



Planning Commission Report

Meeting Date: September 27, 2012

Subject: **1119 Calle Vista Drive**

Variance, Second Unit Use Permit, and Hillside R-1 Permit

Request for a Variance, a Second Unit Use Permit, and a Hillside R-1 Permit to allow the construction of a new 2,240 square foot second unit, containing fully independent living facilities.

PROJECT APPLICANT: Jason Somers

Recommendation: That the Planning Commission:

1. Conduct a public hearing and receive testimony on the project; and
2. Adopt the attached resolution conditionally approving the requested Variance, Second Unit Use Permit, and Hillside R-1 Permit.

REPORT SUMMARY

The proposed project involves a Variance, Second Unit Use Permit, and Hillside R-1 Permit to allow the construction of a new 2,240 square foot second unit, containing fully independent living facilities (i.e., living quarters, bathrooms, and a kitchen). The proposed second unit does not meet by-right standards set forth for second units or accessory structures, and therefore requires the approval of the aforementioned entitlements.

This report analyzes the proposed second unit, with a specific analysis on the front setback, the height of the unit, and the outdoor terrace at the second floor, as well as the characteristics of the subject property in relation to other properties in the nearby neighborhood. Based on the proposed configuration of the second unit and the existing character of the surrounding neighborhood, it is anticipated that any potential impacts to the streetscape, nearby properties, and general development of the area will be mitigated through the current project design with no substantial adverse impacts. Therefore, staff recommends approval of the requested entitlements that are required to construct the proposed second unit.

Attachment(s):

- A. Zoning Compliance Table
- B. Staff Recommended Findings and Conditions of Approval
- C. Public Notice
- D. Draft Resolution
- E. Request & Findings for Variance for Location of Second Unit (Applicant-prepared)
- F. Architectural Plans

Report Author and Contact Information:

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BACKGROUND

File Date	6/26/2012
Application Complete	8/10/2012
Subdivision Deadline	N/A
CEQA Deadline	60 days from CEQA Determination
Permit Streamlining	10/9/2012 without extension request from applicant
Applicant(s)	Kevin Huvane
Owner(s)	Kevin Huvane Trust
Representative(s)	Jason Somers, Crest Real Estate
Prior PC Action	2007 – Hillside R-1 Permit for the construction of a pool house with a rooftop pool and terrace (PL0631314 – Approved but was not constructed. This entitlement has since expired)
Prior Council Action	None

PROPERTY AND NEIGHBORHOOD SETTING

Property Information

Address	1119 Calle Vista Drive
Legal Description	Ledgemont Park Lot 11
Zoning District	R-1.X
General Plan	Single-Family Residential – Low Density
Existing Land Use(s)	Single-Family Residential
Lot Dimensions & Area	Irregularly shaped – 65,161 SF
Year Built	1930 (existing single-family residence)
Historic Resource	Existing single-family residence built by master architect Arthur Kelly. No changes are proposed to the existing single-family residence.
Protected Trees/Grove	None

Adjacent Zoning and Land Uses

North	R-1.X – Single-family residential
South	R-1.X – Single-family residential
East	R-1.X – Single-family residential
West	R-1.X – Single-family residential

Circulation and Parking

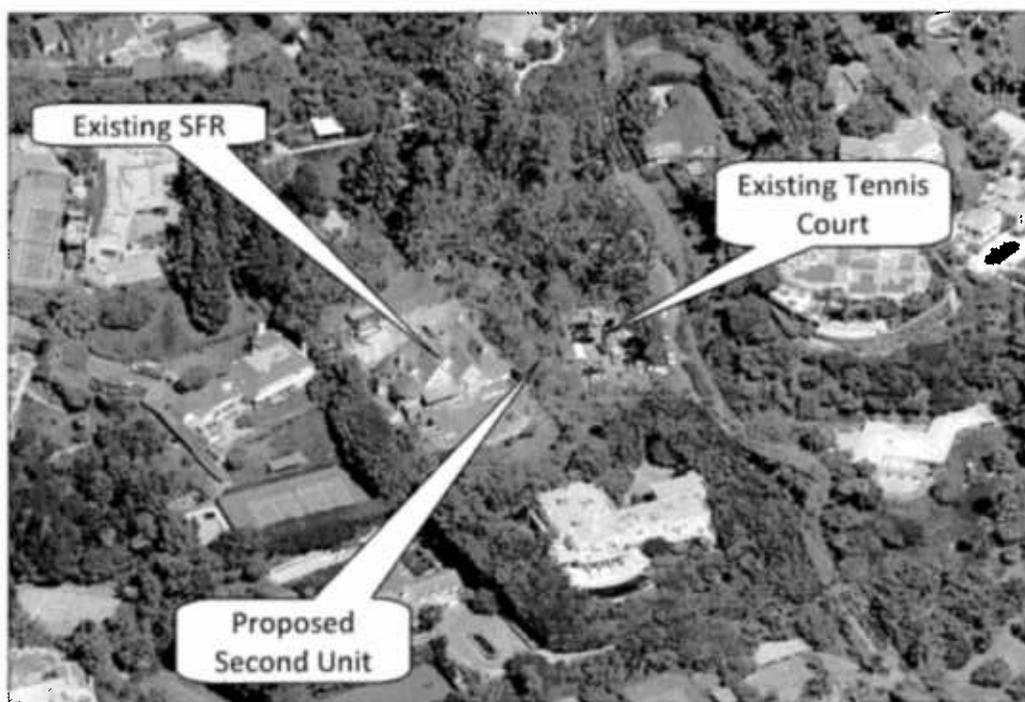
Adjacent Street(s)	Calle Vista Drive
Adjacent Alleys	None
Parkways & Sidewalks	11'-0" northern parkway, 8'-0" southern parkway
Parking Restrictions	No street parking
Nearest Intersection	Calle Vista Drive and Doheny Road
Circulation Element	Local

Neighborhood Character

The subject property is located in the Hillside Area of the City and slopes upward from Calle Vista Drive. The subject property has a total site area of 65,161 SF and is currently developed with one

single-family residence and a green house, totaling 9,156.8 SF, including the basement area. The existing residence was constructed in the 1930s and was designed in the Tudor style of architecture by master architect Arthur Kelly. Additionally, the existing residence is oriented perpendicular to Calle Vista Drive so that the south side property line functionally serves as the rear of the residence; however, for code purposes, this area is still considered to be the side setback area. A tennis court and tennis pavilion are also currently located within the front yard setback and are proposed to remain. The subject property has views toward the Los Angeles Basin from the south side of the existing residence.

