

# COUNTY OF SAN MATEO

27

## Inter-Departmental Correspondence

**Date:** March 21, 2001

**Board Meeting Date:** April 3, 2001

**TO:** Honorable Board of Supervisors

**FROM:** Neil R Cullen, Director of Public Works

**SUBJECT:** Proposed Retaining Wall and Driveway Encroachment into Acacia Lane - Emerald Lake Hills - Redwood City Area

### RECOMMENDATION

- 1 Adopt a resolution authorizing the President of the Board to execute an Agreement on behalf of the County of San Mateo with Martha Suzuki to install a driveway and retaining wall partially within the Acacia Lane right-of-way
- 2 Direct the Clerk of the Board to record the Agreement after execution

### Key Fact

The proposed encroachment does not impair the public's use of the right-of-way at this time

### Discussion

Ms Suzuki has requested an encroachment permit to construct a retaining wall and driveway in the public right-of-way to support the driveway to her home which is located below the grade of the road Ms Suzuki is willing and has executed an agreement to guarantee that she or her successors in interest in the property will maintain, relocate, repair and/or remove said encroachment upon notification from County

A proposed form of resolution and agreement has been approved by County Counsel and as stated previously, Ms Suzuki has executed the Agreement

Honorable Board of Supervisors

**Subject: Proposed Retaining Wall and Driveway Encroachment into Acacia Lane -  
Emerald Lake Hills - Redwood City Area**

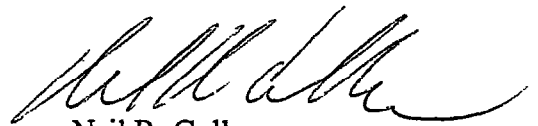
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Page 2

**Fiscal Impact**

There is no financial impact to the General Fund or any other County fund associated with your Board authorizing the President of the Board to execute the proposed agreement.



Neil R. Cullen  
Director of Public Works

NRC:KSA:sdd

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cc: Ms. Martha Suzuki  
Milt Mares, County Counsel

Resolution No. \_\_\_\_\_

**Board of Supervisors, County of San Mateo, State of California**

\* \* \* \* \*

**Resolution Authorizing Execution of an Agreement to Allow the Installation of a  
Retaining Wall and Driveway in the Public Right-of-Way – Acacia Lane –  
Emerald Lake Hills Area**

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**RESOLVED**, by the Board of Supervisors of the County of San Mateo, State of California, that

**WHEREAS**, Martha Suzuki (Owner) is the owner of real property in the County of San Mateo, State of California, and has requested the issuance of an encroachment permit to install a retaining wall and driveway in the Acacia Lane right-of-way; and

**WHEREAS**, the Owner has agreed to execute a recorded agreement to maintain, repair, relocate and/or remove said encroachment upon notification from County; and

**WHEREAS**, the Director of Public Works has determined that the encroachment does not impair the public's use of the public right-of-way at this time and has recommended the execution of an agreement to authorize said encroachment; and

**WHEREAS**, this Board has considered the recommendation of the Director of Public Works.

**NOW, THEREFORE, BE IT RESOLVED**, that said Agreement by and between the County of San Mateo and Martha Suzuki is hereby approved, and the President of this Board be, and is hereby authorized to execute said agreement for and on behalf of the County of San Mateo.

\* \* \* \* \*

A P N 057-153-140

NRC KSA

X-78-B/D-4

AGREEMENT

THIS AGREEMENT made and entered into this \_\_\_\_ day of \_\_\_\_\_ 19\_\_ by and between the COUNTY OF SAN MATEO a political subdivision of the State of California, hereinafter called the County , and MARTHA SUZUKI , a widow hereinafter called Permittee

W I T N E S S E T H .

WHEREAS Permittee is the owner of real property in the County of San Mateo State of California, and has requested issuance of an Building Permit from the County of San Mateo for the construction of a driveway retaining wall which encroaches into County rights-of-way on Acacia Lane fronting the property described in Exhibit A attached hereto and

WHEREAS the proposed retaining wall encroaches into the public right-of-way of Acacia Lane ;

WHEREAS, there is no impediment to the use of the right-of-way at this time and

WHEREAS for and in consideration of and as a condition for approval by County of a Building Permit Permittee is willing to repair restore maintain relocate and/or remove the proposed retaining wall from the right-of-way at Permittee's own expense upon demand of County should they become an impediment to the exercise of County's right within the right-of-way of Acacia Lane

