

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 Developmen

Neil Miller, Director of Public Works McChr

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.

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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.

- 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)

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.

<u>SECTION 2</u>. 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.

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:

- 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;
- 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.
- 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;
- 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:
 - 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).
 - 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)

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

- 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.
- 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.
- 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
- 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.

 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.
- 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

- 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.
- 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:

- 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.
- 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.

- 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.
- 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".
- 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.
- 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

- 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.

- 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.
- 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.
- Significant alteration of the existing right-of-way grade is prohibited, unless determined to be necessary to accommodate a required public street improvement.
- 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.
- Amplified music is prohibited.

- 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.
- Sidewalk dining activities must comply with all Use Permit and zoning requirements (parking, occupancy, etc.).
- Confusion of the con
- 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 approvál.

Exceptions. The Director of Community Development may approve the following:

- 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.
- 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.

<u>SECTION 4.</u> 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.

<u>SECTION 7</u>. 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: Noes: Absent: Abstain:		•	·	
		Mayor, City of Manhattan Beach		
ATTEST:				
City Clerk				

APPROVED AS TO FORM: //

ORDINANCE NO. 2042

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.

 $\underline{\text{SECTION 2}}. \ \ \text{A new section 9.72.015 is hereby added to Chapter 9.72 of the Manhattan} \\ \text{Beach Municipal Code to read as follows:}$

"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.

- 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.
- 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.

Diagram.

- 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.
- 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.

- 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.
 - Permitted Improvements must conform to the provisions of the Diagram for non-standard streets.
 - Irrigation systems are prohibited in the street right of way used for driving or vehicle parking.
 - 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.
 - Existing trees located in the street right of way will be preserved where possible.
 - 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.

 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.

 $\underline{\text{SECTION 4}}$. 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.

<u>SECTION 6</u>. 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.

Ord. 2042

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

AYES: NOES: ABSENT: ABSTAIN:

Mayor, City of Manhattan Beach

ATTEST:

City Clerk

APPROVED AS TO FORM:

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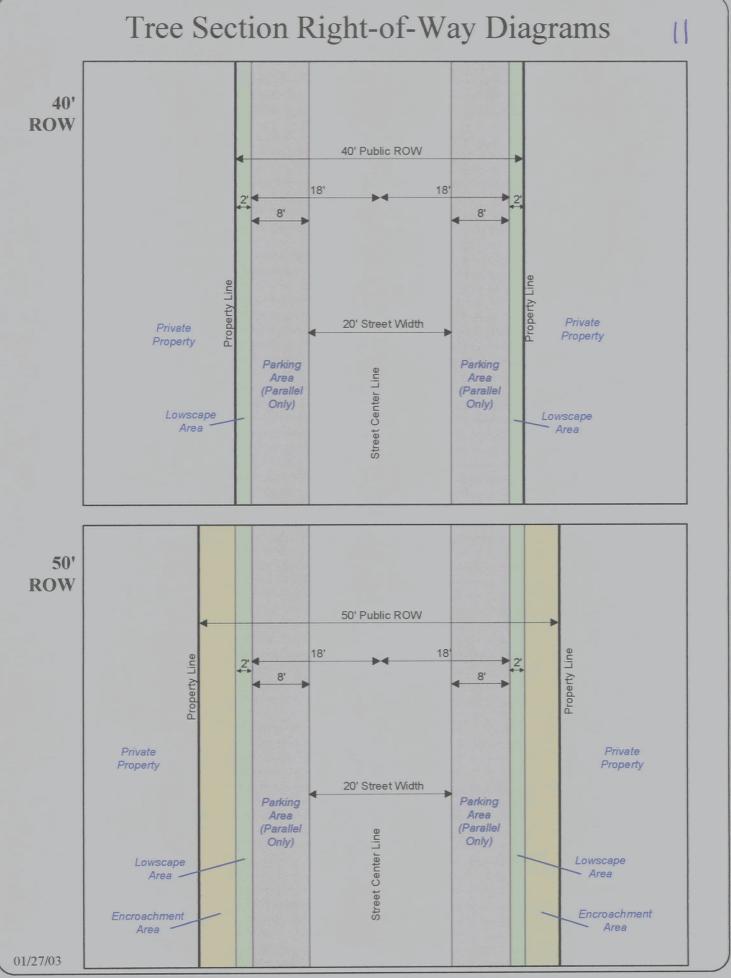
City Attorney

11

Tree Section Street Rights-of-Way



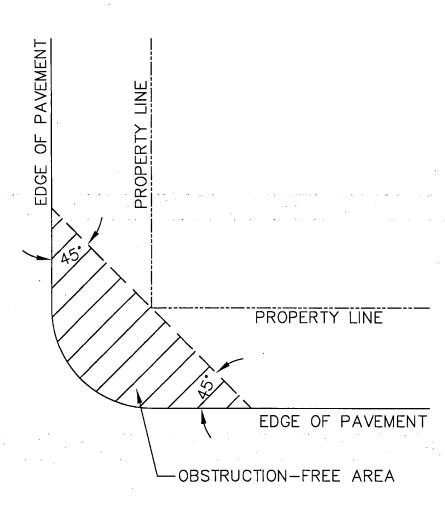
City Council 02/04/03 Rights-of-way Ordinance - Attachment C