The surrounding neighborhood consists primarily of two-story single-family properties. The surrounding properties vary in configuration and size but are generally considered to be estate lots (greater than 24,000 SF). Extensive mature landscaping is maintained along a majority of the streetscape, both on the public right-of-way and on the surrounding residential properties.



Project Site Looking North

PROJECT DESCRIPTION

The proposed project consists of a new two-story 2,240 SF second unit that would be located between the existing single-family residence and the public right-of-way on the property located at 1119 Calle Vista Drive. The proposed second unit would be located behind the existing tennis court. As proposed, the second unit would be located approximately 70'-0" from the front property line and approximately 30'-0" from the south side property line, the nearest side property line to which the unit is located. The proposed structure is located approximately 180'-0" away from the nearest property to the north and approximately 140'-0" from the nearest property to the west (to the rear of the subject property). The second unit would be built into the existing slope of the property with a maximum height of 30'-0", consistent with the height requirements set forth for uphill lots. The proposed project includes two bedrooms, 2.5 bathrooms, a living room, a kitchen, a gym, and a mechanical storage room. A small terrace is proposed on the ground floor of the project with a larger terrace that runs the full width of the

unit proposed on the second floor. Access to the proposed second unit is provided by a walkway connected to the second floor.

Requested Permits

The entitlements requested as part of the proposed project are as follows:

Variance. A Variance is requested in order to allow the proposed second unit to be located between the principal residence and the public right-of-way. Section 10-3-409(B)(1)(a)¹ of the BHMC requires that detached second units be located to the rear of the primary dwelling unit on the site.

Second Unit Use Permit. A Second Unit Use Permit is requested in order to allow the proposed project to contain fully independent living facilities, including a kitchen, bathrooms, and living quarters.

Hillside R-1 Permit. A Hillside R-1 Permit is requested in order to allow the proposed project to be located within 100'-0" of the front property line, to allow an accessory structure to exceed 14'-0" in height, and to allow a balcony or terrace on an accessory structure to be located more than 3'-0" above finished grade.

ZONING CODE² COMPLIANCE

A detailed review of the proposed project to applicable zoning standards is provided in Attachment A. The proposed project complies with all applicable codes, or is seeking through the requested permits, permission to deviate from certain code standards, in a manner that is consistent with the Zoning Ordinance.

Agency Review³

In reviewing the proposed project, City staff consulted with the Plan Review Engineer Supervisor in the Building and Safety Division to identify potential building and safety issues that should be addressed prior to Planning Commission review. At the time of review, no building and safety issues were identified that would result in the need for a modified project design.

¹ BHMC Section 10-3-409 (B)(1)(a) Location: The lot or parcel on which the proposed second unit will be constructed contains not more than one additional single-family dwelling unit. The second unit may be either: 1) attached to the primary one-family residence and located within the living area of the residence, or 2) detached from the primary one-family residence and located on the same site area as the residence. If the second unit is detached, it must be located to the rear of the primary dwelling unit on the site.

² Available online at http://www.sterlingcodifiers.com/codebook/index.php?book_id=466

³ Recommended conditions of approval by other departments are provided in the Analysis section of this report.

GENERAL PLAN⁴ POLICIES

The General Plan includes several goals and policies. Some policies relevant to the Planning Commission’s review of the project include:

- **Policy LU 2.3 Hillside Development.** Maintain the natural landforms that define the City and require that development on hillsides and in canyon areas be located, designed, and scaled to respect the natural topography and landscape.
- **Policy LU 5.1 Neighborhood Conservation.** Maintain the uses, densities, character, amenities, character, and quality of the City’s residential neighborhoods, recognizing their contribution to the City’s, identity, economic value and quality of life.
- **Policy LU 6.1 Neighborhood Identity.** Maintain the characteristics that distinguish the City’s single-family neighborhoods from one another in such terms as topography, lot size, housing scale and form, and public streetscapes.
- **Policy LU 6.4 Second Units.** Allow second units in single-family residential districts in accordance with State law.

ENVIRONMENTAL ASSESSMENT

The subject project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines⁵, and the environmental regulations of the City. The project qualifies for a categorical exemption pursuant to Section 15303 (Class 3(a)) of the Guidelines for a second dwelling unit in a residential zone. The proposed project is a 2,240 SF second dwelling unit and is therefore exempt from further review under the provisions of CEQA.

PUBLIC OUTREACH AND NOTIFICATION

Type of Notice	Required Period	Required Notice Date	Actual Notice Date	Actual Period
Posted Notice	N/A	N/A	9/21/12	6 Days
Newspaper Notice	10 Days	9/17/12	9/13/2012	14 Days
Mailed Notice (Owners & Residents - 300' Radius)	10 Days	9/17/12	9/17/12	10 Days
Property Posting	10 days	9/17/12	9/17/12	10 days
Website	N/A	N/A	9/21/12	6 Days

Public Comment

As of the writing of this report the City has not received any comments regarding this project. However, there have been inquiries from nearby property owners as to the scope and configuration of the project.

⁴ Available online at http://www.beverlyhills.org/services/planning_division/general_plan/genplan.asp

⁵ The CEQA Guidelines and Statue are available online at <http://ceres.ca.gov/ceqa/guidelines>

ANALYSIS⁶

Project approval, conditional approval or denial is based upon specific findings for each discretionary application requested by the applicant. Draft findings are included with this report in Attachment B and may be used to guide the Planning Commission's deliberation of the subject project.

Summary

In reviewing the requested entitlements, specific findings must be made with regard to the scale and character of the area, neighbors' privacy and access to light and air, the streetscape, the garden quality of the city, and overall impacts to adjacent properties or the public welfare. Additionally, special circumstances applicable to the subject property must be identified that deprive the subject property of the privileges enjoyed by other properties in the vicinity. The proposed structure has been designed with the above criteria in mind and balances the potential development of the subject property and the preservation of the surrounding single-family neighborhood. The proposed project maintains sufficient setbacks from the neighboring properties and will be designed in such a way that the architectural style is consistent with that of the existing single-family residence. As a result, staff recommends approval of the project. Key issues specific to the requested entitlements are discussed as follows:

Front Setback. The BHMC prohibits second units from being located between the principal residence and the street, thus requiring a Variance to allow the proposed location of the second unit. Additionally, accessory structures are required to maintain a minimum 100'-0" front setback; however, estate properties may request a Hillside R-1 Permit to allow an accessory structure to be located anywhere on the property. The proposed project provides a front setback of 70'-0", which is 40'-0" greater than would otherwise be required for a principal residence. The front setback for the existing principal residence at the subject property is approximately 130'-0". Based on staff assessment of nearby properties, utilizing the City's Geographic Information System (GIS), front setbacks for principal residences in the area vary between approximately 30'-0" to 60'-0". As the principal residence is constructed with a large front setback, and as the principal residence is oriented perpendicular to the street, there is no available land to the rear (functional side) of the principal residence upon which the proposed second unit can be constructed. Other improvements on the property, such as a swimming pool and motor court, further preclude the proposed second unit from being sited on either side of the principal residence, otherwise considered the functional front and rear of the residence. While the proposed second unit is located in front of the existing principal residence, it is located entirely within the principal building area for the subject property and the provided front setback for the proposed second unit is consistent with principal residences on other properties in the nearby vicinity.

