

File No. 100029

Committee Item No. 1
Board Item No. 24

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

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

Board of Supervisors Meeting Date March 9, 2010

Cmte Board

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OTHER

(Use back side if additional space is needed)

☒	☒	<u>Department of Public Works Order No. 170,477</u>
☐	☐	
☐	☐	
☐	☐	
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Completed by: Alisa Somera Date February 26, 2010
Completed by: Alisa Somera Date March 1, 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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[Acceptance of Sewer Main and Reissuance of Encroachment Permit for Poppy Lane]

Ordinance accepting an irrevocable offer for a sewer main; dedicating said improvements for public use; accepting a sewer main on Poppy Lane for maintenance and liability purposes; rescinding Resolution No. 493-00 in order to modify and reissue the major encroachment permit for 101 Poppy Lane in accordance with this Ordinance; accepting Department of Public Works Order No. 178,477; adopting environmental findings and findings that such actions are consistent with the City's General Plan and the eight priority policies of City Planning Code section 101.1; and authorizing official acts in connection with this Ordinance.

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) On June 9, 2000, the City and County of San Francisco approved Resolution No. 493-00 that approved a major encroachment permit for various street improvements in Poppy Lane, and unaccepted public right-of-way. A copy of this Resolution is on file with the Clerk of the Board of Supervisors in File No. 000618 and is incorporated herein by reference.

(b) Patricia F. Reilly, former owner of and permittee for 101 Poppy Lane, has constructed and maintained certain street improvements, including a sewer main, in and on Poppy Lane in accordance with the above-mentioned Resolution and associated permit and maintenance agreement. Byron G. Rouda and Lynette M. Cayson (Permittee), the current owners of 101 Poppy Lane, will continue to maintain the street improvements associated with

Supervisor Dufty
BOARD OF SUPERVISORS

1 the major encroachment permit; however, the Permittee, in an Offer of Improvements dated
2 November 2, 2009, has irrevocably offered the sewer main in Poppy Lane to the City, acting
3 by and through the Department of Public Works (Department), for public use and has
4 requested that the Board of Supervisors accept the sewer main for public maintenance and
5 liability purposes. A copy of said letter is on file with the Clerk of the Board of Supervisors in
6 File No. 100029 and is incorporated herein by reference.

7 (c) The City Planning Department, in a letter dated November 19, 1999, determined
8 that the major encroachment permit and associated street improvements are in conformance
9 with the General Plan and the eight priority policies of Planning Code Section 101.1. A copy
10 of the Planning Department letter is on file with the Clerk of the Board of Supervisors in File
11 No. 100029 and is incorporated by reference as though fully set forth herein.

12 (d) The Planning Department has completed environmental review of this Ordinance
13 pursuant to the California Environmental Quality Act ("CEQA"), California Public Resources
14 Code Sections 21000 et seq. and Chapter 31 of the San Francisco Administrative Code.
15 Documentation of that review is on file with the Clerk of the Board of Supervisors in File No.
16 100029 and is incorporated herein by reference.

17 (e) In DPW Order No. 178, 477, approved December 1, 2009, the Director of the
18 Department and the City Engineer, in conjunction with the General Manger of the Public
19 Utilities Commission, certify that the subject sewer main: (1) has been constructed in
20 accordance with all City codes, regulations, and standards, (2) has been inspected and was
21 certified as complete on October 7, 2009, and (3) is ready for its intended use. Further in
22 DPW Order No. 178, 477, the Director recommends acceptance of the irrevocable offer of
23 the sewer main, dedication of the sewer main to public use, and acceptance of the sewer
24 main for maintenance and liability purposes. A copy of the DPW Order is on file with the Clerk
25

1 of the Board of Supervisors in File No. 100029 and is incorporated by reference
2 herein.

3 Section 2. Acceptance of the Sewer Main.

4 (a) The Board of Supervisors adopts as its own the General Plan and Planning Code
5 Section 101.1 consistency findings of the Planning Department for purposes of the actions set
6 forth herein.

7 (b) The Board of Supervisors has reviewed and approves the City Engineer's
8 certification and Director of the Department of Public Works recommendation in DPW Order
9 No. 178,477 concerning the sewer main.

