

File No. 091406

Committee Item No. 2

Board Item No. 05

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date March 1, 2010

Board of Supervisors Meeting

Date 03/16/10

Cmte Board

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<input type="checkbox"/>	<input type="checkbox"/>	Resolution
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Ordinance
<input type="checkbox"/>	<input type="checkbox"/>	Legislative Digest
<input type="checkbox"/>	<input type="checkbox"/>	Budget 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 (for hearings)
<input checked="" type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input checked="" 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
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OTHER

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Completed by: Alisa Somera Date February 26, 2010

Completed by: Alisa Somera Date March 2, 2010

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

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[Street Encroachment at 1 Webster Street.]

Ordinance granting revocable permission to Cross Cultural Family Center, Inc. to occupy a portion of the public right-of-way to construct and maintain a fenced outdoor play space with a trellised entry, a seating area and stroller parking on the west side of Webster Street between Duboce Avenue and Hermann Street, for a new child development center at 1 Webster Street (Block 0874, Lot 014); waiving the annual right-of-way occupancy assessment fee; and making environmental findings and findings of consistency with the General Plan and the priority policies of Planning Code Section 101.1.

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

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

Section 1. Findings.

(a) Pursuant to Public Works Code Section 786, Fonda Davidson, Executive Director of Cross Cultural Family Center, Inc., requested permission to occupy a portion of the public right-of-way to construct and maintain a fenced outdoor play space with a trellised entry, a seating area and stroller parking on the west side of Webster Street between Duboce Avenue and Hermann Street, to satisfy conditions of approval for a new child development center, serving twenty-six (26) infants and toddlers located within the One Church Street Apartments. The encroachment and related construction are shown on plans filed with the Department of Public Works. Copies of such plans are on file in the office of the Clerk of the Board of Supervisors in File No. 091406.

1 (b) The Interdepartmental Staff Committee on Traffic and Transportation (ISCOTT), at
2 its meeting of May 23, 2002, recommended the proposed encroachment for approval.

3 (c) The Planning Department by letter dated October 6, 2005, found the proposal, on
4 balance, consistent with the General Plan. This letter also includes a determination relating to
5 the encroachment pursuant to the California Environmental Quality Act (California Public
6 Resources Code sections 21000 et seq.). A copy of said letter is on file with the Clerk of the
7 Board of Supervisors in File No. 091404, and is incorporated herein by reference.

8 (d) After a duly noticed public hearing on March 7, 2007, the Department of Public
9 Works recommended approval of the proposed encroachment subject to the conditions set
10 forth below.

11 (e) 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. 091404, shall not become effective until:

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

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

21 (3) The Department of Public Works records the permit and associated agreement in
22 the office of the County Recorder; and,

23 (4) The Permittee, at the Permittee's sole expense and as is necessary as a result of
24 this permit, shall make the following arrangements:
25

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 encroachment
7 requires said removal or relocation and to make all necessary arrangements with the owners
8 of such facilities, including payment for all their costs, should said removal or relocation be
9 required.

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

13 (6) No structure shall be erected or constructed within said street right-of-way except
14 as specifically permitted herein; and,

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

18 Section 2. Major Encroachment Permit Approval and Waiver of Annual Right-of-Way
19 Occupancy Assessment Fee.

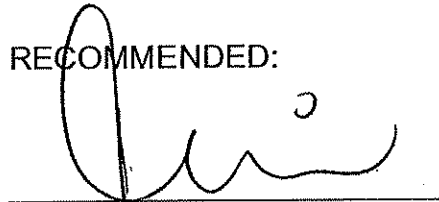
20 (a) Pursuant to Public Works Code Section 786, the Board of Supervisors hereby
21 grants revocable permission to Cross Cultural Family Center, Inc., to occupy a portion of the
22 public right-of-way to construct and maintain a fenced outdoor play space with a trellised
23 entry, a seating area and stroller parking on the west side of Webster Street between Duboce
24
25

1 Avenue and Hermann Street, for a new child development center at 1 Webster Street (Block
2 0874. Lot 014). This permit shall be subject to the conditions set forth herein.

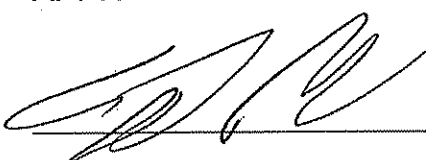
3 (b) As part of this permit approval, the Board adopts as its own the findings of
4 consistency with the General Plan and Planning Code Section 101.1 as set forth in the
5 Planning Department letter dated October 6, 2005, and affirms the environmental
6 determination contained in said letter.