Height. The subject property is considered an uphill lot in that the level pad elevation is more than ten feet above the elevation of the adjacent public street. As such, the height envelope for all structures begins at 14'-0" at the level pad setback line and increases at a thirty-three degree

⁶ The analysis provided in this section is based on draft findings prepared by the report author prior to the public hearing. The Planning Commission in its review of the administrative record and based on public testimony may reach a different conclusion from that presented in this report and may choose to modify the findings. A change to the findings may result in a final action that is different from the staff recommended action in this report.

slope toward the interior of the property, to a maximum height of 30'-0". The proposed project is built in line with this height envelope and proposes to utilize the maximum allowable height of 30'-0". The proposed second unit will be constructed entirely within the principal building area. With a required side setback of approximately 25'-0", the proposed second unit will provide an additional 5'-0" setback from the southern property line, providing a south side setback of 30'-0". The proposed second unit will provide a north side setback of approximately 180'-0". As the proposed second unit will be constructed entirely within the principal building area, it is not anticipated that the height of the second unit will have an adverse impact on neighboring properties as the configuration is consistent with what is otherwise required for a principal residence.

Additionally, the potential impact of the height of the building is minimized from the neighboring properties to the north and south as the proposed project will be built into the existing slope so that only the front elevation is exposed at 30'-0". The level pad elevation of the property to the north is approximately 70'-0" above the level pad of the proposed second unit, further reducing any potential height impact to this property. The level pad elevation of the property to the south, and the property closest to the proposed second unit, is at approximately the same height as the level pad for the proposed second unit. Consequently, it is anticipated that this property will receive the most benefit of the proposed configuration as the second unit will be partially obscured due to the hillside construction.

However, the property to the east that would be most affected by the height, located across Calle Vista Drive from the subject property, has a level pad elevation that is approximately 40'-0" above the level pad of the proposed second unit. Furthermore, the second floor of the proposed project is stepped back from the first floor with an outdoor terrace, which will further limit any potential impact the proposed second unit may have on the streetscape or the property to the east. While the front elevation does face the street, and has the potential to be visible from the street, it is anticipated that the stepped façade, along with the landscaped terraces and its location behind the existing tennis court, will reduce the potential impact of the proposed height.

Second Floor Terrace. The proposed project includes one outdoor terrace at the second floor of the second unit. The code generally prohibits accessory structures from constructing balconies or terraces that are more than three feet above the finished first floor level due to privacy concerns from neighboring properties. However, the Planning Commission may, through the issuance of a Hillside R-1 Permit, allow a terrace to be located more than three feet above the finished floor level on estate properties.

The proposed terrace is located on the east elevation, toward the front of the property, and spans the full width of the structure. It also wraps around a portion of the north elevation, which provides access to the proposed second unit from the walkway connecting the principal residence to the tennis court. The terrace varies in depth between 7'-0" and 10'-0". That portion closest and parallel to the south property line, with a setback of approximately 30'-0", is approximately seven feet in depth. While a portion of the terrace does face the property to the south, existing landscaping is present that may serve as a buffer between the two properties and mitigate any potential impacts to the neighboring properties. This area will also maintain a south side property setback of 30'-0", which is greater than the setback that is otherwise

required for a principal residence. The property that has the greatest potential for privacy impacts due to the second floor terrace would be the property to the east, across Calle Vista Drive from the subject property. However, the level pad elevation of this property is approximately 40'-0" above the level pad for the proposed second unit and the proposed terrace is not anticipated to impact the existing privacy of the neighbor's property.

Additionally, the terrace on the second floor assists in reducing the potential height impact that the proposed second unit may have on the streetscape and neighboring properties. It is proposed directly above the first floor and subsequently causes the second floor to be set back from the front elevation of the first floor by approximately 7'-0" to 10'-0". The second floor setback reduces the mass of the proposed second unit from the streetscape and from the properties located immediately adjacent to the subject property.

NEXT STEPS

It is recommended that the Planning Commission conduct the public hearing and adopt the attached resolution conditionally approving the Variance, Second Unit Use Permit, and Hillside R-1 Permit.

Alternatively, the Planning Commission may consider the following actions:

1. Approve the project with modified findings or conditions of approval.
2. Deny the project, or portions of the project, based on revised findings.
3. Direct staff or applicant as appropriate and continue the hearing to a date (un)certain, consistent with permit processing timelines, and at applicant's request or consent.

Report Reviewed By:


Ryan Gohlich, Senior Planner

ATTACHMENT A
Zoning Compliance Table

REGULATIONS	PERMITTED / ALLOWED	PROPOSED PROJECT	NOTES
Accessory Structure			
Height	14'-0"	30'-0"	Requires Hillside R-1 Permit
Lot Coverage / Floor Area	13,329.4 SF	Second Unit: 2,239.5 SF Principal Residence: 9,058.8 SF Greenhouse: 98 SF Cumulative: 11,396.3 SF	
Front Setback	100'-0"	70'-0"	Requires Variance and Hillside R-1 Permit
North Side Setback	25'-1"	180'-0"	
South Side Setback	25'-1"	30'-0"	
Bedrooms	No Limit	2	
Parking Spaces	Second Unit: 2 spaces Principal Residence: 3 spaces Total: 5 spaces	6 spaces	

ATTACHMENT B
Staff Recommended Findings and Conditions of Approval

DRAFT FINDINGS

Variance

1. *Because of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter is found to deprive the subject property of the privileges enjoyed by other properties in the vicinity and under identical zone classification;*

The existing principal residence is surrounded by sloping topography and is built toward the rear of the property with a rear setback of approximately ten feet. Additionally, existing improvements such as a swimming pool and motor court have been constructed immediately adjacent to the principal residence. Consequently, no additional area is available at the rear of the principal residence in which a second unit may be placed, as required by the Beverly Hills Municipal Code. A variance is therefore required because the only portion of the property available for development is located between the principal residence and the public street; no other discretionary entitlements are available in which such location may be approved. Due to the subject property's sloping topography and siting of the principal residence, no other locations on the property are available to construct the second unit that would also not require the issuance of a variance. Few properties in the nearby vicinity are configured and constructed in such a manner that would preclude the construction of a second unit to the rear of the principal residence. Because of special circumstances applicable to the property, specifically its surrounding and current configuration of the property, the strict application of the provisions of this chapter is found to deprive the subject property of the privileges enjoyed by other properties in the vicinity and under identical zone classification.

