



ITEM 18

CITY COUNCIL STAFF REPORT – REGULAR AGENDA

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

DATE: MAY 21, 2014

SUBJECT: OPTIONS FOR PARKER AVENUE - RIGHT OF WAY

RECOMMENDATION

Review and discuss the options for handling code enforcement and the disposition of right-of-way on Parker Avenue; and, if appropriate, direct staff to initiate the abandonment of a portion of the public right-of-way.

BACKGROUND

The City Council, at its April 16, 2014 meeting discussed options for the Parker Avenue right-of-way (staff report included as Attachment 1). Councilmembers requested additional information on property tax assessment changes if a portion of the public right-of-way is abandoned.

ANALYSIS

Staff contacted the San Mateo County Assessor's Office to obtain an estimate on the possible increase in property tax assessment if a portion of the public right-of-way is abandoned. Specifically, the potential abandonment would include a 15' wide strip of public right-of-way, totaling 900 square feet of land to each legal lot, and reserving a public utility easement along the eastern properties. Terry Lashkoff, Principal Appraiser for the San Mateo County Assessor's Office indicated that the Assessor's Office is legally prohibited from providing an advisory opinion on the value of property or assessment. She did indicate that a change in ownership (property transferring from the Town as public right-of-way to private property owners) would trigger a re-assessment. The re-assessment would be on the abandonment portion of property only and would not re-assess the entire property. The value of the new property will be based on fair market value, considering easements, at the time the property is transferred. The abandonment of a portion of public right-of-way would result in increased tax assessment to the Parker Avenue property owners.

FISCAL IMPACT

Considerable staff time has already been spent responding to complaints and meeting with

City Council Staff Report

concerned property owners. If the Council wishes to proceed with the right-of-way abandonment process, it should consider if this expense would be borne by the Town or the Parker Avenue property owners. It is estimated that this process could cost \$25,000. Further, whatever solution is selected, residents on Parker Avenue would be obligated to pay any existing citations.

Attachment

1. City Council Staff Report, April 16, 2014



Item No. 25 Town of Atherton

CITY COUNCIL STAFF REPORT – REGULAR AGENDA

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

DATE: APRIL 16, 2014

SUBJECT: OPTIONS FOR PARKER AVENUE – RIGHT OF WAY

RECOMMENDATION

Review and discuss options for handling code enforcement and the disposition of right-of-way on Parker Avenue; and, if appropriate, direct staff to initiate the abandonment of a portion of the public right-of-way.

BACKGROUND

Parker Avenue is zoned R1-A (P) and is comprised of 21 single-family homes. In 2010, the City Council adopted the Parker Avenue Overlay Zone to modify the main building height limit and floor area requirements for the properties along the street. The Council adopted the Overlay Zone to provide adapted development standards to address the unique circumstances of a large cluster of small lots with a wider than typical public right-of-way.

Specifically, the Overlay Zone reduced the main building height limit from 30' to 28' and reduced the sidewall height limit from 22' to 20'. The Overlay Zone increased the allowed floor area and reduced the front yard setback for single story portion of the main residence.

Parker Avenue is an approximate 20' wide paved roadway within a 70' wide public right-of-way. This width of the public right-of-way is atypical. In Atherton, the more typical paved roadway is 18' wide for a cul-de-sac with a commensurate public right-of-way of 40' wide. Fences and other landscaped structures are required to be located within private property and cannot extend into the public right-of-way. Further, landscaping within the public right-of-way is required to comply with Chapter 12.06 of the Municipal Code. This Chapter specifies plant material height adjacent to the paved roadway.

Staff has recently received complaints of numerous violations along Parker Avenue. These violations include structures constructed within the public right-of-way, landscape encroachments into the right-of-way and setback violations for small structures. A few of the property owners have complied with the notices of violation by removing and/or relocating the small improvements, while others request that the Town consider other options to legalize these

improvements – such as amendments to the Overlay District, permanent encroachment permits, or abandonment of the excess right-of-way.

