



Staff Report

City of Manhattan Beach

TO: Honorable Mayor Ward and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Neil C. Miller, Director of Public Works
Dana Greenwood, City Engineer
Gilbert Gamboa, Associate Engineer

DATE: March 21, 2006

SUBJECT: Uphold the Parking and Public Improvements Commission Recommendation to Deny a Request for an Encroachment at 2220 Alma Ave and 2221 Vista Drive

RECOMMENDATION:

Staff recommends that the City Council pass a motion to uphold the Parking and Public Improvements Commission (PPIC) recommendation to deny the request for a private use encroachment along 23rd Street at 2220 Alma Ave and 2221 Vista Drive.

FISCAL IMPLICATION:

Approval of this item could have a foreseeable impact on the City's budget. The proposed encroachment area overlaps existing City owned storm drain and sanitary sewer utilities and closely abuts an existing City owned water main. Any capital improvement project affecting a private use encroachment area typically results in higher contractor bid costs for the removal and replacement of the private improvements.

BACKGROUND:

The City received a request for a private use encroachment permit from the property owners of 2220 Alma Avenue and 2221 Vista Drive. The property at 2220 Alma Avenue is currently under remodel construction. The applicants put forward the following foremost reasons for the approval of the encroachment permit:

- Reference to City Council's policy in the form of City Ordinances No. 2039 and more specifically No. 2042, Section 2 "9.72.015 Development of Street Right of Way for Public Uses" in relation to allowing parking pads to be developed under encroachment permit guidelines
- A traffic safety issue in the form of speeding caused by the width of the existing vehicular roadway along 23rd Street and motorists' confusion with the location of the existing stop sign at the southeast corner of the intersection of Alma Ave & 23rd Street

- Consistency with the general appearance of the surrounding neighborhood and similar consideration of request as other property owners have been previously granted
- Signed petition of property owners and/or residents supporting this request (Total of 62 signatures & 50 addresses)

City staff from both the Community Development Department and Public Works Department have inspected, reviewed and discussed conceptual ideas regarding the request with the applicants on numerous occasions. Staff has found no justification for narrowing the roadway width and/or allowing the private development of a portion of 23rd Street as a decisive remedy for any traffic safety issue that may exist. Staff has also found that the entire block of 23rd Street from Alma Ave to Vista Drive would require a significant alteration of the existing, standard vehicular street right of way. Therefore, the encroachment permit request was administratively denied with the option of appealing the decision before the PPIC and ultimately the City Council.

DISCUSSION:

At the City Council’s February 18, 2003 meeting, Encroachment Ordinances 2039 and 2042 were adopted, establishing a policy regarding private use improvements in the public right of way and private property owner street improvements for public use, respectively. Prior to the adoption, the City Council held three (3) public hearings over the course of a four month period regarding the proposed ordinances. In particular, Ordinance No. 2042 applies to those portions of the street right of way that have been developed without traditional well defined boundaries (i.e. standard vehicular street which includes vertical curb & gutter and/or rolled curb). In areas without well defined edge of pavement, the street right of way may extend well beyond the pavement limit. Ordinance 2042 addresses the standards and guidelines to be used for the development of street right of way adjacent to private property that has not been improved for use as an approved public street driving surface, parking area, sidewalk or drainage conveyance system. These standards were developed to ensure that construction on these areas meet the following goals established by the City Council.

- Maintain Safety
- Provide access for emergency and service vehicles
- Provide for adequate neighborhood parking
- Allow some variety in the surface treatments of parking pads in the residential areas with non-standard public street right of way

Any exceptions to this policy require a public hearing before the Parking and Public Improvements Commission and subsequent ratification by the City Council.

The extent of the applicant’s proposed encroachment area includes the southerly 10 feet of 23rd Street from Vista Drive to Alma Avenue and the easterly 15 feet of Alma Avenue from the southerly property line of 2220 Alma Avenue to 23rd Street, with a chamfered portion of encroachment located at the southeast corner of the intersection of Alma Avenue & Vista Drive. An inspection and review of the conditions of 23rd Street and 2220 Alma Avenue revealed the following (see **Exhibit A**):

- ✓ The north and south sides of the 23rd Street right of way have been improved to an approved, City standard vehicular street condition including; sidewalk, vertical curb & gutter and parking area establishing a well defined boundary. A similar condition exists at 2220 Alma Avenue.
- ✓ A total of (at least) six (6) curbside, public parking areas along 23rd Street (three on each side) and a single parking space on Alma Avenue in the proposed encroachment area.
- ✓ STOP signs, limit lines and legends at the four-way stop intersection at Alma Avenue and at the three-way stop intersection at Vista Drive (one-way street northbound)
- ✓ Although the City may have required earlier developers to install the existing sidewalk; the City shared in the construction effort by constructing curb, gutter and resurfacing the original roadway in 1961 and again in 1966. Also, the City has spent public monies (Gas Tax funds) for the resurfacing of 23rd Street as a part of the 1995-96 Pavement Rehabilitation Capital Improvement Project.

This item was reviewed by the PPIC at their February 23, 2006 meeting. Prior to the meeting, approximately 250 notices were sent out to residents within a three hundred foot radius of the properties. Five (5) residents appeared and commented at the meeting, including the applicants. Staff also received phone calls from residents regarding their concern for the loss of parking in the area should the encroachment be granted. The Commission, as a whole, agreed that this issue carries much history and that the applicant's request is one of equity; however Ordinance 2042 is not applicable as a basis for the applicant's appeal. In addition, the Commission was concerned with the possible removal of the existing parking spaces. Consequently, the encroachment appeal was denied by the Commission on a 5-0 vote. The Commission, subsequently, directed staff to investigate a way to address the placement of the stop sign on Alma Ave at 23rd Street (southeast corner).

CONCLUSION:

The policy of Ordinance No. 2042 is not applicable in this situation since the existing conditions have been improved to a traditional, standard street right of way for the past forty (40+) years. In comparison to further away street locations such as the southeast corner of Alma Avenue and 28th Street, the existing conditions there (prior to encroachment improvements) were those of a non-standard street right of way condition without well defined boundaries. This section of the City is distinct, as most of the narrow streets were not originally constructed to a traditional, standard design and the development of the public street right of way has been wide-ranging and inconsistent. As a result of these distinctive characteristics, Community Development and Public Works staff evaluate each permit application on a case by case basis and apply guidelines that consider each property's location and the non-traditional street design of the immediate area. Lastly, prior to the formal adoption of the policy in 2003, property owners in the affected areas had the opportunity to voice their specific concerns in front of the City Council during the public hearings.

If the encroachment is approved, there is a potential for the loss of over half of the total parking areas along 23rd Street. This possibility could arise by setting a precedent for the property owners of 2300 Alma Avenue and 2301 Vista Drive to petition for a similar encroachment scenario in the

future, thereby, narrowing the street roadway even further to a point where the parking becomes feasible only on one side of the street right of way.

If approved, the applicants shall be required to submit a completed Encroachment Permit application, plans and submittals to the Community Development Department in order to begin a formal review process. All required plans and submittals shall conform to the construction and landscaping standards and guidelines for public street right of way as established in Ordinances No. 2039 and 2042.

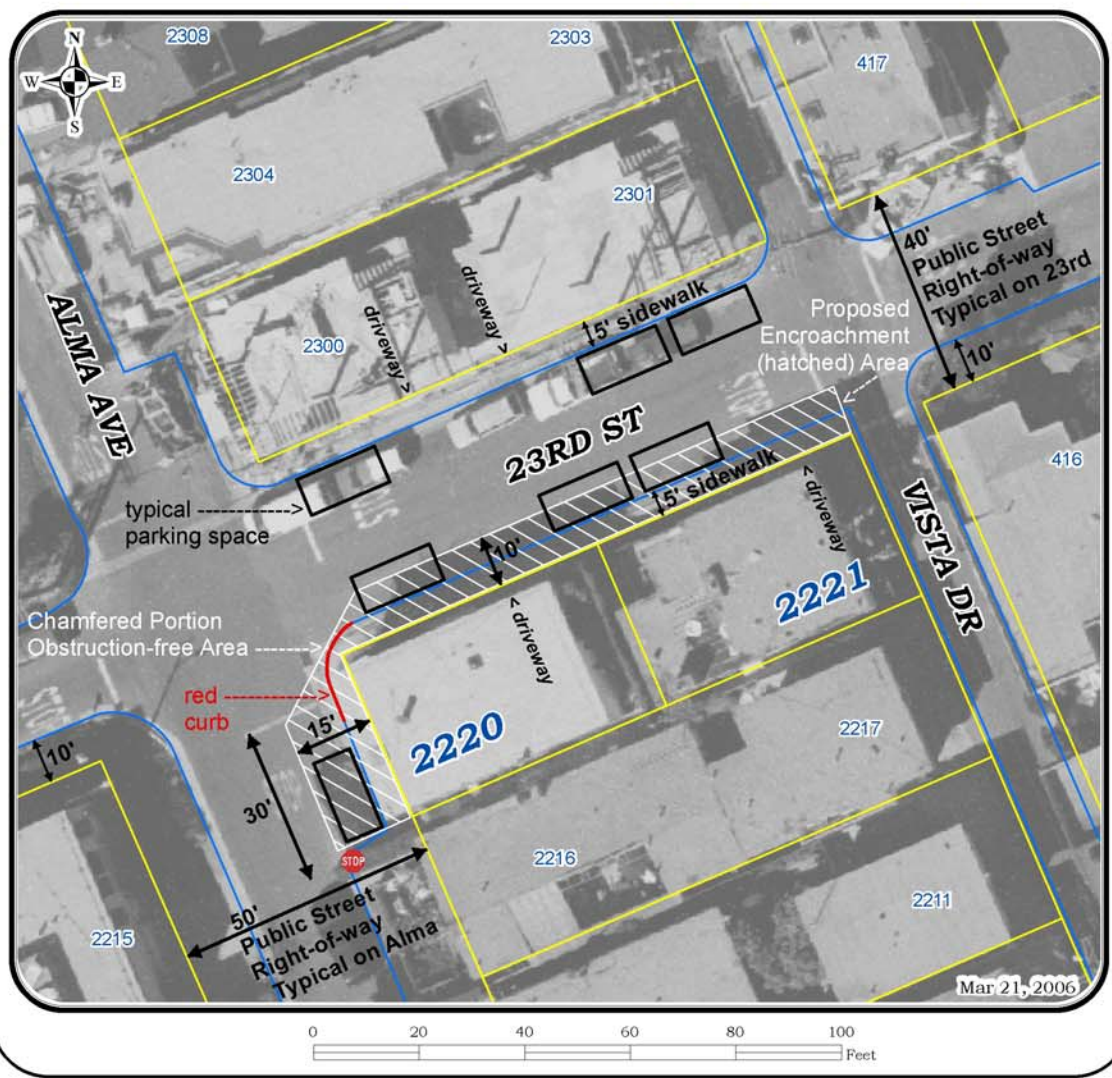
- attachments: **Exhibit A** - location map with outline of proposed encroachment area
- PPIC minutes of February 23, 2006 meeting
 - signed petition (presented by applicants at PPIC meeting, February 23, 2006)
 - applicants' letters of request
 - staff's letters of response
 - site photos
 - 1966 City record plan of curb, gutter and pavement resurfacing at 2220 Alma Ave
 - Ordinances No. 2039 & 2042 "Standards for Construction in the Street Right of Way"
 - staff report – City Council meeting (February 18, 2003 – p.p. 1-2)
 - staff report – City Council meeting (February 4, 2003 – p.p. 1-3)
 - staff report – City Council meeting (January 7, 2003 – p.p. 1-3)
 - staff report – City Council meeting (September 3, 2002 – p.p. 1-6)



EXHIBIT A:

Encroachment Permit Request

2220 Alma Ave
&
2221 Vista Dr



**CITY OF MANHATTAN BEACH
PARKING AND PUBLIC IMPROVEMENTS COMMISSION
MINUTES OF REGULAR MEETING
FEBRUARY 23, 2006**

3. Request for Encroachment Appeal - 2220 Alma Avenue & 2221 Vista Drive

Associate Engineer Gilbert Gamboa presented staff's report and recommendations to deny the request for a private use encroachment permit onto the standard public street right of way along 23rd Street at 2220 Alma Avenue and 2221 Vista Drive

The Commission held discussion with Associate Engineer Gamboa and Traffic Engineer Zandvliet clarifying that staff believes Ordinance 2042 is not applicable; that exceptions to the ordinance are included in said ordinance; that staff would have to review the exact number of parking spaces that would be lost if the appeal is granted; that the proposed encroachment area overlaps existing City owned storm drain and sanitary sewer utilities and closely abuts an existing City owned water main; that the advantage of the offset curb on Alma Avenue is sight distance; and that curbs and gutters would be removed and drainage issues would have to be addressed in the proposed plan.

Audience Participation

Alan Rachmiel, 2220 Alma Avenue, thanked the Commission for hearing this appeal, sharing that it represents a unique situation. He stated that excessive speeds are typical on Alma Avenue and talked of motorists' confusion and safety issues related to the set back of the stop sign and by the narrowing of Alma Avenue. Mr. Rachmiel stated that this appeal will improve the neighborhood and pointed out that all expenses will be covered by the appellants. Mr. Arvizo and himself are just asking for what other residents have been afforded, and feel it is not fair of the City to require them to solve the area parking situation. If parking is an issue, other encroachments should be taken away. Mr. Rachmiel shared his plan to beautify the area, stating that he is open to staff's suggestions and that the plan will address drainage.

Wil Arvizo, 2221 Alma Avenue, presented a petition in support of the encroachment, signed by 61 area homes. He talked of the dangers caused by the misalignments on Alma Avenue, inconsistencies and how this area is an "anomaly" that needs to be addressed. He provided background information on Ordinance 2042 and talked of other properties that have the same encroachment that he and Mr. Rachmiel are asking for, stressing that this street will never be widened.

Dan Woodard, 2215 Alma Avenue, stated that he has nothing against the project and is not opposed to change. However, he is concerned with the loss of parking spaces and questioned if the signers of the petition were aware of the potential loss of parking. Mr. Woodward

added that his driveway is across from the stop sign and when cars are double-parked visibility is impacted.

Glen Ferrand, 2217 Vista Drive, voiced his support of staff's recommendations and talked of the domino effect this encroachment will have. He gave an analysis of the fiscal impact and domino effect the loss of parking spaces will have to the City and questioned if the signers of the petition received full disclosure of what the plan entailed.

Jeanne Hickey, 2308 Alma Avenue, talked of the inconsistencies in road width, indents and parking in the area, stating that the appellants' properties are the only ones that do not have encroachments.

Discussion

Commenting that this difficult issue carries a great deal of history, Commissioner Seville-Jones stated that the appellants made passionate arguments. Beautification is their goal and they have the support of neighbors. However, she does not believe Ordinance 2042 is applicable to this situation and is not the basis to get what others have. Commissioner Seville-Jones talked of her concerns with the loss of parking and the issue of the stop sign. Parking is a high priority in this area. She stated that she is not inclined to grant the encroachment appeal.

Commissioner Lang stated that he also believes Ordinance 2042 does not apply to this issue. He is concerned that it is being used to make a point that is not relative and to take out parking spaces that were intact when the properties were bought. He stated that he does have an issue with the stop sign and granting the encroachment may be a way to solve the safety concern and allow these owners to have the same encroachment the rest of the neighborhood has.

Responding to questions from the Commission, Traffic Engineer Zandvliet explained that a painted stop sign on the roadway is not an adequate alternative - an actual sign is required. Stop ahead signs could be used to alert drivers and hedges located within the public right of way could be trimmed to increase visibility.

Commissioner Saunders stated that understands the appellants' point. However, they purchased their properties with the current conditions and now want what their neighbors have. He does not believe Ordinance 2042 applies and actually may work against the issue. Commissioner Saunders stated that the resident's comment on fiscal impact is unique but valid, and that Commissioner Lang makes a good point on the stop sign. If there wasn't any other solution to address the stop sign, the encroachment may be considered, but he would rather try cutting the hedge or placing additional signage. Commissioner Saunders stated that he is reluctant to approve the appeal and would support staff's recommendations.

Commissioner Powell talked of his concern with Ordinance 2042, sharing that in this case, the spirit of the ordinance would grant the appeal, strict interpretation would be to deny. He noted that this is the only area on the street without an encroachment and the appeal could be given with the stipulation that parking would remain. He agreed that the stop sign needs to be addressed and stated that he could go either way on the appeal.

Chairman Osterhout stated that he too does not believe Ordinance 2042 is applicable to this issue. The intent of the ordinance was not to achieve conformance within neighborhoods. He voiced concern with the lack of parking and narrowing of Alma Avenue, stating that he is amenable to support staff's recommendation but would like the stop sign issue looked into further.

