

DATE ISSUED: May 3, 2007 **REPORT NO. PC-07-066**

ATTENTION: **Planning Commission, Agenda of May 10, 2007**

SUBJECT: ALDERHILL TERRACE FENCE - PROJECT NO. 90731.
PROCESS 2 - APPEAL

**OWNER/
APPLICANT:** Scripps Ranch Villages Master Association, Owner (Attachment 13)
Daniel Otto, Applicant

SUMMARY

Issue(s): Should the Planning Commission approve or deny an appeal of the Development Services Department's decision to deny a Neighborhood Development Permit (NDP) for an existing 5-foot high wrought iron fence within an open space easement located at 11779, 11793, 11801, 11815, 11823, and 11831 Alderhill Terrace in the Miramar Ranch North Community Plan area?

Staff Recommendation: Deny the appeal and Deny Neighborhood Development Permit No. 391890.

Community Planning Group Recommendation: On May 2, 2006 the Miramar Ranch North Planning Committee voted 9:0:0 to recommend approval of the project with no conditions (Attachment 12).

Environmental Review: This project is exempt from environmental review pursuant to Article 19, Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA) Guidelines.

Fiscal Impact Statement: All costs associated with the processing of this project are recovered by a deposit account maintained by the applicant.

Code Enforcement Impact: On December 1, 2004 the City issued Notice of Violations (Attachment 11) to the property owners of 11779, 11793, 11801, 11815, 11823, and 11831 Alderhill Terrace for illegal grading within an open space easement on the subject

and adjacent private property, and residential fencing erected within the open space easement area.

Housing Impact Statement:

The request for a Neighborhood Development Permit to allow an existing 5-foot high wrought iron fence within an open space easement would have no impact on housing.

BACKGROUND

The residential property owners at 11779, 11793, 11801, 11815, 11823, and 11831 Alderhill Terrace in the Miramar Ranch North Community Plan area (Attachment 2) have each constructed a 5-foot high wrought iron fence extending on to the southerly abutting private property. The abutting 4.253-acre property, Lot C of the Scripps Ranch North Unit No. 9 Subdivision, is owned by the Scripps Ranch Villages Master Association and is a designated Open Space easement. The residential property owners erected the fence without the approval from the City of San Diego as required pursuant to Map No. 13131 (Attachment 10).

The subject residential lots on Alderhill Terrace and the south abutting Lot C are identified in the Miramar Ranch North Community Plan as low density residential, 3-6 dwelling units/net acre, and the properties are zoned RS-1-13. Each residential lot contains a Brush Management Zone 1 easement on the southern portion of the properties.

On December 1, 2004, the City of San Diego's Neighborhood Code Compliance Department issued Notice of Violations to the six residential property owners along Alderhill Terrace for illegal grading within an open space easement on the subject and adjacent private property, and residential fencing erected within the open space easement area. Subsequent to receiving the Notice of Violation, the residential property owners, on behalf of the Scripps Ranch Villages Master Association, filed an application for a Neighborhood Development Permit (NDP) for the construction of a privately owned structure fencing in the open space area.

On October 19, 2006, the Development Services Department was not able to make the necessary findings to support the NDP application and therefore, the NDP was denied.

DISCUSSION

Project Description:

The 5-foot high, open wrought iron fencing extends 15 feet beyond the rear property line of the applicants' lot. The average rear lot width is 48 feet and the extension would provide approximately 720 square feet of additional yard area for each of the lots. The Scripps Ranch North Unit No. 9 Subdivision's Lot C was created as part of the residential development for Brush Management Zone 2 purposes. The requested NDP application, if approved, would allow the fencing to remain within the City's open space easement.

