



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Ryan Russo, Director
Oakland Department of
Transportation

SUBJECT: Major Encroachment Permit at
394 17th Street

DATE: August 24, 2021

City Administrator Approval

Date: Oct 6, 2021

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Granting A Conditional And Revocable Major Encroachment Permit To 1) Steven H. Banker And Jennifer J. Banker, And 2) Gary Bettencourt And Mari Bettencourt, As Trustees Of The Gary And Mari Bettencourt 2014 Trust, To Allow A New Upward Swinging Double Leaf Basement Access Door And A Portion Of An Existing Basement Below Grade To Encroach Into The Public Right-Of-Way On Franklin Street, Major Encroachment Permit ENMJ20055; And Making California Environmental Act Findings (CEQA).

EXECUTIVE SUMMARY

Approval of the proposed resolution will authorize the City Administrator, Director of the Department of Transportation or designee to issue a conditional and revocable Major Encroachment Permit to document and regulate existing encroachments in the public right-of-way at 394 17th Street.

The encroachment permit is to allow existing building elements consisting of a portion of a below grade enclosed habitable space (basement extending past the property line approximately 8.61 feet by approximately 19 feet wide, totaling to approximately 165 square feet) to encroach into the right of way beyond the limits provided for in the California Building Code (Section 3202.2). The encroachments are shown in Exhibit A to the Resolution.

BACKGROUND / LEGISLATIVE HISTORY

The original building, located at 394 17th Street, is a two story and one basement structure in the Downtown Oakland area built in 1925 (Property). The first floor consists of commercial space, while the top floor are offices.

When the Property owner (Applicant) inquired about replacing malfunctioning upward swinging double leaf doors, the Applicant was directed to Department of Transportation. Department of

City Council
October 19, 2021

Transportation staff informed the applicant that a Major Encroachment Permit was required for the doors and for portions of the building encroaching in the Public Right of Way. Oakland Municipal Code (OMC) Chapter 12.08 requires a Major Encroachment Permit for building elements encroaching into the public right-of-way beyond the allowed limits in the California Building Code (CBC) Section 3202.2. Under OMC Chapter 12.08, the Department of Transportation reviews, and the City Council approves Major Encroachment Permits.

ANALYSIS AND POLICY ALTERNATIVES

Existing building encroachments at 394 17th Street consist of portions of a basement extending past the property line approximately 8.61 feet by 19 feet, totaling approximately 165 square feet into the right-of-way along Franklin Street.

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 (Indenture Agreement) Exhibit B to the Resolution includes the Indenture Agreement to be executed between the City and Permittee and sets out the conditions and obligations of the revocable Major Encroachment Permit. This Permit and 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 Permit authorizes habitable space within the right-of-way, which in the future may need to be removed, and the Indenture Agreement requires the property owners to record a Notice to Prospective Purchasers of the enclosed habitable space. 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.

The anticipated use of the doors is once every few months to move items in and out of storage.

Approval of the proposed resolution will allow the property owner to continue with renovations of the existing building. Denial of the encroachment permit may cause financial hardship to the property owner, who would either need remove the encroachments or stop the renovation project.

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 the 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 – There are no social equity opportunities identified with this report.

CEQA

The California Environmental Quality Act (CEQA) and the CEQA Guidelines exempt specific types of projects from environmental review. The following CEQA Guidelines section 15301 (Existing Facilities) exemption applies to this project.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution Granting A Conditional And Revocable Major Encroachment Permit To Steven H. Banker And Jennifer J. Banker, And Gary Bettencourt And Mari Bettencourt, As Trustees Of The Gary And Mari Bettencourt 2014 Trust, To Allow A New Upward Swinging Double Leaf Basement Access Door And A Portion Of An Existing Basement Below Grade To Encroach Into The Public Right-Of-Way On Franklin Street, Major Encroachment Permit ENMJ20055; And Making California Environmental Act Findings (CEQA).

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

Respectfully submitted,



RYAN RUSSO

Director, Department of Transportation

Reviewed by:

Fred Kelley, Assistant Director, Department of Transportation

Reviewed by:

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Prepared and reviewed by:

Ishrat Jahan PE, Supervising Civil Engineer,
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