



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Fred Kelley,
Director, Oakland
Department of
Transportation

SUBJECT: Major Encroachment Permit At
6500 San Pablo Avenue

DATE: September 6, 2022

City Administrator Approval 

Date: Sep 8, 2022

RECOMMENDATION

Staff Recommends That The City Council Approve A Resolution Granting A Conditional And Revocable Major Encroachment Permit To 6500 San Pablo LLC, To Allow Portions Of Above Grade Enclosed Space To Encroach Into The Public Right Of Way Along 65th Street, Adjacent To 6500 San Pablo Avenue, Major Encroachment Permit ENMJ21053; And Making California Environmental Act Findings.

EXECUTIVE SUMMARY

Approval of this proposed resolution will authorize the City Administrator to issue a conditional and revocable Major Encroachment Permit to the developer, 6500 San Pablo LLC (Applicant), to document and regulate new encroachments in the public right of way at 6500 San Pablo Avenue. The development consists of a five-story, mixed-use building with 1,106 square feet of commercial space, and 10 residential units with 7 off-street parking spaces.

The Major Encroachment Permit will allow new building elements consisting of approximately 545 square feet of livable space and a portion of an emergency stairwell to encroach into the public right of way beyond the limits specified in California Building Code (section 32). The Major Encroachment Permit requires the property owners to comply with the conditions of approval issued by the Planning and Building Department.

The building elements 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 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 California Building Code Section 3202.2.3 and for encroachments that exceed those limits.

The Planning Department has approved the development (record number [PLN17067](#) and [PLN18055](#)) to allow for a lot line adjustment and create a five-story mixed-use building with 1,106 square feet of commercial space, and 10 residential units with 7 off-street parking spaces. Upon submission for building permits, applicants were informed that they must first obtain off-site infrastructure approval (PX1900038) and Major Encroachment Permit approval (ENMJ21053) prior to building permit approval (B1903145).

ANALYSIS AND POLICY ALTERNATIVES

Exhibit B to the Resolution is the Indenture Agreement to be executed between the City and the Applicant, 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 right-of-way and allows for construction and maintenance of encroachments.

The Major Encroachment Permit includes an Indenture 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 and/or Tenants 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.

Approximately 545 square feet of enclosed space will encroach into the public right of way air space, 14'-4" above the sidewalk level. 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.

Allowing this major encroachment to proceed advances the Citywide priority of housing, economic, and cultural security, as this will allow the new development of 10 residential units and 1,106 square feet of commercial space along the San Pablo corridor. The subject project has contributed to equity programs through payments of the Affordable Housing Impact fee, Transportation Impact fee, Capital Improvements Impact fee, and School taxes. The subject parcel is currently a vacant lot and allowing this encroachment to proceed will encourage infill development, as outlined in Objective N3.2 of the Oakland General Plan.

FISCAL IMPACT

There is no fiscal impact to the City associated with this Major Encroachment Permit, as the City costs are covered by the Master Fee Schedule.

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 and agenda report were 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 overall conditions in Oakland.

Environmental: No significant impact on the environment is identified.

Race & Equity: The subject project has contributed to equity programs through payments of the Affordable Housing Impact fee, Transportation Impact fee, Capital Improvements Impact fee, and School taxes.

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 exemption applies to this project, each of which provides a separate and independent basis for CEQA clearance: CEQA Guidelines section 15332 (In-Fill Development Projects) and 15183 (Projects Consistent with a Community Plan or Zoning).

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends The City Council Approve A Resolution Granting A Conditional And Revocable Major Encroachment Permit To 6500 San Pablo LLC, To Allow Portions Of Above Grade Enclosed Space To Encroach Into The Public Right Of Way Along 65th Street, Adjacent To 6500 San Pablo Avenue, Major Encroachment Permit ENMJ21053; And Making California Environmental Act Findings.

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

Respectfully submitted,


Fred Kelley (Sep 8, 2022 08:51 PDT)

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