




AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Ryan Russo
Director, DOT

SUBJECT: Major Encroachment Permit at
2327 San Pablo Avenue

DATE: January 27, 2021

City Administrator Approval 

Date: Mar 10, 2021

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Granting A Conditional And Revocable Major Encroachment Permit To 2327 San Pablo, LLC, To Allow Three Existing Outward Swinging Doors And Portions Of The Existing Building Above Grade At 2327 San Pablo Avenue To Encroach Into The Public Right- Of-Way On San Pablo Avenue, Major Encroachment Permit Enmj20056; And California Environmental Act Findings (CEQA).

EXECUTIVE SUMMARY

Approval of the proposed resolution will authorize the City Administrator, Director of the Department of Transportation (DOT) or designee to issue a conditional and revocable Major Encroachment Permit to document and regulate existing encroachments in the public right-of-way at 2327 San Pablo Avenue.

The encroachment permit is to allow existing building elements consisting a portion of a enclosed habitable space and outward swinging doors to encroach into the right of way beyond the limits shown in the California Building Code (Section 3202.2 and Section 3202.3).

BACKGROUND / LEGISLATIVE HISTORY

Applicant petitioned for and obtained approval for a Building Permit (B1901546) to perform building renovations. Building inspector informed the applicant to obtain a Major Encroachment Permit for encroaching on a portion of the building and outward swinging doors. 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 and Section 3202.3.

ANALYSIS AND POLICY ALTERNATIVES

The doors encroach approximately three (3) feet into the right-of-way. The building elements encroach approximately three and a half (3.5) feet, with approximately eighty (80) square feet of existing livable space above ground encroaching into the right-of-way.

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

Exhibit B to the Resolution is the Indenture Agreement to be executed between the City and Permittee, 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 new and existing private improvements constructed in the public right-of-way and allows for construction and maintenance of encroachments.

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. 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 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.

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

Resolution Granting A Conditional And Revocable Major Encroachment Permit To 2327 San Pablo, LLC, To Allow Three Existing Outward Swinging Doors And Portions Of The Existing Building Above Grade At 2327 San Pablo Avenue To Encroach Into The Public Right- Of- Way On San Pablo Avenue, Major Encroachment Permit Enmj20056; And California Environmental Act Findings.

For questions regarding this report, please contact Chong Hong, Acting Engineering Supervisor Design and Right-of-Way at (510) 238-3892.

Respectfully submitted,



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Director, Department of Transportation

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