

File No. 120704

Committee Item No. 1

Board Item No. \_\_\_\_\_

# COMMITTEE/BOARD OF SUPERVISORS

## AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date December 3, 2012

Board of Supervisors Meeting Date \_\_\_\_\_

### Cmte Board

- |                                     |                          |  |
|-------------------------------------|--------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/>            | <input type="checkbox"/> | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Legislative Analyst Report                   |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/> | Introduction Form                            |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Public Correspondence                        |

### OTHER (Use back side if additional space is needed)

- |                                     |                          |   |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | DPW Order No. 180198                      |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Street Encroachment Agreement             |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | General Plan Referral Letter, dtd 2/17/12 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Notice of Public Hearing                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____                                     |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____                                     |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____                                     |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____                                     |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____                                     |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____                                     |

Completed by: Alisa Miller Date November 30, 2012

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

An asterisked item represents the cover sheet to a document that exceeds 25 pages.  
The complete document can be found in the file.

1 [Approving Street Encroachment - 10 Niantic Avenue]

2  
3 **Resolution overturning Department of Public Works' recommendation for disapproval**  
4 **and granting revocable permission to Lee Yun Ling & Cindy Zhou, for the occupancy of**  
5 **a portion of the public right-of-way of a portion of a new single family dwelling**  
6 **encroaching 3-feet into the public right-of-way at 10 Niantic Avenue (Block No. 7178,**  
7 **Lot No. 001), conditioned upon the payment of an annual assessment fee as prescribed**  
8 **under Article 15, Section 786.7 of the Public Works Code; this project is consistent with**  
9 **the General Plan Referral and General Planning Code, Section 101.1.**

10  
11 WHEREAS, Pursuant to Public Works Code Section 786, permission was requested by  
12 Jaidin Consulting Group, agent for the owner, Lee Yun Ling & Cindy Zhou to occupy a portion  
13 of the public right-of-way for a new single family dwelling encroaching 3-feet into the public  
14 right-of-way at 10 Niantic Avenue, as shown on the plans, a copy of which is on file in the  
15 office of the Clerk of the Board of Supervisors in File No. 120704; and

16 WHEREAS, San Francisco Municipal Transportation Agency (SFMTA), at the  
17 September 13, 2011 of the Transportation Advisory Staff Committee (TASC), recommended  
18 that this project be re-addressed back to the appropriate City agencies; Planning Department  
19 and Department of Building Inspection for further review and action. SFMTA has  
20 recommended that the Permittee install "Dead End" signs to minimize unnecessary traffic and  
21 mitigate potential vertical clearance issues, especially for large vehicles; and

22 WHEREAS, The Department of City Planning, by letter dated February 17, 2012,  
23 declared that the proposed encroachment is in conformity with the General Plan and to the  
24 priority policies of Planning Code Section 101.1. A copy of said letter is on file with the Clerk  
25 of the Board of Supervisors in File No.120704, and is incorporated herein by reference; and

1           WHEREAS, At a duly noticed public hearing on March 28, 2012, the Department of  
2 Public Works recommended disapproval of the proposed encroachment; and

3           WHEREAS, Notwithstanding the determination set forth above, it is the decision of the  
4 Board of Supervisors that the proposed encroachment is in the best interest of the general  
5 public, is desirable and convenient with the owner's use and enjoyment of its property, and is  
6 appropriate use of the public right-of-way; and

7           WHEREAS, The permit and associated encroachment agreement, which are  
8 incorporated herein by reference and attached hereto as Exhibit A, shall not become effective  
9 until:

10           (a) The Permittee executes and acknowledges the permit and delivers said permit to  
11 the City's Controller, and

12           (b) Permittee delivers to the City Controller a policy of insurance provided for in said  
13 agreement and the Controller shall have had approved the same as complying with the  
14 requirement of said agreement. The Controller may, in his discretion, accept, in lieu of said  
15 insurance policy, the certificate of an insurance company certifying to the existence of such a  
16 policy; and,

17           (c) The City Controller records the permit and associated agreement in the office of the  
18 County Recorder; and

19           WHEREAS, The Permittee, at the Permittee's sole expense and as is necessary as a  
20 result of this permit, shall make the following arrangements:

21           (a) To provide for the support and protection of facilities belonging to the Department of  
22 Public Works, San Francisco Water Department, the San Francisco Fire Department and  
23 other City Departments, and public utility companies; and  
24  
25

1 (b) To remove or relocate such facilities and provide access to such facilities for the  
2 purpose of constructing, reconstructing, maintaining, operating, or repairing such facilities;  
3 and

4 WHEREAS, The Permittee shall procure the necessary permits from the Central Permit  
5 Bureau, Department of Building Inspection and/or Bureau of Street-Use and Mapping,  
6 Department of Public Works, and pay the necessary permit fees and inspection fees before  
7 starting work; and

8 WHEREAS, The Board of Supervisors shall implement an annual assessment fee as  
9 required under Article 15, Section 786.7 of the Public Works Code for the use of said right-of-  
10 ways, as adjusted per Article 2.1 of said code; and

11 WHEREAS, The Permittee shall assume all costs for the maintenance and repair of the  
12 encroachments and no cost or obligation of any kind shall accrue to the City and County of  
13 San Francisco by reason of this permission granted; now, therefore be it

14 RESOLVED, That pursuant to Public Works Code Section 786, the Board of  
15 Supervisors hereby grants permission, revocable at the will of the Director of the Department  
16 of Public Works, to Lee Yun Ling and Cindy Zhou to occupy a portion of the public right-of-  
17 way of a portion of a new single family dwelling encroaching 3-feet into the public right-of-way  
18 at 10 Niantic Avenue (Block 7178, Lot 001), conditioned upon the payment of an annual  
19 assessment fee per Article 15, Section 786.7 and adjusted annually per Article 2.1 of said  
20 code, submittal of a complete DPW Street Improvement permit application for reconstruction  
21 of new curbs and sidewalk fronting both Niantic Avenue and Panama Street and a final signoff  
22 on their Building Permit Application; and, be it

23 FURTHER RESOLVED, That said permit is consistent with the priority policies of  
24 Planning Code Section 101.1. A copy of said findings is on file with the Clerk of the Board of  
25 Supervisors in the File No. 120704.