10 (c) The Board of Supervisors accepts the irrevocable offer of the sewer main as
11 recommended in DPW Order No. 178, 477.

12 (d) Pursuant to California Streets and Highways Code Section 1806 and San
13 Francisco Administrative Code Sections 1.51 et seq., and the Department of Public Works
14 Order No. 178,477, dated December 1, 2009, the Board of Supervisors hereby dedicates
15 the sewer main for public use and accepts the sewer main for maintenance and liability
16 purposes as recommended.

17 (e) The sewer main accepted by the Board pursuant to Subsection (c) and (d) is
18 subject to the following: (1) all other encroachments that are permitted, not permitted, or both
19 on Poppy Lane are specifically excluded from acceptance and (2) the acceptance of the
20 sewer main does not obviate, amend, alter, or in any other way affect existing maintenance
21 agreements between the City and parties to such maintenance agreements other than in
22 connection with the sewer main as set forth herein.

23 Section 3. Rescission of Prior Resolution Concerning the Major Encroachment Permit
24 and Reissuance of Permit.

1 (a) The Board of Supervisors hereby rescinds Resolution No. 493-00 in its entirety and
2 reissues the Major Encroachment Permit that was the subject of that Resolution to the
3 successor property owner of 101 Poppy Lane.

4 (b) The new major encroachment permit and an associated encroachment agreement
5 shall acknowledge that the Poppy Lane sewer main improvement is accepted for public use,
6 maintenance, and liability purposes and that the Permittee's maintenance and liability
7 responsibility for said sewer main is has been terminated.

8 (c) With the exception of the sewer main, maintenance and liability responsibility for
9 the street improvements and other conditions and terms that were the subject of Resolution
10 No. 493-00 shall be incorporated into this permit as well as any additional terms and
11 conditions of this Ordinance, including the payment of applicable right-of-way occupancy
12 assessment fees.

13 (d) Drafts of the new permit and associated street encroachment agreement, which
14 are incorporated herein by reference and are on file with the Clerk of the Board of Supervisors
15 in File No. 100029, shall not become effective until:

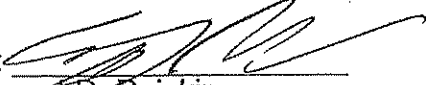
16 (1) The Permittee executes and acknowledges the permit and delivers said permit to
17 the City's Controller,

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

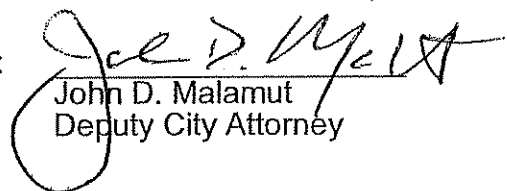
23 (3) The Department of Public Works records the permit and associated agreement in
24 the office of the County Recorder;

1 Section 4. The Board of Supervisors hereby authorizes and directs the Director of the
2 Department to take any and all actions that he or she or the City Attorney may deem
3 necessary or advisable in order to effectuate the purpose and intent of this Ordinance
4 including, without limitation, finalizing the reissued major encroachment permit and
5 encroachment agreement for 101 Poppy Lane.

6
7 RECOMMENDED:
8 DEPARTMENT OF PUBLIC WORKS

9 By: 
10 Edward D. Reiskin
11 Director of Public Works

12 APPROVED AS TO FORM:
13 DENNIS J. HERRERA, City Attorney

14
15 By: 
16 John D. Malamut
17 Deputy City Attorney

LEGISLATIVE DIGEST

[Acceptance of sewer main and reissuance of encroachment permit for Poppy Lane.]

Ordinance accepting an irrevocable offer for a sewer main; dedicating said improvements for public use; accepting a sewer main on Poppy Lane for maintenance and liability purposes; rescinding Resolution No. 493-00 in order to modify and reissue the major encroachment permit for 101 Poppy Lane in accordance with this Ordinance; accepting Department of Public Works Order No. 178, 477; adopting environmental findings and findings that such actions are consistent with the City's General Plan and the eight priority policies of City Planning Code section 101.1; and authorizing official acts in connection with this Ordinance.

