

THE CLASS “B” PERMIT

5.5 Denial of Street Tree Removal By Board Of Public Works

General Background

The Bureau of Engineering (BOE) is responsible for recommending engineering conditions for private developments that are forwarded to it by the Department of City Planning (DCP). These recommendations may be included in the project’s final Planning Action. In certain cases, DCP has included a statement such as “dedication and improvements to the satisfaction of the City Engineer”. In some cases, the BOE recommendation for dedication and improvements will involve street widening, which in turn will require the removal of existing street trees.

The Board of Public Works has the authority to approve or deny the removal of street trees. The policy is for every tree removed, the developer must replace the trees on a two for one ratio in the new parkway. The Bureau of Street Services (BSS) submits a report to the full Board for three or more trees to be removed and to a single Commissioner for two or less.

Notification to the Developer

All modifications to Class B Permit plans necessitated by a Board of Public Works denial of street tree removal are the responsibility of the permittee.

Notification to BSS Urban Forestry Division

When it has been determined that street trees will have to be removed to accommodate a required widening, BOE will notify BSS, Urban Forestry Division (UFD). The applicant/permittee should immediately apply to BSS UFD for a Tree Removal Permit. BSS UFD will prepare a Report to the Board of Public Works concerning the tree removals. This will minimize problems or changes to the plans for the proposed widening in the event the tree removals are denied.

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Options After Tree Removal Denial by the Board of Public Works

If the Board of Public Works denies the previously required tree removals, the developer has two options:

1. Pay a cash In-lieu deposit to the Public Works Trust Fund to cover the cost of completing the construction, plans and inspection of the remaining work after the project has been modified to leave the existing trees in place. This cash in-lieu is non-refundable unless the DCP conditions are formally modified.
2. The developer (permittee/applicant) can also request a project modification from DCP to revise the project conditions to be consistent with the Board action and the deferral of street widening. If the modification is granted by DCP to eliminate street widening, the cash in-lieu deposit is not required. However, the applicant/permittee may also choose to simultaneously pay the cash in-lieu deposit in order to expedite completion of his/her project.

It should be noted that obtaining a Modification Letter from DCP can be a time consuming process and may not justify the time spent or the cost to process the modification versus the cost of the required cash in-lieu deposit.

Reduced Required Bond Amounts and Plan Checking Deposits

If the bond has already been obtained based on the original required conditions, the developer has the option to keep the bond as is or request to revise the bond based on the reduced scope of work. The bond estimate will be revised to reflect the decreased scope of work resulting from the waiver of street widening. If the bond has yet to be posted, it will be based on the reduced scope of work estimate. If deposits for plan checking and construction have not yet been posted, they will be also based on the reduced scope of work. All BOE fees and charges necessary to revise the bond, plans and administration will be paid by the developer/permittee.

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Cash In-Lieu Deposit Procedure

All cash in-lieu deposits shall be made to the Public Works Trust Fund (PWTF), Special Deposits Account No. 4873. In compliance with California Government Code Section 66001 (a), the District Office accepting the cash in-lieu payment shall identify the specific purpose for the fee, the use to which the fee will be put and the basic scope of work. This information will be provided to the Bureau of Accounting for tracking each project that provides a cash in-lieu deposit to the PWTF.

Determination of the Cash In-Lieu Deposit

1. The estimated construction value of the deferred improvements shall be determined by preparing a new bond estimate using the Class B Permit Application for the work still required after the tree removal denial reduced the scope of the work.
2. The deposit amount should include the bond estimate (construction value), plan check fees, construction inspection fees and a 15 percent contingency for inflation.

DEPOSIT AMOUNT = (Construction Value + Plan Check Fees + Construction Inspection Fees) x 1.15

Modification Letters from DCP

The cash in-lieu bond deposit is required prior to final approval of the Class B Permit plans. In every instance where the Board has denied street tree removal(s), Class B permittees and permit applicants are advised to seek Modification Letters from DCP regarding street widening conditions. Modification Letters should revise the Bureau of Engineering (City Engineer) conditions to be consistent with the Board action. If DCP agrees to waive the street widening condition through a Modification Letter, BOE will process a refund of the cash in-lieu bond deposit when requested by the applicant.