2. *Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges in the vicinity and zone in which the subject property is situated;*

As discussed above, the subject property has sloping topography and a principal residence that is built toward the rear of the property with a rear setback of approximately ten feet, which causes the subject property to be subject to unique circumstances. Additional improvements on the property, such as a swimming pool and motor court, both located immediately adjacent to the principal residence, preclude the second unit from being sited in a location other than in front of the principal residence. Because the subject property exhibits unique circumstances, the granting of a Variance will not constitute a grant of special privileges, but will allow the subject property to be improved in a manner similar to that which is available for surrounding properties. Additionally, the proposed second unit is located entirely within the principal building area of the subject property and will maintain a front setback consistent with the properties in the nearby vicinity. Conditions of approval are included to ensure the proposed second unit is constructed in a manner that is compatible with the existing site, with the surrounding properties, and with the streetscape.

Second Unit Use Permit

1. *The structure will not have a substantial adverse impact on the scale and massing of the streetscape;*

While the project is located between the existing principal residence and the public street, it will be located behind the existing tennis court and mature front yard landscaping, which will assist in screening the second unit from the street. Additionally, the project will utilize the same architectural styling of the principal residence, which will further enhance the streetscape. Furthermore, the project will be built within the height envelope required for uphill lots and the second floor of the structure will be stepped back from the ground floor to minimize any potential impact of the 30'-0" proposed height. The project will also maintain a front setback that is consistent with those on surrounding properties. As such, it is not anticipated that the proposed second unit will have an adverse impact on the scale and massing of the streetscape.

2. *The structure will not have a substantial adverse impact on the scale and massing of the neighborhood as viewed from other properties;*

The proposed project will be built into the existing slope of the property, which will assist in minimizing any impact on the scale and massing of the neighborhood as viewed from other properties, particularly from the property to the south. Additionally, the second floor of the proposed project will be stepped back from the ground floor by an outdoor terrace, which will assist in minimizing the potential impact of the 30'-0" height of the structure from the properties immediately adjacent to the subject property. Furthermore, the project will be located approximately 30'-0" from the nearest property to the south and approximately 180'-0" from the property to the north. As these properties are located to the north and south of the proposed project, the elevation view from these properties will be of the stepped back structure, which will assist in minimizing the potential impact of the project on these properties. Based on the siting and configuration of the proposed project, it is not anticipated that the structure will have a substantial adverse impact on the scale and massing of the neighborhood as viewed from other properties.

3. *The structure will not have a substantial adverse impact on the neighbors' access to light and air;*

The second unit will be built into the existing slope of the property and a majority of the structure would not be visible from those properties to the north or south because of this configuration. Additionally, the proposed project is located approximately 30'-0" from the south side property line and approximately 75'-0" from the existing single-family residence on that property. Furthermore, the proposed second unit will be located approximately 180'-0" from the nearest property to the north. Based on the configuration of the proposed project, and the distance from the nearest property to the south and its single-family residence, it is not anticipated that the proposed project will have a substantial adverse impact on the neighbors' access to light and air.

4. *The structure will not have a substantial adverse impact on the neighbors' privacy;*

The proposed project is located approximately 30'-0" from the nearest neighboring property to the south and is sited within the principal building area for the property. The property line is landscaped and provides privacy between the two properties. Three windows are proposed on

the south elevation, and the proposed terrace runs the full length of the proposed second unit; however, it is anticipated that due to the 30'-0" setback and the existing vegetation that the proposed second unit will not have a substantial adverse impact on the neighbors' privacy.

5. *The structure will not have a substantial adverse impact on the garden quality of the city; and*

The properties along Calle Vista Drive are landscaped with extensive mature vegetation, which contribute to the garden quality of the city in the neighborhood. The construction of the proposed second unit, and relocation of an existing generator, will require the relocation or replanting of trees on the subject property; however, no trees are proposed for removal immediately Calle Vista Drive. As such, given that the landscaping along Calle Vista Drive is to remain, it is not anticipated that the structure will have a substantial adverse impact on the garden quality of the city.

6. *The structure will not have a substantial adverse impact on adjacent properties or the public welfare.*

The proposed project provides substantial separation between new development and existing development in that it is located fully within the principal building area of the subject property. Specifically, it is located approximately 30'-0" from the nearest property to the south and approximately 180'-0" from the nearest property to the north. Additionally, it has been designed in such a manner so as to limit any impact on the neighbors' privacy and access to light and air. As such, it is not anticipated that the proposed project will have a substantial adverse impact on adjacent properties or the public welfare.

Hillside R-1 Permit

1. *The structure will not have a substantial adverse impact on the scale or character of the area;*

While the proposed project is located between the principal residence and the public street, it is located behind the existing tennis court and mature front yard landscaping, which will assist in screening the second unit from the street. Additionally, the proposed project will utilize the same architectural styling of the existing principal residence, which will further enhance the streetscape. Furthermore, the proposed project will be built within the height envelope required for uphill lots and the second floor of the structure will be stepped back from the ground floor. The proposed project also maintains a front setback that is consistent with those on surrounding properties. As such, it is not anticipated that the proposed second unit will have an adverse impact on the scale and character of the area.

2. *The structure will not have a substantial adverse impact on the privacy of neighboring properties;*

The proposed project is located approximately 30'-0" from the nearest neighboring property to the south and is sited within the principal building area for the property. The property line is landscaped and provides privacy between the two properties. Three windows are proposed on the south elevation, and the proposed terrace runs the full length of the proposed second unit; however, it is anticipated that due to the 30'-0" setback and the existing vegetation that the proposed second unit will have a substantial adverse impact on the neighbors' privacy.