Existing Law

In accordance with State and local law, the Board of Supervisors via legislation accepts for City maintenance and liability purposes certain public street segments and other right-of-way improvements that meet the City's specifications and plans for street design and public improvements. Public Works Code Sections 786 et seq. establishes the process for City review and approval of major street encroachment permits.

Amendments to Current Law

The legislation would accept an irrevocable offer for a sewer main in Poppy Lane, dedicate the improvement to public use, and constitute formal acceptance of the sewer main in Poppy Lane for City maintenance and liability purposes pursuant to the California Streets and Highways Code section 1806, San Francisco Administrative Code section 1.52 and DPW Order No. 178,477. As part of these actions, the Ordinance would rescind the Board Resolution No. 493-00 approving the prior street encroachment permit for the former owner of 101 Poppy Lane and reissue an amended street encroachment permit to the current owner of 101 Poppy Lane in order to exclude the obligation for private maintenance of the sewer main. The legislation also would make General Plan findings.



Gavin Newsom, Mayor
Edward D. Reiskin, Director



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TDD: (415) 554-6900
<http://www.sfgov.org/dpw>

Department of Public Works
Office of the Director
City Hall, Room 348
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4645

ORDER NO. 178,477

TRANSMITTAL TO THE BOARD OF SUPERVISORS OF AN ORDINANCE ACCEPTING THE IRREVOCABLE OFFER OF A NEW 10" SEWER MAIN ON POPPY LANE; DEDICATING SAID IMPROVEMENTS FOR PUBLIC USE; ACCEPTING SAID SEWER MAIN ON POPPY LANE FOR MAINTENANCE AND LIABILITY PURPOSES; AND RESCINDING RESOLUTION NO. 493-00 IN ORDER TO MODIFY AND REISSUE THE MAJOR ENCROACHMENT PERMIT FOR 101 POPPY LANE (BLOCK 6713, LOT 056).

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BOARD OF SUPERVISORS
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2009 DEC 30 PM 4:53
BY [Signature]

On June 9, 2000, the Board of Supervisors approved Resolution No. 493-00 granting revocable permission to Patricia F. Reilly to construct a new privately maintained concrete driveway and related improvements including curbs, gutters, new utilities, piers and retaining walls to maintain appropriate grades and provide access to a new residence at the aforementioned property.

On May 26, 2008, DPW Order No. 177,574 was approved granting Patricia F. Reilly, former owner of and permittee for 101 Poppy Lane, to construct and maintain the above street improvements, including a new 10" sewer main on Poppy Lane.

Patricia F. Reilly has constructed and maintained the above street improvements and sewer main on Poppy Lane in accordance with the above mentioned Resolution, DPW Order, and Street Encroachment Agreement.

Byron G. Rouda and Lynette M. Cayson (Permittee), the current owners of 101 Poppy Lane, will continue to maintain the above street improvements associated with the Major Encroachment Permit; however, the Permittee, in an Irrevocable Offer of Improvements dated November 2, 2009, has irrevocably offered the sewer main on Poppy Lane to the City for public use, and has requested that the Board of Supervisors accept the sewer main for public maintenance and liability purposes.

The Permittee shall submit to the Bureau of Street-Use & Mapping (BSM) a non-refundable fee of \$2,500 to cover the costs of processing this Order.

The Planning Department by letter dated November 19, 1999 determined that the Major Encroachment Permit and associated street improvements are in conformance with the General Plan and the eight priority policies of Planning Code Section 101.1; and has completed environmental review of the Ordinance pursuant to California Environmental Quality Act

"IMPROVING THE QUALITY OF LIFE IN SAN FRANCISCO" We are dedicated individuals committed to teamwork, customer service and continuous improvement in partnership with the community.

(CEQA), California Public Resources Code Sections 21000 et seq. and Chapter 31 of the San Francisco Administrative Code.

The Director of Public Works and the City Engineer in conjunction with the General Manager of the Public Utilities Commission (PUC) hereby certify that the subject sewer main has been constructed in accordance with all City codes, regulations and standards; has been inspected and certified as complete by letter dated October 7, 2009 from the PUC; and is ready for its intended use.

The Director of Public Works, based on approval of the sewer main from the General Manager of the PUC, recommends acceptance of the irrevocable offer of the sewer main, dedication of the sewer main to public use, and City acceptance of the sewer main for maintenance and liability purposes.

