 square-foot home with a height of 50 feet in lieu of the 36 feet height otherwise permitted may be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.

Allowing the additional height, where no distinct special circumstance or hardships can be made establishes a precedent-setting approval which can be materially detrimental to the area even if there are homes in the vicinity with a greater height. The existing homes in the area which maintain heights greater than 36 feet may have been constructed prior to the imposition of the Hillside Ordinance or changes in definition. All new homes must comply with current regulations unless a variance can be approved. The applicant is proposing new construction of a single family dwelling and is not entitled to a greater height simply because preexisting neighborhood homes were built in compliance at a prior date. In most instances, if these homes were to be voluntarily demolished and reconstructed, they too would have to comply with current regulations.

5. **The granting of the variance will adversely affect any element of the General Plan.**

There are eleven elements of the General Plan. Each of these elements establishes policies that provide for the regulatory environment in managing the City and for addressing environmental concerns and problems. The majority of the policies derived from these Elements are in the form of Code requirements of Los Angeles Municipal Code.

Except for the entitlements described herein, the project does not propose to deviate from any of the requirements of the Los Angeles Municipal Code. The Land Use Element of the City's General Plan divides the city into 35 Community Plans. The Bel Air-Beverly Crest Community Plan Map designates the property for Very Low I Density Residential land uses with a corresponding zone of RE20 and Height

District No. 1. The Community Plan contains the following language in Chapter 3 pertaining to residential land use policies:

The intensity of land use in the mountain and hillside areas and the density of the population which can be accommodated thereon, should be limited in accordance with the following:

- The requirements of the City's Hillside Ordinance

The proposed use of the property as a single-family residence is consistent with the site's zoning and land use designation, however, the proposed height is not consistent with the plans intent to require compliance with regulations pertaining to development in the hillside areas including compliance with the Hillside Ordinance.

The proposed height is not permitted by the zone regulations and can only be approved through a variance approval subject to certain findings. As stated in the findings above, the findings have not been made in the affirmative. The zoning code is an implementing tool of the General Plan. The granting of the variance without the required findings to justify an approval of the request will adversely affect elements of the General Plan.

In order for an over-in-height fence/wall request to be approved, all of the legally mandated findings in Section 12.24-X,7 of the Municipal Code must be made in the affirmative. The following section states such findings in bold type with the applicable justification set forth immediately thereafter.

6. **The project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city or region.**

A decorative stone and masonry wall currently exists in the public right-of-way adjacent to the applicant's property. It ranges in height from about 50-inches to about 54-inches. The sections of the wall in front of the applicant's property are approximately 108 and 233 feet in length. The applicant seeks approval to construct and maintain a new decorative wrought iron fence on top of the existing wall, with a total height of 8 feet maximum.

The property is located in an area of the City characterized by sloping terrain and large estate homes. Over-in-height privacy walls and fences are prevalent in the neighborhood. Traveling from Sunset Boulevard toward the project site, most if not all of the residences along Stone Canyon Road have a fence or wall of over 42-inches in the front yard setback area. These include the following:

- 110 Stone Canyon Road: wall of 9 feet in height
- 111 Stone Canyon Road: wall of 9 feet in height
- 120 Stone Canyon Road: wall of 8 feet in height
- 129 Stone Canyon Road: fence of 6 feet in height

- 300 Stone Canyon Road: wall of 9 feet in height

Additionally, the rear yards of 245 and 295 Strada Corta face Stone Canyon Road. 245 Strada Corta has an 8-foot wall in its rear yard, and 295 Strada Corta has a five-foot wall over a three-foot slope. As such, the applicant's request for a fence and wall with a total height of up to 8 feet is consistent with the fences and walls maintained on the properties along Stone Canyon Road from Sunset Boulevard to the project site.

7. **The project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety.**

The proposed over-in height privacy fence wall is compatible with the heights of those on the adjacent properties at the Stone Canyon Road frontage. The surrounding properties in the project area are developed with one-, two- or three-story homes containing approximately 4,500 square feet to 40,000 square feet of floor area. There are other homes in the project vicinity with fences and walls that exceed the fence height limit of 42-inches. Due to the dense landscaping, topography, and size of the subject site and the neighboring properties, the over-in-height wall will minimal impact on the neighboring properties.

The zoning regulations require a maximum height of fences and walls within the required setbacks in order to provide compatibility between respective properties as well as to ensure orderly development. Such regulations, however, are written on a Citywide basis and cannot take into account individual unique characteristics that a specific parcel and its intended use may have. In this instance, the granting of the request will allow a more viable, functional, livable dwelling in a manner consistent with the spirit and intent of the zoning regulations. The proposed privacy fence wall will not result in any change to the character of the residential neighborhood, which is improved with estate sized homes with similar height walls.

8. **The project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any specific plan.**

The Bel Air-Beverly Crest Community Plan seeks to protect investment, promote good design, and ensure public safety. The Plan does not specifically address adjustments for over-in-height fences and walls within a required setback area. Granting the requested adjustment allows the applicant to create a more useable landscape area that will provide more functional private open space. Furthermore, the proposed privacy fence wall will not change the primary use of the proposed single family home. Therefore, the project will be in substantial conformance with the various elements and objectives of the General Plan.

9. **Consideration has been given to the environmental effects and appropriateness of the materials, design and location, including any**

**detrimental effects on the view enjoyed by occupants of adjoining properties and security to the subject property.**

In general, fences/walls, when in character with their surroundings, are not detrimental to the public welfare or injurious to adjacent properties. In this instance, the design, location, and height of the fence will not cause shade or shadow impacts, create an area that conceals potential criminals, and is not in the public right-of-way. As requested and conditioned, the fence does not create visibility problems, or impacts to light and air. The proposed fence allows for added privacy and security while still retaining an open design that relates to the street. Thus, as proposed, the fence is not anticipated to have any impacts on solar access, ventilation or on privacy to the adjoining property owners.

#### **ADDITIONAL MANDATORY FINDINGS**

10. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is located in Zone AO, areas of 100-year shallow flooding where depths are between 1 and 3 feet; average depths of inundation are shown, but no flood hazard factors are determined.
11. On March 16, 2006, a Mitigated Negative Declaration (ENV 2005-8611- MND) was prepared for the proposed project. On the basis of the whole of the record before the lead agency including any comments received, the lead agency finds that with imposition of the mitigation measures described in the MND (and identified in this determination), there is no substantial evidence that the proposed project will have a significant effect on the environment. I hereby adopt that action. This Mitigated Negative Declaration reflects the lead agency's independent judgment and analysis. The records upon which this decision is based are with the Environmental Review Section of the Planning Department in Room 750, 200 North Spring Street.



JIM TOKUNAGA  
Associate Zoning Administrator  
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JT:

cc: Councilmember Paul Koretz  
Fifth District  
Adjoining Property Owners