



## AGENDA REPORT

**Meeting Date:** June 6, 2016

**Item Number:** F-2

**To:** Honorable Mayor & City Council

**From:** Susan Healy Keene, AICP, Director of Community Development

**Subject:** HEARING DATE FOR AN APPEAL OF THE PLANNING COMMISSION'S APRIL 28, 2016 DECISION APPROVING A CENTRAL R-1 PERMIT ALLOWING A REDUCED REAR SETBACK FOR THE PROPERTY LOCATED AT 9570 VIRGINIA PLACE.

**Attachments:**

1. Appeal Petition
2. Planning Commission Resolution

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### **RECOMMENDATION**

It is recommended that the City Council schedule an appeal of the Planning Commission's decision approving a Central R-1 Permit to allow a reduced rear setback for the property located at 9570 Virginia Place for July 5, 2016.

### **DISCUSSION**

On April 28, 2016, the Planning Commission approved a Central R-1 Permit to allow a reduced rear setback for the property located at 9570 Virginia Place with conditions related to screening of a proposed new deck from the property to the west. The Central R-1 Permit approved by the Planning Commission would change the required 31' rear setback to 6'8". The approval allows for the construction of new additions to the existing single-family residence at the first floor level and at the lower garage level. The addition at the garage level that was approved by the Planning Commission would result in the creation of a deck. Per the amended resolution, this deck must be screened from the property to the west by a wall or landscaping a minimum of 60" in height (but not extended the full length of the deck).

On May 10, 2016, Stan Kahan, property owner of the residence directly to the west, filed a timely appeal of the Planning Commission's decision.

**PROCESS**

Pursuant to Beverly Hill Municipal Code Section 1-4-105, the procedure for appeals of Planning Commission decisions to the City Council is a two-step process. The matter is first placed on the Council agenda for review of the evidence presented in the appeal petition. If the evidence and information presented in the appeal is the same as was presented to the Planning Commission, the Council can then set a public hearing to consider the appeal. However, if the appeal petition contains new information, the Council may order that the Commission rehear the matter.

Planning Staff and the City Attorney's Office have reviewed the appeal petition and do not believe that new information beyond that already considered by the Planning Commission is presented therein. Therefore, staff recommends that the Council formally schedule this matter for a formal public hearing on July 5, 2016 to consider the appeal.

Susan Healy Keene, AICP  
Director of Community Development

  
Approved By \_\_\_\_\_

**ATTACHMENT 1**  
**APPEAL PETITION**

APPEAL PETITIONS MUST BE FILED WITH THE CITY CLERK'S OFFICE WITHIN  
14 CALENDAR DAYS AFTER THE DATE OF THE DECISION

APPEAL TO \_\_\_\_\_ COMMISSION OR CITY COUNCIL

PLEASE TYPE OR PRINT CLEARLY IN BLACK INK

5/10/16  
Date

In accordance with the appeals procedure as authorized by the provisions of the Beverly Hills Municipal Code, the undersigned hereby appeals from the decision of CITY PLANNING COMMISSION (Official, Board or Commission involved) rendered on April 28 2016; which decision consisted of: The grounds submitted for this appeal are as follows: **(WARNING: State all grounds for appeal. Describe how decision is inconsistent with law. Use extra paper if necessary.)**

The proposed deck addition violates  
BHMC 16-3-2453- "c" Neighbors privacy  
and "A" - scale & massing of the street scape -  
The project is located at 9570 Virginia PLACE -

The undersigned discussed the decision being appealed with:

RYAN GOHLICH / ALEX MILLER on 5/10/16  
(Department Head(s) Involved) Date

It is requested that written notice of the time and place for the hearing on this appeal before the City Council be sent to:

STAN KAHAN 462 Daniels Dr B.H. Calif 90212  
Name Address

Stan Kahan  
Signature of appealing party

462 Daniels Dr B.H. Calif 90212  
Address

310-728-9581- cell  
Telephone Number & Fax Number

Fee Paid \$5,149.00 (For City Clerk's use) DATE RECEIVED

LOG NO. 23x16 Written Notice mailed to appellant:

Copies to: City Council, City Manager, City Attorney, Community Development Department  
Involved Department

RECEIVED  
CITY OF BEVERLY HILLS  
2016 MAY 10 A 9:28  
CITY CLERK'S OFFICE

**ATTACHMENT 2**  
**PLANNING COMMISSION RESOLUTION**

RESOLUTION NO. 1771

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A CENTRAL R-1 PERMIT TO ALLOW THE REDUCTION OF A REAR SETBACK FOR ADDITIONS TO AN EXISTING TWO-STORY SINGLE-FAMILY RESIDENCE LOCATED ON A CORNER LOT IN THE CENTRAL AREA OF THE CITY AT 9570 VIRGINIA PLACE.

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

Section 1. Lawrence and Meryl Stern, applicants and property owners (the "Applicant"), has submitted an application for a Central R-1 Permit to allow the reduction of a rear yard setback for additions to an existing two-story single-family residence located at 9570 Virginia Place in the Central Area of the City (the "Project"). The Project does not meet all by-right development standards, and therefore requires entitlements that can be granted by the Planning Commission pursuant to the issuance of a Central R-1 Permit.

Section 2. The proposed project consists of single story additions to an existing two-story single-family residence. The home has an existing attached garage located adjacent to Virginia Place that would be expanded by 345 square feet within the required rear yard as part of the proposal. In addition the project includes two additions to the kitchen on the first floor level of the existing residence that would total 104 square feet of new floor area. The proposed addition would add a total of 449 square feet of floor area to the existing residence, bringing the total floor area on the site to 4,126 square feet (exclusive of the Municipal Code identified 400 square foot allowance for garage floor area). The proposed additions will result in

a reduction in the rear setback to 6'8", as compared with the existing legal non-conforming 8' setback parallel to the alley (the required rear setback is 31'). The proposal would maintain the existing 8' required side setback from the south side property line (adjacent to the neighboring property), and the 5' street facing side setback from the north property line along Virginia Place. The maximum height of the additions to the kitchen would be no higher than approximately 12'3" above the existing grade, which matches the height of the existing kitchen portion of the residence, and is below the 30' maximum height allowed in the R1.7X zone.

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 environmental regulations of the City. In its assessment, staff found that the existing residence was designed by Master Architect Gerald Colcord and may have historic value. Pursuant to CEQA Guidelines, categorical exemptions cannot be issued for a project that may cause a substantial adverse change to the significance of a historic resource. Consequently, the project has been designed in accordance with the Secretary of the Interior's standards for the treatment of historic properties. As proposed, the project does not cause a substantial adverse change to the significance of the potential resource, which allows the project to qualify for a Categorical Exemption from CEQA for the construction of an addition less than 2,500 square feet in area and less than fifty percent (50%) of the existing floor area of the residence, pursuant to Section 15301 (Class 1(e)) of the CEQA Guidelines, and the Planning Commission hereby finds the Project to be exempt from CEQA.

Section 4. Notice of the Project and public hearing was mailed on April 18, 2016 to all property owners and residential occupants within a 500-foot radius of the property, extended out to the block-face. On April 28, 2016 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 reviewing the request for a Central R-1 Permit, the Planning Commission considered whether it could make the following findings in support of the Project:

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

1. The Project is located within a neighborhood that contains properties which are developed primarily with one- and two-story single-family residences and accessory structures. The Project is in keeping with the scale of other residences in the area and the relatively small additions would be consistent with the

architectural style of the existing residence. The garage expansion would add approximately 345 square feet in floor area. The expanded garage would be located 5 feet from the north side yard property line, which is adjacent to the sidewalk on Virginia Place. However, the expanded garage is expected to have a minor effect on the overall quality of the streetscape due to the downward slope of the property from east to west, mitigating the addition's visibility from the street. In addition, the existing house is located at a higher elevation than the garage level, further limiting the bulk impacts of the garage expansion. As a result of the project's design, siting, and the topography of the property, the project will not have a substantial adverse impact on the scale or massing of the streetscape.

