

OAKLAND CITY COUNCIL

RESOLUTION No. 76197 C.M.S.

INTRODUCED BY COUNCILMEMBER _____

A RESOLUTION GRANTING PACIFIC BUILDING EQUITY, LLC AND DEAN H. LITTLEWOOD, A CONDITIONAL REVOCABLE PERMIT FOR THE ENCROACHMENT OF AN EXISTING STRUCTURAL SIDEWALK AND BASEMENT WITHIN THE PUBLIC SIDEWALK AREAS OF 16TH AND JEFFERSON STREETS

WHEREAS, Pacific Building Equity, LLC and ~~Dean~~ H. Littlewood ("Permittee"), owners of that certain property described in the ~~Deed~~, recorded June 30, 2000, Series No. 2000-195846, at the Office of the County Recorder, Alameda County, California, commonly known as 1610-16th Street, have made application for a conditional revocable permit to the Council of the City of Oakland for the encroachment of an existing structural sidewalk and basement within the public sidewalk areas of 16th and Jefferson Streets; and

WHEREAS, the location of said encroachment to be granted by this resolution is delineated in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, said encroachments will not interfere with the public use of 16th and Jefferson Streets; and

WHEREAS, the requirements of the California Environmental Quality Act (CEQA) of 1970, the guidelines as prescribed by the Secretary of Resources, and the Provisions of the Statement of Objectives, Criteria and Procedures for Implementation of the CEQA: City of Oakland, have been satisfied, and that in accordance with Section 15301, Class 1 of the California Code of Regulations this project is exempt from the provisions of the California Environmental Quality Act; now therefore,

BE IT RESOLVED: That this resolution complies with the CEQA, and be it

FURTHER RESOLVED: That the Permittee is hereby granted a conditional revocable permit for the encroachment of an existing structural sidewalk and basement within the public right-of-way areas of 16th and Jefferson Streets; 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 the Permittee is responsible for the relocation of all existing public utilities including, but not limited to, fire alarm cable, master signal cable, street lighting and intersection signal cable, as required.

2. That, after notice to Permittee, this permit shall be revocable at the reasonable discretion of the Council of the City of Oakland, expressed by resolution of said Council.
3. That the Permittee, by the acceptance, either expressed or implied, of this revocable permit hereby disclaims any right, title, or interest in or to any portion of the public right-of-way area, underlying the said encroachment or the air space above and agrees that said 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 and otherwise.
4. The Permittee shall maintain in force and effect at all times that said encroachment occupies said public right-of-way, good and sufficient fund to cover public liability and property damage, both including contractual liability insuring the City of Oakland against any and all claims arising out of the existence of said encroachment in said public right-of-way area.
5. That the Permittee, by the acceptance, either expressed or implied of this revocable permit agrees and promises to defend and hold harmless and indemnify the City of Oakland, its agents, officers, and employees, from any and every claim, demand, lawsuit and judgment for damages of any kind and nature whatsoever arising out of or caused by the existence, installation or maintenance of said encroachment to said right-of-way area and street area and regardless of responsibility for negligence. The liability insurance referred to in the preceding paragraph shall cover this contractual liability, provided that nothing herein shall be interpreted as limiting the Permittee's defense, hold harmless and indemnification obligations to the amount set forth in the preceding paragraph.
6. That Permittee shall make no changes to the encroachment hereby allowed either structurally, with regard to dimension, or with respect to use, without the written consent of the Director of Building Services 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.
7. 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 herewith.
8. That upon the termination of the permission herein granted, Permittee shall immediately remove said encroachment from the right-of-way area, and any damage resulting therefrom shall be repaired to the satisfaction of the Director of Building Services.

- 9. 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. Said disclaimer and agreement shall be subject to the approval of the City Attorney and the Director of Building Services.
- 10. That the Permittee agrees to limit the amount of time that the sidewalk elevator doors are kept open. The sidewalk elevator doors shall be opened only during actual use and shall be kept closed at all other times.
- 11. 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 Building Services 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.
- 12. That the hereinabove conditions shall be binding upon the Permittee and the successive owners and assigns thereof; and be it

FURTHER RESOLVED: 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 Building Services 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.

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, DEC 12 2000, 19

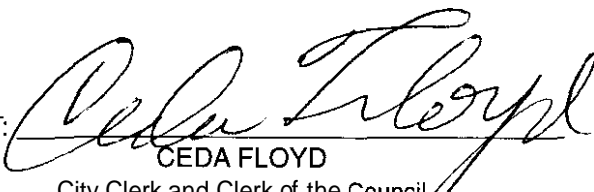
PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, ~~CHANG~~, MILEY, NADEL, REID, ^{WAN}RUSSO, SPEES AND
 PRESIDENT DE LA FUENTE 17

NOES- None

ABSENT- Chang-1

ABSTENTION- None

ATTEST: 
 CEDA FLOYD
 City Clerk and Clerk of the Council
 of the City of Oakland, California