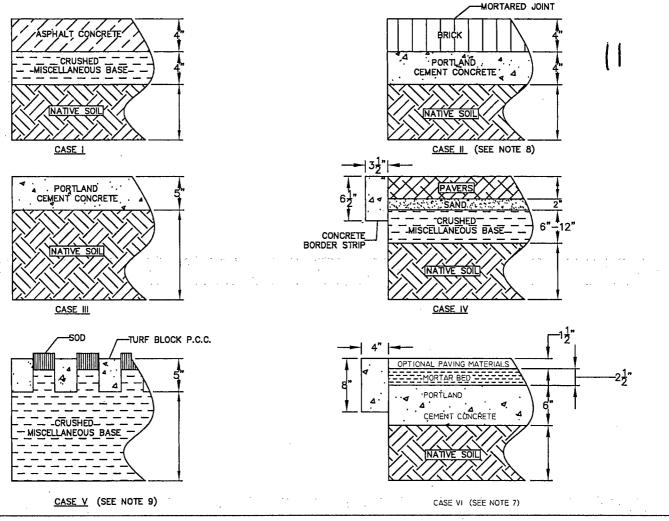
City Council 02/04/03 Rights-of-Way Ordinance - Attachment D1



City Council 02/04/03 Rights-of-Way Ordinance - Attachment D2



Drawn By: Oscar Estrada 1011-02	CITY OF MANHATTAN BEACH			
REVISIONS	DEPARTMENT OF PUBLIC WORKS			
	STREET CORNER OBSTRUCTION— FREE ZONE			
	APPROVED BY:			
	CITY ENGINEER DATE			



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			
		DEPARTMENT OF PUBLIC WORKS		
		STRUCTURAL SECTIONS FOR PARKING AREAS TO BE		
		CONSTRUCTED WITHIN THE PUBLIC RIGHT-OF-WAY		
	APPROVED BY:			
				SI-2.5
1	CITY ENGINEER		DATE	<u> </u>

Councilmember Dougher discussed that, even though the City will receive only about \$.60 on the dollar, the funds will enable the City to provide assistance to moderate-income families living in Manhattan Beach.

Mayor Napolitano related his understanding that staff continually looks for ways in which the CDBG funds can be spent and that, as a Manhattan Beach resident, Mr. Ngo is eligible for these social services.



02/1015.23-21 Consideration of a Proposed Encroachment Permit Ordinance, as Recommended by the Parking and Public Improvements Commission

City Manager Geoff Dolan advised that, during discussion of this topic at a previous City Council meeting, the Council directed that it be set for a Public Hearing on this date.

Senior Planner Rosemary Lackow presented the staff report outlining the contents of the proposed Ordinance and reported that commercial and vehicular uses on walk streets have received much attention from residents. Clarifying the issues before the Council at this time, she noted that the proposed Ordinance deals with the private use of public property; that issues surrounding the public use of public property will come before the Council at a future City Council meeting; and that the City's goal is to provide more green areas and better access for emergency vehicles on walk streets. In response to questions from the Council, Senior Planner Lackow explained that permit amendments would be required for outdoor cafés on City right-of-ways; that the Council would have the discretion to set standards for each case; and that within one year of adopting the Ordinance, the Council would have the ability to review it and make amendments as they see fit.

Mayor Napolitano opened the public hearing at 7:38 p.m.

Don McPherson, 1014 First Street, asked that a restriction against commercial uses on walk streets be included in the proposed Ordinance and that new or expanded encroachments for commercial uses on walk streets be prohibited in the draft General Plan.

Cindy Berkholder, 448 31st Street, relayed her impression that the proposed Ordinance includes parking pad requirements relevant to improvements on vehicular streets and that mature trees removed from construction sites are not being replaced. She voiced her concern over the displeasing aesthetics of parking pads instead of landscaping and asked that this item be continued in order for residents to more fully understand it.

Senior Planner Lackow clarified that the parking pad requirements in the proposed Ordinance are consistent with current standards.

Director of Public Works Neil Miller further clarified that parking pad requirements will be addressed in a separate Ordinance concerning public right-of-ways that will be presented for the Council's consideration in the near future.

Councilmember Fahey entertained the idea of continuing this item until such time as the matter referred to above by Public Works Director Miller is before the Council.

Mayor Pro Tem Aldinger offered his viewpoint that parking pad requirements should be addressed in only one Ordinance and that private and public uses were not separated very well. City Attorney Robert Wadden advised that it is within the Council's purview to decide whether it is appropriate to have one or two Ordinances.

Councilmember Wilson stated her understanding that the Ordinance before the Council this City Council Meeting Minutes of November 19, 2002

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evening deals with the private use of public property and that, in the future, an Ordinance addressing the public use of public property will be considered.

City Manager Dolan explained the goal to implement policies and decisions in a more easily understandable way. He recommended that the Council provide direction so staff can determine how to best codify it.

Mark Levy, 444 33rd Street, voiced his concern that parking pads have not resulted in additional parking; that they have been haphazardly and unfairly required on the south side of the street; and that they create an unsightly appearance. He commented on the long timeframe related to providing additional room for emergency vehicles and urged the Council to walk the streets to have a better feel for the issues.

Robert Caldwell, 2020 The Strand, expressed his understanding that the majority of residents hope the City will control creeping commercialism, which will destroy the unique charm of walk streets. He further stated that he supports prohibiting encroachments for new or expanded commercial uses on walk streets.

Gifford Cast, 224 35th Street, related his concern about the Council having discretionary power to determine whether a property owner can develop a commercial establishment on a walk street, particularly with regard to the north side of 35th Street. He asked the Council to prohibit the commercial use of walk streets.

Michael Curran, 124 10th Street, voiced his disagreement with the commercial use of walk streets.

Suzanne Lerner, 124 10th Street, stated her opposition to commercial developments on walk streets.

Judith Kline, 35th and Highland, commented on the need to change the Municipal Code to protect the further intrusion of development by commercial businesses.

Alison Wright, 437 32nd Street, noted the importance of trees and landscaping. She stated her support of the Council having discretion to decide where restaurants can be.

