



**STAFF REPORT**  
**CITY OF BEVERLY HILLS**

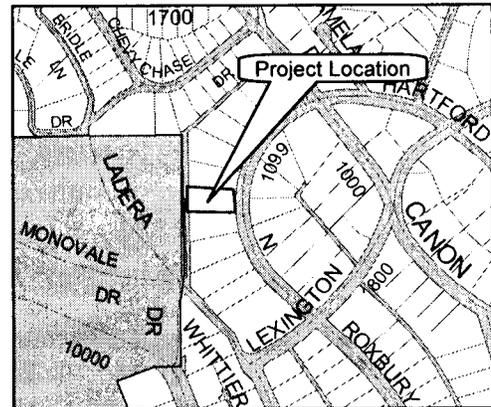
**For the Planning Commission  
Meeting of April 8, 2010**

**TO:** Planning Commission

**FROM:** Ryan Gohlich,  
Associate Planner

**THROUGH:** Jonathan Lait, AICP, *for*  
City Planner

**SUBJECT:** A request for a Central R-1 Permit to allow the construction of a two-story accessory structure that exceeds 14 feet in height, is located within 4 feet of a side property line, and has a balcony at the second floor, for the property located in the Central Area of the City at **1015 North Roxbury Drive**.



**RECOMMENDATION**

It is recommended that the Planning Commission approve the proposed project, subject to conditions.

**EXECUTIVE SUMMARY**

The applicant requests a Central R-1 Permit to allow the construction of new two-story accessory structure on the property located at 1015 North Roxbury Drive. Construction of an accessory structure is allowed by-right if the structure meets all applicable development standards within the Beverly Hills Municipal Code (BHMC). However, the proposed project does not meet all applicable development standards, and therefore requires specific code modifications that can be granted by the Planning Commission pursuant to the issuance of a Central R-1 Permit. The proposed project requires a Central R-1 Permit in order to accommodate several project elements including additional height (23 feet is being requested), a reduced side setback (4 inches is being requested), and placement of a balcony at the second floor of the structure (balconies above the first floor are not otherwise permitted).

<b>GENERAL INFORMATION</b>	
<b>Applicant</b>	Hamid Gabbay
<b>Project Owner</b>	David Margulies
<b>Zoning District</b>	Residential (R-1.X)
<b>Permit Streamlining Act Deadline</b>	May 21, 2010 (without extension)

**AREA CHARACTERISTICS AND PROJECT DESCRIPTION**

The subject site is located on the west side of North Roxbury Drive, and is currently developed with an approximately 6,047 square foot residence, a two-story guest house/garage, and a one-story pool house. The total area of the subject property is approximately 26,177 square feet, which causes it to be classified as an Estate Property<sup>1</sup>. The site is surrounded by residential properties that vary in size.

The applicant proposes to demolish the existing 882 square foot, one-story pool house located at the southwest corner of the property, and construct a new two-story guest house in its place. The proposed guesthouse consists of approximately 1,878 square feet of floor area with a maximum height of approximately 23 feet. As proposed, the project does not comply with the City’s development standards for accessory structures with regard to height, setbacks, and balcony placement; however, these components can be approved through the issuance of a Central R-1 Permit if the Commission is able to make specific findings in support of the project.

<b>Zoning Information</b>		
	<b>Proposed</b>	<b>Permitted/Required</b>
<b>Use</b>	Single-Family Residential	Single-Family Residential
<b>Cumulative Floor Area</b>	9,783 square feet	11,970 square feet
<b>Height</b>	23 feet	14 feet (without Central R-1 Permit)
<b>Front Setback</b>	200 feet	100 feet minimum
<b>South Side Setback</b>	4 inches	4 feet (without Central R-1 Permit)
<b>North Side Setback</b>	83 feet	4 feet (without Central R-1 Permit)
<b>Rear Setback</b>	2 inches	0

<sup>1</sup> BHMC §10-3-2412: Any residential site with an area that equals or exceeds 24,000 square feet.

## **ANALYSIS**

### **Height**

At approximately 23 feet in height, the proposed project does not meet the standard 14-foot accessory structure height limit established by the Beverly Hills Municipal Code. However, the Commission may, through the issuance of a Central R-1 Permit, establish a height limit greater than 14 feet for an accessory structure so long as the height established by the Commission does not exceed the maximum height that would otherwise be allowed for a structure within the principle building area (an accessory structure up to 30 feet in height may be approved through the issuance of a Central R-1 Permit).

