



## MAYOR & COUNCIL COMMUNICATION

**DATE:** May 19, 2015  
**CONSENT**  
**ITEM #** 12

**AGENDA ITEM:** Easement Encroachment Agreement – 5500 Hilltop Ave

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

**THROUGH:** Dean Zuleger, City Administrator

**REVIEWED BY:** Rick Chase, Building Official  
Adam Bell, City Clerk

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**SUGGESTED ORDER OF BUSINESS(if removed from consent agenda):**

- Introduction of Item .....Staff
- Report/Presentation.....Staff
- Questions from Council to Staff..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

**POLICY RECCOMENDER:** Staff recommends that the City Council approve the encroachment agreement for John & Nancy Olker at 5500 Hilltop Avenue N as part of tonight's consent agenda.

**FISCAL IMPACT:** None

**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 fence within a drainage and utility easement area at 5500 Hilltop Avenue from John & Nancy Olker. Approval of the requested improvement within the City's drainage and utility easements would allow the property owners to construct the requested improvement within the City's drainage and utility easements located on their private property.

*Staff is recommending that the City Council approve the easement encroachment agreement as part of the Consent Agenda. If the City Council removes the item from the Consent Agenda, the recommended action can be completed through the following motion:*

***“Move to approve the easement encroachment agreement for John & Nancy Olker, 5500 Hilltop Avenue N to install a fence within the City’s drainage and utility easement.”***

**LEGISLATIVE HISTORY:** 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 fence and has been reviewed by planning staff. The proposed fence meets all city code requirements and Staff would have otherwise authorized construction of the fence if it did not encroach into a drainage and utility easement.

**BACKGROUND INFORMATION (SWOT):**

**Strengths:** The easement encroachment agreement is a legal document that has been signed by all property owners seeking to install improvements 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.

**Weaknesses:** None

**Opportunities:** None

**Threats:** None

**RECOMMENDATION:**

*Based on the aforementioned, Staff is recommending that the City Council approve the easement encroachment agreement as part of the Consent Agenda. If the City Council removes the item from the Consent Agenda, the recommended action can be completed through the following motion:*

***“Move to approve the easement encroachment agreement for John & Nancy Olker to install a fence within the City’s drainage and utility easement.”***