Edwin M. Lee, Mayor  
Mohammed Nuru, Director

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

2012 JUN 14 AM 9:26

BY RPC



Jerry Sanguinetti, Bureau Manager

May 31, 2012

Angela Calvillo, Clerk of the Board  
Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689

Dear Ms. Calvillo:

Attached please find an original and four copies of two (2) separate Resolutions for Board of Supervisors consideration, either affirming or overturning the Department of Public Works' recommendation to disapprove granting revocable permission to Lee Yun Ling & Cindy Zhou to occupy a portion of the public right-of-way with a portion of a new single family dwelling encroaching 3-feet into the public right-of-way at 10 Niantic Avenue (Block 7178, Lot 001).

Pursuant to Section 786 of the Public Works Code, the proposed Major Encroachment Permit was requested in a letter dated July 1, 2011 from Jaidin Consulting Group, authorized agent for the property owners.

San Francisco Municipal Transportation Agency (SFMTA), at the September 13, 2011 of the Transportation Advisory Staff Committee (TASC), recommended that this project be re-addressed back to the appropriate City agencies; Planning Department and Department of Building Inspection for further review and action. SFMTA has recommended that the Permittee install "Dead End" signs to minimize unnecessary traffic and mitigate potential vertical clearance issues, especially for large vehicles. The Planning Department, by letter dated February 29, 2012, declared that the proposed encroachment is in conformity with the General Plan and with the priority policies of Planning Code Section 101.1.

On March 28, 2012, DPW held a public hearing on this matter and there one person who testified against the existing building encroachment.

The following is a list of accompanying documents (five sets):

- Letter from Jaidin Consulting Group, LLC to Department of Public Works dated June 28, 2011
- Letter from Jaidin Consulting Group, LLC to City Planning dated June 28, 2011
- DPW Order No. 180,198, approved April 24, 2012 outlining the Director of Public Works' recommendation concerning the subject encroachment.
- A plan prepared by Transamerican Engineers showing the 3-foot building encroachment

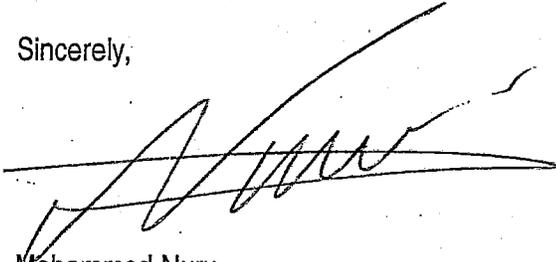


- A color picture showing the current site conditions
- Signed and notarized copy of the Street Encroachment Agreement, executed by Yun Ling Lee, Cindy Zhou Lee and Yin Kwan Tam, dated May 29, 2012.

The following person may be contacted regarding this matter at:

Mr. Clinton Choy  
Bureau of Street-Use and Mapping  
(415) 554-5891

Sincerely,

A handwritten signature in black ink, appearing to read 'Mohammed Nuru', written over a horizontal line.

Mohammed Nuru  
Director of Public Works

Attachments: As Noted

 J Aidin Consulting Group, LLC

June 28, 2011

Department of Public Works  
Bureau of Street-Use and Mapping  
875 Stevenson Street, Room 460  
San Francisco, CA 94103-0942

**Address:** 10 Niantic Avenue @ Panama Street  
**Assessor's Parcel #:** Block 7176 / Lot 001  
**Zoning District:** RH-1  
**Application:** Major Encroachment

To Whom It May Concern:

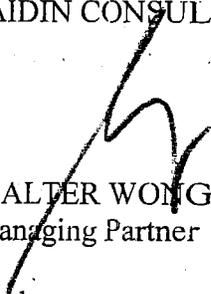
Jaidin Consulting Group, LLC, represents the property owner and project sponsor of 10 Niantic Avenue, Mr. Lee Yun Lee, in submitting this major encroachment application.

Enclosed please find the following application and supporting documentation:

- General Plan Referral letter to the Planning Department
- General Plan Referral Application
- Corrected survey by Transamerican Engineers showing the encroachment
- Building Permit Application 200411290241S for construction of 10 Niantic
- Reduced size copy of approved plans (sheets A1 to A6) for 200411290241S showing original (incorrect) survey
- Grant Deed documents dedicating this portion of Panama Street to the City
- Photographs showing the affected street and subject property
- \$3,881.62 check payable to Department of Public Works
- \$3,310.00 check payable to Department of City Planning

Please contact us at (415) 863-3888 if you have any questions.

Sincerely,  
JAIDIN CONSULTING GROUP, LLC

  
WALTER WONG  
Managing Partner

Encl.

 J Aidin Consulting Group, LLC

June 28, 2011

General Plan Referrals - Attention: Maria Oropeza-Singh  
Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

**Address:** 10 Niantic Avenue @ Panama Street  
**Assessor's Parcel #:** Block 7176 / Lot 001  
**Zoning District:** RH-1  
**Planning Application:** General Plan Referral  
Major Encroachment

Dear Ms. Oropeza-Singh:

Jaidin Consulting Group, LLC represents the property owner and project sponsor of 10 Niantic Avenue, Mr. Lee Yun Lee, in submitting the attached General Plan Referral Application for a Major Encroachment.

This application will allow for the retention of a newly constructed single family residence at 10 Niantic Avenue and Panama Street. A portion of this building was constructed on Panama Street, including an encroachment of 105 square feet (a strip measuring 3' wide by 35' long). This encroachment was the result of a survey error that was not discovered until the final building inspection.