The proposed accessory structure height of 23 feet does not exceed the 30 foot height limit that would otherwise be permitted within the principle building area. Additionally, the proposed height of the structure is consistent with an existing accessory structure located at the northwest corner of the subject property. Issues associated with accessory structures that exceed 14 feet in height often include scale and massing, as well privacy concerns. Because of these concerns, discretionary review is required for accessory structures that exceed 14 feet in height.

Although a 23 foot tall accessory structure may not be appropriate on all properties within the city, the siting and design of this particular project, as conditioned, creates an appropriate setting for the additional height as proposed. The setting is appropriate for this additional height because the structure would be located adjacent to the rear alley, approximately 50 feet from the neighboring residence to the south and a minimum of 100 feet from all other residential structures in the area, all of which will help to reduce the appearance of scale and mass. Additionally, the structure contains no second-story windows or doors facing adjacent yards, which helps to maintain the privacy of neighboring properties. Finally, the conditions recommended by staff, as well as existing landscaping, will help to screen and soften the appearance of the structure, thereby reducing the appearance of scale and mass while preserving existing privacy. Therefore, for the reasons stated above, staff recommends that the proposed height be approved. The required findings are more specifically addressed below.

### **Side Setback Reduction**

The proposed project would be located approximately 4 inches from the south side property line, which is less than the standard 4 foot side setback required by the Beverly Hills Municipal Code. However, the Commission may, through the issuance of a Central R-1 Permit, establish a reduced side setback for accessory structures if the required findings can be made in support of such a reduction.

Although the existing one-story structure that is to be demolished is currently located within several inches of the south side property line, it is anticipated that the proposed project, due to its increased height and mass, has a greater potential to adversely impact the neighboring property to the south. While mature landscaping located on the

neighboring property to the south would likely create a buffer for the proposed project, there is no way to guarantee that the neighboring property's landscaping will remain in place throughout the life of the proposed project. Additionally, staff has been unable to identify any substantial constraints that would preclude the applicant from providing a side setback greater than 4 inches. Because of this, staff recommends a condition of approval that would require a minimum 4 foot setback along the south property line, as well as the planting of trees (not hedges) so that the subject property will be capable of providing its own buffer that can be maintained throughout the life of the project. A 4 foot setback is recommended as this is the standard code-required setback, and to provide sufficient space to allow for new landscaping. Accordingly, staff recommends that the component of the Central R-1 Permit related to the side setback reduction be denied. The anticipated adverse impacts associated with setback reduction and required findings are more specifically addressed below.

### **Balcony Placement**

The proposed project includes a second-floor balcony along its east elevation. The code generally prohibits accessory structures from having balconies located more than 3 feet above the finished first floor level due to concerns related to the privacy of neighboring properties. However, the Commission may, through the issuance of a Central R-1 Permit, allow an accessory structure located on an Estate Property to have a balcony located more than 3 feet above the finished first floor level if appropriate findings can be made in support of such a request. The subject property is classified as an Estate Property, and is therefore eligible for the Central R-1 Permit identified above.

The balcony would be located on the east elevation of the proposed structure, would be approximately 4 feet deep and 30 feet in length, and would be inset and not extend past the face of the structure. The code generally prohibits balconies above the finished first floor due to potential privacy concerns. As proposed, it appears that the project could potentially generate privacy impacts; however, the staff-recommended conditions of approval related to increased side setbacks and a landscaping buffer are expected to provide sufficient protections for the neighboring properties, and staff recommends approval of this component of the Central R-1 Permit. The required findings for approval of the proposed balcony are more specifically addressed below.

### **FINDINGS**

The Planning Commission may approve the proposed project and associated Central R-1 Permit if the Commission is able to find that the project will not have a substantial adverse impact on the following:

#### **1) *The scale and massing of the streetscape.***

The proposed project is located behind the primary residence and approximately 200 feet from the front property line along North Roxbury Drive. Because the proposed project will not be visible from the street, it is

not anticipated to adversely impact the scale and massing of the streetscape.

**2) *Neighbors' access to light and air.***

The proposed project would be located approximately 50 feet from the closest neighboring structure, which is an existing residence located on the property just south of the project site. All other structures on neighboring properties are located a minimum of 100 feet from the proposed project. Because substantial separation is provided between the proposed project and existing structures on neighboring properties, the project is not anticipated to adversely impact the neighbors' access to light and air.

**3) *Neighbors' privacy.***

As proposed, the project respects the neighbors' privacy by providing second-floor windows, doors and balcony along the east elevation only, thereby limiting potential privacy impacts. However, the proposal to locate the structure approximately 4 inches from the south property line substantially limits the possibilities of providing a privacy buffer between the proposed project and the adjacent property to the south. As conditioned, the project would provide a 4 foot setback along the south property line with sufficient room for landscaping in the form of trees. The added setback and landscaping, as conditioned, would provide a substantial buffer that would help to preserve the neighbors' privacy and could be maintained throughout the life of the project. Therefore, as conditioned, the proposed project is not anticipated to adversely impact the neighbors' privacy.