Martha Andreani, 117 10th Street, expressed her hope that walk streets will not be jeopardized by allowing commercial establishments on them. She supported outdoor dining within the perimeter of a restaurant.

Laurie Hatcher, 125 10th Street, explained her concern over the possibility of a commercial establishment next to her residence. She requested that the Council deny new or expanded commercial uses on walk streets.

Wendy Carson, no address provided, favored prohibiting commercial establishments on walk streets.

Walt Glushko, 3713 Highland Avenue, asked the Council to take this opportunity to protect the walk streets and deny new or expanded commercial uses on them.

On behalf of himself and 12 of his neighbors, Richard Romero, 226 35th Street, opposed new or expanded commercial uses on walk streets.

Kathy Smith, 121 10th Street, voiced her concern over the potential for property devaluation

should new or expanded commercial uses be allowed on walk streets.

Noting his concern over property devaluation, Ben Vicini, 3505 Crest Drive, objected to the idea of new or expanded commercial uses on walk streets.

Linda McConnell, no address provided, said that new or expanded commercial uses on walk streets would be detrimental to the City and that, should such uses be approved, parking would be worse and the charm of Manhattan Beach would diminish.

Esther Besbris, 2nd Street, asked that walk streets be kept free from further commercialization.

Jacque May, no address provided, related her agreement with her fellow residents opposition to commercialism on walk streets.

Dick Wolcott, Manhattan Avenue and 3rd Street, called attention to the value of open space in Manhattan Beach. He related his impression that the City is apparently biased toward commercialism, which, he contended, results in displeasing aesthetics, traffic, parking difficulties and pollutants.

George Kaufman, 10th Street, stated his understanding that the commercialization of walk streets applies to only ten properties in the City. He was concerned over residents being forced to repeatedly appear before the Council on this matter and contended that commercial uses are incompatible next to residences.

Wayne Partridge, 3520 The Strand, summarized the comments made by those speaking in opposition to new or expanded commercial uses on walk streets.

Mayor Napolitano closed the public hearing at 8:35 p.m.

In answer to a question from Councilmember Dougher, City Attorney Wadden advised that approval is required for all uses of the public right-of-way (including the use of tables and chairs on residential patios) on both residential and commercial properties.

Mayor Pro Tem Aldinger felt that the proposed Ordinance would be a great improvement over what is currently in place but he was not convinced that it would correctly address issues on the north and south sides of east/west streets. He stated his disagreement with removing trees to install parking pads and his support of greenery. He was, however, concerned over the possibility of the City taking on the responsibility of landscaping public areas. He further suggested that new or expanded commercial uses in residential areas be "prohibited" in the ordinance and "discouraged" in the General Plan.

Councilmember Fahey felt that it would be premature to make a decision on the proposed Ordinance prior to discussing the draft General Plan update.

Councilmember Dougher expressed his disagreement with new or expanded commercial uses on walk streets.

Councilmember Wilson stated her opposition to the commercial use of public property in residential areas, as well as her support of outdoor dining within property lines (such as The Kettle and Hennesseys).

Mayor Napolitano pointed out that uses on vehicular streets will be addressed separately in the near future. He maintained that it would not be premature to make a determination on the City Council Meeting Minutes of November 19, 2002

proposed Ordinance prior to reviewing the draft General Plan update. He recalled that outdoor dining at Uncle Bill's was previously approved because it was a similar, established use; but, since that time, many other uses of this nature have not been approved. Mayor Napolitano also agreed with Mayor Pro Tem Aldinger's suggestion that commercial uses on walk streets be "discouraged" in the General Plan and said that the City should be responsible for landscaping public areas.

MOTION: Councilmember Wilson moved to <u>adopt</u> Resolution No. 5792, <u>waive further reading</u> and <u>introduce</u> Ordinance No. 2039 with the added language that new or expanded commercial uses immediately adjacent to residences shall be "prohibited" rather than "discouraged". The motion was seconded by Mayor Pro Tem Aldinger and passed by the following unanimous roll call vote:

Ayes:

Wilson, Dougher, Fahey, Aldinger and Mayor Napolitano.

Noes: Absent: None.

Abstain:

None.

RESOLUTION NO. 5792

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, SUBMITTING ORDINANCE NO. 2039 TO THE CALIFORNIA COASTAL COMMISSION FOR AN AMENDMENT TO CHAPTER 3 OF THE IMPLEMENTATION PROGRAM OF THE CITY OF MANHATTAN BEACH LOCAL COASTAL PLAN (LCP) PERTAINING TO ENCROACHMENT PERMITS

RECESS AND RECONVENE

At 8:50 p.m. the Council recessed and reconvened at 9:03 p.m. with all Councilmembers present.

02/1119.22 Consideration of an Amendment to Resolution No. 5749 to Correct an Omission to Include an Administrative Fee for Commercial Refuse Can Service

City Manager Dolan advised the Council that the following item regards a simple oversight of an administrative fee and that the action before the Council at this time is to amend Resolution No. 5749 by adopting Resolution No. 5794.

Mayor Napolitano opened the public hearing at 9:08 p.m.

Seeing no requests to speak, Mayor Napolitano closed the public hearing at 9:04 p.m.

MOTION: Councilmember Fahey moved to <u>adopt</u> Resolution No. 5794, thereby amending Resolution No. 5749 to include the 17.24% administrative fee for commercial refuse can service. The motion was seconded by Councilmember Wilson and passed by the following unanimous roll call vote:

Ayes:

Wilson, Dougher, Fahey, Aldinger and Mayor Napolitano.

Noes:

None. None.

Absent: Abstain:

None.

