



FILED
OFFICE OF THE CITY CLERK
OAKLAND

2016 SEP 1 AM 10:31
AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Jeff Tumlin
Acting Director Department
Transportation

SUBJECT: Major Encroachment Permit at
1629 Telegraph Avenue, 4242 to
4266 Broadway, 718 Clay Street, 414
29th Avenue, 2630 Broadway

DATE: July 1, 2016

City Administrator Approval

Date:

8/31/16

RECOMMENDATION

Staff Recommends That The City Council Adopt Five Resolutions Approving Major Encroachment Permits Associated With Architectural Building Elements That Encroach Into The Public Right-Of-Way.

- 1. Resolution Granting A Conditional And Revocable Major Encroachment Permit To Thomas Ramsey, LLC To Allow a Portion Of The Existing Building Basement Below The Sidewalk At 1629 Telegraph Avenue To Encroach Into The Public Right-Of-Way Along The Building Frontage On Telegraph Avenue, Major Encroachment Permit ENMJ16054.**
- 2. Resolution Granting A Conditional And Revocable Major Encroachment Permits To MPVCA Oakland, LLC To Allow a Portion Of The Building Above Sidewalk At 4242 to 4266 Broadway To Encroach Into The Public Right-Of-Way Along Broadway, Major Encroachment Permit ENMJ16055.**
- 3. Resolution Granting A Conditional And Revocable Major Encroachment Permits To 718 Clay Street, LLC To Allow a Portion Of The Building Above The Sidewalk And Temporary Support Below The Sidewalk At 718 Clay Street To Encroach Into The Public Right-Of-Way Along 7th Street and Clay Street, Major Encroachment Permit ENMJ16053.**
- 4. Resolution Granting A Conditional And Revocable Major Encroachment Permits To Carlos Plazola To Allow a Portion Of The Building Above The Sidewalk at 414 29th Avenue To Encroach Into The Public Right-Of-Way Along The Building Frontage On 29th Avenue, Major Encroachment Permit ENMJ14059.**
- 5. Resolution Granting A Conditional And Revocable Major Encroachment Permits To CRP/THC Oakland Broadway Uptown Venture, LLC To a Allow Portion Of The Building Above The Sidewalk at 2630 Broadway To Encroach Into The Public Right-**

Item: _____
Public Works Committee
September 13, 2016

**Of-Way Along The Building Frontage On Broadway, 26th Street, and 27th Street,
Major Encroachment Permit ENMJ16056.**

EXECUTIVE SUMMARY

Approval of resolutions will authorize the City Engineer to issue Major Encroachment Permits to document and regulate existing or new encroachments into the right-of-way at several locations: 1629 Telegraph Avenue; 4242 to 4266 Broadway; 718 Clay Street; 414 29th Avenue; and 2630 Broadway.

These Encroachment Permits require the property owners to comply with the conditions of approval issued previously by the City Planning and Building Department. The encroachments do not impact the use of the sidewalk fronting the property nor do they obstruct the path of travel for pedestrians or persons with disabilities. Generally they are associated with architectural elements and sub-grade basements that encroach beneath the public sidewalk. They are described in more detail in Exhibits to each Resolution.

BACKGROUND / LEGISLATIVE HISTORY

Chapter 12.08 of the Oakland Municipal Code (OMC) requires a major encroachment permit for any building element encroaching into the public right-of-way. The Encroachments to be permitted in these Permits do not exceed the limitations in the OMC.

Encroachments will have no impact on the path of travel for pedestrians or persons with disabilities, and all are in compliance with conditions of approval and building plans approved by the Planning and Building Department.

1629 Telegraph Avenue: The Building Department approved the building permit (permit number: B1000986) for rehabilitation and reinforcement of existing structural concrete sidewalk slab over the existing basement of building at 1629 Telegraph Avenue subject to the property owner's permit application and approval of the revocable Major Encroachment Permit. The proposed encroachment permit (permit number: ENMJ16054) to be issued to Thomas Ramsey, LLC allows for existing building basement to extend under the entire width of sidewalk fronting 1629 Telegraph Avenue. Details for existing encroachment are shown in the Exhibit attached to the Resolution.

4242 to 4266 Broadway: The Planning Department approved the development (permit number: PLN15339) for a new two story building comprising of parking on the first floor and medical offices on the second floor. The proposed encroachment permit (permit number: ENMJ16055) to be issued to MPVCA Oakland, LLC allows for new building canopies and roof cornice to encroach into the right of way. Details for encroachments are shown in the Exhibit attached to the Resolution.

718 Clay Street: The Planning Department approved the development (permit number: PLN15343) of a five-story mixed use building with ground floor retail, subgrade parking, and four stories of residential space with 24 units. The proposed encroachment permit (permit number:

ENMJ16053) to be issued to 718 Clay Street, LLC allows for new building to encroach in the public right of way from the second to fourth floors; bicycle racks, trees, and planter boxes on the sidewalk, and temporary shoring below sidewalk which will be removed six feet below sidewalk when building is completed. Details for encroachments are shown in the Exhibit attached to the Resolution.

414 29th Avenue. The Planning Department approved the development (permit number: REV090014) of a new five story 14 unit condo building. The proposed encroachment permit (permit number: ENMJ14059) to be issued to Carlos Plazola allows for new building to encroach in the public right of way from the second to fifth floors and a projection at roof level. Details for encroachments are shown in the Exhibit attached to the Resolution.

2630 Broadway. The Planning Department approved the development (permit number: PLN15241) of a new seven story building with 36,288 square feet of retail at ground floor and 253 dwelling units on the upper levels. The proposed encroachment permit (permit number: ENMJ160569) to be issued to CRP/THC Oakland Broadway Uptown Venture, LLC allows for new building to encroach above the sidewalk in the public right of way with canopies over retail space entrance and balconies from the second floor to the roof. Details for encroachments are shown in the Exhibit attached to the Resolution.

ANALYSIS AND POLICY ALTERNATIVES

The proposed encroachments will not interfere with public use of the right-of-way or buried utilities and will not endanger the public welfare and convenience. These encroachments are either existing conditions or are proposed improvements approved by the Planning and Building Department.

Approval of these Major Encroachment permits will allow the City to execute indenture agreements with the property owners holding the property owners liable and responsible for private improvements constructed in the public right-of-way and will allow for construction and maintenance of the encroachments. The indenture agreements will also allow the City to revoke the Permit when necessary and require the property owners to remove the encroachments and restore the public right of way if necessary.

FISCAL IMPACT

There is no fiscal impact on the City as the result of these Major Encroachment permits. Staff costs for processing the proposed encroachment permits are covered by fees set by the Master Fee Schedule and have been paid by the applicant.

PUBLIC OUTREACH / INTEREST

These items do not require special public outreach other than the required posting on the City's website.

COORDINATION

The permit application was coordinated with Planning and Building Department, and reviewed by the Controller's Bureau and Office of the City Attorney.

SUSTAINABLE OPPORTUNITIES

Economic – Major Encroachment permit allows the applicant meet Planning and Building requirements enhancing the visual aesthetic of the building. No significant impact on the economy is identified.

Environmental – Major Encroachment Permit number ENMJ16054 approved by Planning and Building for rehabilitation of structural sidewalk allows for safer pedestrian access. Other Major Encroachment permits in this Agenda Report ae for building projections required by Planning and Building to enhance visual aesthetic of the building.

Social Equity – Major Encroachment permit for rehabilitation of structural sidewalk will provides for safer sidewalk for all users.

CEQA

The California Environmental Quality Act ("CEQA") and the CEQA Guidelines exempt specific types of projects from environmental review. The following CEQA exemptions apply to this project, each of which provide a separate and independent basis for CEQA clearance: CEQA Guidelines sections 15301 (existing facilities), 15183 (projects consistent with a Community Plan, General Plan, or Zoning), and 15061(b)(3) (no significant effect on the environment).

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt Major Encroachment Permits through the following Resolutions:

1. Resolution Granting A Conditional And Revocable Major Encroachment Permit To Thomas Ramsey, LLC To Allow Portion Of The Existing Building Basement Below The Sidewalk At 1629 Telegraph Avenue To Encroach Into The Public Right-Of-Way Along The Building Frontage On Telegraph Avenue, Major Encroachment Permit ENMJ16054.
2. Resolution Granting A Conditional And Revocable Major Encroachment Permits To MPVCA Oakland, LLC To Allow Portion Of The Building Above Sidewalk At 4242 to 4266 Broadway To Encroach Into The Public Right-Of-Way Along Broadway, Major Encroachment Permit ENMJ16055.
3. Resolution Granting A Conditional And Revocable Major Encroachment Permits To 718 Clay Street, LLC To Allow Portion Of The Building Above The Sidewalk And Temporary

Support Below The Sidewall At 718 Clay Street To Encroach Into The Public Right-Of-Way Along 7th Street and Clay Street, Major Encroachment Permit ENMJ16053.

4. Resolution Granting A Conditional And Revocable Major Encroachment Permits To Carlos Plazola To Allow Portion Of The Building Above The Sidewalk at 414 29th Avenue To Encroach Into The Public Right-Of-Way Along The Building Frontage On 29th Avenue, Major Encroachment Permit ENMJ14059.
5. Resolution Granting A Conditional And Revocable Major Encroachment Permits To CRP/THC Oakland Broadway Uptown Venture, LLC To Allow Portion Of The Building Above The Sidewalk at 2630 Broadway To Encroach Into The Public Right-Of-Way Along The Building Frontage On Broadway, 26th Street, and 27th Street, Major Encroachment Permit ENMJ16056.

