

**CITY OF OAKLAND**  
*Agenda Report*

2007 DEC 24 5:02  
Office of the City Administrator  
ATTN: Deborah Edgerly  
FROM: Community and Economic Development Agency  
DATE: December 11, 2007

RE: **A Supplemental Report Providing Information On The**

- **Compliance By Jack London Square Partners, LLC, And CEP-JLS I, LLC With The City Of Oakland's Local Employment Program And Port Of Oakland's Non-Discrimination And Small Local Business Utilization Policy And Prevailing Wage And Living Wage Requirements, And**
- **Land Use Development Agreement With Jack London Square Partners, LLC, And CEP-JLS I, LLC, And**
- **Proposed Below Ground And Above Ground Encroachments For A Multi Modal Parking Garage At 255 2nd Street**

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**SUMMARY**

On November 27, 2007, the Public Works Committee deliberated on a proposed permit for a new multi modal parking garage at 255 2nd Street in Jack London Square that will allow building foundations and transformers to encroach beneath the adjoining public easements and public right-of-way. The Committee directed staff to return with additional information concerning the full scope of proposed encroachments for the project, the scope of the Development Agreement with the project sponsors, Jack London Square Partners, LLC (JLSP), and CEP-JLS I, LLC (CEP), and an update on the implementation of the City's Local Employment Program and the Port's Small Local Business policy and Prevailing Wage and Living Wage requirements.

**KEY ISSUES AND IMPACTS**

**I. Encroachments**

▪ **General**

Approval of encroachments in a public easement or the public right-of-way is a discretionary action by the City Council. The permit, which is revocable by the Council, is issued by staff with "boilerplate" conditions related to indemnity for the City and maintenance by the property owner. Permit processing fees are prescribed in the Master Fee Schedule. In general, the City Council may

- approve or deny an encroachment as proposed, or
- approve the encroachment subject to modification of its type (non-hazardous, aesthetically pleasing, farmers' market, etc.), location (below ground, temporary street closure, etc.), and/ or extent (Saturdays, vended products, etc.).

In general, conditions imposed on ministerial and discretionary permits must have an

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associated relationship (nexus) with the permitted project and are typically based on public health, safety, and welfare.

▪ **255 2nd Street (site G)**

The one and one-half (1.5) acre site is bounded by Embarcadero, 2nd Street, Alice Street and Harrison Street and has been leased by JLSP from the Port of Oakland. Alice Street and Harrison Street were vacated by the City in 1993, and the City retained public utility easements across the full width of the vacated streets. The developer has proposed three (3) major encroachments into the adjoining easements and rights-of-way:

➤ **Below ground** (refer to Attachment A)

The perimeter foundations for the proposed seven (7) story garage will encroach under the public sidewalk along the four (4) abutting streets. The design engineer has recommended that the building footings be positioned symmetrically under all bearing walls and columns to balance the ground pressure and reduce potential subsidence in the liquefaction zone.

Pacific Gas and Electric and AT&T require that electrical and telecommunications transformers be installed where their maintenance personnel can readily access the equipment without involving building management or occupants. This has been recently accomplished in Oakland by mounting the equipment

- ✓ above ground on private property, as has been proposed for a new building at 311 2nd Street (across Harrison Street from 255 2nd Street), or
- ✓ in a "utility closet" located along the exterior of the building with access doors which open over the public sidewalk, as was done for Whole Foods grocery store on Harrison Street, or
- ✓ under the public sidewalk in a vault, as has been done throughout the downtown area.

➤ **Above ground** (refer to Attachment B)

The parking garage will directly serve a new building (Jack London Market, formerly Harvest Hall) which will be constructed across the Embarcadero on the Port of Oakland site F1. The developer has proposed directly connecting the new garage to the new building with an overhead walkway which will span over the one-hundred (100) feet wide street with twenty-three (23) feet of clearance above the street surface and railroad tracks. The walkway has been approved by the Planning Commission.

**II. Development Agreement** (refer to Attachment C)

Jack London Square is a magnet location for regional, national, and international visitors that has vital importance for the economic health, vibrancy, and stature of the City. The City and the project sponsors, JLSP and CEP, entered into a fifteen (15) year Development Agreement (DA) in July 2004 (ordinance 12613 C.M.S.) to construct seven (7) mixed-use buildings and a parking garage on Port of Oakland properties in Jack London Square:

PORT SITE	PROJECT	STATUS
<b>C</b> <b>505 Embarcadero West</b>	retail and office	construction in-progress
<b>D</b>	retail and office	future design
<b>F1</b> <b>65 Harrison Street</b>	<b>Jack London Market</b> <b>(formerly Harvest Hall)</b>	construction in-progress
<b>F2</b>	retail and office	future design
<b>F3</b>	retail and office	future design
<b>G</b> <b>255 2nd Street</b>	parking garage	permit ready-to-issue
<b>Pavilion 2</b>	retail and office	future design
<b>66 Franklin Street</b>	retail and office	continuing tenant improvements

