

CITY OF OAKLAND
Agenda Report

OFFICE OF THE CITY CLERK
2007 APR 24 PM 12:42

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: April 24, 2007

RE: **A Report And Resolution Revoking Approval For Demolished Encroachments In Second Street And Castro Street For A Vacant Lot At 229 Castro Street**

SUMMARY

A resolution has been prepared revoking approval granted by the City Council in 1986 for two (2) encroachments that allowed installations into the public right-of-way of a loading dock on Second Street and a handicapped access ramp on Castro Street. The concrete structures were demolished with the companion building in 2000. The site is currently used as a parking lot.

FISCAL IMPACT

Staff costs for processing the proposed encroachment permits will be covered by fees set by the Master Fee Schedule and paid by the developer and will be deposited in the special revenue Development Service Fund (2415), Engineering Services organization (88432), Encroachment Permits account (42314), Engineering and Architectural Plan Approval (PS30). The standard conditions of the encroachment permit require the property owner to maintain liability and property damage insurance and to include the City as a named insured.

PROJECT DESCRIPTION

The new owner, 375 Jack London Square, LLC, of the vacant parcel (APN 0011-0117-003-00) at 229 Castro Street has requested that two (2) demolished encroachments (a loading dock and handicapped access ramp) be revoked that were approved by Resolution No. 63695 CMS. The Resolution was recorded by Alameda County in 1986, and has been an unnecessary encumbrance of the property title since 2000, when the prior property owners demolished four (4) buildings on the block. The loading dock and the handicapped access ramp formerly encroached into the sidewalk at the intersection of Second Street and Castro Street. The site is currently used as a parking lot which serves a building at 720 Second Street (Oakland Telecom Access Center) that was constructed in 2001.

KEY ISSUES AND IMPACTS

Oakland Municipal Code Section 12.08.030 requires that the City Council approve encroachments that intrude into the public right-of-way and are permanently attached to a building. Resolution 63695 CMS requires that the City Council approve a separate resolution in order to revoke the prior approval of the encroachments.

SUSTAINABLE OPPORTUNITIES

Economic

There are no economic opportunities associated with this revocation.

Environmental

There are no environmental opportunities associated with this revocation.

Social Equity

There are no social equity opportunities associated with this revocation.

DISABILITY AND SENIOR CITIZEN ACCESS

There are no disability or senior citizen access opportunities associated with this revocation.

RECOMMENDATIONS

Staff recommends that the Committee accept this report and forward it to the City Council to adopt the proposed resolution.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council accept this report and adopt the proposed resolution revoking approval of two (2) demolished encroachments that formerly encroached into the public sidewalk at the intersection of Second Street and Castro Street.

Respectfully submitted,



CLAUDIA CAPPIO
Development Director
Community and Economic Development Agency

Prepared by:

Raymond M. Derania
Interim City Engineer
Building Services Division

APPROVED FOR FORWARDING TO
THE PUBLIC WORKS COMMITTEE



OFFICE OF THE CITY ADMINISTRATOR

DRAFT

Councilmember

City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

**A RESOLUTION REVOKING APPROVAL FOR DEMOLISHED
ENCROACHMENTS IN SECOND STREET AND CASTRO STREET
FOR A VACANT LOT AT 229 CASTRO STREET**

WHEREAS, 365 Jack London Square LLC , a California limited liability company (no. 200632210114), and owner of the property described in a Grant Deed recorded January 9, 2007, Series No. 2007008652, by the Alameda County Recorder and identified by the Alameda County Assessor as parcel number 001-0117-003-00 and by the City of Oakland as 229 Castro Street, has made an application to the Council of the City of Oakland for revocation of a conditional encroachment that allowed installations into the public right-of-way of a loading dock on Second Street and a handicapped access ramp on Castro Street, and

WHEREAS, the Council of the City of Oakland adopted Resolution No. 63695 CMS, attached hereto as *Exhibit A*, on April 8, 1986, that granted the former owners of said property, Inversiones Metropolitanas, a California corporation, encroachments for said installations in the public sidewalk on Second Street and Castro Street; and

WHEREAS, the Council of the City of Oakland set forth in said Resolution its determination that the installation of said encroachments was categorically exempted from the requirements of the California Environmental Quality Act (CEQA); and

WHEREAS, said Resolution was recorded by the Alameda County Recorder on April 24, 1984, as series number 86097761; and

WHEREAS, said encroachments were installed with permit number ENMJ99038; and

WHEREAS, said encroachments were removed voluntarily by the successor property owner, Oakland Telecom Access Center One, LLC, from the public right-of-way in 2000 with demolition permit number B0003025; and

WHEREAS, the area of the public right-or-way formerly occupied by said encroachments was restored by said property owner in 2001 to the satisfaction of the City Engineer with permit number PX0000020; and

WHEREAS, said resolution sets forth that said encroachments shall be revocable at the pleasure of the Council of the City of Oakland, as expressed by its resolution; now, therefore, be it

RESOLVED: That approval for the installation into the public right-of-way of said encroachments is hereby revoked; and be it

FURTHER RESOLVED: That the condition of the approval of said encroachments for maintaining public liability insurance and property damage insurance no longer has any force or effect; and be it

FURTHER RESOLVED: That the City Clerk is hereby directed to file a certified copy of this resolution for recordation with the Alameda County Recorder

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2007.