For questions regarding this report, please contact Gus Amirzehni, Engineering Design and Right-of-Way Manager at (510) 238-6601.

Respectfully submitted,



JEFF TURLIN
Acting Director, Department of
Transportation

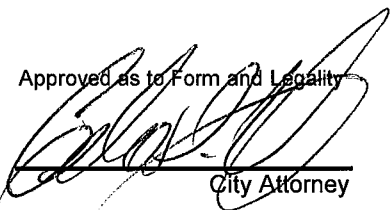
Reviewed by:
Michael J. Neary, P.E., Assistant Director
Bureau of Engineering and Construction

Reviewed by:
Gus Amirzehni, P.E., Division Manager
Engineering Design and R.O.W.

Prepared by:
Kevin Kashi, P.E., Supervising Civil Engineer
Engineering Design and R.O.W. Mgmt Division

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OAKLAND CITY COUNCIL

Approved as to Form and Legality

City Attorney

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION GRANTING A CONDITIONAL AND REVOCABLE MAJOR ENCROACHMENT PERMIT TO THOMAS RAMSEY, LLC TO ALLOW PORTION OF THE EXISTING BUILDING BASEMENT BELOW THE SIDEWALK AT 1629 TELEGRAPH AVENUE TO ENCROACH INTO THE PUBLIC RIGHT-OF-WAY ALONG THE BUILDING FRONTAGE ON TELEGRAPH AVENUE, MAJOR ENCROACHMENT PERMIT ENMJ16054

WHEREAS, Thomas Ramsey, LLC ("Permittee"), the owner of the real property known as 1629 Telegraph Avenue and described in a Grant Deed Recorded November 17, 2005 by the Alameda County Clerk-Recorder and identified by the Alameda County Assessor as APN: 008-0620-004 and commonly known as 1629 Telegraph Avenue hereto and incorporated herein, has filed an application with Public Works for a conditional and revocable permit (ENMJ16054) to allow portions the existing building fronting Telegraph to encroach into the public right-of-way;

WHEREAS, the limits of the encroachment are delineated in Exhibit hereto and Incorporated herein; and

WHEREAS, the City has issued conditional and revocable major encroachment permit for existing encroachments into the right of way when parcels are divided or merged creating new entities which must be made current with the Oakland Municipal Code; and

WHEREAS, staff has determined, based on review of the plans and investigation of the site of the encroachment, said encroachments in the public right-of-way and their location will not interfere with public use of the roadway, sidewalk, buried utilities, and will not endanger the public welfare and convenience during said public use; and

WHEREAS, each as a separate and independent basis, this action is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15301(existing facilities), 15183 (projects consistent with General Plan and Zoning), and 15061(b)(3) (no significant effect on the environment); now, therefore, be it

RESOLVED: That the City Council has reviewed all relevant documents relating to its grant of the encroachment permit that is the subject of this resolution; and be it

FURTHER RESOLVED: That the City Council finds and determines that the decision made hereby is made in conformance with the requirements of CEQA; and be it

FURTHER RESOLVED: That the City Council hereby grants to the Permittee a conditional revocable major encroachment permit to allow encroach into the public right-of-way and according to the permit conditions set forth below; and be it

FURTHER RESOLVED: That said major encroachment permit is hereby conditioned by the Following special requirements:

1. This agreement may be voided and the associated permit for encroachments may be revoked at any time and for any reason, at the sole discretion of the City Council, expressed by resolution as being in the City's best interest, or the associated permit may be suspended at any time, at the sole discretion of the City Engineer, upon failure of the Permittee to comply fully and continuously with each and all of the conditions set forth herein and in the associated permit.
2. The Permittee hereby disclaims any right, title, or interest in or to any portion of the public right of way, including the sidewalk and street, and agrees that the encroachment is granted for an indeterminate period of time and that the use and occupancy by the Permittee of the public right of way is temporary and does not constitute an abandonment, whether expressed or implied, by the City of Oakland of any of its rights associated with the statutory and customary purpose and use of and operations in the public right-of-way.
3. The Permittee shall maintain fully in force and effect, at its own expense, at all times during the period for which the permit is in effect, good and sufficient public liability insurance in a face amount not less than \$300,000.00 for each occurrence, and property damage insurance in a face amount not less than \$50,000.00 for each occurrence, both including contractual liability, insuring the City of Oakland, its officers, agents, employees, and volunteers against any and all claims arising out of the existence of the encroachment in the public right-of-way, as respects liabilities assumed under this permit. The policy shall contain an endorsement declaring the policy as primary coverage on said liabilities. The Permittee shall submit a written certificate of such insurance or copy of the policy to City Engineer showing that insurance is in effect in compliance with this section, and shall file subsequent notices of the renewal thereof with the City Engineer. Such certificate shall state that the insurance coverage shall not be canceled, amended or be permitted to lapse without thirty (30) days' prior written notice to City Engineer. The Permittee also agrees that the City Engineer, at his or her sole discretion, may review the type and amount of insurance required of the Permittee annually and may require the Permittee to increase the amount of and/or change the type of insurance coverage required as circumstances warrant.
4. The Permittee shall be solely and fully liable and responsible for the repair, replacement, removal, reconstruction, and maintenance of any portion or all of the private improvements constructed or installed in the public right-of-way, whether by cause, neglect, or negligence of the Permittee or others, and for the associated costs and expenses necessary to restore or remove the encroachment to the satisfaction of the City Engineer, and shall not allow the encroachment to become a blight or a menace or a hazard to the health and safety of the general public.
5. The Permittee acknowledges and agrees that the encroachment is out of the ordinary and does not comply with City of Oakland standard installations. The Permittee further acknowledges and agrees that the City of Oakland and public utility agencies will

periodically conduct work in the public right-of-way, including excavation, trenching, and relocation of its facilities, all of which may damage the encroachment. The Permittee further acknowledges and agrees that the City and public utility agencies take no responsibility for repair or replacement of the encroachment which may be damaged by the City or its contractors or public utility agencies or their contractors. The Permittee further acknowledges and agrees that upon notification by and to the satisfaction of the City Engineer, Permittee shall immediately repair, replace, or remove, at the sole expense of the Permittee, all damages to the encroachment that are directly or indirectly attributable to work by the City or its contractors or public utility agencies or their contractors.

6. The Permittee shall remain liable for and shall immediately reimburse the City of Oakland for all costs, fee assessments, penalties, and accruing interest associated with the City's notification and subsequent abatement action for required maintenance, repairs, or removal, whether in whole or in part, of the encroachment or of damaged City infrastructure made necessary by the failure, whether direct or indirect, of the Permittee to monitor the encroachment effectively and accomplish preventative, remedial, or restorative work expeditiously. The City reserves the unqualified right to collect all monies unpaid through any combination of available statutory remedies, including recordation of Prospective Liens and Priority Liens/ Special Assessments with the Alameda County Recorder, inclusion of non-reimbursed amounts by the Alameda County Assessor with the annual assessment of the general levy, and awards of judgments by a court of competent jurisdiction.
7. Upon revocation of the encroachment permit, the Permittee shall immediately, completely, and permanently remove the encroachment from the public right-of-way, repair any damage resulting therefrom, and restore the public right-of-way to its original conditions existing before the construction or installation of the encroachment, to the satisfaction of the City Engineer and all at the sole expense of the Permittee.
8. This agreement and the associated permit for an encroachment shall become effective upon filing of this agreement with the Alameda County Recorder for recordation as an encumbrance of the property and its title.
9. The Permittee acknowledges that the City makes no representations or warranties as to the conditions beneath said encroachment. By accepting this revocable permit, Permittee agrees that it will use the encroachment area at its own risk, is responsible for the proper coordination of its activities with all other permittees, underground utilities, contractors, or workmen operating, within the encroachment area and for the safety of itself and any of its personnel in connection with its entry under this revocable permit.
10. The Permittee acknowledges that the City is unaware of the existence of any hazardous substances in encroachment area, and Permittee hereby waives and fully releases and forever discharges the City and its officers, directors, employees, agents, servants, representatives, assigns and successors from any and all claims, demands, liabilities, damages, actions, causes of action, penalties, fines, liens, judgments, costs, or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise out of or in any way connected with the physical condition or required remediation of the excavation area of any law or regulation applicable thereto, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 466 et seq.), the Safe Drinking

Water Act (14 U.S.C. Sections 1401,1450), the Hazardous Waste Control Law (California Health and Safety Code Sections 25100 et seq.), the Porter-Cologne Water Quality Control Act (California Health and Safety Code Section 13000 et seq.), the Hazardous Substance Account Act (California Health and Safety Code Sections 253000 et seq.), and the Safe Drinking Water and Toxic Enforcement Act (California Health and Safety Code Section 25249.5 et seq.).

