

**CITY OF MANHATTAN BEACH
DEPARTMENT OF COMMUNITY DEVELOPMENT**

TO: Parking and Public Improvements Commission

FROM: Richard Thompson, Director of Community Development
Clay Curtin, Management Analyst *cc* *URJ FOR P.T.*

BY: Eric Haaland, Associate Planner *EH*

DATE: October 27, 2011

SUBJECT: Consideration of an Encroachment Permit Appeal to Allow Raised Planters in the Public Right-of-Way to Remain – 301 28th Street

RECOMMENDATION:

Staff recommends that the Commission **DENY** the request at 301 28th Street to maintain the raised planters in the 28th Street public right of way (drive-street).

BACKGROUND:

An encroachment permit was issued for the subject property on December 15, 2010. The approved plan called for curb-height planters stepping down the slope between the roadway curb and the new house being constructed at the same time. Taller planters were actually constructed, and staff notified the applicant that these planters could not be approved. The applicant subsequently filed an encroachment permit appeal application to retain the taller planters. In accordance with Section 7.36.080 of Manhattan Beach Municipal Code, the Parking and Public Improvements Commission (PPIC) must review the appeal request and forward its recommendation to the City Council.

DISCUSSION:

The submitted appeal plans show 3 L-shaped concrete walls, as much as 2 feet tall, forming raised planters occupying most of the site's sloped encroachment area (currently unused public right-of-way) between walkways leading to the house. The approved encroachment plan allows the same walls at a maximum of 1 foot tall. Section 7.36.150 of the Municipal Code permits fences and walls in encroachment areas at a maximum height of 3.5 feet in these areas, but does not permit changing the grade in drive-street encroachment areas (unlike walk-streets). This precludes the possibility of significantly raised planters for the applicant's encroachment area. Staff permitted the 1-foot tall planter walls based on the practice of treating 6-inch curb-height grade changes as insignificant, and applying an averaging method on the slope. This method allows the leveled-off planters desired by the applicant to be an average of 6 inches in height, and no more than 12 inches high at any point.

The applicant's appeal plan includes arguments for his request as follows:

1. The walls/planters prevent erosion on what is otherwise a long steep slope.
2. The drought tolerant plants intended for the area will not prevent soil erosion as other plants would.
3. Raised planters did exist previously in this encroachment area.
4. Raised planters exist in other encroachment areas.

Staff's position has been that, although some raised planters were pre-existing, they were being eliminated, and the general grade of the encroachment area matched the sloped 28th Street curb. New construction is required to eliminate any old nonconformities and new construction must conform (M.B.M.C. 7.36.150(A)(8)). The similar encroachment area across 28th Street from the site appears to match this grading concept, although some leveling was done for entry walkways. No recent developments above or below the project on 28th Street appear to have raised planter encroachments.

Staff's understanding is that previous drainage issues at Crest Drive at the east end of the encroachment area have been resolved with street improvements resulting from the project. Potential sidewalk improvements in the subject right-of-way have also been discussed during the course of the applicant's project, but have not been required. A paved catch basin cover does form a narrow walkable surface for the lower third of the encroachment area. The Public Works Department practice is to not require sidewalks on this segment of 28th Street if none are pre-existing.

Public Input

A notice of the Parking and Public Improvement Commission meeting was mailed to all residents within a 300 foot radius from the subject encroachment property (Attachment D). Staff has not received any responses to the notice prior to this report.

CONCLUSION:

Staff does not support the request to maintain the raised encroachment planters for the reasons described above, and suggests that the PPIC recommend denial of the Encroachment Appeal request to the City Council.

Should the PPIC recommend approval of maintaining the existing raised planters, staff suggests conditions be imposed requiring their removal whenever a future encroachment project occurs, and that any City costs (future street work) that may result from the planters be reimbursed.

Attachments:

- | | | |
|----|--------------------------------------|--------------------------|
| A. | Vicinity Map and Photos | |
| C. | Encroachment Code excerpts | |
| D. | Neighborhood Notice | cc: Bob Weiss, Applicant |
| E. | Encroachment Appeal plans (separate) | Louie Tomaro, Architect |

Vicinity 301 28th Street



Vicinity
301 28th Street



Pre-Construction Photos

M.B.M.C. Excerpts

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 three hundred feet (300') of the subject encroachment area site at least ten (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.

7.36.150 - Encroachment standards. (A & D)

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 thirty inches (30") 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.

7.

Steps and Stairs, other than risers between four and seven inches (4" to 7") in height and spaced a minimum of three feet (3') apart, are not permitted in the public right of way.

Exception. One set of steps comprised of three (3) 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.



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 two feet (2') is required behind existing or required street improvements.

b.

Height. Fences and walls may not exceed a maximum height of forty-two inches (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 forty-two inch (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 thirty-six inch (36") maximum height is applicable to all fences, walls or landscape plantings within a distance of fifteen feet (15') from the street corner as per MBMC 3.40.010 (Traffic Sight Obstructions). A height less than thirty-six inches (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.



City of Manhattan Beach

Community Development

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October 12, 2011

PUBLIC MEETING NOTICE

Encroachment Permit Appeal- 301 28th Street

Dear Manhattan Beach Resident:

The Department of Community Development has received an application for an Encroachment Appeal submitted by property owner, Robert Weiss at 301 28th Street. Mr. Weiss is requesting to keep his raised planters in the public right of way (drive-street) on 28th Street.

The request has been administratively denied because the new raised planters violate a prohibition of altering the grade in the public right way of a drive-street per Manhattan Beach Municipal Code 7.36.150. Mr. Weiss appealed this decision and therefore this matter has been referred to the PPIC (Parking and Public Improvement Commission) for review and a recommendation for action by the City Council. Your comments and input are invited. The review will be held on:

Thursday, October 27, 2011
6:30 pm
City Council Chambers
1400 Highland Avenue

Input regarding the subject Encroachment Permit Appeal may be submitted in advance through the Community Development Department or at the Hearing. Comments made in advance should be sent to:

Eric Haaland, Associate Planner
Community Development Department
1400 Highland Avenue
Manhattan Beach, CA 90266,
or: ehaaland@citymb.info

If you have any questions, or would like additional information, please contact Eric Haaland at (310) 802-5511 or the email address noted above.

Sincerely,

Richard Thompson
Director of Community Development