



AGENDA REPORT


TO: Jestin D. Johnson
City Administrator

FROM: Josh Rowan, Director
Oakland Department of
Transportation

SUBJECT: Major Encroachment Permit at
1919 Peralta Street

DATE: April 15, 2024

City Administrator Approval


Jestin Johnson (May 2, 2024 06:39 PDT)

Date: May 2, 2024

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Granting A Conditional And Revocable Major Encroachment Permit To Prescott Properties I EDP, LLC, To Allow Two Building Access Ramps, And A Fire Service Water Backflow Preventor To Encroach Into The Public Right Of Way Fronting The Property At 1919 Peralta Street, Major Encroachment Permit ENMJ24053; And Adopting Appropriate California Environmental Quality Act Findings.

EXECUTIVE SUMMARY

Adoption of this proposed resolution will authorize the Oakland Department of Transportation (OakDOT) to issue a conditional and revocable Major Encroachment Permit (Permit) to the property owner, Prescott Properties I EDP, LLC (Permittee), to document and regulate existing sidewalk encroachments in the public right-of-way at 1919 Peralta Street.

The Permit will allow building elements consisting of two building access ramps and a fire service backflow preventor to encroach into the public right-of-way beyond the limits specified in the Oakland Building Code. The sidewalk encroachments occupy approximately 28 square feet of the sidewalk and do not currently interfere with public use of the right-of-way or buried utilities and do not endanger public welfare and convenience. The sidewalk encroachments are described in more detail in Exhibit A to the resolution.

Consistent with Oakland Municipal Code (OMC) Chapter 12.08, a Permit is required for all encroachments in the public right-of-way beyond the limits specified in the California Building Code (CBC) Section 3202.2. Such Permits are reviewed by OakDOT and approved and issued by the City Council. An Indenture Agreement between the City of Oakland (City) and Permittee, which sets out the conditions and obligations of the revocable Permit, is provided as Exhibit B to the resolution.

BACKGROUND / LEGISLATIVE HISTORY

In January 2022, the Building Department issued a permit (B2104683) for voluntary seismic upgrades, for new restrooms, to repair and refurbish existing windows, and to replace sidings. During building inspections, the Permittee was notified that building codes required building access ramps to be located at the building entrances, and that the East Bay Municipal Utility District (EBMUD) required a backflow preventor to be installed. The Building Department, in May 2023, completed a review for plan revision (BW23001807), and the Permittee complied with both requirements and installed the facilities.

In September 2023, the OakDOT issued a sidewalk repair permit (CGS2301634) for sidewalk repair work fronting the property. During a pre-construction meeting, the city inspector noted that the ADA ramp and backflow preventor encroached into the public right-of-way. The inspector notified the Permittee that a Major Encroachment approved by the City Council was required before any work could continue.

ANALYSIS AND POLICY ALTERNATIVES

Approval of the proposed resolution granting the Permit allows the Permittee to keep and maintain two building ramps and a fire service backflow preventor. It also promotes the Citywide priorities of **responsive, trustworthy government** by faithfully executing OMC 12.08.

The Permit will require that the property owner execute an indenture agreement with the City that indemnifies the City of liabilities related to the encroachment, establishes insurance and maintenance requirements, and acknowledges that the encroachment permit can be revoked at the City Council's discretion.

Denial of the Permit will cause financial hardship to the Permittee, who would need to remove the existing encroachments and make considerable building improvements to become code compliant. This will delay the project, which may result in abandoning it.

FISCAL IMPACT

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

PUBLIC OUTREACH / INTEREST

Public outreach for this Project occurred during the land use entitlement permitting phase in 2022.

COORDINATION

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

SUSTAINABLE OPPORTUNITIES

Economic: This Permit facilitates upgrades to the existing buildings, thereby improving the quality of Oakland's building stock, and potentially opening more space for jobs.

Environmental: Approval of the Permit will not directly impact the City's Environmental priorities.

Race & Equity: Approval of the Permit will not directly impact the City's Race and Equity priorities.

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 exemptions apply to this project, each of which provides a separate and independent basis for CEQA clearance: CEQA Guidelines section 15303 (New Construction or Conversion of Small Structures), CEQA Guidelines section 15332 (In-Fill Development Projects), and CEQA Guidelines section 15183 (Projects Consistent with a Community Plan or Zoning).

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution Granting A Conditional And Revocable Major Encroachment Permit To Prescott Properties I EDP, LLC, To Allow Two Building Access Ramps, And A Fire Service Water Backflow Preventor To Encroach Into The Public Right Of Way Fronting The Property At 1919 Peralta Street, Major Encroachment Permit ENMJ24053; And Adopting Appropriate California Environmental Quality Act Findings.

For questions regarding this report, please contact Ishrat Jahan, at IJahan@OaklandCA.gov.

Respectfully submitted,


Josh Rowan (May 1, 2024 10:40 PDT)

JOSH ROWAN
Director
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