FINDINGS | ANALYSIS

As noted above, the improved roadway at Parker Avenue is approximately 20' wide within a 70' wide public right-of-way. This is an exceptionally large right-of-way width compared to other cul-de-sac streets in Atherton. The Circulation Element of the General Plan classifies Parker Avenue as a “Local Street,” defining such as “...roads are used to provide access to abutting property, locations for easements, open space for light and air and a fire break between buildings. Carrying traffic is a secondary function of local streets and they should be designed to discourage through traffic...” The street standard in the General Plan for a cul-de-sac is an 18' pavement width and 30' right- of-way width.

Public utilities may locate within public rights-of-way. Based on preliminary discussions with utilities providers, there are several utilities within the Parker Avenue right-of-way. Specifically, along the northeastern side of the street (odd numbered addresses) there are:

- a 2” gas line located approximately 4’ from the property line;
- a 6” water line located approximately 15’ from the property line; and
- overhead electrical lines, cable and phone lines with power poles located just adjacent to the property line.

The sewer line is in the middle of the street.

There are several options for the City Council to consider:

1. Abandon a Portion of Parker Avenue

The City Council could proceed with the process to abandon a portion of the Parker Avenue right-of-way. Under this option, staff would recommend retaining a 40' wide public right-of-way measured from the centerline and an easement for public utilities. This would abandon a 15' wide section of right-of-way along each side of the street to the private property owners (approximately 900 square feet of land area to each property). The property owners would receive this additional land area at no cost. For some areas, there would be retained utility easements as encumbrances.

According to San Mateo County Assessor’s Office staff, the County would include the value of this additional property to the property’s current valuation. This could result in an increase in the annual property taxes paid by the property owner and received by the Town.

Each lot along Parker Avenue is 60' wide by 130' deep (7,800 square feet in area). The abandonment would add 15' to the lot depth and would increase the lot size by 900 square feet resulting in lots with 8,700 square feet in area. This would increase the allowed floor area from a current maximum of 2,787 square feet to a maximum of 2,935 square feet. All improvements to properties would be measured from the new front property line.

From a design and land use perspective, this would allow property owners to construct fences and other landscape improvements 15' from the edge of the paved roadway as would be typical on other residential streets. It would also allow additions to the front of main buildings closer to the roadway than currently permitted but typical when compared to other residential streets. With the right-of-way abandonment, the main building setback requirement is 23'-3" for single story construction and 43'-6" to the front property line for two-story construction.

The process for abandonment of a portion of the public right-of-way requires the City Council conduct a hearing and make findings under the Streets and Highways code. The cost for this process is estimated at \$25,000 and includes the cost to prepare surveyed maps, property descriptions and staff time.

Property owners along Parker Avenue would be required to obtain an encroachment permit for improvements within the portion of right-of-way that is not abandoned.

2. Do not modify Parker Avenue, but allow minor encroachments within the public right-of-way with the issuance of an Encroachment Permit.

The existing improvements within the public right-of-way could be legalized through the issuance of an encroachment permit. It should be noted that the Town has traditionally not issued encroachment permits for permanent structures within the right-of-way. However, the Town could update the process to allow for the private use of excess street right-of-way upon approval by the City Council. Components of that process/policy for issuance of such a process could include the following:

- The encroachment is necessary to provide pedestrian or vehicular access from private property to the adjacent public street.
- Use of the public right-of-way will permit landscaping that the Town determines will enhance the aesthetic qualities of the streetscape.
- Use of the public right-of-way will provide an off-street parking area, and will thereby relieve parking or traffic congestion on the adjacent street;
- The public right-of-way will be used to construct retaining walls, drainage structures or other facilities that the Town considers necessary to protect or maintain the public infrastructure;
- The encroachment permit will validate already existing private improvements in the public right-of-way for the purpose of shifting the Town's potential liability for injuries

If an encroachment permit were to be issued for these situations, it would require that the property owner remove the structure if the Town or a utility provider needs access. In addition, any new requests for permits would require locating utilities (USA) prior to any work. The permit would run with property ownership as an encumbrance. There would be a fee associated with the creation and filing of the permit that the property owners would be obligated to pay. The process could also be used in other areas of the community where encroachments meet the considerations noted above.