11. The Permittee further acknowledges that it understands and agrees that it hereby expressly waives all rights and benefits which it now has or in the future may have, under and by virtue of the terms of California Civil Code Section 1542, which reads as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR." The Permittee recognizes that by waiving the provisions of this section. Permittee will not be able to make any claims for damages that may exist, and to which, if known, would materially affect its decision to agree to these encroachment terms and conditions, regardless of whether Permittee's lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.
12. The Permittee shall, and by the acceptance of this revocable permit agrees and promises:
 - a. to indemnify, defend, save and hold harmless the City of Oakland, its officers, agents, employees, and volunteers, to the maximum extent permitted by law, from any and all suits, claims, demands, liabilities, damages, actions, causes of action, penalties, fines, liens, judgments, costs, or expenses whatsoever (including, without limitation, attorneys' fees and costs) (collectively referred to as "claims"), whether direct or indirect, known or unknown, foreseen or unforeseen, brought by any person for or on account of any bodily injuries, disease or illness or damage to persons and/or property sustained or arising in the construction of the work performed under the permit or arising out of the Permittee's failure to perform the obligations with respect to the use and occupancy of the public right-of-way by virtue of the permit, to the extent that such claims were either (1) caused by the Permittee, its agents, employees, contractors or representatives, or (2) in the case of environmental contamination, the claim is a result of environmental contamination that emanates or emanated from 1629 Telegraph, Oakland, California site, or was otherwise caused by the Permittee, its agents, employees, contractors or representatives; and
 - b. if any contamination is discovered below or in the immediate vicinity of the encroachment, and the contaminants found are of the type used, housed, stored, processed or sold on the property, such shall amount to a rebuttable presumption that the contamination below, or in the immediate vicinity of, the encroachment was caused by the Permittee, its agents, employees, contractors or representatives; and
 - c. Permittee shall comply with all applicable federal, state, county and local laws, rules, and regulations governing the installation, maintenance, operation and abatement of the encroachment.
13. The encroachment permit and accompanying indenture agreement shall take effect when all the conditions hereinabove set forth shall have been complied with to the satisfaction of the City Engineer, and shall become null and void upon the failure of the Permittee to comply with all conditions.

14. The Indenture Agreement alone does not allow work to be done which requires permitting and/or inspection, and the Permittee shall obtain any and all required permits before beginning work.

15. The hereinabove conditions shall be binding upon the Permittee and the successive owners and assigns thereof; and be it

FURTHER RESOLVED: That the City Council, at its sole discretion and at a future date not yet determined, may impose additional and continuing fees as prescribed in the Master Fee Schedule, for use and occupancy of the public right-of-way; 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 City Engineer 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

FURTHER RESOLVED: That the City Engineer is hereby directed to file a certified copy of this resolution for recordation with the Office of the Alameda County Clerk-Recorder as an encumbrance of the title of the property identified above.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and
PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

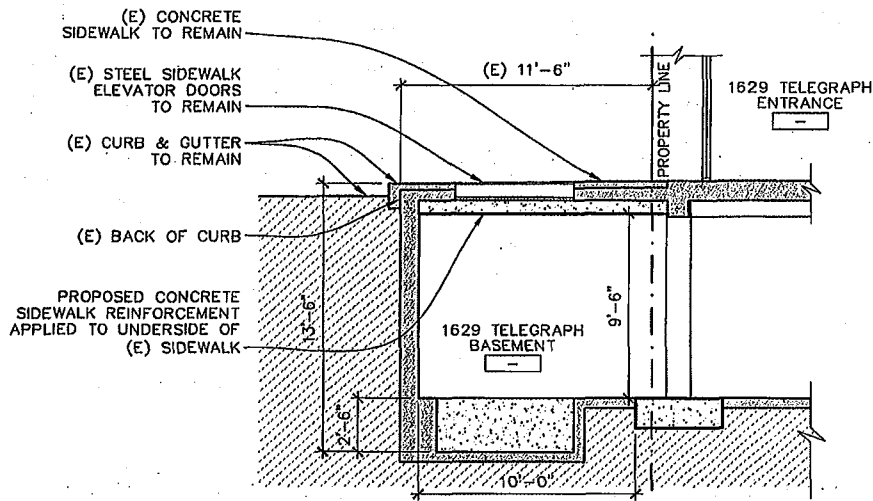
ABSTENTION -

ATTEST: _____

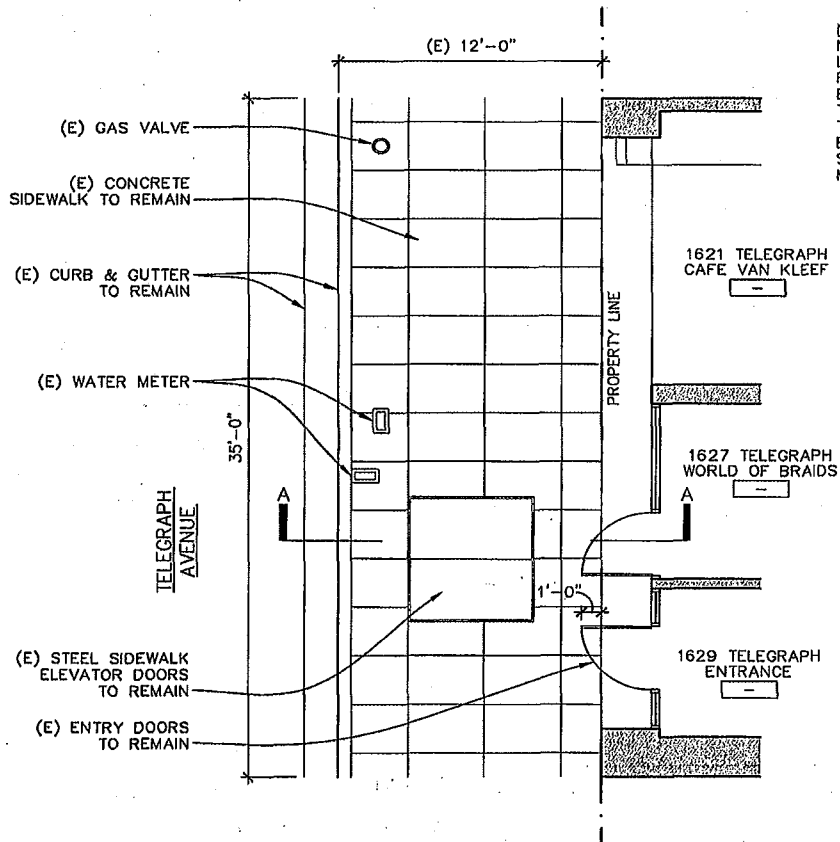
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

Exhibit: 1629 Telegraph Avenue

Exhibit: 1629 Telegraph Avenue



SECTION A-A



SIDEWALK PLAN

NOTE:
NO CHANGE TO STREET
LEVEL SIDEWALK
FEATURES. EXTENT OF
ENCROACHMENT IS WITHIN
THE BASEMENT OF 1629
TELEGRAPH AVENUE
BENEATH THE SIDEWALK.
SEE SECTION A-A FOR
MORE INFORMATION.



1629 Telegraph Avenue

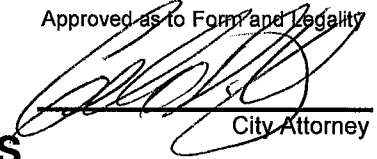
PROJECT: 1629 TELEGRAPH AVENUE - SIDEWALK

DATE 06.07.16

2016 SEP -1 AM 10:32

OAKLAND CITY COUNCIL

Approved as to Form and Legality



City Attorney

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION GRANTING A CONDITIONAL AND REVOCABLE MAJOR ENCROACHMENT PERMITS TO MPVCA OAKLAND, LLC TO ALLOW PORTION OF THE BUILDING ABOVE SIDEWALK AT 4242 TO 4266 BROADWAY TO ENCROACH INTO THE PUBLIC RIGHT-OF-WAY ALONG BROADWAY, MAJOR ENCROACHMENT PERMIT ENMJ16055

WHEREAS, MPVCA Oakland, LLC ("Permittee"), the owner of the real property known as at 4242 to 4266 Broadway and described in a Grant Deed Recorded March 09, 2016 by the Alameda County Clerk-Recorder and identified by the Alameda County Assessor as APN: 013-1109-26-2 and 013-1109-28-2 and commonly known 4242 to 4246 Broadway hereto and incorporated herein, has filed an application with Public Works for a conditional and revocable permit (ENMJ16055) to allow portions the existing building fronting 4242 to 4246 Broadway to encroach into the public right-of-way;

WHEREAS, the limits of the encroachment are delineated in Exhibit hereto and Incorporated herein; and

WHEREAS, the City has issued conditional and revocable major encroachment permit for encroachments into the right of way which must comply with the Oakland Municipal Code; and

WHEREAS, staff has determined, based on review of the plans and investigation of the site of the encroachment, said encroachments in the public right-of-way and their location will not interfere with public use of the roadway, sidewalk, buried utilities, and will not endanger the public welfare and convenience during said public use; and

WHEREAS, each as a separate and independent basis, this action is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15301(existing facilities), 15183 (projects consistent with General Plan and Zoning), and 15061(b)(3) (no significant effect on the environment); now, therefore, be it

RESOLVED: That the City Council has reviewed all relevant documents relating to its grant of the encroachment permit that is the subject of this resolution; and be it

FURTHER RESOLVED: That the City Council finds and determines that the decision made hereby is made in conformance with the requirements of CEQA; and be it

FURTHER RESOLVED: That the City Council hereby grants to the Permittee a conditional revocable major encroachment permit to allow encroach into the public right-of-way and according to the permit conditions set forth below; and be it

FURTHER RESOLVED: That said major encroachment permit is hereby conditioned by the Following special requirements:

1. This agreement may be voided and the associated permit for encroachments may be revoked at any time and for any reason, at the sole discretion of the City Council, expressed by resolution as being in the City's best interest, or the associated permit may be suspended at any time, at the sole discretion of the City Engineer, upon failure of the Permittee to comply fully and continuously with each and all of the conditions set forth herein and in the associated permit.
2. The Permittee hereby disclaims any right, title, or interest in or to any portion of the public right of way, including the sidewalk and street, and agrees that the encroachment is granted for an indeterminate period of time and that the use and occupancy by the Permittee of the public right of way is temporary and does not constitute an abandonment, whether expressed or implied, by the City of Oakland of any of its rights associated with the statutory and customary purpose and use of and operations in the public right-of-way.
3. The Permittee shall maintain fully in force and effect, at its own expense, at all times during the period for which the permit is in effect, good and sufficient public liability insurance in a face amount not less than \$300,000.00 for each occurrence, and property damage insurance in a face amount not less than \$50,000.00 for each occurrence, both including contractual liability, insuring the City of Oakland, its officers, agents, employees, and volunteers against any and all claims arising out of the existence of the encroachment in the public right-of-way, as respects liabilities assumed under this permit. The policy shall contain an endorsement declaring the policy as primary coverage on said liabilities. The Permittee shall submit a written certificate of such insurance or copy of the policy to City Engineer showing that insurance is in effect in compliance with this section, and shall file subsequent notices of the renewal thereof with the City Engineer. Such certificate shall state that the insurance coverage shall not be canceled, amended or be permitted to lapse without thirty (30) days' prior written notice to City Engineer. The Permittee also agrees that the City Engineer, at his or her sole discretion, may review the type and amount of insurance required of the Permittee annually and may require the Permittee to increase the amount of and/or change the type of insurance coverage required as circumstances warrant.
4. The Permittee shall be solely and fully liable and responsible for the repair, replacement, removal, reconstruction, and maintenance of any portion or all of the private improvements constructed or installed in the public right-of-way, whether by cause, neglect, or negligence of the Permittee or others, and for the associated costs and expenses necessary to restore or remove the encroachment to the satisfaction of the City Engineer, and shall not allow the encroachment to become a blight or a menace or a hazard to the health and safety of the general public.
5. The Permittee acknowledges and agrees that the encroachment is out of the ordinary and does not comply with City of Oakland standard installations. The Permittee further acknowledges and agrees that the City of Oakland and public utility agencies will periodically conduct work in the public right-of-way, including excavation, trenching, and relocation of its facilities, all of which may damage the encroachment. The Permittee further acknowledges and agrees that the City and public utility agencies take no responsibility for

repair or replacement of the encroachment which may be damaged by the City or its contractors or public utility agencies or their contractors. The Permittee further acknowledges and agrees that upon notification by and to the satisfaction of the City Engineer, Permittee shall immediately repair, replace, or remove, at the sole expense of the Permittee, all damages to the encroachment that are directly or indirectly attributable to work by the City or its contractors or public utility agencies or their contractors.

6. The Permittee shall remain liable for and shall immediately reimburse the City of Oakland for all costs, fee assessments, penalties, and accruing interest associated with the City's notification and subsequent abatement action for required maintenance, repairs, or removal, whether in whole or in part, of the encroachment or of damaged City infrastructure made necessary by the failure, whether direct or indirect, of the Permittee to monitor the encroachment effectively and accomplish preventative, remedial, or restorative work expeditiously. The City reserves the unqualified right to collect all monies unpaid through any combination of available statutory remedies, including recordation of Prospective Liens and Priority Liens/ Special Assessments with the Alameda County Recorder, inclusion of non-reimbursed amounts by the Alameda County Assessor with the annual assessment of the general levy, and awards of judgments by a court of competent jurisdiction.
7. Upon revocation of the encroachment permit, the Permittee shall immediately, completely, and permanently remove the encroachment from the public right-of-way, repair any damage resulting therefrom, and restore the public right-of-way to its original conditions existing before the construction or installation of the encroachment, to the satisfaction of the City Engineer and all at the sole expense of the Permittee.
8. This agreement and the associated permit for an encroachment shall become effective upon filing of this agreement with the Alameda County Recorder for recordation as an encumbrance of the property and its title.
9. The Permittee acknowledges that the City makes no representations or warranties as to the conditions beneath said encroachment. By accepting this revocable permit, Permittee agrees that it will use the encroachment area at its own risk, is responsible for the proper coordination of its activities with all other permittees, underground utilities, contractors, or workmen operating, within the encroachment area and for the safety of itself and any of its personnel in connection with its entry under this revocable permit.
10. The Permittee acknowledges that the City is unaware of the existence of any hazardous substances in encroachment area, and Permittee hereby waives and fully releases and forever discharges the City and its officers, directors, employees, agents, servants, representatives, assigns and successors from any and all claims, demands, liabilities, damages, actions, causes of action, penalties, fines, liens, judgments, costs, or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise out of or in any way connected with the physical condition or required remediation of the excavation area of any law or regulation applicable thereto, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 466 et seq.), the Safe Drinking Water Act (14 U.S.C. Sections 1401, 1450), the Hazardous Waste Control Law (California Health and Safety Code Sections 25100 et seq.), the Porter-Cologne Water Quality Control Act (California Health and Safety Code Section 13000 et seq.), the Hazardous Substance

Account Act (California Health and Safety Code Sections 253000 et seq.), and the Safe Drinking Water and Toxic Enforcement Act (California Health and Safety Code Section 25249.5 et seq.).

11. The Permittee further acknowledges that it understands and agrees that it hereby expressly waives all rights and benefits which it now has or in the future may have, under and by virtue of the terms of California Civil Code Section 1542, which reads as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR." The Permittee recognizes that by waiving the provisions of this section, Permittee will not be able to make any claims for damages that may exist, and to which, if known, would materially affect its decision to agree to these encroachment terms and conditions, regardless of whether Permittee's lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.
12. The Permittee shall, and by the acceptance of this revocable permit agrees and promises:
 - a. to indemnify, defend, save and hold harmless the City of Oakland, its officers, agents, employees, and volunteers, to the maximum extent permitted by law, from any and all suits, claims, demands, liabilities, damages, actions, causes of action, penalties, fines, liens, judgments, costs, or expenses whatsoever (including, without limitation, attorneys' fees and costs) (collectively referred to as "claims"), whether direct or indirect, known or unknown, foreseen or unforeseen, brought by any person for or on account of any bodily injuries, disease or illness or damage to persons and/or property sustained or arising in the construction of the work performed under the permit or arising out of the Permittee's failure to perform the obligations with respect to the use and occupancy of the public right-of-way by virtue of the permit, to the extent that such claims were either (1) caused by the Permittee, its agents, employees, contractors or representatives, or (2) in the case of environmental contamination, the claim is a result of environmental contamination that emanates or emanated from 4242 to 4266 Broadway, Oakland, California site, or was otherwise caused by the Permittee, its agents, employees, contractors or representatives; and
 - b. if any contamination is discovered below or in the immediate vicinity of the encroachment, and the contaminants found are of the type used, housed, stored, processed or sold on the property, such shall amount to a rebuttable presumption that the contamination below, or in the immediate vicinity of, the encroachment was caused by the Permittee, its agents, employees, contractors or representatives; and
 - c. Permittee shall comply with all applicable federal, state, county and local laws, rules, and regulations governing the installation, maintenance, operation and abatement of the encroachment.
13. The encroachment permit and accompanying indenture agreement shall take effect when all the conditions hereinabove set forth shall have been complied with to the satisfaction of the City Engineer, and shall become null and void upon the failure of the Permittee to comply with all conditions.
14. The Indenture Agreement alone does not allow work to be done which requires permitting and/or inspection, and the Permittee shall obtain any and all required permits before

beginning work.

15. The hereinabove conditions shall be binding upon the Permittee and the successive owners and assigns thereof; and be it

FURTHER RESOLVED: That the City Council, at its sole discretion and at a future date not yet determined, may impose additional and continuing fees as prescribed in the Master Fee Schedule, for use and occupancy of the public right-of-way; 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 City Engineer 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

FURTHER RESOLVED: That the City Engineer is hereby directed to file a certified copy of this resolution for recordation with the Office of the Alameda County Clerk-Recorder as an encumbrance of the title of the property identified above.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and
PRESIDENT GIBSON MCELHANEY