It appears that this original survey error was made by Transamerican Engineers because a portion of Panama Street was previously private property, and later dedicated to the public in 2000 by an adjacent residential development.

We believe approval of the proposed major encroachment will have no negative impact on the surrounding neighborhood. The subject property is located in an RH-1 (Single-Family Residential) District and the new building was constructed in full compliance with the underlying zoning controls.

This single family dwelling complies with all City Codes and conforms to the policies and guidelines set forth within the General Plan; adding a new family sized home to the City's housing stock. The construction of the property was undertaken with an approved Building Permit (200411290241S); which was signed off by the Department of City Planning. Clearly, it would be an economical hardship to demolish, redesign, and rebuild this property.

Since the survey error was discovered, the property owner has been engaged in discussions with the City to rectify the situation and legalize the construction. At the advice of the Department of Public Works, the property owner is proceeding with the Major Encroachment Application.

Enclosed with this application are the following documents:

- Corrected survey by Transamerican Engineers showing proposed encroachment
- Building Permit Application (200411290241S) for the construction of 10 Niantic
- Reduced size copy of approved plans (sheets A1 to A6) for 200411290241S showing original (incorrect) survey
- Grant Deed documents dedicating this portion of Panama Street to the City
- Photographs showing the affected street and subject property
- \$3,310.00 check payable to Department of City Planning

Please contact us at (415) 863-3888 if you have any questions.

Sincerely,

JAIDIN CONSULTING GROUP, LLC



WALTER WONG  
Managing Partner

Encl.



BUREAU OF STREET-USE & MAPPING  
875 Stevenson Street, Room 460  
San Francisco CA 94103  
(415) 554-5810 ■ www.sfdpw.org



Edwin M. Lee, Mayor  
Mohammed Nuru, Director

Jerry Sanguinetti, Bureau Manager

**DPW Order No: 180198**

DIRECTOR'S DECISION FOR MAJOR ENCROACHMENT PERMIT (11ME-0003) FOR OCCUPYING A PORTION OF A NEW SINGLE-FAMILY DWELLING ENCROACHING 3-FEET IN THE PUBLIC RIGHT-OF-WAY (SIDEWALK) AT 10 NIANTIC AVENUE (AB 7178/001).

**APPLICANT:** Jaidin Consulting Group  
Attn: Kam Li  
205 13<sup>th</sup> Street  
San Francisco, CA 94103

**DESCRIPTION OF REQUEST:** Major Encroachment Permit

**BACKGROUND:**

1. The applicant filed a Major Encroachment application with the Department of Public Works (DPW) on July 1, 2011.
2. DPW sent out the permit referrals to SFMTA (San Francisco Municipal Transportation Agency) for a TASC (Transportation Advisory Street Committee) decision and City Planning for conformity of the General Plan on July 13, 2011.
3. TASC has recommended City Planning and Department of Building Inspection to re-address the unpermitted encroachment on September 13, 2011. SFMTA has ordered "Dead End" signs to minimize unnecessary traffic and vertical clearance especially for large vehicles.
4. City Planning recommended the encroachment to be in conformity with the General Plan (Case # 2011.0734R) in a memo dated February 17, 2012.
5. DPW mailed out a notice for a public hearing on February 29, 2012 to all the property owners within a 300-foot radius of the subject property.
6. A public hearing was held on March 28, 2012 to move the permitting process forward to the Board of Supervisors.
7. Hearing Officer, Mr. Kevin Day, conducted and considered testimony regarding the encroachment permit.
8. One (1) person testified at the hearing in opposition to the encroachment; citing there is no safe path of travel for pedestrians, no emergency vehicles can enter Panama



Street, sewer collapsing part of the street and three (3) families are occupying the building already.

**RECOMMENDATION:** RECOMMENDED for DISAPPROVAL of the request for the location at 10 Niantic Avenue and forward to the Board of Supervisors for a decision based on the following findings:

**FINDING 1:** The encroachment is not an appropriate use of the public right-of-way.

**FINDING 2:** There is no safe path of travel for pedestrians separating them from vehicular traffic. Citizens have to walk in the street.

**FINDING 3:** The bay window is low and encroaching into the street providing little room for emergency vehicles to access the properties on Panama Street.