Action

A motion was MADE and SECONDED (Seville-Jones/Powell) to recommend denial of the request for a private use encroachment permit onto the standard public street right of way along 23rd Street at 2220 Alma Avenue.

- AYES: Lang. Powell, Saunders, Seville-Jones and Chairman Osterhout
- NOES: None
- ABSENT: None
- ABSTAIN: None

A motion was MADE and SECONDED (Seville-Jones/Lang) to direct staff to investigate means to address the placement of the stop sign on Alma Avenue and 23rd Street, looking at all potential options.

- AYES: Lang. Powell, Saunders, Seville-Jones and Chairman Osterhout
- NOES: None
- ABSENT: None
- ABSTAIN: None

January 20, 2006

TO: Rob Osborne
City of Manhattan Beach
Management Analyst

FR: Alan Rachmiel, 2220 Alma Ave.
Will Arvizo, 2221 Vista Drive

RE: PPIC AGENDA REQUEST

Please use this document as our formal request to include the modification of the public right of way issue we discussed on PPIC's next agenda. As a result of this unique situation, and what we believe was City Council's intention, we are also requesting that you waive the \$465 fee.

PPIC REQUEST

With respect to City Ordinance No. 2042, Section 2, "9.72.015 Development of Street Right of Way for Public Uses," we are requesting that the PPIC grant us an encroachment permit to modify the public right of way and realign the streets on the southeast corners on Alma and continuing along the southeast side on 23rd street up to Vista.

BACKGROUND

This situation was apparently created some years ago when developers at 2220 Alma, 2300 Alma, and 2221 Vista were required by the City to indent the streets along those properties. Although at the time there may have been a plan for a future street widening initiative, it never materialized. Unfortunately today, the area residences have to live with that decision that we believe creates a driving hazard and an unsatisfactory neighborhood appearance.

PROPOSED PLAN

Please refer to attached plan under consideration.

REASONS TO GRANT ENCROACHMENT

- It is our understanding that the City Council's policy, Section 2, 9.72.015, was designed to allow parking pads to be developed under encroachment permit guidelines. It is our contention that since you can not physical drive along the area in question, this area is nothing more than "well-developed" parking pads. In the spirit of this City Council decision, had they been aware of this unique, "one-of-kind" situation, they would have broadened their parking pad language to include our corner in this provision.
- Realigning streets would slow down traffic and allow the stop sign to be placed in its proper corner location, eliminating driver confusion.
- It would upgrade the general appearance of our neighborhood.
- Eliminate inability of weekly street sweeping preventing unsightly debris.

- It is our understanding from the City Engineer, that realigning streets would not change traffic flow, still allowing one direction each way.
- There would be no cost to the City. All encroachment improvements would be at homeowner expense under City guidelines. In fact, it could potentially save the City money since there are currently plans to replace a storm drain along the southeast side on 23rd street. The City would save the costs associated with replacing the sidewalk and curbs in that area.
- There are no disadvantages to the City and it would be consistent with other driveway/ landscaping encroachment permits already granted over the years to the 2221 Vista property owner and all other property owners to the north, south, east and west of the area in question. More recently, a seemingly identical one was granted to the property owner on the southeast corner of 28th street and Alma.
- We have outlined our request to adjoining property owners and have found none of them against this request. The ones below have agreed to show their support by signing below.

ADJOINING PROPERTY OWNERS SUPPORTING THIS REQUEST

SIGNATURE

ADDRESS

[Signature]

417 23rd St

[Signature]

417 23rd St. MB

Van Kaday

2301 Vista Dr. AR

[Signature]

2308 ALMA MB

[Signature]

2216 ALMA AVE. MB

[Signature]

" " " "

[Signature]

105/409 MARION AVE MB

Thomas S. Kelly

2315 Alma Ave. M.B.

Margaret S. Kelly

[Signature]

2304 Alma Ave.

We have outlined our request to adjoining property owners and have found none of them against this request. The ones below have agreed to show their support by signing below.

ADJOINING PROPERTY OWNERS SUPPORTING THIS REQUEST

SIGNATURE	ADDRESS
<u>Earl Longoria</u>	<u>402 25th ST. N.B.</u>
<u>[Signature]</u>	<u>2400 ALMA AV NIS.</u>
<u>[Signature]</u>	<u>433 23rd ST. NB</u>
<u>[Signature]</u>	<u>2211 Vista Dr</u>
<u>Deanna [Signature]</u>	<u>2211 Vista Dr</u>
<u>[Signature]</u>	<u>417 MARINE PLACE</u>
<u>[Signature]</u>	<u>417 Marine Pl</u>
<u>[Signature]</u>	<u>324 25th ST</u>
<u>Cynthia Rill</u>	<u>2400 Alma Ave.</u>
<u>[Signature]</u>	<u>2303 Vista Dr</u>
<u>[Signature]</u>	<u>2303 Vista Dr.</u>
<u>M. Friedman</u>	<u>2319 Vista Dr.</u>
<u>Norma Piciano</u>	<u>437 23rd PL</u>

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ADJOINING PROPERTY OWNERS SUPPORTING THIS REQUEST

SIGNATURE

ADDRESS

[Signature]

2411 VISTA DR. MB

[Signature]

316 2300 ST

Kristin Bartsch McDonald

2301 ALMA AVE. M.B.

[Signature]

2300 Alma Ave

[Signature]

3401 Marine Ave

[Signature]

2404 HAMP AV

[Signature]

2316 ALMA AVE

[Signature]

2316 Alma Ave

[Signature]

437 B Marine Ave

[Signature]

405 MARINE

[Signature]

2304 Grandview

[Signature]

428 23rd ST

[Signature]

2300 Alma Ave

We have outlined our request to adjoining property owners and have found none of them against this request. The ones below have agreed to show their support by signing below.

ADJOINING PROPERTY OWNERS SUPPORTING THIS REQUEST

SIGNATURE

ADDRESS

Georgia Steel

2320 Alma Ave - 90266

Tom Bond

2212 Alma Ave 90266

Susan O Roar

2212 Alma Ave 90266

Lisa Adams

2205 Alma Ave 90266

Mike Wain

2201 Alma Ave 90266

Michael Walker

2201 ALMA AVE. 90266

Michelle Dunn

324-23rd St, M.B 90266

Michael Ke

437 Marine Pl. MB 90266

Wang P. J.

442 23rd Manhattan Beach

Sand B. Shyn

448 23rd ST. MB. 90266

Sam W. K.

448 23rd ST. MB 90266

D. J. Warner

445-23RD ST, MB

Gene Anselmi

448 MARINE AVE

ADJOINING PROPERTY OWNERS SUPPORTING THIS REQUEST

SIGNATURE

ADDRESS

[Signature]

432 Marine Ave, MB, CA 90266

[Signature]

425 Marine Ave, MB 90266

[Signature]

421 Marine

432 23rd St | Kuhlken Bldg
90266

448 24th ST.

Melissa Borman

440 24th ST

[Signature]

440 24th St.

Stanley M. Lopez

432 24th St.

Rose Ann Baker

316 Marine
312 Marine

[Signature]

416 MARINE AVE

Melissa Homb

444 Marine Ave

ADJOINING PROPERTY OWNERS SUPPORTING THIS REQUEST

SIGNATURE

ADDRESS

Joseph A. Sporeic

501 MARINE AVE.

MANHATTAN BCH, CA

2215 GRANDVIEW AVE
90266
MILL CA

Ben R...

February 6, 2006

TO: Rob Osborne
City of Manhattan Beach
Management Analyst

FR: Alan Rachmiel, 2220 Alma Ave.
Will Arvizo, 2221 Vista Drive

RE: PPIC AGENDA REQUEST

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PPIC REQUEST

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BACKGROUND

This situation was apparently created some years ago when developers at 2220 Alma and 2221 Vista were required by the City to indent the streets along those properties. Although at the time there may have been a plan for a future street widening initiative, it never materialized. Unfortunately today, those property owners and the other area residences have to live with that decision that we believe creates a driving hazard and an unsatisfactory neighborhood appearance.

PROPOSED PLAN

Please refer to attached plan under consideration.

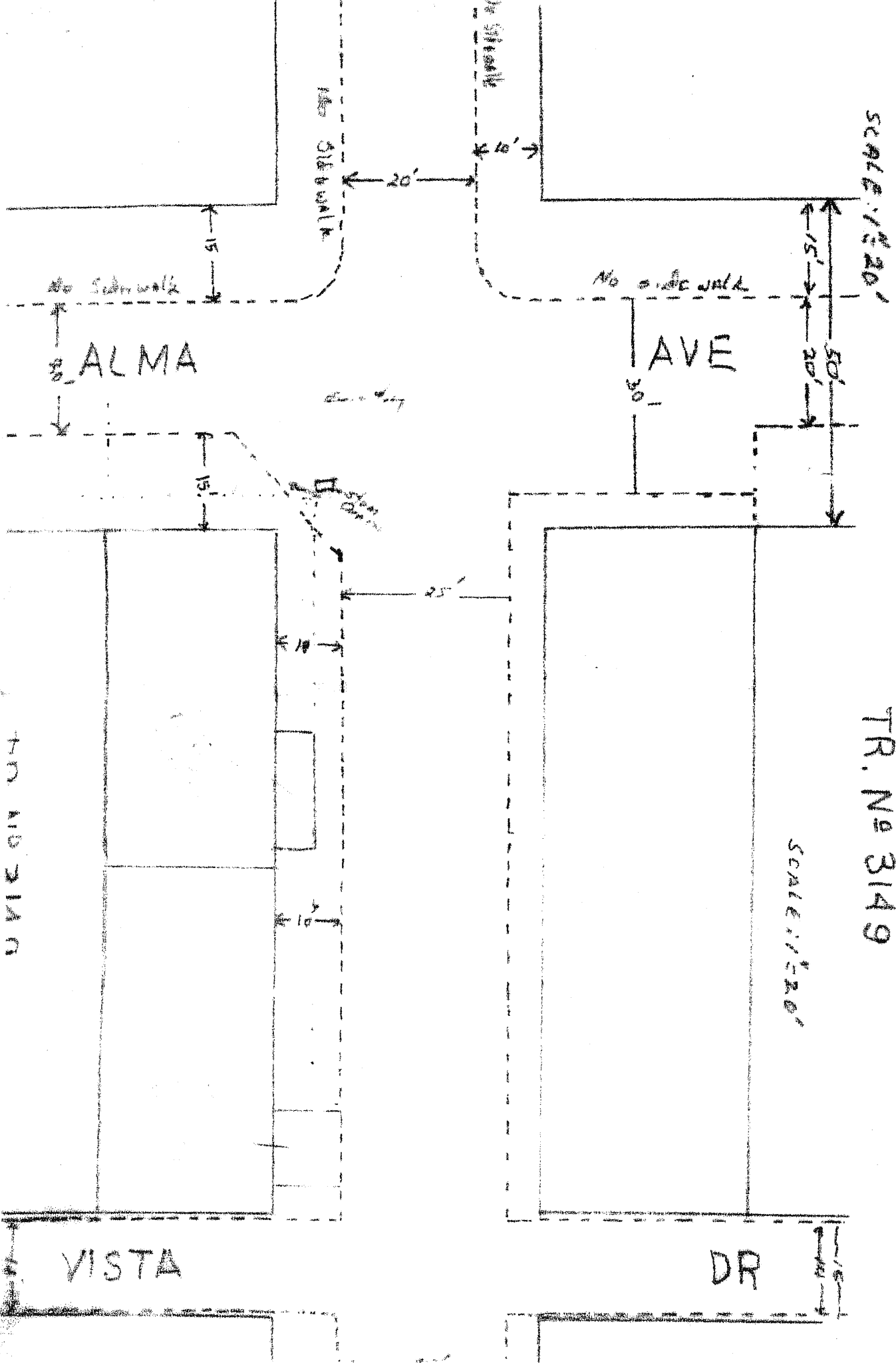
REASONS TO GRANT ENCROACHMENT

- It is our understanding that the City Council's policy, Section 2, 9.72.015, was designed to allow parking pads to be developed under encroachment permit guidelines. It is our contention that since you can not physical drive along the area in question, this area is nothing more than "well-developed" parking pads. In the spirit of this City Council decision, had they been aware of this unique, "one-of-kind" situation, they would have broadened their parking pad language to include our corner in this provision.
- Realigning streets would slow down traffic and allow the stop sign to be placed in its proper corner location, eliminating driver confusion.
- It would upgrade the general appearance of our neighborhood.
- Eliminate inability of weekly street sweeping preventing unsightly debris.

CASHIER: FEB 06 2006 01-0203423 PAID

- It is our understanding from the City Engineer, that realigning streets would not change traffic flow, still allowing one direction each way.
- There would be no cost to the City. All encroachment improvements would be at homeowner expense under City guidelines. In fact, it could potentially save the City money since there are currently plans to replace a storm drain along the southeast side on 23rd street. The City would save the costs associated with replacing the sidewalk and curbs in that area.
- There are no disadvantages to the City and it would be consistent with other driveway/ landscaping encroachment permits already granted over the years to the 2221 Vista property owner and all other property owners to the north, south, east and west of the area in question. More recently, a seemingly identical one was granted to the property owner on the southeast corner of 28th street and Alma.
- We have outlined our request to neighboring property owners and have found none of them against this request. At the meeting, we will be submitting signatures and addresses of adjoining property owners who support this request.

Thank you for your consideration. Please acknowledge receipt of this document and the date of the meeting our agenda item will be heard (Alan Rachmiel, 937-8639; Will Arvizo, 890-2227).



TR. No 3149

SCALE: 1/4" = 20'

TR. No 3149

VISTA

DR

ALMA

AVE

No Sidewalk

No Side Walk

No Sidewalk

No Sidewalk

15'

20'

40'

15'

20'

50'

30'

25'

10'

10'

15'

December 2, 2005...delivered by hand

13

Mr. Neil Miller
Director of Public Works
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266

Dear Mr. Miller,

I am writing to you today to ask for a meeting to discuss a request my neighbor Will Arvizo and I made in a letter written to Eric Zandvliet dated March 14, 2005. Since I sent that letter and Rob Osborne's subsequent response dated March 22, 2005, events have changed and I now believe there may now be justification for administratively approving our request...saving the City money.

Attached for your information, is a copy of our letter requesting public right of way modification on the southeast corners on Alma and continuing along the southeast side on 23rd street up to Vista (along with Mr. Osborne's response). To summarize the letter, we were asking the City to grant this request based on the following reasons:

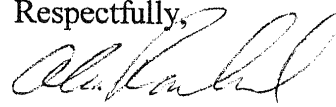
- City no longer has plans to widen the street in our area
- Conforms with City Council decision passed 2/18/03, ordinance #2039
- Realigning streets would eliminate driving hazard
- Upgrade the general appearance of our neighborhood
- Property owners adjoining these changes approve this plan
- Consistency for all residents (homeowner on Alma and 28th street granted similar request without City Council approval)

From Mr. Osborne's response letter, it appears that the City has no administrative justification NOT to approve our request, rather, no justification to approve our request. As I indicated, I would like to give the City justification.

A few weeks ago, the City determined the sewer lines that run along southeast side on 23rd street from Vista west across Alma must be replaced. So far all they have done is outline the replacement area and cut along the targeted physical street area on Alma. This impacted areas requires that the sidewalk along 23rd be dug up and replaced. What I am proposing is the City approve our public right of way modification and encroachment, and we share in the replacement cost.

At your earliest convenience, please acknowledge receipt of this communication and advise if and when you and/ or appropriate staff members can meet with me to discuss this matter.

Respectfully,



Alan Rachmiel
937-8639

cc: Erik Zandvliet, Traffic Engineer
Dan Greenwood, City Engineer
Ron Osborne, Management Analyst
Will Arvizo, 2221 Vista Drive

March 14, 2005

13

Mr. Eric Zandvliet
Traffic Engineer
City of Manhattan Beach
1400 Highland Ave.
Manhattan Beach, CA 90266

SUBJECT: Request to realign streets near Alma Ave. and 23rd Street

Dear Eric,

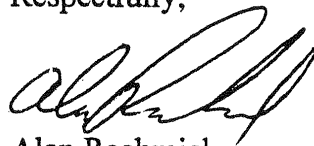
We want to thank you for taking the time to visit with us and exploring the possibility of realigning the streets on the southeast corners on Alma and continuing along the southeast side on 23rd street up to Vista.

This situation was apparently created some years ago when developers of 2220 Alma and 2221 Vista were required by the City to indent the streets along those properties. Although at the time there may have been a plan for other future street widening initiatives, they never materialized. Unfortunately today, the neighboring residences have to live with that decision that has created a driving hazard and unsatisfactory appearance. We two property owners and all surrounding homeowners are concerned about reducing the speed of motorists (the street appears wide so they speed up after the stop sign only to brake hard when the street narrows down again), the confusion this causes for motorists (stop sign is 25 feet from corner and motorist often jam on their brakes at the stop sign, not the intersection), and upgrading the general appearance of our neighborhood.