3. *The structure will not have a substantial adverse impact on the neighbors' access to light and air; and*

The proposed second unit will be built into the existing slope of the property and a majority of the structure would not be visible from those properties to the north or south because of this configuration. Additionally, the proposed project is located approximately 30'-0" from the south side property line and approximately 75'-0" from the existing single-family residence on that property. Furthermore, the proposed second unit is located approximately 180'-0" from the nearest property to the north. Based on the configuration of the proposed project, and the distance from the nearest property to the south and its single-family residence, it is not anticipated that the proposed project will have a substantial adverse impact on the neighbors' access to light and air.

4. *The structure will not have a substantial adverse impact on the garden quality of the city.*

The properties along Calle Vista Drive are landscaped with extensive mature vegetation, which contribute to the garden quality of the city in the neighborhood. The construction of the proposed second unit, and relocation of an existing generator, will require the relocation or replanting of trees on the subject property; however, no trees are proposed for removal immediately Calle Vista Drive. As such, given that the landscaping along Calle Vista Drive is to remain, it is not anticipated that the structure will have a substantial adverse impact on the garden quality of the city.

DRAFT CONDITIONS

Project Specific Conditions

1. The proposed second unit shall conform to the color, material, architectural style, and detailing of the primary structure and shall meet all other applicable building code requirements and development standards of the zone for single-family residential structures.

Standard Conditions

2. The Project shall be constructed in substantial compliance with the plans and specifications approved by the Planning Commission on September 27, 2012.
3. These conditions shall run with the land and shall remain in full force for the duration of the life of the Project.
4. 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.
5. 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.

6. **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.

7. **RECORDATION.** The resolution approving the Variance, the Second Unit Use Permit, and the Hillside R-1 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.

8. **EXPIRATION.** Variance, Second Unit Use Permit, and Hillside R-1 Permit: The exercise of rights granted in such approval shall be commenced within three (3) years after the adoption of such resolution.

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

ATTACHMENT C

Public Notice



NOTICE OF PUBLIC HEARING

DATE: September 27, 2012
TIME: 1:30 PM, or as soon thereafter as the matter may be heard
LOCATION: Commission Meeting Room 280A
Beverly Hills City Hall
455 North Rexford Drive
Beverly Hills, CA 90210

The Planning Commission of the City of Beverly Hills, at its REGULAR meeting on Thursday, September 27, 2012, will hold a public hearing beginning at 1:30 PM, or as soon thereafter as the matter may be heard to consider:

A request for a Variance, Second Unit Use Permit, and Hillside R-1 Permit to allow the construction of a new 2,240 square foot second unit, containing fully independent living facilities, at the property located at 1119 Calle Vista Drive. The proposed unit would be located in the front yard of the property, in between the existing single-family residence and the tennis court. The proposed unit would be two stories with a maximum height of 30'-0". Additionally, the proposed structure would have a 70'-0" setback from the front property line and a 30'-0" setback from the south side property line. The Variance is required to allow a second unit to be constructed in front of the existing single-family residence, a Second Unit Use Permit is required to allow the structure to contain fully independent living facilities (i.e., kitchen, bathroom, and living quarters), and the Hillside R-1 Permit is required to allow the unit to be located within 100'-0" of the front property line, to allow an accessory structure to exceed 14'-0" in height, and to allow a balcony located more than 3'-0" above finished grade.

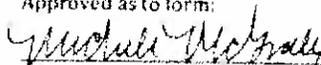
This project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The project qualifies for a Class 3(a) Categorical Exemption for a second dwelling unit in a residential zone, and the project has been determined not to have a significant environmental impact and is exempt from the provisions of CEQA.

Any interested person may attend the meeting and be heard or present written comments to the Commission.

According to Government Code Section 65009, if you challenge the Commission's action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City, either at or prior to the public hearing.

If there are any questions regarding this notice, please contact Cindy Gordon, Assistant Planner in the Planning Division at 310.285.1191, or by email at cgordon@beverlyhills.org. Copies of the applications, plans, and Categorical Exemption are on file in the Community Development Department, and can be reviewed by any interested person at 455 North Rexford Drive, Beverly Hills, CA 90210.

Approved as to form:


Michele McGrath, Acting City Planner

Mailed: September 17, 2012

ATTACHMENT D
Draft Approval Resolution

Begins on following page.

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A VARIANCE, A SECOND UNIT USE PERMIT, AND A HILLSIDE R-1 PERMIT TO ALLOW THE CONSTRUCTION OF AN APPROXIMATELY 2,240 SQUARE FOOT SECOND UNIT ON THE PROPERTY LOCATED IN THE HILLSIDE AREA OF THE CITY AT 1119 CALLE VISTA DRIVE.

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

Section 1. Jason Somers, Agent, on behalf of the property owner Kevin Huvan, (collectively the "Applicant") has submitted an application for a Variance, a Second Unit Use Permit, and a Hillside R-1 Permit to allow the construction of a new two-story second unit, containing fully independent living facilities (i.e., living quarters, bathrooms, and a kitchen) and an outdoor terrace in front of the principal residence at 1119 Calle Vista Drive located in the Hillside Area of the City (the "Project"). Second units are allowed by-right if the unit meets all applicable development standards set forth in the Beverly Hills Municipal Code (BHMC). However, the Project does not meet all applicable development standards, and therefore requires specific entitlements that can be granted by the Planning Commission pursuant to the issuances of a Variance, a Second Unit Use Permit, and a Hillside R-1 Permit. The Project requires a Variance to allow the second unit to be located in front of the principal residence, a Second Unit Use Permit to allow the unit to contain fully independent living facilities, and a Hillside R-1 Permit to allow an accessory structure to be located within 100'-0" of the front property line, to

allow an accessory structure to exceed 14'-0" in height, and to allow a balcony or terrace on an accessory structure to be located more than 3'-0" above finished grade.

Section 2. The Project site is located in the Hillside Area of the City, along the west side of Calle Vista Drive. The surrounding environment consists entirely of single-family residences with varying lot sizes and configurations; the properties are primarily developed with two-story single family residences. Most properties are generally considered to be estate lots as they are greater than 24,000 square feet. Mature landscaping is maintained along Calle Vista Drive, both on the public right-of-way and on the surrounding residential properties. The Project site slopes upward from Calle Vista Drive, toward the interior of the property and is currently developed with a single-family residence, tennis court and pavilion, swimming pool, motor court, and greenhouse. The proposed second unit will be located in front of the principal residence, and behind the existing tennis court, with a front setback of approximately 70'-0". The proposed second unit will be located approximately 30'-0" from the property to the south and approximately 180'-0" from the property to the north; it will be built entirely within the principal building area. The Project includes two bedrooms, two-and-a-half bathrooms, a living room, a kitchen, a gym, and a mechanical storage room. A small terrace is proposed on the ground floor of the Project with a larger terrace that spans the full width of the unit proposed at the second floor. Access to the proposed second unit is provided by a walkway connected to the second floor.

