



## AGENDA REPORT

**Meeting Date:** September 1, 2015

**Item Number:** E-2

**To:** Honorable Mayor & City Council

**From:** Susan Healy Keene, AICP, Director of Community Development  
Ryan Gohlich, Assistant Director of Community Development – City Planner

**Subject:** AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO ALLOW SYNTHETIC TURF IN RESIDENTIAL FRONT YARDS AND SET STANDARDS FOR SYNTHETIC TURF LOCATED IN STREET SIDE YARDS THAT ARE VISIBLE FROM THE PUBLIC RIGHT OF WAY AND ALL FRONT YARDS

**Attachments:**

1. Ordinance
2. Planning Commission Resolution
3. August 19, 2015 Planning Commission Report

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### RECOMMENDATION

Staff recommends that the City Council move to waive the full reading of the ordinance and that the ordinance entitled "an ordinance of the City of Beverly Hills amending the Beverly Hills Municipal Code to allow synthetic turf in residential front yards and set standards for synthetic turf located in street side yards that are visible from the public right of way and all front yards" be introduced and read by title only.

### INTRODUCTION

The City's zoning code establishes regulations for buildings, properties and uses in the City. Currently, the zoning code does not allow for the use of synthetic turf in residential front yards and does not regulate the use of synthetic turf in residential street-side yards that are visible from the public right of way.

On June 30, 2015, the City Council directed the Planning Commission to prepare an ordinance and regulations to allow synthetic turf in residential front yards. The Planning Commission held a public hearing on the subject on July 23, 2015, August 13, 2015 and August 19, 2015. The Commission voted to recommend criteria to the City Council to be included in any ordinance that allows synthetic turf. This report summarizes the criteria that are recommended from the Planning Commission.

## **BACKGROUND**

Synthetic turf, also referred to as artificial turf or artificial grass, is a man-made groundcover that is meant to resemble sod or grass. Currently the City of Beverly Hills prohibits the use of synthetic turf in residential front yards and the parkway that is in the public right-of-way, but does not restrict its use in areas outside front side or rear yards.

### City Council Discussions

Earlier this year, the state mandated that City of Beverly Hills reduce water consumption and the City Council declared a "Stage D" water conservation event. It has been estimated that landscaping accounts for 65-70% of overall water use, and changes in landscaping can help reduce the amount of water used in the City. The City Council has discussed allowing synthetic turf in residential front yards on several occasions including:

- May 4, 2010,
- November 4, 2014,
- May 18, 2015, and
- June 30, 2015.

During these discussions the City Council considered issues such as aesthetics, water use, impacts to existing trees, maintenance, material quality, health impacts, and alternatives to synthetic turf. At the June 30 meeting, City Council directed staff to work with the Planning Commission to craft an ordinance to allow synthetic turf in residential front yards with appropriate standards and through a permitting process. The Council direction included the following:

- Synthetic turf should not be allowed in the public right of way and/or in the parkway,
- Applicants may only request synthetic turf during a Stage D conservation event, and
- The ordinance should prohibit the installation of synthetic turf near heritage or native trees on private property.

### Design Review Commission Discussion

The Design Review Commission also discussed the use of synthetic turf in front yards during their May 7, 2015 meeting. At this meeting, The Design Review Commission expressed an interest in promoting the use of drought tolerant/native plants in lieu of synthetic turf landscaping. However, if the City Council did allow for synthetic turf, the Commission prefers the use of high quality materials. The Commission also noted that there may be challenges with enforcing the use of high quality synthetic turf products.

### Planning Commission Discussion

The Planning Commission discussed the use of synthetic turf in residential front yards beginning at a public hearing on July 23, 2015. This public hearing was continued to August 13, 2015, for further discussion and consideration. The public hearing was then continued to August 19, 2015 for a final consideration. At this meeting, the Planning Commission voted to recommend criteria to be included in any ordinance allowing the use of synthetic turf in residential front yards. While the Planning Commission was generally not supportive of allowing synthetic turf in residential front yards, the Commission developed the attached draft ordinance for City Council consideration should the Council decide to allow synthetic turf in residential front yards. The attached draft ordinance includes criteria that the Planning Commission felt would address many of the concerns raised related to synthetic turf and ensure that residential synthetic turf installations are of high quality.