**4) *The garden quality of the city.***

The applicant proposes to maintain all existing landscaping on the subject property, and has therefore not submitted a landscape plan for review by the Commission. The code does not specify that review of how a project affects the garden quality of the city is limited only to those areas visible from the street. Because the code is not specific in this matter, it is appropriate to analyze all aspects of how the project might affect the garden quality of the city, whether viewed from the street or from a neighboring property. Therefore, as proposed, the project may adversely impact the garden quality of the city because a landscape buffer is not provided between the subject property and the neighboring property to the south. The lack of a landscape buffer may result in the neighboring property having views of the south side of the structure, which is a 23 foot tall flat plane with no windows or modulation. These anticipated views are not in keeping with the garden quality of the city; however, staff recommends a condition requiring an increased setback and new landscaping in the form of trees along the south property line, which would serve to enhance the garden quality of the city and provide an adequate

landscape buffer. Therefore, as conditioned, the proposed project is not anticipated to adversely impact the garden quality of the city.

**5) *Adjacent properties or the public welfare.***

The applicant has proposed a minimal setback along the south property line. This reduced setback, in conjunction with the increased height and second floor balcony of the proposed project, could potentially impact adjacent properties or the public welfare if not mitigated. In order to mitigate potential impacts to adjacent properties or the public welfare, such as increased scale and massing, as well as reduced privacy, staff recommends conditions of approval that would require an increased side setback of 4 feet and additional landscaping in the form of trees along the south property line. The increased setback and added landscaping would provide protections for the neighboring properties and the public welfare by screening the project, preserving privacy, and reducing the appearance of scale and mass. Therefore, as conditioned, the proposed project is not anticipated to adversely impact adjacent properties or the public welfare.

**PUBLIC NOTICE AND COMMENTS**

Notice of the proposed project and public hearing was mailed on March 29, 2010 to all property owners and residential tenants within a 300-foot radius of the property. As of the date of preparation of this staff report, no comments have been received in regard to the proposed project.

**ENVIRONMENTAL DETERMINATION**

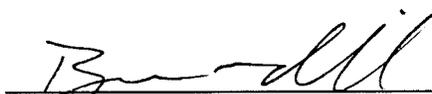
The project has been reviewed pursuant to the California Environmental Quality Act (CEQA), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.), and the City's Local CEQA guidelines. Pursuant to the State CEQA Guidelines Section 15303 (e), new construction of accessory structures, the project qualifies for a Class 3(e) Categorical Exemption, and is not anticipated to have a significant environmental impact.

**RECOMMENDATION**

Based on the foregoing analysis staff recommends that the Planning Commission adopt the attached resolution approving the requested Variance, subject to the following project-specific conditions of approval:

1. A minimum 4 foot setback shall be provided along the south property line. In order to provide this setback the applicant may, at his discretion, either reduce the size of the proposed structure or modify the placement of the proposed structure.

2. Landscaping, in the form of evergreen trees (not hedges), shall be planted between the south property line and the proposed project, and immediately east of the proposed project. A landscaping plan shall be prepared by the applicant and returned to the Director of Community Development or his/her designee for final review and approval. At the time of planting, all trees shall be a minimum of 12 feet in height, and the landscaping shall be maintained throughout the life of the project.
3. The second floor of the structure shall not have any windows or doors, except along the east elevation.
4. This approval is for increased height and a second-floor balcony only. All other components of the project shall be subject to the development standards set forth in the Beverly Hills Municipal Code.



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Ryan Gohlich  
Associate Planner

Attachments:

1. Draft Planning Commission Resolution

# ***ATTACHMENT 1***

## ***Draft Planning Commission Resolution***

## RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A REQUEST FOR A CENTRAL R-1 PERMIT TO ALLOW THE CONSTRUCTION OF A NEW TWO-STORY ACCESSORY STRUCTURE ON THE PROPERTY LOCATED IN THE CENTRAL AREA OF THE CITY AT 1015 NORTH ROXBURY DRIVE.

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

Section 1. Hamid Gabbay, Applicant, on behalf of David Margulies, (collectively the “Applicant”) has submitted an application for a Central R-1 Permit to allow the construction of a new two-story accessory structure in the Central Area of the City at 1015 North Roxbury Drive (the “Project”). Construction of an accessory structure is allowed by-right if the structure meets all applicable development standards within the Beverly Hills Municipal Code (BHMC). However, the Project does not meet all applicable development standards, and therefore requires specific code modifications that can be granted by the Planning Commission pursuant to the issuance of a Central R-1 Permit. The Project requires a Central R-1 Permit in order to accommodate several Project elements including additional height (23 feet), a reduced side setback of 4 inches rather than the code-required 4 feet, and placement of a balcony at the second floor of the structure (balconies above the first floor are not otherwise permitted).

