

**TO:** James L. App, City Manager  
**FROM:** Bob Lata, Community Development Director  
**SUBJECT:** Request to Reconstruct Building with Encroachment into the Public Right of Way, Cagliariro  
**DATE:** September 21, 2004

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**Needs:** For the City Council to consider a request by Phillip Cagliariro to allow the structural retrofit of an existing commercial building with a permanent encroachment in the public right-of-way.

- Facts:**
1. On August 3, 2004, Mr. Cagliariro submitted plans and a permit application for structural earthquake retrofits to his commercial building located at 617-625 12<sup>th</sup> Street.
  2. It was determined during the plan check process that the existing building encroached into the public right-of-way by approximately ten inches. Additionally, the proposed retrofit includes new steel columns to be placed on the building face. The net result of the proposed retrofit will be an encroachment of an additional four inches into the public right of way (see attached letter from Cagliariro). Further, the column footings (beneath the sidewalk) will encroach into the right-of-way by approximately 21 inches. Plan check corrections were returned to the applicant on August 19, 2004, with the encroachment issues noted.
  3. It is entirely feasible to feasible to retrofit the building by constructing the new structural columns inside the existing building, which would avoid any additional encroachment into the public right of way.
  4. The sidewalk width at this location without the additional encroachment would be 14 feet. The sidewalk width would be reduced by the proposed additional encroachment.

**Analysis  
and  
Conclusion:**

City staff does not have the authority to permit the construction of a building outside of the boundaries of the property owned by the applicant.

In order for the City Council to approve the request of the applicant it will be necessary for the Council to abandon the public right-of-way involved in the encroachment. At a minimum, the applicant must apply for abandonment of the right-away portion upon which the existing building is encroaching.

Abandonment of a portion of public right-of-way to remedy an existing condition would seem reasonable subject to submission of proper measurements and dimensions by a licensed professional. However, abandonment of public right-of-

way to accommodate new construction may appear to confer a public asset without compensation or direct public benefit.

Further, it is likely that similar requests will follow throughout the downtown as other buildings are analyzed for structural retrofit. While the existing encroachment of this building may not be typical, the proposal to retrofit a building by placing support columns outside the building is likely to be presented again.

If the Council approves the concept of allowing the applicant further encroachment into the public right-of-way, the building permit could not be issued until the street abandonment process was complete. The street abandonment process involves submission of complete measurements and dimensions by an appropriately licensed professional, three public hearings (Planning Commission, Notice of Intention to City Council, and formal consideration by the Council). Each hearing has notification requirements. If the street abandonment application were made today, it is estimated that the soonest the Council could approve and abandon that portion of 12<sup>th</sup> Street would be the second Council meeting of November.

**Policy Reference:** None

**Fiscal Impact:** None

- Options:**
- a. That the City Council deny the request of Mr. Cagliero to place structural reinforcing of a building in the public right-of-way and direct the applicant to submit a formal street abandonment application to accommodate the portion of the existing building that currently encroaches into the public right-of-way.
  - b. That the City Council approve the request of Mr. Cagliero to place structural reinforcing of a building in the public right-of-way and direct the applicant to submit a formal street abandonment application to accommodate the finish building.
  - c. Amend, modify or reject one of the foregoing options.

Attachment:

1. Letter from Cagliero

September 10, 2004

City of Paso Robles  
Attn: Mayor Frank Mecham and City Council Members

Re: The Courtyard Building at 625 12<sup>th</sup> Street

Dear Mayor Mecham and Members of the City Council,

In an effort to perform a voluntary earthquake retrofit we have determined thru a survey that our building is, and always has, encroached the public right of way. Prior to the earthquake the building encroached the right of way by approximately 10 inches.

The building has four columns facing 12<sup>th</sup> street. We intend to add steel to the face of these columns as described in our retrofit plans engineered by Darin Traverso.

As part of our mitigation and shoring work immediately after the earthquake, we have already removed six inches of stucco facing, and the awning of the building.

The net effect of us adding the steel at this point will be approximately four inches. In other words, the earthquake retrofit work will encroach onto the public right of way an additional four inches more than it was before the earthquake damage.

I think I speak for all my tenants and the general public when I say that I really want to see this building back together again. It is a constant reminder of the tragedy we all experienced.

Thank you for your consideration,

  
Phillip Cagliero