RESOLUTION NO. 5794

A RESOLUTION OF THE CITY COUNCIL OF THE CITY

<u>MOTION</u>: Councilmember Fahey moved to <u>approve</u> the new commercial development at the Metlox site. The motion was seconded by Councilmember Wilson and passed by the following unanimous roll call vote:

Ayes:

Wilson, Dougher, Fahey, Aldinger and Mayor Napolitano.

Noes:

None. None. None.

Absent: Abstain:

City Manager Geoff Dolan stated that those areas of concern mentioned tonight would be addressed and returned to the Council at a later date for approval.

RECESS AND RECONVENE

At 8:43 p.m. the Council recessed and reconvened at 8:53 p.m. with all Councilmembers present.

GENERAL BUSINESS



03/0107.19 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

City Manager Geoff Dolan noted that this item was discussed with the Council in September and put into draft Ordinance form for introduction adding that a public notice has been placed in the newspaper and that the neighborhoods have been noticed.

Public Works Director Neil Miller indicated that this item continues the theme of bringing to the Council areas where staff has administrative discretion but lacks codification and that staff is attempting to obtain more standardization and clear direction in order to handle areas that are not clear. He explained that the specifics of the subject are how to handle improvements and developments on non-traditional street right-of-ways (no curb, gutter, parkway and sidewalk) in the Dune and Tree Sections where design stops at the edge of the street but the right-of-way continues to the property line. He clarified that the areas being discussed tonight are the public property right-of-way areas that are used for public parking, not the public property areas that require an encroachment permit for private uses. He explained that this is a proposed Ordinance. open for discussion and public input, and there are no compelling reasons that this needs to be settled this evening. He explained that the objectives of writing the Ordinance include maintaining safety, providing emergency vehicle access, providing adequate parking and parking pad surface options that will allow a variety of selection of surface treatments. He pointed out the concerns in the Dune Section, which include a 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 surfaces, inconsistent right-of-way construction along Alma Avenue, and the desire of builders or homeowners to have a variety of parking area surfaces. He added that, if there are lingering issues after tonight's discussion, the Ordinance can be modified. Public Works Director Miller explained that most of the streets in the Tree Section have a 40 foot right-of-way; lack consistent parking standards; have many un-permitted private use developments on public rights-of-ways; and have a variety of parking area surfaces. He also stated that it has been proposed that corner lots be required to provide a minimum of two hardsurface guest parking spaces. He reviewed the recommended provisions which apply to both sections: that irrigation systems will not be allowed; that trees will be preserved where possible

City Council Meeting Minutes of January 7, 2003

but no new trees will be added to parking areas; and that the duty to repair these right-of-way areas is the responsibility of the adjacent property owner. He further remarked that exceptions to the Ordinance will require approval of the Public Works Department and will be appealable to the Parking and Public Improvements Commission (PPIC) and that staff proposes producing a handbook entitled <u>Standards for Construction in the Street Right-of-Way</u> for distribution to homeowners that will contain all of the standards and the Ordinance itself, to answer the questions before work is done. He concluded by acknowledging that the draft Ordinance has been a collaborative effort with the City Engineer and Community Development Director.

The following individuals spoke on this item:

- Kevin Civale, 400 Block of 34th Street
- Cindy Burkhalter, 448 31st Street
- Howard Beech, 400 Block of 34th Street
- Bob Cramer, No Address Provided
- Mark Levy, 33rd Street
- Dexter Taylor, 400 Block of 32nd Street
- Bill Eisen, 3514 Crest Drive
- Rod Stoddard, 440 32nd Street
- Carol Erilane, 34th Street
- Robin McCullough, 31st Street
- Gerry O'Connor, 524 Harkness Street
- Tracy Lewis, 3rd Street
- Verda Smith, Tree Section
- Hal Keesler, 3500 Alma Avenue
- Debbie Van Ness, 34th Street

Public Works Director Miller distributed a map indicating the number of properties that have had permitted work done and indicated that 27% of the streets in the Dune Section have been improved within the proposed guidelines.

In response to Councilmember Wilson's inquiry as to why this Ordinance is being proposed, Public Works Director Miller indicated that the primary focus is the lack of maneuverability and access for emergency vehicles, as well as the considerable amount of inquiries and complaints by residents regarding the lack of consistency.

In response to Councilmember Fahey's question regarding what type of notice was given, Public Works Director Miller indicated that anyone from whom the City had received correspondence received notice, but notices were not distributed door to door.

Councilmember Fahey expressed concern that the audience in attendance is not a fair representation of the amount of residents that would be present if there had been better noticing. She confirmed that, if nothing is done tonight, Staff would still have discretion to require parking pads and not allow landscaping in the public right-of-ways, therefore, Council still needs to take action if they wish to put a stop to that practice.

In response to an inquiry by Councilmember Dougher regarding the issue of emergency vehicle access to these streets, Fire Chief Dennis Groat explained that the Fire Department works with what they have; that the drivers' know the City and how to get where they're going; that they do respond to emergencies on walk streets, although it is more difficult; and that a public information campaign asked residents to park as close to the curb as possible and to pull in their mirrors when they park. He concluded that the current situation creates some impediments to efficient response but that they work around it and the Fire Department will continue to deliver

services regardless of what decision is made.

In response to Councilmember Fahey's suggestion that, if the goal is to provide an Ordinance for the benefit of the residents affected, why not allow residents in specific districts to petition for a change, Public Works Director Miller acknowledged that this is a policy issue that needs to be determined by the Council and that Staff is asking for Council's direction.

Councilmember Dougher agreed with Councilmember Fahey, suggesting there could be some way for a street to opt in or out, based on majority rule.

