

# **ATTACHMENT 1**

**PLANNING COMMISSION RESOLUTION No. 1701**

RESOLUTION NO. 1701

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A MINOR ACCOMMODATION AND SECOND UNIT USE PERMIT TO ALLOW THE CONSTRUCTION OF A TWO-STORY ACCESSORY STRUCTURE CONTAINING INDEPENDENT LIVING FACILITIES WITHIN A REQUIRED REAR YARD SETBACK ON A CORNER LOT IN THE CENTRAL AREA OF THE CITY AT 700 NORTH LINDEN DRIVE.

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

Section 1. Sarah Wear, Applicant, on behalf of the property owners of Maria Nikitina, (the "Applicant") has submitted an application to allow a Minor Accommodation and Second Unit Use permit to allow the construction of a two-story accessory structure containing independent living facilities within a required rear yard setback in the Central Area of the City (the "Project"). The Project does not meet all by-right development standards, and therefore requires entitlements that can be granted by the Planning Commission pursuant to the issuance of a Minor Accommodation and Second Unit Use Permit.

Section 2. The Project site is located on a corner lot in the Central Area of the City, north of Santa Monica Boulevard, and has frontage along Linden Drive and Elevado Avenue. The Project site is irregularly shaped in comparison to the majority of other properties in the neighborhood however is comparable in site area. A new single-family residence has been approved by the Design Review Commission and is currently being reviewed by the City's Development Services Team for compliance with all applicable zoning and building standards.

The surrounding neighborhood consists of one- and two-story single-family residences with detached one- and two-story accessory structures.

The Project consists of a new two-story accessory structure to be located within the rear yard setback that would extend to a maximum height of 22'-0" (lower than the maximum 32'-0" height of the proposed new single-family residence on the site). As designed, the structure would be set back:

- 2'-0" from the rear property line which abuts an alley;
- 15'-0" from the street side property line along Elevado Avenue;
- 33'-0" from the north side property line; and
- 99'-0" from the front property line along Linden Drive.

The total floor area of the new structure would be approximately 1,062 square feet. The structure would contain the following elements:

- Two garages that would house a total of three (3) parking spaces; and
- A second unit occupying approximately 861 square feet of floor area. The proposed second unit would accommodate independent living facilities that include:
  - 1 bedroom;
  - 2 bathrooms;
  - A kitchen;
  - A laundry room; and
  - A recreation area.

Section 3. 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. The Project qualifies for a categorical exemption pursuant to Section 15303 (Class 3(a) and 3(e)) of the Guidelines. Specifically, a Class 3 Categorical Exemption allows for the construction of a second dwelling unit and an accessory (appurtenant) structure including garages within a residential zone. The proposed Project includes a second dwelling unit and an accessory garage and therefore, has been determined to be eligible for the exemption.

Section 4. Notice of the Project and public hearing was mailed on December 2, 2013 to all property owners and residential tenants within a 300-foot radius of the property. On December 12, 2013 the Planning Commission considered the application at a duly noticed public meeting. Evidence, both written and oral, was presented at said meeting.

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

1. The Project will not have a substantial adverse impact on the scale and massing of the streetscape;
2. The project will not have a substantial adverse impact on the neighbor's access to light and air;
3. The project will not have a substantial adverse impact on the neighbor's privacy; and

4. The project will not have a substantial adverse impact on the garden quality of the City.

Section 6. Based on the foregoing, the Planning Commission hereby finds and determines as follows:

1. The Project site is located on the corner of North Linden Drive and Elevado Avenue. A new single-family residence on the Project site will block the view of the accessory structure from North Linden Drive. Along Elevado Avenue the structure will be visible from the street; however, will be set back 15'-0" from the street side property line. This setback is consistent with the setback of the new single-family residence. The structure will contain approximately 38'-0" of linear frontage along Elevado Avenue. Approximately 18'-6" of the frontage would be two-stories in height and the remaining 20'-6" would be one story in height. As conditioned, the structure will be designed in a manner that is consistent with the new single-family residence but still reads as a separate structure. Furthermore, the accessory structure is consistent with other accessory structures in the area, which are generally one and two-stories in height and are located near or abutting the rear property line. Due to the massing configuration of the proposed structure, the location of the structure on the site, and the existing one and two-story accessory structures that existing in the neighborhood, and the Project specific condition regarding the architectural design of the proposed structure, the project is not anticipated to have a substantial adverse impact on the scale and massing of the streetscape.

2. The structure would have a maximum height of 22'-0", would be set back 2'-0" from the rear property line which abuts a 20'-0" wide alley, would be set back approximately 15'-0" from the street side property line along Elevado Avenue, would be set back approximately 33'-0" from the north side property line, and would be set back approximately 99'-0" from the front property line along Linden Drive. The rear alley would provide a 20'-0" buffer between the proposed structure and the neighboring properties to the east. As designed, only a portion of the structure will be two-stories in height. Consequently, along the alley, the proposed structure will have a maximum height of approximately 13'-0" and the two-story portion of the structure will be set back approximately 22'-6" from the rear property line. Due to the location of the proposed structure on the Project site and the massing configuration of the structure, the Project is not anticipated to have a substantial adverse impact on the neighbor's access to light and air.

