



AGENDA REPORT

Meeting Date: May 24, 2011

Item Number: F-4

To: Honorable Mayor & City Council

From: City Attorney

Subject: RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS APPROVING A MINOR ACCOMMODATION TO ALLOW THE EXTENSION OF A LEGALLY NONCONFORMING SIDE SETBACK ON THE PROPERTY LOCATED AT 716 ALTA DRIVE.

Attachments: 1. Resolution

RECOMMENDATION

It is recommended that the City Council adopt the attached resolution.

INTRODUCTION

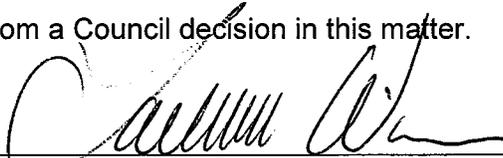
The attached resolution approves a Minor Accommodation allowing the extension of a legally nonconforming side setback on the property located at 716 Alta Drive.

DISCUSSION

At its meeting on May 3, 2011, the City Council directed the City Attorney's Office to prepare a resolution of findings approving the Minor Accommodation.

FISCAL IMPACT

No fiscal impact to the City is anticipated from a Council decision in this matter.



Laurence S. Wiener, City Attorney

Attachment 1

RESOLUTION NO.

RESOLUTION OF THE COUNCIL OF THE CITY OF
BEVERLY HILLS APPROVING A MINOR
ACCOMMODATION TO ALLOW THE EXTENSION OF A
LEGALLY NONCONFORMING SIDE SETBACK ON THE
PROPERTY LOCATED AT 716 ALTA DRIVE.

The City Council of the City of Beverly Hills hereby finds, and resolves as follows:

Section 1. Kamran Samooha (the “Applicant”) submitted an application for a Minor Accommodation to allow the extension of a legally nonconforming side setback on the property located at 716 Alta Drive (the “Project”).

The Project site is located on the east side of the 700 block of Alta Drive, and surrounding development consists entirely of one- and two-story single-family homes. The subject property is undergoing renovations to remodel the interior and exterior of the existing two-story residence. These renovations include an addition of approximately 500 square feet of floor area to the existing residence, which will be distributed between the first and second floors. A component of the addition involves converting approximately 150 square feet of existing attic space to habitable space that is proposed to be used as an office. In order to convert the attic space to habitable space, the roof height of the existing structure is proposed to be raised. Approximately 63 square feet of the roof area to be raised is located in the required side setback. Consequently, the Project requires a Minor Accommodation to allow the roof to be raised in-line with the existing nonconforming side setback for the residence.

Section 2. Notice of the Project and pending decision by the Director of Community Development was mailed on December 22, 2010 to all property owners and residential tenants within a 100-foot radius of the property. On January 31, 2011 the Director of Community Development approved the application for Minor Accommodation, and notice of the decision was mailed to all property owners and residential tenants within a 100-foot radius of the property.

Section 3. An appeal from the decision of the Director of Community Development was filed by Linda Ostrowski, neighbor of the subject property (hereinafter referred to as the “Appellant”).

Section 4. Notice of the appeal hearing was mailed on April 22, 2011. On May 3, 2011, the City Council held a de novo public hearing to consider the application for the Minor Accommodation.

Section 5. The Project has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.* (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*, the “State Guidelines”), and the City’s Local CEQA Guidelines (the “City Guidelines”). A Class 1 Categorical Exemption has been issued in accordance with the Section 15301 of the State Guidelines.

Section 6. In considering the request for the Minor Accommodation, the City Council was able to make the following findings as further detailed in Section 7:

1. The Project will not have an adverse impact on the scale and massing of the streetscape;

2. The Project will not have an adverse impact on the neighbors' access to light and air;

3. The Project will not have an adverse impact on the neighbors' privacy; and

4. The Project will not have an adverse impact on the garden quality of the city.

Section 7. Based on the evidence presented at the hearing, including the staff report and written and oral testimony, the City Council hereby finds and determines as follows:

1. The proposed addition is located at the rear portion of the main residence at the second story level, and at a distance of approximately 97 feet from the front property line. The total height of the proposed addition would be 27 feet 9 inches measuring from the average grade, which would match the existing height of the residence. The total area of the addition requiring the Minor Accommodation is approximately 63 square feet, and a minimum of a 5 foot 9 inch setback is provided for the area under review. Because the addition is consistent with the architectural style of the residence, and would not be visible from the street, the addition will not have an adverse impact on the scale and massing of the streetscape.

