



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** Ryan Russo  
Director, DOT

**SUBJECT:** Major Encroachment Permit at  
7032 Sayre Drive

**DATE:** October 21, 2020

City Administrator Approval 

Date: Nov 16, 2020

## **RECOMMENDATION**

**Staff Recommends That The City Council Approve A Resolution Granting A Conditional And Revocable Major Encroachment Permit To David Bailey And Shewit Bailey, To Allow Portions Of An Existing Three-Story Building To Encroach Into The Public Right-Of-Way Fronting 7032 Sayre Drive, Major Encroachment Permit ENMJ17067.**

## **EXECUTIVE SUMMARY**

Approval of the proposed resolution will authorize the City Administrator or designee to issue a conditional and revocable Major Encroachment Permit to document and regulate existing encroachments in the public right-of-way at 7032 Sayre Drive.

Approximately 63 square feet of existing habitable space encroach into the public right-of-way (“Encroachments”). The Encroachments authorized by this Major Encroachment Permit are for the building elements extending into the public right-of-way beyond the limits allowed in the Oakland Building Code (section 15.04.3.2285). Building elements include portions of a garage and habitable space into the public right-of-way along Sayre Drive.

The Major Encroachment Permit requires the property owner to comply with the conditions of approval issued by the Planning and Building Department. The Encroachments do not currently impact the use of the sidewalk fronting the property nor do they obstruct the path of travel for pedestrians or persons with disabilities. The Encroachments are described in more detail in **Exhibit A** to the Resolution.

## **BACKGROUND / LEGISLATIVE HISTORY**

The Planning and Building Department approved the conversion of an existing 3-story building at 7032 Sayre Drive into an accessory dwelling unit (DRX180099) on January 17, 2018, subject to a condition that the applicant obtain a major encroachment permit for the portion of the existing building encroaching into the public right -of-way on Sayre Drive prior to obtaining building permits. The property owner has filed an application with the Department of Transportation for such conditional and revocable Major Encroachment Permit (ENMJ17067).

Oakland Municipal Code (OMC) Chapter 12.08 requires a major encroachment permit for building elements into 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 and for encroachments that will exceed those limits.

### **ANALYSIS AND POLICY ALTERNATIVES**

The existing building encroaches into the right of way on Sayre Drive by approximate one to four feet for a length of approximately forty feet adjacent to 7032 Sayre Drive. Approximately 63 square feet of habitable space will be maintained in the right-of-way.

Approval of the Encroachment will allow the property owner to obtain necessary building permits to further develop the existing structure. Denial of this permit would result in the applicant being unable to convert the structure into an ADU, and the structure would eventually need to be modified or demolished to remove the encroachment.

**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 public right-of-way and allows for 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, City Council may direct staff to include other conditions as the location and nature of the proposed Encroachments may require for public health, safety and appearance.

The existing Encroachments do not currently interfere with public use of the right-of-way or buried utilities and do not endanger the public welfare and convenience.

### **FISCAL IMPACT**

There is no fiscal impact to the City associated with this Major Encroachment Permit. Staff costs for processing the proposed Permit are covered by fees established in 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 the City's website.

### **COORDINATION**

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

### **SUSTAINABLE OPPORTUNITIES**

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

***Environmental*** – No significant impact on the environment is identified.

***Race and Equity*** – No significant impact on social or racial equity is identified.

### **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 encroachment under CEQA Guidelines sections 15301 (existing facilities), 15183 (projects consistent with a Community Plan, General Plan, or Zoning), and 15061(b)(3) (no significant effect on the environment).

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

Resolution Granting A Conditional And Revocable Major Encroachment Permit To David Bailey And Shewit Bailey, To Allow Portions Of An Existing Three-Story Building To Encroach Into The Public Right-Of-Way Fronting 7032 Sayre Drive, Major Encroachment Permit ENMJ17067.

For questions regarding this report, please contact Joseph Grassick, Supervising Civil Engineer at (510) 238-6203.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Ryan Russo', written over a horizontal line.

RYAN RUSSO  
Director, Department of Transportation

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