

1 [Street encroachment on Linden Street between Gough Street and Octavia Boulevard.]

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3 **Ordinance granting revocable permission to 300 Linden LLC to occupy the public right-**  
4 **of-way to construct street encroachment improvements on a portion of Linden Street,**  
5 **an unaccepted public right-of-way, between Gough and Octavia Boulevard, including**  
6 **new landscaping, raised stamped and colored asphalt paving, ADA approved**  
7 **detectable warning material, raised planters and granite curbstones for seating;**  
8 **waiving right-of-way occupancy assessment fees; and making environmental findings**  
9 **and findings of consistency with the General Plan and the priority policies of Planning**  
10 **Code Section 101.1.**

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12 Note: Additions are single-underline italics Times New Roman;  
13 deletions are ~~striketrough italics Times New Roman~~.  
14 Board amendment additions are double underlined.  
Board amendment deletions are ~~striketrough normal~~.

15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. Findings. (a) Pursuant to Public Works Code Section 786, Winslow  
17 Architecture on behalf of 300 Linden LLC, requested permission to occupy a portion of the  
18 public right-of-way to construct improvements on Linden Street, an unaccepted public right-of-  
19 way, between Gough Street and Octavia Boulevard, including new landscaping, raised  
20 stamped and colored asphalt paving, ADA approved detectable warning material, raised  
21 planters and granite curbstones for seating. The encroachment and related improvements  
22 are shown on plans filed with the Department of Public Works. Copies of such plans are on  
23 file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

24 Section 2. Departmental Approvals and Conditions.

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1 (a) The Interdepartmental Staff Committee on Traffic and Transportation (ISCOTT), at  
2 its meeting of May 24, 2007, recommended the proposed encroachment for approval.

3 (b) The Planning Department by letter dated September 27, 2006, found the proposal,  
4 on balance, to be in conformity with the General Plan, and priority policies of Planning Code  
5 Section 101.1. This letter also includes a determination relating to the encroachment  
6 pursuant to the California Environmental Quality Act (California Public Resources Code  
7 sections 21000 et seq.). A copy of said letter is on file with the Clerk of the Board of  
8 Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

9 (c) After duly noticed public hearing on September 5, 2007, the Department of Public  
10 Works recommended approval of the proposed encroachment subject to the following:

11 (1) The permit and associated street encroachment agreement, which are  
12 incorporated herein by reference and are on file with the Clerk of the Board of Supervisors in  
13 File No. \_\_\_\_\_, shall not become effective until:

14 (i) The Permittee executes and acknowledges the permit and delivers  
15 said permit to the City's Controller;

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

21 (iii) The Department of Public Works records the permit and associated  
22 agreement in the office of the County Recorder.

23 (2) The Permittee, at the Permittee's sole expense and as is necessary as a  
24 result of this permit, shall make the following arrangements:

1 (i) To provide for the support and protection of facilities belonging to the  
2 Department of Public Works, San Francisco Water Department, the San Francisco Fire  
3 Department and other City Departments, and public utility companies;

4 (ii) To provide access to such facilities to allow said entities to construct,  
5 reconstruct, maintain, operate, or repair such facilities; and,

6 (iii) To remove or relocate such facilities if installation of the  
7 encroachment requires said removal or relocation and to make all necessary arrangements  
8 with the owners of such facilities, including payment for all their costs, should said removal or  
9 relocation be required.

10 (3) The Permittee shall procure the necessary permits from the Central Permit  
11 Bureau, Department of Building Inspection and/or Bureau of Street-Use and Mapping,  
12 Department of Public Works, and pay the necessary permit fees and inspection fees before  
13 starting work.

14 (4) No structure shall be erected or constructed within said street right-of-way  
15 except as specifically permitted herein.

16 (5) The Permittee shall assume all costs for the maintenance and repair of the  
17 encroachments and no cost or obligation of any kind shall accrue to the City and County of  
18 San Francisco by reason of this permission granted.

19 Section 3. Board of Supervisors Approval.

20 (a) Pursuant to Public Works Code Section 786, the Board of Supervisors hereby  
21 grants revocable permission to 300 Linden LLC, to occupy a portion of the Linden Street  
22 public right-of-way between Gough Street and Octavia Boulevard to construct improvements,  
23 including new landscaping, raised stamped and colored asphalt paving, ADA approved  
24 detectable warning material, raised planters, and granite curbstones for seating subject to the  
25 conditions set forth herein.

1 (b) That the Board adopts as its own the findings of consistency with the General Plan  
2 and Planning Code Section 101.1 as set forth in the Planning Department letter dated  
3 September 27, 2006, and affirms the environmental determination contained in said letter.

4 (c) The Board finds and determines that this encroachment will benefit the citizens of  
5 San Francisco and its visitors because of the aesthetic improvements provided to this area.  
6 Therefore, notwithstanding Public Works Code Section 786, the Board finds that a benefit will  
7 accrue to the public from this proposed encroachment and hereby waives the public right-of-  
8 way occupancy assessment fee as set forth in Public Works Code Section 786.7.

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10 APPROVED AS TO FORM:  
11 DENNIS J. HERRERA, City Attorney

12 By: \_\_\_\_\_  
13 John D. Malamut  
14 Deputy City Attorney