The DA was adopted concurrently with environmental review and other land use entitlements for the project. A primary purpose of the DA is to provide certainty to the applicant in fostering development that would fulfill and implement adopted City plans, goals, policies, and objectives in the General Plan, Estuary Plan, and other City regulations. The DA provides assurances of a unified set of development standards, requirements, and expectations between the City and the project sponsor. The DA memorializes obligations and responsibilities of the City and the project sponsor. Provisions in the DA include time limitations for phased construction, alternative design review procedures, and approval of ownership transfers. The DA sets forth requirements for the project sponsors to develop a Construction Phasing and Management Plan, Emergency Response Protocol Plan, Site Security and Management Plan, Master Development Improvement Plan, Master Traffic Improvement Plan, Parking Requirements and Management Plan, Shuttle Operations Plan, and Landscape Maintenance Agreement. The DA further obligates the developer to comply with certain Port and City programs, including the Port's Non-Discrimination and Small Local Business Utilization Policy (see DA section 4.5 and DA Exhibits J-1, J-2, and J-3) and, as discussed in more detail below, the City's Local Employment Program as in effect April 2004 (see DA section 4.7 and DA Exhibit L).

On November 27, the Public Works Committee inquired as to whether additional requirements could be imposed on the project in connection with the encroachment permit that is the subject of this Agenda item. The DA precluded imposition of future regulations adopted or modified by the City, subject to certain exceptions such as for conditions dangerous to health or safety and increase in the Master Fee Schedule. Staff and the City Attorney's Office would first need to review a specific proposal and evaluate if any exception criteria would be applicable.

### III. Local Employment And Small Local Business Programs

#### ▪ Local Employment Program - City of Oakland

The DA requires the project sponsors to abide by the City's Local Employment Program (April 2004), which establishes goals for the hiring of Oakland-residents for construction, alteration, demolition, or repair work done under certain contracts. The project sponsors are required to

take commercially reasonable measures to ensure that its contractors and subcontractors abide by the program. The program does not apply to tenant improvements (interior build-out). The City's Office of Contract Compliance has confirmed that the project sponsors are currently in compliance with the program requirements.

▪ **Small Local Business Utilization Policy and Wage Requirements - Port of Oakland**

The DA requires the project sponsors to abide by the Port's Non-Discrimination and Small Local Business Utilization Policy and the Port's Prevailing Wage (California Labor Code) and Living Wage requirements. The project sponsors are required to use all diligent efforts to ensure that its contractors and subcontractors similarly comply with all provisions of the California Labor Code. The Port's compliance administrator has confirmed that the project sponsors are currently in compliance for the three (3) projects in progress.

SMALL LOCAL BUSINESS UTILIZATION FOR CONSTRUCTION SERVICES			
GOAL	ACTUAL TO-DATE		
	Site C retail & office	Site G parking garage	Site F1 Jack London Market
25 %	49.9 %	34.1 %	35.2 %

**RECOMMENDATIONS**

Staff recommends that the Committee receive this report.

**ACTION REQUESTED OF THE CITY COUNCIL**

Receive this report and adopt the resolution granting a conditional and revocable permit to Jack London Square Partners, LLC, for encroachments under easements and right-of-way along 2nd Street, Embarcadero, Harrison Street, and Alice Street.