Section 3. The Project has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000,

et seq. (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*), and the City’s environmental guidelines, and a Class 3(a) Categorical Exemption has been issued in accordance with the requirements of Section 15303(a) of the Guidelines for the construction of a second dwelling unit in a residential zone.

Section 4. Notice of the Project and public hearing was mailed on September 17, 2012 to all property owners and residential occupants within a 300-foot radius of the property, and notice was published in two newspapers of local circulation, the *Beverly Hills Courier* and the *Beverly Hills Weekly*. On September 27, 2012 the Planning Commission considered the application at a duly noticed public hearing. Evidence, both written and oral, was presented at the meeting.

Section 5. In considering the request for a Variance, the Planning Commission was required to make the following findings:

1. Because of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification; and

2. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges in the vicinity and zone in which the subject property is situated.

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

1. The existing principal residence is surrounded by sloping topography and is built toward the rear of the property with a rear setback of approximately ten feet. Additionally, improvements, such as a swimming pool and motor court, have been constructed immediately adjacent to the principal residence. Consequently, no additional area is available at the rear of the principal residence in which a second unit may be placed, as required by the Beverly Hills Municipal Code. A variance is therefore required because the only portion of the property available for development is located between the principal residence and the public street. Due to the subject property's sloping topography and siting of the principal residence, no other locations on the property are available to construct the second unit that would also not require the issuance of a variance. Few properties in the nearby vicinity are configured and constructed in such a manner that would preclude the construction of a second unit to the rear of the principal residence. Because of special circumstances applicable to the property, specifically its surrounding and current configuration of the property, the strict application of the provisions of this chapter is found to deprive the subject property of the privileges enjoyed by other properties in the vicinity and under identical zone classification.

2. The subject property has sloping topography and a principal residence that is built toward the rear of the property with a rear setback of approximately ten feet, which causes the subject property to be subject to unique circumstances. Additional improvements on the property, such as a swimming pool

and motor court, both located immediately adjacent to the principal residence, preclude the second unit from being sited in a location other than in front of the principal residence. Because the subject property exhibits unique circumstances, the granting of a Variance will not constitute a grant of special privileges, but will allow the subject property to be improved in a manner similar to that which is available for surrounding properties. Additionally, the proposed second unit will be located entirely within the principal building area of the subject property and will maintain a front setback consistent with the properties in the nearby vicinity. Conditions of approval are included to ensure the proposed second unit is constructed in a manner that is compatible with the existing site, with the surrounding properties, and with the streetscape.

Section 7. In considering the request for a Second Unit Use Permit, the Planning Commission was required to make the following findings:

1. The structure will not have a substantial adverse impact on the scale and massing of the streetscape;
2. The structure will not have a substantial adverse impact on the scale and massing of the neighborhood as viewed from other properties;
3. The structure will not have a substantial adverse impact on the neighbors' access to light and air;
4. The structure will not have a substantial adverse impact on the neighbors' privacy;

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

6. The structure will not have a substantial adverse impact on adjacent properties or 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. While the project is located between the existing principal residence and the public street, it will be located behind the existing tennis court and mature front yard landscaping, which will assist in screening the second unit from the street. Additionally, the project will utilize the same architectural styling of the principal residence, which will further enhance the streetscape. Furthermore, the project will be built within the height envelope required for uphill lots and the second floor of the structure will be stepped back from the ground floor to minimize any potential impact of the 30'-0" proposed height. The project will also maintain a front setback that is consistent with those on surrounding properties. As such, it is not anticipated that the second unit will have an adverse impact on the scale and massing of the streetscape.

2. The project will be built into the existing slope of the property, which will assist in minimizing any impact on the scale and massing of the neighborhood as viewed from other properties, particularly from the property to the south. Additionally, the second floor of the project will be stepped back from the ground floor by an outdoor terrace, which will assist in minimizing the potential

impact of the 30'-0" height of the proposed structure from the properties immediately adjacent to the subject property. Furthermore, the proposed project will be located approximately 30'-0" from the nearest property to the south and approximately 180'-0" from the property to the north. As these properties are located to the north and south of the proposed project, the elevation view from these properties will be of the stepped back structure, which will assist in minimizing the potential impact of the project on these properties. Based on the siting and configuration of the proposed project, it is not anticipated that the structure will have a substantial adverse impact on the scale and massing of the neighborhood as viewed from other properties.

3. The second unit will be built into the existing slope of the property and a majority of the structure would not be visible from those properties to the north or south because of this configuration. Additionally, the project will be located approximately 30'-0" from the south side property line and approximately 75'-0" from the existing single-family residence on that property. Furthermore, the project will be located approximately 180'-0" from the nearest property to the north. Based on the configuration of the proposed project, and the distance from the nearest property to the south and its single-family residence, it is not anticipated that the proposed project will have a substantial adverse impact on the neighbors' access to light and air.

4. The project will be located approximately 30'-0" from the nearest neighboring property to the south and is sited within the principal building area for the property. The property line is landscaped and provides privacy between the two properties. Three windows are proposed on the south elevation, and the proposed

terrace will span full length of the proposed second unit; however, it is anticipated that due to the 30'-0" setback and the existing vegetation that the proposed second unit will not have a substantial adverse impact on the neighbors' privacy.

5. The properties along Calle Vista Drive are landscaped with extensive mature vegetation, which contribute to the garden quality of the city in the neighborhood. The construction of the proposed second unit, and relocation of an existing generator, will require the relocation or replanting of trees on the subject property; however, no trees are proposed for removal immediately adjacent to Calle Vista Drive. As such, given that the landscaping along Calle Vista Drive is to remain, it is not anticipated that the structure will have a substantial adverse impact on the garden quality of the city.

6. The proposed project provides substantial separation between new development and existing development in that it is located fully within the principal building area of the subject property. Specifically, it will be located approximately 30'-0" from the nearest property to the south and approximately 180'-0" from the nearest property to the north. Additionally, it has been designed in such a manner so as to limit any impact on the neighbors' privacy and access to light and air. As such, it is not anticipated that the proposed project will have a substantial adverse impact on adjacent properties or the public welfare.