Previous Planning Commission (July 23, August 13, and August 19, 2015) and City Council staff reports (June 30, and May 18, 2015) are included in Attachment 3.

### DISCUSSION

The proposed ordinance amends several sections of the Beverly Hills Municipal Code (BHMC) to make it permissible to use synthetic turf in residential front yards and to allow this turf to count toward the required landscaped area. The proposed ordinance also regulates the use of synthetic turf in residential street side yards that are visible from the public right-of-way. Many of the provisions in the ordinance are meant to address the specific direction from the City Council as well as potential issues associated with synthetic turf that have been raised by the City Council, Planning Commission, Design Review Commission, and members of the public including concerns related to:

- Aesthetics and quality of synthetic turf,
- Cleanliness,
- Environmental and human health,
- Installation,
- Maintenance, and
- Impacts to trees.

The following is a summary of changes to existing regulations that are contained in the draft ordinance.

#### *Code changes*

The draft ordinance includes language that amends the following articles in Title 10, Chapter 3:

- Article 24 – Single-Family Residential Standards For The Central Area Of The City
- Article 25 – Single-Family Residential Standards For The Hillside Area Of The City

- Article 26 – Single-Family Residential Standards For Trousdale Estates
- Article 28 – Multiple-Family Residential Development Standards

*Process to obtain approval to install synthetic turf*

The draft ordinance allows applicants to apply to install synthetic turf in a residential front yard only when the City is in a Stage D water conservation event, as declared by the City Council. The City is currently in a Stage D event. Once a Stage D event is over, applicants will no longer be allowed to submit an application for synthetic turf in the front yard, however, those that have already received approval for synthetic turf will not be required to remove the synthetic turf as long as it complies with the regulations in the ordinance and is maintained in an acceptable manner.

During a Stage D event, an applicant will be required to obtain a building permit prior to installing synthetic turf in the front yard of a residential property or within a street side yard visible from the public right-of-way. As part of the application an applicant will be required to provide:

- A sample of the synthetic turf,
- A landscape plan,
- Warranty information for the synthetic turf, and
- Information on the synthetic turf materials, installation instructions, and installer.

*Coverage*

The draft ordinance addresses where synthetic turf may be used in residential areas. As noted earlier in the report, the City does not currently regulate the use of synthetic turf in rear or side yards of properties in residential areas. The draft ordinance prohibits the use of synthetic turf in the public right of way and along the parkway, per City Council direction. The draft ordinance contains provisions that restrict synthetic turf to 60% of the landscaped area of a front yard in order to encourage property owners to supplement the synthetic turf with living landscaping. Further, any synthetic turf installation must include the following:

- an eighteen inch landscaped buffer at the front property line or street-side property line, and
- a 3 foot landscaped buffer between synthetic turf and a single- or multi- family building.

The buffers are meant to ensure that natural plant materials are integrated appropriately into front yards that utilize synthetic turf.

The ordinance also stipulates that synthetic turf may not be installed within the dripline (the circumference below the branches of a tree) of a heritage or native tree, as defined in the Municipal Code. This provision is meant to protect these trees from harm associated with synthetic turf installation and synthetic turf heat retention. Additionally, synthetic turf may not be installed on areas with a slope that is greater than 5% to ensure stability of the slope.

*Synthetic Turf Material*

One objective of the attached draft ordinance is to ensure that high-quality, realistic-looking material is used when synthetic turf is installed. In order to achieve this objective the draft ordinance includes provisions intended to regulate the quality of the synthetic turf such as blade height, color, materials used, seams (where panels of synthetic turf are connected), and infill material (the material that is brushed into the synthetic turf to make it feel more realistic and hold up the blades, such as sand). For example, per the provisions of the draft ordinance synthetic turf must comply with the following provisions:

Provision	Reason
The synthetic turf shall be the type known as cut-pile infill consisting of polyethylene or polypropylene blades. The blades must be between 1 ¾ inches and 2 ¼ inches long	Polyethylene and Polypropylene are generally used in higher quality synthetic turf materials. Nylon blades are not allowed due to issues with degradation from sun exposure. The Planning Commission felt that the blade length outlined would ensure that the synthetic turf looks as realistic as possible.
The synthetic turf must contain infill made of silica sand or zeolite <sup>1</sup> (rubber infill is prohibited)	Rubber infill is prohibited due to concerns related to the toxicity of the material. Sand and zeolite can both be naturally occurring. Zeolite is more absorbent than sand and can be used in synthetic turf to absorb pet odors.
The synthetic turf must contain a “thatch” layer, or a curly lower layer of fiber that holds up the other blades, and replicates the look of real grass	Requiring a thatch layer helps emulate the appearance of real grass.
The synthetic turf must contain at least two blade colors in addition to a tan or beige thatch or micro-layer	Including a provision for a variation in color of the blade and thatch material can help ensure that the synthetic turf is more realistic looking.
The synthetic turf must comply with all federal and state standards related to lead and heavy metal content	This ensures the synthetic turf has been tested and meets the standards related to lead and heavy metal content.
The synthetic turf must include a triple-layer primary backing with a tuft bind strength of ten pounds (tuft bind strength measures how difficult it is to pull the synthetic turf blades from the backing)	A triple-layer primary backing ensures that the synthetic turf fibers will not easily pull out of the backing material, which helps with synthetic turf maintenance and aesthetics.

<sup>1</sup> Zeolite is a term for a material that is a microporous minerals that can be naturally occurring or synthetically manufactured. Zeolite is known to address pet odor issues better than silica sand in synthetic turf installations. Zeolite is used in a variety of ways including in water purification and water softening and cat litter,

<p>The synthetic turf must have a tear grab strength of 200 pounds</p>	<p>The tear grab strength measures the force needed to tear the synthetic turf backing when pulled laterally. This regulation establishes a performance standard to ensure that a higher quality synthetic turf is used.</p>
<p>The synthetic turf must pass the pill burn test for flammability as set forth by the American Standards for Testing and Materials</p>	<p>This standard requires an applicant to show that the synthetic turf material has passed an industry standard for flammability.</p>
<p>The synthetic turf must have a drain rate of at least 30 inches per hour</p>	<p>This performance standard ensures that the synthetic turf material is constructed to allow adequate drainage. 30 inches per hour is more than sufficient to provide drainage for a 100 year flood event in the City of Beverly Hills. This will ensure that there is no added surface runoff from the synthetic turf.</p>
<p>The synthetic turf must have a spacing between tufting rows of at least 3/8<sup>th</sup> inch</p>	<p>The tufting row spacing is the space between each row of tufts of synthetic turf blades. A smaller tufting row distance gives the synthetic turf a more dense appearance, which will more closely resembles grass.</p>
<p>The synthetic turf must have a face weight of at least 60 ounces per square yard</p>	<p>The face weight measures the weight of the synthetic turf blades (in ounces) per square yard of synthetic turf. Lower quality synthetic turf materials generally have a lower face weight (less blade material can make turf look bare). Setting a standard of 60 ounces attempts to ensure that a higher quality synthetic turf is used.</p>
<p>The synthetic turf must have a 15 year warranty from the manufacturer.</p>	<p>A 15 year warranty is generally the longest warranty offered in the industry.</p>

*Installation*

Provisions in the ordinance regarding installation are meant to ensure that when synthetic turf is approved it will be installed by an individual who is trained to install the proposed type of synthetic turf per the specifications of the particular type of synthetic turf. In addition, there are provisions to ensure that the installation of the synthetic turf does not harm existing trees or prevent the percolation of water into the ground. Synthetic turf must be installed over three inches of a compacted aggregate base that provides adequate drainage. Further, all existing irrigation infrastructure that will not be used in the area where synthetic turf will be installed must be capped and/or removed.