NOES -

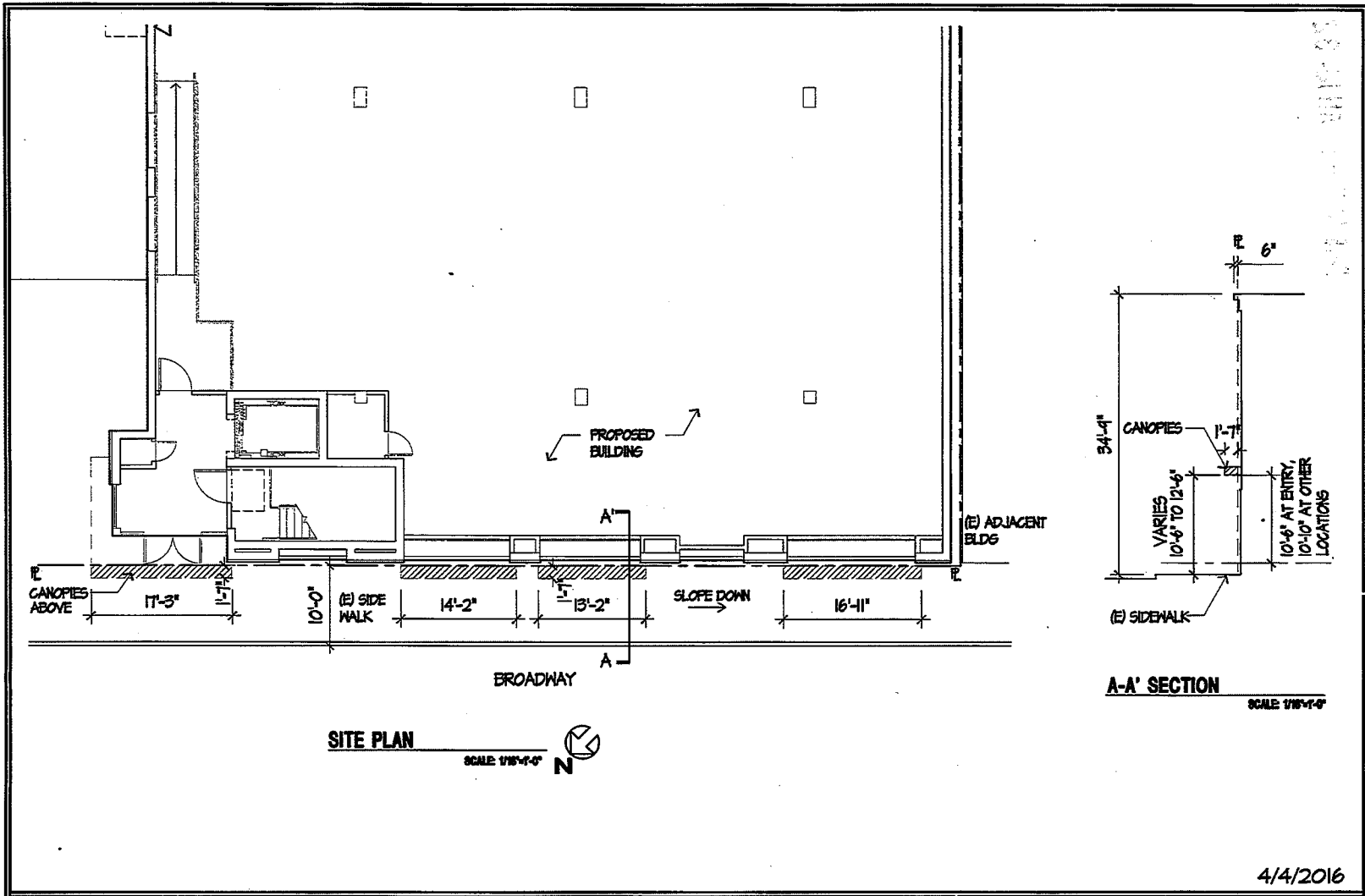
ABSENT -

ABSTENTION -

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

EXHIBIT: 4242 to 4246 Broadway



6


Oakland MOB Shell
 Encroachment Permit Application
 4242 -4266 Broadway Oakland, Ca

Harriman Kinyon
 Architects, Inc.
 1801 Oakland Blvd., Suite 320
 Walnut Creek, CA 94596
 (925) 934-1160
 Fax: 934-8132

4/4/2016

2016 SEP -1 AM 10:32

OAKLAND CITY COUNCIL

Approved as to Form and Legality

City Attorney

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION GRANTING A CONDITIONAL AND REVOCABLE MAJOR ENCROACHMENT PERMITS TO 718 CLAY STREET, LLC TO ALLOW PORTION OF THE BUILDING ABOVE THE SIDEWALK AND TEMPORARY SUPPORT BELOW THE SIDEWALL AT 718 CLAY STREET TO ENCROACH INTO THE PUBLIC RIGHT-OF-WAY ALONG 7TH STREET AND CLAY STREET, MAJOR ENCROACHMENT PERMIT ENMJ16053

WHEREAS, 718 Clay Street, LLC ("Permittee"), the owner of the real property known as at 718 Clay Street and described in a Grant Deed Recorded March 10, 2016 by the Alameda County Clerk-Recorder and identified by the Alameda County Assessor as APN:001-0203-028 and commonly known as 718 Clay Street hereto and incorporated herein, has filed an application with Public Works for a conditional and revocable permit (ENMJ16053) to allow portions the existing building fronting Clay Street and 7th Street to encroach into the public right-of-way;

WHEREAS, the limits of the encroachment are delineated in Exhibit hereto and Incorporated herein; and

WHEREAS, the City has issued conditional and revocable major encroachment permit for encroachments into the right of way which must comply with the Oakland Municipal Code; and

WHEREAS, staff has determined, based on review of the plans and investigation of the site of the encroachment, said encroachments in the public right-of-way and their location will not interfere with public use of the roadway, sidewalk, buried utilities, and will not endanger the public welfare and convenience during said public use; and

WHEREAS, each as a separate and independent basis, this action is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15301(existing facilities), 15183 (projects consistent with General Plan and Zoning), and 15061(b)(3) (no significant effect on the environment); now, therefore, be it

RESOLVED: That the City Council has reviewed all relevant documents relating to its grant of the encroachment permit that is the subject of this resolution; and be it

FURTHER RESOLVED: That the City Council finds and determines that the decision made hereby is made in conformance with the requirements of CEQA; and be it

FURTHER RESOLVED: That the City Council hereby grants to the Permittee a conditional revocable major encroachment permit to allow encroach into the public right-of-way and according to the permit conditions set forth below; and be it

FURTHER RESOLVED: That said major encroachment permit is hereby conditioned by the Following special requirements:

1. This agreement may be voided and the associated permit for encroachments may be revoked at any time and for any reason, at the sole discretion of the City Council, expressed by resolution as being in the City's best interest, or the associated permit may be suspended at any time, at the sole discretion of the City Engineer, upon failure of the Permittee to comply fully and continuously with each and all of the conditions set forth herein and in the associated permit.
2. The Permittee hereby disclaims any right, title, or interest in or to any portion of the public right of way, including the sidewalk and street, and agrees that the encroachment is granted for an indeterminate period of time and that the use and occupancy by the Permittee of the public right of way is temporary and does not constitute an abandonment, whether expressed or implied, by the City of Oakland of any of its rights associated with the statutory and customary purpose and use of and operations in the public right-of-way.
3. The Permittee shall maintain fully in force and effect, at its own expense, at all times during the period for which the permit is in effect, good and sufficient public liability insurance in a face amount not less than \$300,000.00 for each occurrence, and property damage insurance in a face amount not less than \$50,000.00 for each occurrence, both including contractual liability, insuring the City of Oakland, its officers, agents, employees, and volunteers against any and all claims arising out of the existence of the encroachment in the public right-of-way, as respects liabilities assumed under this permit. The policy shall contain an endorsement declaring the policy as primary coverage on said liabilities. The Permittee shall submit a written certificate of such insurance or copy of the policy to City Engineer showing that insurance is in effect in compliance with this section, and shall file subsequent notices of the renewal thereof with the City Engineer. Such certificate shall state that the insurance coverage shall not be canceled, amended or be permitted to lapse without thirty (30) days' prior written notice to City Engineer. The Permittee also agrees that the City Engineer, at his or her sole discretion, may review the type and amount of insurance required of the Permittee annually and may require the Permittee to increase the amount of and/or change the type of insurance coverage required as circumstances warrant.
4. The Permittee shall be solely and fully liable and responsible for the repair, replacement, removal, reconstruction, and maintenance of any portion or all of the private improvements constructed or installed in the public right-of-way, whether by cause, neglect, or negligence of the Permittee or others, and for the associated costs and expenses necessary to restore or remove the encroachment to the satisfaction of the City Engineer, and shall not allow the encroachment to become a blight or a menace or a hazard to the health and safety of the general public.
5. The Permittee acknowledges and agrees that the encroachment is out of the ordinary and does not comply with City of Oakland standard installations. The Permittee further acknowledges and agrees that the City of Oakland and public utility agencies will periodically conduct work in the public right-of-way, including excavation, trenching, and relocation of its facilities, all of which may damage the encroachment. The Permittee further acknowledges and agrees that the City and public utility agencies take no responsibility for

repair or replacement of the encroachment which may be damaged by the City or its contractors or public utility agencies or their contractors. The Permittee further acknowledges and agrees that upon notification by and to the satisfaction of the City Engineer, Permittee shall immediately repair, replace, or remove, at the sole expense of the Permittee, all damages to the encroachment that are directly or indirectly attributable to work by the City or its contractors or public utility agencies or their contractors.

