

DRAFT RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF AGOURA HILLS APPROVING  
VARIANCE NO. 03-VAR-001

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

Section I. An application was duly filed by Glen Benton with respect to the real property located on the 28100 block of Laura La Plante Drive, Assessor's Parcel Number 2061-016-054, requesting the approval of Variance from Zoning Ordinance Section 9243.3.D. to allow a reduced front yard setback, from Section 9652.13..B. to reduce the open space requirement and from Section 9606.2.B. to increase the wall height in the front yard. The request for the Variance was filed in conjunction with an application for a Conditional Use Permit Review (Case No. 03-CUP-001) and an Oak Tree Permit (Case No. 03-OTP-001) for the development of a 3,300 square-foot single-family residence and a 768 square-foot, attached garage on a 11,800 square foot lot. A public hearing was duly held on November 3, 2005 at 6:30 p.m. in the Council Chambers at City Hall, 30001 Ladyface Court, Agoura Hills, California; and that notice of time, date and place and purpose of the aforesaid was duly given.

Section II. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid Public Hearings.

Section III. The Planning Commission finds, pursuant to the Agoura Hills Zoning Ordinance regarding the variance requests described in Section I, that:

1. That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of this article deprives the property of privileges enjoyed by other property owners in the vicinity and under identical zoning classification.
  - A. The RS zone requires a 25-foot front yard setback from the structure to the back of the easement boundary. The requested front yard setback parallels the front property line. In a typical situation, the easement line coincides with the pavement edge. In this case, the street was developed between 11 feet from the south west corner of the parcel and 42 feet from the southeast corner of the parcel away from the right-of-way outlined on recorded tract maps. The alignment of the traveled road and the legal easement alignment do not coincide and thus resulting in an area that remains unusable by the private property owner and the City. The request to place the structure closer to the right-of-way does not impede traffic safety as there is ample space between the roadway and the front yard for egress and ingress. The line-of-sight to the eastbound traffic is preserved. In addition, the distance between the property and the easement provide sufficient parking storage in driveway and parallel to the street and minimize the need to park in the street. The provided length of the

driveway will remain greater than most non-conforming driveways found in Indian Hills.

- B. In addition, since the subdivision predates the City's Zoning Map and the lots along the northern side of Laura La Plante Drive are held under separate ownership, the development can be severely impacted by standards that would otherwise be appropriate on larger combined hillside lots. Most of Indian Hills' neighborhood in-fill projects are challenged by the minimum required open space requirement. The Zoning Ordinance does allow the discretionary review and approval of a residence as long as the four criteria, stated in Section 9652.13.B, are met. The encroachment in the open space zone includes the footprint as well as the disturbed area necessary to provide access to the house and miscellaneous hardscape improvements. The disturbed area along the front of the parcel could be minimized had the easement been aligned with the roadway. The lot coverage, however, is below the prescribed lot coverage for the RS zone.
  - C. The topography requires use of relatively short walls in the front yard which are required for pedestrian safety. Although these walls exceed the height prescribed for a front yard (3.5 feet), they are merely used to provide access all around the structure. These walls will not be visible from the front yard as they are below grade and concealed by mature landscaping if viewed from distance vintage point in the rear of the lot. The highest wall proposed (6 feet high) does not exceed the maximum allowable retaining wall height that can be built outside of the front yard setback area.
2. That the granting of the Variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone.
- A. The neighboring structures on similar sized lots have non-conforming setbacks all around. The additional setback would extend the driveway beyond the 57 foot already proposed. Such a separation between the pavement and the front property line increases the amount of land that cannot be improved upon and is in excess of the minimum space required to maintain roadway safety. The road is a one-way street and is intended to remain as such.
  - B. Although the development encroaches into the minimum open space area required by the Hillside Ordinance, the footprint is in proportion with the lot size. The areas of the lot where most of the disturbance is proposed will occur in the front of the parcel as most residential properties in Indian Hills.
  - C. The walls are proposed to provide adequate pedestrian safety and circulation around the house. Retaining walls used to retain soil for a driveway or walking paths are common in Indian Hills.

3. That the strict interpretation and enforcement of the provisions of the Zoning Ordinance would result in practical difficulty or unnecessary hardship inconsistent with the objectives of the Zoning Ordinance.
  - A. In this particular situation, the southwest corner of the house, where no vehicular access is occurring, would be located 20 feet from the front property line and 22 feet from the side property line. An additional 10 feet of easement exist to the edge of the pavement providing essentially 30 feet of setback to the right-of-way. Furthermore, the proposed residence will be setback an additional 14 feet from the existing residence to the west. The southeast corner of the house where the garage and driveway are proposed, the structure is located about 11 feet from the property line with an additional 40 feet to the edge of the pavement on flat land providing ample storage for vehicles. A 25-foot setback for the entire width of the garage would cause unnecessary hardship to the applicant when visibly the safety impacts and visual impacts have been reduced.
  - B. The lots on the north side of the street are not connected to a hillside and yet the development has to comply with hillside standards. The lots are impacted by the necessary infrastructure requirements i.e. driveway, walkway, retaining walls which cause the calculations of the impacts to the parcel to exceed the 7.5% maximum allowable for a lot with a 31% slope.
  - C. Given the location of the residence, the walls are located in the front yard which dictates a maximum height of 3.5 feet. Had the access been located on the flatter area of the parcel, walls would not be required in the front yard area. Six feet high walls could be permitted beyond the 25-foot setback line.
4. That the granting of the Variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements of the aesthetic value in the vicinity.

The applicant is still able to store vehicles in the driveway and maneuver in and out of the property safely without impacting the one-way traffic. Furthermore, the location of the residence will require less grading and less retaining walls and the preservation of more open space in the rear of the lot. The retaining walls are proposed to preserve the safety of pedestrians both owners and visitors.

5. That the granting of the Variance will be consistent with the character of the surrounding area.

If placed closer to the rear property line, the structure would become more prominent to the residence in the rear. The applicant wants to maintain the oak tree in an attempt to maintain privacy on and off-site. The corner of

the proposed residence remains between 27 feet and 30 feet from the residence to the west which is untypical for a setback in the Indian Hills neighborhood. The proposed design does speak to the effort to preserve the neighbors' privacy despite a reduced open space area. The walls will not be visible to the neighboring structures and merely provide additional safety.

Section IV. Based on the aforementioned findings in Section III the Planning Commission hereby approves Variance Case No.03-VAR-001. This variance is valid only in conjunction with Conditional Use Permit Review Case No. 03-CUP-001 and Oak Tree Permit Case No. 03-OTP-001.

PASSED, APPROVED, and ADOPTED on this 3<sup>rd</sup> day of November, 2005 by the following vote to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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William Koehler, Chairman

ATTEST:

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Doug Hooper, Secretary