The following are approved and transmitted to the Board of Supervisors:

1. Ordinance accepting the irrevocable offer of a new 10" sewer main on Poppy Lane; dedicating said improvements for public use; accepting said sewer main on Poppy Lane for maintenance and liability purposes; rescinding Resolution No. 493-00; and reissuing an amended Major Encroachment Permit and Street Encroachment Agreement to the new property owner of 101 Poppy Lane (Block 6713, Lot 056).
2. Offer of Improvements by Byron G. Rouda and Lynette M. Cayson dated November 2, 2009.
3. Street Encroachment Agreement, executed by Mr. Rouda and Ms. Cayson dated November 2, 2009.
4. Letter from Planning Department dated November 19, 1999.



Edward D. Reiskin
Director

Outside of BSM
Dept. Files (2)
Central Permit Bureau
BSSR - 2323 Cesar Chavez
PUC - K. Eickman

Inside of BSM
Inspector - N. Lynch
1660 Mission - E. Tang
Nick Elsner (1-signed)

DPW/BSM/NE/ne

APPROVED: DECEMBER 1, 2009

EDWARD D. REISKIN, DIRECTOR

Mr. Edward D. Reiskin
City and County of San Francisco
Director of Public Works
City Hall, Room 348
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

IRREVOCABLE OFFER OF IMPROVEMENTS

(Poppy Lane Sewer Main, San Francisco, CA)

Byron G. Rouda and Lynette M. Cayson (The purchasers of 101 Poppy Lane, herein referred to as "buyers") do hereby irrevocably offer to the City and County of San Francisco, a municipal corporation ("City"), and its successors and assigns, a public utility facility constructed by or on behalf of the seller of 101 Poppy Lane, Patricia F. Reilly, pursuant to Department of Public Works Order No. 177,574, approved May 26, 2008, identified herein as "147 linear feet of new 10" VCP sewer", hereto attached as "Exhibit A" and the improvement plans and specifications described therein. Said improvements are more particularly shown on the revised as built plans titled "New Driveway 101 Poppy Lane San Francisco", dated May 1, 2008 and prepared by Wilson Engineering Transportation Consultants, Inc., referred to "Exhibit B" as attached hereto.

It is understood and agreed that: (i) upon acceptance of this offer of public improvements, the City shall own and maintain all the improvements, as identified in "Exhibit A" and "Exhibit B", is attached hereto, and (ii) the City and its successors or assigns shall incur no liability or obligation whatsoever hereunder with respect to such offer of public improvements, and, except as may be provided by separate instrument, shall not assume any responsibility for the offered improvements, unless and until such offer has been accepted by appropriate action of the Board of Supervisors.

The provisions hereof shall inure to the benefit of and be binding upon the heirs, successors, assigns and personal representatives of the respective parties hereto.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 2ND day of NOVEMBER 2009.

BUYERS,

By Byron G. Rouda
Byron G. Rouda

By Lynette M. Cayson
Lynette M. Cayson

STATE OF CALIFORNIA

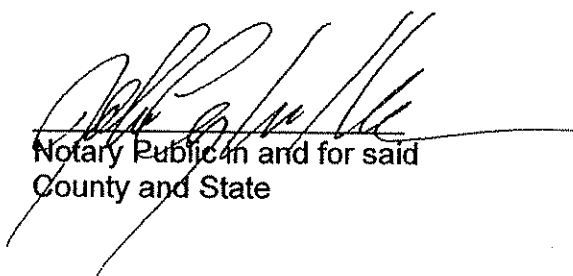
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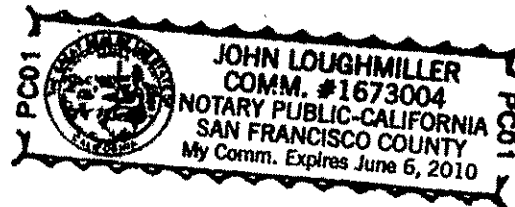
COUNTY OF SAN FRANCISCO

On 11-3-09 before me John Loughmiller Notary Public in
and for said County and State, personally appeared Myrto Cayson & Byron G. Reed
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