Mayor Pro Tem Aldinger emphasized his opinion that the trees not be pulled out and that he favors the use of grasscrete. He expressed his dilemma with trading Fire Department needs with the needs of the residents on the streets and noted that widening the streets can increase speed thus compromising pedestrian safety. He indicated his preference to maintain parking as it is rather than requiring further setbacks, keeping the nature of the neighborhood intact, and noted that the charm of the area has to do with the inconsistencies.

Mayor Napolitano pointed out that the neighborhood is well represented and he did not believe additional residents would say anything new if they were made aware of the proposed Ordinance. He concurred that this is a safety issue and the decision should be made by the Council adding that the most important factor is to maintain the character of the neighborhood and that he is not interested in changing things just for the sake of change. He concluded by pointing out that, ideally, it would be great to have wider streets, but it must be recognized that they are not wide and even adding five feet might not be enough.

Councilmember Wilson suggested implementing the Ordinance in the Tree Section, while waiting in the Dune Section to determine the needs of the community.

Councilmember Fahey commented that this is an appropriate topic to get input from the residents and suggested holding neighborhood meetings, noting that they were very successful in the past with regard to traffic and the water tower. She commented that she is not prepared to go forward tonight, even in the Tree Section, noting that the notice given may have been legal but it was not clear to the residents what was planned.

Mayor Pro Tem Aldinger agreed that the notice should be given personally to all residents affected prior to a decision being made.

City Manager Dolan commented that the residents have made it very clear that they do not want this implemented and, perhaps, staff should table the informal policy while allowing those people who want to add the parking pad in front of their home to do so if they so desire.

In response to Councilmember Fahey's comment that the action needed would be to direct staff to stop the exercise of discretion by the Public Works Department, Public Works Director Miller indicated that, if the Ordinance is not adopted, an Encroachment Permit would be required to develop in these areas.

City Attorney Robert Wadden read aloud Ordinance No. 2042, as modified below, adding new Section 9.72.015 to Chapter 9.72 of the City's Municipal Code regarding street right-of-ways for public uses.

MOTION: Mayor Pro Tem Aldinger moved to waive further reading and introduced Ordinance No. 2042 which will implement standards and procedures for the development of street right of ways located adjacent to residential properties in certain areas of the community with the following modifications: installation of parking pads in the Dune Section will be voluntary and

the use of grasscrete as a parking surface, without irrigation, in both the Dune and Tree Sections will be allowed. The motion was seconded by Councilmember Wilson and passed by the following roll call vote:

Ayes:

Wilson, Aldinger and Mayor Napolitano.

Noes:

Dougher and Fahey.

Absent: Abstain: None.

Councilmember Dougher emphasized that he voted no because of his strong opinion that hardscape is appropriate in the Dune Section and should not be replaced by grass.

City Attorney Wadden suggested adding "in the Tree Section" after "street right-of-ways" within the Ordinance Title.

Hearing no objection by Council, it was so ordered.

Explaining that with the recent introduction of the Encroachment Ordinance, City Manager Dolan indicated that staff will require additional time to review these changes and make sure there are no discrepancies prior to returning both of them for adoption.

ITEMS REMOVED FROM THE CONSENT CALENDAR

03/0107.4 Consideration of Financial Reports - Ratification of Demands: December 19, 2002 8 January 2, 2003

A member of the audience pulled this item from the Consent Calendar for Council discussion.

The following individual spoke on this item:

• Bill Eisen, 3514 Crest Drive

In response to Mr. Eisen's inquiry into the check made payable to Metlox LLC being paid prior to the issuance of the Costal Development Permit, Mayor Napolitano questioned City Attorney Robert Wadden regarding the validity of the permit to which he responded that there is an argument that the permit is not required.

MOTION: Councilmember Wilson moved to <u>approve</u> with no exception Warrant Register No. 13B and 14B in the amount \$4,021,616.49 in payment of ratification of demands and claims as prepared by the Director of Finance, together with the original demands and claims as prepared by said Warrant Register. The motion was seconded by Mayor Pro Tem Aldinger and passed by the following unanimous roll call vote:



Notice of Proposed Ordinances 2039 and 2042 Regarding Development of Street Right of Way

The City Council of Manhattan Beach will be considering the introduction of the following two ordinances:

PROPOSED ORDINANCE 2039:

This ordinance would replace Chapter 7.36 of the Manhattan Beach Municipal Code and Chapter 3 of the Local Coastal Plan Implementation Program regarding Encroachment Permits. Its purpose and intent is to codify existing design standards and permit procedures for various private improvements within the public right-of-way adjoining private property. Examples of such encroachments include residential improvements located on walk-streets and vehicular streets (fences, walls, patios, decks, walkways, landings and plantings), minor commercial building projections, such as awnings, signs and architectural elements and short-term restaurant dining on public sidewalks.

PROPOSED ORDINANCE 2042:

This ordinance would add Section 9.72.015 to Chapter 9.72 of the Manhattan Beach Municipal Code and establishes standards and procedures for development of street right of way in the "Tree" Section of the City, an area bounded by Rosecrans Ave. on the north; Sepulveda Blvd. on the east; Manhattan Beach Blvd. on the south; and Valley Dr. (at Manhattan Beach Boulevard), Blanche Rd. and Bell Ave. to the west. The proposed ordinance would establish standards for construction of public parking pads adjacent to private property concurrent with a major addition or new home construction project.

The City Council meeting will be held:

February 4, 2003 City Council Chambers, City Hall 1400 Highland Avenue 6:30 p.m.

