

**PLANNING COMMISSION MINUTES OF APRIL 12, 2010**

**2009-0710: Water-Efficient Landscape Ordinance** – Amendment to Municipal Code Title 19 (Zoning) to comply with State law (Water Conservation in Landscaping Act of 2006, AB 1881). RZ (***Continued from March 22, 2010.***)

**Rosemarie Zulueta**, Assistant Planner, presented the staff report. She said she received a call prior to this meeting from Comm. Sulser and provided clarification regarding the ordinance and confirmed that all landscaped area on a property could be considered a “special landscaped area” as long as it meets the definition. She introduced **Jim Craig**, Superintendent of Field Services, Department of Public Works for the City Sunnyvale, and said he is on the technical advisory committee for BAWSCA (Bay Area Water Supply Conservation Agency) and is the City’s representative to the retailers committee of the Santa Clara Valley Water District (SCVWD). She said he is available to answer questions.

**Comm. Klein** discussed with staff the enforceability of the ordinance. **Trudi Ryan**, Planning Officer, said that administratively the enforceability has not been worked out, however part of the requirements would be to educate the public of the changing code and that the Public Works’ staff is already working on outreach efforts. Comm. Klein discussed the ordinance in Attachment A and asked where certain items eliminated from the prior ordinance went, commenting that this ordinance only focuses on development. Ms. Ryan said staff moved away from the prescriptive statements to more generalized performance-based statements. Comm. Klein discussed with staff cemeteries and school grounds and how they are handled in the code with Ms. Ryan saying there are no cemeteries in Sunnyvale and the parks and school grounds would be covered under the special use areas. Comm. Klein asked about the public education of the complex formulas mandated by the State. Ms. Zulueta said that educational materials would be provided to the public with future application packets including samples and links to resources, adding that Sunnyvale and many other local agencies have already begun preparing educational materials. Comm. Klein discussed with staff reclaimed water and requiring dual piping for new developments, saying that he thinks dual piping would be a good step in preparation for the use of reclaimed water in landscaping when it is added to other parts of the City. Ms. Ryan said requiring dual piping for landscaping in this ordinance would be a big shift in policy for the City and that there are other titles in the Code that cover Public Utilities, with the Zoning Code applying more to private property.

**Comm. Hungerford** referred to Attachment A, and discussed the 2500 square feet of landscape triggering the ordinance requirements. Staff provided examples of how much 2500 square feet of landscaping is and what types of developments would be required to meet the regulations. Comm. Hungerford referred to page 8 of Attachment A and discussed with staff the table in the ordinance regarding “Minimum

Landscaped Area and Useable Open Space". Comm. Hungerford referred to page 11 in Attachment A regarding water features and the use of recycled water expressing concern about the safety of the water and children that might play in it. **Jim Craig** said that the quality of the recycled water in Sunnyvale is classified as "tertiary disinfected" recycled water and is approved for all purposes including skin contact and use for the watering of edible plants. Mr. Craig said the recycled water is very high quality and approved for the purpose of water features. Comm. Hungerford discussed with staff the parking lot landscaping design requirements in regards to solar energy systems and parking. Comm. Hungerford discussed the size of private balconies, how the size applies to useable open space and variations in the code with staff explaining that there is a different standard downtown for the balcony size requirements that does not apply to the rest of the City.

**Comm. McKenna** confirmed with staff that this ordinance would not apply to existing single-family homes in their current condition, even if remodeled. Comm. McKenna referred to page 8 of Attachment A, (f)(2) and said that limiting paved areas seems to present a mixed message about what we value. Ms. Ryan said most of the communities in the area are focusing the majority of their water conservation effort requirements on multi-family and non-residential development. Ms. Ryan reiterated that there would be public outreach and that water conservation would be encouraged. Ms. Ryan further discussed that environmentally the City would encourage less paving and more pervious surfaces. Comm. McKenna commented that she has always thought that when a person submits plans for a remodel that a landscape plan should be part of the submission, not requiring that the landscape plan be followed through within any specific period of time, but to allow staff to review the plan to see if it consistent with this type of guideline. Comm. McKenna said if the City is going to have an impact on the community that the time to do that is when people desire to do new construction. Ms. Ryan commented that when someone is remodeling their home, doing a little more to comply with green building requirements will award the applicant with more green building points. Ms. Ryan said that staff provides a pre-design list to applicants that encourages the consideration of green building efforts.