3. The new accessory structure would have a maximum height of 22'-0", would be set back 2'-0" from the rear property line which abuts a 20'-0" wide alley, would be set back approximately 15'-0" from the street side property line along Elevado Avenue, would be set back approximately 33'-0" from the north side property line, and would be set back approximately 99'-0" from the front property line along Linden Drive. The rear alley would provide a 20'-0" buffer between the proposed structure and the neighboring properties to the east. As designed, only a portion of the structure will be two-stories in height. Consequently, along the alley, the proposed structure would have a maximum height of approximately 13'-0" and the two-story portion of the structure would be set back approximately 22'-6" from

the rear property line. As conditioned, the second-story windows facing the alley will contain be fixed and will contain translucent glass. Due to the location of the accessory structure on the Project site, the massing configuration of the structure and the Project specific condition regulating the second-story windows of the accessory structure, the Project is not anticipated to have a substantial adverse impact on the neighbor's privacy.

4. The Project site is planned to be developed with a new single-family residence and the proposed accessory structure. A landscape plan has been provided in conjunction with the proposed development of the site. The landscape plan proposes to maintain a number of existing mature trees on the site including a date palm tree, a spindle tree, an olive tree, a citrus tree, and a magnolia tree. In addition to maintaining some existing mature trees on the site, groundcover and additional trees are proposed throughout the project site. Since existing mature landscaping will be maintained and new landscaping is proposed, the Project is not anticipated to have a substantial adverse impact on the garden quality of the City.

Section 7. In considering the request for a Second Unit Use Permit, the Planning Commission considered whether the following findings could be made in support of the Project:

1. The Project will not have a substantial adverse impact on the scale and massing of the streetscape;
2. The Project will not have a substantial adverse impact on the scale and massing of the neighborhood as viewed from neighboring properties;

3. The Project will not have a substantial adverse impact on the neighbor's access to light and air;

4. The Project will not have a substantial adverse impact on the neighbor's privacy;

5. The Project will not have a substantial adverse impact on the garden quality of the City; and

6. The Project will not have a substantial adverse impact on the adjacent properties of the public welfare.

Section 8. Based on the foregoing, the Planning Commission hereby finds and determines as follows with respect to the Second Unit Use Permit:

1. The Project site is located on the corner of North Linden Drive and Elevado Avenue. A new single-family residence on the Project site will block the view of the accessory structure from North Linden Drive. Along Elevado Avenue the structure will be visible from the street; however, will be set back 15'-0" from the street side property line. This setback is consistent with the setback of the new single-family residence. The structure will contain approximately 38'-0" of linear frontage along Elevado Avenue. Approximately 18'-6" of the frontage would be two-stories in height and the remaining 20'-6" would be one story in height. As conditioned, the structure will be designed in a manner that is consistent with the new single-family residence but still reads as a separate structure. Furthermore, the accessory structure is consistent with other accessory structures in the area, which are generally one and two-stories in height and are located near or abutting the rear

property line. Due to the massing configuration of the proposed structure, the location of the structure on the site, and the existing one and two-story accessory structures that existing in the neighborhood, and the Project specific condition regarding the architectural design of the proposed structure, the project is not anticipated to have a substantial adverse impact on the scale and massing of the streetscape.

2. The Project site is located on the corner of North Linden Drive and Elevado Avenue. A new single-family residence on the Project site will block the view of the accessory structure from North Linden Drive. Along Elevado Avenue the structure will be visible from the street; however, will be set back 15'-0" from the street side property line. This setback is consistent with the setback of the new single-family residence. The structure will have a maximum height of 22'-0", would be set back 2'-0" from the rear property line which abuts a 20'-0" wide alley, would be set back approximately 33'-0" from the north side property line, and would be set back approximately 99'-0" from the front property line along North Linden Drive. As designed, only a portion of the structure will be two stories in height. Along the alley, the structure would have a maximum height of 13'-0" and the two-story portion of the structure would be set back approximately 22'-6" from the rear property line. Due to the location of the structure on the Project site and the massing configuration of the structure, the Project is not anticipated to have a substantial adverse impact on the scale and massing of the neighborhood as viewed from neighboring properties.

3. The structure would have a maximum height of 22'-0", would be set back 2'-0" from the rear property line which abuts a 20'-0" wide alley, would be set back approximately 15'-0" from the street side property line along Elevado Avenue, would be set back approximately 33'-0" from the north side property line, and would be set back approximately 99'-0" from the front property line along Linden Drive. The rear alley would provide a 20'-0" buffer between the proposed structure and the neighboring properties to the east. As designed, only a portion of the structure will be two-stories in height. Consequently, along the alley, the proposed structure will have a maximum height of approximately 13'-0" and the two-story portion of the structure will be set back approximately 22'-6" from the rear property line. Due to the location of the proposed structure on the Project site and the massing configuration of the structure, the Project is not anticipated to have a substantial adverse impact on the neighbor's access to light and air.