PLANNING DEPARTMENT

City and County of San Francisco 1660 Mission Street San Francisco, CA 94103-2414

(415) 558-6378

PLANNING COMMISSION
FAX: 558-6409

ADMINISTRATION
FAX: 558-6426

CURRENT PLANNING/ZONING
FAX: 558-6409

LONG RANGE PLANNING
FAX: 558-6426

November 19, 1999

Nick Elsner
Division of Street-Use Permits
Bureau of Street-Use & Mapping
Department of Public Works
875 Stevenson Street, Room 460
San Francisco, CA 94103-0942

Re: Case No. 98.179R
Application to construct a privately maintained driveway for a proposed residence within Assessor's Block 6713, Lot 56

Dear Mr. Nick Elsner:

Pursuant to Section 4.105 of the San Francisco Charter and Sections 3.011 and 3.012 of the Administrative Code, we received the subject General Plan Referral from you. We submit the following report:

The project is from Tim O'Sullivan, P.E., for Frank Reilly, to construct a privately maintained driveway including new pavement, curbs, gutters, new utilities, and structural piers and retaining walls to provide access for a proposed residence within Assessor's Block 6713, Lot 56.

Although the application states that the purpose is to construct a privately maintained driveway, it needs to be clarified that the project is actually an improvement to a public right-of-way, in that the City currently owns and will retain ownership of the right-of-way after the improvements. Every effort should be made to ensure that the new road remains public, and that it appears public. General Plan Policy 2.8 of the Urban Design Element states, "Maintain a strong presumption against the giving up of street areas for private ownership or use, or for construction of public buildings."

Typical cues signifying public rights-of-way include sidewalks, street trees, and street lighting, and by the absence of any sign stating or implying limits to public access. The limited size of this right-of-way (14 feet) compromises the ability to add walks, trees, or lighting. The Department of Public Works should address the concern that the public right-of-way appears and remains public in its approval of the Major Encroachment permit for this project.

Addition of a dwelling unit on this parcel is generally supported by the General Plan. Objective 1 of the Residence Element states: "To provide new housing, especially permanently affordable housing, in appropriate locations which meets identified housing needs and takes into account the demand for affordable housing created by employment growth." While building in what was once the common open space of the block was once a concern, the parcel is now established and therefore interior open space issues are no longer primary. The General Plan clearly supports the right to build a residence on this parcel.

The right-of-way dead-ends further into the interior of the block. Given the narrowness (14 foot) of this right-of-way, especially with the lack of a second outlet, the Planning Department believes that it would not likely provide adequate, safe access to any additional development. Therefore, the Planning Department likely would not support additional development in the interior of this block, nor access to existing lots from this interior right-of-way. The Department of Public Works should address these concerns in its approval of the Major Encroachment permit for this project. Additionally, the Department of Public Works should record in its records of this project that improvements as proposed do not constitute assumptions of approval to lengthen the improvements of the right-of-way to serve other lots in the future, nor constitute any justification for any requests to widen the right-of-way.

Although the right-of-way will remain public, the Planning Department has concerns regarding community safety and emergency access for any development served by this narrow right-of-way. Objective 4 of the Urban Design Element strives for "improvement of the neighborhood environment to increase personal safety, comfort, pride, and opportunity." Communications from Department of Public Works staff indicates that the Fire Department has signed off on this project through the DBI permit review process. The Department of Public Works should include provisions that ensure that public safety issues are adequately addressed before issuing the Major Encroachment permit for this project.

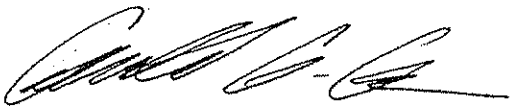
The Planning Department is also concerned about the potential for impacting the properties abutting this project. Policy 18.2 of the Transportation Element states: "Design streets for a level of traffic that serves, but will not cause a detrimental impact on adjacent land uses". As the proposed contours are drawn in the submittal, it appears that there could be drainage into the neighboring garage and from the driveway onto adjacent properties. In addition, the drawings seem to indicate that there may be some encroachment onto adjacent properties for grading and possibly for construction of retaining walls and fences. The Department of Public Works should include provisions that ensure that adjacent properties are not improperly encroached upon before the Major Encroachment permit for this project is approved.