This option would legalize some but not all of the current code violations on Parker Avenue. There is also the possibility that in conjunction with the encroachment permit process the Town could consider amending the existing Overlay District for Parker Avenue to modify the setback requirements such that the front setback be measured from a “typical” edge of right-of-way. This could create more useable space as noted in Option 1; but, because the encroachment permit process could be implemented on a property-by-property basis, it would create an inconsistent land use along the street.

3. Take no action and request the Code Enforcement Officer enforce the existing regulations

The Council also has the option to take no action and allow the normal code enforcement process to continue. Property owners would be required to remove all unpermitted and un-permittable encroachments from the right-of-way. The Town would pursue any and all legal remedies to ensure compliance.

RECOMMENDATION

Review and discuss options for handling code enforcement and the disposition of right-of-way on Parker Avenue; and, if appropriate, direct staff to initiate the abandonment of a portion of the public right-of-way.

Staff believes that while the encroachment process could solve the Parker Avenue issue(s), given the unique circumstances on Parker Avenue a more permanent solution, such as abandonment would prove more helpful. However, staff believes the encroachment permit process is valuable and could be used throughout the Town to address right-of-way encroachments. With the Council’s consent, staff would like to proceed with creation of a more formalized encroachment permit process and any necessary updates to the Town’s encroachment ordinance for use throughout the community even if it is not specifically used to address the more extensive issues on Parker.

FISCAL IMPACT

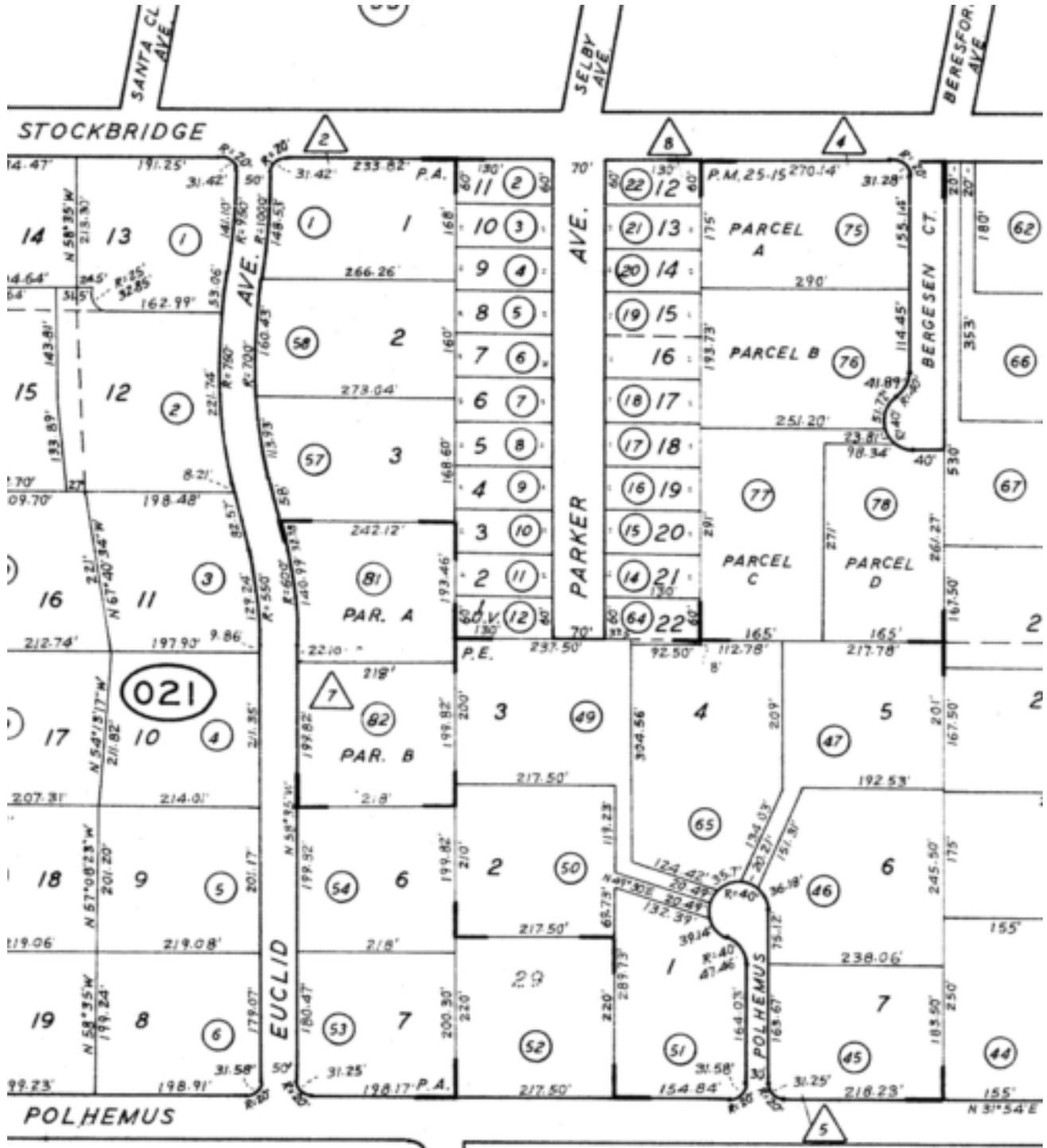
Considerable staff time has already been spent responding to complaints and meeting with concerned property owners. If the Council wishes to proceed with the right-of-way abandonment process, it should consider if this expense would be borne by the Town or the Parker Avenue property owners. It is estimated that this process could cost \$25,000. Further, whatever solution is selected, residents on Parker Avenue would be obligated to pay any existing citations issues.

