



**STAFF REPORT  
TOWN COUNCIL MEETING OF NOVEMBER 12, 2013  
BUSINESS AGENDA**

**TO: HONORABLE MAYOR AND MEMBERS OF THE TOWN COUNCIL**

**FROM: BRIAN FRAGIAO, DIRECTOR OF PUBLIC WORKS** *RF*

**DATE: OCTOBER 21, 2013**

**RE: 3751 TAYLOR ROAD - RIGHT-OF-WAY CONFLICT**

**Recommendation:**

1. Leave the current Right-of-Way line as is and keep active the Encroachment Permit to cover the portion of the building within the Town's Right-of-Way.
2. Approve a "building only" easement covering the portion of the building within the Town's Right-of-Way. It shall be conditioned that if the building is removed from the Right-of-Way, the easement is no longer valid. All costs associated with an appraisal process, the preparation & processing of the easement documents, and recording is the responsibility of the property owner.
3. Approve the abandonment of Town Right-of-Way under the encroaching portion of the building and process a lot line adjustment. All costs associated with an appraisal process, the preparation & processing of the Deed documents, and recording is the responsibility of the property owner.
4. Remove existing building from Town Right-of-Way at property owner's expense. Discuss Timeline for removal.

Recommendation #1 is currently in affect and no additional process is required.

Recommendation #2 & #3 would return to Council for final approval and direction, once the signed documents and application have been submitted.

Recommendation #4 would return to Council as an information only report regarding the status of the building removal.

**Issue Statement and Discussion**

Staff has recently received a request from Deena Fair the Real Estate Broker for the property owner (Duane Bowman) at 3751 Taylor Road to approve an Easement over the portion of the building that lies within the Town's Right-of-Way.

Back in 2004, the property was owned by Luis & Connie Silva. The Silva's approached the Town to discuss improving the six unit apartment complex into small business offices. During the process in 2005, it was found that the north five feet of the existing building encroached into the Town's Right-of-Way. Staff also noticed that the existing landscape for the apartments was in the right-of-way. Staff put together a drawing showing future improvements on Oak Street and where the building

would lie within those improvements. Depending on the option, the building would either be within the sidewalk area or landscaped strip. Since the improvements on Oaks Street would not occur for some time, Staff and the property owner agreed to leave the existing conditions as is and an encroachment permit would be issued to cover the portion of the building in the right-of-way. The Silva's never followed through with any development and an encroachment permit was never processed.

In 2010, the property was purchased by Duane Bowman. This year, staff met with the Broker and Property Owner and discussed the building encroachment issue. It was agreed to issue an Encroachment Permit on the building. There is a current Permit on file since August 29 2013.

At the end of September 2013, Ms. Fair contacted the Town to inform staff that the property was on the market and there was a buyer, but because the building was in Town right-of-way the sale would not occur. Staff offered to talk to any prospective buyers regarding this situation, but none have come forward to date. Ms. Fair feels that the Town is part responsible, since staff did not tell her that the building was in Town Right-of-Way before Mr. Bowman's purchase. Staff tries their best to give as much information and history to the customer as possible. Staff cannot be responsible for knowing the ins & outs of every property. Staff is not sure if Ms. Fair ever looked through the Town's files for property information. If she did, she would have come across the building encroachment discussions. Staff also found out that the previous owners (Silvas) foreclosed on the property and the bank was in ownership. Therefore, the Transfer Disclosure Statement was not required as part of a Real Estate Owned (REO) sale. However, if the bank was aware of any issues on the property, the information would have to be forwarded to the buyer. Unless the Silvas' mentioned the building encroachment to the bank, the bank would not have any information.

