



STAFF REPORT SAUSALITO CITY COUNCIL

AGENDA TITLE

Encroachment Agreement for two 28-inch tall retaining walls, a street tree, and landscaping that encroach into the public right-of-way at 37-39 Filbert Avenue (APN 064-212-02), as recommended for approval by the Community Development Director as part of Administrative Design Review Permit No. DR/EA 07-024.

RECOMMENDED MOTION

Staff recommends that the City Council adopt the attached Resolution of Approval for an Encroachment Agreement for two 28-inch tall retaining walls, a street tree, and landscaping that encroach into the public right-of-way at 37-39 Filbert Avenue (APN 064-212-02).

SUMMARY

The applicant and property owner, Patricia Roberts, is requesting City Council approval for two 28-inch tall garden retaining walls that encroach into the public right-of-way at 37-39 Filbert and have been installed in the front yard of the subject property, as shown in the attached plans (Exhibit B of Attachment 1). The applicant is also requesting the installation of minor landscaping and a street tree as part of the Encroachment Agreement. Pursuant to Zoning Ordinance Section 10.54.040.B.6, an Administrative Design Review Permit is also required for the retaining walls and landscaping. The Community Development Director approved the Administrative Design Review Permit on October 9, 2007, as conditioned and described in the October 9, 2007 Notice of Action (Attachment 3).

It should be noted that a condition of approval required that the applicant submit an additional Encroachment Agreement application for a carport extending from the property's garage into the Cazneau Avenue right-of-way on the other side of the property. In order to allow the applicant to complete the landscaping and erosion control project prior to winter, the applicant was permitted to apply for the carport Encroachment Agreement separately. The applicant has since submitted an application as requested, which is currently under review by the Community Development Department.

ENGINEERING REVIEW

The City Engineer reviewed the retaining walls on September 19, 2007 and approved of the encroachments conditioned on execution of an encroachment agreement, piping all drainage to the street gutter as illustrated on the plans, and submitting an application for an Encroachment Agreement for the carport attached to the garage. These conditions were incorporated into the draft resolution of approval and the approved Administrative Design Review Permit.

ENCROACHMENT PERMIT REVIEW

Chapter 10.56 of the Sausalito Municipal Code provides that the Community Development Director shall review encroachments for structures within the public right-of-way such as those included in Application ADR/EA 07-024. The Community Development Director’s recommendation shall be forwarded to the City Council for the final decision making authority to approve an Encroachment Agreement. The City Council may grant the requested encroachment in the event that the findings set forth in Section 10.56.060 can be made. The following is a list of the requisite findings followed by a description of their application to the requested encroachments:

- 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 retaining walls are low in height and are designed to be compatible with the surrounding area and site. The new landscaping and street tree will improve the public enjoyment of the streetscape.

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

The retaining walls will provide erosion control for the site, along with ground cover and landscaping that will enhance the streetscape and property. As such, the improvements do not appear to adversely affect adjoining parcels or 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 low retaining walls are necessary to provide erosion control and do assist in drainage of the site to the street gutter. The street tree is not essential, but will aesthetically and environmentally enhance the site, and is thus justifiable.

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

The City Engineer has reviewed the encroachment and has found the proposed encroachment is outside of the roadway area and would not affect the public circulation nor create or constitute a hazard to public safety.

- 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.**

The encroachment of the retaining walls may be removed if necessary for future roadway improvements as specified in the Encroachment Agreement terms and conditions. Staff believes that with the Encroachment Agreement in place, the proposed improvements

will not 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 of the Sausalito City Council (Attachment 1), approving an Encroachment Agreement (Exhibit A) for two 28-inch retaining walls with landscaping and a street tree in the public right-of-way located at 37-39 Filbert Avenue (APN 064-212-02), as indicated in the plans date-stamped received July 11, 2007 and August 16, 2007 (Exhibit B of Attachment 1).

ATTACHMENTS

1. Draft Resolution of the City Council of the City of Sausalito approving an Encroachment Agreement by and between Patricia Roberts, owner of 37-39 Filbert Avenue (Exhibit A), and as shown in the approved project plans date-stamped received July 11, 2007 and August 16, 2007 (Exhibit B)
2. Vicinity Map
3. Administrative Design Review Permit Notice of Action dated October 9, 2007

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