



STAFF REPORT

CITY of YORBA LINDA

PUBLIC WORKS DEPARTMENT

DATE: OCTOBER 19, 2021

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: JAMIE LAI, P.E., DIRECTOR OF PUBLIC WORKS / CITY ENGINEER
PREPARED BY: JOSE ROMANI, ENGINEERING AIDE

SUBJECT: ENCROACHMENT ONTO CITY EASEMENT REQUEST – 4002 ELSIE DRIVE

RECOMMENDATION

It is recommended that the City Council:

- 1) Authorize the proposed concrete paving, garden rosetta arches, and a bench to encroach within the City's storm drain easement at 4002 Elsie Drive; and
- 2) Determine such encroachments will not adversely impact the City's easement, City's facility, or general public safety; and
- 3) Require the homeowner to execute a Declaration of Restrictive Covenants Agreement pursuant to City Council Policy E-5.

BACKGROUND

The City owns a 20-ft wide storm drain easement located on the westerly side of the Subject Project located at 4002 Elsie Drive (See Exhibit A).

The owner of Subject Property is proposing to install concrete pavement, garden rosetta arches and a bench at the west side of the property (See Exhibit B). The City owns and maintains a 48-inch reinforced concrete storm drainpipe within said easement.

DISCUSSION

The current Policy E-5, adopted in 2020, addresses the use of City-held easements. The City owns easement rights over properties citywide for various defined uses. In 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 property / easement vacation process. However, this specific easement is for storm drain purposes and should not be vacated.

After reviewing the proposed improvements and conducting a site visit, Public Works has verified that there can be future impacts to the intended use of the storm drain easement. The proposed improvements could potentially conflict with future maintenance or repairs to the underground storm drain facility when necessary but does not significantly impact the City's normal use of the easement. As such, any above-ground improvements may need to be removed and/or demolished before gaining access to the underground storm drain line. Access to the underground storm drain line from the easement is not required for routine maintenance but is necessary if the storm drain line fails or requires an upgrade within the easement area. Thus, a Declaration of Restrictive Covenant is required (See Exhibit C).

The proposed improvements within the easement area were evaluated by the owner and Public Works and determined to have no physical adverse effects on the City's daily use of the storm drain and does not adversely impact existing buildings or adjacent properties.

Staff recommends that the proposed improvements within the City's storm drain easement be permitted and requests authorization for the City Manager to grant the homeowner an Encroachment Permit for the proposed improvements over the storm drain easement, and to enter into a Declaration of Restrictive Covenants Agreement (Agreement). This Agreement 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 improvements. In addition, the homeowner would be responsible for the removal / replacement costs of said improvements in the event of a storm drain repair. The 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 are satisfied.

FISCAL IMPACT

None. The homeowner will be required to pay for the recording of the Agreement and staff time associated with processing any permits, as allowed in the City's Fee Schedule. The homeowner would be responsible for the removal / replacement costs of said improvements in the event of a storm drain repair.

ALTERNATIVES

Determine that the proposed improvements do significantly impact the City's normal use of the easement for storm drain purposes and deny the applicant's proposed improvements within the storm drain easement.

ATTACHMENTS

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