

OAKLAND CITY COUNCIL

Approved as to Form and Legality

RESOLUTION No. _____ C.M.S.

City Attorney

Introduced by Councilmember _____

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.

WHEREAS, David Bailey and Shewit Bailey ("Permittee"), are the owners of the real property known as 7032 Sayre Drive and described in a Grant Deed Recorded April 26, 2017, by the Alameda County Clerk-Recorder and identified by the Alameda County Assessor as APN: 048E-7328-060-00 and commonly known as 7032 Sayre Drive hereto and incorporated herein (the "Property"); and

WHEREAS, Permittee owns the existing three-story building on the Property with an existing garage and habitable space encroaching into the right-of-way; and

WHEREAS, the three-story building encroaches into the public right-of-way approximately 63 square feet, the limits of which encroachment are delineated on *Exhibit A* hereto and incorporated herein (the "Encroachments"); and

WHEREAS, the City Planning Bureau approved an accessory dwelling unit conversion (DRX180099) of the building, and informed Permittee a conditional and revocable major encroachment permit for the Encroachments were necessary to continue to allow the Encroachments; and

WHEREAS, Permittee has filed an application with Department of Transportation for such conditional and revocable Major Encroachment Permit (ENMJ17067) (hereinafter referred to as the "Permit"); and

WHEREAS, staff has determined, in accordance with the Oakland Municipal Code Chapter 12.08 and based on review of the plans and investigation of the Property and the area of the proposed Encroachments, that the Encroachments in the public right-of-way and their location will not, currently understood, interfere with the public use of the roadway, sidewalk, buried utilities, and will not endanger the public welfare and convenience during said public use; and

WHEREAS, each as a separate and independent basis, this action is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15301 (existing facilities), 15183 (projects consistent with General Plan and Zoning), and 15061(b)(3) (no significant effect on the environment); now, therefore, be it

RESOLVED: That the City Council has reviewed all relevant documents relating to its grant of the encroachment permit that is the subject of this resolution; and be it

FURTHER RESOLVED: That the City Council finds and determines that the decision made hereby is made in conformance with the requirements of CEQA; and be it

FURTHER RESOLVED: That the City Council hereby grants to the Permittee a conditional revocable Permit to allow the Encroachments, which Permit shall take effect only upon the City and Permittee entering into an Indenture Agreement in the form substantially attached hereto as **Exhibit B** (the “Indenture Agreement”), the conditions therein being incorporated into the Permit; and be it

FURTHER RESOLVED: That the Permit shall commence and continue in effect so long as Permittee satisfies, and continues to satisfy, all conditions and obligations set forth in the Indenture Agreement; and be it

FURTHER RESOLVED: That the City Council, at its sole discretion and at a future date not yet determined, may impose additional and continuing fees for use and occupancy of the public right-of-way; and be it

FURTHER RESOLVED: That the Permit authorized by this Resolution shall take effect when all the conditions and obligations set forth in the Indenture Agreement shall have been complied with to the satisfaction of the City Attorney and the City Engineer of the City of Oakland and shall become null and void upon the failure of the Permittee to comply with the conditions and obligations set forth in the Indenture Agreement, subject to the notice and cure provisions set forth therein, or upon a termination by resolution of the City Council as being in the City’s best interest; and be it

FURTHER RESOLVED: That the City Engineer is hereby directed to file a certified copy of this Resolution for recordation with the Office of the Alameda County Clerk-Recorder as an encumbrance of the title of the property identified above.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

