



AGENDA REPORT

Meeting Date: August 18, 2009
Item Number: F-5
To: Honorable Mayor & City Council
From: Susan Healy Keene, AICP, Director of Community Development
Subject: RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A CENTRAL R-1 PERMIT TO ALLOW A GARAGE ENTRANCE TO FACE THE STREET AND BE LOCATED LESS THAN 38 FEET FROM THE FRONT SETBACK LINE FOR PROPERTY LOCATED AT 305 SOUTH RODEO DRIVE.
Attachments: 1. Resolution

INTRODUCTION

On July 21, 2009, the City Council held a public hearing to consider a request for a Central R-1 Permit to allow a garage with vehicular access to be located facing the street within 38-feet of the front setback line for the property located at 305 South Rodeo Drive. The City Council directed staff to prepare a resolution approving the project for consideration.

RECOMMENDATION

It is recommended that the City Council adopt the attached resolution conditionally approving the request.


Susan Healy Keene, AICP
Approved By

Attachment 1

Resolution

RESOLUTION NO. R-09-

RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS
CONDITIONALLY APPROVING A CENTRAL R-1 PERMIT TO ALLOW
A GARAGE ENTRANCE TO FACE THE STREET AND BE LOCATED
LESS THAN 38-FEET FROM THE FRONT SETBACK LINE FOR
PROPERTY LOCATED AT 305 SOUTH RODEO DRIVE

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

Section 1. The property owners, Sidney and Tracy Mathalon (the
“Applicant”), have applied for a Central R-1 Permit to allow after the fact approval to keep an
attached garage in its existing location, which is less than 38-feet from the front setback line and
facing the street. A new two story single-family residence has recently been constructed at the
305 South Rodeo Drive (“subject property”) and the detached garage was inadvertently approved
on the building permit and constructed in violation of the zoning ordinance.

Beverly Hills Municipal Code Section 10-3-2416 B states that if the vehicular
entrance to a garage is located less than thirty eight feet (38') behind the front setback line, then
the entrance shall be perpendicular to the front lot line. However BHMC Section 10-3-2450 (A)
authorizes the reviewing authority, to issue a Central R-1 Permit to establish the location and
orientation of garage entrances in the central area of the City, provided that certain findings can
be made. In addition to the garage setback location, the residence was built with a chimney that
encroaches twenty-four inches into the northerly side-yard setback, whereas the Municipal Code
allows no more than a twelve inch encroachment.

Section 2. 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 Implementation Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*), and the City’s Local CEQA Guidelines. The subject project is categorically exempt from the provisions of the California Environmental Quality Act pursuant to Class 3, Section 15303(a) of the State Implementation Guidelines (New Construction or Conversion of Small Structures), which exempts the construction of single family homes in urbanized areas. The subject project relates to the orientation of garage doors toward the public street and is connected to and associated with the construction of a new single family residence, and a Class 3(a) “new construction of second dwelling unit in a residential zone” Categorical Exemption has been issued in accordance with the requirements of Section 15303(e) of the Guidelines.

Section 3. The Planning Commission conducted a duly noticed public hearing on May 28, 2008, at which time oral and documentary evidence was received concerning the application. The Planning Commission adopted Resolution Number 1555 conditionally approving the Central R-1 Permit. On June 16, 2009, the City Council ordered a review of the Planning Commission’s approval pursuant to Section 1-4-201 of the Beverly Hills Municipal Code. The City Council conducted a duly noticed public hearing on July 21, 2009, at which time oral and documentary evidence was received concerning the application.

Section 4. The subject property is located on the west side of the 300 block of South Rodeo Drive, between Gregory Way and Olympic Boulevard. The property is the second

lot south of Gregory Way. The street is zoned single family (R-1.5X) and is in the Central Area of the City, south of Santa Monica Boulevard. The subject property is surrounded by existing one- and two-story single-family homes, which for the most part are comprised of older residential structures.

The subject property is 7,680 square foot in area and is improved with a new, 4,570 square-foot, two-story, single family residence of a Spanish Mission Revival design and includes an attached two car garage located at the northern portion of the front of the residence facing the street. The façade of the main residence maintains the required 25 foot front yard setback and as designed is modulated with varying roof heights. The entrance to the garage is setback an additional two feet (2') from the setback line. Along the southern side property line, the residence maintains a nine-foot setback for the entire length of the residence. The northern side property line setback is five feet. In the rear, the property has a swimming pool and landscaping and a thirty-two foot setback (required is 29 feet) from the rear property line.

The subject property is surrounded by existing one- and two-story single-family homes, which for the most part are comprised of older residential structures of a smaller size than the subject residence. There are a total of 24 single family homes along this block (12 on each side of the street). Of the total, five residences (approximately 17%), including both one and two-story, have garage entrances at the front setback line that are oriented toward the street, similar to the subject request.

