

CITY OF OAKLAND

AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Ryan Russo, Director
Dept. of Transportation

SUBJECT: Major Encroachment Permit at
810 Walker Avenue

DATE: May 28, 2021

City Administrator Approval

Date: Jul 8, 2021

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Granting A Conditional And Revocable Major Encroachment Permit To Steven L. Nierlich And Tienne E. Lee, Trustees Of The Steven L. Nierlich And Tienne E. Lee Year 2002 Revocable Trust, To Allow Portions Of The Existing Building To Encroach Into The Public Right-Of-Way At 810 Walker Avenue, Major Encroachment Permit Enmj20057; And Making California Environmental Act Findings.

EXECUTIVE SUMMARY

Approval of the proposed resolution will authorize the City Administrator to issue a conditional and revocable Major Encroachment Permit to document and regulate the existing encroachment of the two building corners in the public right-of-way at 810 Walker Avenue, adjacent to Vermont Street. The encroachment permit is to allow existing building elements consisting of a portion of an enclosed habitable space (two corners extending past the property line approximately 1.79 feet and 0.95 feet, totaling approximately thirty-nine and one half (39.5) 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 existing building is a five unit, three story, 6,832 square foot structure built in 1921. All of the building elements encroaching into the public right-of-way are from the original construction.

The Applicant petitioned for Zoning Review (DRX201362) to perform building renovations on November 23, 2020. Planning staff informed the applicant that he needed to obtain a Major Encroachment Permit is required 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.

City Council
July 20, 2021

ANALYSIS AND POLICY ALTERNATIVES

Existing building encroachments at 810 Walker Avenue consist of portions of two corners extending past the property line approximately 1.79 feet and 0.95 feet, totaling approximately thirty-nine and one half (39.5) square feet into the right-of-way along Vermont 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 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. 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.

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.

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

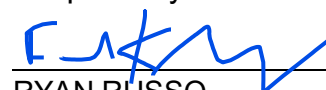
The California Environmental Quality Act (CEQA) and the CEQA Guidelines exempt specific types of projects from environmental review. CEQA Guidelines section 15301 (Existing Facilities) exemption applies to this project.

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 L. Nierlich And Tienne E. Lee, Trustees Of The Steven L. Nierlich And Tienne E. Lee Year 2002 Revocable Trust, To Allow Portions Of An Existing Building At 810 Walker Avenue To Encroach Into The Public Right-Of-Way Along Vermont Street, Major Encroachment Permit ENMJ20057; And California Environmental Act Findings (CEQA).

For questions regarding this report, please contact Joseph Palacio, Engineer Assistant II, at (510) 238-7256.

Respectfully submitted,



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Director, Department of Transportation

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