



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Fred Kelley, Director
Oakland Department of
Transportation

SUBJECT: Major Encroachment Permit at
525 12th Street

DATE: January 10, 2023

City Administrator Approval

Date: Jan 12, 2023

RECOMMENDATION

Staff Recommends That The City Council Approve A Resolution Granting A Conditional And Revocable Major Encroachment Permit ENMJ22055, To Allow A Subsurface Transformer Room And Structural Elements To Encroach Into The Public Right-Of-Way At 525 12th Street; And Adopting Appropriate California Environmental Quality Act Findings.

EXECUTIVE SUMMARY

Approval of this resolution will authorize the City Administrator to issue a conditional and revocable Major Encroachment Permit (Permit) to Samuel Merritt University (Developer), which documents and regulates new encroachments in the public right-of-way at the property located at 525 12th Street. The encroachment is associated with development of a ten (10) story, 237,629 square foot building to serve as the new main campus for Samuel Merritt University (University).

The Permit will allow a new subsurface transformer room and structural sidewalk to encroach into the public right-of-way beyond the limits specified in California Building Code and Oakland Municipal Code (O.M.C.).

The transformer room and structural elements 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 Permit requires Developer 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.

BACKGROUND / LEGISLATIVE HISTORY

In 2000, City of Oakland Planning Department approved a preliminary phased four-block City Center Planned Unit Development (PUD99215) for 2.2 million square feet of high-rise commercial development on City owned parcels. In 2015, the Planning Commission reviewed and approved a Final Development Permit for the project site. Since the University was not included in the review of the 2015 Final Development Permit, the developer applied for and obtained approval for the University development in July 2022 (PLN21249).

During a Pre-Construction Development meeting (BW22004088) staff informed the developer that encroachment permit approval is required prior to construction permit issuance.

O.M.C. Chapter 12.08 requires a major encroachment permit for encroachment into the public right-of-way.

In November 2022, the developer executed a ground lease with the City and has petitioned the City Council for the encroachment approval (ENMJ22055).

ANALYSIS AND POLICY ALTERNATIVES

The Permit requires a maintenance agreement to be executed between the City (Owner) and Permittee (Developer), which sets out the conditions and obligations of the Permit (see **Exhibit B** to the attached proposed resolution). This Permit and the maintenance agreement will hold the Developer liable and responsible for private improvements constructed in the right-of-way and allows for construction and maintenance of encroachments. It also allows the City to revoke the Permit if in the City's best interest and require Developer to remove the encroachments and restore the public right-of-way. In addition, Council may direct Department of Transportation, Engineering Services staff to include other conditions, as the location and nature of the proposed encroachments may require for public health, safety, and appearance.

As part of the approved development, the subsurface transformer room encroaches into the public right-of-way approximately eleven feet, five inches (11'-5") and runs approximately sixty-nine feet, eight inches (69'-8"), and extends approximately thirteen feet, seven inches (13'-7") below finish grade. The total approximate square footage encroachment is seven hundred and ninety-five square feet (795 square feet).

The transformer room is vital to the building's design. If the major encroachment is not approved, the project will need to undergo significant redesign and will significantly delay the project.

The proposed encroachments are not expected to interfere with public use of the right-of-way or buried utilities and will not endanger the public welfare and convenience.

Approval of the proposed encroachments promotes the Citywide policy of **Housing, Economic & Cultural Security** because the encroachments are an essential utility design for the new University building that will attract more business and help train new workforce.

FISCAL IMPACT

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

PUBLIC OUTREACH / INTEREST

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

COORDINATION

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

SUSTAINABLE OPPORTUNITIES

Economic: The Permit facilitates private development improving the overall economic conditions in Oakland and will bring in more people to support local business.

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

Race & Equity: The Permit facilitates Development of the University. The University serves a racially diverse student population and employs a racially diverse workforce. Approximately 70% of SMU students, 59% of staff, and 23% of faculty are people of color. Many students are low-income (84% are on financial aid), and the University provides an opportunity for students to access well-paid jobs.

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 exemption applies to this project: CEQA Guidelines section 15183 (Projects Consistent with a Community Plan or Zoning).

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Approve A Resolution Granting A Conditional And Revocable Major Encroachment To A Subsurface Transformer Room And Structural Elements To Encroach Into The Public Right-Of-Way At 525 12th Street; And Adopting Appropriate California Environmental Quality Act Findings.

For questions regarding this report, please contact Ishrat Jahan, Supervising Civil Engineer, at 510-238-7281.

Respectfully submitted,

Fred Kelley
Fred Kelley (Jan 10, 2023 16:28 PST)

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