



## Legislation Text

---

**File #:** 19-396, **Version:** 1

---

Resolution No. 19-18, Revocable Permanent Obstruction in the Right-of-Way at 413 4th Avenue

### **RECOMMENDED ACTION (Motion):**

Approve Resolution No. 19-18 to allow a Revocable Permanent Obstruction in the Right-of-way (Permit RWOBS-19-00015), for retaining walls, stairs, and walkways in the right-of-way at the infill lot development at 413 4th Avenue.

### **BACKGROUND:**

A new residence is proposed for construction at 413 4<sup>th</sup> Avenue. The topography and geologic hazard conditions of the site require the utilization of retaining walls to provide a walkway and driveway which connects the garage and the entrance of the new residence to existing right-of-way for vehicular and pedestrian access.

The retaining walls, walkways, and stairs have been reviewed and approved by Oregon City Public Works in consultation with both the Applicant's Geotechnical Engineer and the City's Geotechnical Consultant. This application was a Type II review which is a staff level approval. Submittals and reviews comply with OCMC 17.44 Geologic Hazards Review for a Single-Family Residence. In addition to the project geotechnical engineering and design approval, Oregon City Public Works staff has determined that the retaining walls, walkways, and stairs that are depicted in the ROW would not constrain the current public use of 4<sup>th</sup> Avenue.

On February 28, 2017, after reviewing all the evidence in the record and considering all the arguments made by the applicant and opposing and interested parties, the Oregon City Historic Review Board voted 4-0-0 to approve the project. This was a Type III decision which involves the greatest amount of discretion and evaluation of the subject approval standards. The Historic Review Board (HRB) approved this proposal on 2/28/17 after three public hearings. The walls in the right-of-way were shown on the plans submitted for the 1/24/17 hearing and the 2/28/17 hearing, and they were described during the applicant's presentation at the 1/24/17 hearing. There are no conditions of approval from the Historic Review Board related to the walls. Within the right-of-way, there are no restrictions on wall height or fence height.

The picket fence design for the top of wall fall protection does not require HRB review because it meets the HRB policies and has been approved by staff. While City Code specific to fences located in the public ROW does not exist, in this case staff reviewed the proposal for inconsistencies from the fence code for private property and determined the fall protection fencing to be within the objectives of the code.

Obstructions in the right-of-way are recommended by staff to be approved when the obstruction is in the best interest of the public and has a public benefit. In this case, the public benefit is providing a safer, less impactful development on a steep slope, stormwater controls, and frontage parking adjacent to the street. These are benefits to adjacent properties and downhill properties. The less

disturbance to the existing ground, the better on properties like this commonly found and consistently approved throughout the Canemah neighborhood over at least the past year.