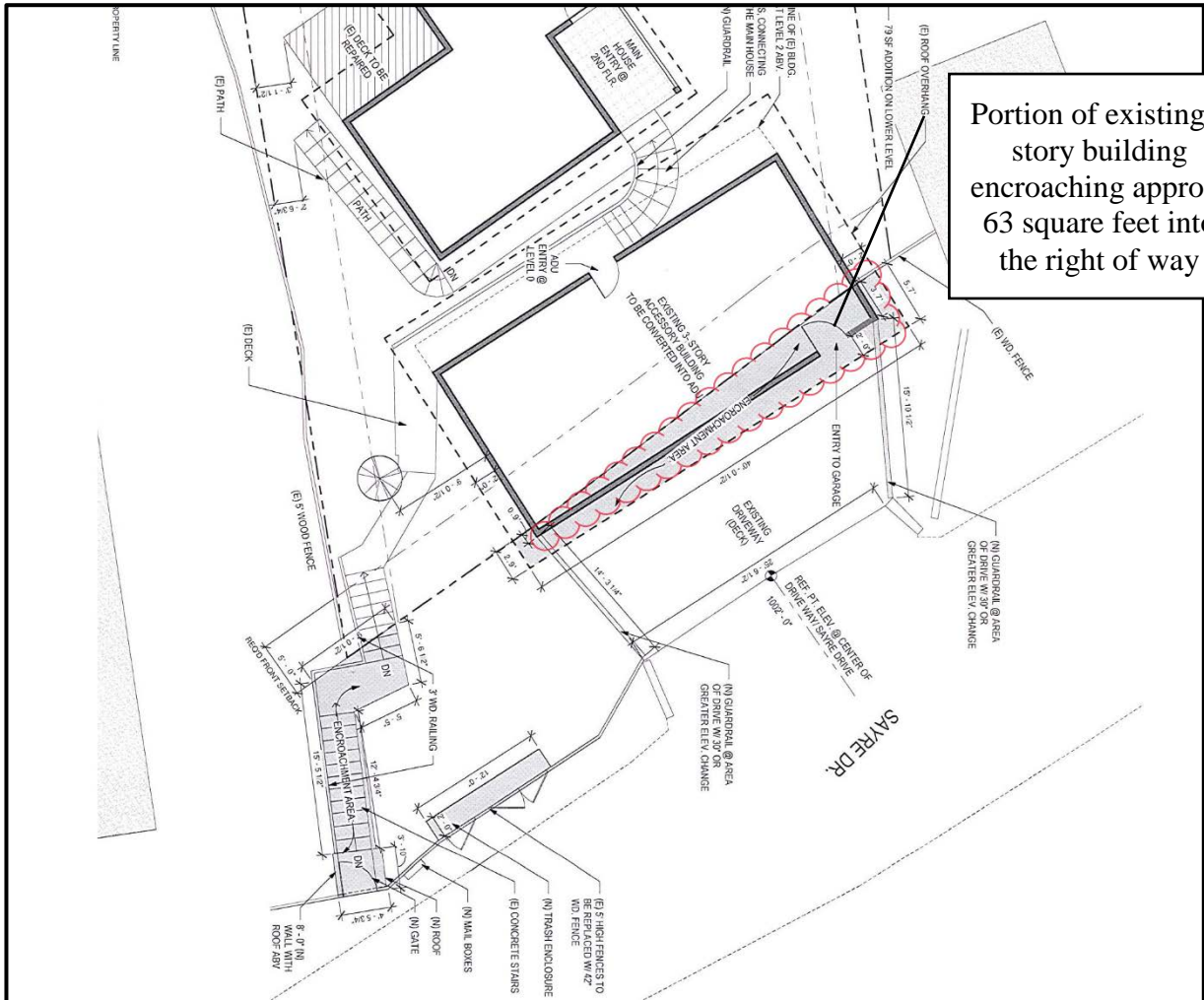
ATTEST: _____

Asha Reed
Acting City Clerk and Clerk of the Council
of the City of Oakland, California

Exhibit A: 7032 Sayre Drive Street Encroachment (2 pages)

Exhibit B: Indenture Agreement (9 pages)

EXHIBIT A: 7032 SAYRE DRIVE ENCROACHMENT



Portion of existing 3 story building encroaching approx. 63 square feet into the right of way