Section 2. The Project site is located on the west side of North Roxbury Drive, and is currently developed with an approximately 6,047 square foot residence, a two-story guest house/garage, and a one-story pool house. The total area of the subject property is

approximately 26,177 square feet, which causes it to be classified as an Estate Property. The site is surrounded by residential properties that vary in size.

The applicant proposes to demolish the existing 882 square foot, one-story pool house located at the southwest corner of the property, and construct a new two-story guest house in its place. The proposed guesthouse consists of approximately 1,878 square feet of floor area with a maximum height of approximately 23 feet. As proposed, the Project does not comply with the City's development standards for accessory structures with regard to height, setbacks, and balcony placement; however, these components can be approved through the issuance of a Central R-1 Permit.

Section 3. At approximately 23 feet in height, the Project does not meet the standard 14-foot accessory structure height limit established by the Beverly Hills Municipal Code. However, the Commission may, through the issuance of a Central R-1 Permit, establish a height limit greater than 14 feet for an accessory structure so long as the height established by the Commission does not exceed the maximum height that would otherwise be allowed for a structure within the principle building area (an accessory structure up to 30 feet in height may be approved through the issuance of a Central R-1 Permit).

The proposed accessory structure height of 23 feet does not exceed the 30 foot height limit that would otherwise be permitted within the principle building area. Additionally, the height of the structure is consistent with an existing accessory structure located at the northwest corner of the subject property. Issues associated with accessory structures that exceed 14 feet in height often include scale and massing, as well privacy concerns. Because of these concerns, discretionary review is required for accessory structures that exceed 14 feet in height.

Although a 23 foot tall accessory structure may not be appropriate on all properties within the city, the siting and design of this particular project, as conditioned, creates an appropriate setting for the additional height as proposed. The setting is appropriate for this additional height because the structure would be located adjacent to the rear alley, approximately 50 feet from the neighboring residence to the south and a minimum of 100 feet from all other residential structures in the area, all of which will help to reduce the appearance of scale and mass. Additionally, the structure contains no second-story windows or doors facing adjacent yards, which helps to maintain the privacy of neighboring properties. Finally, the conditions of approval, as well as existing landscaping, will help to screen and soften the appearance of the structure, thereby reducing the appearance of scale and mass while preserving existing privacy.

Section 4. The Project would be located approximately 4 inches from the south side property line, which is less than the standard 4 foot side setback required by the Beverly Hills Municipal Code. However, the Commission may, through the issuance of a Central R-1 Permit, establish a reduced side setback for accessory structures.

Although the existing one-story structure that is to be demolished is currently located within several inches of the south side property line, it is anticipated that the Project, due to its increased height and mass, has a greater potential to adversely impact the neighboring property to the south. While mature landscaping located on the neighboring property to the south would likely create a buffer for the Project, there is no way to guarantee that the neighboring property's landscaping will remain in place throughout the life of the Project. Additionally, no substantial constraints exist that would preclude the Applicant from providing a side setback greater than 4 inches. Because of this, conditions of approval require a minimum 4

foot setback along the south property line, as well as the planting of trees (not hedges) so that the subject property will be capable of providing its own buffer that can be maintained throughout the life of the Project. The Project is conditioned to provide a 4 foot setback as this is the standard code-required setback, and to provide sufficient space to allow for new landscaping.

Section 5. The Project includes a second-floor balcony along its east elevation. The code generally prohibits accessory structures from having balconies located more than 3 feet above the finished first floor level due to concerns related to the privacy of neighboring properties. However, the Commission may, through the issuance of a Central R-1 Permit, allow an accessory structure located on an Estate Property to have a balcony located more than 3 feet above the finished first floor level if appropriate findings can be made in support of such a request. The subject property is classified as an Estate Property, and is therefore eligible for the Central R-1 Permit identified above.

The balcony would be located on the east elevation of the proposed structure, would be approximately 4 feet deep and 30 feet in length, and would be inset and not extend past the face of the structure. The code generally prohibits balconies above the finished first floor due to potential privacy concerns. As proposed, the Project could potentially generate privacy impacts; however, the conditions of approval related to increased side setbacks and a landscaping buffer are expected to provide sufficient protections for the neighboring properties, and the proposed balcony can be supported.

