



Attachment B

Planning Commission Resolution No. 818

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RESOLUTION NO. 818

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS
RECOMMENDING THAT THE CITY COUNCIL ADOPT A ZONING ORDINANCE
AMENDMENT RELATING TO THE RECONSTRUCTION OF
DAMAGED NON-CONFORMING STRUCTURES
(CASE NO. 04-ZOA-003)

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS DOES HEREBY
RESOLVE, FIND, DETERMINE, AND ORDER AS FOLLOWS:

WHEREAS, the Planning Commission has considered an amendment to Chapter 7 of Article IX of the Municipal Code relating to the reconstruction of damaged structures (Case No. 04-ZOA-003). A public hearing was duly held on June 2, 2005 and June 16, 2005, at 6:30 p.m. in the Council Chambers of City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid meeting was duly given; and

WHEREAS, on October 27, 2004 the City Council directed staff to propose an amendment to the zoning ordinance as a follow-up to the adoption of Urgency Ordinance 04-328-U; and

WHEREAS, it may not be feasible to repair a building damaged by natural disaster using the assessed value for reconstruction and therefore there could be a threat to the public health, safety and welfare, the City Council desires to establish a reconstruction threshold based on current reconstruction costs rather than assessed value; and

WHEREAS, the proposed Zoning Ordinance Amendment is consistent with the General Plan and conforms with the goals of the Economic Development Element that desire to maintain and enhance the community's existing commercial and industrial economic base; and

WHEREAS, the proposed Zoning Ordinance Amendment complies with the intent and purpose of Chapter 7 of Article IX of the Municipal Code of the City of Agoura Hills to protect the public health, safety and general welfare of the City by declaring certain lots, buildings, uses and land to be nonconforming; and

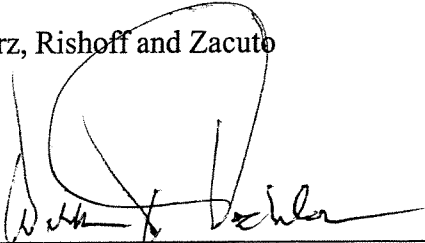
WHEREAS, the Planning Commission has found that the proposed Zoning Ordinance Amendment is exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guidelines Section 15061(b)(3); and

WHEREAS, with the adoption of the draft Zoning Ordinance Amendment, Urgency Ordinance 04-328-U shall be repealed; and


NOW, THEREFORE BE IT RESOLVED that the Planning Commission of the City of Agoura Hills recommends that the City Council adopt the attached Ordinance to amend Chapter 7 of Article IX of the Municipal Code regarding the reconstruction of damaged non-conforming structures and also hereby recommends that the City Council repeal the Urgency Ordinance, 04-328-U, adopted by the City Council on October 27, 2004.

PASSED, APPROVED, and ADOPTED this 16th day of June, 2005, by the following vote to wit:

AYES: Koehler, Ramuno, Schwarz, Rishoff and Zacuto
NOES: None
ABSENT: None
ABSTAIN: None



William D. Koehler, Chairperson

ATTEST:


Mike Kamino, Secretary



Attachment C

June 2, 2005 Planning Commission Report without Attachments

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**DEPARTMENT OF PLANNING AND
COMMUNITY DEVELOPMENT**

ACTION DATE: June 2, 2005

TO: Planning Commission

APPLICANT: City of Agoura Hills

CASE NO.: 04-ZOA-003

LOCATION: Citywide

REQUEST: Request for a recommendation to the City Council to adopt a draft Ordinance amending Zoning Ordinance Section 9708.3 regarding standards for reconstruction of damaged, non-conforming buildings.

ENVIRONMENTAL ANALYSIS: Categorically exempt from CEQA per Section 15061(b)(3) (Review for Exemption).

RECOMMENDATION: Staff recommends that the Planning Commission adopt a motion recommending that the City Council adopt the draft Ordinance amending Section 9708.3 of the Zoning Ordinance as proposed, based on the findings of the attached Resolution.

ZONING DESIGNATION: Citywide

**GENERAL PLAN
DESIGNATION:** Citywide

I. PROJECT DESCRIPTION

The proposed amendments to Section 9708.3 of the Zoning Ordinance establish specific categories of non-conforming structures: non-conforming residential structures, non-conforming non-residential structures constructed prior to 1982 (the date of the City's incorporation), and non-conforming non-residential structures constructed after 1982. Non-residential structures would be defined as commercial, industrial, or institutional structures.

