



January 22, 2016

Open Space in Downtown Development Projects – UPDATE

Clarification of Open Space vs. Public Space

As a result of the conversations regarding open space in several recent downtown development projects, the Community Redevelopment Agency (CRA) Commissioners directed City staff to review open space requirements, and make recommendations to ensure that open space in downtown development is more visible to the public (and enhance the “public realm”).

As a result, City staff is reviewing the history and methodology that has been used to calculate open space in downtown development projects. This information, as well as recommendations regarding open space in future development projects in the downtown, will be presented to the CRA in an upcoming meeting.

Although the research regarding open space in the downtown is still ongoing, it is important to provide some clarification of the term “open space”. During recent discussions at the CRA meeting, the term “public space” was used somewhat interchangeably with open space, but they are really two distinct and different concepts.

While open space is a concept addressing the size and location of a building in relation to the property it is built upon, it does not generally include a legal right of the public to enter or occupy the open space. For example, in a single family home in a residential zoning district, the front yard and backyard are required open space, yet they are clearly not public spaces. Likewise, a pool deck in a condominium complex may also be open space, but also clearly not public space. The same concept applies to development projects in the downtown; the required open space is not required to be public space. A property owner may invite the public to enter the open space on the property, whether to shop, eat, or to engage in other activities, but the public is not legally entitled to enter and remain on the property without the owner’s permission. Open space required by the City’s zoning regulations, in downtown and all other parts of the City, is not required to be public space.

Conversely, when land is dedicated to public use (such as a sidewalk, right-of-way, park, plaza, or other open space), the use of the land is open to the public, and not dependent on a private property owner.

The City will continue to provide updates as the discussion on this matter moves forward.