2. The project includes single-story additions that maintain the existing roof lines, reaching a maximum height of 12'3" at a location that is approximately 24' from the nearest shared property line. As a result of the project's design and its low height, as compared with the existing two-story portion of the residence, the project is not anticipated to adversely impact the privacy of the adjacent property to the south. Overall, the project would constitute a small change to the property and would provide the benefit of additional private outdoor space to the property owners, due to the topography of the site. With respect to the neighboring property across the alley to the east, the nearest portion of the project (the garage expansion) would be located approximately 23' from the neighbor's property line and would not provide any views into the neighboring property since existing mature landscaping on the neighboring property provides a buffer to views from the proposed single-story addition and proposed deck area above the garage.

3. The project is a single-story pitched roof addition that slopes up and away from the neighboring residence to the south, and reaches its maximum ridge height of 12'3" above the existing average grade at a location that is approximately 25' away from the neighbor's property line. The project is not anticipated to adversely impact access to light and air for the adjacent properties to the south due to the single story height of the addition and the addition's location some distance away from the neighboring property. With respect to the neighboring property across the alley to the west, the project would be located approximately 26' from the neighbor's property line and therefore the single story garage expansion will not adversely impact the neighbor's access to light and air.

4. The existing property contains some landscaping, trees, and hardscape within the rear setback. The Project will generally replace existing hardscape, and will not materially alter the existing landscaping within the rear setback. Consequently, the Project will not have an adverse impact on the garden quality of the City.

Section 7. Based on the foregoing, the Planning Commission hereby grants the requested Central R-1 Permit, subject to the following conditions:

1. The Project shall comply with the Secretary of the Interior's Standards for Historic Preservation.

2. The Project shall incorporate either landscaping, a wall, or combination thereof at the west side of the deck to provide screening at a minimum height of 60" for the protection of the privacy of the neighboring property to the west.

Any wall could include translucent materials and need not extend to the front façade of the garage.

3. The Project shall be constructed in substantial compliance with the plans and specifications approved by the Planning Commission on April 28, 2016.

4. 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.

5. 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.

6. 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.

7. 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.

8. RECORDATION. The resolution approving the Central 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.

9. EXPIRATION. Central R-1 Permit: The exercise of rights granted in such approval shall be commenced within three (3) years after the adoption of such resolution.

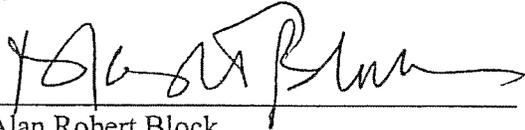
10. VIOLATION OF CONDITIONS: A violation of any of these conditions of approval may result in termination of the entitlements granted herein.

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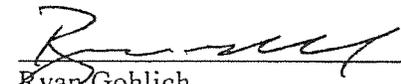
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Section 8. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

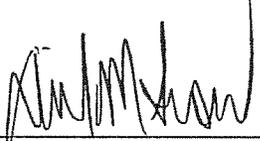
Adopted: April 28, 2016

  
Alan Robert Block  
Chair of the Planning Commission of the  
City of Beverly Hills, California

Attest:

  
Ryan Gohlich  
Secretary

Approved as to form:

  
David M. Snow  
Assistant City Attorney

Approved as to content:

  
Ryan Gohlich, AICP  
City Planner

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

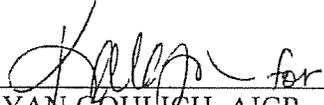
I, RYAN GOHLICH, AICP, Secretary of the Planning Commission and City Planner of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1771 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on April 28, 2016, and thereafter duly signed by the Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

AYES:           Commissioner Fisher, Vice Chair Shooshani, Chair Block.

NOES:           Commissioners Gordon, Corman.

ABSTAIN:       None.

ABSENT:        None.

  
\_\_\_\_\_  
RYAN GOHLICH, AICP  
Secretary of the Planning Commission /  
City Planner  
City of Beverly Hills, California