For non-conforming non-residential structures built after 1982, staff proposes to use the same language as the City's Urgency Ordinance No. 04-328-U, which deletes reference to assessed value and instead bases the 50 percent damage threshold on the current cost of reconstructing the building, as determined by the City Building Official. Staff proposes to add a sub-section for non-conforming non-residential structures built prior to 1982 that uses a 25 percent damage threshold on reconstruction value for structures. As provided in the previous Urgency Ordinance, staff is recommending that the Zoning Ordinance be amended to clarify that reconstruction would preclude an increase in the size or area of the building or increase in dwelling units, and that the architectural design be subject to review and approval by the Director of Planning and Community Development.

Lastly, staff proposes as part of the amendment to add a sub-section allowing all non-conforming residential structures that are involuntarily damaged or destroyed be allowed to be reconstructed to what existed prior to the calamity or natural disaster. Hence, residential structures would be exempted from the damage threshold and reconstruction value formula.

The Ordinance would apply Citywide. The Planning Commission would make a recommendation to the City Council regarding the Zoning Ordinance Amendment (ZOA). The Ordinance would be effective 30 days after City Council approval.

II. PROJECT BACKGROUND

On October 27, 2004, the City Council adopted Urgency Ordinance No. 04-328-U (Attachment E) that amended 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 recently damaged by fire. The structure met the zoning standards in place at the time of approval in 1984, which were the City's adopted version of the Los Angeles County Zoning Ordinance. However, the structure did not meet the current development standards, such as parking, setbacks building height and landscaping that were adopted by the City in 1987, which were different from the County's Ordinance.

Under the current Zoning Ordinance standards regarding reconstruction, buildings that are damaged or partially destroyed by fire, flood, wind, earthquake or other calamity are allowed to be restored provided that the damage does not exceed 50 percent of the County Assessor's assessed value of the building. If the damage to the building exceeds 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 concept of applying a reconstruction threshold that is based on an assessed value of the building was taken from the adopted County Zoning Ordinance when the City

incorporated in 1982. The dilemma facing the property owner of 28047 Dorothy Drive, and perhaps several more property owners in the City, was that the assessed value of a building is not necessarily comparable with the current resale or construction valuation. As an example, the owner's assessed valuation of the building on Dorothy Drive was \$602,620. If the damage to the building exceeded \$301,310, the building would have had to be demolished and reconstructed to current Code standards. An appraiser hired by the building's owner appraised the building value at \$2,295,000, which indicated that in some cases the discrepancy between an assessed building valuation and the market rate or current cost of construction would be significant. If the old standard was applied, the owner would have had to reconstruct the entire structure to current Zoning Ordinance standards, as the damage well exceeded half of the assessed value. By using the appraisal value, as opposed to the assessed value, the fire damage of the Dorothy Drive structure was approximately 44 percent of the appraised value.

In adopting the Urgency Ordinance (No. 04-328-U), the City Council found it appropriate to establish a reconstruction threshold based on current reconstruction costs rather than on an assessed building value as was required by the previous Zoning Code. With the adoption of the Urgency Ordinance, the City Council determined that the City's current standards for reconstruction of non-conforming buildings or structures, permitting the non-conforming building or structure to be repaired only if 50 percent or less of the assessed value had been destroyed, can lead to unsafe conditions in the current climate of rapidly rising building costs combined with assessed values that are suppressed due to the result of Proposition 13. Many building owners victimized by fire, flood, earthquake, or other unforeseen disaster may not have been able to rebuild due to the unintended inequity of this rule. In the absence of the immediate effectiveness of the Ordinance, a seriously damaged non-conforming building may have not been repaired, resulting in a threat to the public health, safety and welfare. Due to the foregoing circumstances, and pursuant to Government Code 36937, it was necessary for the preservation of public health, safety and welfare that the Urgency Ordinance take effect immediately. As a result of the City Council's action, the Urgency Ordinance is now in effect and was applied to the property on Dorothy Drive. The Urgency Ordinance currently applies to every non-conforming structure within the City. Upon adoption of the currently proposed ZOA, the Urgency Ordinance would be repealed and replaced.

III. STAFF ANALYSIS

With the adoption of the Urgency Ordinance, and as indicated by the City Council on October 27, 2004, the City desired to establish a reconstruction threshold based on current market rate or current reconstruction costs rather than assessed value of a structure. The currently proposed amendment further clarifies the City's intent and can benefit future applicants that would likely have to reconstruct damaged structures to current Code standards if the provision of assessed value was not amended. Without this amendment, such reconstruction would likely be a hardship for most property owners.

Staff is uncertain whether it was originally the City's desire to use the assessed valuation threshold as a means of potentially achieving upgrades to nonconforming properties, or whether the assessed valuation method was a common means of valuing structures at the time the original Zoning Ordinance was adopted. Staff's survey of the Cities of Calabasas, Malibu, Westlake Village, Thousand Oaks and Camarillo revealed that none of these cities base reconstruction of non-conforming buildings on assessed value. Rather, some of these cities apply a current cost of reconstruction or a current valuation of the building, as determined by staff. Moreover, the City of Thousand Oaks distinguishes between residential and non-residential structures for reconstruction of non-conforming structures.

