



## AGENDA REPORT

**Meeting Date:** February 18, 2014

**Item Number:** E-9

**To:** Honorable Mayor & City Council

**From:** Jonathan Lait, AICP, Assistant Director of Community Development  
Shena Rojemann, Associate Planner

**Subject:** RESOLUTION OF THE CITY COUNCIL 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.

**Attachments:** 1. Resolution

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### RECOMMENDATION

Staff recommends that the City Council adopt the attached resolution conditionally approving a Minor Accommodation and Second Unit Use Permit to allow the construction of a two-story accessory structure with independent living facilities on the property located at 700 North Linden Drive.

### SUMMARY

On February 4, 2014, the City Council considered the above entitlements. The City Council received public comments regarding the project, deliberated the merits of the project, and the Council voted to direct staff to prepare a resolution conditionally approving the requested entitlements. Pursuant to the direction provided at the February 4, 2014 meeting, this report transmits the resolution memorializing the Council's action.

Susan Healy Keene, AICP  
Director of Community Development

  
Approved By

# **Attachment 1**

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL 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 City Council of the City of Beverly Hills hereby finds, and resolves as follows:

Section 1. Sarah Wear, Applicant, on behalf of the property owner Maria Nikitina, (the “Applicant”) has submitted an application for 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 site is located on a corner lot in the Central Area of the City, north of Santa Monica Boulevard, and has frontage along North Linden Drive and Elevado Avenue. The Project site is irregularly shaped in comparison to the majority of other properties in the neighborhood, however, it 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 a variety of 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 and would have a maximum height of 22'-0". 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 522 square feet of floor area. The proposed second unit would accommodate independent living facilities that include:
  - 1 bedroom;
  - 1 bathroom;
  - A kitchen; and
  - A living area.

Section 2. The Project was originally reviewed by the Planning Commission, and notice of the Project and Planning Commission public hearing was mailed on December 2, 2013 to all property owners and residential occupants 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. At said

meeting, the Planning Commission approved the request for a Minor Accommodation and Second Unit Use Permit.

Section 3. At the December 17, 2013 City Council meeting Mayor John Mirisch requested that the City Council consider calling up the Planning Commission's decision for review by the City Council. At that meeting, the City Council voted to call-up the Project and, consequently, the Project was scheduled as a public hearing item on the City Council's January 21, 2014 meeting agenda.

Section 4. Notice of the January 21, 2014 City Council public hearing was mailed on January 10, 2014 to all property owners and residential occupants within a 300-foot radius of the exterior boundaries of the subject property. At the January 21, 2014 City Council meeting, the Council continued the hearing on the Project to the February 4, 2014 meeting. Consequently, an additional public notice was mailed on January 24, 2014 to all property owners and residential occupants within a 300-foot radius of the exterior boundaries of the subject property. On February 4, 2014, the City Council held a de novo public hearing to consider the application for a Minor Accommodation and Second Unit Use Permit. Evidence, both written and oral, was presented at said hearing.

Section 5. 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 Project consists of a second dwelling unit and an accessory garage and therefore, the City Council finds that the Project is exempt from CEQA on this basis.

Section 6. In considering the request for a Minor Accommodation, the City Council 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 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 with respect to the Minor Accommodation:

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 exist 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 neighbors' 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 be fixed and must consist of 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 neighbors' 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 8. In considering the request for a Second Unit Use Permit, the City Council 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 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 9. 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 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 exist 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 neighbors' 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 be fixed and must consist of 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 neighbors' 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" from 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 must consist of 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 10. Based on the foregoing, the City Council hereby approves the requested Minor Accommodation and Second Unit Use Permit, subject to the following conditions:

1. The chimney shall be removed from the accessory structure.
2. The second story window openings along the west façade (alley elevation) of the accessory structure shall be fixed (cannot be opened) and shall consist of translucent glass (allows light to pass through but objects are not visible through the glass).
3. 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.
4. The Project shall be constructed in substantial compliance with the plans and specifications presented to the City Council on February 4, 2014.
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. 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 City Council's 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.

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

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

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Section 11. 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.

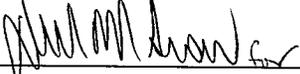
Adopted:

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JOHN A. MIRISCH  
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