



## MAYOR AND COUNCIL COMMUNICATION

DATE: 11/06/2013

**CONSENT**

ITEM #: 7

**AGENDA ITEM:** Easement Encroachment Agreement – 10950 57<sup>th</sup> Street

**SUBMITTED BY:** Joan Ziertman, Planning Program Assistant

**THROUGH:** Dean Zuleger, City Administrator

**REVIEWED BY:** Rick Chase, Building Official  
Adam Bell, City Clerk  
Nick Johnson, City Planner  
Ryan Stempksi, Engineer

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

- Introduction of Item.....Staff
- Report/Presentation.....Staff
- 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

**SUMMARY AND ACTION REQUESTED:**

The City Council is respectfully requested to authorize as part of tonight's Consent Agenda the execution of an easement encroachment agreement. The City has received a request to install a retaining wall within a drainage and utility easement area at 10950 57<sup>th</sup> Street North from Gonyea Homes. Approval of the requested agreement would allow the property owners to construct the requested improvement within the City's drainage and utility easements located on their private property.

**BACKGROUND AND STAFF REPORT:**

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, Staff reviews the proposed improvement and the use of the easement to determine if the proposed improvement will impede the functionality of the easement. If Staff determines that the improvement will not negatively impact the functionality of the easement, an approved building permit showing the requested work and an Easement Encroachment Agreement is needed before the work may commence.

The Easement Encroachment Agreement that has been submitted for Council consideration is for a retaining wall and has been reviewed by planning staff. The proposed retaining wall meets all city code requirements and Staff would have otherwise authorized construction of the retaining wall if it did not encroach into a drainage and utility easement.

The Easement Encroachment Agreement is a legal document which has 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.

**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.

**ATTACHMENT(S):**

1. Easement Encroachment Agreement – 10950 57<sup>th</sup> Street North