

May 8, 2002

Honorable Mayor and Members of  
The Hermosa Beach City Council

Regular Meeting of  
May 14, 2002

**EXEMPTION REQUEST FOR AN ENCROACHMENT PERMIT BY THE  
PROPERTY OWNER AT 1543 GOLDEN AVENUE**

**Recommendation:**

It is recommended that the City Council order the property owner of 1543 Golden Avenue, Mr. Bob Lininger, to apply for an encroachment permit.

**Summary:**

On March 29, 2002, the Public Works Inspector noticed that the concrete path and trees were being removed from an existing encroachment area in the public-right-of-way without a permit. The Inspector issued a Notice to Correct stating that an Encroachment Permit is required for new construction in the encroachment area in the public right-of-way.

On April 4, 2002, Staff received a letter from Mr. Lininger requesting a meeting to discuss his and the City's concerns. Staff met with Mr. Lininger and subsequently received an e-mail from him on April 18, 2002, stating that he does not agree that an Encroachment Permit and fees should be required for his situation. He stated that he wished to present his case before the City Council of Hermosa Beach for a ruling.

**Analysis:**

The Public Works Department does not require an Encroachment Permit Application for encroachments in existence prior to May 15, 1996. **Chapter 12.16, Encroachments, Section 12.16.130, Non-conformance of encroachment, paragraph 2, City of Hermosa Beach Municipal Code**, states that encroachments in existence on May 15, 1996, which do not conform to the standards set forth in Section 12.16.080, may remain as they exist as of May 15, 1996, whether or not a valid Encroachment Permit is obtained from the City, as long as the encroachment is not expanded, increased, or intensified. In either of the above events, the encroachment shall be subject to receipt of an Encroachment Permit, and shall conform to the requirements of **Chapter 12.16, Encroachments, Section 12.16.080, of the Hermosa Beach Municipal Code**.

**Chapter 12.16, Encroachments, Section 12.16.30, Commencement of work without permit, of the Hermosa Beach Municipal Code**, states that any person who commences work for which a permit is required without first obtaining a permit, shall stop work and apply for such permit. The fee for the permit shall be doubled. In addition, it states that failure to stop work constitutes a misdemeanor and is defined in this chapter.

Therefore, Staff recommends that the City Council order the property owner, Mr. Bob Lininger, of 1543 Golden Avenue, to apply for an Encroachment Permit and comply with all its requirements and applicable fees.

**Alternatives:**

1. Approve Staff Recommendation.
2. Approve the owner's request.
3. Deny an Encroachment Permit and order the property owner to restore the right-of-way.

**Attachments:**

1. Letter requesting that the Encroachment Permit Fee be waived.
2. Copy of e-mail requesting property owner to be heard by the City Council.
3. Existing landscape plan.
4. Proposed landscape plan.
5. Photographs of existing site.
6. Copy of Notice to Correct.

Respectfully submitted,

Concur:

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Homayoun A. Behboodi  
Associate Engineer

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Harold C. Williams, P.E.  
Director of Public Works/City Engineer

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Stephen R. Burrell  
City Manager