In keeping with the spirit of the 2003 City Council decision granting homeowners the ability to "take back" such areas described (ordinance #2039, passed 2/18/03), we ask that the City issue encroachment permits to the impacted property homeowners allowing us to realign the streets and upgrade the affected areas, all under city supervision and at individual homeowner expense. As discussed, we do not anticipate the need to eliminate any parking spaces and if the realignment is granted, the reduced passing area would be no different than anywhere else along either route (two-way passing is not currently possible...one-way would continue). This request has no downside to the City and is no different than what has apparently been granted to other City residents, most recently to the homeowner at the southwest corner of Alma and 28th Street. We ask for the same consideration.

At your earliest convenience, please acknowledge receipt of this communication and please advise us of any hearing dates as our request goes through appropriate committees.

Respectfully,



Alan Rachmiel
2220 Alma
802-1368



Wil Arvizo
2221 Vista
890-2227



City of Manhattan Beach

Public Works Department

Phone: (310) 802-5300

FAX: (310) 802-5301

TDD: (310) 546-3501

December 5, 2005

Alan Rachmiel
2220 Alma Avenue
Manhattan Beach, CA 90266

Dear Mr. Rachmiel,

I have received your hand-delivered letter dated December 2, 2005. Included with your letter is a copy of a letter to Mr. Eric Zandvliet, Traffic Engineer for the City of Manhattan Beach, dated March 14, 2005, and, a copy of a letter to Mr. Will Arvizo, from Rob Osborne, dated March 22, 2005 stating that the Traffic Engineer did not find a safety problem which would be resolved with your proposal to narrow the street.

In your December 2, 2005 letter you point out that the City is planning to replace a "sewer" line (actually, it's a storm drain) on 23rd Street up to Vista. This is a repair to an existing storm drain and does not change the conditions on which we have based our earlier decisions regarding your request to narrow the street. It is our opinion that the City Council's policy of allowing parking pads to be developed under encroachment permit guidelines does not apply to a street constructed to City standards and currently being used by the public.

As we have stated before, the City has an appeal process for administrative decisions as was described in Mr. Osborne's March 22, 2005 letter.

If you would still like to meet on this matter please call my office at 310-802-5303 to make an appointment.

Sincerely,

Neil Miller
Director of Public Works

Cc: Dana Greenwood, City Engineer
Erik Zandvliet, Traffic Engineer
Rob Osborne, Management Analyst
Will Arvizo, 2221 Vista Drive, Manhattan Beach



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City Hall 1400 Highland Avenue Manhattan Beach, CA 90266-4795
Telephone (310) 545-5621 FAX (310) 545-5234 TDD (310) 546-3501

March 22, 2005

Mr. Will Arvizo
2221 Vista Drive
Manhattan Beach, CA 90266

Re: Request to Modify Public Right of Way – 2221 Vista Drive/2220 Alma Avenue

Dear Mr. Arvizo:

Our Traffic Engineer has evaluated the traffic safety issue on 23rd Street you described in your letter of March 14, 2005. He does not feel there is a safety problem that would be remedied by narrowing the roadway. As you know the Public Works Department has also concluded that there is not justification for administratively approving your request to develop a portion of the public right of way on 23rd Street for private use. You have the option of appealing this decision so that it is considered by the Parking and Public Improvements Commission and ultimately the City Council. In order to file an appeal you would need to submit the following:

- Plans showing the narrowed roadway and your proposed encroachment into the public right of way
- An appeal fee of \$465

If you have any questions or would like to discuss this matter further, please call me at (310) 802-5540.

Sincerely,

Rob Osborne
Management Analyst
Community Development Department

cc: Alan Rachmiel, 2220 Alma Ave.
Erik Zandvliet, Traffic Engineer
Neil Miller, Director of Public Works
Dan Greenwood, City Engineer



Looking WEST of Alma Ave



2221 Vista Dr – Looking WEST



Looking WEST along 23rd Street



Looking EAST of Vista Dr



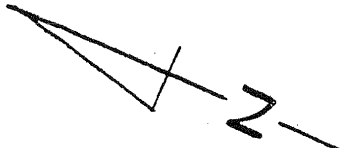
2220 Alma Ave – Looking EAST






2220 Alma Ave – Looking SOUTH

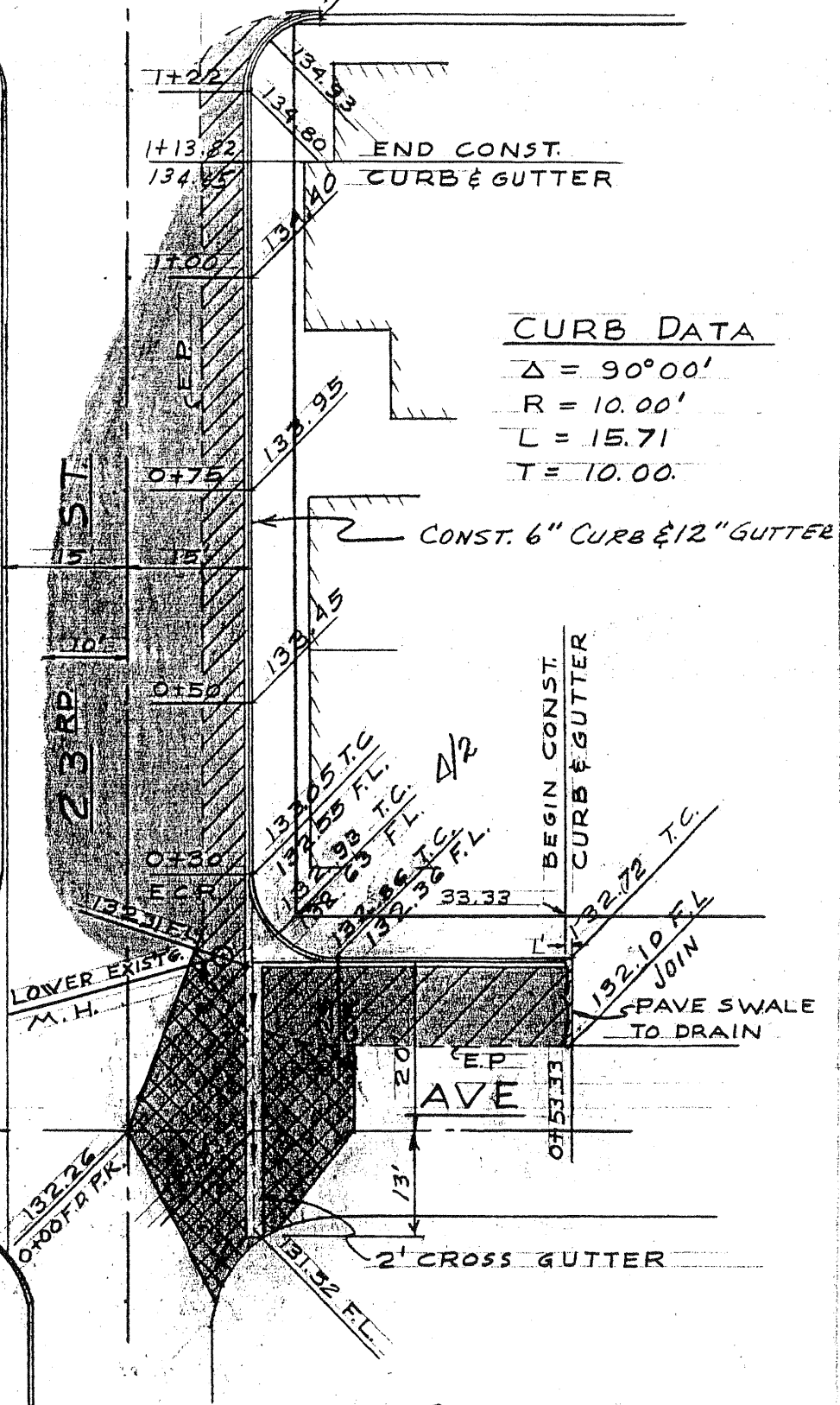
VISTA

DR.



SCALE: 1" = 20'

-  A.C. OVERLAY
-  2 1/2" A.C. ON 4" A.B
-  REMOVED & REPLACE



CURB DATA

$\Delta = 90^{\circ}00'$
 $R = 10.00'$
 $L = 15.71$
 $T = 10.00.$

CONST. 6" CURB & 12" GUTTER

BEGIN CONST. CURB & GUTTER

PAVE SWALE TO DRAIN

2' CROSS GUTTER

Title 23RD ST. & ALMA AVE

Prepared By J.H.N. Date 1/24/66

Checked By L.P. Date 1/27/66

ORDINANCE NO. 2039

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, REPLACING CHAPTER 7.36 OF THE MANHATTAN BEACH MUNICIPAL CODE AND IMPLEMENTATION PROGRAM OF THE LOCAL COASTAL PLAN REGARDING PRIVATE USE OF THE PUBLIC RIGHT OF WAY.

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Manhattan Beach hereby finds as follows:

- A. The City of Manhattan Beach is a community with a high quality of life, attractive neighborhoods and a non-urban "small town" ambience;
- B. Constant use of the public right of way for utilities and private development requires authority for the City to protect and regulate use of the right of way by private parties for private purposes to ensure public safety and reduce disruption to the public and degradation of public facilities;
- C. Permit requirements for private use of the public right of way ensures that any work performed in the public right of way meets acceptable standards for public improvements and protects public property;
- D. This ordinance is exempt from the requirements of the California Environmental Quality Act due to determination that it has no potential for causing a significant effect on the environment (per CEQA Guidelines Section 15061 (b) (3));
- E. The subject ordinance was reviewed by the Parking and Public Improvements Commission of the City of Manhattan Beach on May 23, July 25 and September 26, 2002 on which date the Commission recommended approval by the City Council;
- F. The proposed ordinance is consistent with the policies of Chapter 3 of the Coastal Act, and will not have an impact either individually or cumulatively on coastal resources, and do not involve any change in existing or proposed use of land or water.

SECTION 2. Chapter 7.36 of the Manhattan Beach Municipal Code and Local Coastal Plan Implementation Program is hereby replaced in its entirety as follows: (Existing Chapter 7.36 is hereby repealed)

CHAPTER 7.36 PRIVATE USE OF THE PUBLIC RIGHT OF WAY

7.36.010 Scope and Intent. The provisions of this Chapter shall govern use of the public right of way by private parties. The intent of these standards is to allow private use and development of the public right of way with improvements that are functional, attractive and non-obtrusive to the public, consistent with building safety and public works standards, and compatible with public facilities and surrounding developments.

7.36.020 Definitions

ADJOINING PROPERTY -- means the private property located immediately adjacent to the section of public right of way to be encroached upon.

APPLICANT - means any person, firm, partnership, association, corporation, company, entity or organization of any kind who proposes to encroach upon a public place, right of way, sidewalk or street and who has applied for a permit for the proposed encroachment, pursuant to the provisions of this Chapter.

DIRECTOR OF COMMUNITY DEVELOPMENT - means the Director of Community Development of the City of Manhattan Beach or his or her designee.

DIRECTOR OF PUBLIC WORKS – means the Director of Public Works of the City of Manhattan Beach or his or her designee.

EL PORTO STRAND PROPERTY - means a property located on the Strand between 39th Street and 45th Street.

ENCROACHMENT AREA - means the section of public right of way located between the property line and the edge of the walkway or roadway.

ENCROACHMENT - means and includes any paving, obstruction, fence, stand, building, entry monument, or any structure or object of any kind or character which is placed on, in, along, under, over or across a public place, right of way, sidewalk or street by or for the use of the adjoining property.

ENCROACHMENT WORK - means the work of constructing, placing or installing an encroachment.

ENGINEER - means the Manhattan Beach City Engineer or his or her designee.

EXCAVATION - means any opening in the surface of a public place, right of way, sidewalk or street made in any manner whatsoever. The term shall also include any excavation on private property which removes or imperils the lateral support of a public place, right of way, sidewalk or street.

LANDSCAPING – means an area devoted to or developed and maintained with lawn, gardens, trees, shrubs and other plant materials and excluding decorative outdoor landscape elements such as water features, paved surfaces, potted plants and sculptural elements.

NATURAL GRADE means a straight line from the edge of the improved public walkway/roadway grade to the existing front property line grade.

NONCONFORMING means a previously permitted and constructed improvement which is not consistent with the standards of this chapter.

OCCUPY - means owning or operating any facilities that are located in Rights-of-Way.

OPEN DESIGN FENCE - means a fence where the primary fence material is transparent and colorless, or the open spaces between the solid segments are equal to or exceed the size of the solid segments.

OVERHEAD STRUCTURES - means any improvement extending over a public place, right of way or street.

PERSON - means any living individual, any corporation, joint venture, partnership, or other business entity.

PUBLIC WALKWAY - means the portion of the public right of way improved and designated by the City for pedestrian travel.

RIGHT OF WAY - means the surface and space in, on, above, through and below any real property in which the City of Manhattan Beach has a legal or equitable interest whether held in fee or any other estate or interest, or as a trustee for the public, including, but not limited to any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, curb, parkway, river, tunnel, viaduct, bridge, public easement, or dedicated easement.

USABLE SURFACE - means a relatively level surface intended for active recreation, passive occupation, or pedestrian access including but not limited to lawns, patios and decks, but excluding a walkway not exceeding 44" in width that provides access from the public walkway to private property.

WALK STREET - means a dedicated public street improved with a public walkway that is closed to vehicular traffic.

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7.36.030 Permit Required

It shall be a violation of this Chapter for any person to construct, create, occupy or use an encroachment in the public right of way without an encroachment permit. To the extent permitted by law the issuance of such a permit shall be discretionary and may be denied or revoked without cause. Application of this Chapter shall include, but not be limited to private improvements, long-term commercial use and commercial sidewalk dining, temporary access for installation of private street improvements and all other intrusions into the public right of way whether temporary or permanent. The City Council may, from time to time, by resolution set fees for issuance of encroachment permits authorized by this Chapter.

7.36.040 Initiation

The Director of Community Development shall have the authority to issue an encroachment permit consistent with the standard set forth in this chapter provided that where fixtures or structures located within public walkways or roadways, other than temporary moveable structures, are to be placed in the public right of way, or street alterations are to be performed, detailed plans for any such work shall be submitted to the Director of Public Works whose approval shall be required.

Applications shall be submitted to the Community Development Department with the required forms, fees, plans, and related material. Applications shall be reviewed for compliance with the requirements of this chapter, and the public's priority for use of City right-of-way as determined to be appropriate by the Director of Public Works.

7.36.050 Director of Public Works Authority

The Director of Public Works shall have the authority to prohibit or limit the placement of new or additional facilities within the right of way if there is insufficient space to accommodate the requests of applicants to occupy and use the right of-way. In reaching such decisions, the Director of Public Works shall be guided primarily by: considerations of the public interest; the age and condition of the affected portions of the rights-of-way; the time of year and the protection of existing facilities in the right of way; and future City plans for public improvements and development projects that have been determined to be in the public interest.

7.36.060 Permit Conditions

A. Discretionary Conditions

The Director of Community Development shall have the authority to condition or restrict the permit in any way which shall protect the public health and welfare. The Director of Community Development reserves the right to require phasing of construction projects or limit the hours of construction to reduce the adverse impacts on the public health, safety and welfare. The Director of Public Works has the authority to approve or reject a method of excavation or other construction methodology.

B. Mandatory Conditions

In granting an encroachment permit under the provisions of this chapter, the following conditions, in addition to any other conditions deemed necessary or advisable, shall be imposed:

1. That the encroachment shall be removed or relocated by the permittee at no cost to the City upon thirty (30) days' written notice to the permittee from the City, and should any cost be incurred by the City in the removal of such encroachment, such cost shall be a lien upon the permittee's adjacent real property;
2. That the encroachment and permit restrictions, conditions or limitations serving the adjoining property shall be recorded as a covenant, and shall be binding upon all heirs, successors, assigns, executors, or administrators in interest. The covenant shall be disclosed whenever title is transferred;

3. That a certificate of insurance in amounts and form satisfactory to the City Risk Manager shall be filed with the City upon the granting of the encroachment and shall be maintained in good standing at all times so long as the encroachment exists, releasing the City from any and all liability whatsoever in the granting of such encroachment.
4. That the applicant shall expressly agree to each of the conditions imposed, including any which may be in addition to the foregoing, as a prerequisite to the granting of the encroachment by the City.
5. That encroachments involving commercial uses shall pay an established annual or monthly fee to be set by resolution of the City Council and to be based upon the market value of the property being occupied.
6. That in cases where an encroachment is adjacent to a private property common area governed by a Home-owners Association (as in the case of an airspace condominium) the Homeowners Association shall be the applicant and subject to all permit requirements. The permit requirements shall be included as conditions of the project subdivision map and included in the covenants, conditions and restrictions (C, C and R's) recorded for the project.