Respectfully submitted,



**CLAUDIA CAPPIO**

Development Director

Community and Economic Development Agency

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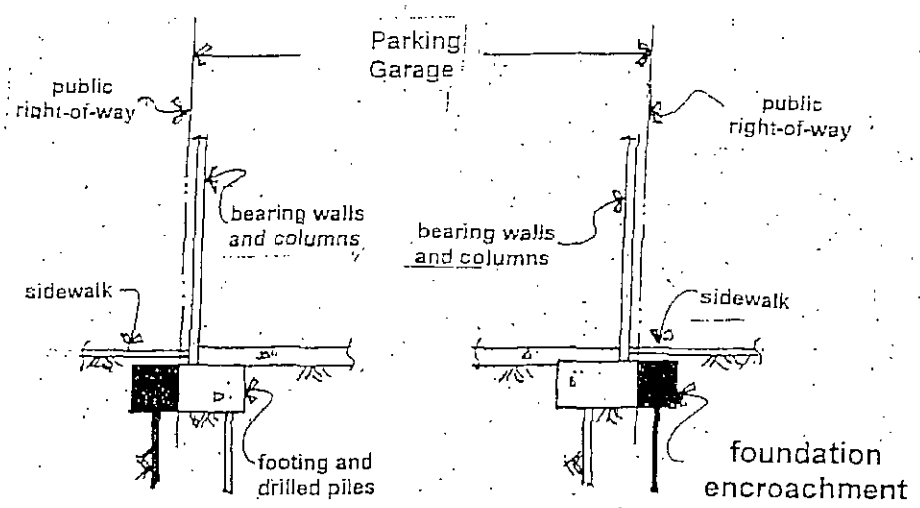
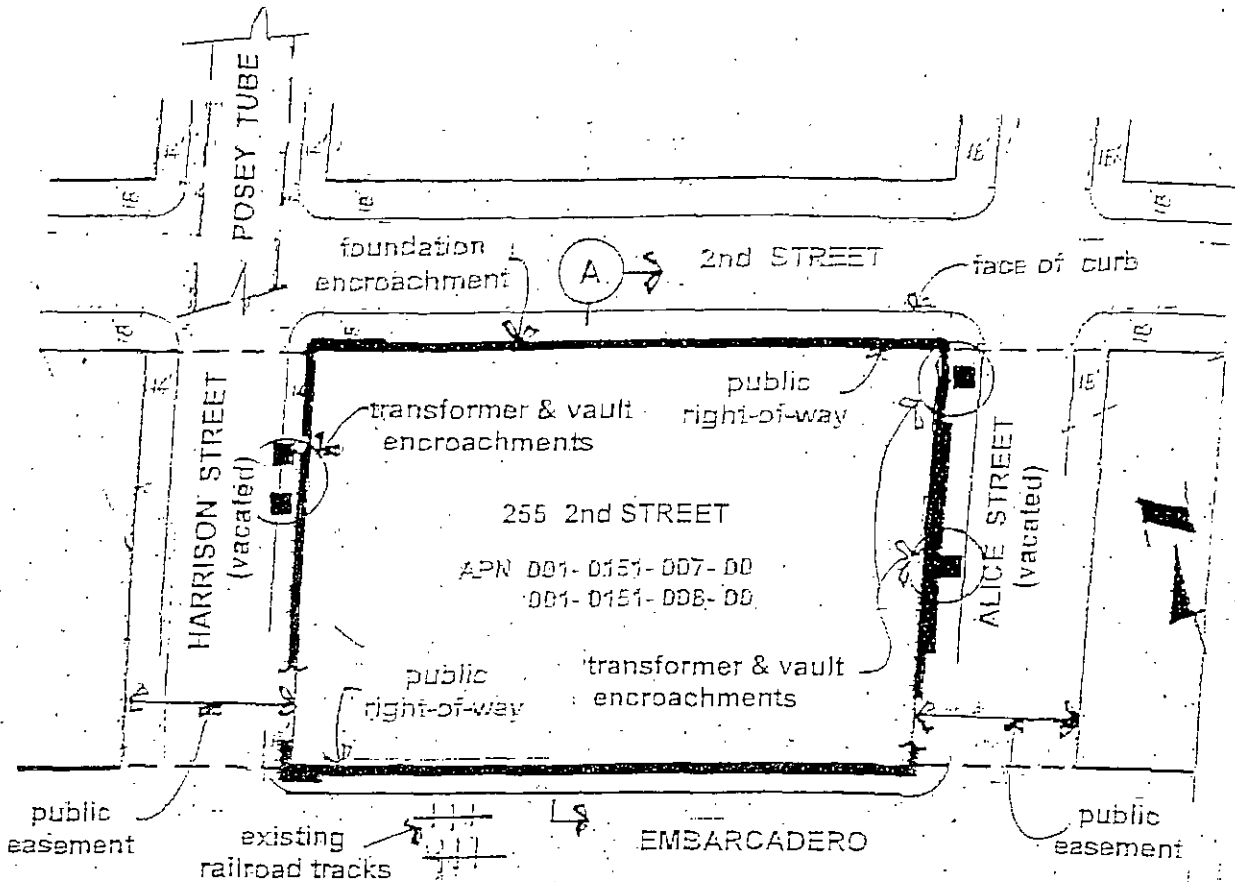
APPROVED FOR FORWARDING TO  
THE PUBLIC WORKS COMMITTEE:



Office of the City Administrator

# ATTACHMENT A

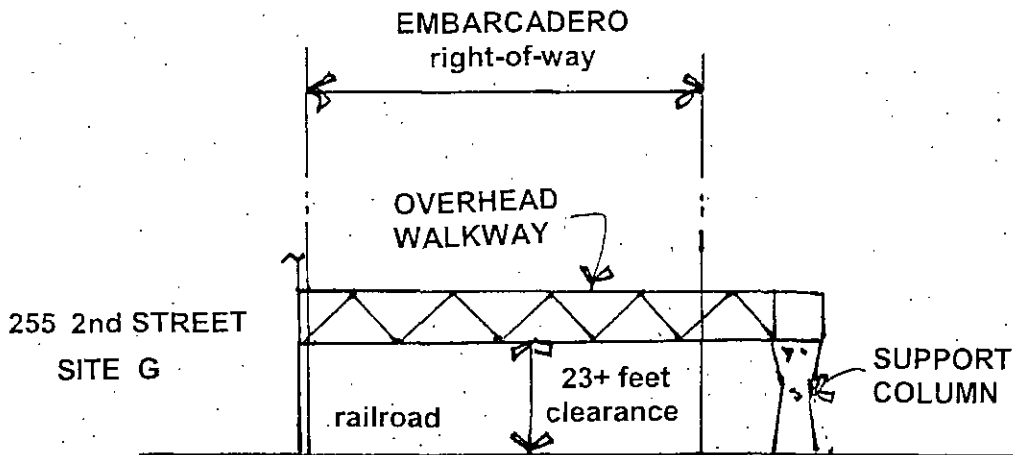
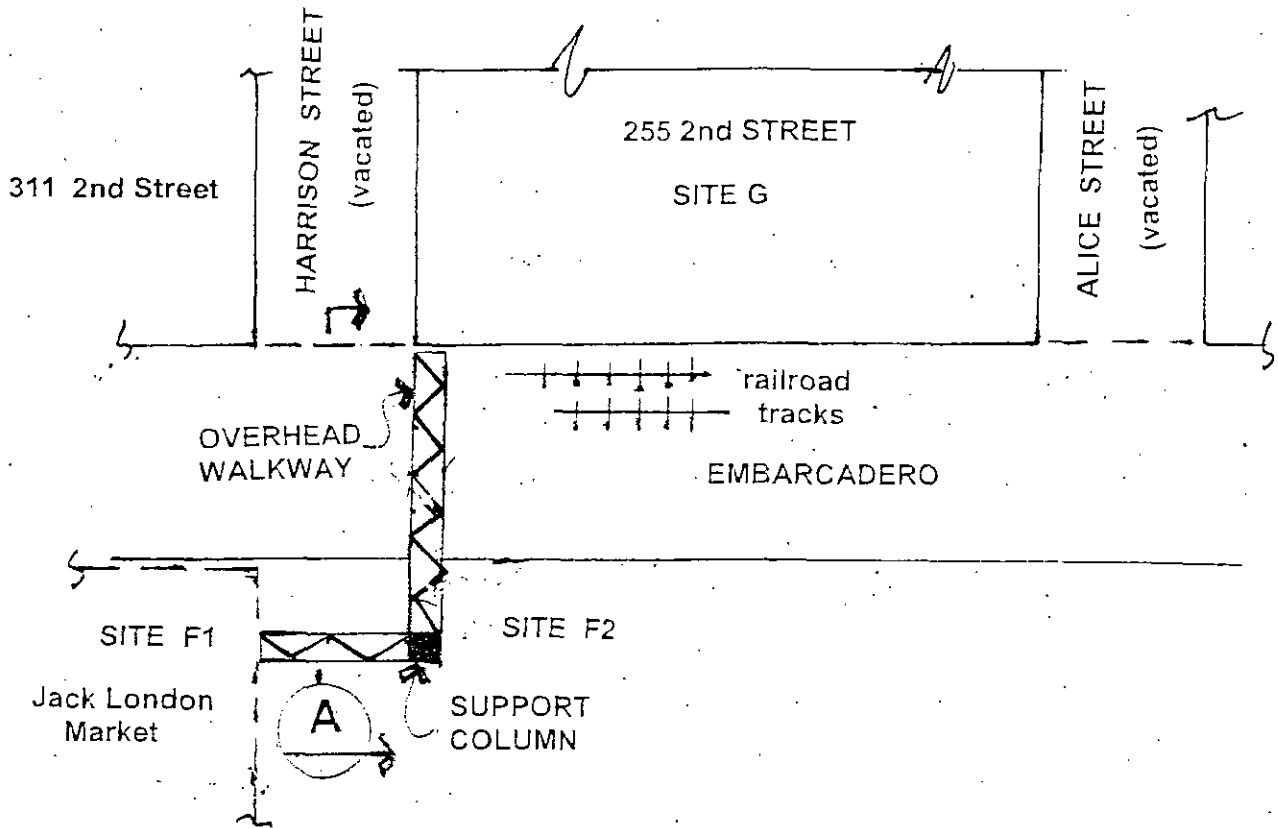
## Below Ground Encroachments



**VIEW** A

ATTACHMENT B

Above Ground Encroachments



VIEW

A

# ATTACHMENT C

## Development Site Locations