7 (c) Notwithstanding Public Works Code Section 786.7, the Board determines that this
8 encroachment will serve the public interest, and therefore, the annual right-of-way occupancy
9 assessment fee is hereby waived.

10
11
12 RECOMMENDED:


13 
14 _____
15 Fuad S. Sweiss
16 City Engineer

APPROVED:

17 
18 _____
19 Edward D. Reiskin
20 Director of Public Works

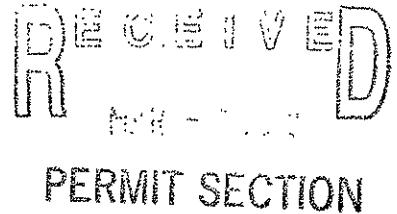
21
22 APPROVED AS TO FORM:
23 DENNIS J. HERRERA, City Attorney

24
25 By:



John D. Malamut
Deputy City Attorney

Cross Cultural Family Center, Inc.
P. O. Box 15366, San Francisco, CA 94115
Tele: (415) 921-7019 ♦ Fax: (415) 921-7132



March 4, 2002

Mr. Edwin M. Lee, Director
Department of Public Works
One Dr. Carlton B. Goodlett Place, Room 348
City Hall
San Francisco, CA 94102

RE: Referral Letter for
Major Street Encroachment Permit Application for
One Webster Street Child Development Center

Dear Mr. Lee,

A new Child Development Center will be located in the One Church Street Apartments on the west side of Webster Street between Duboce and Hermann Streets with an entrance at approximately the middle of the block. This center will be constructed and operated by Cross Cultural Family Center, a multi-site child care agency with a thirty-two year history of serving San Francisco children and families. The Child Development Center will serve twenty-six infants and toddlers, and its construction will be financed through a loan by the Mayor's Office of Community Development. This proposed center has been enthusiastically supported by numerous City agencies, including the Department of Children, Youth and their Families, the Mayor's Office of Community Development, the Mayor's Office of Housing, the San Francisco Redevelopment Agency and the Department of Human Services.

BRIDGE Housing Corporation has previously sent to you a letter dated November 9th, 2000 concerning a Major Street Encroachment Permit for their Affordable Housing Project known as One Church Street Apartments. Due to different completion schedules for the Sidewalk Encroachment Drawings, the Child Development Center's Major Street Encroachment Application is being submitted separately from BRIDGE Housing's previous request.

Cross Cultural Family Center is proposing to use the Webster Street sidewalk adjacent to the Child Care as a trellised entry, a seating area, stroller parking and a fenced outdoor play space for the infant classroom. BRIDGE Housing Corporation's originally proposed sidewalk on the west side of Webster Street has a width of 15' 0", with a Major Street Encroachment Application for a 6'-0" wide landscaping adjacent to the building with a remaining 9'-0" pedestrian walkway. In lieu of the 6'-0" wide landscaping area, the proposed trellised seating area and fenced outdoor play area would occupy an additional depth of 4 feet for a total depth of approximately 10 feet, with a remaining 5'-0" pedestrian walkway or path of travel. The play area will be approximately 10'-0" deep and

33'-0" long, with a total area of 330 square feet. The area will be accessed directly from the classroom, and will be enclosed by a 6'-6" high fence.

California Child Care Licensing regulations stipulate that child development centers include separate outdoor play areas for each distinct age group. In addition, quality child care practices require each classroom to have direct access to an outdoor play space. The new center will include classrooms for three age groups of children. The configuration of the shell space only permits two classrooms to have direct access to the housing complex's interior courtyard, which is where the center's primary outdoor play space will be sited. Furthermore, the child development center's shell is too narrow to permit creation of a hallway leading from the Webster Street infant classroom to the interior courtyard. It would also be unsafe and disruptive to have the infant group traversed through an open classroom to gain access to the interior courtyard.

The Cross Cultural Family Center is thus proposing to create a small outdoor play space with direct classroom access for exclusive use by the infant group. Several unique site conditions exist that could be considered favorable towards granting a Major Street Encroachment Permit. These conditions are listed below:

1. Webster Street between Duboce and Hermann Streets is a dead-end block for automobile traffic.
2. No pre-existing residential or commercial structures occur on either side at this portion of Webster Street.
3. The United States Mint occupies the entire east side of Webster Street. No future development and related increase in pedestrian traffic is likely to occur on that site.
4. The new housing complex under construction by BRIDGE Housing Corporation will have no main pedestrian entrances on Webster Street.
5. After the One Church Street complex is built, Webster Street will be used primarily by clients of the child development center and by residents for garage exiting and emergency exiting.

