



## AGENDA REPORT

**Meeting Date:** September 17, 2007

**Item Number:** E-5

**To:** Honorable Mayor & City Council

**From:** Vincent P. Bertoni, AICP, Director of Community Development  
David Reyes, Senior Planner

**Subject:** AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE MINIMUM FRONT YARD SETBACK FROM 75 FEET TO 65 FEET FOR PROPERTY LOCATED ALONG THE WEST SIDE OF THE 800 BLOCK OF ALPINE DRIVE.

**Attachments:** 1.Draft Ordinance  
2.Planning Commission Resolution No. 1475  
3.Setback Survey

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### **RECOMMENDATION**

It is recommended that the City Council read the ordinance entitled "An Ordinance of the City of Beverly Hills Amending the Minimum Front Yard Setback from 75 feet to 65 feet for Property Located Along the West Side of the 900 Black of Alpine Drive" by title only, waive further reading and introduce the ordinance.

### **INTRODUCTION**

On July 12, 2007, the Planning Commission adopted Resolution No. 1475, recommending that the City Council adopt an uncodified ordinance to amend the minimum required front yard setback from 75 feet to 65 feet for the property located along the west side of the 800 block of Alpine Drive (Attachment A).

### **BACKGROUND**

#### *Variance Request*

On March 28, 2007, the Planning Commission denied a request for a variance to permit a 50 foot front yard setback in lieu of the 75 foot front yard setback

currently required in conjunction with the construction of a new single family residence located at 813 Alpine Drive.

During the course of the public hearing, testimony was presented indicating that the average front yard setback for all of the properties located on the west side of the 800 block of Alpine Drive ("Subject Properties") was 65.95 feet and that the required setback of 75 feet was inconsistent with Code's intent with respect to front yard setbacks. In addition, testimony was presented indicating that none of the homes on the street were in compliance with the 75 foot front yard setback requirement. Therefore, in addition to denying the variance, the Commission directed staff to conduct a thorough investigation into the matter and examine the appropriateness of amending the front yard setback for the Subject Properties. The applicant has filed a timely appeal of the decision to deny the variance which is pending in anticipation of the Council's action regarding this proposed setback amendment.

#### *Setback Amendment*

On May 10, 2007, the Planning Commission conducted a study session to further review the required front yard setback for this block. At the study session, staff presented a survey that indicated that the average front yard setback exhibited by the Subject Properties is 65.95. The survey was prepared by a licensed land surveyor and reviewed for accuracy by Building and Safety staff. Based on a review of previous front yard setback requirements and past practices of the Community Development Department, front yard setback requirements were intended to ensure that new houses would be compatible with the existing streetscape through an appropriate setback from the street. A standard zoning technique utilized by this and many other cities is to take the average setback of existing homes on the block and establish that number as the required setback for new homes. In the instant situation, the required front yard setback of 75 feet is nearly 10 feet greater than the actual average exhibited by the homes. In order to reconcile the setback regulations with the existing built environment, the Commission directed staff to prepare a resolution and draft ordinance amending the setback from 75 feet to 65 feet.

### **DISCUSSION**

#### *Existing Regulations*

The section of the Zoning Code that regulates front yard setbacks was recently changed by ordinance of the City Council. Effective May 10, 2007, BHMC Section 10-3-2404 A states in pertinent part:

*"The front setback for site areas located in the Central Area of the city shall be the setback as established in the records for each site area maintained by the City's Community Development Department..."*

In this case, the established setback for the Subject Properties is 75-feet. Prior to 1995, when the R-1 Single Family standards were revised and reorganized, the Zoning regulations relating to the front setback requirements for all R-1 zoned

properties were based on the average or prevailing front setback of all the houses on a particular block. Subsequently, a block by block field inspection of the Central Area was conducted to determine the average front yard setback of each block. This information was recorded on a map which was referred to in determining the front setback of individual properties. The setback of each block was recorded in a database and not specifically identified in the Municipal Code. The recorded database is now the established record which is referenced by BHMC Section 10-3-2404 A. Adoption of this ordinance therefore, would amend the official setback record, but would not affect any language contained in the BHMC as the ordinance would be uncodified.

### *Prevailing Setbacks*

The owner of 813 Alpine Drive has submitted a Front Setback Exhibit prepared by Iacobellis & Associates, Inc., Professional Land Surveyors (Attachment 3). This exhibit demonstrates that the prevailing or average setback of the Subject Properties is 65.95 feet, nearly 10 feet less than the 75-feet indicated in the established records. In this regard, the 75 foot setback established by the City does not accurately depict the average setback of the Subject Properties. What's more, none of the houses on the block actually conforms to the 75-foot setback requirement.

### *Amending the Established Setback*

The Zoning Code states that the setback may be amended whenever the public necessity, convenience, and general welfare require such amendment. In the instant situation, none of the affected properties conform to the 75 foot setback requirement – instead, the front setbacks range from 62.4-feet to 74-feet. Therefore, the residences are considered to be legally non-conforming with respect to the front yard setback requirement. This means that, although the houses do not comply with the current setback requirement of 75-feet, they were built in accordance with zoning regulations in effect at the time of construction.

Amending the required front yard setback to 65-feet is a matter of public convenience and general welfare in that the amendment would be consistent with Code's intent to ensure that new development does not negatively impact the streetscape and is compatible with the existing residences on the block by requiring the front yard setback to be based on the average of existing houses on the block. As indicated above, staff recommends that the established setbacks be amended using the average or prevailing setback because it is consistent with past practices.

### **PUBLIC NOTICE AND COMMENTS**

Notice of the public hearing was published in the *Beverly Hills Courier* on September 7, 2007 and in the *Beverly Hills Weekly* on September 13, 2007. As of the time of preparation of this staff report, no comments either written or by phone were received.

