



# Planning Commission Report

**Meeting Date:** August 11, 2016

**Subject:** **331 North Oakhurst Drive  
New Three-Story Dwelling Unit**  
Request for Variances and a Development Plan Review to allow the construction of a three-story building on the property located at 331 North Oakhurst Drive.

**Project Applicant:** Hamid Gabbay

**Recommendation:** That the Planning Commission:  
1. Conduct a public hearing and receive testimony on the project;  
2. Direct staff to prepare and return with a resolution denying the Variances and Development Plan Review

## REPORT SUMMARY

A request has been made for six variances and a Development Plan Review Permit to allow construction of a 3-story, 3,724 square foot one-unit building on multi-family zoned property located at 331 North Oakhurst Drive. The property is approximately 3,327 square feet in size and is currently vacant.

This report provides a description of the project and analyzes key project components including compliance with the zoning code, height and density, compatibility with surrounding properties, streetscape and urban design and a discussion on the merits of the request for the variances. Based on the analysis contained in this report, staff concludes that while the parcel of land is unusual in its size for a multi-family parcel in the City of Beverly Hills, and the granting of several variances may be appropriate under certain circumstances in order to achieve a feasible project, staff does not recommend approval of all of the variances being requested by the applicant due to the adverse impacts they are anticipated to have on the neighborhood and surrounding properties.

## APPLICATION INFORMATION

<b>File Date</b>	11/3/2014
<b>Application Complete</b>	4/5/2016
<b>Subdivision Deadline</b>	N/A
<b>CEQA Deadline</b>	60 days from CEQA determination
<b>CEQA Determination</b>	
<b>Permit Streamlining</b>	Take action on project within 60 days of CEQA determination

**Applicant(s)** Hamid Gabbay  
**Owner(s)** David Ramin

Attachment(s):  
A. Required Findings  
B. Project Plans (provided under separate cover)

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<b>Representative(s)</b>	Hamid Gabbay
<b>Prior Project Previews</b>	N/A
<b>Prior PC Action</b>	N/A
<b>Prior Council Action</b>	N/A
<b>CC Ad-Hoc Committee</b>	N/A
<b>CC/PC Liaison</b>	N/A

**Other**

**PROPERTY AND NEIGHBORHOOD SETTING**

**Property Information**

<b>Address</b>	331 North Oakhurst
<b>Assessor's Parcel No.</b>	4342-002-024
<b>Zoning District</b>	R4
<b>General Plan</b>	Multi family
<b>Existing Land Use(s)</b>	Vacant (previously single-family home)
<b>Lot Dimensions</b>	Approximately 55' by 60'
<b>Lot Area</b>	Total square footage: 3,327 square feet
<b>Year Built</b>	N/A
<b>Historic Resource</b>	N/A
<b>Protected Trees/Grove</b>	None

**Adjacent Zoning and Land Uses**

<b>North</b>	R4 – Multiple Family Residential (two-story multi-family building)
<b>East (Across Oakhurst)</b>	R4 – Multiple Family Residential (two-story multi-family buildings)
<b>South (across West Third Street)</b>	R-4 – Multiple Family Residential (seven-story multi-family buildings)
<b>West</b>	R-4 – Multiple Family Residential (one- story single-family building)

**Circulation and Parking**

<b>Adjacent Street(s)</b>	Oakhurst Drive, Third Street
<b>Traffic Volume</b>	6464 trips per day on 3 <sup>rd</sup> street, 2230 trips per day on Oakhurst
<b>Adjacent Alleys</b>	Two-way, north-south alley at rear (west) of property, 20 feet wide.
<b>Sidewalks</b>	Sidewalk on Oakhurst: 16 feet wide Sidewalk on Third Street: 12.5 feet wide

**Neighborhood Character**

The project site is located at the north east corner of Oakhurst Drive and Third Street. The neighborhood surrounding the project site consists of multiple-family residential buildings (and one single-family building) that range from one-story to seven stories in height. The majority of the buildings on the 300 block of North Oakhurst Drive are two stories in height and are constructed in traditional architectural styles such as Spanish Mission Revival, Georgian and Federal. Immediately to the west of the project site is a one-story, 14-foot tall single-family residence.



**Aerial View of Project Site**



**Existing Project Site – View of project site from Oakhurst Drive**





**PROJECT DESCRIPTION**

The proposed project consists of the construction of a three-story, 32'2" tall residential building with a 3'6" parapet, as well as a full basement. The project is located on a lot that measures 3,327 square feet. The total floor area of the building would be 3,724 square feet inclusive of the habitable basement area. The unit consists of three bedrooms located in the second and third floors and one room in the basement that could be used as a bedroom. There are a total of two parking spaces provided on the project site located in the north side setback. The parking spaces are not shielded from public view and are provided in an open form. A six foot tall chain link fence is proposed at the rear and north side property lines.

