

**CITY OF ALBANY
TRAFFIC AND SAFETY COMMISSION
STAFF REPORT**

**Agenda date: June 28, 2012
Prepared by: JB**

ITEM: 6-3

SUBJECT: Review of Encroachment Permit to allowing widening of the driveway at 821 Hillside Avenue

Recommendation

That the Commission receive the presentation and provide direction to staff regarding:

1. Should the sidewalk should be restored; and
2. Should staff prepare updates to the Municipal Code and City engineering standards to address concerns raised.

Background

On April 20, 2012, an encroachment permit was issued to a contractor for work related to widening the driveway approach “curb-cut” over the sidewalk at 821 Hillside. The property at 821 Hillside is somewhat unique because the driveway is at roughly a 45 degree angle to the street. Angled driveways generally require wider curb-cuts than conventional perpendicular driveways. In addition, angled driveways can result in vehicles traversing the sidewalk in front of neighboring properties.

Approval of the permit was based on plans submitted (Attachment 1), which indicated the work would result in a reduction in the length of the on-street parking space between 821 and 827 Hillside from 21’ 2” to 18’ 6”.

On Tuesday, April 24, the City received a request from the owner of the neighboring property at 827 Hillside to require the work be stopped (Attachment 2). City staff evaluated with situation and determined that the permit was issued in compliance with City standards, and thus the City did not have a basis to require the work to be stopped.

At the Traffic and Safety Commission meeting on May 24, 2012, the owner of 827 Hillside, her daughter, and the resident at 830 Hillside addressed the Commission expressing concern about the change in the curb cut. Comments included reporting damage to car parked in the street parking space, concerns about liability, and unauthorized use of trash cans.

Background on Municipal Code Requirements

Chapter 14 “Use of Right-of-Way” of the Municipal Code regulates work in the public right-of-way. Section 14-2.13 requires the City to issue an encroachment permit for construction related to curb cuts (Attachment 3). In addition Chapter 9 “Motor Vehicles and Traffic” of the Municipal Code regulates parking in the public right-of-way. In particular, Section 9-10 provides details on the City Engineer’s authority for various types of on-street parking (Attachment 4). None of the city’s standards provide dimensional standards for width of on-

Issues Raised by the Resident at 827 Hillside

Following the completion of work, the resident at 827 Hillside, as well as one other neighborhood resident, continued to raise concerns about the work. The issues raised include:

1. Lack of Public Notice – The resident at 827 Hillside believes that a public notice should have been provided.

Analysis: The issuance of an encroachment permit is a ministerial “over-the-counter” permit. As a result, there is no authority within the Municipal Code to require public notice for these types of permits (permits that require a public notice cost applicants more and take more time for the City to issue). In addition, even if the City was aware that the property owner at 827 Hillside objected to the work, there is not the regulatory basis to deny the application.

2. Work Across Property Line – The resident at 827 Hillside believes that the work impacted their property.

Analysis: According to City records, the property line between the public right-of-way along Hillside and private property associated with residences is located five feet from the curb. Thus, none of the work occurred on private property. A portion of the curb-cut, however, is located in the public right of way in front of the residence at 827 Hillside. This area is indicated in the attached photograph (Attachment 5).

3. Public Parking Space Too Small – The resident at 827 Hillside believes that the work impacted their property.

Analysis: The resulting parking space, as built, is 17’ 6” from top of flare to top of flare. The city does not have dimensional standards for parallel street parking. The typical “design vehicle” used by engineers in the design of improvements is approximately 17 feet 6 inches (design vehicle length varies by several inches depending on reference source). Thus, the resulting space can accommodate a typical vehicle. In addition, in other areas of the City, a street parking space of this

length is common. Attached are before and after pictures of the parking space (Attachment 6 and 7).

4. Increase in Liability – The resident at 827 Hillside believes that the work will result in greater liability in the event of a future accident because the work was done in front of their property.

Analysis: The most common form of sidewalk-related liability to property owners are situations where a sidewalk is in poor condition. In this case, there is no readily visible evidence that there is a physical hazard on the portion of the sidewalk question. In addition, the work on the curb-cut and sidewalk was constructed by the licensed contractor inspected by the City inspector and met City standards. Attached is a photograph showing the as build condition of the sidewalk (Attachment 8).

Alternatives

The layout of the property at 821 Hillside with an angled driveway is inherently problematic for on-street parking. Restoring the sidewalk to its original condition would allow larger cars to park in the on-street parking space. The restoration of the sidewalk, however, would reduce the maneuvering room for vehicles entering the driveway at 821 Hillside. Thus, the potential for collisions between a car entering/leaving the driveway and a car parked in the on-street parking space would largely remain the same. In addition, restoring the sidewalk would not substantively change concerns about increase in liability.

The Traffic and Safety Commission may wish to use this situation as a basis to explore changes to the Municipal Code or City engineering standards regarding driveway curb-cuts. In particular, the Commission could evaluate whether a requirement be adopted that public notice will be required for any work that modify a sidewalk in front of a property. In addition, the Commission may wish to consider whether the City should adopt dimensional standards for curb-cuts and on-street parking spaces.