#### **Chair Chang opened the public hearing.**

**Bret Flesner**, a Sunnyvale resident, said he thinks this ordinance is problematic and is creating another statute or code. He said he does not know if the State requirements would allow the City to have a voluntary situation rather than an ordinance. He said he would like the requirements to be voluntary and that incentives be provided possibly reducing the rate on water bills. He said if the State would allow

it, he would like to see this information rewritten and the requirements be voluntary and not a mandate.

**Comm. Klein** asked staff to comment regarding non compliance to State requirements regarding the water conserving standards. Ms. Ryan said that the State requires the City to adopt water conservation regulations for landscaping and if the City does not adopt regulations then the State regulations come into effect. Ms Ryan noted that there is not a specific mandate to include single-family homes, but that overall the ordinance needs to be effective in meeting water conservation goals. Ms. Ryan said staff has talked with colleagues in the region, that the proposed standards are similar to our colleagues standards, and that the City must demonstrate to the State that we make the goals in the statute.

**Kathryn Berry**, Senior Assistant City Attorney, added that if the City does not adopt an ordinance then the model ordinance from the State applies. She said the State ordinance is intended to cover the whole State, and the BAWSCA ordinance is tailored to the San Francisco Bay Area communities.

**Chair Chang closed the public hearing.**

**Comm. Klein moved for alternative 2, to recommend to City Council to introduce the proposed ordinance with modifications. He said the modifications are to be included in the ordinance or related supplemental documentation. He said the modifications are: to add the tree installation details to the tree permitting process; to request that staff look at adding to the ordinance the requirement for dual piping for future reclaimed water hook-ups. Vice Chair Travis seconded the motion.**

**Comm. McKenna offered a friendly amendment that it be noted that water conservation be a component of the overall sustainability effort for residences and she would suggest that the information be included in the introduction of the ordinance, possibly in the description.** Comm. Klein further discussed with Comm. McKenna that this additional information could possibly be included in the single-family application materials. **The maker and the seconder agreed to recommend that staff look at adding additional water conservation language.**

**Comm. Hungerford** discussed with Comm. Klein and staff the dual piping issue. **Comm. Klein clarified that the motion would only be for dual piping for new non-residential irrigation.** He said it is likely in the future Sunnyvale will have reclaimed water available throughout the City and by providing the infrastructure today when the reclaimed water becomes available the piping would be in place. Comm. Hungerford clarified that the **dual plumbing would need to go out to the**

**property line. Ms. Ryan clarified that the motion applies to irrigation water and that the Commission would like staff to look at the dual piping issue before the ordinance is sent to Council. Comm. Klein said yes.**

**Comm. McKenna suggested that her modification be included under section 19.37.040 (f) (1). This suggestion was acceptable to the maker and the seconder.**

**Comm. Klein** said that this is a very important ordinance. He said he thinks water conservation moving forward is going to become more important. He said there are letters from the public concerned about how this ordinance would affect them and their existing homes, however this ordinance will not affect existing homes and will only apply to new development. He said there is still the question about enforceability of the ordinance in the long run. He said this is implementation by the local community dictated by the State, and our goal is to meet the State goal and make it as effective in the community as possible. He said he is glad to see that staff is already looking at public outreach and overall the ordinance looks good, and is focusing on the water portion of the ordinance. He said this is a good step toward better conservation of water.

**Vice Chair Travis** said that it is good that the City is starting to talk about water conservation. He said he likes the idea of requiring the dual piping and this ordinance is a step in the right direction.

**ACTION: Comm. Klein made a motion on 2009-0710 to recommend to City Council to introduce the proposed ordinance in Attachment A with modifications: to add tree installation details to the tree permitting process; to request that staff look at adding the requirement of dual piping for landscaping water for future reclaimed water hook ups for new non-residential development: to add language to the ordinance that water be a component of the overall sustainability efforts for residences. Vice Chair Travis seconded. Motion carried 6-0, with Comm. Rowe absent.**

**APPEAL OPTIONS: This recommendation will be forwarded on to City Council and is scheduled to be considered at the April 27, 2010 City Council meeting.**