If the Council directs staff to proceed with encroachment permit process, staff would create the appropriate process and the cost would be borne by the respective property owner.

ATTACHMENTS

1. Map of Parker Avenue
2. List of code violations at Parker Avenue
3. Atherton Municipal Code Chapter 17.37, Parker Avenue Overlay District (P)
4. Atherton Municipal Code Chapter 12.06, Encroachments
5. Suggested Conditions for an Encroachment Permit

**ATTACHMENT 1
ASSESSOR MAP OF PARKER AVENUE**



ATTACHMENT 2

Active Code Enforcement Cases along Parker Avenue

Address	Violation	Description
17 Parker	Encroachment	Two stone pillars approximately 5' tall installed near walkway to residence. The pillars are located within the public right-of-way
43 Parker	Encroachment	Two planters located within the public right-of-way
53 Parker	Encroachment	Raised rock planter installed within the public right-of-way
90 Parker	Encroachment	Entrance gate with arbor without permits
80 Parker	Encroachment	Wire fence within the public right-of-way
62 Parker	Encroachment	Split rail fence within the public right-of-way

ATTACHMENT 3

Chapter 17.37 PARKER AVENUE OVERLAY DISTRICTS (P)

Sections:

- [17.37.010](#) Purpose and Relationship to Base Zoning District.
- [17.37.020](#) Characteristics of the District.
- [17.37.040](#) Development Standards Modifications.

17.37.010 Purpose and Relationship to Base Zoning District.

This chapter establishes the Parker Avenue overlay district. This district is intended to be combined with the Residential District R-1A and is designed to provide development standards that are adapted to the unique circumstances of a large cluster of small lots. In any conflict between the standards of the R-1A Base District and this overlay district, the overlay district regulations shall apply. (Ord. 587 § 1 (part), 2010)

17.37.020 Characteristics of the District.

The Parker Avenue Overlay District (P) provides for the development of single-family residential uses on lots located in the R-1A District which are significantly less than one acre in area and which front on a seventy-foot-wide public right-of-way. This right-of-way is significantly wider than the Town's standard local street. The Parker Avenue overlay district allows for more total floor area and more second story floor area than the base R-1A district. Unchanged R-1A rear setbacks and reduction in permitted heights for new development are intended to minimize any adverse impacts on the privacy or views of neighboring homes. (Ord. 587 § 1 (part), 2010)

17.37.040 Development Standards Modifications.

A. Height. The standard maximum building height for main buildings shall be twenty-eight feet; provided, that vertical sidewalls and columns may not exceed twenty feet. End walls shall be perpendicular to lot depth.