Section 9. In considering the request for a Hillside R-1 Permit, the Planning Commission was required to make the following findings:

1. The structure will not have a substantial adverse impact on the scale or character of the area;
2. The structure will not have a substantial adverse impact on the privacy of neighboring properties;
3. The structure will not have a substantial adverse impact on the neighbors' access to light and air; and
4. The structure will not have a substantial adverse impact on the garden quality of the city.

Section 10. Based on the foregoing, the Planning Commission hereby finds and determines as follows with respect to the Hillside R-1 Permit:

1. While the project is located between the principal residence and the public street, it will be located behind the existing tennis court and mature front yard landscaping, which will assist in screening the second unit from the street. Additionally, the project will utilize the same architectural styling of the existing principal residence, which will further enhance the streetscape. Furthermore, the project will be built within the height envelope required for uphill lots and the second floor of the structure will be stepped back from the ground floor. The proposed project also maintains a front setback that is consistent with those on surrounding properties. As such, it is not anticipated that the proposed second unit will have an adverse impact on the scale and character of the area.
2. The project will be located approximately 30'-0" from the nearest neighboring property to the south and is sited within the principal building area for

the property. The property line is landscaped and provides privacy between the two properties. Three windows are proposed on the south elevation, and the proposed terrace runs the full length of the proposed second unit; however, it is anticipated that due to the 30'-0" setback and the existing vegetation that the proposed second unit will have a substantial adverse impact on the neighbors' privacy.

3. The project will be built into the existing slope of the property and a majority of the structure will not be visible from those properties to the north or south because of this configuration. Additionally, the proposed project is located approximately 30'-0" from the south side property line and approximately 75'-0" from the existing single-family residence on that property. Furthermore, the second unit will be located approximately 180'-0" from the nearest property to the north. Based on the configuration of the proposed project, and the distance from the nearest property to the south and its single-family residence, it is not anticipated that the proposed project will have a substantial adverse impact on the neighbors' access to light and air.

4. The properties along Calle Vista Drive are landscaped with extensive mature vegetation, which contribute to the garden quality of the city in the neighborhood. The construction of the proposed second unit, and relocation of an existing generator, will require the relocation or replanting of trees on the subject property; however, no trees are proposed for removal immediately adjacent to Calle Vista Drive. As such, given that the landscaping along Calle Vista Drive is to remain, it is not anticipated that the structure will have a substantial adverse impact on the garden quality of the city.

Section 11. Based on the foregoing, the Planning Commission hereby grants the requested Variance, Second Unit Use Permit, and Hillside R-1 Permit, subject to the following conditions:

1. The proposed second unit shall conform to the color, material, architectural style, and detailing of the primary structure and shall meet all other applicable building code requirements and development standards of the zone for single-family residential structures.

2. The Project shall be constructed in substantial compliance with the plans and specifications approved by the Planning Commission on September 27, 2012.

3. These conditions shall run with the land and shall remain in full force for the duration of the life of the project.

4. 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.

5. 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.

6. 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.

7. RECORDATION. The resolution approving the Variance, Second Unit Use Permit, and Hillside R-1 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.

8. EXPIRATION. Variance, Second Unit Use Permit, and Hillside R-1 Permit: The exercise of rights granted in such approval shall be commenced within three (3) years after the adoption of such resolution.

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

Section 12. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: September 27, 2012

Craig Corman
Chair of the Planning Commission of the
City of Beverly Hills, California

Attest:

Secretary

Approved as to form:

Approved as to content:

David M. Snow
Assistant City Attorney

Jonathan Lait, AICP
City Planner

ATTACHMENT E
Request & Findings for Variance
for Location of Second Unit (Applicant-prepared)

Begins on following page.

**REQUEST & FINDINGS
FOR
VARIANCE FOR LOCATION OF SECOND UNIT**

**1119 CALLE VISTA DRIVE
BEVERLY HILLS, CA**

REQUESTS

The instant requests are:

- A variance to permit a detached second unit to be located between an existing primary dwelling unit and the public street, in lieu of the provisions of BHMC Secs. 10-3-409.A.1 and B.1.a, which otherwise require that a detached second unit be located to the rear of the primary dwelling unit on the site.

- A variance to permit an accessory building to be located approximately 68 feet from the front property line, in lieu of the provisions of BHMC Sec. 10-3-2510, which otherwise requires that an accessory building be set back 100 feet from the front property line.

BACKGROUND & NEIGHBORHOOD SETTING

The subject property is located at 1119 Calle Vista Drive, a relatively short distance north of that street's intersection with Doheny Drive. It is located in the R-1.X one-family residential zone. A dwelling was constructed on the site in 1938, containing approximately 7100 square feet of floor area, according to the records of the Los Angeles County Assessor.

The property contains approximately 1.45 acres of lot area (63,300 square feet). The site is approximately equally divided between areas of level pad and areas of slope (33,330 square feet and 29,971 square feet respectively). The main dwelling unit presently exists (under separate permit), and contains 9058 square feet of floor area. It contains two floors above a basement level, plus an attached garage.

The site is located in an area of significant topography, with large estate-size lots that vary widely in lot area. Within the immediate vicinity, the subject property is approximately of average size. Its topography slopes generally downhill from the rear of the lot to the street. Calle Vista Drive is essentially the floor of a canyon, with elevation rising on both the west and east sides.

As is evident in aerial photographs of the subject property and the environs, there exist significant amounts of landscaping, including mature trees, throughout the neighborhood on private properties, as well as along both sides of the public street.

PROJECT DESCRIPTION

The existing main dwelling is located near the westerly property line of the subject site, which is the rear property line. The functional front of the dwelling faces north, adjacent to a motor court. A kitchen is located on the first floor of the main dwelling on its easterly side. In addition to the dwelling, the most prominent improvements on the property are the driveway extending west from Calle Vista Drive, the motor court and a tennis court located adjacent to the street.

The applicant plans to construct a second dwelling unit which will be located between the main dwelling unit and tennis court, within the southerly portion of the property. The second unit will meet the definition in BHMC Sec. 10-3-100, as a detached residential dwelling unit providing complete, independent living facilities, including living,

sleeping, eating, cooking and sanitation. The floor area within the second unit will be approximately 2240 square feet. With the main dwelling, total floor area will be 11,298 square feet, more than 2000 square feet less than the maximum allowable floor area of 13,329 square feet.

The second unit will be built into the slope below the main dwelling on its east side. The height of the building, as measured from the low point of finish grade will be 30 feet; from the finish floor of the first floor, the height of the building will be 25.5 feet.