4/23/2012

X 

Sanguinetti, Jerry  
Bureau Manager

4/24/2012

X 

Sweiss, Fuad  
Deputy Director and City Engineer

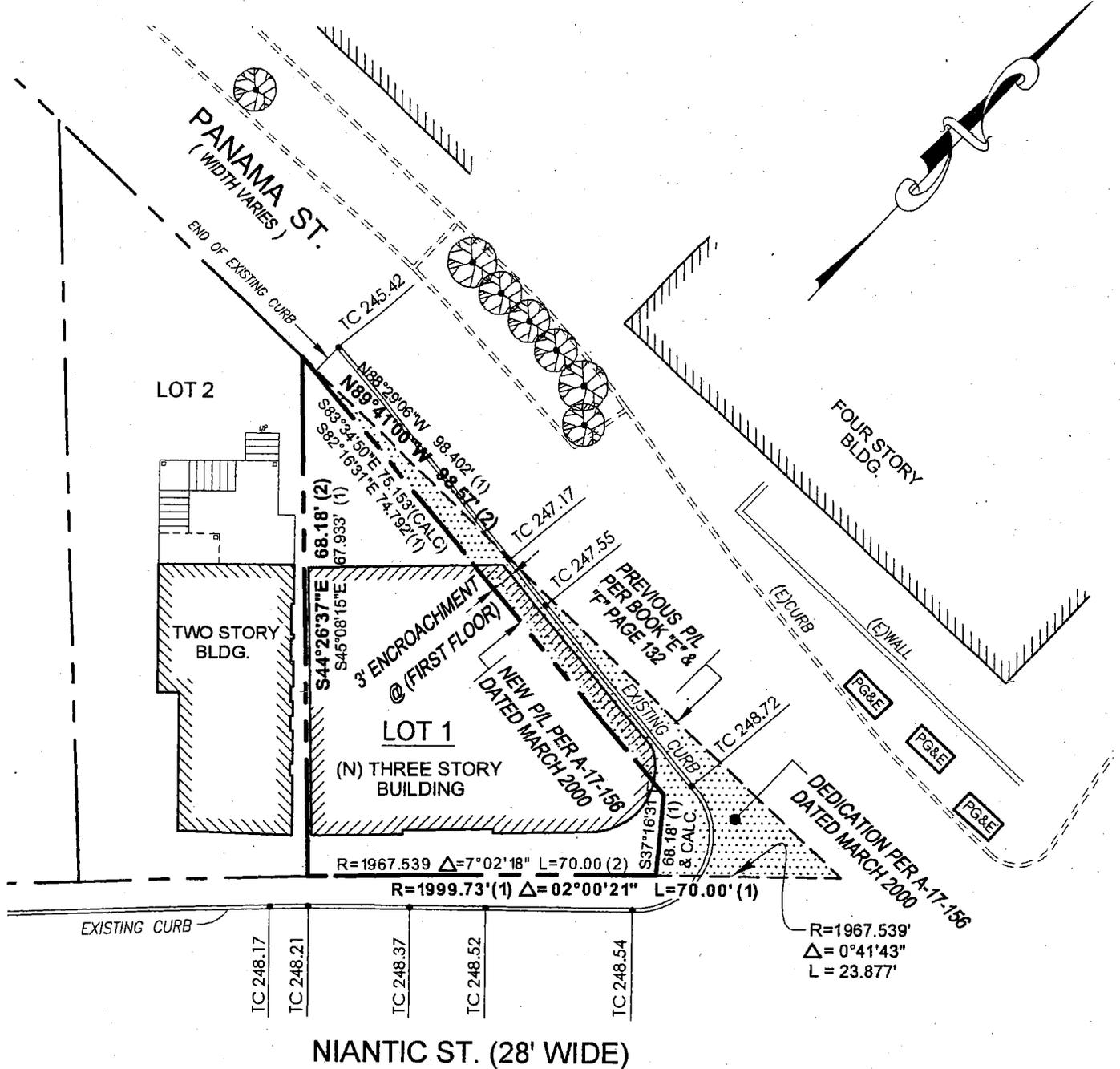
4/24/2012

X Mohammed Nuru

Nuru, Mohammed  
Director, DPW



# ASSESSOR'S BLOCK No. 7178



NIANTIC ST. (28' WIDE)

**LEGEND**

- PROPERTY LINE (P.I.Q.)
  - PROPERTY LINE (OTHERS)
  - BUILDING LINE
- (1) PER BOOK "E" & "F" PAGE 132  
 (2) PER A-17-156

Tel No. 415-553-4099  
 Fax No. 415-553-4071

**TRANSAMERICAN ENGINEERS**  
 1390 MARKET ST., SUITE 201, SAN FRANCISCO, CA. 94102

EMAIL: HA@TRANSAMERICANENGINEERS.COM

Date: \_\_\_\_\_

APPROVED BY: \_\_\_\_\_  
 L.S. 3075

**SKETCH PLAN SHOWING MAJOR ENCROACHMENT**  
 3 FOOT ENCROACHMENT  
 BY A SINGLE FAMILY RESIDENTIAL BUILDING  
 AT GROUND LEVEL ON TO PANAMA STREET  
 MAP OF HILLCREST, BLOCK 20, LOT 10  
 ALSO BEING ASSESSOR'S BLOCK No. 7178, LOT 1