B. Maximum Floor Area Ratio. The maximum floor area ratio shall be determined by the following equation:

$$\text{Floor area in square feet} = (\text{lot size in square feet} \times .165) + 1,500 \text{ square feet}$$

The floor area above the first floor of the main building for all lots shall not exceed one thousand one hundred thirty-two square feet.

C. Setback. For single story portion of the main building that does not exceed fifteen feet in height, the front yard setback shall be twenty-three feet three inches. (Ord. 587 § 1 (part), 2010)

ATTACHMENT 4

Chapter 12.06 ENCROACHMENTS*

Sections:

12.06.010	Title.
12.06.020	Purpose and intent.
12.06.030	Definitions.
12.06.040	Compliance required.
12.06.050	Permit—Required.
12.06.060	Permit—Issuance and conditions.
12.06.070	Application for permit.
12.06.080	Administration.
12.06.090	Permit—Revocation conditions.
12.06.100	Standards for work.
12.06.110	Appeals.
12.06.120	Violation a public nuisance.

* Prior ordinance history: Ords. 475 and 490.

12.06.010 Title.

This chapter shall be known as the “Encroachment Ordinance” and may be so cited. (Ord. 503 § 1 (part), 1999)

12.06.020 Purpose and intent.

It is the intent of the encroachment regulations to preserve the rural nature of the town and to leave the lot frontage strip portion of the public right-of-way safe, clear of obstacles and impervious surfaces, for drainage, parking, access and other similar uses. It is the intent of this chapter to clarify that it is the responsibility of adjoining property owners to maintain such areas. (Ord. 503 § 1 (part), 1999)

12.06.030 Definitions.

As used in this chapter:

- A. “Lot frontage strip” means that portion of the public right-of-way between the property line and the paved street.
- B. “Utility” or “utilities” or “public utilities” means and includes any water, gas, sewer, electrical or communications service and all persons supplying the same.
- C. “Communications services” or “communications service” means and includes telephone, cable and video services as defined in the Public Utilities Code of the state of California. (Ord. 569 § 1, 2007: Ord. 503 § 1 (part), 1999)

12.06.040 Compliance required.

It is unlawful for any person, firm or corporation to store materials or vehicles, or maintain, erect, construct, alter, repair, raise, build or move any building, structure, sign, fence, wall, culvert, bridge, paving or portion thereof, or landscaping upon any easement, right-of-way or parcel of land conveyed, granted or dedicated in any way to the town, or owned in any manner by the town or to perform any work on poles or overhead lines and associated structures above any public street or sidewalk for any purpose or purposes whatever, except in compliance with the provisions of this chapter. (Ord. 569 § 2, 2007: Ord. 503 § 1 (part), 1999)

12.06.050 Permit—Required.

A. No person shall maintain, erect, construct, alter, repair, raise, build or move any building, structure, sign, fence, wall, culvert, bridge, paving or portion thereof, or store materials, or vehicles or perform grading and filling, or plant or place any landscaping, upon any easement, right-of-way or parcel of land conveyed, granted or dedicated in any way to the town or owned in any manner by the town, or perform any work on poles or overhead lines and associated structures above any public street or sidewalk, for any purpose or purposes whatever, without first having obtained from the town an encroachment permit in current force and effect. All such encroachments are subject to limitations outlined in Section [12.06.100](#).

B. A permit shall not be required for the following:

1. Minor maintenance in the right-of-way that meets the following:
 - a. Maintenance that does not alter any existing drainage patterns,
 - b. Minor patching and sealing of driveways;
2. De minimus modifications that are consistent with this chapter;
3. Mailboxes that meet the requirements of Section 12.06.100F;
4. Keypads and intercoms installed in conjunction with a building permit and which meet the requirements of Section 12.06.100F. (Ord. 569 § 3, 2007; Ord. 503 § 1 (part), 1999)