The following table summarizes the project characteristics and provides a comparison between the proposed project and required/allowed development standards. Standards marked with an asterisk are the subject of a requested variance for the project.

<b>Development Standard</b>	<b>Required/ Allowed</b>	<b>Proposed (* denotes variance request)</b>
<b>Floor Area</b>	1500 square foot minimum for a three or more bedroom unit.	3,724 square feet
<b>Basement</b>	No dwelling unit in a multi-family zone shall have a finished floor level that is more than one foot below grade	1,020 square feet* (finished floor level that is more than one foot below grade)
<b>Ground Level</b>		947 square feet
<b>Second Level</b>		893 square feet
<b>Third Level</b>		864 square feet
<b>Height</b>	33' maximum	32'2"
<b>Stories</b>	Three	Three
<b>Parking</b>	Four spaces required (including required guest parking space) Multi-family projects require guest parking (one required in this case)* Required parking to be located within a structure and not located within twenty five feet of the front entrance of such structure, unless such parking is completely screened from view from all public streets. No parking shall be located in the front yard	Two spaces provided* No guest parking provided* Not shielded from view or in a structure* Parking encroaches into front yard*
<b>Outdoor living space</b>	200 square feet of usable outdoor living space for each dwelling unit	203 square feet
<b>Front Setback</b>	25 feet	25 feet
<b>Rear Setback</b>	15 feet	5 feet* Proposed light well to encroach into rear setback*
<b>Side Setbacks</b>	Sum = 17 feet Minimum for each = 8 feet	North side = 9 feet South Side = 10 feet Sum = 19 feet



### Rendering of the proposed project



### REQUESTED ENTITLEMENTS

**Development Plan Review** – The applicant is requesting a Development Plan Review to allow the construction of the proposed project.

**Variations** – The applicant is requesting the following variations to allow the construction of the proposed project:

- Variance from BHMC § 10-3-2805 in order to build habitable basement area in a multi-family zone
- Variance from BHMC § 1-3-2808 to allow the reduction of the required rear yard setback
- Variance from BHMC § 10-3-2812 to allow extension of the basement lightwell to encroach into a rear yard setback
- Variance from Beverly Hills Municipal Code Section BHMC § 10-3-2816 to allow two parking spaces instead of the required three
- Variance from BHMC § 10-3-2817 to waive guest parking requirements
- Variance from BHMC § 10-3-2818 to provide parking spaces not enclosed by solid walls and shielded from public view and to provide the spaces in a required front yard setback



**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 Guidelines<sup>1</sup>, and the environmental regulations of the City. The project appears to qualify for a Class 3 Categorical Exemption for new construction or conversion of small structures pursuant to Section 15303 of the guidelines because it is a multi-family residential structure that contains no more than four dwelling units.

Alternatively, if the Planning Commission chooses to deny the project then, pursuant to Section 15270 of the CEQA Guidelines, CEQA does not apply to projects which a public agency rejects or disapproves.

**PUBLIC OUTREACH AND NOTIFICATION**

Type of Notice	Required Period	Required Notice Date	Actual Notice Date	Actual Period
Newspaper Notice	10 Days	August 1, 2016	July 29, 2016	12 days
Mailed Notice	10 Days	August 1, 2016	August 1, 2016	10 days
Property Posting	10 Days	August 1, 2016	July 29, 2016	12 days
Posted Notice	7 Days	August 4, 2016	August 4, 2016	7 days
Website	7 Days	August 4, 2016	August 4, 2016	7 days

**PUBLIC COMMENT**

At the time this report was published, no public comment had been received on the project.

**ANALYSIS<sup>2</sup>**

Project approval, conditional approval or denial is based upon specific findings for each discretionary application requested by the applicant. The findings that must be made in order to approve the project are provided in Attachment A, which may be used to guide the Planning Commission’s deliberation of the subject project. The analysis prepared by staff in assessing the project is set forth as follows:

**Compliance with Zoning Code.**

The proposed project does not comply with the zoning code. The applicant is requesting the following six variances from the existing zoning code:

- Allow habitable basement area in a multi-family zone
- Reduction of the required rear yard setback
- Extension of the basement light well to encroach into a rear yard setback

<sup>1</sup> The CEQA Guidelines and Statute are available online at <http://ceres.ca.gov/ceqa/guidelines>

<sup>2</sup> The information provided in this section is based on analysis 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 make alternate findings. A change to the findings may result in a final action that is different from the staff recommended action in this report.