*Maintenance*

Under the provisions of the attached draft ordinance, property owners with synthetic turf are required to maintain the turf in an attractive and clean condition and shall not contain holes, tears, stains, discoloration, seam separations, uplifted surfaces, heat degradation or excessive wear. Should synthetic turf exhibit any malfunction or not meet the

maintenance requirements, a property owner would be required to maintain or replace the synthetic turf.

#### *Street Side Yards Visible From the Public Right of Way*

During discussions on synthetic turf, the Planning Commission raised the issue of street side yards (side yards on properties that are located at a corner) that are visible from the public right-of-way. As noted above, the code does not currently regulate landscaping or hardscaping in side yards. Property owners with side yards that are not adjacent to a street, or street side yards that are blocked from public view (by a legal fence or hedge) may install synthetic turf, landscape, or hardscape. Under the provisions of the attached draft ordinance, property owners with street side yards that are visible from the public right-of-way will be subject to the following conditions should they wish to install synthetic turf:

- The synthetic turf material and installation must meet the requirements set forth in the draft ordinance
- There must be a 3 foot landscaped buffer adjacent to the house as well as an eighteen inch landscaped buffer from the side property line.

#### *Pending State Legislation*

There is currently a pending State Assembly bill, AB 1164, that would prohibit a local government from enacting or enforcing an ordinance or regulation that prohibits installation of synthetic turf on residential property. AB 1164, as currently drafted, would allow a city to impose reasonable restrictions on the type of synthetic turf that may be installed on residential properties, provided that the restrictions do not substantially increase the cost of or effectively prohibit the installation of synthetic turf. The bill is proposed as an urgency measure that, if passed and signed by the Governor, would take effect immediately. If AB 1164 is enacted, it would be necessary for staff to assess the City's regulations on synthetic turf to ensure compliance with state regulations. Staff will continue to monitor this legislation.

#### Benefits and Considerations

There are a number of benefits and considerations related to allowing synthetic turf in residential front yards that the City Council may wish to consider.

##### **Benefits**

- Requires less maintenance than natural grass
- Requires less water than natural grass
- Does not require fertilizer or pesticides
- One-time installation costs

##### **Considerations**

- Requires upkeep, will eventually deteriorate or show wear
- Could impact trees due to reduced watering in landscaped areas
- The manufacturing and composition of synthetic turf could increase the community's carbon footprint
- Could increase "urban heat island"
- Must be cleaned
- If low quality materials are used synthetic turf could detract from the garden quality of the City

### Review of Ordinance

Per Planning Commission direction, the draft ordinance includes a provision that requires the Community Development Department to review synthetic turf installations that were permitted pursuant to the ordinance after the ordinance has been in place for two years. The Community Development Department will report to the Planning Commission if there are any ordinance revisions that may be warranted.

### Existing Synthetic Turf Installations

Some unpermitted synthetic turf installations in residential front yards have been reported to code enforcement over the past few months. The City Council has directed that these code enforcement cases be put on hold until such time as a synthetic turf ordinance is adopted, with the understanding that unpermitted installations that do not meet adopted standards would require modification or removal, while unpermitted installations that do meet adopted standards could be legalized through permit issuance and inspection. Staff does not have detailed information on the type or quality of the unpermitted installations; however, a preliminary review suggests that the majority of the unpermitted installations would not meet all of the standards set forth in the proposed ordinance. Synthetic turf installations that do not meet the requirements of an adopted ordinance would need to be removed or modified to meet the adopted regulations.

### GENERAL PLAN CONSISTENCY

The proposed ordinance amendments are consistent with policies in the Conservation Element of the General Plan including "Conservation 2.5 – Water Efficient Landscaping," which calls for the encouragement of drought tolerant landscaping in the City.

### ENVIRONMENTAL ANALYSIS

The amendments included in the draft ordinance have been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The amendments will not have a significant environmental impact and are exempt from CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations because they represent minor alterations in land use limitations and do not result in any changes in land use or density. Further, the residential areas of the City to which the amendments apply have an average slope of not more than 20%.

### FISCAL IMPACT

The costs associated with permitting synthetic turf installations are expected to be covered by the building permit fee that will be collected from applications.

Susan Healy Keene, AICP

Approved By