12.06.060 Permit—Issuance and conditions.

Except for permits issued pursuant to Section 12.06.100H, the city manager, in conformance with the provisions of Section [12.06.080](#), shall issue an encroachment permit to the applicant when, in the opinion of the city manager, the proposed encroachment would not interfere with any town facilities or the use thereof, and would not be detrimental to the best interests of the town. Each such permit shall be revocable at any time in the sole discretion of the town, in accordance with Section [12.06.090](#), and shall be subject to such conditions, terms and charges as the city manager deems reasonable for the protection of the best interests of the town, including, without limitation, a provision that the permittee and his successors shall defend, indemnify and hold the town, its officers, agents and employees free and harmless from any and all claims of any nature, including claims for liability for personal injury or property damage arising from the construction, operation and maintenance of the encroachment, and further that the encroachment shall be removed promptly upon the request of the city manager, at the sole expense of the permittee. Each encroachment permit shall provide that, upon failure of the permittee to remove the encroachment after notice from the city manager to do so, the encroachment may be removed and abated by the town, and the cost thereof charged to the permittee and secured by a lien upon the property of the permittee. The city manager may delegate any of his functions hereunder to one or more designated deputies. (Ord. 540 § 2, 2003; Ord. 503 § 1 (part), 1999)

12.06.070 Application for permit.

Application for any encroachment permit shall be made to the city manager by all of the owners (or the lessees, with written consent of all of the owners) of the property immediately adjacent to the location of the proposed encroachment. The application shall be made in a form approved by the city manager, and shall contain all information necessary for evaluation of the application, including, without limitation, the following:

- A. A statement of the intended use, an accurate drawing to scale showing the location thereof, and a sketch of the proposed encroachment showing its dimensions;
- B. The name and address of the applicant(s), the authority of the applicant to make the application, the location and dimensions of the installation, the size of any proposed excavations, the purpose of the encroachment and the estimated time which will be required to complete the work, including backfilling any excavations and removing all obstructions, materials, equipment, vehicles and debris;

- C. Certificates of insurance of types and amounts as required by the city manager, and approved as to form by the city attorney;
- D. A statement, satisfactory in form and substance to the city attorney, from a licensed title insurance company indicating the ownership of the affected parcel and the adjoining parcel or parcels where encroachment is proposed;
- E. An agreement specifying the terms of the permit, including appropriate hold harmless, defense and indemnity provisions, and a requirement that the owner will agree to maintain trees and landscaping in the public right-of-way, and in form recordable as a covenant running with and binding the land of the applicant, to be approved by the city attorney;
- F. Such cash deposits, inspection fees and performance and labor and material bonds as may be required by the city manager, the amounts thereof based on estimates by the city engineer of costs of administration and inspection;
- G. Application fees, engineering review fees and any annual blanket utility encroachment fees, as established by resolution of the city council. (Ord. 503 § 1 (part), 1999)

12.06.080 Administration.

- A. Each complete application for an encroachment permit shall be reviewed by the town staff for a determination as to whether the application complies with the requirements of this policy, and meets town regulations. This review shall include referral to all appropriate staff members for review and comment. The proposed encroachment shall be evaluated to determine whether it is compatible with the general plan and with the character of adjacent public and private property.
- B. Based on the recommendations and findings of the staff, the city manager may deny or grant the permit. The city manager may impose all such conditions of approval, which he deems necessary and appropriate to safeguard the public health, safety and welfare, and to insure compliance with the general plan, the policies expressed herein, and all other applicable regulations. (Ord. 503 § 1 (part), 1999)

12.06.090 Permit—Revocation conditions.

Except for permits issued pursuant to Section [12.06.100\(H\)](#), the city manager may revoke any encroachment permit at any time that he determines that such revocation is in the best interests of the town, or that the conditions of the permit or any other regulations are being violated, or that the encroachment interferes with the public safety or convenience. Upon revocation, the permittee shall be notified in writing of the revocation. (Ord. 540 § 3, 2003; Ord. 503 § 1 (part), 1999)

12.06.100 Standards for work.

The following standards shall apply:

