

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date	January 5, 2009
	Agenda Item No. 12 Roll Call No. <u>09-</u> Communication No. <u>09-009</u> Submitted by: Larry Hulse, Community Development Department Director	

AGENDA HEADING:

Set the date of hearing regarding a proposed amendment to the Zoning Ordinance to automatically adjust the required setback and lot area to compensate for a reduction in the setback or lot area resulting from the involuntary acquisition of land for a public purpose (1-26-09).

SYNOPSIS:

This request for a zoning ordinance amendment was initiated by the Real Estate Division of the Engineering Department. The proposed amendment has been reviewed by Regulation and Ordinance subcommittee of the Plan and Zoning Commission. The Plan and Zoning Commission is scheduled to review and make a recommendation regarding this item on January 15, 2009. Staff requests that the date for public hearing be scheduled for January 26, 2009 so that the proposed ordinance can assist with upcoming right-of-way acquisitions.

FISCAL IMPACT:

Amount: Indeterminate.

Funding Source: Varies by project associated with land disposition activities.

ADDITIONAL INFORMATION:

Street widening projects commonly require the acquisition of a portion of the required front yard setback and/or lot area for the existing buildings along the street. Currently a building becomes nonconforming under the Zoning Ordinance if any portion of the required setback or lot area is conveyed to another party. No exception to this rule exists for conveyances to a governmental entity under condemnation or the threat of condemnation.

The Board of Adjustment currently lacks the authority to return any such building to its former conforming status. Any exception or variance granted by the Board of Adjustment to legalize such a building will automatically lapse if the building is thereafter destroyed by any means to an extent of 60 percent or more of its replacement cost at the time of destruction. As a result, the owner of any building which has been made nonconforming by a street widening project is at risk that the building cannot be rebuilt if it is ever destroyed by more than 60% of its replacement cost. This potential future risk is reported to have an immediate impact upon casualty insurance rates and the market value of the property.

The purpose of this amendment is to create an exception to the rule identified above, to allow a conforming building to remain conforming when a portion of the required setback or lot area is acquired

by a governmental entity under condemnation or the threat of condemnation. This is achieved by adjusting the required setback and lot area to compensate for the land that was taken away.

PREVIOUS COUNCIL ACTION(S): NONE

BOARD/COMMISSION ACTION(S):

Date: January 15, 2009

Roll Call Number: N/A

Action: The Plan and Zoning Commission's recommendation will be forwarded to the City Council prior to the January 26, 2009 public hearing.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Hold a public hearing on January 26, 2009 regarding the proposed rezoning and considerations of an ordinance to rezone the subject property as necessary.

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