Section 5. In accordance with the requirements of Beverly Hills Municipal Code Section 10-3-2450 (A), in reviewing the application for the Central R-1 Permit to allow a garage entrance to face the street and be located less than thirty-eight feet behind the front yard setback area, the City Council considered whether the proposed development will have a substantial adverse impact on:

- (1) The scale and massing of the streetscape;
- (2) Neighbors' access to light and air;
- (3) Neighbors' privacy;
- (4) The garden quality of the city;

Section 6. Based upon the evidence presented at the hearing, including the staff report and oral and written testimony, the City Council, hereby finds as follows:

6.1. As proposed, the Project will not have a substantial adverse impact on the scale and massing of the streetscape, as conditioned. The garage as designed and built is oriented toward the street and front lot line, rather than being perpendicular to the front lot line, and is integrated within the main residence rather than being a separate accessory structure. The size of the main residence is less than the maximum square footage allowed by Code, and is in keeping with the majority of new residences built in the City. However, it is larger than the neighboring properties which were originally built in the 1920's or 1930's with the exception of one house that was built in 1991. The design features of the residence, including modulated façade, multiple roof heights, human scale single front door, human scale windows and garage opening, serve to soften the appearance of scale and mass of the residence. The garage door is scaled appropriately and does not add to the scale and mass of the streetscape. In addition, five other

residences on the same block have similar two-car garages that are located at the front setback line and are oriented to the front lot line. Nonetheless, the Council finds that allowing the garage to remain as constructed would result in a substantial adverse impact to scale and mass if the chimney that encroaches into the north setback is not removed or otherwise modified to comply with the City's code requirements. A condition of approval requiring modification has been imposed. Therefore, while the main residence is larger in scale, the garage orientation will not have a substantial adverse impact on the scale and massing of the streetscape provided the conditions of approval, including remedying the chimney encroachment, are implemented.

6.2. As proposed and conditioned, the Project will not substantially impact the neighbors' access to light and air. The garage is located at the ground level of the residence and does not extend into the front yard setback. The overall height and location of the main residence could remain unchanged whether the Rental R-1 permit is approved or not. The orientation of the garage door to the front lot line rather than perpendicular to the front lot line would not generate any adverse impacts related to the neighbors' access to light and air, because, as conditioned, the structure will adhere to the required setbacks and maintain required distances between the structure and neighboring property.

6.3. As proposed and conditioned, the Project will not have a substantial adverse impact on neighbors' privacy. The proposed garage door is oriented to the front lot line away from the neighbors and access to and from the main residence via the garage is not anticipated to result in any impacts on the neighbors' privacy. Therefore as proposed and conditioned, it is not anticipated that the orientation of the garage to the front lot line would have an adverse impact on the neighbors' privacy.

6.4. As conditioned, the proposed Project will not adversely affect the garden quality of the city. As part of the approval process, a landscape plan was required and in accordance with that plan, the entire front yard has been extensively landscaped with the exception of the driveway to the garage. The approved landscape plan includes an appropriate mix of shrubs, ground cover and trees that add to the garden quality of the City. With the garage and driveway as designed, the property's southern side lot line has been landscaped as indicated on the Planting Plan dated August 21, 2007. This side lot line set back is required to be nine feet for the first thirty-eight feet of the lot depth then may be reduced to five feet for the remainder of the lot. This nine-foot setback area could accommodate a car, if the area were to be entirely paved, which would detract from the garden quality of the City. As conditioned, the southern side property setback area must remain landscaped per the approved Landscaping Plan. Further, the garage area cannot be converted to other uses, and the garage door must be shut when not in use for ingress or egress, or when the garage is occupied by persons. With compliance with these conditions, the City Council finds that the orientation and location of the garage will not have an adverse impact on the garden quality of the City.

Section 7. Based on the foregoing, the City Council hereby grants a Central R-1 Permit subject to the following conditions:

1. The project shall be built in substantial conformance to the plans submitted to and reviewed by the City Council at the July 21, 2009 meeting.
2. The garage shall be maintained for covered vehicular parking use and shall not be converted to any other use. No habitable use of the garage shall be permitted.

3. The required southern side yard setback landscaping shall be maintained in accordance with the approved Landscaping Plan and no additional paving shall be installed within this setback area.
4. No walls or fences shall be permitted in the required front yard setback facing the street.
5. The chimney that encroaches into the required northern side-yard setback shall be removed or modified to comply with the applicable codes, and no Certificate of Occupancy may be issued until the chimney encroachment issue is resolved to the satisfaction of the Director of Community Development.
6. The garage door shall remain closed at all times with the exception of when a vehicle is entering or exiting the garage or when a person or persons are present in the garage.
7. The Applicant shall utilize the garage to park two vehicles before parking vehicles in the driveway.
8. These conditions of approval shall run with the land and shall remain in full force and effect for the duration of the life of this approval. This 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 this resolution as an exhibit.

The Applicant shall deliver the executed covenant to the Department of Community Development **within 60 days** of the City Council 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 Central R-1 Permit 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 Central R-1 Permit.

Section 8. The City Clerk shall certify to the adoption of this resolution and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Council of this City.

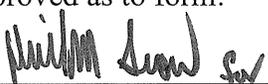
Adopted:

NANCY KRASNE
Mayor of the City of
Beverly Hills, California

ATTEST:

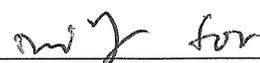
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