6. The Permittee shall remain liable for and shall immediately reimburse the City of Oakland for all costs, fee assessments, penalties, and accruing interest associated with the City's notification and subsequent abatement action for required maintenance, repairs, or removal, whether in whole or in part, of the encroachment or of damaged City infrastructure made necessary by the failure, whether direct or indirect, of the Permittee to monitor the encroachment effectively and accomplish preventative, remedial, or restorative work expeditiously. The City reserves the unqualified right to collect all monies unpaid through any combination of available statutory remedies, including recordation of Prospective Liens and Priority Liens/ Special Assessments with the Alameda County Recorder, inclusion of non-reimbursed amounts by the Alameda County Assessor with the annual assessment of the general levy, and awards of judgments by a court of competent jurisdiction.
7. Upon revocation of the encroachment permit, the Permittee shall immediately, completely, and permanently remove the encroachment from the public right-of-way, repair any damage resulting therefrom, and restore the public right-of-way to its original conditions existing before the construction or installation of the encroachment, to the satisfaction of the City Engineer and all at the sole expense of the Permittee.
8. This agreement and the associated permit for an encroachment shall become effective upon filing of this agreement with the Alameda County Recorder for recordation as an encumbrance of the property and its title.
9. The Permittee acknowledges that the City makes no representations or warranties as to the conditions beneath said encroachment. By accepting this revocable permit, Permittee agrees that it will use the encroachment area at its own risk, is responsible for the proper coordination of its activities with all other permittees, underground utilities, contractors, or workmen operating, within the encroachment area and for the safety of itself and any of its personnel in connection with its entry under this revocable permit.
10. The Permittee acknowledges that the City is unaware of the existence of any hazardous substances in encroachment area, and Permittee hereby waives and fully releases and forever discharges the City and its officers, directors, employees, agents, servants, representatives, assigns and successors from any and all claims, demands, liabilities, damages, actions, causes of action, penalties, fines, liens, judgments, costs, or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise out of or in any way connected with the physical condition or required remediation of the excavation area of any law or regulation applicable thereto, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 466 et seq.), the Safe Drinking Water Act (14 U.S.C. Sections 1401, 1450), the Hazardous Waste Control Law (California Health and Safety Code Sections 25100 et seq.), the Porter-Cologne Water Quality Control Act (California Health and Safety Code Section 13000 et seq.), the Hazardous Substance

Account Act (California Health and Safety Code Sections 253000 et seq.), and the Safe Drinking Water and Toxic Enforcement Act (California Health and Safety Code Section 25249.5 et seq.).

11. The Permittee further acknowledges that it understands and agrees that it hereby expressly waives all rights and benefits which it now has or in the future may have, under and by virtue of the terms of California Civil Code Section 1542, which reads as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR." The Permittee recognizes that by waiving the provisions of this section. Permittee will not be able to make any claims for damages that may exist, and to which, if known, would materially affect its decision to agree to these encroachment terms and conditions, regardless of whether Permittee's lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.
12. The Permittee shall, and by the acceptance of this revocable permit agrees and promises:
 - a. to indemnify, defend, save and hold harmless the City of Oakland, its officers, agents, employees, and volunteers, to the maximum extent permitted by law, from any and all suits, claims, demands, liabilities, damages, actions, causes of action, penalties, fines, liens, judgments, costs, or expenses whatsoever (including, without limitation, attorneys' fees and costs) (collectively referred to as "claims"), whether direct or indirect, known or unknown, foreseen or unforeseen, brought by any person for or on account of any bodily injuries, disease or illness or damage to persons and/or property sustained or arising in the construction of the work performed under the permit or arising out of the Permittee's failure to perform the obligations with respect to the use and occupancy of the public right-of-way by virtue of the permit, to the extent that such claims were either (1) caused by the Permittee, its agents, employees, contractors or representatives, or (2) in the case of environmental contamination, the claim is a result of environmental contamination that emanates or emanated from 718 Clay Street, Oakland, California site, or was otherwise caused by the Permittee, its agents, employees, contractors or representatives; and
 - b. if any contamination is discovered below or in the immediate vicinity of the encroachment, and the contaminants found are of the type used, housed, stored, processed or sold on the property, such shall amount to a rebuttable presumption that the contamination below, or in the immediate vicinity of, the encroachment was caused by the Permittee, its agents, employees, contractors or representatives; and
 - c. Permittee shall comply with all applicable federal, state, county and local laws, rules, and regulations governing the installation, maintenance, operation and abatement of the encroachment.
13. The encroachment permit and accompanying indenture agreement shall take effect when all the conditions hereinabove set forth shall have been complied with to the satisfaction of the City Engineer, and shall become null and void upon the failure of the Permittee to comply with all conditions.
14. The Indenture Agreement alone does not allow work to be done which requires permitting and/or inspection, and the Permittee shall obtain any and all required permits before

beginning work.

15. The hereinabove conditions shall be binding upon the Permittee and the successive owners and assigns thereof; and be it

FURTHER RESOLVED: That the City Council, at its sole discretion and at a future date not yet determined, may impose additional and continuing fees as prescribed in the Master Fee Schedule, for use and occupancy of the public right-of-way; 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 City Engineer 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

FURTHER RESOLVED: That the City Engineer is hereby directed to file a certified copy of this resolution for recordation with the Office of the Alameda County Clerk-Recorder as an encumbrance of the title of the property identified above.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and
PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

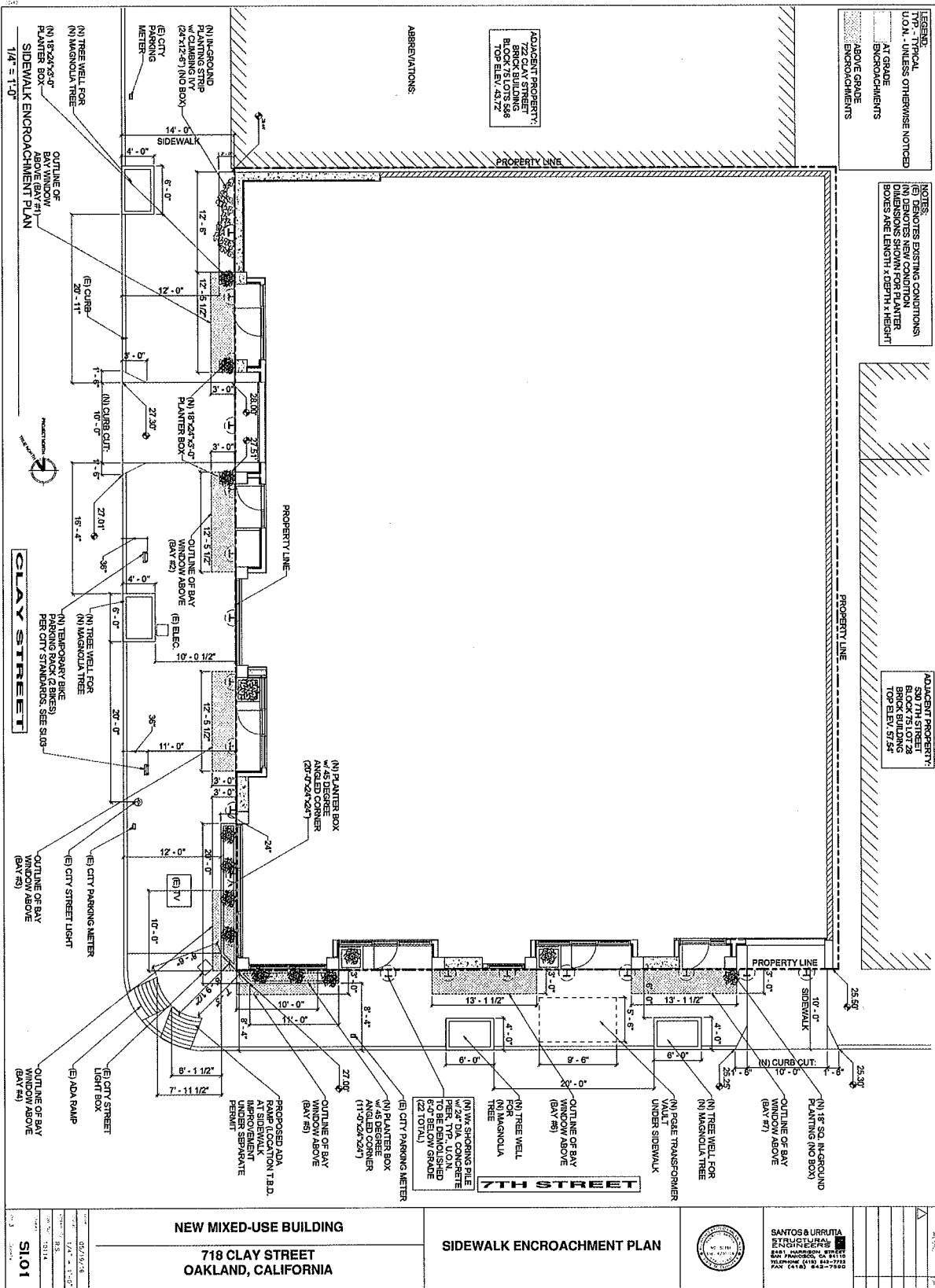
ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

EXHIBIT: 718 Clay Street (2 pages)

EXHIBIT: 718 Clay Street (1 of 2)

05/16/16 5:18 PM - 0105W10

6/23/2016 1:25:14 PM



LEGEND:
 TYPE: SYMBOL
 U.O.N. - UNLESS OTHERWISE NOTICED

NOTES:
 (E) DENOTES EXISTING CONDITIONS
 (N) DENOTES NEW CONDITION
 DIMENSIONS SHOWN FOR PLANTER BOXES ARE LENGTH X DEPTH X HEIGHT

ADJACENT PROPERTY:
 590 7TH STREET
 BLOCK 75 LOT 28
 BRICK BUILDING
 TOP ELEV. 87.50'

ADJACENT PROPERTY:
 BRICK BUILDING
 BLOCK 75 LOTS 28 & 29
 TOP ELEV. 45.72'

ABBREVIATIONS:

CLAY STREET

7TH STREET

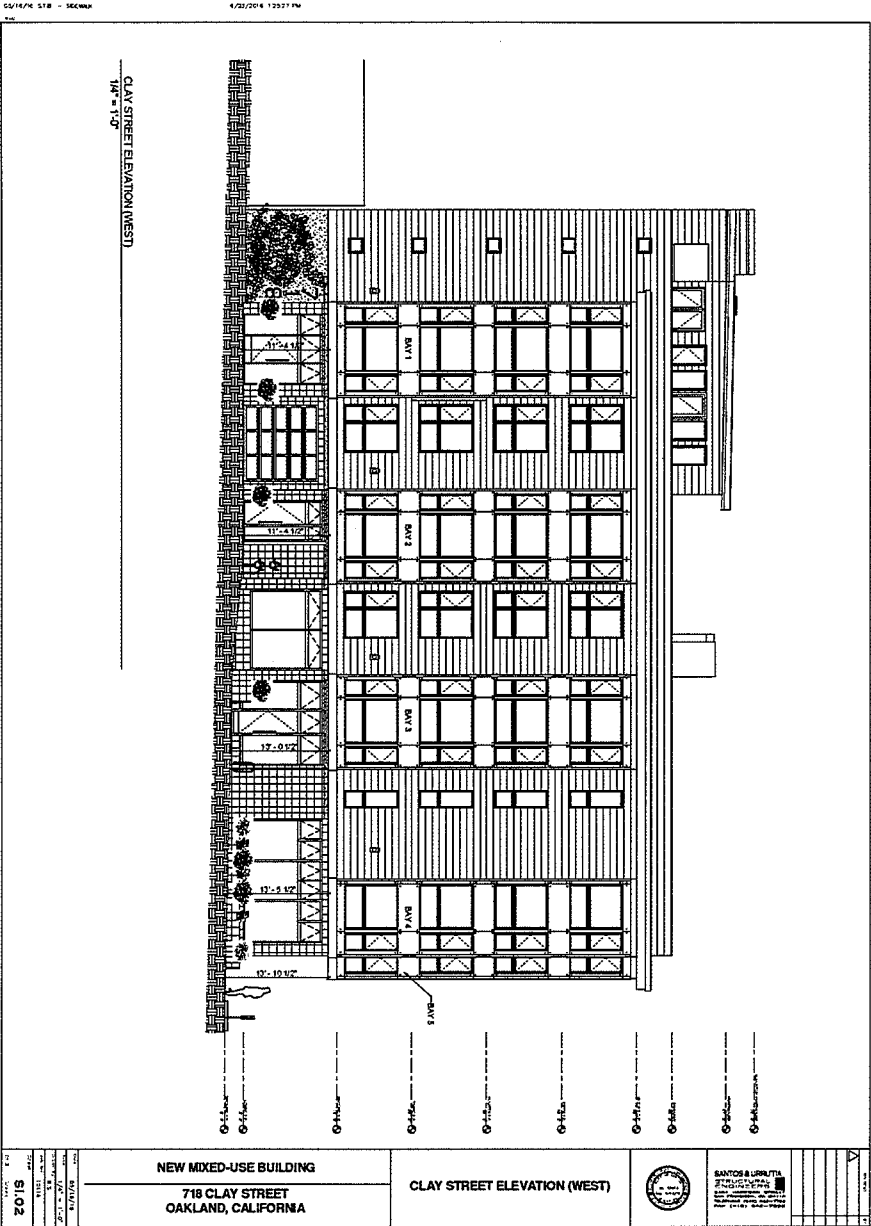
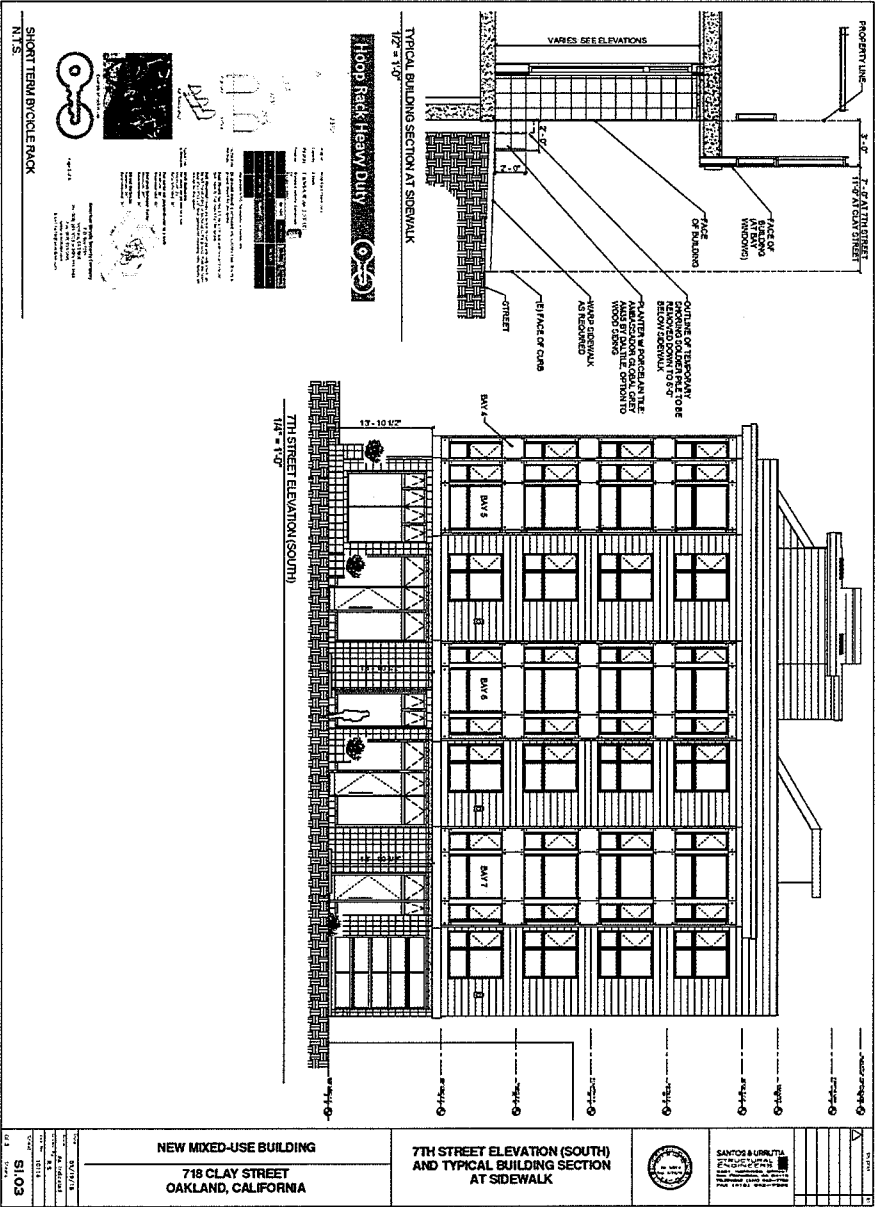
NEW MIXED-USE BUILDING
718 CLAY STREET
OAKLAND, CALIFORNIA

SIDEWALK ENCROACHMENT PLAN



SANTOS & LARRUBIA
 2300 CALIFORNIA STREET
 OAKLAND, CALIFORNIA 94612
 TEL: 415.763.8282 FAX: 415.763.8282
 WWW.SANTOSANDLARRUBIA.COM
 LICENSE NO. 44880-EXP. 12/31/16

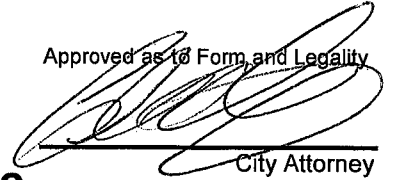
DATE: 02/16/16
 DRAWING NO.: 718-1-1-01
 SHEET NO.: 1 OF 2
SI.01



2018 SEP - 1 AM 10:33

OAKLAND CITY COUNCIL

Approved as to Form and Legality



City Attorney

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION GRANTING A CONDITIONAL AND REVOCABLE MAJOR ENCROACHMENT PERMITS TO CARLOS PLAZOLA TO ALLOW PORTION OF THE BUILDING ABOVE THE SIDEWALK AT 414 29TH AVENUE TO ENCROACH INTO THE PUBLIC RIGHT-OF-WAY ALONG THE BUILDING FRONTAGE ON 29TH AVENUE, MAJOR ENCROACHMENT PERMIT ENMJ14059

WHEREAS, Carlos Plazola ("Permittee"), the owner of the real property known as at 414 29th Avenue and described in a Grant Deed Recorded May 22, 2003 by the Alameda County Clerk-Recorder and identified by the Alameda County Assessor as APN: 025-0676-012 and commonly known as 414 29th Avenue hereto and incorporated herein, has filed an application with Public Works for a conditional and revocable permit (ENMJ14059) to allow portions the existing building fronting 29th Avenue to encroach into the public right-of-way;

WHEREAS, the limits of the encroachment are delineated in Exhibit hereto and Incorporated herein; and

WHEREAS, the City has issued conditional and revocable major encroachment permit for encroachments into the right of way which must comply with the Oakland Municipal Code; and

WHEREAS, staff has determined, based on review of the plans and investigation of the site of the encroachment, said encroachments in the public right-of-way and their location will not interfere with public use of the roadway, sidewalk, buried utilities, and will not endanger the public welfare and convenience during said public use; and