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND
PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Exhibit A

Resolution No. 63695 C.M.S.

OAKLAND CITY COUNCIL

63695

RESOLUTION NO. _____ C. M. S.

INTRODUCED BY COUNCILMEMBER _____

JPL

A RESOLUTION GRANTING INVERSIONES METROPOLITANAS, INC., A CALIFORNIA CORPORATION, A CONDITIONAL REVOCABLE PERMIT TO ENCROACH INTO THE SIDEWALK AREA OF THE PUBLIC RIGHT-OF-WAY OF SECOND STREET WITH A LOADING DOCK AND TO ENCROACH INTO THE PUBLIC RIGHT-OF-WAY OF CASTRO STREET WITH A HANDICAP RAMP AT THE PROPERTY COMMONLY KNOWN AS 229 CASTRO STREET

WHEREAS, Inversiones Metropolitanas, Inc., a California corporation, and owner of that certain real property described in the Individual Grant Deed, filed September 28, 1977, Series No. 77-192715 at the Office of the Recorder, Alameda County, California, and commonly known as 229 Castro Street; and

WHEREAS, the location of said loading dock and handicap ramp to be granted by this resolution is further depicted and delineated as Parcels 1 and 2, respectively, in Exhibit "A" attached hereto and made a part hereof and particularly described as follows:

Parcel 1

That portion of the sidewalk area of Second Street measuring 4' x 15', the northeastern line of which is coincident with the northeastern line of Second Street, located 23.5 feet perpendicular from the southern prolongation of the northwestern line of that parcel of land described in the hereinabove mentioned Individual Grant Deed.

Parcel 2

That portion of the sidewalk area of Castro Street measuring 8' x 42', the northwestern line of which is coincident with the northwestern line of Castro Street, located 14 feet from the intersection of the northeastern line of Second Street and the northwestern line of Castro Street.

WHEREAS, said loading dock and handicap ramp will not interfere with the public use of the sidewalk area of Second Street and Castro Street, and the public welfare and convenience will not be endangered by said use; and

WHEREAS, the proposed loading dock and handicap ramp have been found categorically exempt from the requirements of the California Environmental Quality Act; now, therefore

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1408

Exhibit A

Resolution No. 63695 C.M.S.

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6. That the Permittee, by the acceptance, either expressed or implied, of this revocable permit shall be solely and fully responsible for the repair or replacement of any portion or all of said improvements in the event that said improvements shall have failed or have been damaged to the extent of creating a menace or of becoming a hazard to the safety of the general public; and that the Permittee shall be liable for the expenses connected therewith.
7. That the Permittee is responsible for the relocation of all public utilities and facilities as required.
8. That the Permittee is responsible for the relocation of all City utilities including Fire Alarm Cable, Master Signal Cable, street lighting and intersection signal cable, as required.
9. That upon the termination of the permission herein granted, Permittee shall immediately remove said encroachment from the sidewalk area, and any damage resulting therefrom shall be repaired to the satisfaction of the Director of Public Works.
10. That the hereinabove conditions shall be binding upon the Permittee and the successive owners and assigns thereof.
11. That the Permittee shall file with the City of Oakland for recordation, a disclaimer and agreement that Permittee accepts and shall comply with and shall be bound by each and all of the terms, conditions and provisions of this resolution, which said disclaimer and agreement shall be subject to the approval of the City Attorney and the Director of Public Works.
12. That the plans and exact location of said encroachment hereby granted are subject to the review and approval of the Office of Public Works and that the Permittee shall obtain all necessary permits prior to commencing said work.
13. That this resolution shall take effect when all the conditions hereinabove set forth shall have been complied with to the satisfaction of the City Attorney and the Director of Public Works of the City of Oakland and shall become null and void upon the failure of the Permittee to comply with the conditions hereinabove set forth after notice and failure to cure such conditions in a reasonable manner, and be it

Exhibit A

Resolution No. 63695 C.M.S.

