



**Request for City Council Committee Action
From the Department of Public Works**

Date: July 25, 2006
To: Honorable Sandra Colvin Roy, Chair Transportation & Public Works Committee

Subject: Appeal of Encroachment Permit Denial for Precast Concrete Planters in the Right of Way at the Carlyle Condominiums Project, 100 Third Avenue S

Recommendation:
Uphold the denial of the submitted encroachment permit and deny the applicant's appeal.

Previous Directives: None

Prepared by: Rhonda Rae, Director, Engineering Services Division
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Jon Wertjes, Director, Traffic and Parking Services Division

Approved by:

Steven A. Kotke, P.E., Interim City Engineer, Director of Public Works

Presenters: Jon Wertjes, Director, Traffic and Parking Services Division

Permanent Review Committee (PRC) Approval _____ Not applicable X
Policy review Group (PRG) Approval _____ Not applicable X

Financial Impact (Check those that apply)
 X No financial impact - or - Action is within current department budget (If checked, go directly to Background/Supporting Information)
____ Action requires an appropriation increase to the Capital Budget
____ Action requires an appropriation increase to the Operating Budget
____ Action provides increased revenue for appropriation increase
____ Action requires use of contingency or reserves
____ Business Plan: ____ Action is within the plan. ____ Action requires a change to plan.
____ Other financial impact (Explain):

____ Request provided to department's Finance Dept. contact when provided to the Committee Coordinator

Community Impact
City Goals: A Safe Place to Call Home: . . . the city's infrastructure will be well-maintained and people will feel safe in the city. Connected Communities: . . . walking, connected network.

Background/Supporting Information

A. Plan Review Process

This project originally came to Preliminary Plan Review (currently this process is designated "PDR" Preliminary Development Review) on July 23, 2003. Thomas M. Dillon was the Senior Project Manager representing Apex Asset Management Corporation, and Hilary Dvorak (then Hilary Watson) was the planner assigned to the project.

Planters were shown on the plan on private property abutting the main structure and were approved by the City Planning Commission at a meeting held August 18, 2003, but the Heritage Preservation Commission objected on the basis that, to be historically appropriate for this district, the sidewalk should extend to the storefronts. The HPC suggested that the raised planters could be located at or near the curb.

Plans showing raised planter boxes at or near the curb were submitted at Final Plan Review and rejected by Public Works for public safety, due to spatial limitations and access considerations. On the final plan, approved by the Department of Public Works on November 2, 2004, the raised planter boxes had been removed from the plan.

Opus Northwest, LLC subsequently contacted the City to propose an amended site plan to re-introduce the raised planters to the plan. Meetings were held on December 15 and 19, 2005, to discuss the possibility of the raised planters with member of the Public Works staff. Hilary Dvorak from CPED and Scott Bockes from Minneapolis One-Stop were also present.

Public Works staff rejected this proposal on both occasions, due again to hazardous conditions for public sidewalk users, and emails to that effect were sent to Opus Northwest.

B. Encroachment Permit Application Process

Subsequent to the Plan Review process, on January 20, 2006, Opus Northwest, LLC applied for an Encroachment Permit for the raised planter boxes which would be placed in the public Right of Way. This proposal was identical to the plan rejected at PDR and during Final Plan Review.

Public Works discussed with the City Attorney the appropriate process to accept an application for an Encroachment Permit which had been previously denied in the Site Plan Review process. It was determined that we should accept and process the application.

The application was formally denied by letter dated March 9, 2006.

Apex sent an appeal letter dated June 30, 2006.

C. Reasons for Denial During Plan Review and Encroachment Permit Application Processes

The primary purpose of the public sidewalk is to provide for pedestrian traffic flow. To alleviate excessive sidewalk congestion and other issues that compromise pedestrian and public safety, encroachments are not supported at locations where pedestrian volumes, sidewalk width and roadway characteristics are such that the encroachment could be hazardous to public sidewalk users.

- 1) Planters would occupy almost all the legal sidewalk area. The proposed planters are approximately 5 feet in width and would occupy most of the 8 feet of public Right of Way located behind the curb. The remaining three feet is proposed to be split about in half (1.5 feet) on each side of the planter. This would create a legal sidewalk width of 1.5 feet (8-5-1.5 feet = 1.5 feet). This would force pedestrians to walk (trespass) on Carlyle's private

property to traverse this block face, or step off the curb to avoid congestion. The curb lane at this location is a moving traffic lane and not a parking lane. The Third Avenue Bridge channels pedestrian and bicycle traffic onto this segment, which is on the tangent of a horizontal curve and downgrade from approaching vehicle traffic.

- 2) Reduced access to the street. The southerly planters are proposed to be 24 feet long with 6 foot gaps between them. In these gaps the proposed streetlights will be placed. The streetlights are approximately 1.5 feet in diameter at the base. This leaves 4.5 feet (or 2.25 feet on each side of the light pole) for pedestrians, wheelchair, future parking, etc. to access the street, which is not enough space to accommodate the street access needs. Furthermore, the proposed planters are too close to the curb to allow for curbside access and egress. Currently, parking is not allowed along this segment of Third Avenue S. However, pick up/drop off, taxi service, emergency vehicle service and/or future parking all would require that unobstructed curbside access be maintained.

D. Alternative Solution

As indicated above, Public Works has discussed numerous modifications with the applicant. The original proposal from the applicant to include plantings next to the building, on private property, was acceptable to Public Works. The HPC recommended against this proposal, which led the applicant to propose plantings in the public Right-of-Way.

If the applicant chooses not to pursue its original proposal for plantings next to the building, on private property, then an alternative for which Public Works may be able to grant an Encroachment Permit would be as follows:

Similar to the approved site plan for the building's other face along Second Street S, trees could be planted along Third Avenue S, flush with the sidewalk, using tree grates or continuous trenches with structural soils.

(Note that the City's Urban Forest Policy, adopted March 6, 2004, allows tree grates in the downtown Central Business district with mutual consent of the Minneapolis Park & recreation Board and Public Works, but strongly encourages the use of continuous trenches instead of grates. A continuous trench is a shared planting pit that accommodates several trees and their root systems in a streetscape design. It is sometimes called a tree strip.)

If requested, an Encroachment Permit for the grates or continuous trenches would be contingent on the following:

- 1) The Right of Way (back of the curb) must provide uniform, uninterrupted and linear walking space of no less than 4 feet clear (not including the tree grates or trenched areas) that is acceptable to Public Works.
- 2) In addition, a Park Board permit would be required for the trees.

Att:
Architectural Site Plan
Enlarged Site Plans
Landscape Plan

CC: Council Member Lisa Goodman, 7th Ward