7.36.065 Required findings.

The Director of Community Development, in granting approval of an encroachment permit application shall make the following findings:

- A. The granting of the encroachment permit will not be materially detrimental to the public health, safety, convenience, and welfare or injurious to property and improvements in the same vicinity and zone in which the property is located;
- B. The granting of the encroachment permit will be in conformity with the policies and goals of the General Plan;
- C. The proposed encroachment will comply with the provisions of this chapter, including any specific condition required;
- D. The proposed encroachment will not encroach into the area of the right of way occupied by an improved paved sidewalk or pedestrian or vehicular accessway or stairway, except as expressly provided in this chapter;
- E. The proposed encroachment will not reduce or adversely impact public pedestrian access along the paved and improved portion of the sidewalk, walk street, alley or stairway and does not reduce or adversely impact the vehicular access along the improved alley.
- F. For properties that are located in the coastal zone, the proposed encroachment will be consistent with the public access and recreation policies of Chapter 3 of the California Coastal Act of 1976, as follows:
 1. The proposed encroachment will not impact public access to the shoreline, adequate public access is provided and shall be maintained in the public right of way adjacent to the subject property (Section 30212 (a) (2)).
 2. The present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area (Section 30221)

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7.36.070 Issuance

The Director of Community Development shall issue a written decision regarding each encroachment permit application. This decision shall recite the findings upon which the decision is based as provided in Section 7.36.065 of this chapter. If the decision grants the encroachment, it shall set forth the conditions to be imposed. The conditions set forth in Section 7.36.060(b) of this chapter shall be attached to every permit approval. The decision of the Director of Community Development shall be final ten (10) calendar days after mailing a copy of the decision to the applicant.

7.36.080 Appeals

Applications which are inconsistent with the "Encroachment Standards" set forth in section 7.36.150, including right-of-way frontage improvements required as a condition of approval by the Director of Public Works, must be appealed to and approved by the City Council with a recommendation from the Parking and Public Improvements Commission. A notice shall be sent to the property owners whose lots' front property lines are within 300 feet of the subject encroachment area site at least 10 calendar days prior to each body's consideration of the exception request. The notice will describe the proposed encroachment, make the plans available for review, and set a deadline for registering objections. Upon consideration of such an appeal application, the City Council may approve, modify, or disapprove the application for encroachment. The action of the City Council shall be final.

7.36.090 Time Limit

Any encroachment granted pursuant to the provisions of this Chapter shall be developed and utilized within a period not to exceed twelve (12) months from and after the date of the granting of such encroachment, and, if not so developed and utilized, such encroachment automatically shall become null and void at the expiration of such twelve (12) month period.

The permittee may apply in writing for one extension of time, not to exceed six (6) months, within which to develop and use such encroachment. The Director of Community Development, in his or her sole discretion after due consideration, shall either grant or deny the extension of time for such development and use.

7.36.100 Inspection

The Director of Community Development shall require that inspections be completed before commencement, and after completion of encroachment work. Inspections while encroachment work is in progress shall be completed as determined to be appropriate by the Director of Community Development or Director of Public Works.

7.36.105 Restoration of Public Right of Way

Upon completion of the encroachment work authorized by a permit, the permittee shall restore the right of way or street by replacing, repairing or rebuilding it in accordance with the specifications or any special requirement included in the permit, but not less than to its original condition before the encroachment work was commenced and in all cases in good usable quality. The permittee shall remove all obstructions, materials and debris upon the right of way and street, and shall do any other work necessary to restore the right of way and street to a safe and usable condition, as directed by the Director of Public Works. Where excavation occurs within areas already paved, the Director of Public Works may require temporary paving to be installed within four hours after the excavation area is backfilled. In the event that the permittee fails to act promptly to restore the right of way and/or street as provided in this section, or should the nature of any damage to the right of way or street require restoration before the permittee can be notified or can respond to notification, the Director of Public Works may, at his or her option, make the necessary restoration and the permittee shall reimburse the City for the full cost of such work, and such cost shall be a lien upon the permittee's adjacent real property.

7.36.110 Revocation

The Director of Community Development or the City Council may revoke any encroachment permit for noncompliance with the conditions set forth in granting such encroachment, including but not limited to provision of liability insurance coverage to the City or if it is determined that such permit is not in the public interest. A written notice shall be mailed to the permittee of such revocation. Within ten (10) working days of mailing of such notice of revocation to the permittee, a written appeal of such action may be filed. Any such appeal shall be made to the Parking and Public Improvements Commission whose recommendation will be reviewed by the City Council and the Council's determination of the matter shall be final.

7.36.120 Enforcement

Violation of this Chapter shall be punishable as a misdemeanor as set forth in Section 1.04.010(A) of this Code. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Chapter shall constitute a separate violation of such provision. In addition to any other remedies provided in this section, any violation of this Chapter may be enforced by civil action brought by the City. In any such action, the City may seek, as appropriate, any or all of the following remedies: a temporary and/or permanent injunction; assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection; costs incurred in removing, correcting, or terminating the adverse effects resulting from violation; compensatory damages; attorney fees.

7.36.140 Other Permits

Nothing in this Chapter shall preclude a requirement for a Coastal Development Permit, Business License, Conditional Use Permit, or other, City, State or County permit if otherwise required for the encroaching activity. See Chapter A.96 of the Manhattan Beach Local Coastal Program Implementation Program for applicable Coastal Development Permit requirements.

7.36.150 Encroachment Standards**A. General Standards**

1. Structures as defined by the City's Building Code or other encroachments are prohibited from encroaching within the public right of way unless in compliance with these standards or approved by the City Council.
2. Landscaping is permitted without an encroachment permit in accordance with an approved landscape plan pursuant to Chapter 7.32 of the Municipal Code. Artificial landscape materials are prohibited.
3. Utility obstructions shall be avoided so as to maintain access to underground utilities. A minimum of 30 inches of clearance is required on each side of all water and sewer mains, unless otherwise approved by the Director of Public Works.
4. Drainage from a private collection system that discharges a concentrated flow shall be directed to a vehicular street or alley pursuant to Public Works Department construction standards and shall be prohibited from flowing onto a public pedestrian walkway or sidewalk. A drainage plan shall be provided with an application for an Encroachment Permit.
5. All encroachments shall be in conformance with Title 5, Chapter 5.84 of the Municipal Code pertaining to storm water pollution control.
6. Obstructions to neighboring resident's scenic views shall be avoided.

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- 7. Steps and Stairs, other than risers between 4 and 7 inches in height and spaced a minimum of 3 feet apart, are not permitted in the public right of way.
Exception. One set of steps comprised of three consecutive risers is permitted provided a condition does not result that requires installation of a guardrail or handrail.
- 8. Existing improvements which do not conform to current standards must be removed or brought into conformance if the related structure on the adjoining property is significantly remodeled or reconstructed or if any new significant construction is proposed in the public right of way. Existing permitted improvements that have been made non-conforming by changes to these standards may otherwise remain provided any nonconforming element is not increased or expanded. The intent is to cause nonconforming encroachments to be brought into conformity concurrent with major alterations or entirely new structures constructed on adjoining private property.
- 9. Routine maintenance and repair may be performed on a nonconforming encroachment structure or improvement and replacement with a comparable improvement is permitted upon demonstration that the encroachment is deteriorated and creating an unsafe condition.

B. Walk Street Standards

- 1. Fences and railings, including required safety handrails and guardrails, are permitted provided an open design is utilized. The maximum allowable height is 42" above the adjacent public walkway. To ensure pedestrian to vehicle visibility at corners, a 36" maximum height (measured from adjacent curb level) is required within a distance of 5' from the street corner.
- 2. Retaining walls (not including walkway risers), free-standing walls and closed design fences are permitted provided the maximum allowable height is 32" above the adjacent public walkway. Conditions requiring guardrails that exceed the height permitted in subsection (1) above shall not be permitted.

Exception. Retaining walls and related required safety railing that exceed the 32" limit may be constructed at the side boundaries of an encroachment area if necessary to retain a neighbor's existing grade, provided all other encroachment improvements comply with applicable encroachment standards. If subsequently such over-height walls and/or safety rails are no longer necessary due to modification of the adjoining encroachment area, the property owner shall lower the over-height wall/safety rail to conform with applicable standards. This requirement shall be included as a permit condition in the Encroachment Permit Agreement.
- 3. Landscaping is permitted subject to approval of a landscape plan submitted with an Encroachment Permit. Landscaping shall cover a minimum of one-third of the encroachment area and shall not project over or onto the public walkway. To promote visual openness and conserve scenic vistas, the height of landscape plantings shall not exceed 42-inches as measured from the adjacent public walkway.

Landscape plantings shall be maintained in substantial conformance with the approved plan. If it is determined that a resident view is impaired, the Director of Community Development shall direct the owner of the property adjacent to the encroachment landscaping to trim the over-height landscaping to 42-inches maximum. Should the property owner fail to act, the Director of Community Development may cause the landscaping to be trimmed, with the expense borne by the property owner. The owner of the property who receives such notice to trim may appeal the decision of the Director of Community Development pursuant to Section 7.36.070 of this chapter.
- 4. Usable surfaces (as defined herein). The intent of this standard is to ensure that the elevation of encroaching outdoor living areas located nearest the public walkway be consistent with the public walkway. Usable surfaces are permitted as follows:

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- a. Within the front half of the encroachment area (adjacent to the public walkway), limited to a maximum height of 12 inches as measured above or below the adjacent public walkway.
 - b. Within the rear half of the encroachment area (adjacent to private property), limited to a maximum height of either: 36 inches as measured above or below the adjacent public walkway, or 12 inches as measured above or below the natural grade, as defined herein.
5. The total combined height of fences, railings, retaining walls (including walkway risers) shall not exceed a height of 42 inches as measured from lowest adjacent finished grade.
 6. Drainage from a private collection system that discharges a concentrated flow shall be directed to a public vehicular alley or street via a non-erosive device pursuant to Public Works Department construction standards except as permitted by the Director of Public Works.

C. El Porto Strand Standards

In addition to the encroachments permitted in (b) above, the following encroachments are permitted within The Strand right of way north of Rosecrans Avenue due to unusual slope and underground utility location and to provide an adequate buffer between the Strand walkway and adjoining private properties.

1. Usable surfaces are permitted within the rear half of the encroachment area at a maximum height of 72 inches measured from the adjacent public walkway, provided they are accompanied by terraced landscape planters with evenly spaced retaining walls with a maximum height of 30" each.
2. Fences and walls are permitted to be a maximum height of 42 inches above the adjacent public walkway except that planter walls required in subsection (1) above may have a maximum height of 72".
3. Corner properties bordering a parking lot entrance or exit are allowed to have walls and fences on the vehicular street side to a maximum height of 6' above adjacent curb level except that a maximum height of 3' shall be permitted adjacent to driveway/roadway intersections.
4. Drainage from a private collection system that discharges a concentrated flow shall be directed to a public vehicular alley or street via a non-erosive device pursuant to Public Works Department construction standards .

D. Vehicular Street Standards

1. Street improvements, including (but not necessarily limited to) sidewalks, curbs, gutters, parking pads and paving may be required by the Public Works Department for the purpose of maintaining or improving conditions related to drainage, visibility, access, maneuverability or public parking, and, if required, shall be constructed in compliance with City standards.
2. Fences and walls are permitted as follows:
 - a. Location. Compliance is required with Public Works Department standards established in MBMC 9.72.015. A minimum set back of 2 feet is required behind existing or required street improvements.

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b. Height. Fences and walls may not exceed a maximum height of 42", measured from the existing public right-of-way grade at the fence or wall location. Open-design fences or guard rails required by the Building Official to exceed the 42" maximum height are allowed on top of retaining walls if necessary to retain a neighbor's grade at a side property line. Fences and walls located near the intersection of streets or driveways may be subject to lower height requirements to ensure traffic visibility.

- 3. Ground cover such as pavement (including brick or other decorative surfaces) and landscaping is permitted on the existing right of way grade. Decks or similar structures are prohibited.
- 4. Street Corner Visibility. To ensure visibility at street corners a 36" maximum height is applicable to all fences, walls or landscape plantings within a distance of 15' from the street corner as per MBMC 3.40.010 (Traffic Sight Obstructions). A height less than 36" may be applicable due to unusual slope conditions.
- 5. Significant alteration of the existing right-of-way grade is prohibited, unless determined to be necessary to accommodate a required public street improvement.
- 6. Loose gravel and similar material as determined by the Public Works Department is not permitted.
- 7. Drainage from a private collection system that discharges a concentrated flow shall be directed to a public vehicular street right-of-way location via a non-erosive device pursuant to Public Works Department standards subject to review and approval of the City Engineer.

7.36.160 Sidewalk Dining Encroachment Permits

Sidewalk dining adjacent to existing restaurants may be permitted on public sidewalks within vehicular street right of ways with a sidewalk dining encroachment permit issued pursuant to this Section. The purpose of the sidewalk dining permit program is to promote restaurant and pedestrian oriented activity within the City's business areas, while safeguarding public safety and minimizing impacts to nearby residential properties. Permits may be modified or revoked by the City Council if the applicant repeatedly fails to comply with any of the above requirements, or if the public's priority for use of City right of way causes the previously approved sidewalk dining use to be found to be inappropriate.

Each permit issued for sidewalk dining shall comply with the following minimum standards:

- A. All permits are subject to temporary modification or suspension at any time based on the public's priority for use of City right of way as determined to be appropriate by the Chief of Police or Director of Public Works.
- B. Title 24 of the California Government Code regarding persons with disabilities requirements for unobstructed sidewalk width (minimum 48 inches) must be maintained at all times.
- C. Applicants and their customers may not place any objects in the right of way other than tables and chairs (no umbrellas, heaters, or bikes/dogs tied to parking meters, etc.)
- D. Exterior lighting equipment that may present a tripping hazard is not permitted.
- E. Temporary electrical connections, such as extension cords, are not permitted.
- F. Alcoholic Beverages may not be served or consumed in the sidewalk dining area.
- G. Dancing is prohibited.
- H. Amplified music is prohibited.

- I. Dining activities must conclude by 10:00pm. Tables and chairs must be removed from the sidewalk by 10:30pm.
- J. All exits and means of egress from establishments and businesses must be maintained and not obstructed in any manner.
- K. Sidewalk dining activities must comply with all Use Permit and zoning requirements (parking, occupancy, etc.).
- L. Only existing tables used inside the restaurant may be used for sidewalk dining unless additional parking and zoning approval is provided in accordance with the Municipal Code.
- M. The portion of sidewalks used for dining must be cleaned regularly and consistently kept free of litter by the applicant.
- N. The applicant must provide an insurance endorsement and complete a Hold Harmless agreement, to the satisfaction of the City Risk Manager.
- O. The applicant must submit an application for a permit and pay an established permit fee as set forth by resolution of the City Council.
- P. Permits are issued to business owners rather than property owners and are not considered an entitlement to the adjacent private property. New business owners must apply for a new permit.

7.36.170 Long-term Commercial Use Encroachment Permits

- A. Commercial use of the public right of way requires City Council approval.
 Exceptions. The Director of Community Development may approve the following:
 - a. Sidewalk dining permits applicable to vehicular streets in conformance with Section 7.36.110 of this chapter.
 - b. Building projections such as eaves, awnings, signs or elements that benefit the public and comply with applicable codes.
 - c. Roof access or other elements for existing buildings that are required by applicable codes, when alternative on-site locations are not feasible.
- B. Commercial use of a walk street is prohibited. Existing long-term uses conducted on a walk street under the authority of an Encroachment Permit approved prior to January 21, 2003 may continue to operate provided the use is not expanded or intensified. Expansion of intensification includes but is not necessarily limited to: increase of floor area or expansion of hours of operation, or addition of alcohol beverage service.

SECTION 4. All other provisions of the Manhattan Beach Municipal Code not inconsistent with this ordinance shall remain unchanged and continue in full force and effect.

SECTION 5. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 6. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

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SECTION 7. This ordinance shall go into effect and be in full force and operation from and after thirty days after its final passage and adoption.

SECTION 8. A review of the proposed amendments per Section 2 of this Ordinance is hereby directed to occur approximately twelve (12) months after the effective date, with a hearing before the Parking and Public Improvements Commission followed by a recommendation to the City Council.

SECTION 9. The City Clerk shall cause a summary of this Ordinance to be published as provided by law. The summary shall be published and a certified copy of the full text of this Ordinance shall be posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall cause a summary to be published with the names of those City Council members voting for and against this Ordinance and shall post in the Office of the City Clerk a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against the Ordinance.