Therefore, this portion of Webster Street can be expected to have only minimal pedestrian traffic. The remaining 5' of pedestrian sidewalk should be able to accommodate the pedestrian traffic sufficiently and adequately.

BRIDGE Housing Corporation and the neighbors are very excited about the inclusion of this child development center in the One Church Street complex. The City of San Francisco has made it a top priority to address the child care facility crisis in San Francisco by creating new child care centers. There is a particular need to create new infant/toddler spaces and centers serving low-income children, and the Cross Cultural One Church Street Center will fulfill both of these mandates. Its inclusion in a mixed-use project that is so centrally located makes it particularly attractive, as it will be utilized by both One Church Street and neighborhood residents.

If you have any questions or comments, please feel free to contact me at 921-7019. We look forward to hearing from you and working with your department on creating this exciting and unique Child Development Center within San Francisco.

Respectfully submitted,

A handwritten signature in cursive script that reads "Fonda Davidson".

Fonda Davidson
Executive Director

Encl.

Cc: Nick Elsner, Division of Street-Use Permits, DPW
Claudia Siegman, Low Income Housing Fund-Child Care Facilities Fund
Kevin Griffith, BRIDGE Housing Corporation
Harry Ja Wong, Asian Neighborhood Design
file



Traffic Engineering Division
City and County of San Francisco

WILLIE LEWIS BROWN, JR., Mayor
FRED HAMDUN, EXECUTIVE DIRECTOR



RECEIVED

MEMORANDUM

PERMIT SECTION

TO: John Kwong, DPW-BSM
875 Stevenson Street, Room 460

THROUGH: Harvey Quan, Senior Engineer *[Signature]*

FROM: Scott Broady, Assistant Engineer *[Signature]*

SUBJECT: 1 Webster Street
Major Encroachment

DATE: May 27, 2002

ISCOTT approved the major encroachment request to allow Cross Cultural Family Center to build an outdoor infant play area on Webster Street at its meeting of May 23, 2002. The following was approved:

- A 9'3" encroachment into west the sidewalk area from approximately 70 feet to 120 feet north of the south end of Webster Street (at Duboce Avenue).
- The clear sidewalk width will be 6', except at one point location at a PG&E power pole where the clear sidewalk width will be only 3'6".
- Cross Cultural Family Center was also granted revokable permission to install 6 inch vine pockets (at grade planters) in the sidewalk area along the length of the encroachment.

If you have any questions, please call me at 554-2326.

HQ:SB:sb
T:\....webster-1a.doc



PLANNING DEPARTMENT

City and County of San Francisco • 1660 Mission Street, Suite 500 • San Francisco, California • 94103-2414

MAIN NUMBER
(415) 558-6378

DIRECTOR'S OFFICE
PHONE: 558-6411

4TH FLOOR
FAX: 558-6426

ZONING ADMINISTRATOR
PHONE: 558-6350

5TH FLOOR
FAX: 558-6409

PLANNING INFORMATION
PHONE: 558-6377

MAJOR ENVIRONMENTAL
FAX: 558-5991

COMMISSION CALENDAR
INFO: 558-6422

INTERNET WEB SITE
WWW.SFGOV.ORG/PLANNING

October 6, 2005

Nick Elsner
Department of Public Works
Division of Street Use & Mapping
875 Stevenson Street, Room 460
San Francisco, CA 94103

RECEIVED
OCT 10 2005

PERMIT SECTION

Re: 2002.0275R
1 Webster Street Encroachment Permit
Lot No. 14 in Assessor's Block 874

Dear Mr. Elsner,

We are responding to your submittal of Fonda Davidson's (the Project Sponsor) request for a General Plan Referral for a Major Encroachment Permit to occupy a portion of the west side of Webster Street right-of-way between Hermann Street and Duboce Street. The Referral is pursuant to Section 4.105 of the Charter, and Section 2A.53 of the Administrative Code.

The major encroachment would occupy 9' 3" of a portion of the existing Webster Street 15' 3" wide public right-of-way. The project sponsor would install an infant play area, seating, trellis entry and stroller parking/storage area in the sidewalk area subject to the encroachment permit. The play area would require construction of a building platform/retaining wall, which would range from 0" to 4' 6" in height. A 5'-0" foot tall fence would be constructed on top of the retaining wall. The highest point on the project site would be 9' 6" above grade. We find the proposed encroachment to be **in conformity** with the General Plan as described in Attachment 1, General Plan Findings.

Should conditions change in the future, the City may revoke the encroachment permit and require the Project Sponsor to remove the improvements, returning the sidewalk to its original conditions, at private expense.

