

## REPORT TO CITY COUNCIL

**DATE:** MARCH 14, 2007

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** GREG RAMIREZ, CITY MANAGER

**BY:** MIKE KAMINO, DIRECTOR OF PLANNING & COMMUNITY DEVELOPMENT

**SUBJECT:** INTRODUCTION OF ORDINANCE NO. 07-344; AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING SECTION 9708.3 OF THE AGOURA HILLS MUNICIPAL CODE RELATING TO THE RECONSTRUCTION OF NON-CONFORMING DAMAGED BUILDINGS

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The purpose of this item is to conduct a public hearing and to introduce Ordinance No. 07-344, regarding amendments to the Zoning Ordinance relating to reconstruction of damaged nonconforming structures, for first reading.

As background, on October 27, 2004, the City Council adopted Ordinance No. 04-328-U on an urgency basis amending the language of the Zoning Ordinance regarding the reconstruction of damaged non-conforming structures. The urgency ordinance was initiated at the request of the owner of an office building located at 28047 Dorothy Drive that was damaged by fire. That building was considered to be non-conforming as it no longer met certain current zoning standards such as parking, landscaping, and setback. Prior to adoption of the urgency ordinance, buildings that were damaged or partially destroyed by fire, flood, wind, earthquake or other calamity were allowed to be rebuilt to its original footprint and square footage provided that the damage did not exceed 50 percent of the County Assessor's assessed value of the building. If the damage to the building exceeded 50 percent of the assessed value of the building, no repairs or reconstruction would be allowed unless reconstructed to the City's current Zoning Ordinance development standards. The issue with this was that the assessed value of a building was not necessarily comparable with the reconstruction value. In adopting the urgency ordinance in 2004, the City Council found it appropriate to modify the threshold for conformance of damaged building from 50% of the assessed value of the building to 50% of the reconstruction cost of the building. For more information on this issue, please refer to June 2, 2005 Planning Commission staff report (Attachment C).

The urgency ordinance was prepared to address the issue at hand as expeditiously as possible to deal with the immediate threat to public health, safety, and welfare. As part of the review of the urgency ordinance, staff advised Council about refining this ordinance on a non-urgency basis at

a later date. Accordingly, staff has conducted additional analysis and presented those ordinance refinements to the Planning Commission at public hearings held on June 2 and 16, 2005.

The existing Section 9708.3 of the Zoning Ordinance, regarding “reconstruction of damaged buildings” (as adopted under the urgency ordinance) treats all nonconforming structures the same. The currently proposed amendments, as prepared by staff and reviewed by the Planning Commission, would establish the following specific categories of non-conforming structures:

- A. Non-conforming residential structures – A dwelling structure may be reconstructed up to 100% of the pre-damaged size and floor area.
- B. Non-conforming, non-residential structures constructed before December 8, 1982 – These structures may be reconstructed up to 100% of the pre-damaged size and floor area only if the total cost of reconstruction does not exceed 25% of the total reconstruction cost of the building. Non-residential structures would be defined as commercial, industrial, or institutional structures. December 8, 1982 is the date of City incorporation.
- C. Non-conforming, non-residential structures constructed after December 8, 1982 – These structures may be reconstructed up to 100% of the pre-damaged size and floor area only if the total cost of reconstruction does not exceed 50% of the total reconstruction cost of the building.

While all restoration must be started within one year after the date the damage has occurred, the Planning Commission recommended a provision be added which would allow property owners to request an extension of this requirement by showing good cause.

The purpose of establishing different categories is to recognize that the City may wish to have some non-conforming structures that were built prior to the City’s incorporation brought up to Code because of the greater impact to the community including public health and safety. Non-conforming structures built after 1982 would be more in compliance with the City’s current policies and guidelines and thus would not create as great an impact because of their non-conformities. A more detailed discussion of this issue can be found in the June 2, 2005 (Attachment C) Planning Commission staff report.

Additionally, applying the same standards to residential structures may cause undue financial hardship for residential property owners. The proposed ordinance exempts residential structures from the reconstruction cost formula. Most of the homes in a residential neighborhood have been constructed to the same standards and requiring a re-built structure to meet current Code may make the building incompatible with the character and design of the existing neighborhood. The proposed text will allow non-conforming residential structures to be rebuilt in basically the same location, size and height as existed before the damage.

One issue that was discussed by the Planning Commission was whether “market value” should be used as opposed to “reconstruction cost”. The City Attorney advised staff that “reconstruction cost” should be utilized because “market value” will fluctuate with the market.

Correspondence submitted to the Planning Commission regarding the proposed Ordinance is included as Attachment F. Ms. Katherine McMenamain Torres, representing the two self-storage businesses, spoke before the Planning Commission and objected to the proposal to establish to the 25% threshold, as opposed to a 50% threshold, for buildings constructed prior to 1982. The Planning Commission, however, found it appropriate to establish these different thresholds for health and safety reasons.

Another letter addresses the issue of historic buildings in the City. Staff would concur that certain historic structures on Agoura Road near Lewis Road should be exempt from the 25% reconstruction threshold. Staff is proposing to exempt the structures identified in the Old Agoura overlay zone as requiring a Conditional Use Permit to make any modifications or changes. The Ordinance identifies these as the “Amazing Kate’s” building, the “Old Post Office” building, the “Stage Door” building, and the “Agoura Sign.” They will be treated the same as residential structures and will be exempted from the re-construction cost formula.

## **RECOMMENDATION**

The Planning Commission adopted Resolution No. 818 (Attachment B) recommending approval of Ordinance No. 07-344 (Attachment A). It is recommended the City Council conduct a public hearing, introduce, read by title only, and waive further reading of Ordinance No. 07-344.

Attachments:

- A. Ordinance No. 07-344
- B. Planning Commission Resolution No. 818
- C. June 2, 2005 Planning Commission Report w/o Attachments
- D. June 16, 2005 Planning Commission Report w/o Attachments
- E. Planning Commission Meeting Minutes (June 2 and June 16, 2005)
- F. Correspondence