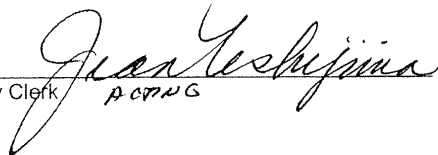
PASSED, APPROVED and ADOPTED this 18th day of February, 2003.

Ayes: Wilson, Dougher, Fahey, Aldinger and Mayor Napolitano.
Noes: None.
Absent: None.
Abstain: None.



Mayor, City of Manhattan Beach

ATTEST:



City Clerk *ACTING*

Standards for Construction in Street Right of Way

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Introduction

A large percentage of the City’s streets are constructed in a traditional fashion with a well defined edge of pavement and drainage conveyance system such as vertical curb with gutter or rolled curb. However, several areas of the City have been developed without such well defined boundaries. In these areas, the street right of way may extend well beyond the edge of the pavement driving surface. This manual contains the standards and guidelines to be used for the development of street right of way in these areas.

General Standards

In general, street right of way, which is adjacent to private property, will be developed using the standards in this manual. These standards were developed to ensure that construction on these areas meet the goals established by the City Council. These goals are:

- Maintain safety
- Provide access for emergency and service vehicles
- Provide for adequate neighborhood parking
- Allow some variety in the surface treatments of parking pads in the residential areas listed in this manual

Regulations

Construction within street right of way which is adjacent to private property will be in conformance with Ordinance Number 2042 (attached).

Ordinance 2042 is intended to address the majority of situations that exist in the non-standard street areas. However, where a particular situation is not described in the Ordinance or needs to be modified to meet the objectives of the City, the proposed improvements must be approved by the Public Works Director. Construction within street right of way cannot begin until the plans for the work have been approved by the Public Works Department and the appropriate permits have been issued.

The following pages contain the Ordinance and design standards for construction within the street right of way in non-standard street areas.

ORDINANCE NO. 2042

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, ADDING A NEW SECTION 9.72.015 TO CHAPTER 9.72 OF THE MANHATTAN BEACH MUNICIPAL CODE DEVELOPMENT OF STREET RIGHT OF WAY FOR PUBLIC USES

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Manhattan Beach hereby finds as follows:

- A. It is in the interests of public safety and welfare to protect and regulate the public right of way;
- B. The differing sections of Manhattan Beach require regulations tailored to the needs and practices of each section;
- C. This ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061 in that it will have no impact on the environment;
- D. This ordinance is necessary to protect property rights and to assure continued adequate ingress and egress by and through the public right of way.

SECTION 2. A new section 9.72.015 is hereby added to Chapter 9.72 of the Manhattan Beach Municipal Code to read as follows:

"9.72.015 Development of Street Right of Way for Public Uses

Where street right of way exists adjacent to private property, and such right of way has not been improved for use as a public street driving surface, parking area, sidewalk or drainage as approved by the City Engineer, such right of way will be developed according to the following standards:

A. Tree Section

- 1. The Tree Section shall be defined as the area bounded by Rosecrans Avenue on the North, Sepulveda Blvd. on the East; Manhattan Beach Blvd. on the South; and a West boundary beginning with Manhattan Beach Blvd. and going north on Valley to Blanche to Bell to Rosecrans.
- 2. For streets with a forty foot right of way the area constructed beyond the public street driving surface will be constructed according the City's Standard Diagram for forty foot wide streets in this area.
- 3. For streets with a fifty foot right of way the area constructed beyond the public street driving surface will be constructed according the City's Standard Diagram for fifty foot streets in this area.
- 4. For corner lots in the Tree Section, a minimum of two public parking spaces will be provided. These parking spaces will be constructed according the City's standard plan for parking spaces.

B. Other Provisions for Construction in the Tree Section and other non-standard Street Right of Way:

- 1. Street right of way improvements shall be required to be constructed as a condition of a building permit issued for construction on any property abutting a public right of

way which would result in the alteration or addition of more than fifty (50%) percent of the value of the existing structure, as determined by Section 303 (A) of the Uniform Building Code.

2. Permitted Improvements must conform to the provisions of the Diagram for non-standard streets.
3. Irrigation systems are prohibited in the street right of way used for driving or vehicle parking.
4. Landscaping the street right of way is subject to provisions of Encroachment permit regulations found in Section 7.36 of MBMC. Planting of new trees will not be allowed where minimum parking requirements are not met.
5. Existing trees located in the street right of way will be preserved where possible.
6. An obstruction-free corner radius per the City's standard plan may be required to assure adequate vehicle access to the street.

C. Duty to Repair.

1. It shall be the duty of every person owning real property within the City to keep in repair street right of way area abutting their real property (not including public street driving surface). If the failure of an abutting owner to maintain the street right of way area results in damage or injury to a member of the public, said abutting owner shall be liable to such member of the public.

SECTION 3. All other provisions of Manhattan Beach Municipal Code shall remain unchanged and continue in full force and effect.

SECTION 4. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 6. This ordinance shall go into effect and be in full force and operation from and after thirty days after its final passage and adoption.

SECTION 7. The City Clerk shall cause this Ordinance or a summary thereof to be published and, if appropriate posted, as provided by law. Any summary shall be published and a certified copy of the full text of this Ordinance posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall cause a summary to be published with the names of those City Council members voting for and against this Ordinance and shall post in the Office of the City Clerk a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against the Ordinance.

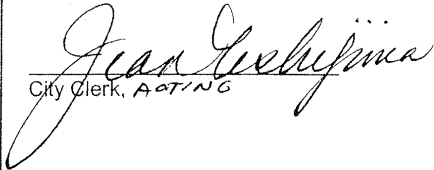
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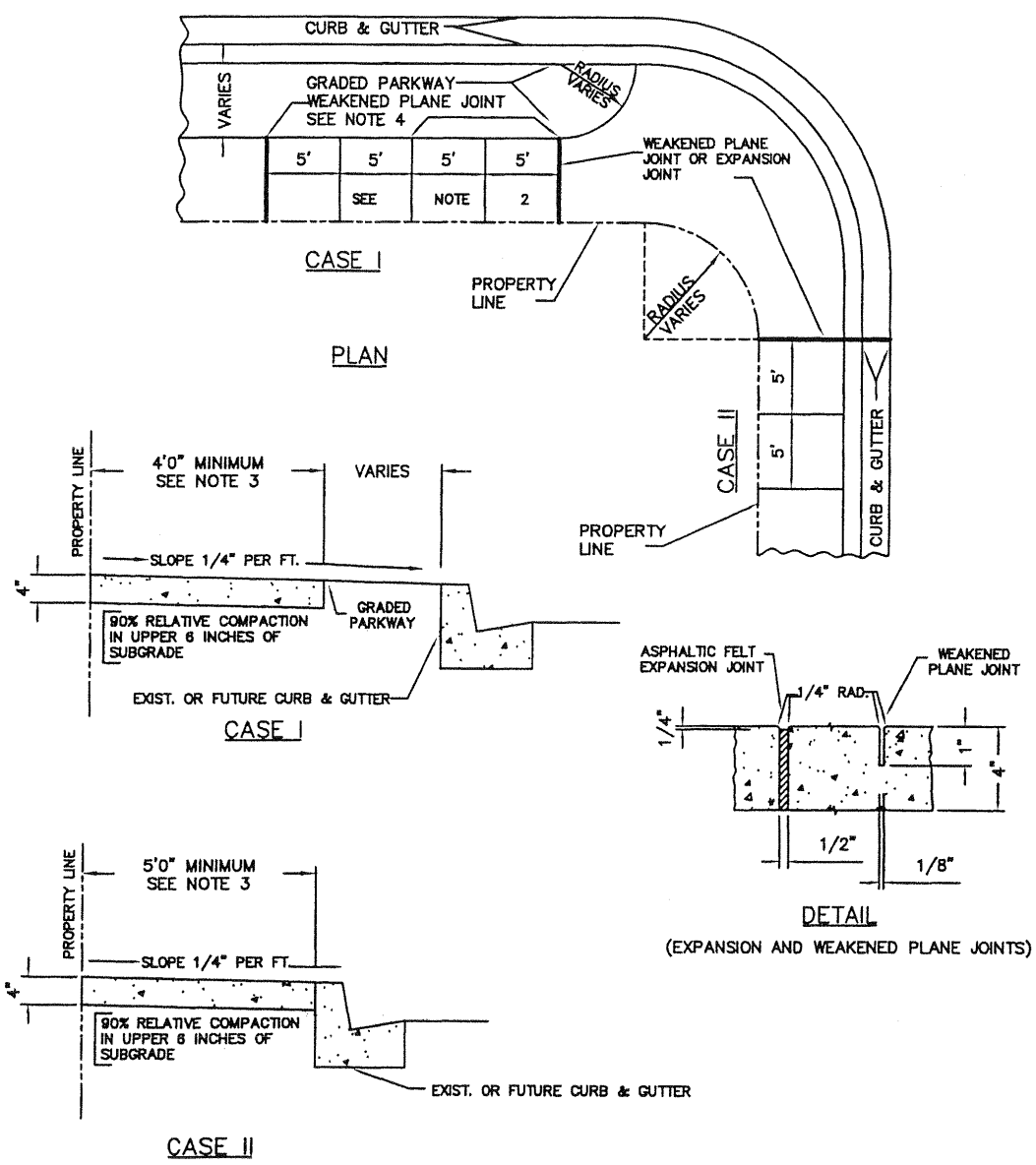
PASSED, APPROVED and ADOPTED this 18th day of February, 2003.

AYES:
NOES:
ABSENT:
ABSTAIN:


 Mayor, City of Manhattan Beach

ATTEST:


 City Clerk, ACTING



NOTES

1. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE "STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION," MOST RECENT EDITION, AND ALL SUPPLEMENTS THERTO AND TO THE SATISFACTION OF THE ENGINEER. ①
2. PORTLAND CEMENT CONCRETE SHALL BE 5.5 SACK, CLASS C, 2500 psi.
3. MINIMUM STANDARD WIDTH SHALL BE SHOWN IN CASES I AND II. GREATER WIDTHS MAY BE ALLOWED UPON APPROVAL OF ENGINEER. ① MINIMUM STANDARD THICKNESS SHALL BE 4".
4. WEAKENED PLANE JOINTS SHALL BE CONSTRUCTED AT INTERVALS OF 10 LINEAL FEET OR AS DESIGNATED BY THE ENGINEER, ① SHALL BE A MINIMUM OF ONE INCH IN DEPTH AND SHALL COINCIDE WITH SCORE MARKS. SCORE MARKS SHALL BE AT INTERVALS OF FIVE FEET, TO THE DEPTH OF 1/4 INCH. UPON APPROVAL OF ENGINEER, ① SCORE MARKS MAY MATCH EXISTING SCORE PATTERN OR THE IMMEDIATE VICINITY. OPTIONAL SCORE MARKS SHALL BE SUBJECT TO APPROVAL OF THE ENGINEER.
5. EXPANSION JOINTS WHERE APPLICABLE SHALL BE 1/2 INCH ASPHALTIC FELT COMPOUND AND SHALL GENERALLY BE AT LINES WHERE THE PAVEMENT SECTION CHANGES IN WIDTH OR DEPTH.
6. FINISH SHALL BE LIGHT BROOM AT RIGHT ANGLES TO THE CURB LINE OR AS APPROVED BY THE ENGINEER.
7. EXISTING CONCRETE SHALL BE SAWCUT AT NEAREST SCORE MARK PRIOR TO REMOVAL.

Drawn By: David Funk 6-12-01

CITY OF MANHATTAN BEACH
DEPARTMENT OF PUBLIC WORKS

STANDARD SIDEWALK

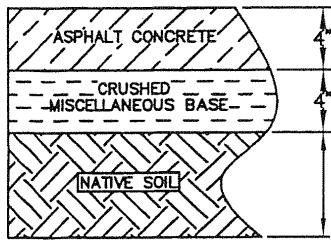
REVISIONS
① REMOVE THE WORD "CITY" FROM THE LINE CITY ENGINEER. NOTE - 1,3,&4
3-23-88

APPROVED BY: *[Signature]*
CITY ENGINEER

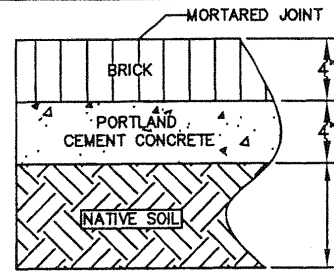
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ST-2

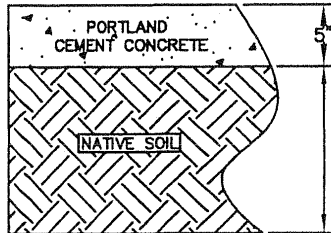
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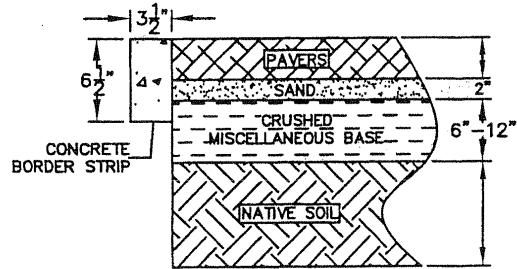
CASE I



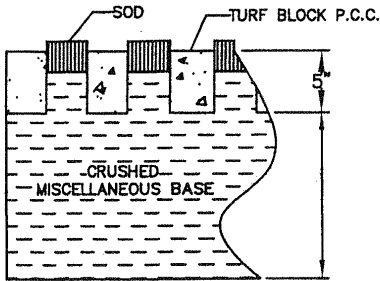
CASE II (SEE NOTE 8)



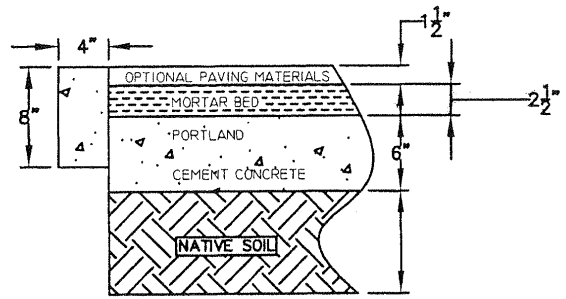
CASE III



CASE IV



CASE V (SEE NOTE 9)



CASE VI (SEE NOTE 7)

NOTES

1. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION, MOST RECENT EDITION, ALL SUPPLEMENTS THERETO AND TO THE SATISFACTION OF THE ENGINEER.
2. PORTLAND CEMENT CONCRETE SHALL BE 520-C-2500 WITH A 4-INCH MAXIMUM SLUMP.
3. ASPHALT CONCRETE SURFACE COURSE SHALL BE C2-AR-4000, AND PLACED IN 2 LIFTS.
4. BASE MATERIAL SHALL BE CRUSHED MISCELLANEOUS BASE UNLESS OTHERWISE SPECIFIED. THE MATERIAL SHALL BE COMPACTED TO 98% RELATIVE COMPACTION, AND SHALL REMAIN STABLE WHEN SATURATED WITH WATER.
5. ALL FAILED OR BROKEN PAVEMENT IMMEDIATELY ADJACENT TO THE EXCAVATION SHALL BE SAW CUT, REMOVED, AND REPLACED IN CONJUNCTION WITH THE WORK.
6. WHEN USING CONCRETE PAVERS, BASE DEPTH SHALL BE DETERMINED BY THE PUBLIC WORKS INSPECTOR OR THE ENGINEER.
7. USE OF OPTIONAL PAVING MATERIALS MAY BE USED ONLY UPON APPROVAL OF THE ENGINEER. IN THE EVENT, THE OPTIONAL PAVING MATERIALS ARE DISTURBED, DAMAGED, OR REMOVED BY CITY PERSONNEL OR CITY'S CONTRACTOR, THE PROPERTY OWNER SHALL BE RESPONSIBLE FOR RESTORING OR REPLACING THE MORTAR BED AND OPTIONAL PAVING MATERIALS AT PROPERTY OWNER'S EXPENSE. IN SUCH INSTANCES, THE CITY WILL REPLACE THE PORTLAND CEMENT CONCRETE BASE AT CITY'S EXPENSE. THE PROPERTY OWNER SHALL THEN REPLACE THE MORTAR BASE AND OPTIONAL PAVING MATERIALS WITHIN 30 DAYS, OR THE CITY WILL PATCH THE AREA WITH PORTLAND CEMENT CONCRETE (NO COLOR ADDED).
8. BRICK SHALL BE FULL SIZE.
9. THERE WILL BE NO AUTOMATIC IRRIGATION ON TURF BLOCK.