Further information:

Ordinance 2039: contact Rosemary Lackow, Senior Planner (310) 802-5515, e-mail: rlackow@citymb.info

Ordinance 2042: contact Nell Miller, Director of Public Works (310) 802-5303, e-mail: nmiller@citymb.info

----Original Message----

From: Geoff Dolan

Sent: Monday, January 13, 2003 5:00 PM

To: Richard Thompson

Subject: FW: parking pad-additional information

the email i mentioned, fyi ----Original Message----

From: Akin2U@aol.com [mailto:Akin2U@aol.com]

Sent: Saturday, January 11, 2003 8:40 AM

To: wdougher@citymb.info; jfahey@citymb.info; jaldinger@citymb.info; snapolitano@citymb.info;

lwilson@citymb.info; ehupp@citymb.info

Cc: gdolan@citymb.info

Subject: parking pad-additional information

City Council Members,

I first learned of the discussion at the city council meeting, relating to parking pads in the Dune section, when I turned on my TV that same evening, so I apologize for not attending.

We have been residents of the 400 block of 32nd Street since 1981, and we have watched the incongruities

related to the subject of parking pads for many years.

I am not opposed to our neighbors "incorporating" the easement for their own use on the south side of the block, but the problem lies in the fact that many of these easement gardens face a driveway on the opposite side of the street. Once the pad is taken out then people park 5 feet farther into the street-directly across from driveways. I called the city protesting the fact that the new easement gardens were opposite driveways or carports. The official said he hadn't thought that there were any carports or driveways on the street side of the block, but only in the alleys. Of course, this was erroneous.

If cars park across from a carport or garage in this area, it is possible to only park one car and not two or three. One needs to use half the driveway to turn the car as you have to leave room to maneuver sideways. I would guess there is about 12 feet from the end of the driveway until you hit the car which is parked opposite a

driveway.

Now, you might say that there is a law that states that there is no parking across from driveways and carports, but unless we call the police on our neighbors, this is never enforced. Not a very neighborly choice. A sign is posted right in front of the area across from our driveway, and it is ignored on a daily basis.

If the city allows that the south side to incorporate the easement, and drivers continue to ignore the fact that they are not allowed to park across from driveways, then we will continue to park one of our cars, not on our

driveway, but on the street, so that when we need to leave, we can actually get out.

I agree that one row of cars is a safer way to go, but I wish that the city would enforce the laws, paint the areas red, or leave the parking pads when they face a driveway.

Page 2 of 2

parking spaces on the north side from people who incorporated the area. They did this because inconsiderate neighbors insisted, and legally so-but not considerately so, to park their vehicle in front of their neighbors homes because they had chosen to have a garden instead of parking pads in front of their home.......Thus the war continues.

Since we are one of the few with a driveway, we come home quite often to find our neighbors have just "run in for a few minutes" and used our driveway "because there was no street parking." I know that you have no power to make others considerate, but I thought that I would give you a little history....probably more than you ever wanted.

Cheryl Tetlow 449-32nd Street Manhattan Beach, Ca. 310-546-5148







NOTICE OF PROPOSED ORDINANCES 2039 AND 2042 REGARDING DEVELOPMENT OF STREET RIGHT OF WAY

The City Council of Manhattan Beach will be considering the introduction of the following two ordinances:

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Further information:

Senior Planner (310) 802-5515

Ordinance 2039: contact Rosemary Lackow, Ordinance 2042: contact Neil Miller Director of Public Works (310) 802-5303

Proposed Encroachment Ordinance Proposed Right of Way Ordinance

City of Manhattan Beach Community Development Department &

Public Works Department February 4, 2003

PURPOSE OF ORDINANCES

- -Regulate Public Property
- -Codifies Existing Standards
- -Encroachment Ordinance:
- Private Use Improvements
- -Right of Way Ordinance:
- Public Use Improvements

ENCROACHMENT ORDINANCE

- Codifies and Updates Existing Standards
- Combines with Other Public Works Standards (Proposed ROW Ord.)
- · Updates Local Coastal Program

APPLICABILITY

- All Walk Street Residential
- Drive Streets Without Curbs, Sidewalks
- Restaurant Sidewalk Dining (Existing)

LUULU

To Allow Encroachments:

- Consistent with Safety/Public Works Standards
- Functional, Attractive, Non-Obtrusive
- Compatible with Surrounding Developments

WALK STREET STANDARDS

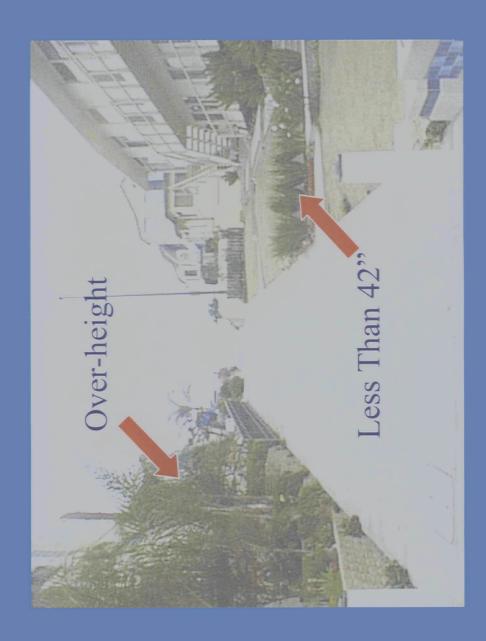
- FENCES: Open, 42" Height
- WALLS: Closed, Retaining, 32" Height
- LANDSCAPING: 1/3 Area, 42" Height
- USABLE SURFACES:

Front Half. 12" Above/Below Walk Street

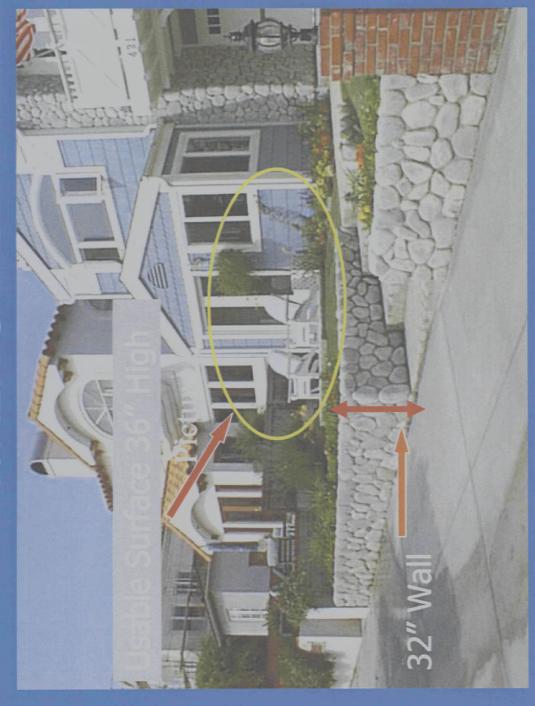
Rear Half. 36" Above/Below Walk Street

or 12" Above /Below Natural Grade

WALK STREET LANDSCAPING



WALK STREET



DRIVE STREET STANDARDS

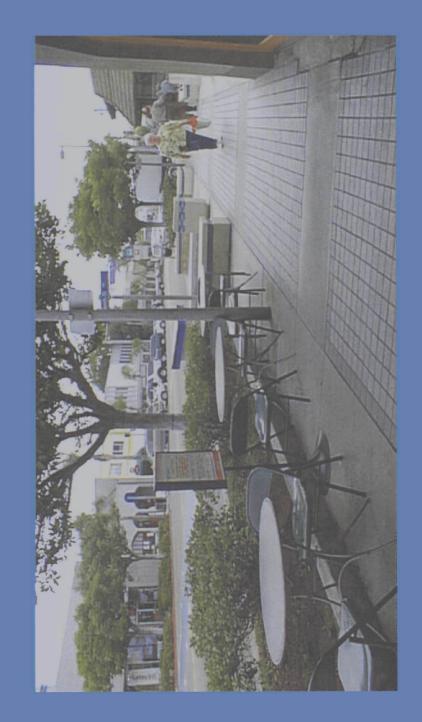
- Street Improvements May Be Required (Right of Way Ord. 2042)
- Fences and Walls: 42" Height (2 Feet Min. From Roadway)
- Pavement and Landscaping Permitted on Existing Grade
- Alteration of Grade, Raised Patios/Decks Prohibited

COMMERCIAL



Continue Existing Walk Street Patios

COMMERCIAL



Sidewalk Dining Program

STREET ROW ORDINANCE

- Codifies Parking Space Standards for Tree Section
- Minimal Requirements for Non-Standard Street Design
- Duty to Maintain ROW