- Allow two parking spaces instead of the required three
- Waive guest parking requirements
- Provide parking spaces not enclosed by solid walls and shielded from public view and partially located in a required front yard setback

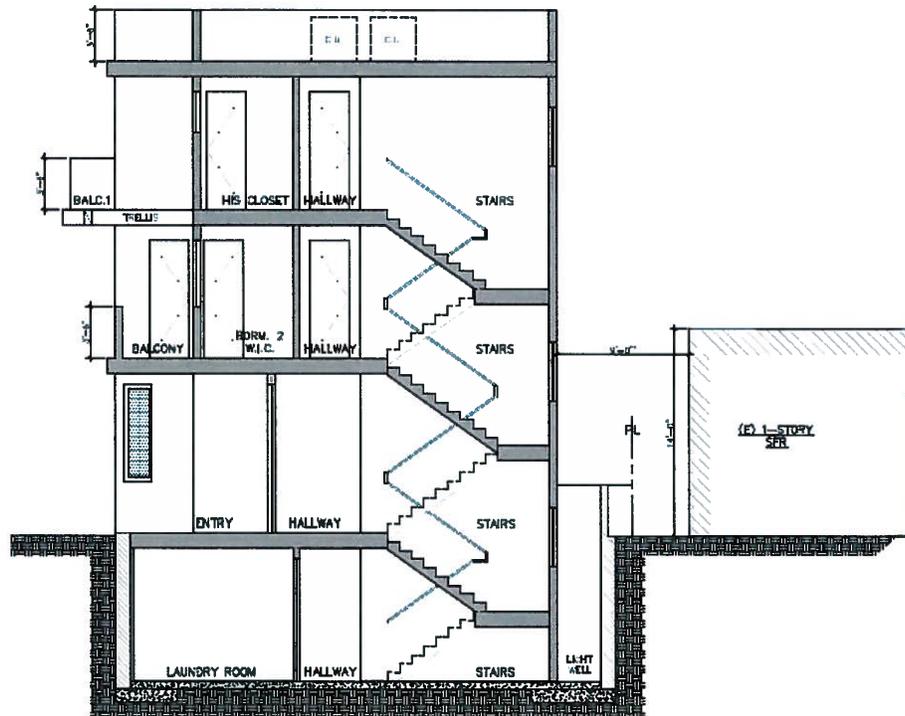
**Height and density:**

The project is 32'2" in height and consists of 3,724 square feet on a 3,327 square foot property. The maximum height for buildings in this multi-family zone is 33'. The City's multi-family standards identify a 1,500 square-foot minimum floor area for a three or more bedroom unit and does not define a maximum floor area ratio for multi-family projects. The one unit proposed is less than the allowed density of two units for this multi-family property.

The project does exceed the theoretical maximum floor area otherwise permitted on the site if all required setbacks were met, and there was no habitable dwelling unit floor area on the basement level (consistent with current multi-family standards). If a three story building were built within the required setbacks and with the required modulation for multi-family buildings the maximum floor area would be approximately 2,205 square feet, which is 1,519 square feet smaller than the proposed structure.

**Setbacks**

The project applicant is seeking several variances related to the setbacks on the property. First, the applicant is requesting to reduce the rear yard setback from the required 15 feet to the proposed 5 feet. The reduced rear yard setback would allow the project to be constructed approximately 9 feet from the neighboring single family home to the rear of the subject property. Additionally, the applicant is requesting to allow the extension of the basement lightwell to encroach into this rear yard setback. The proposed lightwell would encroach a total of 3'6" into the provided 5' rear yard setback leaving 1'6" of plantable land adjacent to the neighbor to the rear of the property (see following image). The encroachment of the light well into this area would greatly decrease the ability to provide landscaping to screen views of the proposed three story building from the neighboring property.



Finally, the applicant is requesting that a required parking space be allowed to encroach six feet into the required front yard setback. The request to allow parking in the front yard requires a variance from the requirements for parking in multi-family areas, which must meet the following requirements: 1) located outside the front yard setback, and 2) located in a structure and completely shielded from public view. The proposed location would result in the view of parked cars on the property from the public right of way.

Staff has expressed concerns to the applicant regarding the reduced rear yard setback including the encroachment of the basement lightwell into this area, as it would greatly reduce the ability to shield the property from the neighboring single-family home, and would generally preclude any time of meaningful buffer between the properties. Additionally, the reduced rear yard setback would allow the construction of the building nine feet from the existing neighboring single family home. The proposed building is approximately 19 feet taller than the existing neighboring single family home, and staff has concerns about the neighbors access to light and air as well as concerns related to privacy should the project be approved as presented. Accordingly, staff does not support the requested setback reductions.