Although current Code Section 9708.3 allows for non-conforming structures to be reconstructed with certain provisions, the City may also desire to have some of the non-conforming commercial structures become obsolete over time. Any structures built prior to the City's incorporation on December 8, 1982 are considered non-conforming. Many of these structures are non-conforming with regard to parking, setbacks and height. The City did not originally have permit jurisdiction over these structures, and they are not in accordance with the City's goals and policies. It is through time and attrition that these non-conforming buildings are eventually abated and then these sites are redeveloped with buildings that conform to the Ordinance. Thus, these non-conforming structures built prior to the City's incorporation should have a more stringent reconstruction threshold. Therefore, staff recommends that the City adopt a Zoning Ordinance Amendment that would allow for non-conforming structures built prior to December 8, 1982 to be re-built to what was previously constructed only if the damage to the structure is 25 percent or less of the reconstruction value. If there is damage over 25 percent of the reconstruction value, the structure would have to be re-built to current Zoning Ordinance standards. This provision would allow for some older, non-conforming structures to be rebuilt, while still allowing for the City to phase out these structures for newer, conforming structures that meet the City's most recent development standards.

To provide a better understanding of the number of structures that may be affected by this Ordinance Amendment, Attachment D is a map showing the parcels within the City with non-residential zoning, both vacant and developed. If the sites are developed, the map indicates during which time period the structures were built. The structures built prior to 1982 are shown in red, while those built post 1982 are depicted in orange and blue.

Additionally, the City may not want to cause any undue hardship on residential property owners by having over-limiting standards for reconstruction of a non-conforming residential structure when some type of damage has occurred. Residential structures should be exempted from the re-construction value formula, as it may be an unfair burden upon residential property owners and they may not be as financially able to rebuild to newer development standards or to relocate to another area. Furthermore, most residential neighborhoods have been constructed to the same Zoning Ordinance standards, and if a new structure was to be built to the updated Code, it may be

incompatible with the character and design of the neighborhood. Currently, Section 9708.3 of the Code does not differentiate between residential and non-residential structures in the discussion of reconstruction of damaged buildings.

In summary, staff recommends amending Section 9708.3 of the Zoning Ordinance to provide separate requirements for reconstruction of non-conforming residential structures, non-conforming non-residential structures constructed prior to December 8, 1982, and non-conforming non-residential structures constructed after December 8, 1982. The draft Zoning Ordinance Amendment is included as Attachment B.

As part of the amended Zoning Ordinance, any reconstruction would be subject to the approval of the Community Development Director and would still be subject to compliance with Building and Safety Codes. The amendment requires that the reconstruction be commenced within the first year of initial damage and that the reconstruction be diligently pursued to completion. Also, no increase in the size of the structure and the number of dwelling units would be allowed.

III. ENVIRONMENTAL REVIEW

Staff recommends that the Planning Commission find that the proposed changes to the Zoning Ordinance will not result in any significant environmental impacts and that the ZOA is exempt pursuant to Section 153061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines. This Section applies to projects where it can be assessed with certainty that there is no possibility that the activity would have a significant effect on the environment. In this case, the project would not be subject to CEQA. Additionally, it is helpful to note that all buildings and structures that are subject to the Ordinance have already been approved for use and occupancy under standard City procedures (and County procedures prior to City incorporation) for building construction, including discretionary review under the California Environmental Quality Act (CEQA). The proposed ZOA is not expected to have any significant effects on biological resources, cultural resources, or other environmental resources. The CEQA exemption is included as Attachment C.

IV. RECOMMENDATION

Staff recommends that the Planning Commission adopt a motion recommending that the City Council adopt the attached Ordinance amending Section 9708.3 of the Zoning Ordinance to include new standards for reconstruction of damaged non-conforming structures based on the findings of the attached Resolution.

V. ATTACHMENTS

- A. Draft Resolution
- B. Draft Ordinance
- C. CEQA Exemption
- D. Survey of Non-Residential Structures/Lots (map)
- E. Urgency Ordinance City Council Staff Report with Urgency Ordinance, 04-328-U

Case Planner: Allison Cook, Senior Planner



Attachment D

**June 16, 2005 Planning Commission Report
without Attachments**

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MEMORANDUM

DATE: JUNE 16, 2005

TO: PLANNING COMMISSIONERS

FROM: ALLISON COOK, SENIOR PLANNER

SUBJECT: CONTINUED DISCUSSION OF PROPOSED AMENDMENTS TO THE ZONING ORDINANCE FOR RECONSTRUCTION OF DAMAGED NON-CONFORMING BUILDINGS (#04-ZOA-003)

