



Planning Commission Report

Meeting Date: August 11, 2016

Subject: **9171 Third Street
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 9171 West Third Street.

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, 3,609 square foot one-unit building on multi-family zoned property located at 9171 West Third Street. The multi-family property is approximately 2,580 square feet 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

File Date	11/3/2014
Application Complete	4/5/2016
Subdivision Deadline	N/A
CEQA Deadline	60 days from CEQA determination
CEQA Determination	
Permit Streamlining	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)

Report Author and Contact Information:
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Representative(s)	Hamid Gabbay
Prior Project Previews	N/A
Prior PC Action	N/A
Prior Council Action	N/A
CC Ad-Hoc Committee	N/A
CC/PC Liaison	N/A
Other	

PROPERTY AND NEIGHBORHOOD SETTING

Property Information

Address	9171 West Third Street
Assessor's Parcel No.	4342-002-022
Zoning District	R4
General Plan	Multi family
Existing Land Use(s)	Vacant (previously single-family home)
Lot Dimensions	Approximately 45 feet by 57 feet square feet:
Lot Area	Total square footage: 2,580 square feet
Year Built	N/A
Historic Resource	N/A
Protected Trees/Grove	None

Adjacent Zoning and Land Uses

North	R-4 – Multiple Family Residential (two-story multi-family building)
East	R-4 – Multiple Family Residential (one-story single-family building)
South (across West Third Street)	R-4 – Multiple Family Residential (seven-story multi-family buildings)
West (across alley)	R-4 – Multiple Family Residential (two-story multi-family building)

Circulation and Parking

Adjacent Street(s)	Oakhurst Drive, Third Street
Traffic Volume	6464 trips per day on 3 rd street, 2,230 trips per day on Oakhurst
Adjacent Alleys	Two-way, north-south alley at rear (west) of property, 20 feet wide.
Sidewalks	Sidewalk on Third Street: 12.5 feet wide

Neighborhood Character

The project site is located on the northern side of West Third Street between Oakhurst Drive and Palm Drive. 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. The majority of the buildings on Third Street near the subject site are multi-family structures that range in height from two stories to seven stories and tend to be more contemporary in their design. Immediately to the west of the project site on Third Street is a one-story, 14-foot tall single-family residence.



Aerial View of Project Site



Existing Project Site – View of project site from Third Street





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 full basement. The project is located on a lot that measures 2,580 square feet. The total floor area of the proposed building would be 3,609 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 three parking spaces provided on the project site in the rear and street side yard setbacks. 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 east 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.

Development Standard	Required/ Allowed	Proposed (* denotes variance request)
Floor Area	1500 square foot minimum for three or more bedroom unit.	3,609 square feet
Basement	No dwelling unit in a multi-family zone shall have a finished floor level that is more than one foot below grade	982 square feet* (finished floor level that is more than one foot below grade)
Ground Level		895 square feet
Second Level		800 square feet
Third Level		932 square feet
Height	33' maximum	32'2"
Stories	Three	Three
Parking	Four spaces required (including one 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	Three spaces provided No guest parking provided* Not shielded from view or in a structure*
Outdoor living space	200 square feet of usable outdoor living space for each dwelling unit	210 square feet
Front Setback	5 feet	9 feet 4 inches
Rear Setback	15 feet	9 feet 10 inches*
Side Setbacks	Sum = 17 feet Minimum for each = 8 feet	East side = 5 feet* West Side = 10 feet Sum = 15 feet* Proposed light well to encroach into side setback*



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.

Variiances – The applicant is requesting the following variiances to allow the construction of the proposed project:

- Variance from BHMC § 10-3-2805 to build habitable basement area in a multi-family zone
- Variance from BHMC § 10-3-2807 to allow reduction of the required side yard setback
- Variance from BHMC § 10-3-2808 to allow reduction of the required rear yard setback
- Variance from BHMC § 10-3-2810 to allow extension of the basement light well to encroach into a side yard setback
- Variance from BHMC § 10-3-2817 requiring every multiple family residential development to have one guest parking space for every 4 units or fraction thereof
- Variance from BHMC § 10-3-2818 to provide parking spaces not enclosed by solid walls and shielded from public view.



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 Guidelines¹, 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.

ANALYSIS²

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 side yard setback
- Reduction of the required rear yard setback
- Extension of the basement light well to encroach into a side yard setback

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

² 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.



- Waive guest parking requirements
- Provide parking spaces not enclosed by solid walls and shielded from public view