**Habitable Basement Area**

Pursuant to BHMC § 10-3-2805, habitable floor area of a dwelling unit is not allowed to be constructed in a level below grade. The applicant is requesting a variance from this development standard, and is proposing a basement level with a total of 1,020 square feet of development. Under certain circumstances it may be appropriate to consider below-grade habitable area given the site's dimensional constraints; however, when



considered in conjunction with the intensity and other variance requests the request for habitable floor area does not appear to result in an appropriate scale of development for the site.

**Reduction in Parking:**

Parking requirements for multi-family projects are outlined in BHMC § 10-3-2816. This project, because of the number of bedrooms included in the unit, requires the provision of three parking spaces on-site. The applicant is requesting a variance in order to provide two parking spaces on-site. If this home were built in a single-family zone in the City it would require three parking spaces. Due to the fact that this project is proposed in a dense multi-family area with limited parking, staff does not support the request for two parking spaces instead of the required three.

**Guest Parking:**

BHMC § 10-3-2817 requires the provision of one guest parking spot for each four units (or fraction thereof) built on a multi-family zoned property. The proposed project would be required to provide one guest parking space; however the applicant is requesting a variance from this requirement. Given that the proposed project is designed to function as a single-family residence, and single-family residences are not typically required to provide dedicated guest parking spaces, it may be appropriate to consider a waiver of this code requirement. However, when considered in conjunction with the overall intensity of the project and numerous variance requests it is difficult to assess the impact of this request as a standalone item since it is integral to the development as a whole. Accordingly, the Planning Commission may wish to discuss whether there are specific scenarios in which this request would be more appropriate.

**Unshielded Parking:**

BHMC § 10-3-2818 requires that parking in multi-family zones is provided within a structure and is completely shielded from public view. The applicant is proposing the provision of two uncovered parking spaces located in the north side yard of the property. These parking spaces would not be shielded from public view and would also be located partially in the front yard setback. The two unshielded parking spaces will also have no setback from the directly adjacent residential property to the north with a six foot tall chain link fence as the only proposed barrier.

Staff has expressed concerns to the applicant about the provision of parking in an unshielded manner, as it is not consistent with the existing zoning regulations and the prevailing pattern of development in multi-family zones in the City. The shielding of parked cars in multi-family neighborhoods can reduce visual clutter in multi-family neighborhoods and also addresses potential noise related issues.

For these reasons, staff does not recommend approval of the variances pertaining to parking location and shielding, and would instead encourage required parking to be provided within a fully enclosed structure.

**Compatibility with Surrounding Properties**

The proposed three-story building would be located at the corner of North Oakhurst Drive and



Third Street facing North Oakhurst Drive. This area is primarily comprised of two- and three-story multi-family buildings. The proposed building is also located along Third Street, adjacent to a one-story single-family home that is fourteen feet in height. While the proposed structure is not necessarily taller than several of the multi-family buildings that are located in the neighborhood, the building is significantly taller than the single family neighbor to the rear of the property (19 feet taller).

Due to the close proximity of the building to the neighboring properties, especially the single family home to the rear of the property, staff has concerns about potential impacts to the neighborhood due to the height of the building in conjunction with the reduced setbacks proposed by the applicant.

### **Streetscape & Urban Design**

The proposed building would replace an empty lot with a three-story 32'2" foot tall modern style building containing one residential unit. The proposed building is not compatible with the existing streetscape, which is comprised primarily of multi-family structures that are two stories in height (there are several that are taller) and tend to exhibit more traditional architectural styles such as Spanish Mission Revival, Georgian and Federal styles. These styles tend to have more classic height to width ratios. The design of the proposed building does not match the relatively consistent streetscape pattern that is a result of the architectural features and ratios of the existing buildings, as it is a relatively narrow, tall building. Additionally, the building is located approximately ten feet from the public right of way on Third Street, and lacks modulation on the elevation facing Third Street which makes the building appear bulky and massive from the sidewalk. Despite these challenges, the by-right height for the subject property is 33', so it is likely that any future development would be proposed at or near the maximum height, with architectural design and detailing being the most appropriate means to address the building's appearance and integration with the streetscape.

### **VariANCES**

In order to approve a request for a variance, the Planning Commission must find that because of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings the strict application of the zoning code would deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zoning classifications.