Section 6. 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 Local CEQA Guidelines (hereafter the “Guidelines”), and the City’s environmental guidelines, and a Class 3 Categorical Exemption has been issued in accordance with the requirements of Section 15303(e) of the Guidelines for the construction of new accessory/appurtenant structures.

Section 7. Notice of the Project and public hearing was mailed on March 29, 2010 to all property owners and residential tenants within a 300-foot radius of the property. On April 8, 2010 the Planning Commission considered the application at a duly noticed public meeting. Evidence, both written and oral, was presented at said meeting.

Section 8. In considering the request for a Central R-1 Permit, the Planning Commission considered whether the Project would have a substantial impact on the following criteria:

1. The scale and massing of the streetscape;
2. The neighbors’ access to light and air;
3. The neighbors’ privacy;
4. The garden quality of the city; and
5. Adjacent properties or the public welfare.

Section 9. Based on the foregoing, the Planning Commission hereby finds and determines as follows:

1. The Project is located behind the primary residence and approximately 200 feet from the front property line along North Roxbury Drive. Because the Project will not be visible from the street, it is not anticipated to adversely impact the scale and massing of the streetscape.

2. The Project would be located approximately 50 feet from the closest neighboring structure, which is an existing residence located on the property just south of the Project site. All other structures on neighboring properties are located a minimum of 100 feet from the Project. Because substantial separation is provided between the Project and existing structures on neighboring properties, the Project is not anticipated to adversely impact the neighbors' access to light and air.

3. As conditioned, the Project respects the neighbors' privacy by providing second-floor windows, doors and a balcony along the east elevation only, thereby limiting potential privacy impacts. Additionally, as conditioned, the Project provides a 4 foot setback along the south property line with sufficient room for landscaping in the form of trees. The added setback and landscaping provides a substantial buffer that would help to preserve the neighbors' privacy and could be maintained throughout the life of the Project. Therefore, as conditioned, the Project is not anticipated to adversely impact the neighbors' privacy.

4. The code does not specify that review of how a project affects the garden quality of the city is limited only to those areas visible from the street. Because the code is not specific in this matter, it is appropriate to analyze all aspects of how the Project might affect the garden quality of the city, whether viewed from the street or from a neighboring property. Therefore, as proposed, the Project may

adversely impact the garden quality of the city because a landscape buffer is not provided between the subject property and the neighboring property to the south. The lack of a landscape buffer may result in the neighboring property having views of the south side of the structure, which is a 23 foot tall flat plane with no windows or modulation. These anticipated views are not in keeping with the garden quality of the city; however, the conditions of approval require an increased setback and new landscaping in the form of trees along the south property line, which will serve to enhance the garden quality of the city and provide an adequate landscape buffer. Therefore, as conditioned, the Project is not anticipated to adversely impact the garden quality of the city.

5. The Applicant has proposed a minimal setback along the south property line. This reduced setback, in conjunction with the increased height and second floor balcony of the Project, could potentially impact adjacent properties or the public welfare if not mitigated. In order to mitigate potential impacts to adjacent properties or the public welfare, such as increased scale and massing, as well as reduced privacy, conditions of approval have been imposed that require an increased side setback of 4 feet and additional landscaping in the form of trees along the south property line. The increased setback and added landscaping provide protections for the neighboring properties and the public welfare by screening the Project, preserving privacy, and reducing the appearance of scale and mass. Therefore, as conditioned, the Project is not anticipated to adversely impact adjacent properties or the public welfare.

Section 10. Based on the foregoing, the Planning Commission hereby grants the requested Central R-1 Permit, subject to the following conditions:

1. A minimum 4 foot setback shall be provided along the south property line. In order to provide this setback the Applicant may, at his discretion, either reduce the size of the structure or modify the placement of the structure.

2. Landscaping, in the form of evergreen trees (not hedges), shall be planted between the south property line and the Project, and immediately east of the Project. A landscaping plan shall be prepared by the Applicant and returned to the Director of Community Development or his/her designee for final review and approval. At the time of planting, all trees shall be a minimum of 12 feet in height, and the landscaping shall be maintained throughout the life of the Project.

3. The second floor of the structure shall not have any windows or doors, except along the east elevation.

4. This approval is for increased height and a second-floor balcony only. All other components of the Project shall be subject to the development standards set forth in the Beverly Hills Municipal Code.

5. The Project shall substantially comply with the plans submitted to and reviewed by the Planning Commission at its meeting of November 19, 2009.

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

7. This resolution granting the requested 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 Planning & 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 Planning & 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.

Section 11. 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:

\_\_\_\_\_  
Lili Bosse  
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 *R.G.*