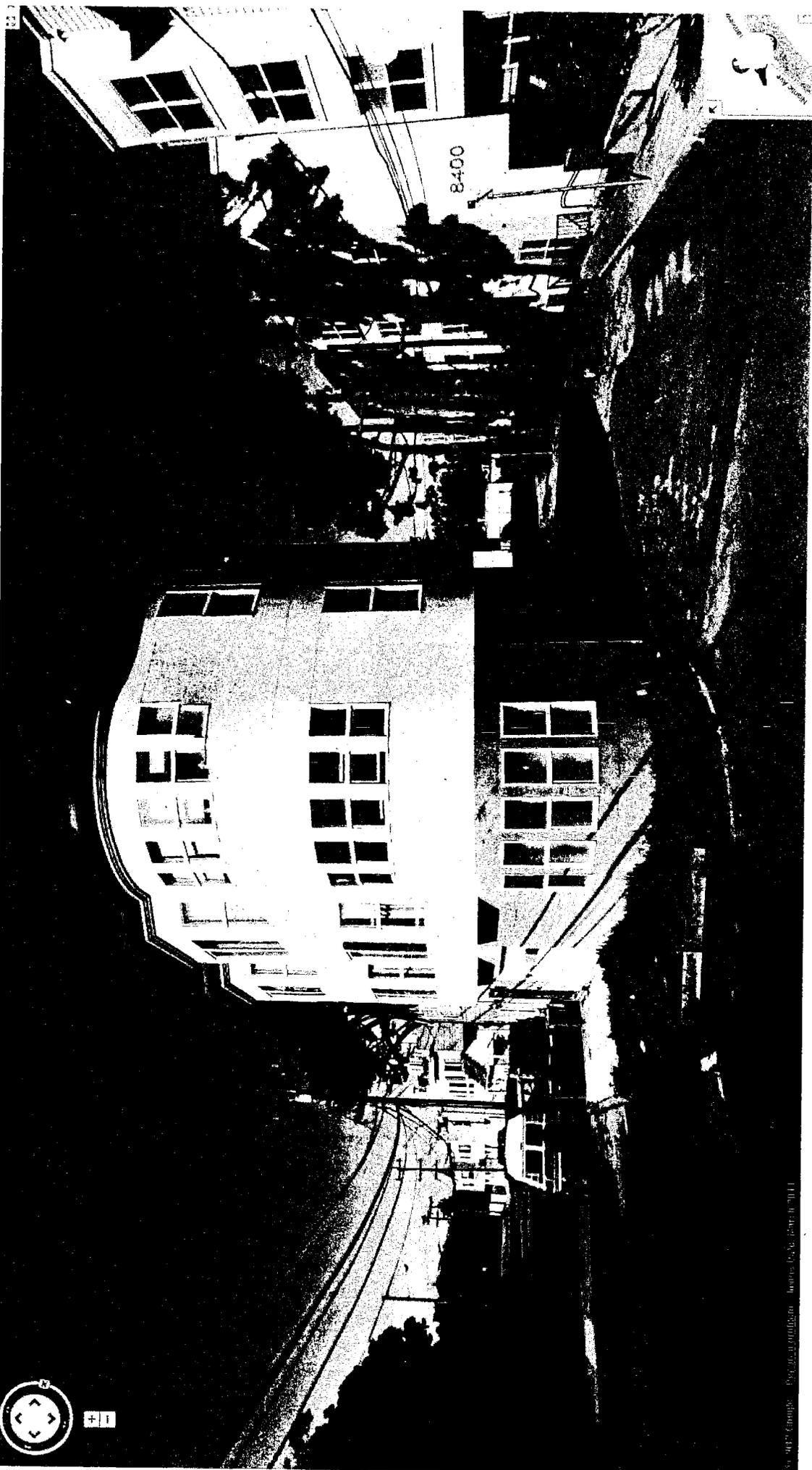
CITY OF SAN FRANCISCO CALIFORNIA

SURVEYED BY: J.B.

DRAWN BY: EDL

SCALE: 1" = 20"

Job No. 5323.7



SI

© 1987 Empire. For use in publication. Photo by W. J. Garrison III.



**CITY AND COUNTY OF SAN FRANCISCO  
DEPARTMENT OF PUBLIC WORKS**

**STREET ENCROACHMENT AGREEMENT**

**WITNESSETH**

In consideration of the adoption by the Board of Supervisors of the City and County of San Francisco of Resolution No. \_\_\_\_\_ at its meeting of \_\_\_\_\_, a true copy of which is attached hereto marked Exhibit A, and by this reference incorporated herein, and subject to all the terms, conditions and restrictions of this Agreement, also by reference incorporated herein, Permittee agrees that in accordance with this agreement and Exhibit A:

1. The permitted encroachment shall constitute a revocable license, shall be personal to Permittee and shall not be assignable or transferable by Permittee, whether separate from or together with any interest of Permittee.

Upon revocation the undersigned permittee, subsequent owners, or their heirs and assignees will within 30 days remove or cause to be removed the encroachment and all materials used in connections with its construction, without expense to the City and County of San Francisco, and shall restore the area to a condition satisfactory to the Department of Public Works.

2. The occupancy, construction and maintenance of the encroachment shall be in the location and as specified by the plans submitted, revised, approved and filed in the Department of Public Works. The permittee, by acceptance of this permit, acknowledges its responsibility to comply with all requirements of the occupancy, construction and maintenance of the encroachment as specified in Public Works Code Section 786 and with the sidewalk maintenance requirements specified in Public Works Code Section 706.
3. The permittee shall verify the locations of City and public service utility company facilities that may be affected by the work authorized by this permit and shall assume all responsibility for any damage to such facilities due to the work. The permittee shall make satisfactory arrangements and payments for any necessary temporary relocation of City and public utility company facilities.
4. In consideration of this Permit being issued for the work described in the application, Permittee on its behalf and that of any successor or assign, and on behalf of any lessee, promises and agrees to perform all the terms of this Permit and to comply with all applicable laws, ordinances and regulations.

Permittee agrees on its behalf and that of any successor or assign to hold harmless, defend, and indemnify the City and County of San Francisco, including, without limitation, each of its commissions, departments, officers, agents and employees (hereinafter collectively referred to as the "City") from and against any and all losses, liabilities, expenses, claims, demands, injuries, damages, fines, penalties, costs or judgments including, without limitation, attorneys' fees and costs (collectively, "claims") of any kind allegedly arising directly or indirectly from (i) any act by, omission by, or negligence of, Permittee or its subcontractors, or the offices, agents or employees of either, while engaged in the performance of the work authorized by this Permit, or while in or about the property subject to this Permit for any reason connected in any way whatsoever with the performance of the work authorized by this Permit, or allegedly resulting directly or indirectly from the maintenance or installation of any equipment, facilities or structures authorized under this Permit, (ii) any accident or injury to any contractor or subcontractor, or any officer, agent, or employee of either of them, while engaged in the performance of the work authorized by this Permit, or while in or about the property, for any reason connected with the performance of the work authorized by this Permit, or arising from liens or claims for services rendered or labor or materials furnished in or for the performance of the work authorized by this Permit, (iii) injuries or damages to real or personal property, good will, and persons in, upon or in any way allegedly connected with the work authorized by this Permit from any cause or claims arising at any time, and potentially falls within this indemnity provision, even if the allegations are or may be groundless, false or fraudulent, which obligations arises at the time such claim is tendered to Permittee by the City and continues at all times thereafter. Permittee agrees that the indemnification obligations assumed under this Permit shall survive expiration of the Permit or completion of work.

Permittee shall obtain and maintain through the terms of this Permit general liability, automobile liability or workers' compensation insurance as the City deems necessary to protect the City against claims for damages for personal injury, accidental death and property damage allegedly arising from any work done under this Permit. Such insurance shall in no way limit Permittee's indemnity hereunder. Certificates of insurance, in form and with insurers satisfactory to the City, evidencing all coverages above shall be furnished to the City before commencing any operations under this Permit, with complete copies of policies furnished promptly upon City request.