Meeting Date: September 17, 2007

**FISCAL IMPACT**

It is not anticipated that amending the required front yard setback will have any effect on the City's budget.

Vincent P. Bertoni, AICP   
Director of Community Development

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Approved By

ATTACHMENT 1  
DRAFT ORDINANCE

ORDINANCE NO. 07-O-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
AMENDING THE MINIMUM FRONT YARD SETBACK FROM  
75 FEET TO 65 FEET FOR PROPERTY LOCATED ALONG THE  
WEST SIDE OF THE 800 BLOCK OF ALPINE DRIVE

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY

ORDAINS AS FOLLOWS:

Section 1. Section 10-3-2404 of Article 24 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code states in relevant part that the front setback from site areas located in the Central Area of the city shall be the setback as defined in the City's records for each site which shall be maintained in the records of the City's Community Development Department.

Section 2. Since 1995, the records of the Community Development Department (specifically, a map and a database) indicate that the front yard setback for the west side of the 800 block of Alpine Drive is 75 feet notwithstanding the fact that a survey demonstrates that the average front yard setback is 65.96 feet. The City Council desires to amend the records of the Community Development Department to reflect a front yard setback of 65 feet, which reflects the average or prevailing setback.

Section 3. The records of the Community Development Department that pertain to the minimum front yard setback for the properties located on the west side of the 800 block of Alpine Drive, between Sunset Boulevard and Lomitas Avenue, are hereby amended to read as follows:

“The minimum front yard setback shall be 65 feet.”

Section 4. The City Council hereby directs that this ordinance be maintained as part of the official records of the Community Development Department.

Section 5. CEQA Findings. This proposed ordinance makes minor changes to the City’s zoning regulations establishing minimum front setbacks in a specific area of the City, but does not authorize any changes in land use or density to the affected area. Accordingly, the City Council hereby finds that it can be seen with certainty that there is no possibility the adoption and implementation of this Ordinance may have a significant effect on the environment. The Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act pursuant to Section 15305 (a) of Title 14 of the California Code of Regulations.

Section 6. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code; shall certify to the adoption of this Ordinance and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 7. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31<sup>st</sup>) day after its passage.

Adopted:  
Effective:

\_\_\_\_\_  
JIMMY DELSHAD  
Mayor of the City of Beverly Hills, California

ATTEST:

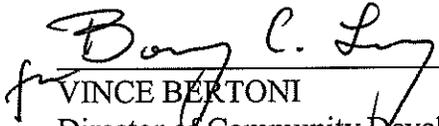
\_\_\_\_\_  
(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
RODERICK J. WOOD  
City Manager

  
\_\_\_\_\_  
VINCE BERTONI  
Director of Community Development

ATTACHMENT 2

PLANNING COMMISSION RESOLUTION NO. 1475

RESOLUTION NO. 1475

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING ADOPTION OF AN UNCODIFIED ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE MINIMUM FRONT YARD SETBACK FROM 75 FEET TO 65 FEET FOR PROPERTY LOCATED ALONG THE WEST SIDE OF THE 800 BLOCK OF ALPINE DRIVE

WHEREAS, the Planning Commission has read and considered the proposed Draft Ordinance, attached hereto as Exhibit A and more fully described herein at Section 2 below; and

WHEREAS, it is found and determined by the Planning Commission that existing front yard setback along the west side of the 800 block of Alpine Drive does not reflect the average setback of the homes currently constructed there; and

Whereas the Planning Commission has found and determined that the proposed Ordinance would establish a front yard setback consistent with the average setback of homes along this side of the block and is required for the public health, safety, and general welfare, and that such amendment is consistent with the general objectives, principles and standards of the General Plan;

NOW, THEREFORE, the Planning Commission of the City of Beverly Hills does resolve as follows:

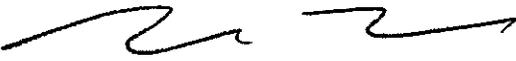
Section 1. The proposed Ordinance makes minor changes to the City's zoning regulations establishing minimum front setbacks in a specific area of the City, but does not authorize any changes in land use or density to the affected area. None of the property in the area subject to the changed front yard setback contains slopes exceeding 20 percent, and no new parcels would be created. The Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act pursuant to Section 15305 (a) of Title 14 of the California

Code of Regulations. Further, the fully developed project area does not contain environmental resources, and there are no evidence of any possibility that the proposed Ordinance would have a significant effect on the environment due to unusual circumstances.

Section 2. The Planning Commission does hereby recommend to the City Council the adoption of the proposed ordinance entitled: "AN UNCODIFIED ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE ESTABLISHED FRONT YARD SETBACK FOR THE WEST SIDE OF THE 800 BLOCK OF ALPINE DRIVE," a copy of which is attached hereto as Exhibit "A".

Section 3. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of this City and a copy of this Resolution be forwarded to the City Council.

Adopted: July 12, 2007



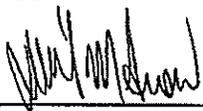
Noah Furie  
Chairman of the Planning Commission of  
the City of Beverly Hills, California

Attest:



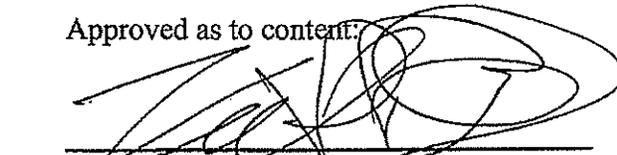
Secretary

Approved as to form:



David M. Snow  
Assistant City Attorney

Approved as to content:



Vincent P. Bertoni, AICP  
Director of Community Development

ATTACHMENT 3  
SETBACK SURVEY