The basement level of the second unit will contain 1291 square feet of floor area and will comprise a gymnasium, master bedroom, master bath, stair hall, powder room and mechanical room. The first floor (upper) level of the building will contain 949 square feet of floor area and will comprise a living room, guest room, kitchen and pantry, bathroom and vestibule. There will be two points of exterior access: from the master bedroom on the lower level to a terrace and path which leads to the tennis court; and from the vestibule on the upper level to a terrace and series of stairways/paths which lead either to the main dwelling or to the tennis court.

**VARIANCE FINDINGS PURSUANT TO BHMC SEC.
10-3-3700**

BECAUSE OF SPECIAL CIRCUMSTANCES APPLICABLE TO THE SUBJECT PROPERTY, INCLUDING SIZE, SHAPE, TOPOGRAPHY, LOCATION, OR SURROUNDINGS, THE STRICT APPLICATION OF THE PROVISIONS OF THIS CHAPTER IS FOUND TO DEPRIVE THE SUBJECT PROPERTY OF PRIVILEGES ENJOYED BY OTHER PROPERTIES IN THE VICINITY AND UNDER THE IDENTICAL ZONE CLASSIFICATION.

The proposed project does not meet current zoning requirements for the location of second units. Rather than comply with these requirements, the applicant seeks relief through a variance in order to construct a second unit which is not located to the rear of the primary dwelling unit on the site, but between the dwelling and public street (and less than 100 feet from the front property line). Local ordinance and state law set forth specific findings which must be made in order to grant such an approval. The findings relate to the special circumstances that physically differentiate the project site from its neighbors. Unnecessary hardships that would result from strict compliance with regulations must also be found.

As a threshold consideration, a second dwelling unit is permitted within a lot of the size of the subject property and within the R-1.X one-family residential zone. In this instance, it is particularly warranted that the dwelling unit provide complete, independent living facilities, including eating and cooking facilities, because of its distance, and differential elevation, from the main dwelling. The kitchen of the second unit is located on its upper level (first floor). The travel distance between the exterior entrance on that level, along the stairway and paths leading to the main dwelling, and then to the entrance of the main dwelling's kitchen is approximately 100 linear feet in plan view. The actual travel distance is more than that because of the difference in elevation between the two buildings, which also makes the trip from the second unit to the main dwelling more arduous. The vertical rise from the exterior door of

the second unit to the kitchen is approximately 40 feet. These aspects justify that the second unit be a fully functional dwelling rather than, in the alternative, an accessory living quarters or guest quarters.

Including terraces, the dimensions of the second unit development area are approximately 33 feet by 50 feet. The primary special circumstances that drive the instant request are the locations of the existing main dwelling unit and other improvements on the subject property.

- All portions of the westerly half of the subject site are fully committed to the existing main dwelling, swimming pool and terraces, and motor court.
- On the west side of the primary dwelling, which constitutes its rear in relation to the rear property line, there is, for practical purposes, no available area for construction of a building of any type.
- The south side of the primary dwelling constitutes the functional rear of the building, though from a regulatory perspective, it is actually the side of that building adjacent to a side property line. The distance between the property line on that side and the improvements adjacent to the primary dwelling are less than 25 feet, which would be insufficient depth for the location of the second unit.
- Further, that area is located entirely within the required side yard setback, which would not be permitted without the grant of another type of discretionary entitlement.
- Beyond those areas, there are no other locations on the subject property for the second unit building which would not also require relief from the regulation that the building be at the rear of the main dwelling.

Therefore, the unnecessary hardship in the instant case is that it would be physically impossible to locate the second unit building in strict compliance with code regulations. That this is a special circumstance relatively unique to the subject property is evident when the building footprints on other properties in the vicinity are examined. There are few, if any, other properties in the general vicinity which have rear areas so limited in size that a second unit could not be contained within it, and certainly none within the immediate vicinity. Thus, all these other properties, within the vicinity and in the same zone as the subject

property, enjoy a privilege of being able to contain second units by-right without the necessity of seeking relief for their location. The applicant is simply seeking parity with these other properties.

The subject property is located in the Hillside Area of the city and is similar to other properties in the area with respect to size, topography and surroundings; however, the physical location of the existing improvements on the property differentiate it from surrounding properties. Because of the location of these improvements, the strict application of the BHMC would deny the subject property and its owners the enjoyment of having a second dwelling unit which would otherwise be permitted by-right and consistent with the development rights of neighboring properties.

Where the second unit is proposed to be constructed will be highly compatible with neighboring development. The second unit building will be located adjacent to the existing tennis court.

- It will be fully screened from views from the neighboring dwelling on the adjoining property to the south by substantial mature landscaping on both sites. The nearest points of the two buildings will be approximately 100 feet apart.
- Any views from the street will be mitigated by the presence of the intervening tennis court and by landscaping along the street.
- The neighboring property to the east, facing the subject property on Calle Vista Drive, is up a slope and heavily vegetated.

Further:

- The overall density of the subject site will remain unchanged, since it will continue to contain one primary dwelling consistent with the provisions of the R-1.X zone.
- Vehicular access to the subject property will remain unchanged and sufficient onsite parking in compliance with the code will be provided.
- Height limitations on all buildings and structures will be in compliance with the code.
- Lighting and noise impacts of the subject property will be consistent with the quiet enjoyment of a single-family residential property.

ANY VARIANCE GRANTED SHALL BE SUBJECT TO SUCH CONDITIONS AS WILL ASSURE THAT THE ADJUSTMENT THEREBY AUTHORIZED SHALL NOT CONSTITUTE A GRANT OF SPECIAL PRIVILEGES IN THE VICINITY AND ZONE IN WHICH THE SUBJECT PROPERTY IS SITUATED.

As discussed above, the subject property contains existing improvements which preclude the location of a second unit in strict compliance with the provisions of the code. That this is a special circumstance relatively unique to the subject property is evident when the building footprints on other properties in the vicinity are examined. All these other properties, within the vicinity and in the same zone as the subject property, enjoy a privilege of being able to contain second units by-right without the necessity of seeking relief for their location. Therefore, the strict application of the BHMC would deny the subject property and its owners the enjoyment of having a second dwelling unit which would otherwise be permitted by-right and consistent with the development rights of neighboring properties.

Because the subject property exhibits unique circumstances, the granting of a variance will not constitute a grant of special privileges, but will instead allow the subject property to be enjoyed in a manner similar to that of surrounding properties. Additionally, where it is proposed to be located, the second unit building will be compatible with, and well buffered from, neighboring developments. Project-specific conditions would be appropriate to further ensure compatibility with existing neighborhood development.

ATTACHMENT F
Architectural Plans

Under separate cover.