5. Permittee will, at its own expense, maintain in full force and effect an insurance policy or policies issued by and insurance company or companies satisfactory to the City's Controller and written by an insurance company or companies having a policy holders surplus of at least Twenty Million Dollars (\$20,000,000) or if insurance is written by more than one company, each company shall have policy holders surplus of at least ten times the amount insured.

Policy or policies shall afford liability insurance covering all operations, including but not limited to premises (definition of "premises" to be expanded to include this encroachment), products, personal injuries and automobiles and injury to property for single limit of not less than Two Million Dollars (\$2,000,000) applying to bodily injuries, personal injuries and property damage or a combination of such injuries. Said policy or policies shall include the City and County of San Francisco and its

officers and employees jointly and severally as additional insured and shall apply as primary insurance and shall stipulate that no other insurance affected by the City and County of San Francisco will be called on to contribute to a loss covered hereunder. Said policy or policies shall provide thirty (30) days notice to Controller, City and County of San Francisco, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102, if the policy or policies should be canceled or materially changed. The permission granted by said resolution shall automatically terminate upon the termination of such insurance. Upon such termination, Permittee shall restore the right-of-way, without expense to the "Personal Injuries", as used herein, shall include wrongful death.

6. The permittee shall obtain a building permit as the Central Permit Bureau, 1660 Mission Street for the construction or alteration of any building.
7. The permittee shall contact the Street Permit Section (415) 554-5810, at least 48 hours prior to starting work to arrange an inspection schedule.
8. The permittee acknowledge its responsibility to notify any successor owners of the existence of the encroachment and the successor owner's obligation to obtain a permit from the Department of Public Works 60 days in advance of any pending sale of the permittee's adjacent property. The permittee's obligation to remove the encroachment and restore the right-of-way to a condition satisfactory to the Department of Public Works shall survive the revocation, expiration or termination of this permit or sale of permittee's adjacent property.
9. The permittee's right to use City property, as set forth in this permit is appurtenant to the property described as: 10 Niantic Avenue,  
San Francisco CA 94132  
\_\_\_\_\_ The provisions of the permit shall bind all subsequent purchases and owners of the described property.

Subsequent purchasers and owners shall be subject to the revocation and termination provisions set forth in this permit.

10. The permittee or subsequent owners recognize and understand that this permit may create a possessory interest subject to property taxation and that the permittee or subsequent owner or owners may be subject to the payment of such taxes.
11. The permittee or subsequent owner or owners recognize the recordation of this permit.

All of the provisions of this agreement shall be deemed provisions of said resolution. All of the provisions of said resolution shall be deemed provisions of this agreement.

In witness whereof the undersigned Permittee(s) have executed this agreement this 29<sup>th</sup> day of May, 2012.

\_\_\_\_\_  
YUN LING Lee, CINDY Zhou Lee and  
YIN KWAN TAM

Signature page:



Yun Ling Lee



Cindy Zhou Lee



Yin Kwan Tam

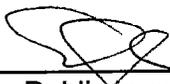
STATE OF CALIFORNIA )

COUNTY OF San Francisco (Co) ) SS

On May 29, 2012 before me, CAROLYN C. CUA Notary Public in  
and for said County and State, personally appeared YUN LING Lee CINDY Zhou  
Lee + Yin KUAN TAN personally known to me (or proven to me on the name(s) is/are subscribed to  
the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by this by his/her/their signature(s) on the  
instrument the person(s), or entity upon behalf of which the person(s) acted, executed  
the instrument.

WITNESS my hand and official seal

(NOTARY STAMP OR SEAL)

  
\_\_\_\_\_  
Notary Public in and for said  
County and State





# SAN FRANCISCO PLANNING DEPARTMENT

## General Plan Referral

**Date:** February 17, 2012

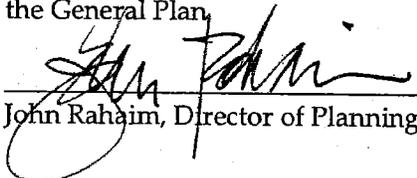
**Case No.:** Case No. 2011.0734R  
10 Niantic Avenue (7178/001) Major Encroachment

**Project Sponsor:** Lee Yun Ling  
21 Cook Street  
San Francisco, CA 94118

**Referred By:** Clinton Choy  
City & County of San Francisco  
Department of Public Works  
Bureau of Street-Use and Mapping  
875 Stevenson Street, Room 460  
San Francisco, CA 94103

**Staff Contact:** Joshua Switzky – (415) 575-6815  
[Joshua.Switzky@sfgov.org](mailto:Joshua.Switzky@sfgov.org)

**Recommendation:** Finding the project, on balance, is in conformity with the General Plan.

**Recommended By:**   
John Rahaim, Director of Planning

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

### PROJECT DESCRIPTION

On July 14, 2011, the Planning Department (herein "the Department") received a request from the Department of Public Works for a General Plan Referral for the proposed Major Encroachment Permit at 10 Niantic Avenue. The General Plan Referral is required by Sections 2A.52 of the Administrative Code.

In 2005 the Planning Department approved construction of a new single-family dwelling on the subject lot (Assessor's Block 7871 Lot 001, zoned RH-1). The subject lot has frontage on both Niantic Avenue and Panama Street. Due to a surveying error by the project sponsor, the new structure was constructed encroaching into the Panama Street right-of-way. The encroaching portion of the building extends 3 feet into the right-of-way for a length of 35 feet.

## POLICY DISCUSSION

Absent the surveying error and subsequent construction, such an encroachment would not be consistent with the General Plan as a proposal and would not be permitted. Except as permitted through the Planning Code, (such as for bay windows, balconies, signage, or unoccupied architectural features of limited dimension which are at least seven feet above sidewalk grade) newly constructed private buildings may not encroach into public rights-of-way, particularly at street level.

