



AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Ryan Russo
Director, DOT

SUBJECT: Major Encroachment Permit at
255 9th Avenue

DATE: February 11, 2020

City Administrator Approval

Date:

3/9/2020

RECOMMENDATION

Staff Recommends That The City Council Approve A Resolution Granting A Conditional And Revocable Major Encroachment Permit To Zarsion-OHP I, LLC, To Allow Portions Of The New Building Above Grade At 255 9th Avenue To Encroach Into The Public Right-Of-Way On 8th Avenue, Clinton Lane, And 9th Avenue, Major Encroachment Permit ENMJ19065.

EXECUTIVE SUMMARY

Approval of this resolution will authorize the City Administrator or Designee to issue a conditional and revocable Major Encroachment Permit to document and regulate new encroachments in the public right-of-way at 255 9th Ave. The development consists of the construction of an eight-story 241 residential units and ground-floor commercial facility.

The encroachment permit is to allow new building above ground level to encroach into the right-of-way beyond the limits shown in the Oakland Building Code (section 15.04.3.2285).

BACKGROUND / LEGISLATIVE HISTORY

Oakland Municipal Code (OMC) Chapter 12.08 requires a major encroachment permit for building elements in the public right-of-way as stated in the OMC Section 15.04.3.2285 for revisions to the California Building Code (CBC) Section 3202.2.3 and for encroachments that exceed those limits.

The Planning Department approved the development on September 8, 2016, Project (permit number PUD06010-PUDF03) for the Brooklyn Basin Final Development Permit of Parcel B to construct an eight-story 241 residential units and ground-floor commercial facility. The proposed conditional and revocable Major Encroachment Permit (Permit number ENMJ19065) to be issued to Zarsion-OHP I, LLC, allows for portions of the new building above grade to encroach into the right-of-way facing 8th Avenue, Clinton Lane, and 9th Avenue.

ANALYSIS AND POLICY ALTERNATIVES

The building elements encroaching into the right-of-way are along 8th Avenue, Clinton Lane, and 9th Avenue. The encroachments were approved on September 8, 2016 by the Planning and Building Department (PUD06010-PUDF03) and do not impact the use of the sidewalk fronting the property nor do they obstruct the path of travel for pedestrians or persons with disabilities.

The encroachment permit requires the property owners to comply with the conditions of approval issued by the Planning and Building Department. The encroachments meet City standards and are described in more detail in **Exhibit A** to the Resolution.

Exhibit B to the Resolution is the Indenture Agreement to be executed between the City and Permittee, which sets out the conditions and obligations of the revocable Major Encroachment Permit. This Permit and the Indenture Agreement will hold the property owners liable and responsible for private improvements constructed in the right-of-way and allows for construction and maintenance of encroachments.

The Major Encroachment Permit includes an agreement allowing the City to revoke the Permit if in the City's best interest and require the property owners to remove the encroachments and restore the public right-of-way. Because the Permit authorizes habitable space within the right-of-way, which in the future may need to be removed, the Indenture Agreement requires the property owners to record a Notice to Prospective Purchasers of the enclosed habitable space. In addition, Council may direct staff to include other conditions as the location and nature of the proposed encroachments may require for the public health, safety and appearance.

Starting at the height of 19.6 feet above grade, approximately 30 square feet of living space will encroach up to 1.8 feet into the public right of way.

The proposed encroachments are not currently expected to interfere with public use of the right-of-way or buried utilities and will not affect the public health and safety of the community.

FISCAL IMPACT

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

PUBLIC OUTREACH / INTEREST

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

COORDINATION

The Resolution was coordinated with Planning and Building Department, Budget Bureau, and the Office of the City Attorney.

SUSTAINABLE OPPORTUNITIES

Economic – The Major Encroachment Permit facilitates private development improving the overall economic conditions in Oakland.

Environmental – There are no environmental opportunities associated with this report.

Race and Equity – There are no social equity opportunities identified with this report.

California Environmental Quality Act (CEQA)


This Major Encroachment Permit is within the scope of the Modified Project, the potential environmental effects of which were adequately analyzed by the Environmental Impact Report dated January 20, 2009 for Brooklyn Basin Final Development Permit, pursuant to CEQA Guidelines Section 15162.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Approve A Resolution Granting A Conditional And Revocable Major Encroachment Permit To Zarison-OHP I, LLC, To Allow Portions Of The New Building Above Grade, Major Encroachment Permit ENMJ19065.

For questions regarding this report, please contact Chong Hong, Engineering Design and Right-of-Way Acting Supervisor at (510) 238-3892.

Respectfully submitted,



RYAN RUSSO
Director, Department of Transportation

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