EXHIBIT A: CONTINUED

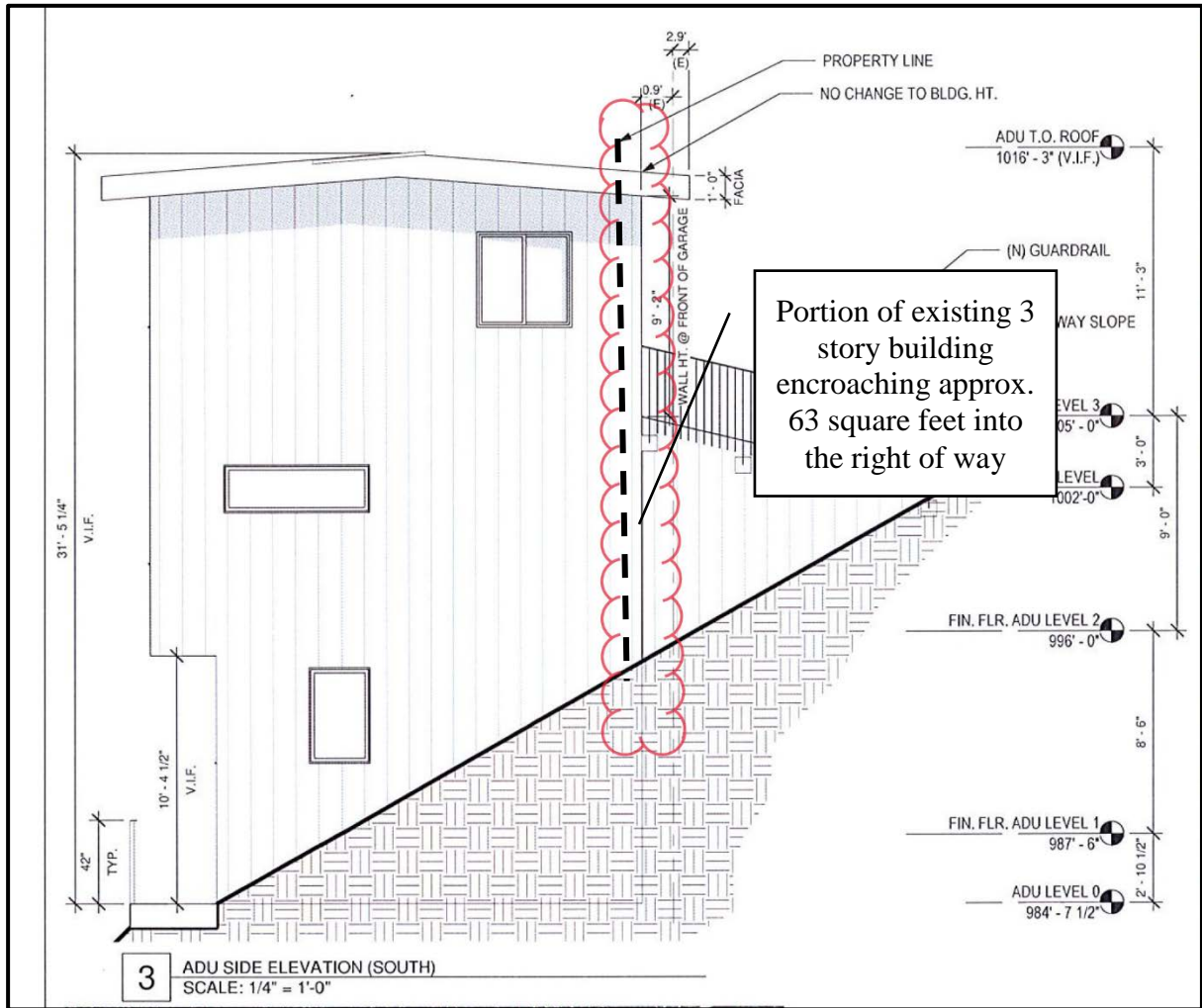


EXHIBIT B: INDENTURE AGREEMENT

(Attached Separately)