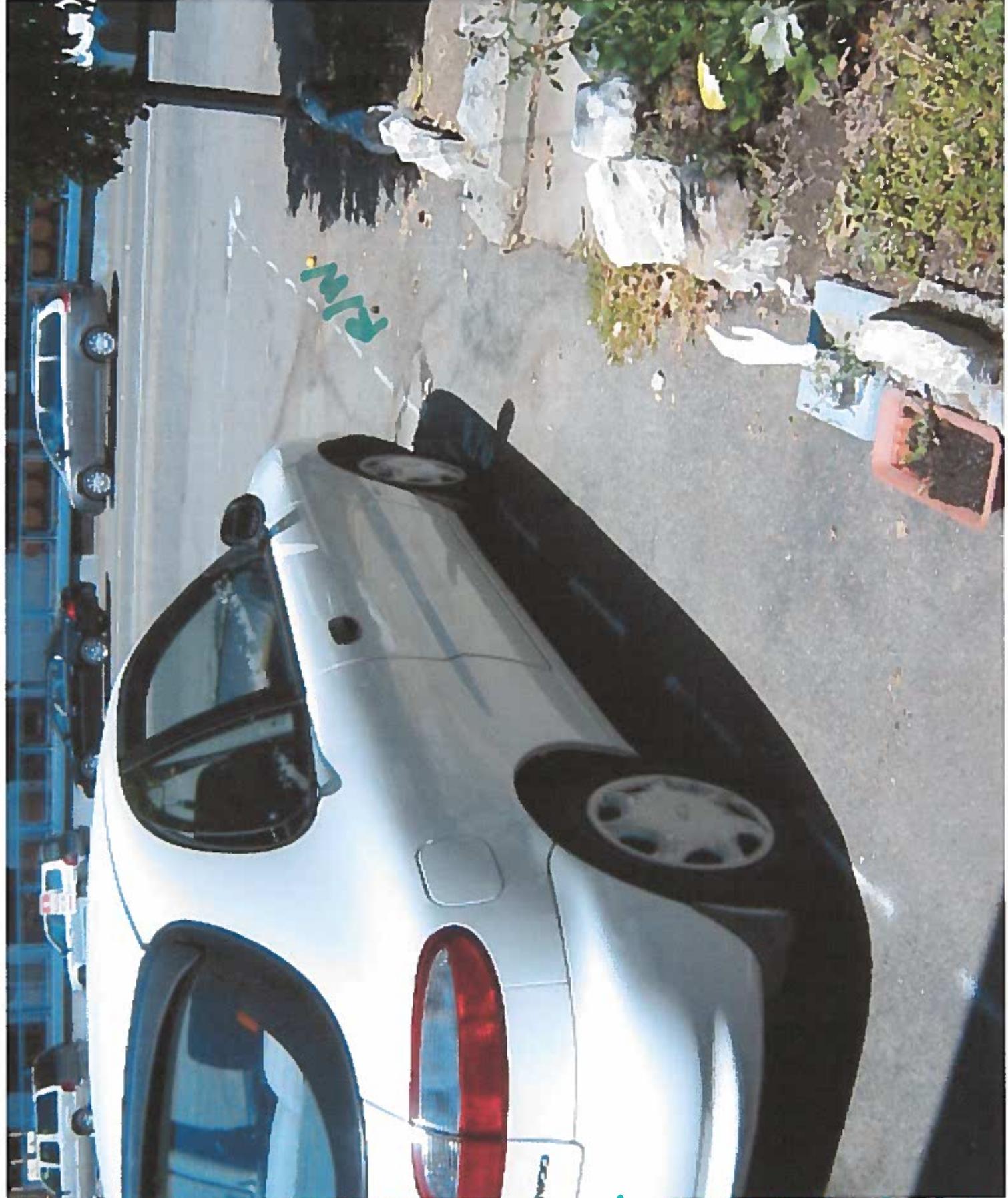
After considering the options at hand, Staff feels the existing Encroachment Permit satisfies the situation at this time. At the time of Development, the Town would be able to revisit any options and make any process part of the Conditions of Approval. This also gives the Town leverage should the future owner(s) refuse to follow the Town's guidelines. Should Council approve the preparation of an easement, Lot Line Adjustment or removal of the building, all costs would be the responsibility of the property owner.

#### **CEQA Requirements**

No CEQA requirements at this time.

#### **Financial and/or Policy Implications**

No cost to the Town at this time. Recommendation #1 is in affect at this time and all Town fees have been paid. Cost for Recommendations #2 & #3 would be the responsibility of the property owner. This would include appraisals, surveying, document preparation and processing for recording. Recommendation #4 cost to remove the building from Town right-of-way would be the responsibility of the property owner.



3751 TAYLOR RD. LOOKING WEST TO TAYLOR

FLM

OCEAN

3751 Taylor Rd, looking east @ build



3751 Taylor Rd Looking South @ building

