



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: February 17, 2009

TO: Community Planners Committee

FROM: Kelly Broughton, Development Services Director

SUBJECT: Community Gardens Permit Processing

On January 21, LU&H heard a presentation from the International Rescue Committee (IRC), regarding the permitting process for Community Gardens. Currently it is a separately regulated use that is permitted as a limited use in the agricultural and floodplain zones, and with a Neighborhood Use Permit (Process Level 2) in all of the residential zones except the RM-5-12 and all of the Industrial Zones except the IP and the IL-2-1, subject to regulations that address hours of operation, fencing, access, water meters, etc. (see Attachment).

The IRC recently obtained a permit for a Community Garden in City Heights. The property was located adjacent to Chollas Creek, in a floodplain and in the MHPA. The IRC project, therefore, was elevated to a Site Development Permit (Process Level 3) in accordance with the Environmentally Sensitive Lands ordinance; that resulted in a longer and more expensive permit process. The applicant raised concerns about the amount of time and increased charges incurred to process the permit and asked LU&H to direct staff to review the procedures and revisions to minimize processing time and costs.

Staff provided a brief Zoning Code history as to why Community Gardens require an NUP. A lower process level for Community Gardens was originally proposed, but during the hearing process, the public raised concerns about allowing such a use to be permitted ministerially. Ultimately, the City Council determined that an NUP was the best vehicle to provide a relatively fast project processing schedule while addressing community concerns such as maintenance, water use, storage, and hours of use.

After hearing public testimony from community gardening advocates from around the city and county and community residents, the Land Use And Housing Committee voted to direct staff to amend the LDC to permit Community Gardens by right with a review requirement (annual or otherwise). Subsequently, Councilmember Gloria, LU&H Chairperson, sent a memorandum directing staff to "develop a streamlined permit process for community gardens."

In response Land Development Code (LDC), staff developed a list of options. On February 11, staff presented the following to the Code Monitoring Team (CMT) to discuss the pros and cons of each and to obtain direction on how to proceed with respect to a potential LDC amendment. The following options were presented to CMT:

- Permitted use/information bulletin (address issues with code compliance if necessary)
- Special Use Permit (with annual inspections performed by MMC)
- Grading permit (submit plan consistent with existing regulations)
- Size threshold triggers requirement for some sort of permit (NUP, Grading, Special Use)
- Leave as currently permitted

CMT discussed each option at great length and also heard input from two representatives from the IRC. Everyone was in agreement that Community Gardens contribute positively to neighborhood development and revitalization and should be encouraged. They discussed the processing time, costs associated, type of review and existing regulations, including public improvement requirements. After considering each of the options, CMT determined that the existing permit process is appropriate to address community concerns and adjacency issues; however, they concluded that the true problems are the submittal requirements, number of disciplines that are assigned in the system to review the project, and public improvement requirements. These contributed significantly to the time it took to obtain the permit and its final cost.

With the assistance of the IRC representatives, staff and CMT developed a few solutions to respond to both LU&H direction and recognize legitimate community concerns regarding property maintenance and operations. CMT adopted a motion to direct staff to:

- Prepare a Community Garden information bulletin to simplify the submittal requirements and include a sample site plan to serve as an easy to follow template
- Revise the Project Tracking System (PTS) to limit the number of disciplines who review the application for compliance with the Community Garden development regulations
- Add a regulation to LDC Section 141.0203 to require signage (dimensions will be specified) to provide a name and address of owner/responsible person who community residents can contact to address any problems or non-compliance with the regulations

- Review the Public Improvement section of the LDC to address the threshold to ensure that minor projects such as a Community Gardens are not subject to onerous public improvement requirements

Additionally, in recognition of the fact that while the initial project deposit of \$2500 is necessary for city staff to process the project, it is a significant amount of money for many non-profit organizations, CMT adopted a second motion to encourage City Council offices to provide non-profit organizations with funding to pay for or assist with Community Garden project processing costs.

CMT also directed staff to develop another option to allow Community Gardens by right in certain zones below a certain size and where it would not impact adjacent uses. This will require additional research and analysis to determine in which zones Community Gardens are appropriate as a by right use and other threshold requirements.

Finally, CMT acknowledged that the fact that the IRC parcel was subject to ESL resulted in a lengthier processing timeline and increased the cost of the permit, but concurred with staff that it is not appropriate to propose amendments to ESL to address that issue with this work program. That is a significantly different and much more complex task than is currently directed by LU&H, and will not be accomplished quickly. Should the Mayor decide to proceed with such a proposal, it would require a serious discussion and rethinking of the city's existing policies concerning sensitive resource preservation and protection, and extensive public participation and environmental review.



Kelly Broughton
Development Services Director

KGB:ALM:lgb

Attachment

Attachment – Community Garden Development Regulations

§141.0203 Community Gardens

Community gardens are *premises* that are divided into multiple plots for crop cultivation by individual parties. Community gardens are permitted as a limited use in the zones indicated with an “L” and may be permitted with a Neighborhood Use Permit in the zones indicated with an “N” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) The on-site sale of produce is not permitted.

(b) The site shall be designed and maintained so that water and fertilizer will not drain onto adjacent property.

(c) A minimum 3-foot-wide, clearly marked entrance path shall be provided from the *public right-of-way* to the garden.

(d) A permanent *fence* shall be provided on the perimeter of the garden. Any fence within the front yard or street side yard shall be an *open fence*. The *fence* shall be at least 5 feet in height and shall not exceed 6 feet in height. The *fence* shall include at least one access gate. Except as otherwise provided in this paragraph, *fences* shall be in compliance with Chapter 14, Article 2, Division 3 (Fence Regulations).

(e) Refuse storage areas shall be provided and *screened* to enclose all refuse generated from the garden. Refuse areas shall be located as close as practicable to the rear and center of the property. Refuse shall be removed from the site at least once a week.

(f) Storage areas for tools, fertilizers, equipment, and other material shall be enclosed and located as close as practicable to the rear and center of the property.

(g) A water meter and hose bibs shall be provided on-site consistent with Chapter 14, Article 2, Division 4 (Landscape Regulations). Irrigation water rates will apply to community gardens.

(h) Hours of operation shall be limited to the hours between sunrise and sunset.

(i) The property shall be locked during nonoperating hours.

(j) The *applicant* shall execute and file with the County Recorder a hold harmless and/or indemnification agreement in favor of the City.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)