

1 [Disapproving Approving Street Encroachment - 10 Niantic Avenue]

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

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

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

24 WHEREAS, The Department of City Planning, by letter dated February 17, 2012,  
25 declared that the proposed encroachment is in conformity with the General Plan and to the

1 priority policies of Planning Code Section 101.1. A copy of said letter is on file with the Clerk  
2 of the Board of Supervisors in File No.120704, and is incorporated herein by reference; and

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

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

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

12 (a) ~~The Permittee executes and acknowledges the permit and delivers said permit to~~  
13 ~~the City's Controller, and~~

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

19 (c) ~~The City Controller records the permit and associated agreement in the office of the~~  
20 ~~County Recorder; and~~

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

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

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;~~

14 WHEREAS, Based on the testimony presented to the Board of Supervisors Land Use  
15 and Economic Development Committee on December 3, 2012 and documents on record with  
16 the Clerk of the Board of Supervisors in File No. 120704 and with the Department of Public  
17 Works, this Board determines that it is in the best interests of the City to disapprove the  
18 requested encroachment permit and uphold the recommendation of the Department of Public  
19 Works to disapprove this permit. Said testimony and documents are incorporated herein by  
20 reference; now, therefore be it

21 RESOLVED, That pursuant to Public Works Code Section 786, the Board of  
22 Supervisors hereby grants permission, ~~revocable at the will of the Director of the Department~~  
23 ~~of Public Works,~~ disapproves the application for a revocable encroachment permit to Lee Yun  
24 Ling and Cindy Zhou to occupy a portion of the public right-of-way of a portion of a new single  
25 family dwelling encroaching 3-feet into the public right-of-way at 10 Niantic Avenue (Block

1 7178, Lot 001), ~~conditioned upon the payment of an annual assessment fee per Article 15,~~  
2 ~~Section 786.7 and adjusted annually per Article 2.1 of said code, submittal of a complete~~  
3 ~~DPW Street Improvement permit application for reconstruction of new curbs and sidewalk~~  
4 ~~fronting both Niantic Avenue and Panama Street and a final signoff on their Building Permit~~  
5 ~~Application and upholds the Department of Public Works recommendation to disapprove the~~  
6 ~~permit;~~ and, be it

7 ~~\_\_\_\_\_ FURTHER RESOLVED, That said permit is consistent with the priority policies of~~  
8 ~~Planning Code Section 101.1. A copy of said findings is on file with the Clerk of the Board of~~  
9 ~~Supervisors in the File No. 120704.~~



**City and County of San Francisco**

**Tails  
Resolution**

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File Number:** 120704

**Date Passed:** January 15, 2013

Resolution upholding Department of Public Works' recommendation for disapproval and disapproving the application for a revocable encroachment permit to Lee Yun Ling & Cindy Zhou, for the occupancy of a portion of the public right-of-way for a new single family dwelling encroaching 3-feet into the public right-of-way at 10 Niantic Avenue (Assessor's Block No. 7178, Lot No. 001), under Article 15, Section 786.7 of the Public Works Code.

December 03, 2012 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

December 03, 2012 Land Use and Economic Development Committee - RECOMMENDED AS AMENDED

December 11, 2012 Board of Supervisors - CONTINUED

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Olague and Wiener

January 15, 2013 Board of Supervisors - ADOPTED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Chu, Cohen, Farrell, Kim, Mar, Wiener and Yee

File No. 120704

I hereby certify that the foregoing Resolution was ADOPTED on 1/15/2013 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo  
Clerk of the Board

  
\_\_\_\_\_  
Mayor  
\_\_\_\_\_  
Date Approved