



STAFF REPORT

Approving a Permanent Encroachment Agreement for Construction of a Retaining Wall within the Public Right-of-Way at 2426 Coronet Boulevard

December 9, 2003

Honorable Mayor and City Council:

Summary

The property owners at 2426 Coronet Boulevard have applied for a Permanent Encroachment Permit to replace a failing mortared brick retaining wall within the public right-of-way. The work proposed under the permit will reduce existing grade, improve slope stability, and reduce slope erosion in the roadway. A resolution is provided for consideration approving the encroachment as recommended, with conditions.

Background and Discussion

The property owners of 2426 Coronet Boulevard have applied for a Permanent Encroachment Permit to replace a mortared brick retaining wall, which is in a state of disrepair. In its current state, the deteriorating retaining wall sheds debris such as bricks, soil, and cement chunks into the street, which is potentially dangerous to passing vehicles and interferes with street drainage. This 40-foot long retaining wall was constructed at the back of the rolled gutter along the frontage of the property. It is entirely located within the public right-of-way, which extends approximately 16 feet beyond the edge of pavement. The height of the existing wall ranges from 1.5 feet at the driveway apron to 3 feet where it adjoins a similar retaining wall in front of 2424 Coronet Boulevard (see photographs on next page).



The Belmont Municipal Code, Chapter 22, Article 1, describes the process and requirements for obtaining approval to encroach upon the public right-of-way. Section 22-6(1) defines the City Council as the sole authority allowed to issue written permits for major encroachments including retaining walls within the public right-of-way. Section 22-7(C) requires the Director of Public Works to review all major encroachment applications and if he finds the application in accordance with the code, recommend its approval with such conditions he deems necessary to protect the health and safety of the public and protect the City.

The City Council may choose to approve or to conditionally approve the application if it finds that there is some public benefit the encroachment. Section 22-7(C)(1) provides examples of acceptable public benefit which included by are not limited to the following:

1. A retaining wall that allows added on-street parking, sidewalk, or safer sight distance.
2. Retaining walls that reduce the amount of grading.
3. Encroachments that replace or improve an existing undesirable physical condition.

The City Staff has reviewed the encroachment application for the 2426 Coronet retaining wall and made the following determination: the public right-of-way extends approximately 16 feet beyond the edge of street pavement, the distance between the property line and the house is 4.5 feet. The total distance between the edge of pavement and the applicant's garage is about 20.5 feet, which is sufficient for a standard 18-foot driveway but does not allow for a standard 8-foot wide parking pad to be constructed as a public benefit. Another alternative, which the City staff considered was vacating the right-of-way along the frontage of the property since the driveway is entirely located within the public right-of-way it can be used only by the property owners. This alternative will allow the property owners to expand their property line, bear all the maintenance and repair costs, therefore taking liability off the City. However, due to the presence of many similar residences with driveways built within the public right-of-way on the Coronet Blvd, the effective solution will be vacating of the right-of-way for all similar properties at the same time. Therefore, City Staff recommends approving the request to replace the existing retaining wall. The public benefit is that it will improve an existing undesirable physical condition. The new retaining wall is an improvement over the previously existing wall and will improve slope stability and prevent erosion of soil into the roadway and storm drainage system.

City Staff believes that the wall will fulfill the obligation to provide the required public benefit. As a result, City Staff recommends allowing the construction of the mortared brick retaining wall within the public right-of-way at 2426 Coronet Boulevard and recommends City Council approve the resolution with the following conditions of approval:

- 1) The retaining wall shall be constructed of mortared brick and be included as part of the project. All required elements of this encroachment agreement must meet City standards; and,
- 2) The applicant shall obtain a Permanent Encroachment Permit for the retaining wall, parking pad and the storm drainage improvements located within the public right-of-way from the Department of Public Works; and,
- 3) The retaining wall shall be constructed in accordance with Municipal Code Section 9-47, "Retaining wall design"; and,
- 4) The property owner shall be responsible and bear all costs necessary to repair or replace the proposed retaining wall. This is required for periodic maintenance or in the event of an emergency as determined by the Director of Public Works; and,

- 5) The applicant shall obtain a renewable license for the use of public right-of-way within 30 days of receiving such notice to license.