2. The portion of the proposed addition requiring the Minor Accommodation would be located 5 feet 9 inches from the side property line with a maximum height of 27 feet 9 inches, which matches the existing structure. The addition is located toward the rear of the subject residence and adjacent to the neighboring residence to the south. Existing trees and hedges separate the two properties, and result in the addition being minimally visible from the neighboring

property. Additionally, the portion of the addition requiring the Minor Accommodation is limited in scope and totals approximately 63 square feet, which accounts for less than 2% of the total floor area of the existing residence. Due to the limited size of the portion of the Project requiring the Minor Accommodation, as well as the existing vegetation and separation from the neighbor's backyard and pool area, no substantial adverse impact to the neighbors' access to light and air is anticipated.

3. The proposed addition will create added height along the south side property line. The addition does not include any new or increased window openings along the south elevation (facing the Appellant's property). Although the proposed addition does include an enlarged window and Juliet balcony facing the rear yard, existing, dense landscaping along the side property line screens the Project from the adjacent property. Additionally, even though the window and Juliet balcony may allow some visibility through the landscaping, this will not adversely impact privacy as the subject property currently has views of the neighboring property from an existing balcony and from an existing window along the southerly facing wall. Due to the landscaping and the existing balcony and window, the Minor Accommodation will have an inconsequential impact on privacy.

4. Although landscaping was previously removed and then replaced along the south side property line in order to accommodate other work at the subject property, the Minor Accommodation does not include any modifications to existing landscaping. The existing landscaping is mature and appropriately scaled with the design of the house, and as a condition of approval is required to be maintained for the life of the Project. Because no changes will be made to the existing landscaping,

the Project is not anticipated to result in substantial adverse impacts to the garden quality of the city.

Section 8. Based on the foregoing, the City Council hereby denies the appeal and grants the requested Minor Accommodation, subject to the following conditions:

1. The second-floor windows along the south elevation of the residence may be replaced, but shall not be increased in size beyond the existing dimensions of 3'6" x 3'6".

2. The Project shall be constructed in substantial compliance with the plans approved by the City Council on May 3, 2011.

3. Any modifications to the approved plans shall be returned to staff for further review and assessment.

4. All existing trees and hedges along the south elevation of the residence, as shown on the approved landscape plan, shall be maintained throughout the life of the Project, and replaced if damaged or removed for any reason, including as a result of construction. Further, all such landscaping shall be maintained in accordance with the provisions of the Beverly Hills Municipal Code.

5. RECORDATION. This resolution approving the Minor Accommodation shall not become effective until the Applicant and the owner of the Project site record a covenant, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this resolution. The covenant shall include a copy of this resolution as an exhibit. The Applicant shall deliver the executed covenant to the Department of Community Development **within 60 days** of the City Council's adoption of this resolution. 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.

6. VIOLATION OF CONDITIONS: A violation of these conditions of approval is grounds for revocation of the Minor Accommodation pursuant to the procedures set forth in the Beverly Hills Municipal Code.

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. Section 9. The City Clerk shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his Certification to be entered in the Book of Resolutions of the City.

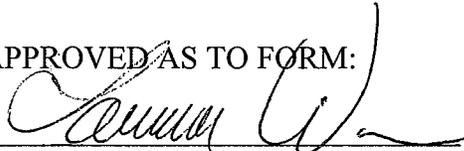
Adopted:

BARRY BRUCKER
Mayor of the City of
Beverly Hills, California

ATTEST:

_____ (SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:



SUSAN HEALY KEENE
Director of Community Development