The existing Scripps Ranch North Phase 2 development, which includes the Scripps Ranch North

Unit No. 9 subdivision, was approved by City Council in April 1991 through issuance of Planned Residential Development (PRD) and Hillside Review (HR) Permit No. 89-0550 (Attachment 9). All conditions for the PRD/HR Permit No. 89-0550 are applicable to this fencing activity. Specific conditions of approval and Unit No. 9, Map No. 13131 include references to establishment of a “non-building area” in brush management areas and maintaining those areas as open space. Map No. 13131 specifically indicates the relinquishment of any and all rights to erect or maintain fences, or otherwise change the open space character of the land, unless approved by the City, over, upon or across Lot C, shown on the Map as designated Open Space Easement.

City staff has considered the project with reference to the Land Development Code (LDC), adopted Community Plan, Planned Residential Permit (PRD) No. 89-0550, and Final Map No. 13131. The LDC requirements under findings to be made for a Neighborhood Development Permit (NDP), Section 126.0404(a), is that the proposed development will not adversely affect the applicable land use plan (identified in the community plan).

The Land Development Code section 142.0412(h)(2), Brush Management, states, “No structures shall be constructed in Zone Two.” Pursuant to the LDC, the definition of a ‘Structure’ is, “... an edifice or building of any kind or any construction built up or composed of parts joined together in some definite manner including a wall, fence, pier, post, sign, or shelter.” In addition, staff has noted that information provided by the applicant indicates the area has been denuded of vegetation. Brush Management Zone 2 areas are not allowed to be denuded of vegetation. The Zone 2 area, as shown on the subdivision’s approved Landscape Planting Plans, D-Sheet No. 26245-39-D for subject lots, consisted of “thinned native vegetation” consistent with Brush Management Zone 2 requirements. The fenced areas are now either ornamental or bare dirt.

Community Plan Analysis:

The location of the existing fence is designated Open Space by the Miramar Ranch North Community Plan (MRNCP). The Sensitive Lands/Open Space Element of the MRNCP lists two goals: Goal 1, encourage the careful management of community environmental resources through preservation of a passive open space network and support of environmentally sensitive development; and Goal 2, provide broad areas of natural open space with linkages to one another and with adequate buffers to active use areas. The objective of the MRNCP’s Sensitive Lands and Open Space Protection, Section 12.1, is to encourage the preservation of significant environmental resources and minimize impacts on environmentally sensitive areas through the creation of special open space preserves and a passive open space network. The MRNCP also states that during design, construction and maintenance of developments, areas designated as open space should be left as intact as possible.

The existing private fencing has been constructed in designated Open Space and in an Open Space Easement. The fencing is not consistent with the goals of the community plan which seek to preserve broad areas of open space with linkages to one another and provide buffers from active use areas. The fencing encroaches into the designated open space and open space easement and reduces the buffer between natural open space and active use areas (i.e. backyards).

Appeal Issues:

The appellant, Rob Worden, has filed an appeal on behalf of the affected property owners on the Development Services Department's decision to deny a NDP for the existing fencing in the open space area (Attachment 8). Mr. Worden cites reasons for appeal related to conflict with other matters, findings not supported, and factual error.

Conclusion:

Although the Final Map does state that a fence can be allowed in Lot C with the City's approval, staff has to consider all of the City's regulations in order to approve the project; therefore, as described in this report, City staff cannot support encroachment into community plan designated open space, an Open Space easement, and Zone 2 of the brush management area. The encroachment would adversely affect the goals and recommendations of the MRNCP and not be consistent with the LDC regulations.

ALTERNATIVE

- 1. Approve the appeal and Approve Neighborhood Development Permit No. 391890, if the findings required to approve the project can be affirmed..**

Respectfully submitted,

Mike Westlake
Program Manager
Development Services Department

Tim Daly
Development Project Manager
Development Services Department

ESCOBAR-ECK/TD

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Project Plans
6. Draft Permit with Conditions
7. Draft Resolution with Findings
8. Copy of Appeal
9. Copy of Recorded PRD/HR Permit No. 89-0550
10. Copy of Scripps Ranch North Unit No. 9, Map No. 13131
11. Notice of Violation, 6 each

12. Miramar Ranch North Planning Committee recommendation
13. Ownership Disclosure Statement
14. Project Chronology

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