



TO: Mayor Shaun Sipma
Members of the City Council

FROM: Emily Huettl, PE, Assistant City Engineer

DATE: 7/1/2019

**SUBJECT: RIGHT OF WAY ENCROACHMENT APPLICATION –
ARTIFICIAL TURF – 2124 ELK DRIVE**

I. RECOMMENDED ACTION

1. Approval of the Right of Way Encroachment Agreement Application submitted by Valley Properties, LLC for the installation of artificial turf in the right-of-way at 2124 Elk Drive.
2. Authorize the Mayor to sign the Revocable Encroachment Permit.

II. DEPARTMENT CONTACT PERSONS

Emily Huettl, Assistant City Engineer	857-4100
Lance Meyer, City Engineer	857-4100
Lance Lang, Principal Planner	857-4108
Stefanie Stalheim, Assistant City Attorney	857-4755

III. DESCRIPTION

A. Background

Mr. Tim Valley with Valley Properties, LLC, owner of Valley Sport and Marine, expressed an interest in using artificial turf as a part of their landscaping at 2124 Elk Drive. At that time, artificial turf was not permissible per the landscaping section of the zoning ordinance. This was brought to the Zoning Ordinance Steering Committee and revisions were made to allow artificial turf in certain locations and with certain stipulations. Artificial turf is only allowed in City right of way with a right of way encroachment permit. Mr. Valley submitted the attached Right of Way Encroachment Application and Artificial Turf Application.

B. Proposed Project

The proposal is to install artificial turf within the boulevard/landscape island along the northwest property line, adjacent to 2124 Elk Drive. A portion of the landscape island is located within City right of way (which Valley Properties already has an encroachment permit for), therefore a portion of the artificial turf would also be located within City right of way. Per the ordinance, artificial turf does not take the place of other landscaping requirements. As shown in the Landscaping Sketch, each of the street trees will have 9 perennials planted around the base of the 13 deciduous trees. The proposed artificial turf product and its placement have meet the requirements of the ordinance.

It should be noted that the approval and installation of the artificial turf and associated plantings does not relieve the Owner of any other landscaping obligations on other areas of the site, per the original approved landscaping and site plan.

A right of way encroachment permit and right of way construction permit are required prior to installation. In the attached right of way encroachment application, Mr. Valley had expressed a desire to also display “units” (rangers, ATVs, etc.) within the right of way. Following discussions with Engineering and Planning staff, alternative areas for display were identified. This encroachment permit is solely for artificial turf and does not permit any other type of encroachment.

Encroachments within the right-of-way are interpreted as a permanent encroachment as defined in Article I. Section 28-3 of the Code of Ordinances. If the City Council deems that the request is warranted, it should be approved with the following recommendations:

1. That the City Council approves the encroachment listed above.
2. That the permit holder agrees that the costs of maintenance and replacement be their responsibility.
3. That the City Attorney prepares the encroachment permit agreement, including language to protect the City from liability.
4. That the City Council retains the right to revoke the encroachment permit if it becomes necessary for any reasons.
5. That the permit holder pays a \$100 permit fee.
7. No person may install the artificial turf within the public right-of-way without having first obtained a permit from the City Engineer.

- C. Consultant Selection
N/A

IV. IMPACT:

- A. Strategic Impact:
NA
- B. Service/Delivery Impact:
Valley Properties, LLC and/or their contractor may need traffic control during the installation. That requirement will be addressed in the construction permit process.
- C. Fiscal Impact:
There will be no fiscal impact to the City. Valley Properties, LLC will be responsible for installing and maintaining the turf, as well as and removing and/or replacing it if the need would arise.

V. ALTERNATIVES

Alt 1. Council could deny the encroachment permit. The applicant would not be able to install the artificial turf as they have requested.

VI. TIME CONSTRAINTS
N/A

VII. LIST OF ATTACHMENTS

- A. Encroachment Application
- B. Artificial Turf Application
- C. Revocable Encroachment Permit