Environmental Review

The Department determined that the project is categorically exempt from Environmental Review under Classes 1(c) and 5(b) of State Environmental Review Guidelines.

A Case Report listing relevant General Plan Objectives and Policies is attached. The project has also been reviewed for consistency with the Eight Priority Policies of Planning Code Section 101.1. They are attached.

Nick Elsner
Case No. 2002.0275R
Page 2

Sincerely,


Dean L. Macris
Director of Planning

cc: Fonda Davidson
Elaine Tope, PD
Stephen Shotland, PD

Attachments:
General Plan Case Report
Planning Code Section 101.1
Plan Drawings (Webster Street)

GENERAL PLAN REFERRAL CASE REPORT

Note: General Plan Objectives and Policies are in **BOLD font**; Policy text is in regular font; Staff comments are in *italic font*.

SPECIFIC GENERAL PLAN POLICIES

The Urban Design Element of the San Francisco General Plan contains the following relevant goals, objectives, and policies:

URBAN DESIGN ELEMENT

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

If San Francisco is to retain its charm and human proportion, certain irreplaceable resources must not be lost or diminished...Street space must be retained as valuable public open space in the tight-knit fabric of the city.

Street Space

POLICY 2.8

Maintain a strong presumption against the giving up of street areas for private ownership or 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.

The encroachment permit would narrow the public sidewalk, but would retain adequate space for pedestrians and disabled individuals. Webster Street is not a through street at Duboce due to the MUNI Metro Line tunnel entrance in the Webster Street right-of-way at this location. As a result, there is little pedestrian traffic on this block of Webster Street. The encroachment permit would allow a child care provider to install outdoor play area for infants at this location and would permit the City to require the sponsor to return the rest of the sidewalk to public use at the City's written request, at the Project Sponsor's expense. Webster Street provides access to the

subject property (lot 14 in AB 874) and the U.S. Mint across Webster Street (Lot 1 in AB 873. There is no vehicular or pedestrian access to properties further south on Webster Street.

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: a. No release of a street area shall be recommended which would result in:

- (1) Detriment to vehicular or pedestrian circulation;

The project would reduce a portion of the public right-of-way from the original width (15'-3") to 6 feet. This meets the City's minimum standard for sidewalk widths and also meets Title 24 (ADA). The proposed sidewalk on the west side of Webster Street at the project location would be six (6) feet wide.

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.

In order to avoid the unnecessary permanent loss of streets as public assets, methods of release short of total vacation should be considered in cases in which some form of release is warranted. Such lesser methods of release permit later return of the street space to street purposes, and allow imposition of binding conditions as to development and use of the street area.

Mere closing of the street to traffic should be used when it will be an adequate method of release. Temporary use of the street should be authorized when permanent use is not necessary. A revocable permit should be granted in preference to street vacation. And sale or lease of air rights should be authorized where vacation of the City's whole interest is not necessary for the contemplated use. In any of these lesser transactions, street areas should be treated as precious assets that might be required for unanticipated public needs at some future time.

Upon staff's recommendation to the Project Sponsor, the Project Sponsor has changed the material for the outdoor play area platform to cement plaster over paper backed metal lath and exterior plywood, which is a relatively impermanent building material. In the event that the City wishes to revoke the encroachment permit, the structure may be removed.

HOUSING ELEMENT

The Housing Element of the San Francisco General Plan contains the following relevant goals, objectives, and policies:

POLICY 12.4

Promote construction of well designed housing that conserves existing neighborhood character.

Facilities

- In larger projects, include needed facilities such as storage facilities, laundry facilities, community rooms for provision of day care and group activities, and facilities for recycling of waste materials.

The proposal is part of a mixed-use affordable housing project. Incorporation of a day care facility that provides facilities for children and infants provides care for residents as well as the community at large. The proposal is consistent with these uses.

In summary, the project is, on balance, **in conformity** with the General Plan.

ATTACHMENT 2

PLANNING CODE SECTION 101.1(B) PROVISIONS

Planning Code Section 101.1(b) establishes the following eight priority planning policies and requires review of permits for consistency with said policies. The Project and this General Plan Referral application are consistent / inconsistent with each of these policies as follows:

1. That the 1 Webster Street Project Be Preserved and Enhanced and Future Opportunities for Resident Employment in and Ownership of Such Businesses Enhanced

The project would have no adverse effect on neighborhood serving retail uses or opportunities for employment in or ownership of such businesses.

2. That Existing Housing And Neighborhood Character Be Conserved And Protected In Order To Preserve The Cultural And Economic Diversity Of Our Neighborhoods

The project would not have an adverse effect on the City's housing stock and on neighborhood Character.