If the issues discussed above are addressed in the Major Encroachment permit to the Department of Public Work's satisfaction, the project, on balance, would be in conformance with the General Plan.

The Planning Department has determined that the project is categorically exempt from Environmental Review under Class 1 (c), minor alteration of existing street and Class 5 minor encroachments.

The project has been reviewed for consistency with the Eight Priority Policies of the Planning Code, and the findings are attached.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerald G. Green", written in a cursive style.

Gerald G. Green
Director of Planning

Attachments:
Section 101.1 Findings

Consistency with the Eight Priority Policies of the Planning Code

Re: Case No. 98.179R

Application to construct a privately maintained driveway for a proposed residence within Assessor's Block 6713, Lot 56.

The proposal to construct a privately maintained driveway, including new pavement, curbs, gutters, new utilities, piers and a retaining wall to provide access to a proposed residence at the subject location within Assessor's Block 6713, Lot 56 is found to be consistent with the Eight Priority Policies of Planning Code Section 101.1 in that:

1. The proposed project will not adversely effect opportunities for resident employment in and ownership of neighborhood-serving retail uses.
2. The proposed project will not adversely effect existing housing character and neighborhood character if the concerns in General Plan Referral 98.179r are addressed. The proposed project will not adversely effect the cultural and economic diversity of San Francisco's neighborhoods.
3. The proposed project will not adversely effect the City's supply of affordable housing. The project will result in a net gain of housing.
4. The proposed project will not increase commuter traffic so as to impede Muni transit service or overburden San Francisco's streets or neighborhood parking.
5. The proposed project will not adversely effect San Francisco's industrial and service sectors.
6. The proposed project will not effect the ability of the City to achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake. The San Francisco Fire Department has indicated that the new drive will be sufficient for emergency access.
7. The proposed project will not adversely effect landmarks and historic buildings, as the proposed site is currently vacant.
8. The proposed project will not adversely effect parks and open space.

EXHIBIT A
CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS
ORDER NO. 177,574

PURSUANT TO RESOLUTION NO. 493-00 ADOPTED BY THE BOARD OF SUPERVISORS ON JUNE 9, 2000, REVOCABLE PERMISSION IS GRANTED TO PATRICIA REILLY TO OCCUPY A PORTION OF THE PUBLIC RIGHT-OF-WAY TO CONSTRUCT A PRIVATELY MAINTAINED DRIVEWAY AND RELATED IMPROVEMENTS INCLUDING NEW DRAINAGE FACILITIES, UTILITIES, VALLEY GUTTER WITHIN THE UNIMPROVED AND UNACCEPTED PORTION OF POPPY LANE TO PROVIDE ACCESS TO A NEW RESIDENCE AT 101 POPPY LANE, CONDITIONED UPON THE PAYMENT OF AN ANNUAL ASSESSMENT FEE OF \$1,238 (BLOCK 6713, LOT 056).

In response to an Application for Street Improvement Permit received from John Wilson, P.E., 70 Zoe Street, Suite 200, San Francisco, CA 94107, agent for the owner, Patricia Reilly, the Permittee, and pursuant to Articles 2.4, 9 & 15 of the Public Works Code permission revocable at the will of the Director of Public Works is granted to Patricia Reilly, 3077 Muledeer Lane, Santa Rosa, CA 95407, to have a properly licensed contractor perform the following work:

1. Excavation and grading.
2. Protect in place existing concrete swale adjacent to 2585 Diamond Street (Block 6713, Lot 037B).
3. Protect in place existing landscaping (aloe trees, all vegetation, planters boxes, rocks, etc.) within the 30" wide strip adjacent to 2579 Diamond Street (Block 6713, Lot 038).
4. Install 147 linear feet of new 10" VCP sewer (to be accepted by the City upon completion, inspection and sign-off) within joint trench, to also include new 2" water, gas, electric, phone, and cable service lines).
5. Install two (2) new manholes.
6. Install three (3) new 18" catch basins/drain boxes with sand trap per City Standard Plan No. LL-18,039.1, Ch. 7.
7. Construct 3' wide concrete valley gutter.
8. Construct sub-base for pavers, including 8" thick, #2 aggregate base, and 1" to 1 1/2" bedding sand, or equivalent.
9. Install McNear Old Country "Golden Tan-Old Town Pattern" Cobblestone Pavers, or equivalent, with planting areas for driveway access.
10. Construct new concrete sidewalk with subject improvements encroaching into Diamond Street sidewalk per neighborhood pattern, new concrete curb with a 14'-0" curb cut and saw-cut minimum 2' AC paving conform and replace with 2" ACWS over 8" concrete base.
11. Other related improvements.