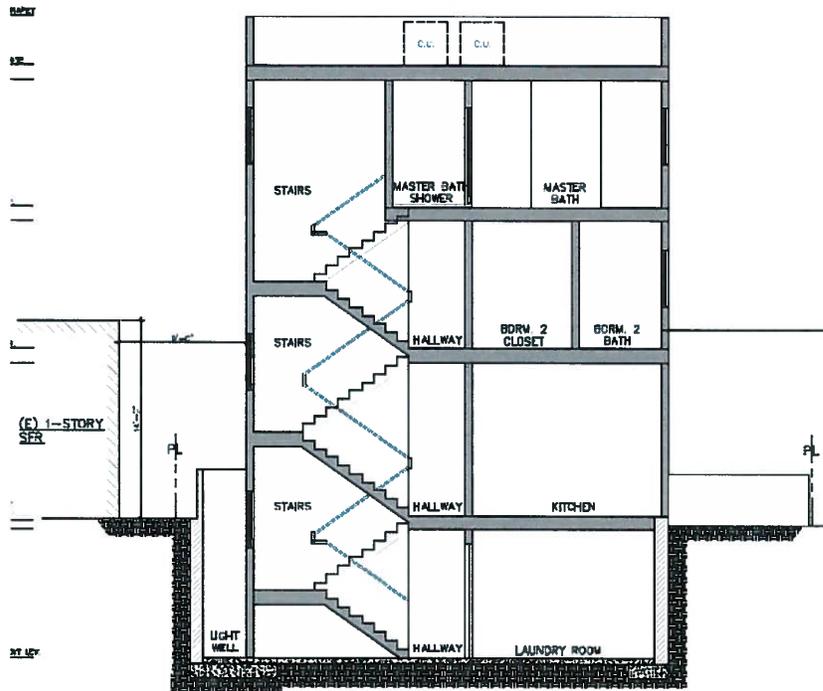
Height and density

The project is 32'2" in height and consists of 3,609 square feet on a 2,580 square foot property. The maximum height for buildings in this multi-family zone is 33 feet. 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 consistent with 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 3,007 square feet, which is 602 square feet smaller than the proposed structure.

Side Setbacks

The project applicant is seeking several variances related to the setbacks on the property. First, the applicant is requesting to reduce two side yard setback requirements. The code requires a minimum 8 foot side setback with a sum of 17 feet for the two side setbacks. The applicant is requesting an east side setback of 5 feet and a sum of 15 feet for the two side setbacks. The reduced east side yard setback would allow the project to be constructed approximately 9 feet from the existing single family home located directly to the east of the subject property. Additionally, the applicant is requesting to allow the extension of the basement lightwell to encroach into the required east side setback. The proposed lightwell would encroach a total of 3'6" into the provided 5' side 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.



Staff has expressed concerns to the applicant regarding the reduced side yard setbacks, including the encroachment of the basement lightwell into the east side setback area, as it would greatly reduce the ability to shield the property from the neighboring single-family home, and would generally preclude any type of meaningful buffer between the properties. Additionally, the reduced side 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.

Rear Setback

The proposed structure is set back from the rear property line a total of 9 feet 10 inches. Pursuant to BHM § 10-3-2808, the required rear setback for this property is 15 feet. The proposed rear setback is proposed to be paved in order to accommodate parking, and would therefore not provide any landscape buffer between the new building and the existing residential building to the north of the property. The existing building to the north of the property does not have landscaping on its southern setback, so approval of the variance will result in paving on both sides of the proposed chain link fence at this property line, with no vegetation. This would impact the garden quality of the City and the quality of the neighborhood. Therefore, staff does not support the rear setback reduction as it is currently proposed.



Habitable Basement Area:

Pursuant to BHMC § 10-3-2805, habitable floor area of a dwelling unit in a multi-family zone 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 932 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.

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 three uncovered parking spaces located in the west side yard and rear yard of the property. These parking spaces would not be shielded from public view. One unshielded parking space will have no setback and no barrier separating the space from the directly-adjacent public alley to the west. Two unshielded parking spaces will 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 support 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 on West Third Street between Palm Drive and Oakhurst Drive. This area is primarily comprised of two- and three- story multi-family buildings; however the block of West Third Street on which the project site is located is



comprised mainly of taller (four- and six- story) multi-family buildings. The proposed building is also adjacent to a one-story single-family home that is 14 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 east 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 east 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 majority of the buildings located near the project site on West Third Street are modern in their design, which matches the style of the proposed building. The neighboring multi-family structures along this block of Third Street are generally four to six stories in height (there are several that are taller). However, multi-family properties in the greater neighborhood in which the project site is located tend to exhibit more traditional architectural styles such as Spanish Mission Revival, Georgian and Federal styles. These styles, as well as the existing modern multi-family buildings, tend to have more classic height to width ratios. The tall and narrow 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 in the neighborhood. Additionally, the building is located approximately nine feet four inches from the public right of way on Third Street. This small street-facing setback will potentially result in the 32'2" tall building appearing larger from the public right of way. 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 (multi-family properties in this neighborhood are generally 7,500 square feet at a minimum), 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 side yard setbacks
 - The reduction of the side yard setbacks, especially the setback on the eastern side yard nearest to the existing single family home, allows the construction of the building nine feet from the single family home next to the property. The proposed project (32'2" in height) is more than twice as tall as the existing single family home (14 feet in height) and would negatively impact the adjacent properties access to light and air.
- Reduction of the required rear yard setback
 - The reduction of the rear yard setback along with the provision of parking in this setback would result in a completely paved rear yard with no opportunity to provide landscaping between this building and the multi-family building to the rear. Further, the windows on the rear elevation of the proposed structure would negatively impact the privacy of the multi-family home located on the property to the rear of the site. This would negatively impact the garden quality of the City and the quality of the neighborhood.
- Extension of the basement light well to encroach into a side yard setback
 - Allowing extension of the basement lightwell to encroach into the side yard setback would eliminate much of the area that could be planted to shield the proposed project from the neighboring property to the east. The elevation facing the single-family home to the east of the property would be an unshielded 32'2" building wall with only a chain link fence dividing the properties.
- Provide parking spaces not enclosed by solid walls and shielded from public view
 - The provision of the parking spaces in an unshielded manner can change the character of the neighborhood and create visual clutter. In addition paving the entire rear setback area for parking will remove any opportunity to provide landscaping in the rear yard to buffer the project site from the existing multi-family structure to the north.

General Plan Consistency

As currently proposed, 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:



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)