



# AGENDA REPORT

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

**FROM:** Ryan Russo  
Director, DOT

**SUBJECT:** Major Encroachment Permit at  
565 Sycamore Street

**DATE:** October 21, 2020

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City Administrator Approval 

Date: Nov 16, 2020

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## **RECOMMENDATION**

**Staff Recommends That The City Council Approve A Resolution Granting A Conditional And Revocable Major Encroachment Permit To Liberty26, LLC, To Allow A Portion Of An Existing Garage At 565 Sycamore Street To Encroach Into The Public Right-Of-Way On Sycamore Street, Major Encroachment Permit ENMJ20054.**

## **EXECUTIVE SUMMARY**

Approval of the proposed resolution will authorize the Director of the Department of Transportation (DOT) or designee to issue a conditional and revocable Major Encroachment Permit to document and regulate new and existing encroachments in the public right-of-way at 565 Sycamore Street.

The encroachment permit is to allow existing building elements consisting a portion of an existing garage to encroach into the right -of- way beyond the limits shown in the Oakland Building Code (section 15.04.3.2285).

The building elements encroaching into the public right-of-way are along Sycamore Street. The encroachments are existing 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.

## **BACKGROUND / LEGISLATIVE HISTORY**

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 3202.2.3 and for encroachments that exceed those limits.

The Planning and Building Department approved a tentative parcel map to convert three dwelling units to three residential condominiums at 565 Sycamore Street (PLN18316) on April 1<sup>st</sup>, 2019, subject to a condition that the applicant obtain a Major Encroachment Permit for or remove the existing garage encroaching into the right-of-way on Sycamore Street prior to recording the final Parcel Map. The applicant has petitioned for a Parcel Map (PM10879), triggering the requirement to meet this condition.

### **ANALYSIS AND POLICY ALTERNATIVES**

The garage encroaches approximately 4 inches into the public right-of-way on Sycamore street over a length of approximately 9 feet, with approximately 3 square feet of existing livable space encroaching into the right-of-way.

Approval will allow the property owner to quickly and cost effectively fulfill the conditional requirements of the Parcel Map. Approval will also help assuage the already crowded Bay Area housing market by allowing the parcel map to move forward, thereby creating additional housing. Denial of the encroachment may cause a financial hardship for the property owner and potentially cause the condominium conversion plan to stall because the encroaching structure will need to be removed.

**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 new and existing private improvements constructed in the public 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. 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.

The proposed encroachments are not currently expected to interfere with public use of the right-of-way or buried utilities and will 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 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*** – No significant impact on social equity is identified.

### **CEQA**

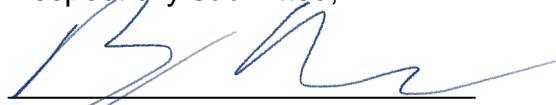
The California Environmental Quality Act (“CEQA”) and the CEQA Guidelines exempt specific types of projects from environmental review. The following CEQA exemptions apply to this encroachment under CEQA Guidelines sections 15301 (existing facilities), 15183 (projects consistent with a Community Plan, General Plan, or Zoning), and 15061(b)(3) (no significant effect on the environment).

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

Staff Recommends That The City Council Approve A Resolution Granting A Conditional And Revocable Major Encroachment Permit To Liberty26, LLC To Allow A Portion Of An Existing Garage At 565 Sycamore Street To Encroach Into The Public Right-Of-Way On Sycamore Street, Major Encroachment Permit ENMJ20054.

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

Reviewed by:  
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