

**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Agenda Date: July 18, 2011

Reviewed by: BP

SUBJECT: Easement Agreements for Trail Sewer Facilities – Bayside
Commons Homeowners Association 535 Pierce Street

REPORT BY: Ann Chaney, Community Development Director
Randy Leptien, City Engineer

STAFF RECOMMENDATION

1. Authorize City Staff to work with Bayside Commons Homeowners Association (535 Pierce Street) to finalize Easement Agreements for Trail and Sewer facilities; and
2. Bring Easement Agreements back to City Council in final form for Acceptance for Recordation at a subsequent Council meeting.

BACKGROUND

Trail Easement

Bayside Commons condominium project was built around 1989. As a condition of approval, the property owner was required to dedicate a trail easement along Cerrito Creek. Thus, an 8' wide easement for a public trail was irrevocably offered to the City and recorded in 1997. The location of the recorded easement runs along the "toe of slope" (creek bank), rather than the "top of bank" where the existing informal dirt trail/path is located. However, the existing path, which extends from the City's Creekside Park (eastern end) to Pierce Street (western end) is better suited for pedestrian travel.

It is unclear whether the trail easement was incorrectly placed, or whether the sanitary sewer construction project (2000) resulted in changes to the topography that altered the trail's placement. Regardless of how it occurred, informal trail does not coincide with the recorded easement, and the location of the recorded trail easement is not well-suited to the current topography. Prior staff reports, and discussions with Bayside Commons, have recommended that the recorded easement be modified to bring the existing trail and easement into alignment.

Bayside Commons recently approached City staff and asked to revisit this easement issue, prompted in part by liability concerns. Staff met with the Board of Directors, and on June 2, 2011, the Bayside Commons Board of Directors unanimously approved to support the city's goal to bring the trail and recorded public trail easement into alignment.

Sanitary Sewer Easement

In 1998-2000, the City of Berkeley constructed a relief sewer through Albany to accommodate Berkeley's sanitary sewer needs. Near Cerrito Creek and Adams Street, the sewer became a new joint line that serves both cities. At this point it extends along the south side of the creek to Pierce Street, partially on land owned by Bayside Commons. The existing sewer easement runs over the old sewer, which has since been abandoned. Thus its location does not coincide with the new, relocated, sewer. For various reasons, the City of Berkeley was unable to provide Albany with a copy of the new easement alignment until relatively recently. Prior staff reports, and discussions with Bayside Commons, have recommended that the City obtain a 20 foot wide sanitary sewer easement over the new, existing sewer. Coincidentally, the new sewer line and existing informal trail follow a similar alignment through most of the Bayside Commons property. Thus, these easements will overlap in most places.

As noted above, staff met with the Board of Directors recently, and on June 2, 2011 the Board unanimously approved to support the city's goal to obtain a 20 foot wide sanitary sewer easement over the new, existing sewer, provided the pre-existing abandoned easement is or will be filled by the City.

Emergency and Maintenance Vehicle Access

No formal recorded easement exists through the Bayside Commons property for emergency and maintenance vehicles. Albany Fire personnel access the Albany Hill area by overriding the lock on the northernmost driveway gate. Public Works crews gain access to Creekside Park and portions of Albany Hill by contacting Fire personnel, and notifying Bayside Commons management in advance. Examples of work done by the maintenance crew, or by contractors, include removal of homeless encampments, weed abatement prior to fire season, creek vegetation maintenance, and sanitary sewer work. Because the Board of Directors believes the existing informal arrangements have typically worked well, no action was taken by the Board to formalize any emergency and maintenance vehicle access (EVMA) easement. Creation of an EVMA is not proposed as part of this report.

DISCUSSION

In 2006 and 2007, Bayside Commons Board informally agreed to "perfecting" the easements on condition that the City accept ownership and responsibility over the one acre "creek parcel" located in the City of Richmond, in Contra Costa County. Several informational staff reports were brought to the City Council on this matter, including Easement Agreements drafted by the City Engineer. However, no action was taken.

The recent June 2, 2011 action by the Bayside Commons Board of Directors focused on perfecting the trail and sewer easements. In relocating and accepting the trail and sewer easements, the City will assume liability and maintenance responsibilities over these easement areas. A similar situation exists in the higher elevations of Albany Hill where Bayside Commons has granted easements to the City for trail and maintenance purposes years ago. By not including the more complicated issue of creek parcel ownership, staff is able to recommend that City Council accept Bayside Commons' offer, and proceed with

finalizing the easement agreements. In accepting the new easements, the City would quitclaim to the Bayside Commons Homeowners Association, the existing recorded trail easement and existing abandoned sewer easement. The City Engineer supports the recommendation to fill the abandoned sewer line, in the event it has not already been done.

SUSTAINABILITY IMPACT

The pedestrian trail along Cerrito Creek was first recommended in the 2004 Alta Planning Study as part of the pedestrian system to connect the Ohlone Greenway with the Bay Trail. This trail is also being shown in the proposed Active Transportation Plan, tentatively scheduled for Council review in September. This link furthers the City's goal of encouraging walking as an alternative to driving, and thereby reducing greenhouse gas emissions.

FINANCIAL IMPACT

Draft Easements Agreements were prepared by the City Engineer in 2006 (attached). Thus minimal cost would be incurred by finalizing these agreements. The City Engineer recalls that the abandoned sewer line has been filled.

Attachments:

1. Bayside Commons Board of Directors Executive Meeting Minutes, June 2, 2011
2. Bayside Commons Color Exhibits (Note: Existing and proposed easements are shown on Exhibits for discussion purposes)
3. Preliminary Path/Trail Easements and Maps
4. Preliminary Sewer Easements and Maps