However, the following overriding conditions and findings lead the Planning Department to make a finding of conformity with the General Plan:

- (1) The conditions of the Major Encroachment Agreement will state that if the encroaching portion of the building is ever demolished or needs to be reconstructed due to a calamity (e.g. fire, earthquake) or any other reason (including voluntarily), the encroaching portion may not be rebuilt and the building must be reconstructed within the property line without this encroachment.
- (2) The Major Encroachment will be subject to an annual assessment fee as set by the Board of Supervisors.
- (3) Panama Street is a narrow alley-like, short dead-end street with very low pedestrian volumes and no legislated or constructed sidewalk on the side of the subject building.

Should any one of these conditions change, this encroachment would not be consistent with the General Plan, which strongly discourages the construction of any structures, particularly private buildings, within public rights-of-way in order to preserve light and air, views, pedestrian circulation and safety, and other factors.

## ENVIRONMENTAL REVIEW

The Department has determined that the proposed encroachment is exempt under CEQA Guidelines Statutory Exemption Section 15060(c)(2) – Non-physical.

## GENERAL PLAN COMPLIANCE AND BASIS FOR RECOMMENDATION

### URBAN DESIGN ELEMENT

**POLICY 2.8**

**Maintain a strong presumption against the giving up of street areas for private ownership and use, or for construction of public buildings.**

Street areas have a variety of public values in addition to the carrying of traffic. They are important, among other things, in the perception of the city pattern, in regulating the scale and organization of building development, in creating views, in affording neighborhood open space and landscaping, and in providing light and air and access to properties. Like other public resources, streets are irreplaceable, and they should not be easily given up. Short-term gains in stimulating development, receipt of purchase money and additions to tax revenues will generally compare unfavorably with the long-term loss of public values. The same is true of most possible conversions of street space to other public uses, especially where construction of buildings might be proposed. A strong presumption should be maintained, therefore, against the giving up of street areas, a presumption that can be overcome only by extremely positive and far-reaching justification.

*This proposal is for the indefinite encroachment into a public street right-of-way for private use with a residential building. The encroachment is revocable, is subject to an annual fee, and is in place due to an error. The encroaching building portion may not be rebuilt should the building or this portion of it ever be demolished or substantially altered. Panama Street does not feature significant pedestrian or vehicular volumes and does not feature important views.*

**POLICY 2.9**

**Review proposals for the giving up of street areas in terms of all the public values that streets afford.**

Every proposal for the giving up of public rights in street areas, through vacation, sale or lease of air rights, revocable permit or other means, shall be judged with the following criteria as the minimum basis for review:

- b. Release of a street area may be considered favorably when it would not violate any of the above criteria and when it would be:
- (1) Necessary for a subdivision, redevelopment project or other project involving assembly of a large site, in which a new and improved pattern would be substituted for the existing street pattern;
  - (2) In furtherance of an industrial project where the existing street pattern would not fulfill the requirements of modern industrial operations;
  - (3) Necessary for a significant public or semi-public use, or public assembly use, where the nature of the use and the character of the development proposed present strong justifications for occupying the street area rather than some other site;

- (4) For the purpose of permitting a small-scale pedestrian crossing consistent with the principles and policies of The Urban Design Element; or
- (5) In furtherance of the public values and purposes of streets as expressed in The Urban Design Element and elsewhere in the General Plan.

*The proposal does not meet any of criteria 1-4 outlined in (b) above for the release of a street area. The encroachment also does not substantially meet criteria 5 in that it provides simply the enlargement of a newly constructed private single-family house onto public property beyond what is allowable. Because Panama Street is a short cul-de-sac, an extremely low-volume pedestrian and vehicular corridor, is not a key view corridor, and requiring the building to be partially demolished would entail significant immediate cost to the homeowner, the encroachment could be considered temporarily acceptable because it is revocable and will be required to be removed should the building be significantly altered or replaced in the future.*

**POLICY 2.10**

**Permit release of street areas, where such release is warranted, only in the least extensive and least permanent manner appropriate to each case.**

*The encroachment is revocable, is subject to an annual fee, and is in place due to an error. The encroaching building portion may not be rebuilt should the building or this portion of it ever be demolished or substantially altered either voluntarily or involuntarily.*

**HOUSING ELEMENT**

**POLICY 2.1**

**Discourage the demolition of sound existing housing, unless the demolition results in a net increase in affordable housing.**

*The General Plan generally supports the maintenance of existing housing. While this project does not increase the City's supply of affordable housing, partially demolishing and rebuilding the house to negate the need for the encroachment would entail a substantial immediate cost. The encroachment is revocable, is subject to an annual fee, and is in place due to an error. The encroaching building portion may not be rebuilt should the building or this portion of it ever be demolished or substantially altered either voluntarily or involuntarily.*

**EIGHT PRIORITY POLICIES**

The proposed project is found to be consistent with the Eight Priority Policies of Planning Code Section 101.1 in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

*The proposed encroachment permit would not affect retail uses or opportunities for employment.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhood;

*The proposed encroachment would allow a newly-built house to remain until subsequent major alterations are made to the building, at which point the encroaching portion must be removed.*

3. That the City's supply of affordable housing be preserved and enhanced;

*The proposed encroachment would not affect the supply of affordable housing.*

4. That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking;

*The proposed encroachment would not affect traffic or parking.*

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for residential employment and ownership in these sectors be enhanced;

*The proposed encroachment would not affect industrial or commercial uses or opportunities.*

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

*The proposed project will not negatively impact the City's preparedness to project against injury and loss of life in an earthquake.*

7. That landmarks and historic buildings be preserved; and

*The proposed project will not negatively impact landmarks and historic buildings.*

