

**City of Culver City, California
Agenda Item Report**

Meeting Date: 05/02/11		Item Number: <u>C-8</u>	
CITY COUNCIL AGENDA ITEM: Approval of an Encroachment Permit Agreement with The L.T.D. Group, LLC for 1) Use of the Public Right-of-Way Along Ocean Avenue (Adjacent to 5000 Overland Avenue) for Public Parking and 2) City's Agreement to Process a Future Application for Vacation of such Public Right-of-Way.			
Contact Person/Dept.: Charles D. Herbertson/PW		Phone Number: 310-253-5635	
Fiscal Impact: Yes ☐ No ☒		General Fund: Yes ☐ No ☒	
Public Hearing: ☐		Action Item: ☒ Attachments: ☒	
Commission Action Required: Yes ☐ No ☒		Date: _____	
Public Notification: (E-Mail) Agenda and Meetings – City Council (04/27/11)			
Department Approval: Charles D. Herbertson (04/20/11)		City Attorney Approval: Carol Schwab (by H. Baker) (04/27/11)	
Chief Financial Officer Approval: Jeff Muir (by M. Noller) (04/27/11)		City Manager Approval: John M. Nachbar (04/27/11)	
<u>RECOMMENDATION:</u> Staff recommends the City Council approve an Encroachment Permit Agreement with The L.T.D. Group, LLC for 1) use of the public right-of-way along Ocean Avenue (adjacent to 5000 Overland Avenue) for public parking and 2) City's agreement to process a future application for vacation of such public right-of-way. <u>BACKGROUND/DISCUSSION:</u> Ocean Avenue effectively comes to an end at Overland Avenue. However, there is a small section of City-owned dedicated street right-of-way just beyond that point (north of Overland Avenue and adjacent to 5000 Overland Avenue). For many years, this section of right-of-way has been used as a parking lot for the private property located at 5000 Overland Avenue rather than for right-of-way purposes. The 5000 Overland Avenue property is currently in escrow and the purchaser, The L.T.D. Group, LLC, desires to have continued use of this section of right-of-way for parking. (The City Council previously approved a similar Encroachment Permit Agreement with Andersen Environmental at its meeting held on February, 14, 2011. Subsequent to that approval, Andersen Environmental fell out of escrow on the property. Since that time a new buyer, The L.T.D. Group, LLC, has emerged.) Staff does not anticipate needing to use this small area for right-of-way purposes at			
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anytime in the foreseeable future and believes that the continued use of this property as a parking lot will best serve the public interest.

Staff recommends entering into an Encroachment Permit Agreement with The L.T.D. Group, LLC to allow for this property to continue to be used as a parking lot. The Agreement specifies that this parking lot shall be open for public use and preserves the City's right to charge the property owner for the use of the lot. To protect the City's interests, this Agreement contains provisions requiring that the property owner repair any damage to City property, carry adequate liability insurance, and indemnify and defend the City if it is sued for damages. Furthermore, the Agreement contains provisions allowing the City to terminate the Agreement with notice if the property is needed for a government purpose.

It should be noted that The L.T.D. Group, LLC has also expressed an interest in a vacation of this section of right-of-way as a long-term solution to this issue and the Encroachment Permit Agreement includes a provision that the City will process an application by the Property Owner for vacation of the subject street right-of-way if one is submitted along with a title report provided at the sole cost and expense of the property owner. Therefore, it is likely that staff will be returning to City Council to initiate the vacation process for this right-of-way in the future.

FISCAL ANALYSIS:

Staff does not anticipate any fiscal impact from the approval of this Encroachment Permit Agreement. The Agreement allows for the continued use of the property as a parking lot. It does not specify a fee to be charged for this lot, as it will be accessible to the public; however, it preserves the City's right to charge for its use in the future.

ATTACHMENT:

1. Proposed Encroachment Permit Agreement

MOTIONS:

That the City Council:

1. Approve the proposed Encroachment Permit Agreement with The L.T.D. Group, LLC for 1) use of the public right-of-way along Ocean Avenue (adjacent to

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5000 Overland Avenue) for public parking and 2) City's agreement to process a future application for vacation of such public right-of-way; and

2. Authorize the City Attorney to review/prepare the necessary documents; and,

3. Authorize the City Manager to execute such documents on behalf of the City.