DRAWN BY: CHAD BROWNING 08-2000

CITY OF MANHATTAN BEACH
DEPARTMENT OF PUBLIC WORKS

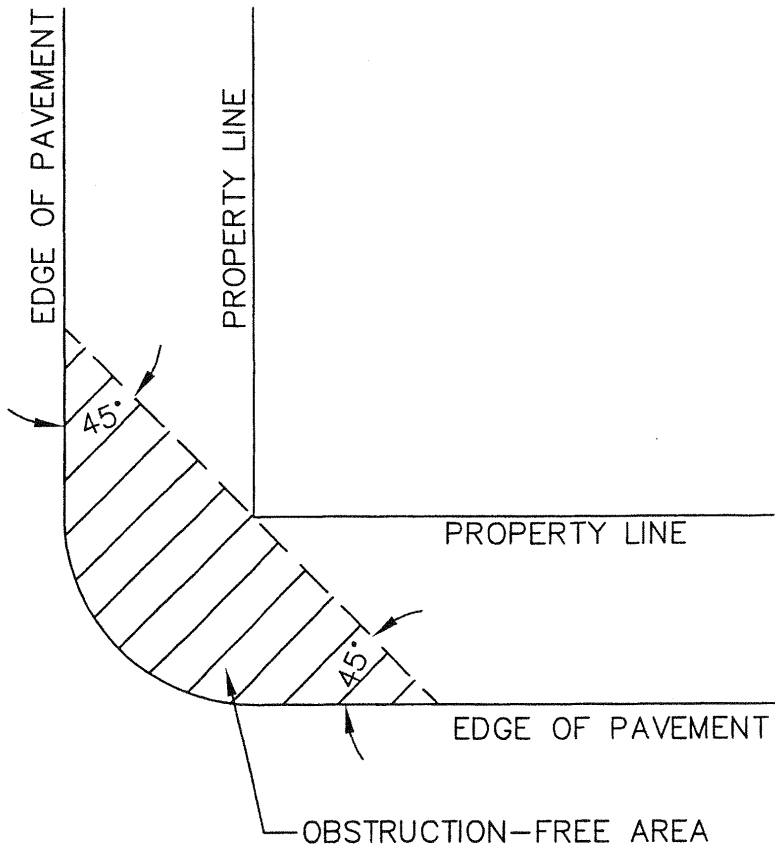
STRUCTURAL SECTIONS FOR PARKING AREAS TO BE
CONSTRUCTED WITHIN THE PUBLIC RIGHT-OF-WAY

APPROVED BY:

CITY ENGINEER

2/13/03
DATE

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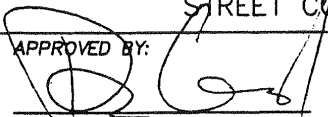


Drawn By: Oscar Estrada 10-11-02

REVISIONS

CITY OF MANHATTAN BEACH
DEPARTMENT OF PUBLIC WORKS

STREET CORNER OBSTRUCTION-FREE ZONE

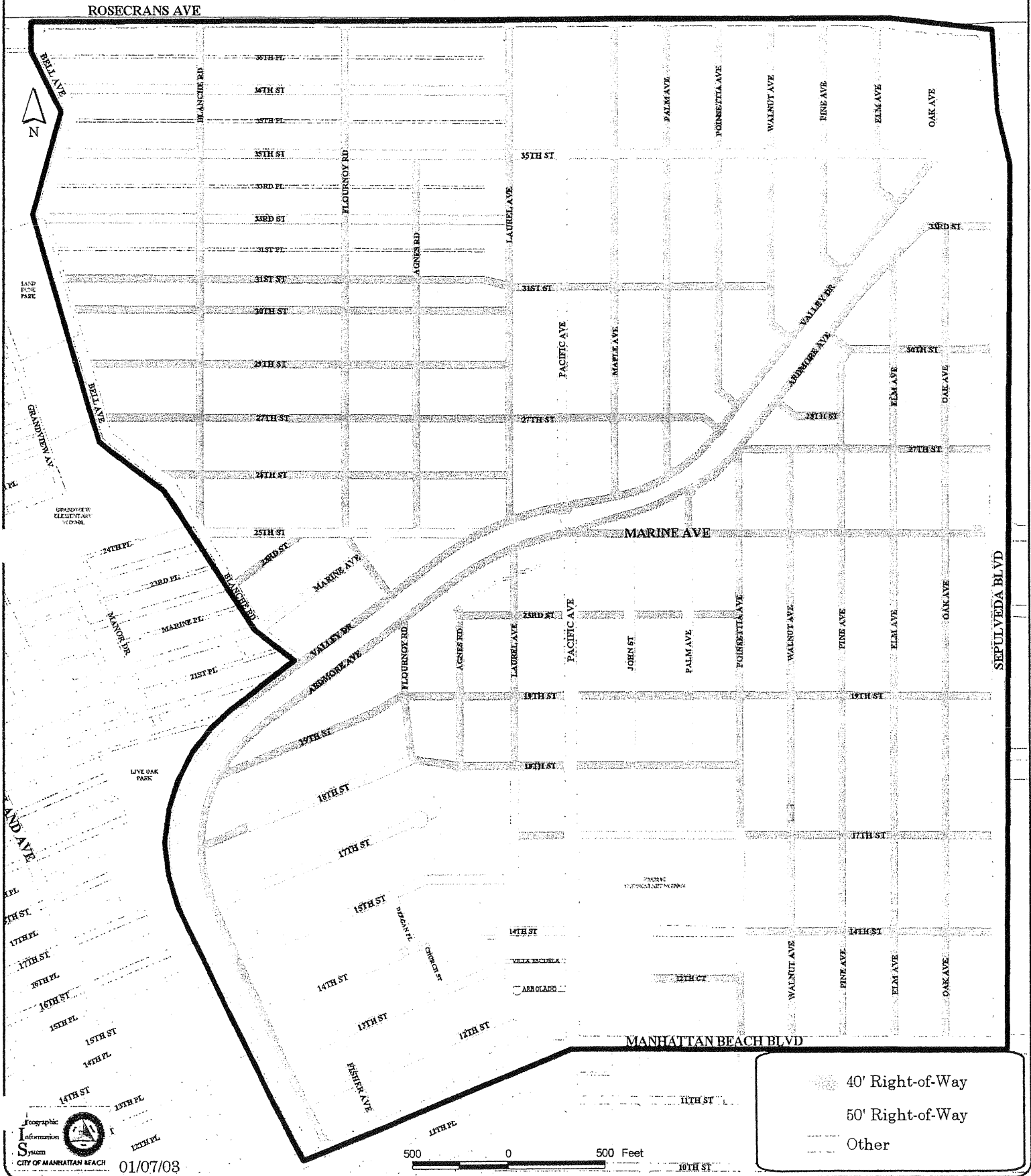
APPROVED BY: 
CITY ENGINEER

DATE 2/13/03

ST-26

Tree Section Street Rights-of-Way

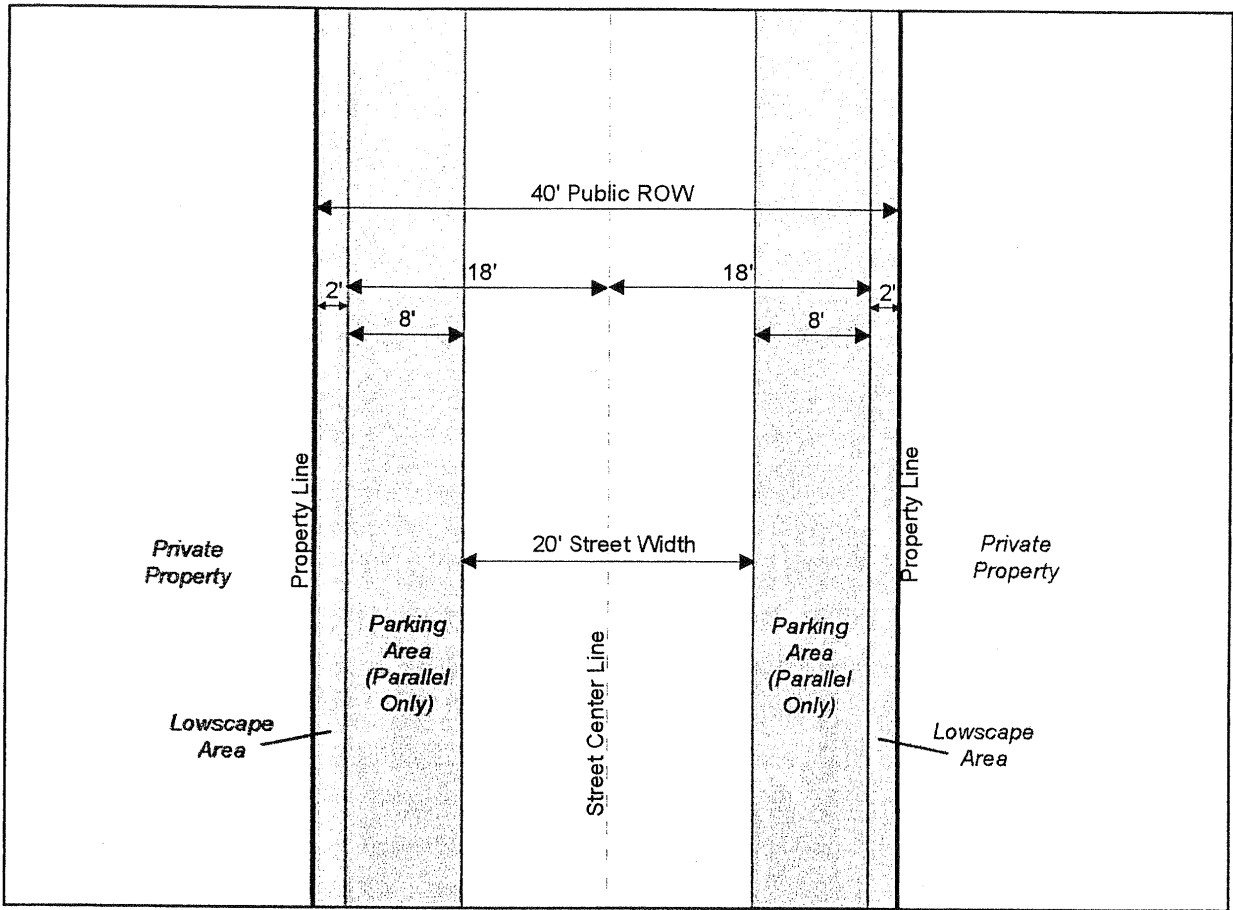
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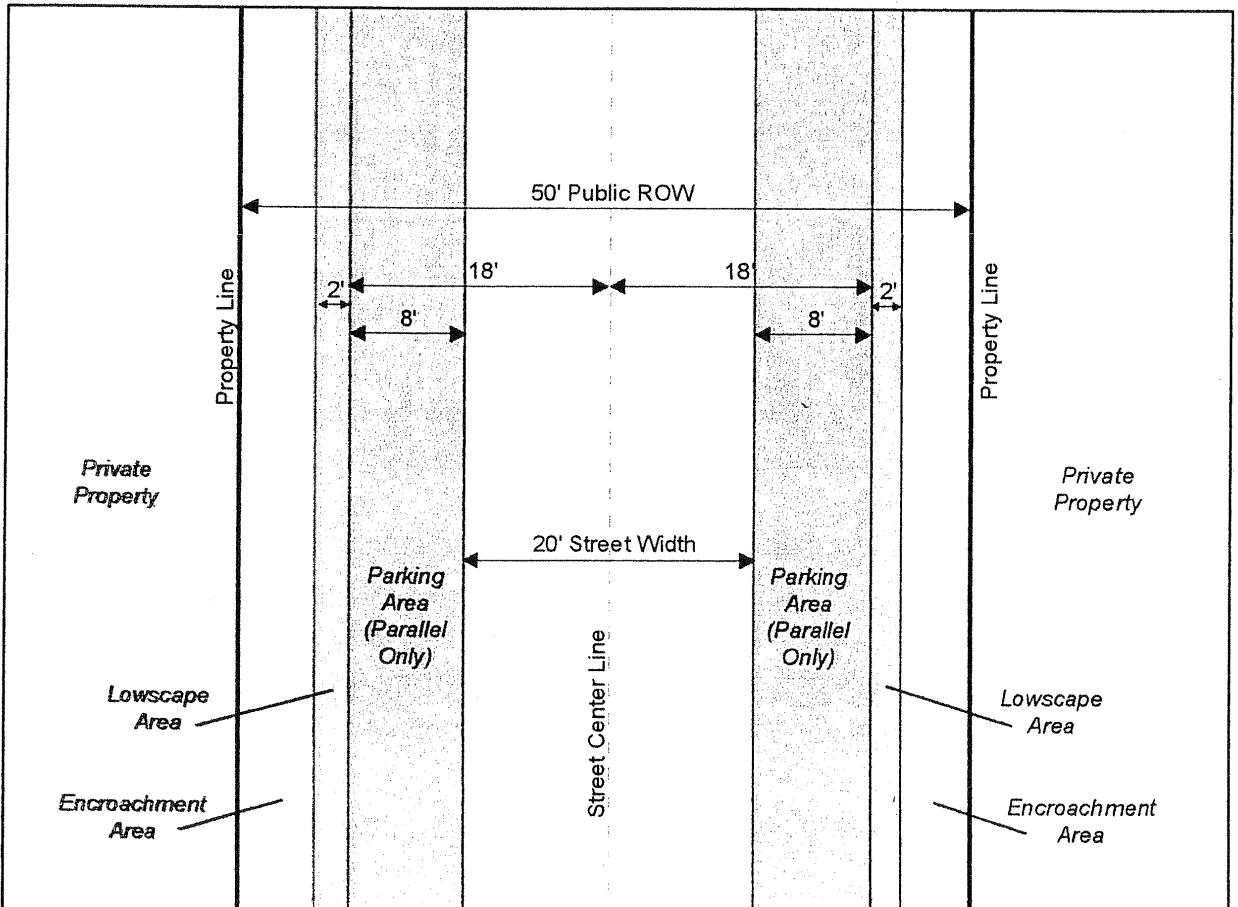
Tree Section Right-of-Way Diagrams