At the June 2, 2005 meeting, the Planning Commission reviewed a request for a recommendation to the City Council to adopt a draft Ordinance amending Zoning Ordinance Section 9708.3 regarding standards for reconstruction of damaged, non-conforming buildings. The Planning Commission received public comment on the item, and then discussed the text of the Ordinance. The Commission requested the following changes to the Ordinance:

- All references to “reconstruction value” are replaced by “reconstruction cost.” (Changes made to Ordinance Section 1: Items B and C).
- Add a provision to allow both residential and non-residential property owners to request an extension of the requirement to begin reconstruction within one year after the damaging event occurred, by showing good cause. Approval of such a request would be at the discretion of the Planning and Community Development Director. Staff proposes that the following sentence be inserted in Section 1: Items A, B and C of the Ordinance before the sentence beginning, “There shall be no increase...”: “An extension beyond the one year commencement requirement may be approved by the Planning and Community Development Director, upon the property owner demonstrating good cause.”

The draft Ordinance has been revised as noted above, and is included as Attachment B. The draft Resolution has also been revised in the first paragraph to reflect the additional date of June 16, 2005 of the Planning Commission public hearing, and is included as Attachment A.

Attachments:

- A. Revised Draft Resolution
- B. Revised Draft Ordinance
- C. Previous Staff Report, dated June 2, 2005 (with all Attachments, except map)
- D. CEQA Exemption

DRAFT RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS
RECOMMENDING THAT THE CITY COUNCIL ADOPT A ZONING ORDINANCE
AMENDMENT RELATING TO THE RECONSTRUCTION OF
DAMAGED NON-CONFORMING STRUCTURES
(CASE NO. 04-ZOA-003)

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS DOES HEREBY
RESOLVE, FIND, DETERMINE, AND ORDER AS FOLLOWS:

WHEREAS, the Planning Commission has considered an amendment to Chapter 7 of Article IX of the Municipal Code relating to the reconstruction of damaged structures (Case No. 04-ZOA-003). A public hearing was duly held on June 2, 2005 and June 16, 2005, at 6:30 p.m. in the Council Chambers of City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid meeting was duly given; and

WHEREAS, on October 27, 2004 the City Council directed staff to propose an amendment to the zoning ordinance as a follow-up to the adoption of Urgency Ordinance 04-328-U; and

WHEREAS, it may not be feasible to repair a building damaged by natural disaster using the assessed value for reconstruction and therefore there could be a threat to the public health, safety and welfare, the City Council desires to establish a reconstruction threshold based on current reconstruction costs rather than assessed value; and

WHEREAS, the proposed Zoning Ordinance Amendment is consistent with the General Plan and conforms with the goals of the Economic Development Element that desire to maintain and enhance the community's existing commercial and industrial economic base; and

WHEREAS, the proposed Zoning Ordinance Amendment complies with the intent and purpose of Chapter 7 of Article IX of the Municipal Code of the City of Agoura Hills to protect the public health, safety and general welfare of the City by declaring certain lots, buildings, uses and land to be nonconforming; and

WHEREAS, the Planning Commission has found that the proposed Zoning Ordinance Amendment is exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guidelines Section 15061(b)(3); and

WHEREAS, with the adoption of the draft Zoning Ordinance Amendment, Urgency Ordinance 04-328-U shall be repealed; and

NOW, THEREFORE BE IT RESOLVED that the Planning Commission of the City of Agoura Hills recommends that the City Council adopt the attached Ordinance to amend Chapter 7 of Article IX of the Municipal Code regarding the reconstruction of damaged non-conforming structures and also hereby recommends that the City Council repeal the Urgency Ordinance, 04-328-U, adopted by the City Council on October 27, 2004.

PASSED, APPROVED, and ADOPTED this ____ day of _____, 2005, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

William D. Koehler, Chairperson

ATTEST:

Mike Kamino, Secretary

DRAFT ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF AGOURA HILLS
AMENDING SECTION 9708.3 OF THE AGOURA HILLS MUNICIPAL
CODE RELATING TO THE RECONSTRUCTION OF
NON-CONFORMING DAMAGED BUILDINGS

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS ORDAINS AS
FOLLOWS:

SECTION 1. Section 9708.3 of the Agoura Hills Municipal Code is amended in
its entirety to read:

“9708.3. Reconstruction of damaged buildings

A. Non-conforming residential structures:

Any non-conforming residential structure that is damaged or partially destroyed by fire, flood, wind, earthquake or other calamity or act of God may be rehabilitated or reconstructed up to one-hundred percent (100%) of the pre-damage size and floor area of the damaged structure provided that such restoration is started within one year after the date the damaging event occurred and is diligently pursued to completion thereafter. An extension beyond the one year commencement requirement may be approved by the Planning and Community Development Director, upon the property owner demonstrating good cause. There shall be no increase in the size or area of the structure or the number of dwelling units, and the acceptability of the architectural design of the structure shall be determined by the Director of Planning and Community Development. Restoration and reconstruction of the structure shall be subject to review and approval by the Director of Planning and Community Development.