4. The new accessory structure would have a maximum height of 22'-0", would be set back 2'-0" from the rear property line which abuts a 20'-0" wide alley, would be set back approximately 15'-0" from the street side property line along Elevado Avenue, would be set back approximately 33'-0" from the north side property line, and would be set back approximately 99'-0" from the front property line along Linden Drive. The rear alley would provide a 20'-0" buffer between the proposed structure and the neighboring properties to the east. As designed, only a portion of the structure will be two-stories in height. Consequently, along the alley, the proposed structure would have a maximum height of approximately 13'-0" and the two-story portion of the structure would be set back approximately 22'-6" from

the rear property line. As conditioned, the second-story windows facing the alley will contain be fixed and will contain translucent glass. Due to the location of the accessory structure on the Project site, the massing configuration of the structure, and the Project specific condition regulating the second-story windows of the accessory structure, the Project is not anticipated to have a substantial adverse impact on the neighbor's privacy.

5. The Project site is planned to be developed with a new single-family residence and the proposed accessory structure. A landscape plan has been provided in conjunction with the proposed development of the site. The landscape plan proposes to maintain a number of existing mature trees on the site including a date palm tree, a spindle tree, an olive tree, a citrus tree, and a magnolia tree. In addition to maintaining some existing mature trees on the site, groundcover and additional trees are proposed throughout the project site. Since existing mature landscaping will be maintained and new landscaping is proposed, the Project is not anticipated to have a substantial adverse impact on the garden quality of the City.

6. The two-story accessory structure will be located 2'-0" from the rear property line which abuts a 20'-0" wide alley, will be set back approximately 15'-0" from the street side property line along Elevado Avenue, will be set back approximately 33'-0" form the north side property line, and will be set back approximately 99'-0" from the front property line along Linden Drive. Along the alley, the structure will be one-story in height, measuring approximately 13'-0" in height. The second story will be set back approximately 22'-6" from the alley. As conditioned, the windows along the second story facing the alley will be fixed and

will contain translucent glass so to restrict the potential for privacy impacts on neighboring properties across the alley. While the second unit may result in some increased activity on the site, the Project has been designed with substantial setbacks from all neighboring properties and has been conditioned to limit visibility from the second floor windows facing the alley. Consequently, the Project is not anticipated to have a substantial adverse impact on adjacent properties or the public welfare.

Section 9. Based on the foregoing, the Planning Commission hereby grants the requested Minor Accommodation and Second Unit Use Permit, subject to the following conditions:

1. The second story window openings along the west façade (alley elevation) of the accessory structure shall be fixed (cannot be opened) and shall contain translucent glass (allows light to pass through but objects are not visible through the glass).

2. The Applicant shall work with the City's Urban Designer, and/or his/her designee, to ensure that the architectural design of the accessory structure is consistent with and compliments the design of the primary residence on the project site, however, still appears as a separate structure from the primary residence.

3. The chimney shall be a maximum of 4'-0" above the highest point of the accessory structure roof. Spark arrestor(s) and/or chimney cap(s) shall be included within the 4'-0" maximum height.

4. The Project shall be constructed in substantial compliance with the plans and specifications approved by the Planning Commission on December 12, 2013.

5. 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.

6. 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.

7. 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.

8. 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. Decisions involving subdivision maps must be appealed within ten (10) days of the Planning Commission Action. An appeal fee is required.

9. RECORDATION. This resolution approving the Minor Accommodation and Second Unit Use Permit shall not become effective until the owner of the Project site records a covenant, satisfactory in form and content to the

City Attorney, accepting the conditions of approval set forth in this resolution. The covenant shall include a copy of 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.

10. EXPIRATION. Minor Accommodation and Second Unit Use Permit: The exercise of rights granted in such approval shall be commenced within three (3) years after the adoption of such resolution.

11. 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: December 12, 2013



\_\_\_\_\_  
Brian Rosenstein  
Chair of the Planning Commission of the  
City of Beverly Hills, California

Attest:



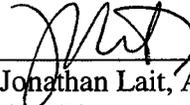
\_\_\_\_\_  
Secretary

Approved as to form:



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

Approved as to content:



\_\_\_\_\_  
Jonathan Lait, AICP  
City Planner



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

I, JONATHAN LAIT, Secretary of the Planning Commission and City Planner of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1701 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on December 12, 2013, and thereafter duly signed by the Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

AYES:           Commissioners Block, Corman, Yukelson, Vice Chair Fisher, Chair  
                  Rosenstein.

NOES:           None.

ABSTAIN:       None.

ABSENT:        None.



\_\_\_\_\_  
JONATHAN LAIT, AICP  
Secretary of the Planning Commission /  
City Planner  
City of Beverly Hills, California