STREET ROW ORDINANCE

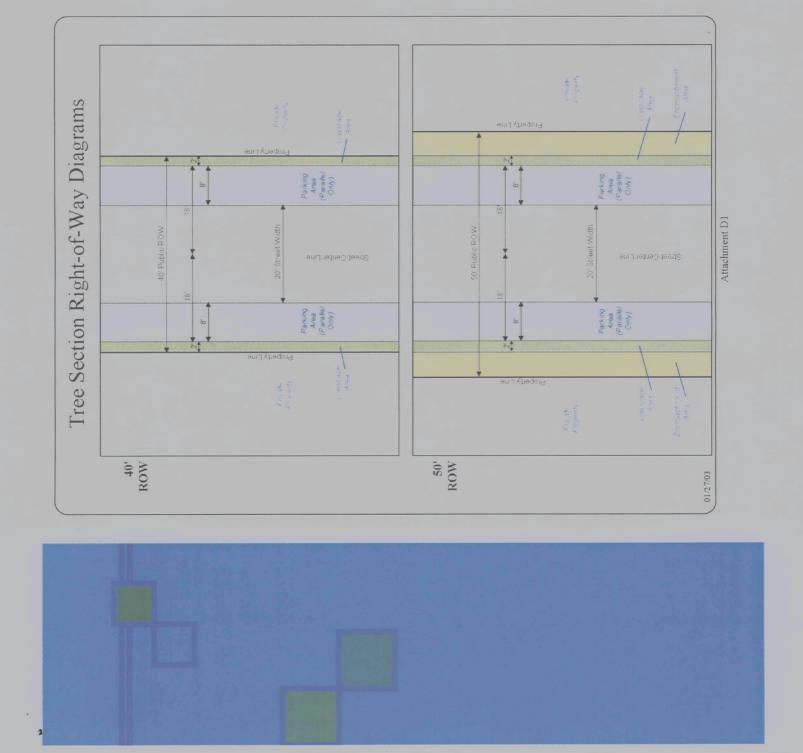
Tree Section

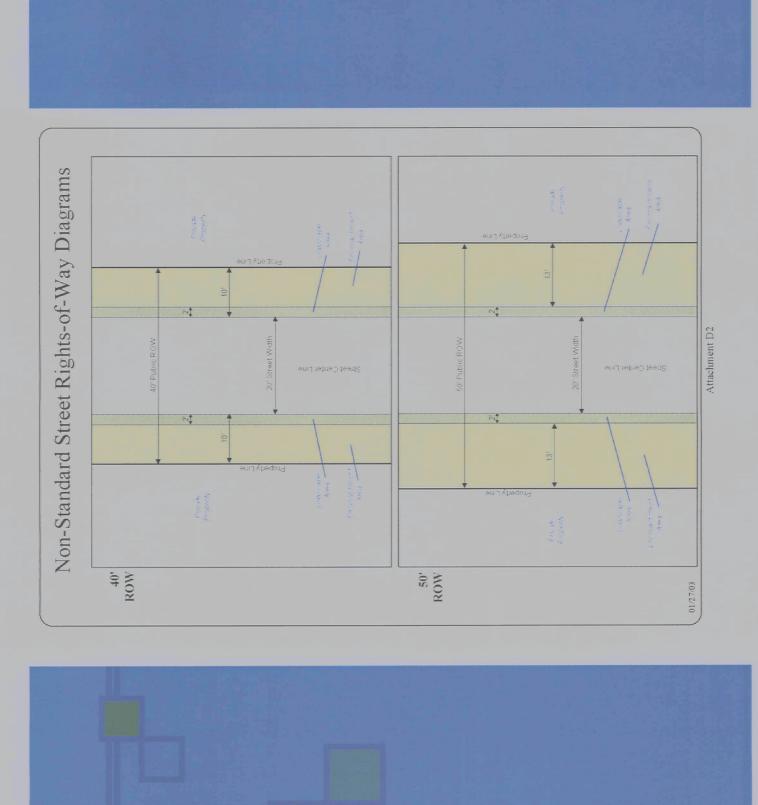
- Standard Drawing for 40 Foot and 50 Foot ROW
- Grass Pavers Added to Standard Plan for Parking
- Two Spaces for Corner Lots
- No Automatic Irrigation for Parking Areas

STREET ROW ORDINANCE

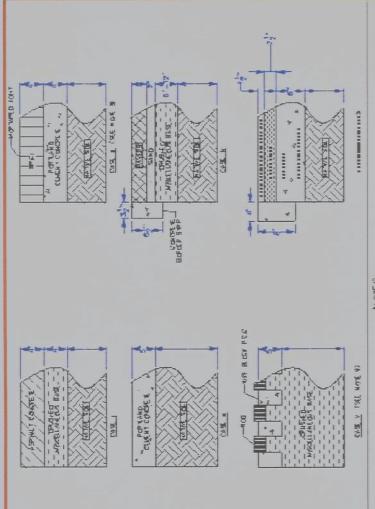
Non-Standard Streets

- Standard Diagram
- Permits Required for all Work
- Parking Pad Optional
- 2 Foot Low-Scape Required
- Obstruction-Free Turning Radius May be Required









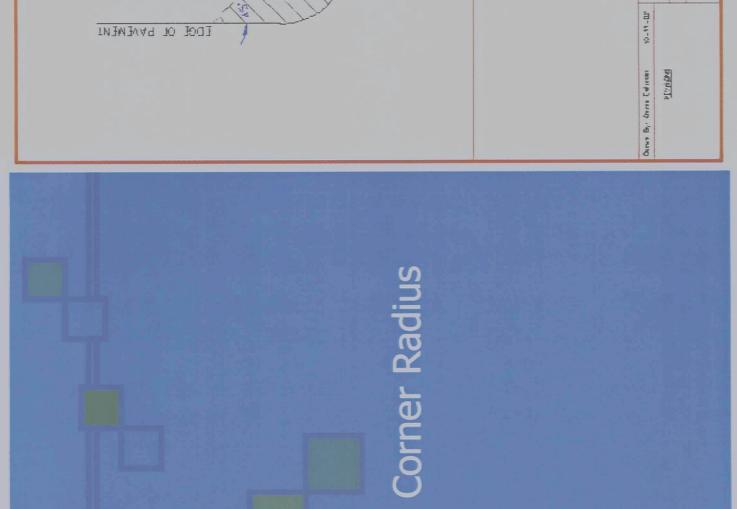
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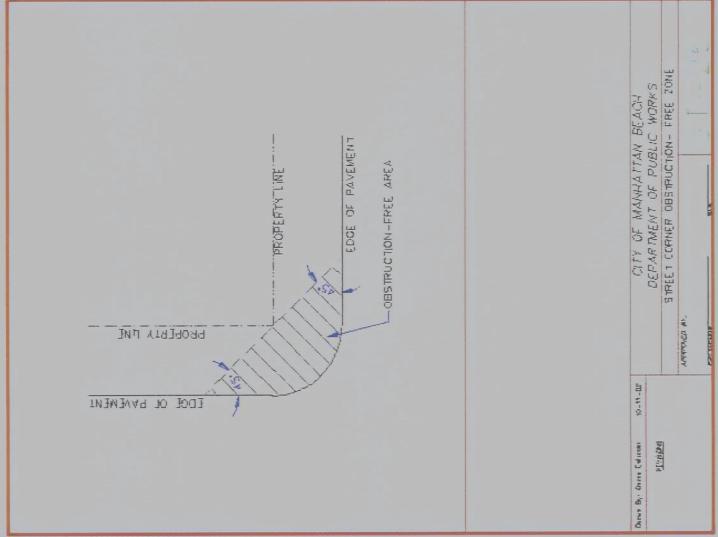
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10 C	DEPARTMENT OF PUBLIC MORKS TRUCTURAL SECTIONS FOR PARKING AREAS TO BE CONSTRUCTED WORTH THE PUBLIC RICHT-OF-WAY
NO.	TRUCTURAL SECTIONS FOR PARKING AREAS TO BE CONSTRUCTED WORTH THE PUBLIC RIGHT OF WAY
C	ONSTRUCTED WATER THE PUBLIC RIGHT - OF - WAY
Method in	





ROW ORDINANCE

- Codifies Existing Standards
- Over 90 % of Tree Section Properties Comply
- Handbook will be Available

Proposed Encroachment Ordinance Proposed Right of Way Ordinance

City of Manhattan Beach Community Development Department &

Public Works Department February 4, 2003