B. Non-conforming non-residential structures constructed prior to December 8, 1982:

Any non-conforming non-residential structure for which a final building permit was issued on or prior to December 8, 1982 that is damaged or partially destroyed by fire, flood, wind, earthquake or other calamity or act of God may be restored or reconstructed up to one hundred percent (100%) of the size and area of the damaged structure, and the occupancy or use of such building, structure or part thereof that existed at the time of such damage may be continued, only if the total cost of such reconstruction or repair does not exceed twenty-five percent (25%) of the total reconstruction cost of the building or structure on the date the damaging event occurred, as determined by the Building Official. The restoration shall commence within one year after the date the damaging event occurred and shall be diligently pursued to completion thereafter. An extension beyond the one year commencement

requirement may be approved by the Planning and Community Development Director, upon the property owner demonstrating good cause. There shall be no increase in the size or area of the structure, and the acceptability of the architectural design of the structure shall be determined by the Director of Planning and Community Development. Restoration and reconstruction of the structure shall be subject to review and approval by the Director of Planning and Community Development. In the event the cost to repair or reconstruct the structure exceeds twenty-five percent (25%) of the total reconstruction cost of such building or structure, no repairs or reconstruction shall be made unless every portion of such building or structure is made to conform to all regulations of the zone district in which it is located.

C. Non-conforming non-residential structures constructed after December 8, 1982:

Any non-conforming non-residential structure for which a final building permit was issued after December 8, 1982 that is damaged or partially destroyed by fire, flood, wind, earthquake or other calamity or act of God may be restored or reconstructed up to one hundred percent (100%) of the size and area of the damaged structure, and the occupancy or use of such building, structure or part thereof that existed at the time of such damage may be continued, only if the total cost of such reconstruction or repair does not exceed fifty percent (50%) of the total reconstruction cost of the building or structure on the date the damaging event occurred, as determined by the Building Official. The restoration shall commence within one year after the date the damaging event occurred and shall be diligently pursued to completion. An extension beyond the one year commencement requirement may be approved by the Planning and Community Development Director, upon the property owner demonstrating good cause. There shall be no increase in the size or area of the structure, and the acceptability of the architectural design of the structure shall be determined by the Director of Planning and Community Development. Restoration and reconstruction of the structure shall be subject to review and approval by the Director of Planning and Community Development. In the event the cost to repair or reconstruct the structure exceeds fifty percent (50%) of the total reconstruction cost of such building or structure, no repairs or reconstruction shall be made unless every portion of such building or structure is made to conform to all regulations of the zone district in which it is located.”

SECTION 2. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or applications, and to this end the provisions of this ordinance are declared to be severable. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof even if one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof is declared invalid or unconstitutional.

SECTION 3. The adoption of this ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guidelines Section 15061.

SECTION 4. Ordinance No. 040328U is hereby repealed.

SECTION 5. The City Clerk shall publish and cause notice of this Ordinance to be given according to law.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2005, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ed Corridori, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk



Attachment E

Planning Commission Meeting Minutes June 2, 2005 and June 16, 2005

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**DEPARTMENT OF PLANNING AND COMMUNITY
DEVELOPMENT**

**MINUTES OF THE REGULAR SCHEDULED MEETING OF
THE PLANNING COMMISSION
June 2, 2005**

1. CALL TO ORDER: Chair Koehler called the meeting to order at 6:35 p.m.

2. FLAG SALUTE: Commissioner Rishoff

3. ROLL CALL: Chair Koehler, Vice Chair Ramuno, Commissioners Rishoff, Schwarz, and Zacuto.

Also present were Principal Planner Doug Hooper, Senior Planner, Allison Cook, Associate Planner Valerie Darbouze, Associate Civil Engineer Dan Lazo, and Planning Technician Christopher Aune.

4. APPROVAL OF MINUTES: May 19, 2005 Meeting

ACTION: On a motion by Commissioner Schwarz, seconded by Vice Chair Ramuno, the Planning Commission moved to approve the minutes of the May 19, 2005 Planning Commission meeting. Motion carried 5-0.

5. COMMENTS FROM THE PUBLIC ON ITEMS NOT LISTED ON THE AGENDA: Gale Trumbeaux, 5610 Colodny Drive, commended the Planning Department staff for having "Mad Dog" conduct their temporary annual parking lot event on a day that did not interfere with the Stage Door Theatre hours of operation.

