

COMMENTS ON LANDSCAPE ORDINANCE

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Set forth herein are comments on the proposed "Water Efficient Landscape Ordinance". They are based on a fairly detailed review. I would like to have discussed my concerns in detail with appropriate City staff and clarified some of my questions, but unfortunately time constraints and availability of City staff rendered this impracticable.

My focus is primarily on the effects on single family residences.

I recognize that your latitude in framing this ordinance is constrained by State mandates and by the model ordinance prepared by the State. Unfortunately, the State's model ordinance is flawed. It is convoluted, disjointed, ambiguous, internally inconsistent and lacking in adequate definition of the terms used. The model ordinance is in dire need of serious editing.

I recommend most strongly that you not adopt this ordinance until revisions have been made. I further recommend that after the ordinance is in its final form, it be made available for review by the public and that a public hearing before the City Council be held.

The balance of this document discusses in detail some of the more important of my concerns.

2,500 vs. 5,000 square feet

Items 1, 2 and 3 on page 3 of the ordinance set forth the amount of landscape area necessary to fall under the dictates of the ordinance. For a single-family or two-family residence, Item 2 sets the trigger area at 2,500 square feet, while Item 3 specifies the area as 5,000 square feet. Which is correct?

Building permit requirement

The next to last paragraph on page 2 of the March 15, 2010 Agenda report on this ordinance indicates that landscape projects by themselves (without any building permit being required) do not fall under the ordinance. But Item BB on page 8 of the ordinance includes "new landscape...without an associated building" as "new construction"..There is obviously a conflict.

Re-landscaping as separate project from building project

The ordinance seems silent on the question what happens if a building modification requiring a permit is undertaken, and a separate re-landscaping

project is undertaken either before or after the building project

Extent of "landscape area"

Page 7 of the ordinance defines the term "landscaped area" (Item U) as used in the ordinance as the irrigated area subject to the "maximum applied water analysis calculation" defined in Item Z on page 8. Item Z is cross-referenced to Section 13.22.040 D. But I find nothing in said section (beginning on page 13) which enables one to define the boundaries of the "landscape area". Item LL on page 10 makes reference to a "modified landscape area" (undefined) 50 percent of the "total landscape area" (also undefined). So obviously it is intended that the landscape area covered by the ordinance be less than the total landscape area.

A related concern is the question of what re-landscaping is required as an accompaniment to modifications to existing structures. The ordinance appears to be completely silent on this question. I find nothing which would prevent an interpretation that pulling a building permit for roof replacement would trigger a requirement for complete re-landscaping of the property on which the building stands.

City review and approval or denial

Page 11 calls for City review and approval or denial of the "landscape documentation package" for the project. I fail to find any definition of the specific criteria on which such approval or denial will be based. Does it include any criteria other than the specific mandatory requirements of the ordinance? What about those elements which are identified as being "recommended" or "discouraged"?

Maximum applied water allowance

Under the terms of the ordinance, the allowable average evapotranspiration (consumptive use) rate for irrigation water applied to a "landscaped area" is limited to 50 percent of the total evapotranspiration for a specified grass field (which is a fairly heavy water user). For Pasadena the current value for that base figure (referred to as "reference evapotranspiration") is 52.3 inches per year.

I would assume that a consideration in the selection of the 50 percent figure is the recognition that a portion of the evapo-transpiration needs of the irrigated area is met from rainfall. The allowable amount of applied water is then computed as being sufficient to permit irrigation at a 71 percent irrigation efficiency. The net result is that the maximum applied water allowance is 70 percent of the evapotranspiration rate for the aforementioned grass field.

There are a couple of conceptual problems with the foregoing approach. It would

appear obvious that the proportion of the evapotranspiration needs meet by rainfall is not the same in all areas. A value which might properly apply to Humboldt County is not going to be applicable to Imperial County. The second problem is that the proportion of consumptive use met from rainfall is not going to be the same in wet years as it is in dry years. I find nothing in the ordinance which recognizes these phenomena.

The validity of the method of calculation "maximum applied water allowance is highly suspect.

Modification of existing landscapes

It is stated to be the intent that the ordinance not apply to modification of existing landscapes less than one acre in area where no new structural modifications are involved. As discussed previously in this document, there are some questions about whether the ordinance language actually accomplishes this. Assuming for the moment that it does, it raises the question as to what latitude the property owner has to modify the landscaping falling under the purview of the ordinance subsequent to the time that a certificate of completion is issued by the City.

Costs

The March 15, 2010 Agenda report on the ordinance clearly indicates the staff view that the effect of the ordinance will be small. It will also be costly. The March 15 Agenda report estimates that just the City's fees could be in the \$1,000 to \$2,000 range. To this must be added the necessary costs of professional reports by landscape architects, soils scientists, and irrigation auditors and designers. And the direct costs of re-landscaping and high-tech irrigation systems. Another cost is that associated with providing a separate meter for irrigation water.

The March 15 Agenda report, together with the Agenda report for the May 24 Council meeting, just sort of brush aside the cost considerations, on the basis that any City costs will be recovered by fees from the property owner. But the fact that the costs are borne by property owners does not mean that they are not real money. I think I can safely say that the current mood of the nation is not one that looks with great favor on being saddled with additional costs imposed by government fiat.

You owe it to your customers to provide an estimate of the costs which will be imposed on them by this ordinance. It ought to be expressed in terms of the annual costs, in dollars, of annual amortization of capital outlay and on ongoing operation and maintenance costs, and in terms of the costs per acre foot of water savings (as measured by reduction in consumptive use plus irrecoverable losses). I would not be surprised to find the cost for the water saved to be in the

thousands of dollars per acre-foot.

Miscellaneous

There are many other areas of the ordinance which need attention. In the interests of brevity I will not try to list them here. Should you so desire, i would be willing to sit down with appropriate members of your staff to go over them in detail.

Thank you for your consideration.

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