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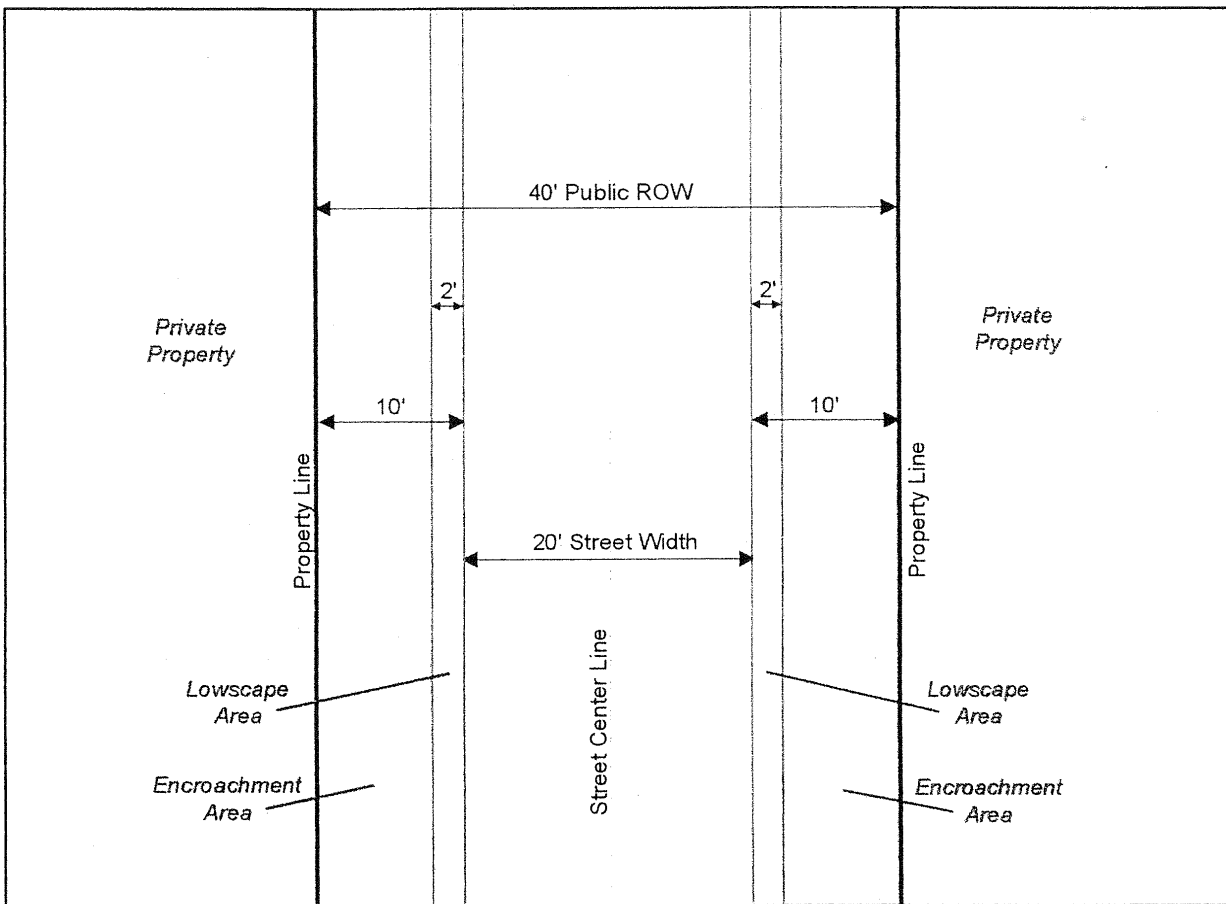
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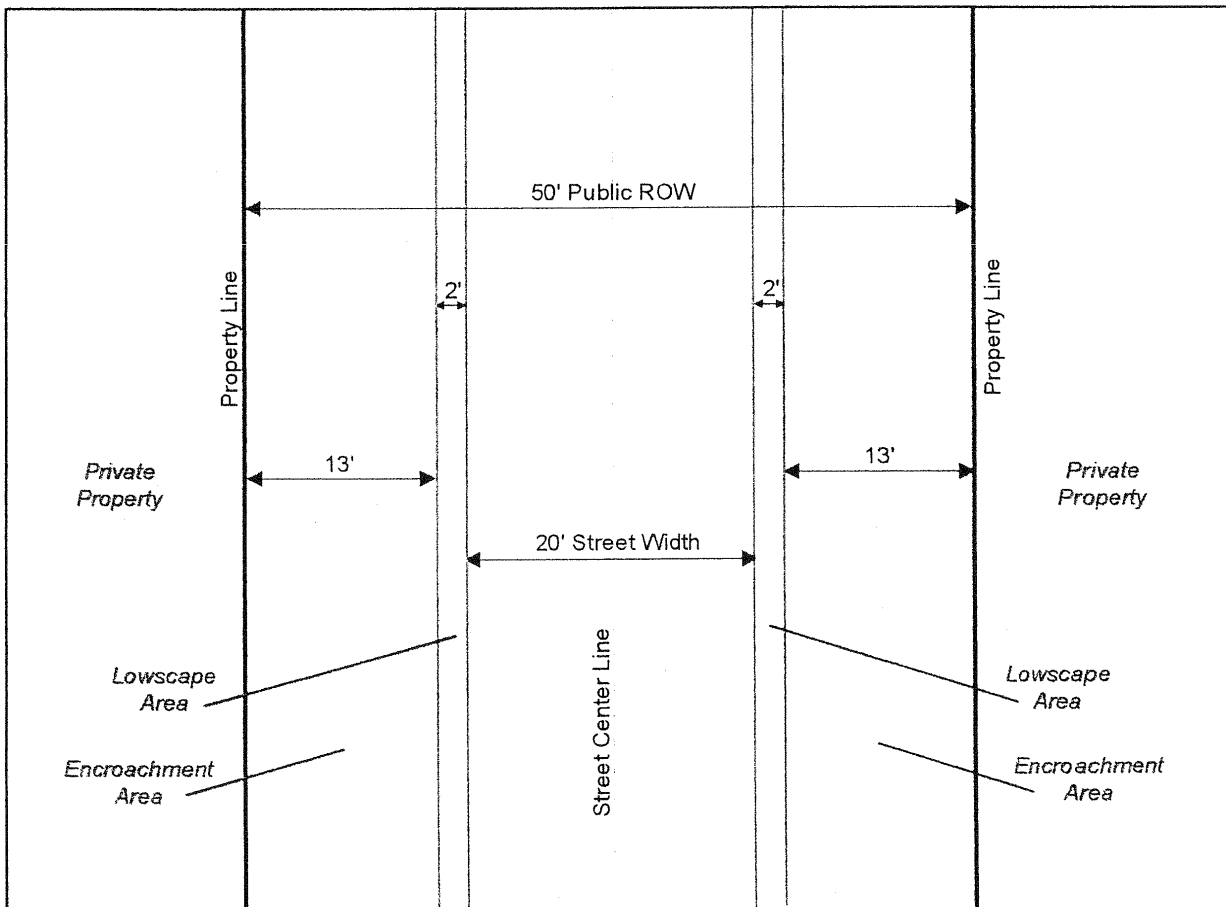
01/27/03

Non-Standard Street Rights-of-Way Diagrams 13

40'
ROW



50'
ROW



01/27/03



Staff Report

City of Manhattan Beach

TO: Honorable Mayor Napolitano and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Richard Thompson, Director of Community Development
Neil Miller, Director of Public Works
Rosemary Lackow, Senior Planner

DATE: February 18, 2003

SUBJECT: Adoption of the Proposed Encroachment Ordinance and the Proposed Right of Way Ordinance and Adoption of Resolution Transmitting Encroachment Ordinance to the Coastal Commission

RECOMMENDATION:

Staff recommends that the City Council Adopt Ordinances 2039 and 2042 and Resolution 5816.

FISCAL IMPLICATION:

There are no direct fiscal implications associated with the recommended actions.

BACKGROUND:

Ordinances 2039 and 2042 regulate construction within the public street right of way. Ordinance 2039 contains updated Encroachment Permit regulations pertaining to private use construction within the public right of way. Ordinance 2042 contains standards for public use construction within the off-roadway portion of the right of way in certain residential areas. The City Council held public hearings regarding the proposed ordinances on November 19th 2002 and January 7, 2003. On February 4, 2003 the City Council accepted further public input and introduced both ordinances for first reading (5-0).

The Encroachment Ordinance regulations are contained in the City's Local Coastal Program, Implementation Plan. Therefore staff has prepared Resolution 5816 for council adoption on this date. This Resolution will transmit Ordinance 2039 to the Coastal Commission. Upon adoption on this date, both ordinances will become effective in 30 days, on March 20, 2003.

DISCUSSION:

Encroachment Ordinance 2039

The purpose and intent of proposed ordinance 2039 is to codify existing design standards and permit procedures for various private improvements that property owners request to construct or install within the public right-of-way adjoining their private property. Examples of such encroachments include residential improvements such as fences, walls, patios and landscaping on

walk-streets and certain vehicular streets. The ordinance also provides for commercial building projections, such as awnings, signs and architectural elements, and restaurant dining on portions of public sidewalks. It prohibits any new commercial long-term encroachments within the walk street right of way.

Right of Way Ordinance 2042

This ordinance will codify an existing public parking pad policy applicable in the Tree Section for many years. Under this policy the Public Works Department has consistently required that the off-roadway portion of the public right of way adjacent to a private property's front yard be improved as a paved public parking area between 10 and 15 feet in width. The policy has been applied when the adjoining private property is being developed by either a new home or a building addition that has a value of more than 50% of the existing structure. Properties that are being remodeled or enlarged by less than 50% value are inspected and those owners are directed to make repairs to any existing improvements in the right of way as needed.

The ordinance contains changes directed by the City Council on January 7, 2003. These changes include the allowance of grass pavers, or "grasscrete" in any area of the right of way whether or not designated for parking, the deletion of a five foot parking pad requirement on certain streets in the Dune Section, and the deletion of a requirement for eight-foot wide parking pads on Alma Avenue.

Upon adoption, the new right of way standards will be compiled in a handbook which will be given to building permit applicants to assist them in the design of the improvements proposed for street right of way area.

- Attachments: A. Draft Ordinance 2039
- B. Draft Ordinance 2042
- C. Draft Resolution 5816

TO: Honorable Mayor Napolitano and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Richard Thompson, Director of Community Development
Neil Miller, Director of Public Works
Rosemary Lackow, Senior Planner

DATE: February 4, 2003

SUBJECT: Consideration of Revisions to the Proposed Encroachment Ordinance Which was Introduced by the City Council on November 19, 2002 and the Proposed Right of Way Ordinance Which was Introduced by the City Council on January 7, 2003

RECOMMENDATION:
Staff recommends that the City Council Reintroduce Ordinances 2039 and 2042.

FISCAL IMPLICATION:
There are no direct fiscal implications associated with the recommended actions.

BACKGROUND:
On November 19, the City Council conducted a public hearing regarding proposed Encroachment Ordinance No. 2039 which was recommended for adoption by the Parking and Public Improvements Commission. This ordinance contains regulations applicable to the development of **private use** improvements in the public right of way. The City Council introduced the ordinance (5-0) subject to a text change that would prohibit any new commercial long-term encroachments within the walk street right of way. The Council tabled adoption of the ordinance until they complete consideration of a Right of Way Ordinance that was being drafted by the Public Works Department.

On January 7, 2003 the Public Works Department made a presentation to the City Council regarding the provisions of proposed Right of Way Ordinance 2042. The City Council received information including a slide presentation regarding the need for establishing standards for the development of street right of way for **public use** abutting private property in certain areas of the City. The City Council conducted a public hearing and discussed the issues. Upon discussion, changes were made to the proposed Ordinance and the City Council approved the introduction of Ordinance 2042 with a 3 to 2 vote. Staff was also directed to review and revise the Encroachment Ordinance if necessary to ensure that the encroachment regulations are consistent with the Right of Way Ordinance.

DISCUSSION:
Encroachment Ordinance No. 2039

The purpose of this ordinance is to codify current encroachment policies, guidelines and standards, as directed by the City Council. No substantial changes have been made except as described below. Staff has revised the ordinance to contain a new Section 7.36.170 entitled "Long-term Commercial Use Encroachment Permits" (page 10 of Ordinance 2039, copy attached). Per the Council's direction, this section will prohibit new long-term commercial uses within the walk street right of way. Existing commercial uses that have a valid Encroachment Permit may continue to operate provided

they do not expand their use, or change the nature of their operation. Examples are the Uncle Bill's and Oceanview Cuisine dining patios on 13th Street.

Upon review of the proposed Right of Way Ordinance, staff has also revised Section 7.36.150 D. on page 9 of the Encroachment Ordinance. This section, entitled "Vehicular Streets" contains standards applicable to encroachments on drive streets. In accordance with the current standards, the proposed regulations would permit fences and walls up to 42-inches in height, landscape plantings and pavement constructed within the existing right of way. The provisions would prohibit the construction of raised decks and similar improvements and excavation or fill that significantly alters the right of way grade. The Encroachment Ordinance refers to Public Works standards for public use improvements, which are the subject of the proposed Right of Way Ordinance that is also the subject of this agenda item.

Upon adoption by the City Council, staff will transmit the Ordinance to the Coastal Commission and apply for amendment to the City's Local Coastal Program (LCP). This action is necessary because the Encroachment Permit standards are contained in the LCP and are identified as an implementation measure of the city's coastal policies.

Right of Way Ordinance 2042

The Ordinance originally proposed by staff included requirements for street right of way development in the Tree Section and Dune Section of the City. After discussion the City Council made the following changes to provisions contained in or referred to in the Ordinance.

- Grass pavers, or "grasscrete" may be used in any area of the right of way whether or not designated for parking.
- In the Dune Section, the requirement for a five foot parking pad for the south side of East/West streets was deleted.
- The requirement for eight-foot wide parking pads on Alma Avenue was deleted.

All other provisions of the ordinance remain. In addition, staff proposes that the following standards be used for development of non-standard street right of way for any street whether or not it contains curb and gutter.

- An encroachment permit will be required to develop street right of way abutting private property for private use. Ordinance 2039 sets forth the regulations for permitted improvements in the private use encroachment area.
- A street excavation permit will be required for the development of the abutting street right of way as a public parking area.
- A two foot, obstruction-free area (no more than six inch high curb) shall be maintained between the edge of the paved driving surface and any encroachment area. This area may contain walkway area or low landscaping. The purpose of the two foot obstruction free area is to provide an open area for car door swing, or escape area for pedestrians. (See Standard Street Diagram for Non-Standard Streets).

Ordinance 2042 refers to standard drawings and diagrams. Those standards are attached to this report and will be compiled in a handbook which will be given to building permit applicants to assist them in the design of the improvements proposed for street right of way area.

Public Notice and Input

Staff published a notice of the Council's consideration of this matter in the *Beach Reporter* on January

30, 2003, describing both of the proposed ordinances and invites the public input (copy attached).

The Community Development Department has received one e-mail regarding the issue of parking pads in the Dune Section of the City (copy attached).

A few residents have recently expressed concern that new requirements regarding parking pads in the Tree Section are being proposed, which is not the case. The new right of way ordinance will codify an existing policy and standard which has been in applied by the Public Works Department in the Tree Section for many years. Under this policy the Public Works Department has consistently required that the off-roadway portion of the public right of way adjacent to a private property's front yard be improved as a paved public parking area between 10 and 15 feet in width. The policy has been applied when the adjoining private property is being developed by either a new home or a building addition that has a value of more than 50% of the existing structure. Corner sites have been required to install a second parking pad in the public right of way adjacent to the private lot's side yard, providing there is adequate room and no street trees are affected. Properties that are being remodeled or enlarged by less than 50% value are inspected and those owners are directed to make repairs to any existing improvements in the right of way as needed.

- Attachments:
- A. Draft Ordinance 2039
 - B. Draft Ordinance 2042
 - C. Tree Section Map
 - D. Standard Right of Way Diagrams
 - E. Standard Drawing: Obstruction Free Turning Radius
 - F. Standard Drawing ST-23 (Parking Pad)
 - G. City Council Minutes 11/19/02 (available at www.citymb.info)
 - H. City Council Minutes 1/07/03 (available at www.citymb.info)
 - I. Public Notice
 - J. E-Mail correspondence 1/13/03 (not available in electronic form)



Staff Report

City of Manhattan Beach

TO: Honorable Mayor Napolitano and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Neil Miller, Director of Public Works
Dana Greenwood, City Engineer
Clarence Van Corbach, Utilities Manager
Juan Price, Maintenance Superintendent
Bonnie Shrewsbury, GIS Analyst

DATE: January 7, 2003

SUBJECT: Introduction of Ordinance Which Implements Standards and Procedures for the Development of Street Right of Way Adjacent to Residential Properties in Certain Areas of the City
a) WAIVE FURTHER READING
b) INTRODUCE ORDINANCE NO. 2042

RECOMMENDATION:

Staff recommends that the City Council accept the presentation, waive further reading and introduce Ordinance Number 2042 which will implement standards and procedures for the development of street right of way located adjacent to residential properties in certain areas of the community.

FISCAL IMPLICATION:

There is no direct fiscal impact associated with this action.

BACKGROUND:

At the September 11, 2002 City Council meeting staff made a presentation describing several issues associated with the development of street right of way abutting residential properties. The discussion focused on the Dune and Tree sections of the City. (See Exhibit 1) The purpose of the presentation was to explain why these areas of the City are unique because of the way they were developed in the past and why this uniqueness presents issues during the property development process. Some of the specific issues presented include:

Dune Section

- Lack of parking lanes on the east/west streets
- Restricted access for public safety and large service vehicles
- Construction of private use encroachments adjacent to driving surface
- Inconsistent ROW construction along Alma Avenue
- Desire of builder or homeowner to have a variety of parking area surfaces

Tree Section

- Lack of consistent parking standards
- Un-permitted private use developments on public right of way
- Desire of builder or homeowner to have a variety of parking area surfaces
- Use of grass pavers as a parking pad option
- Desire of some builders to install sidewalks in tree section

Staff made a presentation on September 3, 2002, which included pictures of many examples of the issues discussed. (Report attached). The City Council asked several questions of the Staff and also took comments from the public. The City Council's discussion led to the following direction to the staff:

1. Standards, as opposed to guidelines, for development of the street right of way need to be developed and approved by the City Council. These standards were to include the following City Council directions.

Dune Section

- A. Maintain as a standard the current practice of requiring 5 feet of parking area beyond the driving surface on the south side of the east/west streets.
- B. Maintain as a standard the current practice of not allowing permanent fixtures in 2 feet area beyond the driving surface on the north side of the east/west streets.
- C. Implement a standard that maintains adequate turning radius at street corners.
- D. Modify parking pad standard drawing to allow for additional pavement surfaces.
- E. Apply 18-2-5 standard (see Exhibit 2) to the right of way along Alma Avenue where possible.
- F. Maintain existing curb and gutter on down-hill side of the Alma Avenue.
- G. In cases where Dune Section parcels are different from the right of way situations described in this report and the Ordinance, public improvements proposed for the street right of way must be included in building plans and approved by the Public Works Department before any construction permit is issued.