The project would result in a sidewalk with a 6-foot clear path of travel. This dimension meets the minimum City sidewalk standard, and would not impact pedestrian use of the sidewalk. General Plan policies calls for the City to maintain the public rights-of-way for public uses, over private uses. General Plan policies also call for release of street areas only in the least extensive and permanent manner. All major encroachment permits are revocable at the City's request.

3. That The City's Supply Of Affordable Housing Be Preserved And Enhanced

The Project would not affect the City's supply of affordable housing. The proposal is part of a mixed-use affordable housing project and would enhance the amenities available to residents and the community at large.

4. That Commuter Traffic Not Impede Muni Transit Service Or Overburden Our Streets Or Neighborhood Parking

The Project would not impede MUNI Transit Service as no bus lines service this portion of Webster Street.

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 Resident Employment and Ownership in These Sectors Be Enhanced.

The Project would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

6. That The City Achieve the Greatest Possible Preparedness to Protect Against Injury And Loss of Life in an Earthquake

The Project would not adversely affect preparedness against injury and loss of life in an earthquake and would comply with applicable safety standards.

7. That Landmarks And Historic Buildings Be Preserved

The Project would have no effect on preservation of landmarks or historic buildings.

8. That Our Parks And Open Space And Their Access To Sunlight And Vistas Be Protected From Development

The Project is not near, and will not adversely affect, any existing parks. The project would reduce the width of the public sidewalk for approximately 60 feet along Webster street between Hermann and Duboce Streets. However, it would still meet the City's minimum dimension for public sidewalks.

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**CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS
ORDER NO. 176,659**

PUBLIC HEARING TO CONSIDER A REQUEST FROM ASIAN NEIGHBORHOOD DESIGN, ON BEHALF OF CROSS CULTURAL FAMILY CENTER, INC. FOR A MAJOR (STREET) ENCROACHMENT PERMIT TO CONSTRUCT A FENCED OUTDOOR PLAY SPACE, INCLUDING A TRELLISED ENTRY, A SEATING AREA AND STROLLER PARKING ON THE WEST SIDE OF WEBSTER STREET BETWEEN DUBOCE AVENUE AND HERMANN STREET, TO SATISFY APPROVAL CONDITIONS FOR A NEW CHILD DEVELOPMENT CENTER, TO SERVE TWENTY-SIX (26) INFANTS AND TODDLERS LOCATED WITHIN THE ONE CHURCH STREET APARTMENTS, AT 1 WEBSTER STREET (BLOCK 0874, LOT 014).

The Department of Public Works will consider the request for the above mentioned Major Encroachment Permit. Any interested person may attend the Department of Public Works hearing on this matter at City Hall, 1 Dr. Carlton B. Goodlett Place, Room 400 at 9:00 AM, Wednesday, March 7, 2007.

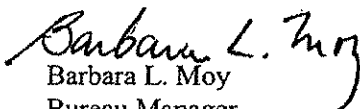
Persons unable to attend the public hearing may submit written comments regarding the subject matter to the Bureau of Street-Use & Mapping, 875 Stevenson Street, Room 460, San Francisco, CA 94103, Attention: Nick Elsner. These comments will be brought to the attention of the hearing officer and made a part of the official public record.

Information on this matter may be obtained prior to the hearing at 875 Stevenson Street, Room 460, or by phoning Mr. Elsner at (415) 554-6199.



Fred V. Abadi, Ph.D.
Director of Public Works

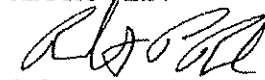
RECOMMENDED:



Barbara L. Moy
Bureau Manager
Street-Use & Mapping


Outside of BSM
Dept. Files (2)

APPROVED:



Robert P. Beck
Deputy Director
for Engineering

Inside of BSM
Street Inspection (for posting)
Nick Elsner (1-signed)

 DPW/BSM/NE/ne

APPROVED: JANUARY 17, 2007

FRED V. ABADI, Ph.D., DIRECTOR



**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: Mary Lane Infant and Toddler Center,
1 Webster Street, San Francisco, CA
_____. 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 12 day of November, 2009

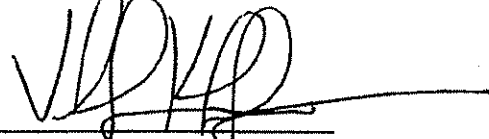
Jander B. Anderson

STATE OF CALIFORNIA

COUNTY OF San Francisco)
) SS)

On November 12th 2009 before me, Vladimir Khosid Notary Public in
and for said County and State, personally appeared Fonda B. Davidson
_____ 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 Public in and for said
County and State

(NOTARY STAMP OR SEAL)

