TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER DEPARTMENT: PUBLIC WORKS

DATE: JUNE 18, 2007 CMR: 275:07

SUBJECT: PALO ALTO ERUV PROJECT

This is an informational report and no Council action is required.

BACKGROUND
The purpose of this report is to inform the City Council of the status of an encroachment permit application for an eruv. Public Works anticipates issuing an encroachment permit for the eruv on or after June 19, 2007. An eruv is an Orthodox Jewish term for a system that integrates a number of private and public properties into one larger private domain. An eruv permits individuals within the eruv district to move objects in a larger private domain. This would allow Orthodox Jews who would otherwise be limited to the home to perform more activities on the Sabbath outdoors.

In early 1999 Rabbi Yitzchok Feldman, then representing Congregation Emek Beracha, originally proposed the construction of an eruv by “linking” 23 sites within the City. The linking methods included using existing utility poles, modifying existing poles, and installing new poles. The linking mechanism consisted of twine strung on either new or existing poles.

In May 1999, Council directed staff to consider the feasibility and lawfulness of establishing an eruv in Palo Alto. From that investigation, staff identified four issues that Council should consider at its meeting on December 13, 1999 (CMR 454:99). The four issues included:

- Prohibition of encroachment into Utility Department’s space or climbing space on any utility pole.
- Avoidance of underground utility districts to the maximum extent feasible.
- Evidence of permission from all affected agencies and owners.
- Burden of determining ownership, jurisdiction, and permitting process shall be assigned to the applicant and/or its contractor.

On November 3, 2003 Rabbi Feldman, representing Palo Alto Community Eruv, Inc. (PACE), applied to Public Works Engineering for an encroachment permit for the construction of an eruv based on the previous 1999 proposal. The application was deemed incomplete and the applicant was informed that documentation satisfying the concerns identified in City’s Manager Report
(CMR) 454:99 must be submitted, reviewed, and approved prior to issuance of an encroachment permit. The applicant withdrew the application with the intent to resubmit once all four issues had been addressed.

PACE submitted a revised encroachment permit application on October 6, 2006 stating that all identified concerns have been satisfied and conditions met.

**DISCUSSION**

In August 2004, City staff met with representatives from PACE to discuss a new proposal for an eruv involving the issuance of an encroachment permit. The new proposal identified 22 locations which avoided the use of utility poles, thereby resolving most of the safety concerns of the original proposal. An adjustment to several original locations and the use of private property eliminated the encroachment into existing utility districts. With the majority of the safety concerns addressed, staff concluded that the remaining traffic, clearance, and maintenance issues were resolvable. However, the application was deemed incomplete based on earlier requirements conveyed to the applicant, who was directed to provide the following information to proceed with the processing of the encroachment permit:

- Twine sag calculations for each eruv location proposed showing compliance with the 18ft. minimum height required.
- Submittal of written approvals from all other agencies and landowners involved.
- A revised Application for Encroachment Permit package.
- A renewed insurance certificate for Palo Alto Community ERUV, Inc.
- The name and contact information of the licensed contractor selected to perform the installation of the eruv.
- A copy of the maintenance contract between Palo Alto Community ERUV, Inc. and its licensed contractor for ongoing maintenance of the eruv.
- 24 hour, seven day a week contact information for the eruv maintenance contractor and Palo Alto Community ERUV, Inc.
- Written approval from Palo Alto Community ERUV, Inc. allowing CPA employees and/or CPA contractors to remove components of the eruv to facilitate a public safety situation or if a public safety situation exists due to the eruv itself.

On October 5, 2006, staff met with representatives from PACE to review its response to the City’s request for additional information. At the October, 2006 meeting all of the City’s conditions had not been met.

PACE provided the requested information in a revised application package on May 22, 2007. This package has been reviewed and found acceptable. It includes approval of placement of the eruv by Stanford University, the County of Santa Clara, Caltrans, the Santa Clara Valley Water District and the Peninsula Corridor Joint Powers Board. Therefore, in June 2007, the application for an encroachment permit was deemed complete. The City Attorney’s Office has opined that once the applicant has satisfied all requirements set forth by the City to obtain an encroachment permit then the City Engineer, Glenn Roberts, must issue an encroachment permit to the applicant as the issuance at this point is purely ministerial.
RESOURCE IMPACT

Workload Impact
Issuance of the encroachment permit can be accommodated within the existing workload.

POLICY IMPLICATIONS
The issuance of an encroachment permit for the placement of an eruv within Palo Alto does not present any significant policy implications. The granting of encroachment permits is covered under Palo Alto Municipal Code Sections 12.12.010 and 12.12.020. The legal grounds for the issuance of the permit are outlined in a companion City Attorney’s Report accompanying this CMR.

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