

**Memorandum
Public Works Department**



To: City Manager
Subject: Retaining wall within Public Right of Way at 2535 35th Avenue
Date: April 9, 2012
Number: 2012-088

Attached is a request, from Mr. Larry O Melia requesting permission to construct a retaining wall within the 35th Avenue Right of Way at the above referenced address. The retaining wall would extend about 8 feet into the 35th Avenue Right of Way. The front face of the retaining wall would be located about 4 feet behind the back of street on 35th Avenue. The height of the wall and pillars would vary from 15 inches to 45 inches above the existing grade. An existing water main is located behind the avenue's curb and is located about 3.5 to 4 feet from the base of the wall.

If the City grants Mr. O Melia permission to allow the retaining wall at this location within the 35th Avenue Right of Way, he would be required to provide the following:

1. Proof of insurance with the city listed as additional insured to hold the City harmless for any liability due to the presence of the retaining wall within the ROW. Mr. O Melia has contacted his insurance provider and a copy of his policy is attached.
2. Provide a recordable agreement with the City to maintain the wall. In addition, the agreement should recognize that the City will not replace the wall if it is necessary to remove it in order to maintain or install any existing or future utilities or facilities.

Recommendation

It is recommended that City Council deny permission to Mr. O Melia to build his retaining wall within the 35th Avenue Right of Way at the above referenced address due to it being too great a hazard and that it may interfere with maintenance of the existing water main.

Submitted by: Robert T. Hawes, P.E., Assistant City Manager/Public Works Director
Michael J. Kane, P.E., City Engineer

Approved by: Thomas Thomas, City Manager

Dear city council

On the fall of 2011, I contacted Tom Brokaw in the engineering department of the city regarding a landscape project I was planning for the spring of 2012. After discussing the parameters of the job, he indicated to me that part of the project would be in the City's Right of Way. He also intimated that in cases like this, the city would probably just require me to sign off with the City in case of any damage incur to the landscaping due to such a thing as a water main break and repair. I am willing to accept that risk and cost.

During the winter I planned the job to consist of two terrace levels, a series of pillars and timbers between the pillars with landscape lighting on top. The plans intent was to ease the grading, eliminate some grass cutting because of my bad hip and provide additional garden area. It would also be visually appealing and provide curb appeal to my property. I take a lot of pride in my property and plan jobs yearly to enhance its value. I've invested over three hundred dollars to date and will spend over four thousand dollars to

complete the job including plantings.

Numerous people have stopped and asked me what I am doing, and when I explained, they were all excited about seeing the completion. Evidently all but one, but you know we all have one of those.

The City says "To alleviate any potential safety hazards". I don't know how this "obstacle" is a safety hazard to anybody or thing.

The City's letter also says to appeal to the City Council and such action by the City Council "typically" requires the property owner to list the City on the property owner's liability insurance, etc (enclosed letter.) My insurance company states that the City does not own that property that is insured nor do they have an insurable interest. (enclosed letter). In an oral conversation with my representative, she stated no insurance company, agent, or underwriter in this country would offer such coverage.

This letter is written to pursue the appeal process pursuant to the City's letter to me, and for the reasons given in this text, I ask that I be allowed to continue

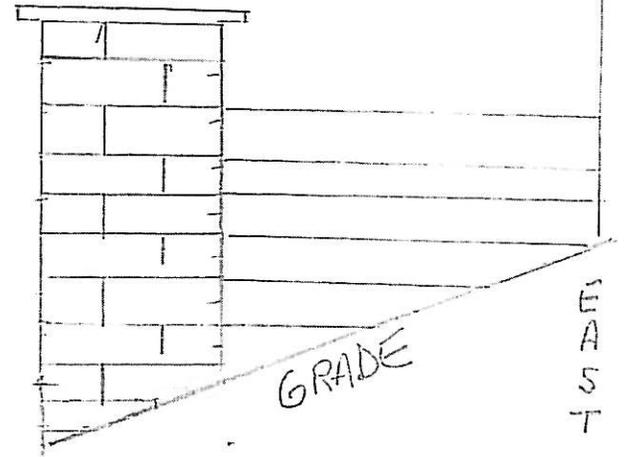
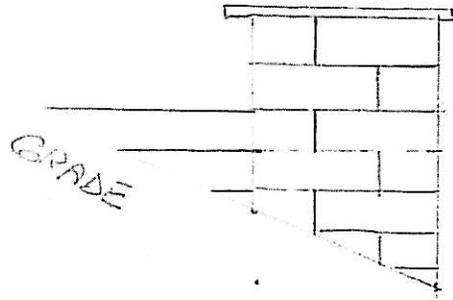
Respectfully
Harry Somelid

NORTH

EAST ELEVATION

WEST ELEVATION

WEST



PILLAR 25 1/2" SQUARE

- ① 25" ABOVE GRADE APPROX
- ② 35" ABOVE GRADE APPROX
- ③ 45" ABOVE GRADE APPROX

RETAINING TIMBERS

- 15" ABOVE GRADE WEST APPROX
- 35" ABOVE GRADE EAST APPROX

