

Planning Commission Policy

PERMITS FOR OR APPEALS OF MINOR IMPROVEMENTS OR CHANGES TO THE APPROVED/EXISTING LANDSCAPE WITHIN RESIDENTIAL PLANNED DEVELOPMENTS

Subject:

Criteria to be used when reviewing and evaluating permits for, or appeals of, minor improvements or changes to the approved/existing landscape within residential planned developments.

Policy No.:

PC-1-2004

Date of Planning Commission Approval: April 15, 2004

Effective Date of Policy: April 16, 2004

Background and/or Problem Statement:

When homeowners associations apply for improvements or changes to the landscape within a residential planned development there may be disagreements within the association membership regarding the proposed improvements or changes. Sometimes an association board of directors tries to work out a compromise between the different points of view within the membership before it applies to the City for the permits necessary to implement the improvements/changes. Sometimes it appears that the boards do not. When a permit application is received by the Community Development Department for improvements or changes about which there are internal disagreements within an association membership, it is often the case that one or both sides to the disagreements want the City to base its decision regarding the permits on criteria that are not appropriate for the City to consider. This places the City—the Planning Commission and the staff—in the awkward position of being asked to issue or deny a permit for reasons other than what are appropriate for a governmental regulatory body to consider. Moreover, it relieves the association board of directors of responsibilities that are appropriately theirs (not the City's) while leaving the association membership with the impression that the City—not the board of directors or the membership itself, failed to act in the best interests of all concerned.

Purpose of Policy:

1. To establish a policy for reviewing and evaluating permits for, or appeals of, minor improvements or changes to the landscape within a residential planned development that will result in consistent and fair treatment of property owners, residents and homeowners associations boards of directors.
2. To clarify for itself and the membership of homeowners associations in residential planned development projects the type and nature of information that is appropriate for the City to receive and consider when reviewing an application for a permit or when reviewing an appeal of a decision of the Community Development Director for minor landscape improvements and/or changes.

POLICY:

When permits for minor changes to landscape features (EX. removal/addition of landscape materials, especially trees planted on common-area property near dwelling units; replacement/relocation of tot lots or tot lot area equipment; replacement or construction of new fences) within a planned development are brought to the City by duly empowered homeowners associations for approval by the staff or the Planning Commission, the review criteria that will be used to determine whether to approve the request will include but not be limited to the following:

- o The City's assessment of the positive or detrimental impacts to the functionality or appearance of the development, especially as viewed from public rights-of-way.
- o The City's assessment of the positive or detrimental impacts to the design intent of the architect and landscape architect when the development was originally approved.
- o Relevant sections of the City's General Plan, City ordinances, regulations or relevant design guidelines or development prototypes.
- o Potential positive or detrimental impacts to the health, safety, or general welfare of the property owners and residents of the subject development and the public-at-large.

The charge of the Planning Commission and staff is to apply the City's design regulations to permit requests for landscape improvements or changes in planned developments; the City is not a conflict resolution body. Conflicts within homeowners associations regarding the desirability, advisability, cost or cost effectiveness, feasibility or fairness of seeking the requested permit(s) or performing the subject work, should be resolved by the subject homeowners association prior to seeking City approval of the legally required permits. The City will not consider or base its decision on these or similar arguments or conflicts.