



# AGENDA REPORT


**TO:** Jestin D. Johnson  
City Administrator

**FROM:** Josh Rowan  
Director, OakDOT

**SUBJECT:** Major Encroachment Permit at  
2340 East 24<sup>th</sup> Street

**DATE:** September 10, 2024

City Administrator Approval

  
Jestin Johnson (Sep 23, 2024 21:42 PDT)

Date: Sep 23, 2024

## RECOMMENDATION

**Staff Recommends That The City Council Adopt A Resolution Granting A Conditional And Revocable Major Encroachment Permit To Corey B. McCants And Monique S. Spyke To Allow Portion Of An Existing Two-Story Residential Building To Encroach Into The Public Right-Of-Way Along Inyo Avenue, Fronting The Property At 2340 East 24<sup>th</sup> Street, Major Encroachment Permit ENMJ24055; And Adopting Appropriate California Environmental Quality Act Findings.**

## EXECUTIVE SUMMARY

Adoption of this proposed resolution will authorize the City Administrator to issue a conditional and revocable Major Encroachment Permit to the property owners, Corey B. McCants and Monique S. Spyke (Permittees), to document and regulate an existing encroachment in the public right-of-way at the property located at 2340 East 24<sup>th</sup> Street. The permit will allow existing building elements consisting of a portion of the existing two-story residential building structure to encroach into the public right-of-way. The portion of the building does not impact the use of the sidewalk fronting the property, nor does it obstruct the path of travel for pedestrians or persons with disabilities. The encroachment is described in more detail in **Exhibit A** to the resolution.

Consistent with Oakland Municipal Code (OMC) Chapter 12.08, a Major Encroachment Permit is required for all encroachments in the public right-of-way beyond the limits specified in the Oakland Building Code. 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

[OMC Chapter 12.08](#) requires a Major Encroachment Permit for structural encroachments into the public right-of-way beyond the limits specified in the Oakland Building Code. In addition, OMC Chapter 12.08.100 states that no encroachment into the public right-of-way may be granted unless a minimum clear space of five and one-half (5.5) feet remains open for public use in the sidewalk area.

The Permittees purchased the two-story residential unit and had a land survey done. Upon completion of the survey, they discovered a portion of their home was encroaching into the City right-of-way. The applicant's surveyor then recommended the applicants request an encroachment permit to document the existing encroachment.

The proposed improvement plans pertain to an existing two-story residential building in which portions of the existing structure encroach into the public right-of-way. Consistent with OMC Chapter 12.08, the Permittee applied for a Permit for this encroachment.

### **ANALYSIS AND POLICY ALTERNATIVES**

Approval of this Major Encroachment Permit allows the Permittee to preserve the existing residential building. Approval of the proposed Resolution promotes the Citywide priority of **Housing, Economic & Cultural Security** for existing Oakland residents. Approval of this Major Encroachment Permit and Indenture Agreement will hold the property owners liable and responsible for the encroachments. It also allows the City to revoke the Permit if it is in the City's best interest and requires the property owners to remove the encroachments and restore the public right-of-way. In addition, the Council may direct the Department of Transportation staff to include other conditions, as the location and nature of the proposed encroachments may require for public health, safety, and appearance.

Declining to approve this Major Encroachment Permit requires the existing property owner to deconstruct the building to remove the portion of the building extending into the public right-of-way.

### **FISCAL IMPACT**

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

### **PUBLIC OUTREACH / INTEREST**

No outreach was deemed necessary for the proposed policy action beyond the standard City Council agenda noticing procedures.

### **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:*** This Major Encroachment Permit legalizes existing building encroachments. This allows the property owners to potentially pursue building permits to upgrade the quality of Oakland's existing building stock.

***Environmental:*** There are no direct environmental opportunities resulting from approving this Major Encroachment Permit.

***Race & Equity:*** There are no direct race and equity impacts of this resolution.

### **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 sections 15301 (existing facilities) and 15061(b)(3) (no significant effect to the environment).

### **ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt A Resolution Granting A Conditional And Revocable Major Encroachment Permit To Corey B. McCants And Monique S. Spyke To Allow Portion Of An Existing Two-Story Residential Building To Encroach Into The Public Right-Of-Way Along Inyo Avenue, Fronting The Property At 2340 East 24<sup>th</sup> Street, Major Encroachment Permit ENMJ24055; And Adopting Appropriate California Environmental Quality Act Findings.

For questions regarding this report, please contact Raymond Mallari, Assistant Engineer II, at [rmallari@oaklandca.gov](mailto:rmallari@oaklandca.gov).

Respectfully submitted,

  
Josh Rowan (Sep 23, 2024 14:05 PDT)

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