

CITY OF DILLINGHAM, ALASKA

**RESOLUTION NO. 2017-02 (AM)**

**A RESOLUTION OF THE DILLINGHAM CITY COUNCIL APPROVING A LONG TERM ENCROACHMENT PERMIT FOR THE ARMSTRONG GARAGE TO ENCROACH ONTO THE ALASKA STREET RIGHT OF WAY**

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WHEREAS, according to Dillingham Municipal Code 12.08.010 an encroachment is any object above ground or below belonging to a private owner other than the municipality which has been constructed or located within streets, public rights of way, or other property dedicated to a public use; and

WHEREAS, the garage located on the northern property line of U.S. Survey 2732, Lot 17, Block 19, which lot is currently owned by JoAnn S. Armstrong (hereafter, the "Armstrong Garage"), extends into the Alaska Street Right of Way; and

WHEREAS, in the 1980's the Armstrongs negotiated with the City for a property exchange where the City agreed to vacate the right of way under and immediately around the Armstrong Garage and convey the City's interest, if any, in the property to the Armstrongs in exchange for the Armstrongs conveying their interest, if any, in another portion of land located at the southern end of Lot 17 to the City; and

WHEREAS, neither party is able to produce the original documentation thereof, but the parties agree that an exchange was intended to occur; and

WHEREAS, the Alaska Department of Transportation (AK DOT) is securing right of ways for the Dillingham Downtown Streets Rehabilitation Project; and

WHEREAS, AK DOT has provided a right of way map that depicts the location, measurements and angles of the Armstrong Garage's encroachment onto the Alaska Street Right of Way;

WHEREAS, it is in the public interest to allow this encroachment to continue to exist while the parties negotiate and formalize the property exchange; and

WHEREAS, DMC 12.08 requires City Council and Planning Commission approval for any object belonging to a private owner other than the municipality that is placed in streets, public rights-of-way or other property dedicated to a public use, for longer than one year; and

WHEREAS, the Dillingham Planning Commission recommended transferring title to the land to the Armstrong's at their October 12, 2016 meeting, which would allow the encroachment to continue; and

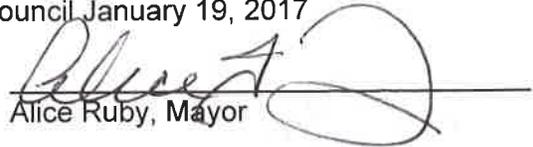
WHEREAS, it is the intent of the City of Dillingham and JoAnn Armstrong to formalize the property exchange and for each party to convey its interest in the lots as contemplated by the original agreement;

NOW, THEREFORE, BE IT RESOLVED that the Dillingham City Council approves the long term encroachment by the Armstrong Garage into the Alaska Street right of way with the following conditions:

1. The encroachment is approved effective January 12, 2017 and lasting the useful life of the building, or until the Right of Way is vacated, whichever comes first;
2. The encroachment is for the Armstrong garage extending 10.51' x 33.00' x 7.40' within the adjacent Alaska Street right of way. Any expansion, significant alteration or modification of the Armstrong Garage in the Alaska Street Right of Way shall require a new encroachment application if the right of way has not been vacated; and
3. After AK DOT finalizes the map for this parcel it will be presented to the City Council again if the dimensions change and will be documented with the Planning Commission and in the property card for USS 2732 Lot 17, Block 19.

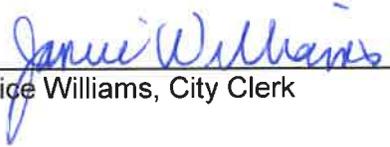
BE IT FURTHER RESOLVED that the City will continue good faith negotiations with the Armstrongs to formally complete the land exchange to the best of each party's ability.

PASSED AND ADOPTED by the Dillingham City Council January 19, 2017

  
Alice Ruby, Mayor

ATTEST:

[SEAL]

  
Janice Williams, City Clerk

**City of Dillingham Information Memorandum**

Agenda of: January 12, 2017

Attachment to:

Ordinance No. \_\_\_\_\_ / Resolution No. 2017-02

**Subject:**

A RESOLUTION OF THE DILLINGHAM CITY COUNCIL APPROVING A LONG TERM ENCROACHMENT PERMIT FOR ARMSTRONG GARAGE TO ENCROACH ONTO THE ALASKA STREET RIGHT OF WAY

City Manager: Recommend Approval

Signature: Rose Doera

Fiscal Note:  Yes  No

Funds Available:  Yes  No

**Other Attachments:**

State of Alaska Department of Transportation Right of Way map

**Summary Statement:**

In the 1980's the Armstrongs and City of Dillingham agreed to a property exchange where the City would receive title for a southern portion of Lot 17, Block 19 USS 2732 to be used as parking for N&N Market and the land under the Armstrongs garage would be transferred to the Armstrongs. Neither the City of Dillingham nor Armstrong family were able to produce the documentation of this original exchange.

The Dillingham Downtown Streets Rehabilitation Project, requires the City to issue the Armstrongs an encroachment permit so that their garage is legally within the Alaska Street Right of Way.

However, the City and Armstrongs would still like to move forward with formalizing the land exchange and will continue working to transfer clear title of each portion of land to the interested party.

