

**PLANNING COMMISSION MINUTES OF JULY 13, 2009**

Council Referral of: **Follow-up to Council Study Issue (RTC 09-090): Determine Enforceability of CC&Rs for Violations to City Code and Project Approvals - RZ (Referred from the June 23, 2009 City Council meeting, RTC 09-164.)**

**Trudi Ryan**, Planning Officer, presented the staff report. She said the Council would like the Planning Commission to review this report, primarily the education of Homeowner Associations (HOAs) portion, provide comment, and return the comments back to the Council.

**Comm. Rowe** discussed with staff parking violations, access lanes, examples of parking issues that occur in developments, and the ability of the City to access private property when problems occur. **Rebecca Moon**, Assistant City Attorney, said there would need to be a legal violation for the City police to enter the property to enforce parking problems. **Trudi Ryan**, Planning Officer, commented that staff may not have evaluated the specific situations mentioned by Comm. Rowe and that staff looks primarily at fire lane access in regards to parking. Comm. Rowe asked further about City police coming on to private property and what laws exist regarding this. Comm. Rowe asked about the consequences of violations to the CC&Rs (covenants, conditions, and restrictions), and commented that City should help HOAs with options to solve problems. Comm. Rowe said she is glad to see the City becoming involved in educating the HOAs regarding their CC&Rs. Comm. Rowe discussed HOA enforcement challenges, including grandfathering-in existing HOAs with Ms. Ryan saying that existing HOAs cannot be grandfathered in. Comm. Rowe and staff discussed Project Sentinel as possible mediation assistance noting that it is currently free to homeowners. Comm. Rowe said she would like to see included in the materials that if a lawyer becomes involved with HOA issues that it be a lawyer versed in homeowner related issues. Ms. Ryan said that staff is recommending the creation of a website that HOAs can use as a resource.

**Comm. Klein** commented that he thinks the parking issues are covered by the document, and discussed with staff options for including a condition that parking shall only be allowed in designated parking areas and that short driveways are not considered parking areas.

**Chair Chang** opened the public hearing.

**Jim Griffith**, a Sunnyvale resident, discussed HOAs and that the Conditions of Approval (COAs) are created by the City, however the developer and the management company are often left with the role of explaining what the

conditions mean, which creates problems. He discussed a parking problem he had with his own HOA and said that developers tend to interpret the conditions, which often ends up with the intent of the City not being met. He said by adding in a requirement of the City to meet with the HOA two years down the road, the City can properly provide the intent of the COAs and help direct the HOA to existing resources. Mr. Griffith said he felt it was important to understand some of the background on the CC&R Study Issue.

**Chair Chang closed the public hearing.**

**Comm. Rowe** discussed with staff concerns about street parking, parking in the interior of developments, and the consideration taken for the larger developments that have more interior parking and are not able to park on the street. Ms. Ryan said that the City's goal is that the on-site parking be sufficient for a development and that street parking spaces would not be counted towards the spaces required for a development. Comm. Rowe said she would like to see some additional thought put into larger developments that have no street parking. Ms. Ryan discussed examples with larger developments. Comm. Rowe discussed with staff the City's position on renting or selling parking spaces. Comm. Rowe discussed with staff about residents parking vehicles like mopeds, boats or other non-cars in their garages and then parking their cars on the street. Ms. Ryan said that some people's primary vehicle is a motorcycle or moped so it would be hard to exclude residents from parking a motorcycle or moped in the garage. Comm. Rowe said she thinks the proposed education program will be a big help.

**Comm. McKenna** said that since this item is not an item to be voted on that she wants to express her support of items 1.a, 1.b, and 2 on page 1 of the RTC 09-164. She said she thinks these items will be wonderful additions to the other recommendations previously discussed.

**Ms. Ryan** said the information considered this evening would be discussed with the City Manager and the minutes of the discussion tonight would be provided to the City Council. She said the City Council date for consideration of this item is to be determined, and that staff will advise the Planning Commission when a date is scheduled.

**ACTION: Planning Commission provided comments on the report. Trudi Ryan, Planning Officer, said that the discussion and recommendations noted from this evening would be forwarded to City Council and that the Planning Commission would be advised of the date the Council would be considering this item.**