



STAFF REPORT

CITY of YORBA LINDA

PUBLIC WORKS DEPARTMENT

DATE: June 7, 2022

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: JAMIE LAI, P.E. DIRECTOR OF PUBLIC WORKS/ CITY ENGINEER
PREPARED BY: JEVEE TAGARAO, ASSISTANT ENGINEER

SUBJECT: ENCROACHMENT ONTO CITY EASEMENT REQUEST – 4060 NAPLES COURT

RECOMMENDATION

It is recommended that the City Council:

- 1.) Determine that the installation of hardscape and landscape improvements does not adversely impact the City's normal use of the easement for storm drain purposes; and
- 2.) Authorize the City Manager to grant the property owner an Encroachment Permit to complete the said hardscape and landscape improvements over the storm drain easement; and
- 3.) Require the homeowner to execute a Declaration of Restrictive Covenants Agreement pursuant to the City Council E-5 Policy.

BACKGROUND

At the time of the original Tract site development, the initial land Developer granted the City a storm drain easement on 4060 Naples Court, Yorba Linda (Subject Property) for storm drain, ingress, and egress purposes. The 20-foot easement is identified on Tract Map No. 16766 dated May 15, 2007. A 36-inch reinforced concrete pipe (RCP) runs along Naples Court, centered within the easement, through the Subject Property, and exits onto Florence Road. The storm drain line is approximately 8-feet deep within the Subject Property. The storm drain easement, restrictions within the easement, and easement rights recorded in the CC&Rs should have been disclosed to the property owner at the time of purchase.

DISCUSSION

The current E-5 Policy, adopted in 2020, addresses the use of land on City-owned property and within City-held easements. The City owns easement rights over properties citywide for various defined uses. According to the E-5 Policy (See Attachment D), the City can issue an Encroachment Permit for the hardscape and landscape improvements that will be built within the easement.

Under the Encroachment Permit section of the E-5 policy, “no significant impact” is defined as less than one-foot of encroachment onto City-owned property/easement. The policy continues to state that over one foot of encroachment constitutes a vacation process. However, this specific easement is for storm drain purposes and should not be vacated. After reviewing the proposed improvements, supporting Engineering analysis, and conducting site visits, Public Works has verified that there is no significant impact to public enjoyment, the storm drain line, or the easement.

As part of the Encroachment Permit, the property owner shall enter into a Declaration of Restrictive Covenants (DORC) Agreement with the City. This Declaration requires the property owner to bear any costs for damage to the City-owned facility within the easement and includes an indemnity clause to protect the City from any future liability or lawsuits relating to the hardscape and landscape improvements. The Declaration of Restrictive Covenants Agreement will be recorded with the County and will bind all future owners of the property. The Encroachment Permit shall not take effect until all terms of the Agreement have been satisfied. Staff recommends approval of the encroachment permit, subject to acceptance of the Declaration of Restrictive Covenants Agreement.

FISCAL IMPACT

There is no fiscal impact. The property owner will be required to pay for the recording of the Declaration of Restrictive Covenants Agreement with the County and staff time associated with processing any permits, as allowed in the City’s User Fee schedule. The homeowner would be responsible for the removal/ replacement costs of said improvements in the event of any storm drain work.

ALTERNATIVES

Determine that the proposed improvements do significantly impact the City’s normal use of the storm drain, deny the encroachment request and request the applicant to redesign all improvements within the storm drain easement.

ATTACHMENTS

- Attachment A – Vicinity Map
- Attachment B – Site Plan
- Attachment C – Declaration of Restrictive Covenants Agreement
- Attachment D – City Council E-5 Policy