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BE IT RESOLVED: That Inversiones Metropolitanas, Inc., a California corporation, is hereby granted a conditional revocable permit to encroach into the sidewalk area of Second Street and Castro Street, and be it

FURTHER RESOLVED: That the Council of the City of Oakland in granting this permission, prescribes as special conditions thereof, the following:

1. That this permit shall be revocable at the pleasure of the Council of the City of Oakland, expressed by resolution of said Council.
2. That the Permittee by the acceptance, either expressed or implied, of this revocable permit, hereby disclaims any right, title or interest in or to the portions of Second Street and Castro Street and agrees that the temporary use of said area does not constitute an abandonment on the part of the City of Oakland of any of its rights for street purposes otherwise.
3. That the Permittee shall maintain in force and effect at all times that said installation occupies said sidewalk area, good and sufficient public liability insurance in the amounts of \$300,000 for each occurrence and property damage insurance in the amount of \$50,000, both including contractual liability, insuring the City of Oakland, its officers, agents and employees, against any and all claims arising out of the existence of said encroachment in said sidewalk area; and that a certificate of such insurance, and subsequent notices of the renewal thereof, shall be filed with the City Clerk of the City of Oakland; and that such certificate shall state that said insurance coverage shall not be cancelled or be permitted to lapse without thirty (30) days prior written notice to said Director of Public Works and shall be subject to the approval of the City Attorney.
4. That the Permittee, by the acceptance, either expressed or implied, of this revocable permit, agrees and promises to hold harmless the City of Oakland, its agents, officers, and employees, from all and every claim, demand, lawsuit and judgment for damages of any kind and nature whatsoever arising out of or caused by the existence of said encroachment to said sidewalk area and regardless of responsibility for negligence. The liability insurance referred to in the preceding paragraph shall cover this contractual liability.
5. That the Permittee shall make no changes to the encroachments hereby allowed either structurally, with regard to dimension, or with respect to use, without the written consent of the Director of Public Works and understands that the City may impose reasonable fees and considerations for processing permits required for such proposed changes. Permittee also understands that the City is not obligated to grant any changes proposed by said Permittee.

Exhibit A

Resolution No. 63695 C.M.S.

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FURTHER RESOLVED: The City Clerk is hereby directed to have a certified copy of this resolution recorded at the office of the Alameda County Recorder.

IN COUNCIL, OAKLAND, CALIFORNIA, APR 8 1986, 19

PASSED BY THE FOLLOWING VOTE:

AYES— BAZILE, CANNON, GIBSON, GILMORE, MOORE, OGAWA, RILES, SPEES, and PRESIDENT WILSON , - 9

NOES— NONE

ABSENT— NONE

ABSTENTION— NONE

ATTEST:



ARRECE JAMESON
City Clerk and Clerk of the Council
of the City of Oakland, California

Exhibit A

Resolution No. 63695 C.M.S.

REVOCABLE PERMIT

2nd & CASTRO STREETS

NORTH
SCALE: 1" = 40'

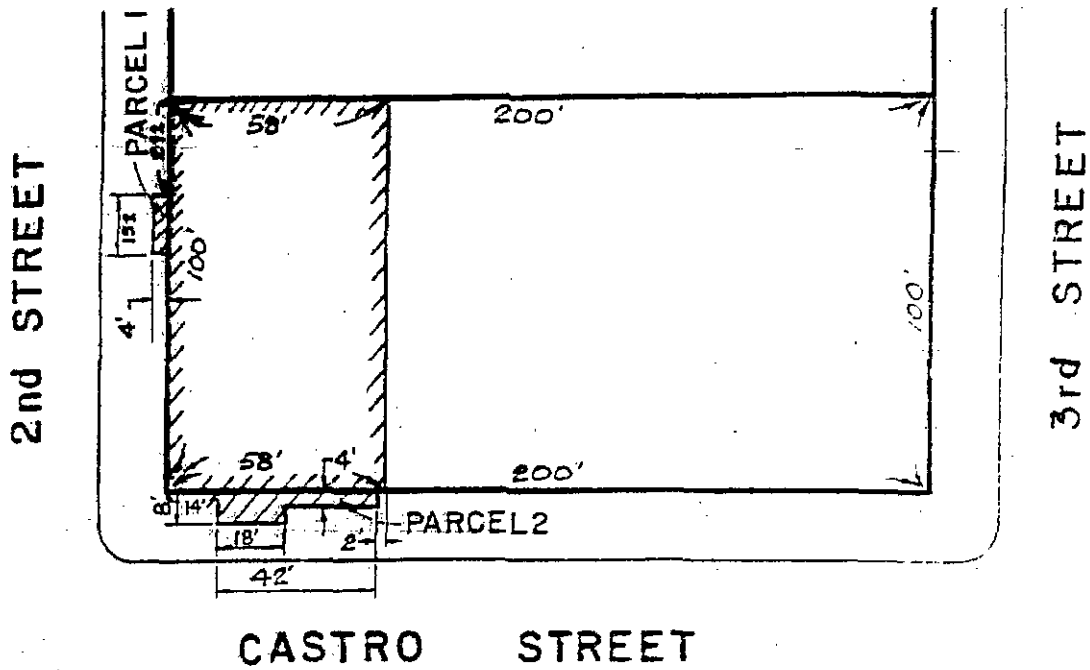


EXHIBIT 'A'