6. CONSENT ITEMS: None

7. NEW PUBLIC HEARINGS:
 - A. APPLICANT: Peter and Lisa Stern

On a motion by Vice Chair Ramuno, seconded by Commissioner Schwarz, the Planning Commission moved to adopt Resolution No. 817, approving Variance Case No. 05-VAR-004, subject to conditions. Motion carried 4-0. (Commissioner Rishoff recused himself due to residing in close proximity to the project site).

- B. APPLICANT: City of Agoura Hills
- CASE NOS.: 04-ZOA-003
- LOCATION: Citywide
- REQUEST: Request for a recommendation to the City Council to adopt a draft Ordinance amending Zoning Ordinance Section 9708.3 regarding standards for reconstruction of damaged, non-conforming buildings.
- ENVIRONMENTAL DETERMINATION: Categorically exempt from CEQA per Section 15061(b) (3).
- RECOMMENDATION: Staff recommended that the Planning Commission adopt a motion recommending that the City Council adopt draft Ordinance amending Section 9708.3 of the Zoning Ordinance as proposed, based on the findings of the draft Resolution.
- PUBLIC HEARING OPENED: Senior Planner, Allison Cook presented the item and answered questions of the Planning Commission.
- Kassie McMenamin-Torres, 3075 East Thousand Oaks Boulevard, Thousand Oaks, representing Agoura Self Storage, requested changes to the draft ordinance.
- PUBLIC HEARING CLOSED: Chair Koehler closed the public hearing.
- RECESS: Chair Koehler called for a recess at 8:30 p.m.
- RECONVINE: Chair Koehler reconvened the meeting at 8:47 p.m.
- ACTION: On a motion by Commissioner Schwarz, seconded by Commissioner Zacuco, the Planning Commission moved to re-open the public hearing. Motion carried 5-0.
- On a motion by Commissioner Schwarz, seconded by Commissioner Rishoff, the Planning Commission moved to continue draft Zoning Ordinance 04-ZOA-003 to the next Planning Commission meeting on June 16, 2005.



**DEPARTMENT OF PLANNING AND COMMUNITY
DEVELOPMENT**

**MINUTES OF THE REGULAR SCHEDULED MEETING OF
THE PLANNING COMMISSION
June 16, 2005**

1. CALL TO ORDER: Chair Koehler called the meeting to order at 6:37 p.m.

2. FLAG SALUTE: Commissioner Schwarz

3. ROLL CALL: Chair Koehler, Vice Chair Ramuno, Commissioners Schwarz, and Zacuto. Commissioner Rishoff was absent at roll call (Commissioner Rishoff arrived a few minutes later).

Also present were Senior Planner Allison Cook, Associate Planner Valerie Darbouze, and Planning Technician Christopher Aune.

4. APPROVAL OF MINUTES: June 2, 2005 Meeting

ACTION: On a motion by Commissioner Schwarz, seconded by Commissioner Zacuto, the Planning Commission moved to approve the minutes of the June 2, 2005 Planning Commission meeting. Motion carried 4-0 (Commissioner Rishoff was absent for this vote).

5. COMMENTS FROM THE PUBLIC ON ITEMS NOT LISTED ON THE AGENDA: None

6. CONSENT ITEMS: None

7. CONTINUED PUBLIC HEARING:

APPLICANT: City of Agoura Hills

5540 Colodny Drive
Agoura Hills, CA 91301

CASE NOS.: 04-SPR-025, 05-OTP-019 & 05-VAR-004

LOCATION: 5544 Colodny Drive
(A.P.N. 2055-009-025)

REQUEST: Request for approval of a Site Plan/Architectural Review to build a 4,105 square-foot, single-story garage, an Oak Tree Permit to encroach in the protected zone of an off-site oak tree, and a Variance from Section 9232.2 to reduce the minimum required front yard from 40 feet to 25 feet and to reduce the minimum required side yards from 16 feet to 12 feet.

ENVIRONMENTAL
DETERMINATION: Exempt from CEQA per section 15303(a)

RECOMMENDATION: Staff recommended the Planning Commission adopt a motion to approve Site Plan/Architectural Review Case No. 04-SPR-025, Oak Tree Permit Case No. 05-OTP-019, and Variance Case No. 05-VAR-004, subject to conditions, based on the findings of the draft Resolutions.

PUBLIC HEARING
OPENED:

Associate Planner, Valerie Darbouze presented the project and answered questions of the Planning Commission.

Peter Stern, project applicant, 5540 Colodny Drive, presented the project and was available to answer questions of the Planning Commission.

Greg Nelson, 19350 Sherman Way, Reseda, spoke in favor of the project.

Larry Brown, 27528 Country Glen, spoke in favor of the project.