- A. All work and improvements installed in any public right-of-way shall conform to the standard specifications of the town, and shall be installed to the satisfaction of the city engineer.
- B. No encroachment shall be located or maintained in any manner that impedes drainage, or access to any public or private utility, or facility, or to any devices or controls, for inspection, maintenance or operation.
- C. No pavement, poured concrete, asphalt or similar material shall be used in any right-of-way except for ingress and egress to the property. When any existing pavement, poured concrete, asphalt or other impervious material becomes materially damaged and/or unsafe it shall be removed and the area shall be improved only as allowed under these provisions.
- D. No physical obstruction shall be placed within six feet from the edge of the improved public right-of-way.
- E. New landscaping may be permitted in the public right-of-way, if it complies with all of the following criteria:

1. No landscaping shall be permitted to encroach on the improved portion of the public right-of-way. No landscaping shall be permitted to encroach over the improved portion of the public right-of-way if it constitutes a hazard to public safety as determined by the city manager, or his designee.

2. Landscaping within three feet from the edge of the improved public right-of-way is limited to ground level landscaping not to exceed five inches in height, and ground level pervious surface coverings. Pervious surfaces consist of any material that permits the infiltration of water into the soil.

3. Landscaping located between three feet and six feet from the edge of the improved public right-of-way shall be limited to groundcover or low-growing shrubs less than thirty-six inches in mature height. No shrubbery within a triangular area bounded on two sides by improved right-of-way lines extending a distance of thirty feet from the intersection of the improved right-of-way at the street corner shall be over three feet in height measured from the level of the closest adjoining pavement to the top of the shrubbery. Within such triangular area, all trees, including overhanging trees shall be trimmed so that they shall not obstruct the vision of persons operating vehicles on adjoining streets.

4. New landscaping in the public right-of-way may be permitted with an encroachment permit as outlined in this chapter. All record owners of the immediately adjoining property, shall provide the town with a covenant running with the land, in recordable form satisfactory to the city attorney, providing that all such landscaping will be maintained in good condition, and if necessary removed at the town's discretion, at the sole expense of the owners of the immediately adjoining property.

5. Newly planted street trees and shrubbery shall be planted so that when mature, their trunks are at least six feet from the edge of the improved public right-of-way.

6. Only street trees approved by the town may be planted, and deep root planters or root barriers may be required.

7. All landscaping in the public right-of-way must be perpetually maintained in a healthy growing condition by the owner of the adjoining property, so as not to create a safety hazard or a public nuisance. All lot frontage strip areas in the public right-of-way shall be maintained free of weeds, litter and debris.

8. No logs, curbs, rocks or similar obstacles may be placed within six feet of the edge of the improved right-of-way.

9. Landscaping shall not be permitted to impede drainage.

F. Encroachments for mailboxes and for gate entry key pads and intercom devices may be permitted, provided they are located at least six feet from the edge of the improved right-of-way.

G. All existing trees and shrubs and landscaping may continue to be located within the public right-of-way so long as they do not present a public hazard. The nonconforming condition may not be allowed to further encroach into the public right-of-way. Further, if such nonconforming landscaping is determined by the city manager, or his designee to be hazardous or poses a physical obstruction, it shall be subject to abatement and removal as a public nuisance where determined by the city manager, or his designee to be in the interest of the public health, safety and general welfare.

H. Encroachment permits may be issued for entrance gate structures delineating all or parts of a specific neighborhood, subject to terms and conditions of a permit approved by the city council. Further, if such encroachments are subsequently determined by the city council to be hazardous or to pose a physical obstruction, said structure shall be subject to abatement and removal as a public nuisance as determined by the city council, to be in the interests of the public health, safety and general welfare. (Ord. 540 § 1, 2003; Ord. 503 § 1 (part), 1999)

12.06.110 Appeals.

Any person affected by a decision of the city manager to grant, conditionally grant, deny or revoke any encroachment permit shall have the right to appeal such decision in accordance with the provisions of Chapter [17.06](#) of this code. (Ord. 503 § 1 (part), 1999)

12.06.120 Violation a public nuisance.

Each violation of this chapter shall constitute a public nuisance and be subject to abatement as such, in accordance with provisions of Chapter [8.20](#) of this code. (Ord. 503 § 1 (part), 1999)