Damaged areas adjacent to this construction shall be properly patched per City Inspector; in addition, the Permittee shall be responsible for ponding due to this construction.

DPW Order No. 177,574

May 26, 2008

Page 2

The above mentioned work shall be constructed as shown on revised plans dated November 2006 titled "New Driveway 101 Poppy Lane", prepared by Wilson Engineering & Transportation Consultants, Inc. and on revised plans dated September 8, 2006 titled "New Single Family Home 101 Poppy Lane" prepared by Kotas/Pantaleoni Architects.

The Permittee shall file and maintain a Performance Bond in the amount of \$54,800 with the Department of Public Works and shall remain in full force and effect during the time of construction, pursuant to Article 9 of the Public Works Code, and shall be released upon completion and sign-off on the subject project as documented by the issuance of a Certificate of Occupancy by the Department of Building Inspection (DBI).

The Permittee shall provide and submit "As Built" plans and televised inspections and logs of the new 10" VCP sewer to DPW/BOE-Hydraulics Section, 1680 Mission Street, 2nd Floor, San Francisco, CA 94103, Attention: Cliff Wong. Upon completion of the new 10" sewer, the Permittee shall follow the procedures listed in "Requirements for the Private Construction of Sewers to be Accepted by the City for Maintenance" and deed the sewer to the City for future maintenance and repairs.

A separate permit is required for side sewer lateral. Installation of all sewer related work shall be done by a Class "A" or "C-42" or "C-12" with a "C-36 Licensed Contractor. Authorization requires the filing of a \$25,000 Street Excavation Bond and a non-refundable fee per lateral to cover the cost of City inspection. Having obtained permission to excavate in the roadway, the contractor shall obtain the proper permits and arrange for an inspection, for the section of pipe from the trap to the properties, with the Plumbing Inspection Division of the Department of Building Inspection (DBI) at 1660 Mission Street, telephone 558-6054.

The Permittee shall submit to the Bureau of Street-Use and Mapping non-refundable fees of \$524 to cover the cost of processing fees and an inspection fee of \$4,105 to cover the cost of inspection by DPW Inspection Services for the above work; and shall schedule an inspection with the Street Improvement Section Inspectors, telephone: (415) 554-7149 between the hours of 8:00-9:00 AM or 4:00-5:00 PM. Any additional inspection costs incurred shall be billed directly to the Permittee.

Pursuant to Ordinance No. 57-06, adopted by the Board of Supervisors on May 22, 2006, the Permittee shall pay an annual assessment fee of \$1,238 for the use of said right-of-way, which shall be increased at the beginning of each fiscal year based upon the Consumer Price Index quotient, and shall be re-evaluated by DPW every five (5) years.

In reference to #3 above, the Permittee and/or the owners of 2579 Diamond Street shall immediately notify Bureau of Urban Forestry (BUF) at (415) 641-2674 if any damage to the landscaping occurs and shall immediately cease all street improvement work until BUF verifies and inspects damage. The Permittee also acknowledges that final sign-off on this project will be dependent on the existing landscaping being intact upon completion of the subject improvements.

All elements of the above mentioned/permitted improvements shall be constructed and/or installed to conform to the applicable provisions, rules, regulations and guidelines of San Francisco Building Code (SFBC), The Americans with Disabilities Act (ADA) and the Americans with Disabilities Act Accessibility Guidelines (ADAAG).

The Permittee shall provide and maintain vehicular access and temporary accessible pedestrian paths of travel to Poppy Lane during construction, in accordance with the SFBC and DPW Order No. 167,840, titled "Guidelines for the Placement of Barricades at Construction Sites."

