



AGENDA REPORT


TO: Jestin D. Johnson
City Administrator

FROM: Josh Rowan, Director
Oakland Department of
Transportation

SUBJECT: Major Encroachment Permit at
1880 Mountain Boulevard

DATE: April 15, 2024

City Administrator Approval


Jestin Johnson (May 1, 2024 15:08 PDT)

Date: May 1, 2024

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Granting A Conditional And Revocable Major Encroachment Permit To Property Owner, Tenth Church Of Christ Scientist, To Allow Portions Of An American With Disabilities Act Compliant Access Ramp To Encroach Into The Public Right Of Way Fronting The Property At 1880 Mountain Boulevard, Major Encroachment Permit ENMJ24052, And Adopting Appropriate California Environmental Quality Act Findings.

EXECUTIVE SUMMARY

Adoption of this proposed resolution will authorize the Oakland Department of Transportation (OakDot) to issue a conditional and revocable Major Encroachment Permit to the property owner, Tenth Church Of Christ Scientist (Permittee), to document and regulate encroachments in the public right-of-way at 1880 Mountain Boulevard.

The proposed encroachments will bring the existing access ramp located in the public right-of-way into compliance with the Americans with Disabilities Act (ADA). The Major Encroachment Permit will allow a 268 square foot portion of an ADA-compliant access ramp (Encroachments) to encroach into the public right-of-way beyond the limits specified in the California Building Code. The Encroachments are in an area that is currently used for landscaping and would not interfere with public use of the right-of-way or buried utilities and would not endanger the public welfare and convenience. The Encroachments are described in more detail in Exhibit A to the resolution.

Consistent with Oakland Municipal Code (OMC) 12.08, a Major Encroachment Permit is required for all encroachments in the public right-of-way beyond the limits specified in the California Building Code (CBC) Section 3202.2. Major Encroachment Permits are reviewed by the Department of Transportation and approved and issued by the City Council. An Indenture Agreement between the City of Oakland (City) and Permittee, which sets out the conditions and obligations of the revocable Major Encroachment Permit, is provided as Exhibit B to the resolution.

BACKGROUND / LEGISLATIVE HISTORY

The Permittee has spent several years planning and making accessibility enhancements to the church located at 1880 Mountain Boulevard. In 2019, the Permittee coordinated with the Planning Department for the approval of design review exemptions (DRX191011 and DRX191274) for an in-kind repair of an existing landing and wheelchair ramp (DRX19011), and to raise the wheelchair ramp less than two inches at the building door entryway to fix a tripping hazard (DRX19274). In June 2019, the Building Department issued a construction permit (B1902899), and in February 2020, the permit status was changed to final, indicating that the construction was complete to the satisfaction of the City.

In 2021, the Permittee approached staff from OakDOT to discuss the possibility of the City allowing the Encroachments. Staff notified the property owner that a Major Encroachment Permit would be required.

As part of the design process, the Permittee explored different ramp designs that did not encroach into the public right-of-way. However, these designs turned out to be infeasible and costly. The current proposed design minimizes the impact to the public right-of-way, while meeting ADA requirements.

In December 2023, Permittee filed an application for a zoning worksheet (ZW2302402) for a voluntary accessibility upgrade and has received approval for a design review exemption (DRX240355) from the Planning Department.

In January 2024, the Permittee submitted a Major Encroachment Permit (ENMJ24052) application. Release of construction permits are pending, subject to the approval of the major encroachment permit.

ANALYSIS AND POLICY ALTERNATIVES

Approval of the proposed resolution granting the Major Encroachment Permit allows the Permittee to install and maintain an ADA-compliant access ramp, improving safety and access for pedestrians to the existing building at 1880 Mountain Boulevard. Approval of the encroachment is conditional that the Permittee and the City fully execute and record with the County, an indenture agreement relieving the City from maintenance responsibilities and liability for the encroachment.

The proposed encroachments do not interfere with public use of the right-of-way or buried utilities and do not endanger public welfare and convenience. Approval of the proposed resolution promotes the Citywide priorities of **responsive, trustworthy government** for Oakland residents by faithfully implementing OMC 12.08.

Denial of the Major Encroachment Permit will preserve the existing non-ADA-complaint ramp, a portion of which is currently in the public right-of-way.

FISCAL IMPACT

There is no fiscal impact to the City associated with issuing the Major Encroachment Permit. Staff costs for processing the proposed Major Encroachment Permit are covered by fees set by the Master Fee Schedule and paid by Permittee.

PUBLIC OUTREACH / INTEREST

This item did not require special public outreach other than the required posting on the City's website.

COORDINATION

The agenda report and proposed resolution were coordinated with the Planning and Building Department, Budget Bureau, and Office of the City Attorney.

SUSTAINABLE OPPORTUNITIES

Economic: Approval of the Major Encroachment will not directly impact the City's Economic priorities.

Environmental: Approval of the Major Encroachment Permit will not directly impact the City's Environmental priorities.

Race & Equity: Approval of the Major Encroachment Permit will not directly impact the City's Race and Equity priorities. Indirectly, pedestrian access improvements associated with the ADA-compliant ramps will improve access and safety for pedestrians, especially for people who have mobility difficulties.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)


The California Environmental Quality Act (CEQA) and the CEQA Guidelines exempt specific types of projects from environmental review. The following CEQA exemptions apply to this project, each of which provides a separate and independent basis for CEQA clearance: CEQA Guidelines section 15303 (Minor Alterations to Land), and CEQA Guidelines section 15332 (In-Fill Development Projects)

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution Granting A Conditional And Revocable Major Encroachment Permit To Property Owner, Tenth Church Of Christ Scientist, To Allow Portions Of An American With Disabilities Act Compliant Access Ramp To Encroach Into The Public Right Of Way Fronting The Property At 1880 Mountain Boulevard, Major Encroachment Permit ENMJ24052, And Adopting Appropriate California Environmental Quality Act Findings.

For questions regarding this report, please contact Ishrat Jahan at IJahan@oaklandca.gov.

Respectfully submitted,


Josh Rowan (May 1, 2024 10:25 PDT)

JOSH ROWAN
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