Darryl Levine, 5521 Fairview Place, spoke in favor of the project.

PUBLIC HEARING
CLOSED:

Chair Koehler closed the public hearing

ACTION:

On a motion by Vice Chair Ramuno, seconded by Commissioner Schwarz, the Planning Commission moved to adopt Resolution No. 816, approving Site Plan/Architectural Review Case No. 04-SPR-025, and Oak Tree Permit Case No. 05-OTP-019, subject to conditions. Motion carried 4-0. (Commissioner Rishoff recused himself due to residing in close proximity to the project site).

CASE NOS.: 04-ZOA-003

LOCATION: Citywide

REQUEST: Request for a recommendation to the City Council to adopt a draft Ordinance amending Zoning Ordinance Section 9708.3 regarding standards for reconstruction of damaged, non-conforming buildings.

ENVIRONMENTAL DETERMINATION: Categorically exempt from CEQA per Section 15061(b)(3).

RECOMMENDATION: Staff recommended that the Planning Commission adopt a motion recommending that the City Council adopt draft Ordinance amending Section 9708.3 of the Zoning Ordinance as proposed, based on the findings of the draft Resolution.

PUBLIC HEARING OPENED: Senior Planner Allison Cook presented the case and answered questions of the Planning Commission.

Bruce F. Whizin, representing the Whizin Center, expressed concern with the applicability of the ordinance.

PUBLIC HEARING CLOSED: Chair Koehler closed the public hearing.

ACTION: On a motion by Vice Chair Ramuno, seconded by Commissioner Rishoff, the Planning Commission moved to adopt Resolution No. 818, recommending that the City Council adopt the draft Ordinance amending Section 9708.3 of the Zoning Ordinance as proposed, based on the findings of the draft Resolution. Motion carried 5-0.

8. NEW PUBLIC HEARING:

APPLICANT: Riopharm USA, Inc.
17150 Newhope St., #1005
Fountain Valley, CA 92708

Agoura Homes, LLC
P.O. Box 702
Beverly Hills, CA 90213

CASE NOS.: 03-CUP-010; 98-CUP-007; 04-VAR-004 and 98-OTP-011

8. ANNOUNCEMENTS ON ITEMS NOT LISTED ON THE AGENDS:

Commission: Vice Chair Ramuno asked staff to carefully monitor film permits and the potential interference to adjacent business establishments.

Staff: None

9. ADJOURNMENT:

The Planning Commission adjourned at 8:55 p.m. to the next Planning Commission meeting on June 16, 2005 at 6:30 p.m.

LOCATION: South side of Agoura Road, east of Calle Montecillo and west of Liberty Canyon Road (A.P.N. 2061-014-(007-015) (018-020) (023-042); and 2061-015-008)

REQUEST: Request for approval of Conditional Use Permits to allow development on two recorded residential tracts for 28 detached, single-family residences (14 units in each tract); request for approval of a Variance to allow one residence to be located 26 feet from Agoura Road right-of-way, rather than at least 32 feet away; request for an Oak Tree Permit to remove 46 Oak trees and encroach within the protected zone of 19 Oak trees; and a request for adoption of a Mitigated Negative Declaration.

ZONING DESIGNATIONS: RM-CD-FC (Medium Density Residential – Cluster Development Overlay – Freeway Corridor Overlay); and RS-CD-FC (Single-Family Residential – Cluster Development Overlay – Freeway Corridor Overlay)

ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration

RECOMMENDATION: Staff recommended that the Planning Commission continue the public hearing for Case Nos. 03-CUP-010; 98-CUP-007; 04-VAR-004 and 98-OTP-011 to August 4, 2005.

ACTION: On a motion by Commissioner Schwarz, seconded by Commissioner Zacuto, the Planning Commission moved to continue Case Nos. 03-CUP-010; 98-CUP-007; 04-VAR-004 and 98-OTP-011 to the August 4, 2005, Planning Commission meeting. Motion carried 5-0.

9. SITE PLAN/ARCHITECTURAL REVIEW/SIGN PERMIT:

A. APPLICANT: California Neon Products
4530 Mission Gorge Place
San Diego, CA 92120

CASE NOS.: 04-SP-005 & 05-SPR-012

LOCATION: 5050 Kanan Road
(A.P.N. 2061-006-045)

REQUEST: Request for approval of a Sign Permit to allow a sign program amendment and a request for a Site Plan/Architectural Review to allow an exterior remodel of an existing fast service restaurant.

ENVIRONMENTAL

DETERMINATION: Exempt from CEQA per Section 15301 (g)

RECOMMENDATION: Staff recommended the Planning Commission adopt a motion to approve Sign Permit Case No. 04-SP-005 and Site Plan/Architectural Review Case No. 05-SPR-012 subject to Conditions, based on the findings of the draft Resolution.