The Permittee recognizes and shall pay all necessary fees for the recordation of this Order with the office of the San Francisco County Recorder.

Regulations in Department of Public Works Order No. 176,707 shall apply to the above work.

The Permittee shall obtain a permit at the Central Permit Bureau, 1660 Mission Street, for the occupancy of street space at the above location, as required in Section 724 of the Public Works Code.

The Permittee shall obtain a tree permit from the Department of Public Works Bureau of Street-Use & Mapping prior to the planting and/or removal of any street trees, telephone 554-6700.

The Permittee shall obtain a permit from the Department of Building Inspection for any work taking place on private property.

The Permittee shall contact the Department of Parking & Traffic/Municipal Transportation Agency at 1 South Van Ness Avenue, 7th Floor, telephone: 701-4500, for traffic requirements prior to beginning construction.

The Permittee shall conduct their operations in accordance with the requirements of Article 11 of the Traffic Code and the applicable sections under Section 110, Traffic Routing Work, of the Standard Specifications.

All work shall be done by a licensed contractor and in accordance with the requirements of the Standard Specifications of the Bureau of Engineering, Department of Public Works, July 1986 Edition, including sidewalk and pavement cutting and removal, lagging, excavation, backfill and sidewalk and pavement restoration.

The Permittee shall verify the locations of any City or 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 or public utility company facilities.

The permission granted by this Order is merely a revocable license. The Director of Public Works may revoke said permission at will, and upon the revocation thereof, the undersigned Permittee, its successors or assigns in interest, by acceptance of this permit, shall remove or cause to be removed the encroachments permitted herein and all the materials used in connection with their construction and restore the areas to a condition satisfactory to the Director of Public Works, without expense to the City and County of San Francisco.

The Permittee shall call Underground Service Alert (USA), telephone: 1-800-227-2600, 48 hours prior to any excavation.

In consideration of this Permit being issued for the work described herein, the 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.

The 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 officers, 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, goodwill, 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 (iv) any release or discharge, or threatened release or discharge, of any hazardous material caused or allowed by Permittee in, under, on or about the property subject to this Permit or into the environment. As used herein, "hazardous material" means any substance, waste or material which, because of its quantity, concentration of physical or chemical characteristics is deemed by any federal, state, or local governmental authority to pose a present or potential hazard to human health or safety to the environment.

The Permittee must hold harmless, indemnify and defend the City regardless of the alleged negligence of the City or any other party, except only for claims resulting directly from the sole negligence or willful misconduct of the City. The Permittee specifically acknowledges and agrees that it has an immediate and independent obligation to defend the City from any claim which actually or potentially falls within this indemnity provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Permittee by the City and continues at all times thereafter. The Permittee agrees that the indemnification obligations assumed under this Permit shall survive expiration of the Permit or completion of work.

The 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.

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May 26, 2008
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The Permittee and any permitted successor or assign recognize and understand that this Permit may create a possessory interest.

Edward D. Reiskin
Director of Public Works

RECOMMENDED:

Barbara L. Moy
Bureau Manager
Street-Use & Mapping

Outside of BSM
Dept. Files (2)
Central Permit Bureau
Street Repair - 2323 Cesar Chavez

Inside of BSM
Inspector - N. Lynch
1660 Mission - B. Gaime
Nick Elsner (1-signed)

DPW/BSM/ NE/no

APPROVED: MAY 26, 2008

EDWARD D. REISKIN, 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 Ordinance 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: 101 Poppy Lane, San Francisco, Ca. 94131_____

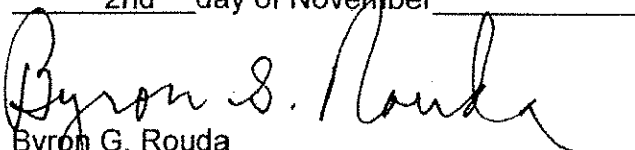
_____. The provisions of the permit shall bind all subsequent purchases and owners of the described property.

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

In witness whereof the undersigned Permittee(s) have executed this agreement this
2nd day of November, 2009.


Byron G. Rouda

Lynette M. Cayson

COUNTY OF San Francisco

WITNESS my hand and official seal

Notary Public in and for said
County and State

