



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Fred Kelley, Director
Oakland Department of
Transportation

SUBJECT: Major Encroachment Permit at
6570 Girvin Drive

DATE: September 2, 2022

City Administrator Approval

Date: Sep 27, 2022

RECOMMENDATION

Staff Recommends That The City Council Approve A Resolution Granting A Conditional And Revocable Major Encroachment Permit ENMJ22051 To Viorel Bogdan, To Allow Portions Of Earth Retaining Structures To Encroach Into The Public Right Of Way Along Girvin Drive, Adjacent To 6570 Girvin Drive; And Adopting Appropriate California Environmental Quality Act Findings.

EXECUTIVE SUMMARY

Approval of this resolution will authorize the City Administrator to issue a conditional and revocable Major Encroachment Permit (Permit) to property owner, Viorel Bogdan (Permittee), to document and regulate new encroachments in the public right of way at the property located at 6570 Girvin Drive associated with development of a new single family home. The development consists of a five story, five-bedroom, 3,964 square foot single family residence with a two-car garage.

The Permit will allow new building elements consisting of a portion of two earth retaining walls to encroach into the public right of way beyond the limits specified in California Building Code and Oakland Municipal Code (OMC).

The retaining wall 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 Permit requires the property owner 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

OMC Chapter 12.08 requires a major encroachment permit for encroachment into the public right-of-way.

City Council
October 04, 2022

Permittee applied for and the Planning and Building Department has approved the development (record number PLN20020) to allow for the construction of a new single-family residence with attached garage. Upon submission for building permits, applicants were informed that they must first obtain major encroachment permit approval (ENMJ22051) prior to building permit approval (RBC2003383).

The approved plans include an earth retaining structure that encroaches into the public right of way. Per OMC Chapter 12,08, Permittee applied for a Permit for this encroachment.

ANALYSIS AND POLICY ALTERNATIVES

The Permit requires an Indenture Agreement to be executed between the City and Permittee, which sets out the conditions and obligations of the Permit (see Exhibit B to the attached proposed Resolution). 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. It also allows 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 Department of Transportation, Engineering Services staff to include other conditions, as the location and nature of the proposed encroachments may require for the public health, safety and appearance.

As part of the approved development, the west retaining wall will encroach approximately eighteen feet, seven inches into the public right of way and the east wall will encroach approximately ten feet, seven inches into the public right of way.

The retaining walls are vital to the structure's design and access. If the major encroachment is not approved, a major redesign would need to happen.

The proposed encroachments are not expected to interfere with public use of the right-of-way or buried utilities and will not endanger the public welfare and convenience.

Approval of the proposed encroachments promotes the Citywide policy of Housing, Economic & Cultural Security because the encroachments are an essential structural to the design of a future single family home, and promotes the policy of Responsive, Trustworthy Government by allowing Staff to work directly with the property owner to present this item to the City Council

FISCAL IMPACT

There is no fiscal impact to the City associated with this 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 Permittee.

PUBLIC OUTREACH / INTEREST

This item did not require special public outreach other than the required posting on City's website.

COORDINATION

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

SUSTAINABLE OPPORTUNITIES

Economic: The Permit facilitates private development improving the overall economic conditions in Oakland

Environmental: There are no environmental opportunities associated with this report.

Race & Equity: The Permit facilitates a private development which has contributed to the following social equitable funds; School Tax, School Tax (city), Affordable Housing Impact, Capital Improvements Impact, and Transportation Impact

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 applies 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 Approve A Resolution Granting A Conditional And Revocable Major Encroachment Permit ENMJ22051 To Viorel Bogdan, To Allow Portions Of Earth Retaining Structures To Encroach Into The Public Right Of Way Along Girvin Drive, Adjacent To 6570 Girvin Drive; And Adopting Appropriate California Environmental Quality Act Findings.

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

Respectfully submitted,

Fred Kelley

[Fred Kelley \(Sep 26, 2022 13:22 PDT\)](#)

FRED KELLEY
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