8. That our parks and open space and their access to sunlight and vistas be protected from development.

*The proposed project will not impact parks, open space, sunlight and vistas.*

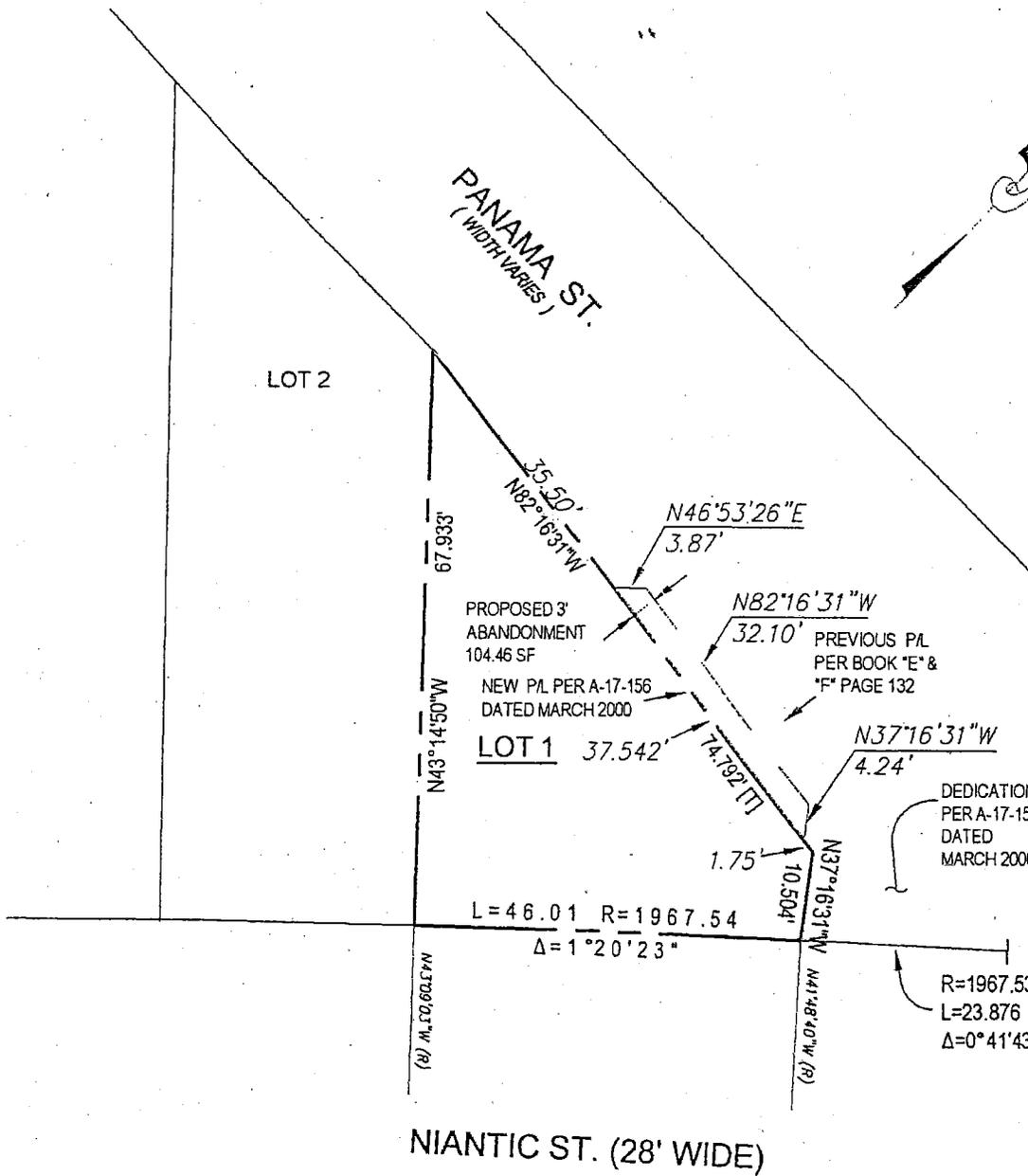
<b>RECOMMENDATION:</b> Finding the 10 Niantic Avenue Major Encroachment Permit, on balance, in-conformity with the General Plan
---

**Attachment 1.** Maps indicating the general location of proposed Major Encroachment.

CC: Joshua Switzky, Planning Department

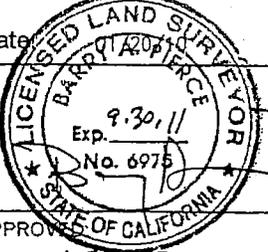
I:\Citywide\General Plan\General Plan  
Referrals\2011\2011.0734R\_10\_Niantic\_MajorEncroachment

ASSESSOR'S BLOCK No. 7178



**LEGEND**

- PROPERTY LINE (P.I.Q.)
  - PROPERTY LINE (OTHERS)
  - BUILDING LINE
- (1) PER BOOK 'E' & 'F' PAGE 132  
(2) PER A-17-156

Tel No. 415-553-4099 Fax No. 415-553-4071	<b>TRANSAMERICAN ENGINEERS</b> 1390 MARKET ST., SUITE 201, SAN FRANCISCO, CA. 94102	EMAIL: HA@TRANSAMERICANENGINEERS.COM
Date:  APPROVED: L.S. 6975	<b>SKETCH PLAN SHOWING          PROPOSED ABANDONMENT          OF THE 3 FOOT STRIP SHOWN          ALONG PANAMA STREET @ NIANTIC          MAP OF HILLCREST, BLOCK 20, LOT 10          ALSO BEING ASSESSOR'S BLOCK No. 7178, LOT 1</b>  CITY OF SAN FRANCISCO CALIFORNIA	SURVEYED BY: J.B. DRAWN BY: EDL SCALE: 1" = 20" Job No. 5323.7

