



MAYOR & COUNCIL COMMUNICATION

DATE: 4/2006/2010

~~REGULAR~~

~~ITEM #:~~ 6CONSENT

~~ITEM #~~ 3cMOTION

MOTION *As part of Consent Agenda*

AGENDA ITEM: Easement Encroachment Agreement – 12211 Marquess Ln Cvs

SUBMITTED BY: Kelli Matzek, Planner

REVIEWED BY: Bruce Messelt, City Administrator
Kyle Klatt, Planning Director

SUMMARY AND ACTION REQUESTED: The City Council is asked to authorize the execution of ~~an~~four easement encroachment agreements allowing residents to construct improvements (in this case a fences) within drainage and utility easements on private property. The City has received ~~four~~ a fence permit applications ~~recently~~ in which the property owners are seeking to put a fence in the backyard. ~~at 12211 Marquess Lane Cove. Primarily, the fences are located in the standard five foot drainage and utility easement that edges the property lines.~~ No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

~~Mendez – 5650 57th Street Circle North – fence~~

~~Koepke – 3435 Isle Court North – fence~~

~~Myers – 11711 56th Street North – fence~~

~~Hoaglund – 10024 Tapestry Road – fence~~

The recommended motion to act on this is as follows:

“Move to authorize the execution of the Easement Encroachment Agreements for 5650 57th Street Circle North, 3435 Isle Court North, 11711 56th Street North, and 10024 Tapestry Road.”

BACKGROUND INFORMATION: The City Council has reviewed and approved easement encroachment agreements at the April 20, 2010 regular meeting. At that time, the City Council agreed to place future applications on the consent agenda. In the future, a fee should be added to the application for an Easement Encroachment Agreement as the process includes staff time and a fee to record the document with Washington County. In addition, if the Council concurs, future agreements may be placed on the consent agenda unless unique circumstances occur, in which case the agreement will be placed on the regular agenda.

The City holds easements of different sizes and for different purposes on many residential and commercial properties throughout the city. When a resident is interested in putting a structure within an easement, the city has requested the property owner provide a site plan showing where the improvement is proposed to be located, a detail of what the improvement will look like and how it will function.

After that information is received, the City Engineer reviews the proposed improvement and the use of the easement to determine if the proposed improvement will impede the functionality of the easement. If the engineer determines that the improvement will not negatively impact the functionality of the easement, an approved building or fence permit (if applicable) and an Easement Encroachment Agreement is needed before the work may commence.

STAFF REPORT: The ~~four~~ Easement Encroachment Agreements ~~that have~~s been submitted for Council consideration ~~are~~s for a fence ~~all fences~~ and ~~have~~s been reviewed by planning and engineering staff. ~~The proposed fences~~ meets all city code requirements and Staff would ~~have~~ otherwise issued ~~these~~ fence permits ~~if they did not encroach into a~~ ~~drainage and utility~~ easement.

The Easement Encroachment Agreement is a legal document which has ~~(or will be)~~ been signed by all property owners seeking to install an improvement within an easement. The document, among other things, indemnifies the city from responsibility if damage occurs to the improvement ~~or if it needs to be removed at some point in the future.~~

The City Attorney has drafted this legal document and suggested the City Council should authorize the Mayor to sign the agreements prior to issuing a building or fence permit for the proposed improvements.

~~Attached is an example of the Easement Encroachment Agreement. The agreements for all four properties were not included as they were redundant.~~

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RECOMMENDATION: Based upon the above background information and staff report, it is recommended that the City Council approve the Easement Encroachment Agreement as part of tonight's *Consent Agenda*, ~~s by undertaking the following action:~~

~~***"Move to authorize the execution of the Easement Encroachment Agreements for 5650 57th Street Circle North, 3435 Isle Court North, 11711 56th Street North, and 10024 Tapestry Road."***~~

Alternatively, the City Council does have the authority to remove this item from the Consent Agenda and further discuss and deliberate prior to taking action regarding tabling, approval or denial. If affirmative action is then taken, the appropriate action of the Council following such discussion would be:

“Move to authorize the execution of the Easement Encroachment Agreement for 12211 Lane Cove [as amended or directed at tonight’s meeting].”

+ATTACHMENTS: Easement Encroachment Agreement

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SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):

- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

~~SUGGESTED ORDER OF BUSINESS:~~

- ~~Introduction of Item City Administrator~~
- ~~Report/Presentation Kyle Klatt, Planning Director~~
- ~~Questions from Council to Staff Mayor Facilitates~~
- ~~Public Input, if Appropriate Mayor Facilitates~~
- ~~Call for Motion Mayor & City Council~~
- ~~Discussion Mayor & City Council~~
- ~~Action on Motion Mayor Facilitates~~

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