



STAFF REPORT SAUSALITO CITY COUNCIL

AGENDA TITLE

Encroachment Agreement for improvements conducted in the public right-of-way as part of an approved Design Review and Encroachment Permit (Application No. DR/EP 00-63) for the construction of a new single-family home with an attached garage located at 178 Santa Rosa Avenue (APN 065-142-30).

RECOMMENDED MOTION

Staff recommends that the City Council adopt the attached Resolution of Approval for an Encroachment Agreement for the improvements constructed on the property located at 178 Santa Rosa Avenue that encroach into the public right-of-way, as recommended by the Planning Commission pursuant to Resolution No. 2002-27.

BACKGROUND

The applicant, William Miller with the Tarom Group, is requesting City Council approval of an Encroachment Agreement for improvements located in the right-of-way at 178 Santa Rosa that were constructed as part of the approved Design Review Permit and Encroachment Permit Application No. DR/EP 00-63, which include a driveway parking deck, planter, elevated wood stairs, pedestrian bridge, roof overhang, replacement retaining wall, and landscape features. The project was approved by the Planning Commission on July 10, 2002 pursuant to Resolution 2002-27 after being reviewed during three previous Planning Commission meetings. The architectural and site plan review conducted by the Planning Commission included an encroachment review to allow a parking deck, planter, stairs, garage eaves, and landscaping improvements within the public right-of-way. Although the encroachments were approved by Resolution 2002-27, an Encroachment Agreement review by the City Council was not executed. During review of the Building Permit application, the City Engineer requested the applicant file an application for an Encroachment Agreement to be approved by the City Council to legalize the portion of the project located in the public right-of-way. Upon execution of an Encroachment Agreement, the City Engineer expressed no concerns with the encroachments. The applicant submitted plans on October 8, 2007, which Staff is forwarding to the City Council for approval of an Encroachment Agreement.

ENCROACHMENT AGREEMENT REVIEW

Design Review Permit and Encroachment Permit Application No. DR/EP 00-63 was approved under the previously adopted version of the Zoning Ordinance in place prior to the 2003 Zoning Ordinance update. At the time in which the project was approved, Encroachment Review procedures and findings were not codified as they currently are in the City's most recently adopted Zoning Ordinance (January, 2003). The findings in which the Planning Commission

approved the Encroachment Permit are listed in the attached June 26, 2007 staff report, which are consistent with the intent of the current findings required for approval of an Encroachment Agreement. In order to execute a current version of the City's Encroachment Agreement, Staff has prepared findings under the current Zoning Code in which the previously approved findings are incorporated, as listed in the following:

A. The proposed encroachment is compatible with the surrounding area and will either improve or not significantly diminish visual or physical public enjoyment of the streetscape upon which the encroachment is proposed.

The encroachments are compatible with the surrounding area and approved Design Review application, and do not appear to diminish the public enjoyment of the right-of-way.

B. The encroachment will not adversely affect the usability or enjoyment of adjoining parcels nor create or extend an undesirable land use precedent.

The proposed encroachments do not appear to adversely affect the usability of adjoining parcels. Given that the encroachments were approved by the Planning Commission prior to the adoption of the current Zoning Ordinance, and the execution of an Encroachment Agreement will allow the improvements to be terminated should future street improvements be necessary, staff does not believe the project will create an undesirable land use precedent.

C. The encroachment is necessary to the reasonable use and enjoyment of the property and the extent of the encroachment is justifiable.

The encroachments are necessary to provide vehicular and pedestrian access to the project site and are thus justifiable.

D. The proposed encroachment will not adversely affect the public circulation nor create or constitute a hazard to public safety.

The proposed encroachments of the driveway and retaining wall are not anticipated to affect public circulation or maneuverability of traffic along Santa Rosa Avenue, and were reviewed and approved by the City Engineer at the time in which the application was processed. The current City Engineer has also reviewed the encroachments and is supportive of approval with the execution of a current Encroachment Agreement.

E. The value of the proposed improvement will not prejudice a policy decision to terminate the encroachment nor preclude or make difficult the establishment or improvements of streets or pedestrian ways.

Staff does not anticipate that the proposed improvements will prejudice any future policy decisions to terminate the encroachment nor preclude or make difficult the establishment or improvement of streets or pedestrian ways.

FISCAL IMPACT

There is no anticipated fiscal impact for the requested Encroachment Agreement.

STAFF RECOMMENDATIONS

Staff recommends that the City Council adopt the attached Resolution (Attachment 1) approving an Encroachment Agreement (Exhibit A) for improvements constructed on the property located at 178 Santa Rosa Avenue (APN 065-142-30) that encroach into the public right-of-way, as approved by the Planning Commission pursuant to Resolution No. 2002-27 and indicated in the approved plans received October 8, 2007 (Exhibit B).

ATTACHMENTS

1. Draft Resolution of the City Council of the City of Sausalito approving an Encroachment Agreement by and between Rodeo Lane LLC, property owner of 178 Santa Rosa Avenue, and the City of Sausalito (Exhibit A), as shown in the approved project plans date-stamped received October 8, 2007 (Exhibit B)
2. Vicinity Map
3. Planning Commission Resolution 2002-27 and attached June 26, 2002 staff report with findings

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