



MAYOR AND COUNCIL COMMUNICATION

DATE: 7/5/2016

CONSENT

ITEM #: 4

AGENDA ITEM: Fence Easement Encroachment Agreement
SUBMITTED BY: Emily Becker, City Planner
THROUGH: Kristina Handt, City Administrator
REVIEWED BY: Stephen Wensman, Planning Director

BACKGROUND:

Section 205, Subd. (D) (6) of the Zoning Code Fencing Regulations mandates that an easement encroachment agreement be approved by the City Council, along with a fence permit, for any fence that will be installed within a City easement. This was first added to the Zoning Code in 2011.

This process takes up a significant amount of Staff time as Staff must prepare a report, have it reviewed and added to the City Council agenda as a Consent Agenda Item, and discuss the item if it is taken off the Consent Agenda. This is in addition to preparing the Easement Encroachment Agreement, having the owners sign and notarize the document, collect the document after it has been signed by the Mayor and City Clerk, and have it recorded by the County. Not only does this process take a significant amount of Staff time, but it also delays the approval process.

The current fee for an easement encroachment is \$150.00. This is in addition to the \$75.00 for a fence permit, bringing the cost of a permit for a fence to be erected in an easement to be \$225.00.

ISSUE BEFORE COUNCIL:

It is respectfully requested of the Council to determine if it is necessary that it approve encroachments in to City easements, or if approval from the Planning Director or his/her designee after approval from the City Engineer or his/her designee is sufficient.

PROPOSAL DETAILS/ANALYSIS:

The Planning Commission recommends that fence easement encroachments be approved administratively. The approval process will be as follows:

- Applicant completes fence permit application, which will include a survey that delineates easements.
- Application will include the Easement Encroachment Agreement that the applicant will fill out and have notarized if the proposed fence is in a City easement.

- Planning and Engineering Staff will review the application and approve or deny based on compliance.
- If application is approved, Staff will issue the fence permit and file the Easement Encroachment Agreement with the County.

Because the amount of Staff time allocated to this proposed approval process would be reduced, the Planning Commission proposes that Council consider a fee reduction for the processing of fence easement encroachment agreements. The following added costs should still be considered while approving this fee, however: the City Engineer needs to approve these easement encroachments, which most times requires a site visit; and a \$50.00 fee is paid to Washington County to record the Easement Encroachment Agreement.

It should also be noted that it is only being proposed that fence easement encroachments be approved administratively. Driveway and other easement encroachments would still require Council approval. Fence easement encroachments are quite common, especially in urban residential lots that are smaller parcels, as the applicant generally wants a larger fenced-in space that can only be attained when encroaching on City easements outlining the lot.

FISCAL IMPACT:

Allowing the Fence Easement Encroachment Agreements to be approved administratively will reduce time Staff spends on processing fence permit applications that require Easement Encroachment Agreements. Additionally, because less time will be spent, and because review of the fence permit application in and of itself requires minimal staff time, it is being proposed that Council consider reducing the Easement Encroachment Agreement fee when the fee schedule is determined for 2017.

OPTIONS:

The Council may approve allowing Fence Easement Encroachment Agreements to be approved administratively or deny the request. If the Council approves the request, it may also consider a fee reduction for this agreement when the fee schedule is determined for next year, keep it the same, or increase the fee if it so chooses.

RECOMMENDATION:

Staff respectfully requests that the City Council approve, as part of tonight's consent agenda and as recommended by the Planning Commission, allowing Fence Easement Encroachment Agreements to be approved administratively by the Planning Director or designee after review and approval by the City Engineer or designee. If the Council wishes to remove this item from the Consent Agenda, the recommended action may be approved by the following motion:

“Move to approve an ordinance amendment to Chapter 154: Zoning Code; Section 205: Fencing Regulations; Subd. (D) (6), to allow approval of a fence easement encroachment agreement by the Planning Director or his/her designee after review and approval by the City Engineer or his/her designee.”

In addition, Staff is recommending that the City Council authorize summary publication of the approved ordinance through the following motion:

“Move to adopt Resolution 2016-__, authorizing summary publication of Ordinance 08-__”

ATTACHMENTS:

1. Draft Ordinance 08-__
2. Resolution 2016-__ Summary Publication of Fence Easement Encroachment Ordinance Amendment.
3. Draft Planning Commission Meeting Minutes from discussion on Fence Easement Encroachment Ordinance Amendment.