The encroachment permit is necessary to comply with Dillingham Municipal Code:

\*12.08.010 Definitions. "Encroachments" shall be considered as any object above ground or below belonging to a private owner other than the municipality which has been or caused to be constructed or located within the streets, public rights-of-way or other property dedicated to a public use.

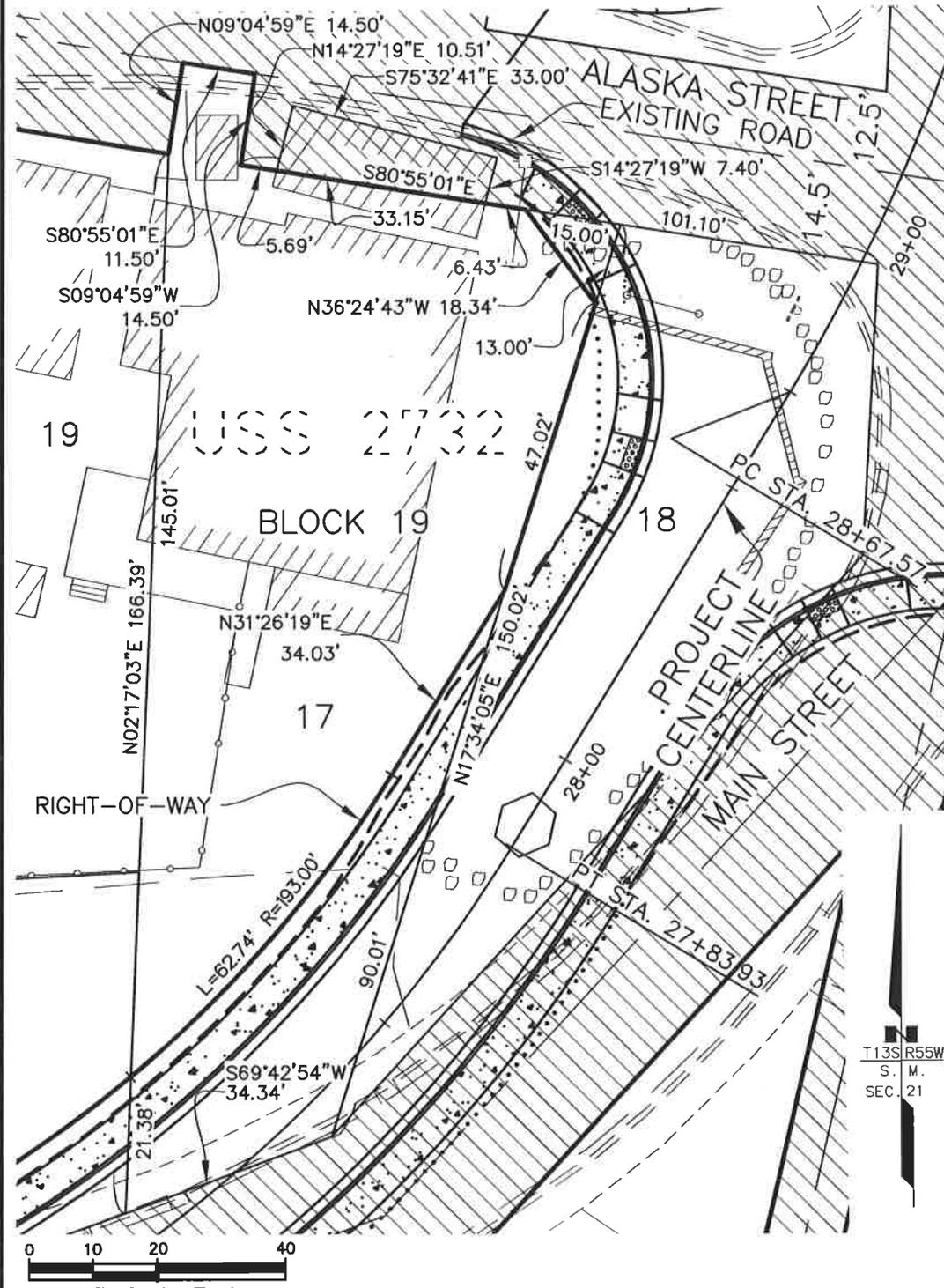
Attachment to:  
Ordinance No. \_\_\_\_\_ / Resolution No. 2017-02 \_\_\_\_\_

**Summary Statement continued:**

12.08.020 (C) Approval of Long Term Permit. The city manager shall refer any encroachment permit application for a period exceeding one year to the city planning commission. The manager shall submit his recommendations regarding the application to the planning commission. The planning commission shall review the application, and forward a recommendation to the city council. The city council shall act upon the encroachment permit application only upon receipt and consideration of the recommendation of the planning commission.

Route to	Department Head	Date
X	Finance Director	
X	Public Works Director	
X	Planning Director	
X	City Clerk	

 EXISTING RIGHT-OF-WAY



<b>CITY OF DILLINGHAM - DILLINGHAM PLANNING DEPARTMENT</b>	
ENCROACHMENT PERMIT <b>DILLINGHAM: DOWNTOWN STREETS REHABILITATION</b> 0001(335)/57180	OWNER'S INITIAL _____ ATTACHED TO _____ PAGE ____ OF ____ DATED _____
1,631 S.F.	
DRAWN BY <u>    JF    </u> DATE <u>Jan 2017</u>	