NOW THEREFORE IT IS HEREBY AGREED TO BY THE PARTIES as follows

1 The real property subject to this agreement is described in Exhibit A attached hereto Upon annexation of said real property to any city Permittee agrees to fulfill all of the terms of this agreement upon demand by such city as though the Permittee has contracted with such city originally Any annexing city shall have the rights of a third party beneficiary

2 Permittee agrees to repair restore relocate maintain and/or remove that portion of the retaining wall that is encroaching into the Acacia Lane right-of-way at Permittee's own expense upon demand of County Should Permittee fail to satisfy such demand, County may take such action as is necessary to protect the public interest within the right-of-way of Acacia Lane and Permittee agrees to reimburse County for any and all costs incurred therewith

3 In the event that Acacia Lane is realigned or adjusted in elevation with the result that said encroachments must be altered reconstructed or

removed the County may notify Permittee at any time in writing to commence the required alteration reconstruction or removal. The notice shall be sufficient if mailed to the owner of record of said property at the address shown on the latest adopted County assessment roll. The notice shall describe the work to be done by the Permittee or successor in ownership, the time within which the work shall commence and the time within which it shall be completed.

4. The Permittee shall indemnify and save harmless the County, its officers, agents, employee and servants from all claims, suits or actions of every name, kind and description brought for or on account of injuries to or death of any person, including Permittee, or damage to property of any kind whatsoever and to whomever belonging, including but not limited to the concurrent active or passive negligence of the County, officers, agent or employees and servants, resulting from the installation, maintenance, use and/or existence of said encroachment within the Acacia Lane right-of-way as authorized and required by this agreement of Permittee, provided that this shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of the Permittee to indemnify and save harmless as set forth herein shall include the duty to defend as set forth in section 2778 of the California Civil Code.

5 Should legal action be necessary to enforce any provision of this agreement Permittee agrees to pay all reasonable attorney fees and costs incurred by County in connection therewith

6 This agreement shall be recorded by County All covenants herein contained shall pertain to and run with the real property described herein and this agreement shall apply to bind and inure to the heirs successors and assigns of the parties hereto



IN WITNESS WHEREOF the parties hereto have caused this agreement to be executed by their duly authorized officers on the day and year first above written

County

COUNTY OF SAN MATEO

BY

Michael D. Nevin, President  
Board of Supervisors, County of San Mateo

ATTEST

\_\_\_\_\_  
Clerk of said Board

Permittee

\_\_\_\_\_  
*Martha Suzuki*  
MARTHA SUZUKI

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

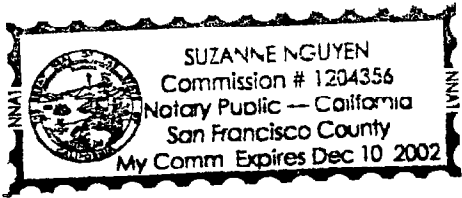
State of California

County of San Mateo

On 8th December 2008 before me Suzanne Nguyen  
Date Name and Title of Officer (e.g. Jane Doe Notary Public)

personally appeared Martha Suzuki  
Name(s) of Signer(s)

personally known to me ~~OR~~  proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted executed the instrument



WITNESS my hand and official seal

Suzanne Nguyen  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document*

**Description of Attached Document**

Title or Type of Document: Right of Way Agreement

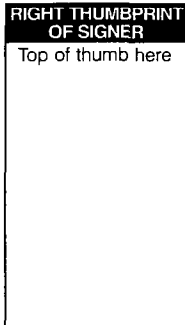
Document Date n/a Number of Pages 6

Signer(s) Other Than Named Above \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name \_\_\_\_\_

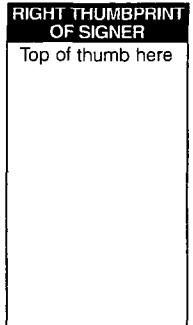
- Individual
- Corporate Officer  
Title(s) \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other \_\_\_\_\_



Signer Is Representing  
\_\_\_\_\_  
\_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer  
Title(s) \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other \_\_\_\_\_



Signer Is Representing  
\_\_\_\_\_  
\_\_\_\_\_

EXHIBIT A

That certain real property as described in Volume No 7851 at page 1536 filed in the Recorder's Office of the County of San Mateo State of California