PUBLIC HEARING OPENED: Associate Planner Valerie Darbouze, presented the project and answered questions of the Planning Commission.

Frank Diaz, representing El Pollo Loco, answered questions of the Planning Commission.

PUBLIC HEARING CLOSED: Chair Koehler closed the public hearing.

ACTION: On a motion by Commissioner Rishoff, seconded by Commissioner Schwarz, the Planning Commission moved to adopt Resolution No. 819, to approve Sign Permit Case No. 04-SP-005 and Site Plan/Architectural Review Case No. 05-SPR-012 subject to Conditions, based on the findings of the draft Resolution. Motion carried 5-0.

9. B. APPLICANT: Signature Signs for Chapter 8
801 Mitchell Road
Newbury Park, CA 91320

CASE NO. 05-SP-021

LOCATION: 29020 Agoura Road
(A.P.N. 2061-031-023 & 024)

REQUEST: Request for approval of a Sign Permit to modify a sign program for an existing shopping center.

ENVIRONMENTAL DETERMINATION: Exempt from CEQA per Section 15311

RECOMMENDATION: Staff recommended the Planning Commission adopt a motion to approve Sign Permit Case No. 05-SP-021, subject to Conditions, based on the findings of the draft Resolution.

PUBLIC HEARING

OPENED: Associate Planner Valerie Darbouze, presented the project and answered questions of the Planning Commission.

Sam Boskovich, representing Signature Signs, answered questions of the Planning Commission.

PUBLIC HEARING
CLOSED:

Chair Koehler closed the public hearing.

ACTION:

On a motion by Vice Chair Ramuno, seconded by Commissioner Schwarz, the Planning Commission moved to adopt Resolution No. 820, to approve Sign Permit Case No. 05-SP-021, subject to Conditions, based on the findings of the draft Resolution.

10. ANNOUNCEMENTS ON ITEMS NOT LISTED ON THE AGENDS:

Commission: Commissioner Schwarz expressed a concern regarding the mansionization of existing homes in the City. Director Mike Kamino replied that this issue could be addressed in the General Plan process, or the Planning Commission could put forth a minute motion to the City council to propose a mansionization Ordinance that would apply beyond the Old Agoura neighborhood.

Commissioner Zacuto informed the public that each household will be receiving the General Plan survey in July. Commissioner Zacuto and staff look forward to receiving feedback from the residents.

Staff: None

11. ADJOURNMENT:

The Planning Commission adjourned at 8:40 p.m. to the next Planning Commission meeting on July 7, 2005 at 6:30 p.m.

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Attachment F

Correspondence

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LAW OFFICE OF
KATHRYN MCMENAMIN-TORRES
3075 EAST THOUSAND OAKS BLVD.
WESTLAKE VILLAGE, CA 91362
TELEPHONE (805) 491-8434

Via fax transmission

June 1, 2005

Chair William Koehler
Members of the Planning Commission
30001 Ladyface Court
Agoura Hills, CA 91301

Regarding: Public Hearing June 2, 2005 Agenda Item 7B

Dear Chairman Koehler and members of Planning Commission

We have only just learned of this proposed Zoning Ordinance Amendment process and while the notice given to property owners is minimal legal notice, we believe that actual notice to individual property owners should be given; particularly since City's Attachment D to the proposed ordinance amendment shows the City has actually identified specific properties who will be impacted by this proposal. I am certain many of these owners are not aware of the amendment process and have no idea how it will impact them. There has not been sufficient time, given the lack of specific notice, for the ownerships to review this matter carefully as should be done.

My major difficulty with the proposal is the idea of discriminating between pre-City incorporation sites and post 1982 sites. A nonconforming building is a nonconforming building-- regardless of when constructed --and using an arbitrary date such as the date of City incorporation is nonsensical unless the object is to punish businesses which pre-existed City incorporation. (Ironically some of these very businesses supported City incorporation.) These businesses had to go through the legal process of obtaining building permits from the County of Los Angeles prior to 1982 and should not be treated differently based upon an arbitrary date assignment.

If the Commission is not inclined to give specific notice to individual owners, we ask that a recommendation be made to Council that the 50% figure be applied to reconstruction of all nonresidential buildings. A tiered approach is not consistent with the rest of the Code nor does it reflect the spirit of the 1989 NCU process.

The City's goal is admirable: to try to obtain redevelopment of older buildings without taking advantage of a major calamity. To completely ignore recent history including regard for owners who voluntarily complied with various City requests (including but not limited to application for Conforming Use Permits in 1989 at considerable expense) sends the wrong message.

Sincerely



K.C. McMenamin-Torres

cc: Senior Planner Allison Cook

Encl: Att D