ATTACHMENT 5

ENCROACHMENT PERMIT

City Clerk
Town of Atherton
91 Ashfield Drive
Atherton, CA 94027

ASSESSOR'S PARCEL NO.: _____
ADDRESS: _____
OWNER: _____
DATE ISSUED: _____

TOWN OF ATHERTON

ENCROACHMENT PERMIT NO.: _____

The Town of Atherton, California, a municipal corporation (hereinafter referred to as "Town"), hereby authorizes and licenses the owner of the land described above and in Exhibit "A" (hereinafter referred to as "Permittee"), at its own cost and expense, to encroach upon the adjoining land owned by the Town (hereinafter referred to as "Premises") for the following purpose:

(Description of improvements) in the _____ right-of-way on the _____ end of _____.

This Permit is granted subject to the following terms and conditions:

1. Permittee shall save and hold harmless the Town from any loss, damage, or injury of any kind or character whatsoever that may arise from anything done, or omitted to be done, by Permittee, its agents, employees or contractors in connection with or in any way related to the matters authorized by this Permit. Permittee agrees to hold Town harmless and indemnify Town (including, but not limited to, attorney fees, expert witness costs and court costs), without limitation, from and against any and all claims, injuries, damage, liability and/or cause of action which may ever arise as a result of injury and/or damage to property claimed to be the result of construction and/or failure to maintain said property or improvements by Permittee in, on, under, or above Town property which is the subject of the permit granted Permittee by Town.
2. To the extent this Permit authorizes the erection or installation of any building, fence, wall, or other structure or facility in or upon land owned by Town, Permittee agrees to erect and install the same in accordance with plans and specifications approved by the Town and further agrees to maintain the same at all times in good condition and repair, all at Permittee's sole cost and expense.
3. To the extent this Permit authorizes the erection or installation of any infrastructure improvements which are subject to the Americans With Disabilities Act ("the Act"),

Permittee agrees to construct and maintain those improvements in full compliance with the requirements of the Act.

4. If Permittee shall fail to comply with the terms and conditions of this Permit, the Town, at its option may immediately terminate and revoke this Permit by mailing or delivering written notice thereof to Permittee at the address hereinabove stated.
5. Permittee shall not restrict access by the public and/or by adjacent property owners to the permitted area.
6. Permittee shall execute this Permit by: signing the Permit; making an acknowledgement of the Permit before a notary public or an officer specified by the State to take the acknowledgement of instruments of writing; and delivering the signed Permit and certificate of acknowledgement to the Town. If Permittee shall fail to execute this Permit within thirty days of the date issued, the Town may immediately terminate and revoke this Permit by mailing or delivering written notice thereof to Permittee at the address hereinabove stated.
7. Anything herein to the contrary notwithstanding, this Permit shall be revocable at the pleasure of the City Council of the Town of Atherton. The election to revoke this Permit may be exercised at any time by mailing or delivering to Permittee at the address hereinabove stated a notice of revocation and termination. Within the time specified in said notice, Permittee shall, at its own cost and expense, remove from the Premises the encroachment and all structures and facilities placed thereon or therein by Permittee.
8. That upon the failure of Permittee to comply with any of the agreements contained herein, Town may declare said improvements to be a public nuisance, and may take such action as may be authorized by law to abate said nuisance. The Town shall be entitled to recover from Permittee costs of suit and reasonable attorney's fees, to be determined by the court. The remedy of Town as contained in this paragraph shall not be exclusive.
9. The Permittee acknowledges that the property interest created hereunder by issuance of this Permit may be subject to possessory interest taxation and said Permittee in whom such possessory interest is vested recognizes and agrees that it/they shall be solely responsible for payment of all such taxes levied upon said possessory interest.
10. The Permittee shall deliver this Permit to any successor in interest to the above-described land.
11. The agreements contained herein are covenants and servitudes running with the land and shall be binding upon Permittee and its successors, assignors, executors, administrators, and personal representatives.
12. The Permittee shall obtain an encroachment or building permit from the Town prior to the commencement of any work on Town property.
13. Any previous permits issued to this property for this permitted area are now null and void.