While the parcel of land is unusual in its size for a multi-family parcel in the City of Beverly Hills, and the granting of several variances may be appropriate under certain circumstances in order to achieve a feasible project, staff does not recommend approval of all of the variances being requested by the applicant due to the adverse impacts they are anticipated to have on the neighborhood and surrounding properties. As discussed above, several of the variances proposed by the applicant could allow for a reasonably sized dwelling unit to be constructed on the site in a way that would be less impactful to neighboring properties and the community character; however, as proposed the cumulative nature of the variances appears to be inconsistent with the goals and policies of the General Plan, as well as the general intent of the applicable Municipal Code provisions.

Based on staff's review, the variances that may be appropriate under certain circumstances



include:

- Waiving the requirement for guest parking
- Allowing a portion of the dwelling unit to occupy a floor below the ground floor level (provided that required parking is contained within the building).

The variances that do not appear to be appropriate at this time include the following:

- Reduction of the required rear yard setback
  - The reduction of the rear yard setback allows the construction of the building nine feet from the existing single family home to the rear of the property. The proposed project (32'2" in height) is more than twice as tall as the existing single family home (14' in height) and would negatively impact the adjacent properties access to light and air. Further, the windows on the rear elevation of the proposed structure would negatively impact the privacy of the single family home located on the property to the rear of the site.
- Extension of the basement light well to encroach into a rear yard setback
  - Allowing extension of the basement lightwell to encroach into the rear yard setback, which is proposed at 5 feet instead of the required 15 feet, would eliminate much of the area that could be planted to shield the proposed project from the neighboring property. The elevation facing the single-family home to the rear of the property would be an unshielded 32'2" building wall with only a chain link fence dividing the properties.
- Allowing two parking spaces instead of the required three
  - The request to provide two parking spaces instead of the required three would allow the proposed project to provide less parking than a similar sized single-family home would in a single-family zone. Because the project is located in a dense multi-family area with limited parking, staff cannot support this variance request.
- Provide parking spaces not enclosed by solid walls and shielded from public view and to Provide the spaces in a required front yard setback
  - The provision of the parking spaces in an unshielded manner can change the character of the neighborhood and create visual clutter.

### **General Plan Consistency**

As designed currently, staff finds the project inconsistent with the following General Plan Policies:

**LU 2.1 City Places: Neighborhoods, Districts, and Corridors.** Maintain and enhance the character, distribution, built form, scale, and aesthetic qualities of the City's distinctive residential neighborhoods, business districts, corridors, and open spaces.

**LU 5.1 Neighborhood Conservation.** Maintain the uses, densities, character, amenities, and quality of the City's residential neighborhoods, recognizing their contribution to the City's identity, economic value, and quality of life.

**LU 6.2 Housing Character and Design.** Require that new, renovated, and additions to housing be located and designed to maintain the distinguishing characteristics and



qualities of the neighborhoods in which they are located, including prevailing lot sizes, building form, scale, massing, relationship to street frontages, architectural design, landscaping, property setbacks, and other comparable elements.

### **CONCLUSION**

The proposed Variances and Development Plan Review would allow development of a three-story residential building that exceeds the overall intensity of development that is otherwise appropriate for the site, and staff does not support a number of the requested variances for the project. Without significant modification to the project as proposed, staff does not believe that the required findings can be made in support of the Variances and Development Plan Review.

### **NEXT STEPS**

It is recommended that the Planning Commission conduct the public hearing and direct staff to return with a resolution denying the variances and development plan review.

Alternatively, the Planning Commission may consider the following actions:

1. Direct staff or applicant as appropriate and continue the hearing to a date (un)certain, consistent with permit processing timelines.

Report Reviewed By:

A handwritten signature in blue ink, appearing to read "Ryan Gohlich", followed by the word "for" in a smaller, cursive script.

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Ryan Gohlich, AICP, Assistant Director of  
Community Development / City Planner



**Attachment A**

**Required Findings**

**Variance**

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

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.

**Development Plan Review**

- A. The proposed plan is consistent with the general plan and any specific plans adopted for the area.
- B. The proposed plan will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area,

For those proposed plans to be located in the C-5 zone that are reviewed by the planning commission, the commission shall consider the factors set forth in section 10-3-2021 of this chapter as part of the commission's determination regarding whether a project will promote harmonious development of the area.

- C. The nature, configuration, location, density, height and manner of operation of any commercial development proposed by the plan will not significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property.
- D. The proposed plan will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards.
- E. The proposed plan will not be detrimental to the public health, safety or general welfare.



**Attachment B**

Project Plans  
(Under Separate Cover)