

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION GRANTING A CONDITIONAL AND REVOCABLE MAJOR ENCROACHMENT PERMIT TO COREY B. MCCANTS AND MONIQUE S. SPYKE TO ALLOW PORTION OF AN EXISTING TWO-STORY RESIDENTIAL BUILDING TO ENCROACH INTO THE PUBLIC RIGHT-OF-WAY ALONG INYO AVENUE, FRONTING THE PROPERTY AT 2340 EAST 24TH STREET, MAJOR ENCROACHMENT PERMIT ENMJ24055; AND ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, Corey B. McCants and Monique S. Spyke (Permittees) are the owners of the real property known as 2340 E 24th Street and as described in a Grant Deed recorded March 28, 2023, by the Alameda County Clerk-Recorder and identified by the Alameda County Assessor as APN: 026-0779-018-03 (Property); and

WHEREAS, the Permittee owns the existing two-story residential building on the Property with a portion of the existing building structure encroaching into the public right-of-way (Encroachment); and

WHEREAS, Oakland Municipal Code (OMC) Section 12.08.100 requires that all encroachments preserve a minimum pedestrian clear space of five and one-half (5.5) feet; and

WHEREAS, OMC Section 12.08.070 allows City Council to prescribe additional conditions on the approval of a Major Encroachment Permit; and

WHEREAS, Staff has determined, based on review of the plans and investigation of the Property and area of the existing encroachments, that the encroachment does not preclude five and one-half (5.5) feet for pedestrian access and will not endanger public welfare, convenience, and access; and

WHEREAS, Staff has further determined, based on review of the plans and investigation of the Property and the area of the Encroachment, that the location of the Encroachment does not interfere with the public use of the roadway, sidewalk, buried utilities; and

WHEREAS, this action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15301 (existing facilities), 15183 (Project

Consistent with a Community Plan or Zoning), and 15061(b)(3) (no significant effect to the environment), each as a separate and independent basis; now, therefore, be it

RESOLVED: That the City Council has reviewed all relevant documents relating to its granting of this permit; and be it

FURTHER RESOLVED: That the City Council finds and determines that the decision made hereby is exempt from CEQA, on a separate and independent basis pursuant to CEQA Guidelines sections 15301 (existing facilities) and 15061 (b)(3) (no significant effect on the environment) and therefore, the decision made hereby is made in conformance with the requirements of CEQA; and be it

FURTHER RESOLVED: That the City Council grants to the Permittee a conditional and revocable Permit to allow the Encroachments, which shall take effect only upon the City and Permittee entering into an Indenture Agreement in substantially the same form as attached hereto as *Exhibit B* (Indenture Agreement), the conditions therein being incorporated into the Permit; and be it

FURTHER RESOLVED: That the City Council, at its sole discretion and at a future date not yet determined, may imposed additional and continuing fees for use and occupancy of the Public Right of Way; and be it

FURTHER RESOLVED: That the Permit authorized by this Resolution shall take effect when all the conditions and obligations set forth in the Indenture Agreement shall have been complied with to the satisfaction of the City of Oakland City Attorney and the City of Oakland City Engineer, and shall become null and void upon the failure of the Permittee to comply with the conditions and obligations set forth in the Indenture Agreement, subject to the notice and cure provisions set forth therein, or upon termination by resolution of the City Council as being in the City's best interest; and be it

FURTHER RESOLVED: That the City Engineer is hereby directed to file a copy of the executed Indenture Agreement for recordation with the Office of the Alameda County Clerk-Recorder as an encumbrance of the title of the Property identified above.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