Tree Section

- A. Maintain, as a standard, the current practice of the 18-2 development of street right of way for 40 foot streets. (See Exhibit 2)
- B. Maintain, as a standard, 18-2-5 development for 50 foot streets. (See Exhibit 2)
- C. Revise the City's Standard Plan to allow for a variety of surface materials for Parking Pads.
- D. Restrict the use of Grass Crete to side yard ROW.
- E. Maintain parking space minimums for corner lots. Required parking pads must be meet ST-23. Other areas can use grasscrete.
- F. Irrigation systems for parking areas not allowed.
- G. Preserve ROW trees where possible.
- H. Do not allow new trees in ROW where minimum parking is not met.
- I. Sidewalks, curb and gutter not allowed in tree section where it doesn't currently exist.
- J. In cases where Tree Section parcels are different from the right of way situations described in this report and the Ordinance, public improvements proposed for the street right of way must be included in building plans and approved by the Public Works Department before

any construction permit is issued.

To assist with the implementation of this Ordinance, staff has prepared a handbook entitled, **Standards for Construction in the Street Right of Way.** This handbook includes and ^{AN} introduction explaining the purpose of the standards, a copy of the Ordinance, copies of the City's standard plans for construction on street right of way, and copies of diagrams of the various street right of way situations. A copy of this proposed handbook is attached to this report.(Exhibit 2)

DISCUSSION:

Using the direction received by the City Council on September 11,2002, staff proposes the attached Ordinance Sections be added to the Manhattan Beach Municipal Code. These sections define the boundaries of the Dune and Tree Sections of the City and list the requirements for constructing improvements on the street right of way. The proposed Ordinance also anticipates that some situations are so unique that the proposed standards may not apply. For those circumstances, the ordinance provides that no construction permit shall be issued until approval of the proposed plan is approved by the Public Works Department. Decisions by Public Works Department are final, but may be appealed to the City's Parking and Public Improvements Commission by paying the appropriate fee and following the appropriate administrative procedures.

CONCLUSION

In order to provide standards for construction on street right of way in areas of the City which have non-standard street design, Ordinance 2042 is proposed to provide standards to these areas. The standards are designed to maintain safe streets, allow adequate access for emergency vehicles while providing some flexibility for the surface treatment of parking pads built adjacent to residential properties.

Attachments:

- A. Draft Ordinance Number 2042
- B. Staff Report of September 3, 2002
- C. Exhibit 1, Map of Tree and Dune Sections of the City
- D. Exhibit 2, Proposed Handbook, **Standards for Construction in Street Right of Way**



Staff Report

City of Manhattan Beach

TO: Honorable Mayor Fahey and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Neil Miller, Director of Public Works
Paul H. Saldano, Senior Management Analyst

DATE: September 3, 2002

SUBJECT: Presentation of Issues Related to Construction of Improvements on City Right of Way in Certain Residential Areas (Dune and Tree Sections) and Recommendation to Develop Standards

RECOMMENDATION:

Staff recommends that the City Council receive this presentation on construction developments located adjacent to residential properties and in the public's Right-of Way (ROW) and provide staff direction on what standards, development guidelines or alternatives should be applied to govern existing and future homeowner developments.

FISCAL IMPLICATION:

Homeowners and the City's costs include permit fees and labor and material costs. Development costs born by residents include the City's permit fee as prescribed by the Resolution of Fees agreement, plus labor and construction material costs. The City's costs include time spent by Community Development and Public Works staff to review plans, issue permits, and perform site inspections. On rare occasions, homeowners and staff share development costs to correct substandard and/or incomplete construction; the homeowner is assessed the full costs of building materials.

BACKGROUND:

This presentation has been prepared for Council in response to numerous residents' requests that staff address the addition of sidewalks to the City area frequently referred to as the "Tree" section. This is also an opportunity for staff to explain the difficulty and challenges found in administering construction permits for the Public ROW in the Tree and Dune sections of the City. In addition, we will present information regarding non-permitted work in the Tree and Dune section ROW and request direction as to the enforcement of these situations.

The City's Dune and Tree areas are unlike other City areas, as many streets do not conform to a traditional street design and are much smaller in width by comparison. We define traditional street design as having a paved driving surface, concrete curb and gutter and sidewalk (Ref. Attachment 1). Several streets in the "Dune" and "Tree" sections lack storm drains and street gutters, curbs and sidewalks and several public ROW properties today are undeveloped and are compacted dirt (Ref. Attachment 2). Because of these attributes, the City's Community Development and Public Works staffs review each development in the Dune and Tree areas and apply construction standards that meet

(1) public safety guidelines, (2) allow vehicle access, (3) allow on-going public property maintenance, and (4) allow for public parking. Each criterion is explained below along with staff's recommendations. The goal of this presentation is to receive Council's direction on the City's administration of public ROW development permits and management of public ROW developments primarily in the Dune and Tree areas as well as other areas falling into the criteria mentioned in this report.

DISCUSSION:

Development of the street ROW in the Dune and Tree sections has been varied and inconsistent. In the past, parking pads, landscaping and even some sidewalks have been added to the ROW area without much regulation (Ref. Attachments 3, 4). Over the last several years, however, Public Works and Community Development staff have been trying to apply some logical and consistent standards when homeowners request a permit to develop public ROW areas. In the past many builders have been amenable to staff's judgement, while others question staffs' authority to make such requirements. And since there are so many existing non-permitted ROW improvements, staff finds it sometimes difficult to explain why the current standards now apply.

As a result of the above concerns, staff has prepared this report to give Council a summary and visual perspective of the many types of private developments on public properties and the recurring issues staff face when permitting new developments. Also, staff would like to receive direction on current permitting guidelines and on how to manage future public ROW development efforts. Below is a description, with supporting pictures and exhibits, of the issues faced by City staff with these ROW developments.

The Dune Section:

Hillside geography and streets with various widths and configurations best characterize the surrounding areas of the Dune section. The numbered streets running east and west between Grandview and Alma are typically very narrow with parking only on one side when available (Ref. Attachment 5). Because of these conditions, staff takes the following issues into consideration before permitting development in the street ROW:

1. **Assure adequate room for two-way traffic and the access of emergency and service vehicles** (i.e. fire trucks, trash trucks, street sweepers, moving vans, etc. (Ref. Attachment 6).
2. **Provide adequate public street parking.**
3. **Insure adequate turning radii are maintained at all corners** so as to provide larger emergency and service vehicles adequate access (Ref. Attachment 7).

Accordingly, staff has been requiring builders or homeowners to provide a minimum of 5 feet of adjacent street ROW on the south side of the street and be paved in accordance with standard drawings. Also, this area must be kept free of obstruction so as to allow public parking (Ref. Attachment 8). Unfortunately, many builders and homeowners are challenging this on the grounds that this requirement is not stated in the City's code. We are also finding in our post construction assessment that some builders or homeowners are modifying the previously permitted development area in a manner that prevents street parking altogether (Ref. Attachment 9).

The north and south streets in the Dune section also present staff with many of the same ROW issues and are summarized below:

1. **Historically unregulated private improvements built directly adjacent to the driving**

surface (Ref. Attachment 10, 11). These non-permitted developments on public lands include fences, patios, gardens, brick walls and lawns.

- 2. **Inconsistent street ROW slopes and grades that presents City staff with unique maintenance issues**, i.e. drainage into lower elevation properties (Ref. Attachment 12, 13).
- 3. **Street obstacles limiting parking pad construction.**

As a consequence of these unique street ROW characteristics, Community Development and Public Works staff evaluate each permit application on a case-by-case basis and apply guidelines that take into account each property’s location and the non-traditional street design of the area. Today, entire public ROW street blocks have been developed in a manner that leads staff to restrict future developments else significantly impact necessary public access. In example, some blocks on Alma Avenue have adequate space on both sides of the street for parking pads, while others do not (Ref. Attachment 14). Staff applies the following decision criteria before approval: (a) safety, (b) vehicle access, (c) maintainability, (d) available parking space, and (e) aesthetics.

The Tree Section:

The Tree section is also hilly and is composed of streets with various public ROW widths and configurations. In these areas staff also applies the decision criteria of safety, vehicle access, property drainage and street maintenance, parking, and aesthetics prior to approving a permit. Specific issues pertinent to the Tree section include:

- 1. **Desire of the builder or homeowner to individualize the appearance of the ROW area** (Ref. Attachment 15, 16). Although this practice has been allowed for many years it does present some on-going problems. One problem is that the parking area appears to be located on private property, when in fact the developed area is public ROW. As a consequence, staff has been called to settle arguments between neighbors and visitors. Several public ROW areas have various types of private property objects blocking access altogether.
- 2. **Use of the ROW for private use by building private improvements without obtaining necessary permits.** These improvements include decks, patios and landscaping. These non-permitted improvements preclude anyone from using the parking ROW. Enforcement of these non-permitted improvements has only been done on a complaint basis.
- 3. **Builder or homeowner’s use of exotic construction materials and non-approved design standards on street ROW areas.** The Public Works Engineering staff developed a standard drawing known as ST-23 for the purpose of regulating the construction of parking pads on public ROW areas (Ref. Attachment 17). This drawing allows several choices of construction materials including concrete, asphalt, and pavers. However, some builders or homeowners want to install other surfaces (Ref. Attachment 18), with which staff has safety and maintenance concerns. Standard drawing 23 also includes the requirement for a solid concrete edge along the street borders, because past experience with other materials and design has shown significant damage occurs each time street areas are resurfaced. Unfortunately, staff continues to receive complaints that complying with this standard disrupts a design owners prefer for their parking pad. The tree section map at attachment four shows the numerous types of walkway and curb construction materials used throughout the City and highlights the many non-permitted work areas, which the staff speculates are weekend and post-permit construction projects. This non-permitted construction is a concern and staff would like to make Council aware of this trend and would like direction regarding the enforcement of these non-permitted areas.
- 4. **Use of grass pavers as a parking pad option.** Requests to use grass pavers as a parking pad option has been increasing. Several homeowners have stated they feel the grass pavers add a softer look to the ROW, while still providing necessary parking. In staff’s experience, grass

pavers can be attractive when well maintained and a source of complaints when left unkempt (Ref. Attachment 19, 20). Staff believes the increase in requests is due to the homeowner's perception that grass pavers absorb water that would normally run off of impervious surfaces. Although this is true to a small extent, the absorption of water is minimal because the sub-base required for grass pavers must be highly compacted to provide structural support. Staff has been allowing the use of grass pavers on a case-by-case basis and use of grass-crete for parking pads only on one side of the property; we have not been allowing its use in front of properties primarily because we have received complaints that this appears to be a lawn rather than public ROW. Accordingly, staff would like Council's direction on our current practice and receive guidelines for future public property developments.

- 5. **Sidewalks.** Some areas of the Tree sections were developed with traditional curb and gutters, while other areas were not. Recently, a few residents have asked staff and the City Council to install sidewalks in the Tree section, which does not have traditional curb and gutter. The issue with these requests is that since the area was developed without sidewalks, this ROW has typically been used for parking. If sidewalks were installed, it would eliminate off street parking spaces. Staff would like direction as to whether to prohibit the addition of sidewalks in these areas of the Tree section.

Current Policies:

The City has managed both traditional and non-traditional ROW street developments through the use of various City ordinances, standard drawings and site inspections. Specifically, the City's Engineer has incorporated design and material specifications into the City's standard drawings for ROW developments. ST-23 is the primary standard drawing describing allowable parking pad construction within the public's ROW and is provided to builders and homeowners when they apply for a permit. Additionally, where sufficient ROW exists, Community Development and Public Works staff have been using a standard whereby the first 8 feet of public ROW is to be developed only for parking. The remaining 2 feet may be landscaped and may include raised curbs or dividers that do not exceed 6 inches. Homeowners of corner lots are also allowed to put in landscaping and trees provided adequate street ROW space is available. Staff has required the construction of parking for at least two cars on the long side of corner lots where possible.

Options:

The following are the criteria the Community Development Department and the Public Works Department have been using to approve permits for construction in the ROW area:

- 1. Maintain safe on and off street parking for the neighborhood.
- 2. Allow some variety of ROW parking pad design while using materials easily matched when repairs are required in the future (Use ST-23 construction standards).
- 3. Provide access for emergency vehicles and service vehicles.
- 4. Where sidewalks exist, allow standard sidewalks only; no alternate surfaces.
- 5. Consider drainage and street maintenance issues.

One option for Council is to adopt these criteria or broad goals for development in the ROW and allow staff discretion to handle specific issues based on the broad goals on a day-to-day basis on an appeals process. Another option is to develop specific guidelines in the Dune and Tree sections of the City. For discussion purposes the following guidelines may be appropriate.

Using these criteria as a basis, staff proposes that specific guidelines be adopted to clarify the options available to builders and homeowners in the Dune and Tree sections of the City. For discussion

purposes, staff proposes the following guidelines:

Dune Section:

- 1. East/West Streets:
 - a. Public ROW on the south side must have a 5-foot minimum area of unobstructed space and only be used for public parking (Ref: Attachment 21).
 - b. Public ROW on the north side must have a 2-foot minimum area of unobstructed space and can only be used for groundcover landscaping.
 - c. All public ROW at street corners must have a minimum area of unobstructed space so as to insure adequate turning radius.
- 2. Alma Avenue:
 - a. All public ROW must have an 8-foot minimum area of unobstructed space and only be used for public parking.
 - b. All public ROW must also have a 2-foot minimum area of unobstructed space and only be used for groundcover landscaping.
 - c. On streets 50-feet wide, the remaining 5-feet of public ROW may be developed with landscaping that does not exceed 42-inches in height.
- 3. Use Standard Plan ST-23 for all parking areas in the ROW.
- 4. Use administrative judgement in other areas.

Tree Section:

- 1. All public ROW must have an 8-foot minimum area of unobstructed space and only be used for public parking.
- 2. All Public ROW must also have a 2-foot minimum area of unobstructed space and only be used for groundcover landscaping.
- 3. On streets 50-feet wide, the remaining 5-feet of public ROW may be developed with landscaping that does not exceed 42-inches in height (Ref: Attachment 22).
- 4. All public ROW at street corners must have a minimum area of unobstructed space so as to insure adequate turning radius.

CONCLUSION:

Staff is looking for direction from the City Council on issues regarding ROW development in the Tree and Dune Sections:

- 1. **Non-Permitted Improvements:** Another difficult issue is the large number of non-permitted improvements existing in the street ROW. Some of these improvements were constructed many years ago, before the city was regulating such work. Other developments were constructed without permits and are completed on weekends and without oversight by City inspectors. Still others are modifications to previously permitted improvements, but the modifications were done without permits and do not meet the permit standards. Staff's question is what level of enforcement should be used for non-permitted ROW constructions?
- 2. **Use of grass-crete:** Should grass-crete be allowed on public ROW areas? As mentioned before, grass-crete can be attractive when well maintained. On the other hand, poorly maintained grass-crete has led to residential complaints and staff's concern that grass-crete-developed areas appear to be private property. Staff would like some direction as whether grass-crete should be an allowable option for parking areas in the street ROW. And if so, should it be limited to side lot uses on corner properties?
- 3. **Sidewalks in the Tree section:** Should this area be developed with sidewalk or

another ROW standard? Today, you will find public ROW areas with lawns, parking pads, compacted dirt or asphalt or gravel, and now some residents are putting in a sidewalk. Additionally, Public Works has installed concrete swales on many streets in this area to control flooding and residents have responded favorably.

- 4. **Adoption of broad goals/criteria or specific guidelines:** The Dune and Tree public ROW areas present Council with numerous development issues and staff is ready to assist with standards that respect public and private concerns and allow staff to be responsive.

RECOMMENDATIONS:

Staff would like direction from the City Council regarding the criteria currently being used for ROW permit construction approval for the Dune and Tree sections of the City and other non-standard areas. Staff would also like direction as to whether staff should prepare development standards for street ROW in the Dune and Tree sections of the City for City Council's approval at a subsequent meeting.

- Attachments:
- 1. Traditional Curb, Gutter and Sidewalk Street Design
 - 2. Street Right-of-Way Development Patterns-Manhattan Beach
 - 3. Street Right-of-Way Development Patterns-Dune Section
 - 4. Street Right-of-Way Development Patterns-Tree Section
 - 5. East-West Street
 - 6. Emergency Vehicle-Example 1
 - 7. Emergency Vehicle-Example 2
 - 8. Minimum of 5 Feet of Adjacent Street ROW
 - 9. Street Parking Obstructions
 - 10. Private Development on Public Property-Example 1
 - 11. Private Development on Public Property-Example 2
 - 12. Maintenance Concern with Private Development on Public Property
 - 13. Maintenance Concern with Undeveloped Parking Pad Area
 - 14. Alma Avenue-Different Size Parking Pads
 - 15. Individualized Parking Pad-Example 1
 - 16. Individualized Parking Pad with Construction Faults-Example 2
 - 17. ST-23 Standard Drawing
 - 18. Non-Authorized Building Material: Flagstone Construction (Note: ROW)
 - 19. Grass Crete: Maintained (Note: Solid Concrete Street Border)
 - 20. Grass Crete: Unkempt
 - 21. Dune Section-East and West Streets
 - 22. Tree Section