On November 25, 2003, letters were mailed to residents within a 300-foot radius of the neighborhood. No comments were received as of December 2, 2003.

Fiscal Impact

There is no fiscal impact to the City. All costs are property owner's responsibility.

Recommendation

It is recommended that the City Council adopt the attached resolution approving, with conditions of approval developed by Staff, a Permanent Encroachment Agreement for retaining wall within the public right-of-way at 2426 Coronet Blvd.

Alternatives

1. Reject the application
2. Continue to the next Council meeting

Attachments

1. Resolution
2. Exhibit A

Respectfully submitted,

Bozhena Palatnik, E.I.T.
Engineering Technician

Raymond E. Davis, P.E. PTOE
Director of Public Works

Jere A. Kersnar
City Manager

RESOLUTION NO. _____

**CITY OF BELMONT
San Mateo County, California**

**RESOLUTION OF THE CITY OF BELMONT APPROVING A PERMANENT
ENCROACHMENT AGREEMENT FOR CONSTRUCTION OF RETAINING WALL,
WITHIN THE PUBLIC RIGHT-OF-WAY
AT 2426 CORONET BOULEVARD - APN 044-232-040**

WHEREAS, the City of Belmont is authorized by Municipal Code Sec. 22-5 to issue encroachment permits for construction of structures in the public right-of-way; and,

WHEREAS, the Belmont City Council has made the following findings required by Municipal Code Sec. 22-6 for approval of a permanent encroachment agreement:

- (1) That there is some public benefit to the encroachment as it will improve slope stability and prevent erosion of soil into the roadway and storm drainage system; and,
- (2) That the encroachment will not unduly restrict the public right-of-way or public water course for other typical uses; and,
- (3) That the City will be duly protected from liability for injury to persons and property; and,
- (4) The required bonds will guarantee that the faithful performance of all conditions and requirements specified in the permit.

WHEREAS, approval of this permanent encroachment agreement is subject to the following conditions:

- (1) The retaining wall shall be constructed of mortared brick and be included as part of the project. All required elements of this encroachment agreement must meet City standards; and,
- (2) The applicant shall obtain a Permanent Encroachment Permit for the retaining wall, parking pad and the storm drainage improvements located within the public right-of-way from the Department of Public Works; and,
- (3) The retaining wall shall be constructed in accordance with Municipal Code Section 9-47, "Retaining wall design"; and,
- (4) The property owner shall be responsible and bear all costs necessary to repair or replace the proposed retaining wall. This is required for periodic maintenance or in the event of an emergency as determined by the Director of Public Works; and,

(5) The applicant shall obtain a renewable license for the use of public right-of-way within 30 days of receiving such notice to license.

WHEREAS, the structures built in connection with this agreement shall be constructed in accordance with City standards and with the benefit of a Construction Inspection Permit to provide for inspection of said construction, issuance of which is hereby conditionally approved, subject to the payment of inspection fees and posting of required surety to the Department of Public Works.

NOW, THEREFORE, IT IS HEREBY RESOLVED, that the Belmont City Council approves the Permanent Encroachment Agreement with Andrea and Greg Canavero, their heirs, successors, executors, administrators and assigns, jointly and severally, and with successors in interest of the real property for construction of the mortared brick retaining wall and concrete parking pad located within the public right-of-way at 2426 Coronet Boulevard as described above and as shown on the attached exhibits and its continuing maintenance by the property owner and authorizes the City Manager to execute the Permanent Encroachment Agreement on behalf of the City of Belmont and authorizes the City Clerk to file said Agreement with the County Recorder.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting thereof held on this 9th day of December, 2003.

AYES, COUNCILMEMBER(S): _____

NOES, COUNCILMEMBER(S): _____

ABSTAIN, COUNCILMEMBER(S): _____

ABSENT, COUNCILMEMBER(S): _____

Clerk of the City of Belmont

APPROVED:

Mayor of the City of Belmont