

**TOWN OF FAIRFAX
STAFF REPORT**

To: Mayor, Members of the Town Council

**From: Michael Rock, Town Manager
Kathy Wilkie, Public Works Director**

Date: December 2, 2009

Subject: Update on the Broadway Bulb-out Construction Project

RECOMMENDATION

Review and accept the staff report on the update of the Broadway Bulb-out construction project.

DISCUSSION

In approximately April of 2008, the owner of Fairfax Scoop purchased and placed a bench on the sidewalk outside his store. Due to the constraints of building facades, trees, trash receptacles and bike racks on the sidewalk, the bench was determined to obstruct ADA access and the owner was notified by the Town Building Official that the bench had to be removed.

At approximately the same time, the Town was awarded a free bike rack from Peak Racks for forming a bike-to-work team and logging the greatest number of work-related bicycle trips. The proposed location for the bike rack was in the area near Fairfax Scoop. The Director of Public Works, Wilkie, proposed the construction of a bulb-out for the bike rack in order to take advantage of an unusually configured red zone with an unprotected stop sign in the roadway and prepared a hand-drawn sketch. Ray Martin, the owner of Fairfax Scoop, offered to pay up to \$5,000 for the bulb-out construction to create extra space for his customers and hired a local contractor to do the work.

The proposed project was presented to the Town Council at the January 14, 2009 Town Council meeting. No funds were requested or allocated for the engineering design or construction of the bulb-out at that time. The Town Council approved construction to proceed based on the conceptual plan with the understanding that the cost would be borne by Ray Martin.

An encroachment permit was issued to the contractor in July 2009 which included requirements to follow standard plans for sidewalk construction. Due to the unusual slopes of the existing roadway and sidewalk, the cross slopes of the new construction exceeded the 2% allowable under ADA for a sidewalk or seating area. The issue of non-compliance with ADA was brought to the attention of the Building Official by Mike Hazel at the time of concrete forming. A subsequent field review was made by the Building Official and Wilkie. The contractor was off-site but reached by phone. After discussion amongst the three, Wilkie decided not to issue a stop work order and sought guidance from peers due to the unusual existing conditions.

Peter Margen was hired as a consultant to provide an independent review of the bulb-out. Mr. Margen has extensive knowledge of current ADA laws and is frequently called as an expert witness regarding ADA issues in the public right-of-way. The purpose of the consultation was to determine if the existing

design could be modified to meet ADA compliance or if it needed to be removed and reconstructed. Mr. Margen's final determination was that the bulb-out was not in compliance with ADA, that cost could not be considered as a justification for non-compliance and that an engineer should make a technical determination if ADA compliance could be achieved. (Attachment 1.)

Coastland Civil Engineers were asked to review the bulb-out for technical feasibility. Scott Reynolds made a site visit and determined that the bulb-out could be reconstructed to be compliant with ADA by varying the curb height. (Attachment 2.)

The existing bulb-out will be removed by joint efforts of the original contractor and Town staff. The bulb-out will be reconstructed by Van Midde and Son Concrete. Van Midde recently completed the sidewalk on School Street for the Park Bond project and has had significant experience in constructing ADA compliant sidewalks throughout Marin County. The work will be scheduled to begin removal on a Monday and complete construction by Friday of the same week to limit disruptions to the local businesses.

FISCAL IMPACT

Approximately \$5,500 for reconstruction of the bulb-out from the Street Maintenance operating budget. Ray Martin has agreed to discuss contributing additional funds if the cost to the Town exceeds \$5,500.

ATTACHMENTS

1. Independent review from Peter Margen
2. E-mail from Scott Reynolds regarding technical feasibility