WHEREAS, each as a separate and independent basis, this action is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15301(existing facilities), 15183 (projects consistent with General Plan and Zoning), and 15061(b)(3) (no significant effect on the environment); now, therefore, be it

RESOLVED: That the City Council has reviewed all relevant documents relating to its grant of the encroachment permit that is the subject of this resolution; and be it

FURTHER RESOLVED: That the City Council finds and determines that the decision made hereby is made in conformance with the requirements of CEQA; and be it

FURTHER RESOLVED: That the City Council hereby grants to the Permittee a conditional revocable major encroachment permit to allow encroach into the public right-of-way and according to the permit conditions set forth below; and be it

FURTHER RESOLVED: That said major encroachment permit is hereby conditioned by the following special requirements:

1. This agreement may be voided and the associated permit for encroachments may be revoked at any time and for any reason, at the sole discretion of the City Council, expressed by resolution as being in the City's best interest, or the associated permit may be suspended at any time, at the sole discretion of the City Engineer, upon failure of the Permittee to comply fully and continuously with each and all of the conditions set forth herein and in the associated permit.
2. The Permittee hereby disclaims any right, title, or interest in or to any portion of the public right of way, including the sidewalk and street, and agrees that the encroachment is granted for an indeterminate period of time and that the use and occupancy by the Permittee of the public right of way is temporary and does not constitute an abandonment, whether expressed or implied, by the City of Oakland of any of its rights associated with the statutory and customary purpose and use of and operations in the public right-of-way.
3. The Permittee shall maintain fully in force and effect, at its own expense, at all times during the period for which the permit is in effect, good and sufficient public liability insurance in a face amount not less than \$300,000.00 for each occurrence, and property damage insurance in a face amount not less than \$50,000.00 for each occurrence, both including contractual liability, insuring the City of Oakland, its officers, agents, employees, and volunteers against any and all claims arising out of the existence of the encroachment in the public right-of-way, as respects liabilities assumed under this permit. The policy shall contain an endorsement declaring the policy as primary coverage on said liabilities. The Permittee shall submit a written certificate of such insurance or copy of the policy to City Engineer showing that insurance is in effect in compliance with this section, and shall file subsequent notices of the renewal thereof with the City Engineer. Such certificate shall state that the insurance coverage shall not be canceled, amended or be permitted to lapse without thirty (30) days' prior written notice to City Engineer. The Permittee also agrees that the City Engineer, at his or her sole discretion, may review the type and amount of insurance required of the Permittee annually and may require the Permittee to increase the amount of and/or change the type of insurance coverage required as circumstances warrant.
4. The Permittee shall be solely and fully liable and responsible for the repair, replacement, removal, reconstruction, and maintenance of any portion or all of the private improvements constructed or installed in the public right-of-way, whether by cause, neglect, or negligence of the Permittee or others, and for the associated costs and expenses necessary to restore or remove the encroachment to the satisfaction of the City Engineer, and shall not allow the encroachment to become a blight or a menace or a hazard to the health and safety of the general public.
5. The Permittee acknowledges and agrees that the encroachment is out of the ordinary and does not comply with City of Oakland standard installations. The Permittee further acknowledges and agrees that the City of Oakland and public utility agencies will periodically conduct work in the public right-of-way, including excavation, trenching, and relocation of its facilities, all of which may damage the encroachment. The Permittee further acknowledges and agrees that the City and public utility agencies take no responsibility for repair or replacement of the encroachment which may be damaged by the City or its

contractors or public utility agencies or their contractors. The Permittee further acknowledges and agrees that upon notification by and to the satisfaction of the City Engineer, Permittee shall immediately repair, replace, or remove, at the sole expense of the Permittee, all damages to the encroachment that are directly or indirectly attributable to work by the City or its contractors or public utility agencies or their contractors.

6. The Permittee shall remain liable for and shall immediately reimburse the City of Oakland for all costs, fee assessments, penalties, and accruing interest associated with the City's notification and subsequent abatement action for required maintenance, repairs, or removal, whether in whole or in part, of the encroachment or of damaged City infrastructure made necessary by the failure, whether direct or indirect, of the Permittee to monitor the encroachment effectively and accomplish preventative, remedial, or restorative work expeditiously. The City reserves the unqualified right to collect all monies unpaid through any combination of available statutory remedies, including recordation of Prospective Liens and Priority Liens/ Special Assessments with the Alameda County Recorder, inclusion of non-reimbursed amounts by the Alameda County Assessor with the annual assessment of the general levy, and awards of judgments by a court of competent jurisdiction.
7. Upon revocation of the encroachment permit, the Permittee shall immediately, completely, and permanently remove the encroachment from the public right-of-way, repair any damage resulting therefrom, and restore the public right-of-way to its original conditions existing before the construction or installation of the encroachment, to the satisfaction of the City Engineer and all at the sole expense of the Permittee.
8. This agreement and the associated permit for an encroachment shall become effective upon filing of this agreement with the Alameda County Recorder for recordation as an encumbrance of the property and its title.
9. The Permittee acknowledges that the City makes no representations or warranties as to the conditions beneath said encroachment. By accepting this revocable permit, Permittee agrees that it will use the encroachment area at its own risk, is responsible for the proper coordination of its activities with all other permittees, underground utilities, contractors, or workmen operating, within the encroachment area and for the safety of itself and any of its personnel in connection with its entry under this revocable permit.
10. The Permittee acknowledges that the City is unaware of the existence of any hazardous substances in encroachment area, and Permittee hereby waives and fully releases and forever discharges the City and its officers, directors, employees, agents, servants, representatives, assigns and successors from any and all claims, demands, liabilities, damages, actions, causes of action, penalties, fines, liens, judgments, costs, or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise out of or in any way connected with the physical condition or required remediation of the excavation area of any law or regulation applicable thereto, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 466 et seq.), the Safe Drinking Water Act (14 U.S.C. Sections 1401, 1450), the Hazardous Waste Control Law (California Health and Safety Code Sections 25100 et seq.), the Porter-Cologne Water Quality Control Act (California Health and Safety Code Section 13000 et seq.), the Hazardous Substance Account Act (California Health and Safety Code Sections 253000 et seq.), and the Safe

Drinking Water and Toxic Enforcement Act (California Health and Safety Code Section 25249.5 et seq.).

11. The Permittee further acknowledges that it understands and agrees that it hereby expressly waives all rights and benefits which it now has or in the future may have, under and by virtue of the terms of California Civil Code Section 1542, which reads as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR." The Permittee recognizes that by waiving the provisions of this section. Permittee will not be able to make any claims for damages that may exist, and to which, if known, would materially affect its decision to agree to these encroachment terms and conditions, regardless of whether Permittee's lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.
12. The Permittee shall, and by the acceptance of this revocable permit agrees and promises:
 - a. to indemnify, defend, save and hold harmless the City of Oakland, its officers, agents, employees, and volunteers, to the maximum extent permitted by law, from any and all suits, claims, demands, liabilities, damages, actions, causes of action, penalties, fines, liens, judgments, costs, or expenses whatsoever (including, without limitation, attorneys' fees and costs) (collectively referred to as "claims"), whether direct or indirect, known or unknown, foreseen or unforeseen, brought by any person for or on account of any bodily injuries, disease or illness or damage to persons and/or property sustained or arising in the construction of the work performed under the permit or arising out of the Permittee's failure to perform the obligations with respect to the use and occupancy of the public right-of-way by virtue of the permit, to the extent that such claims were either (1) caused by the Permittee, its agents, employees, contractors or representatives, or (2) in the case of environmental contamination, the claim is a result of environmental contamination that emanates or emanated from 414 29th Avenue, Oakland, California site, or was otherwise caused by the Permittee, its agents, employees, contractors or representatives; and
 - b. if any contamination is discovered below or in the immediate vicinity of the encroachment, and the contaminants found are of the type used, housed, stored, processed or sold on the property, such shall amount to a rebuttable presumption that the contamination below, or in the immediate vicinity of, the encroachment was caused by the Permittee, its agents, employees, contractors or representatives; and
 - c. Permittee shall comply with all applicable federal, state, county and local laws, rules, and regulations governing the installation, maintenance, operation and abatement of the encroachment.
13. The encroachment permit and accompanying indenture agreement shall take effect when all the conditions hereinabove set forth shall have been complied with to the satisfaction of the City Engineer, and shall become null and void upon the failure of the Permittee to comply with all conditions.
14. The Indenture Agreement alone does not allow work to be done which requires permitting and/or inspection, and the Permittee shall obtain any and all required permits before beginning work.

15. The hereinabove conditions shall be binding upon the Permittee and the successive owners and assigns thereof; and be it

FURTHER RESOLVED: That the City Council, at its sole discretion and at a future date not yet determined, may impose additional and continuing fees as prescribed in the Master Fee Schedule, for use and occupancy of the public right-of-way; 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 City Engineer 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

FURTHER RESOLVED: That the City Engineer is hereby directed to file a certified copy of this resolution for recordation with the Office of the Alameda County Clerk-Recorder as an encumbrance of the title of the property identified above.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

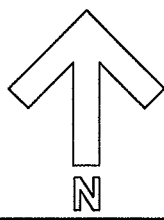
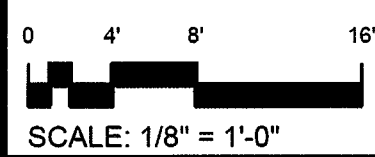
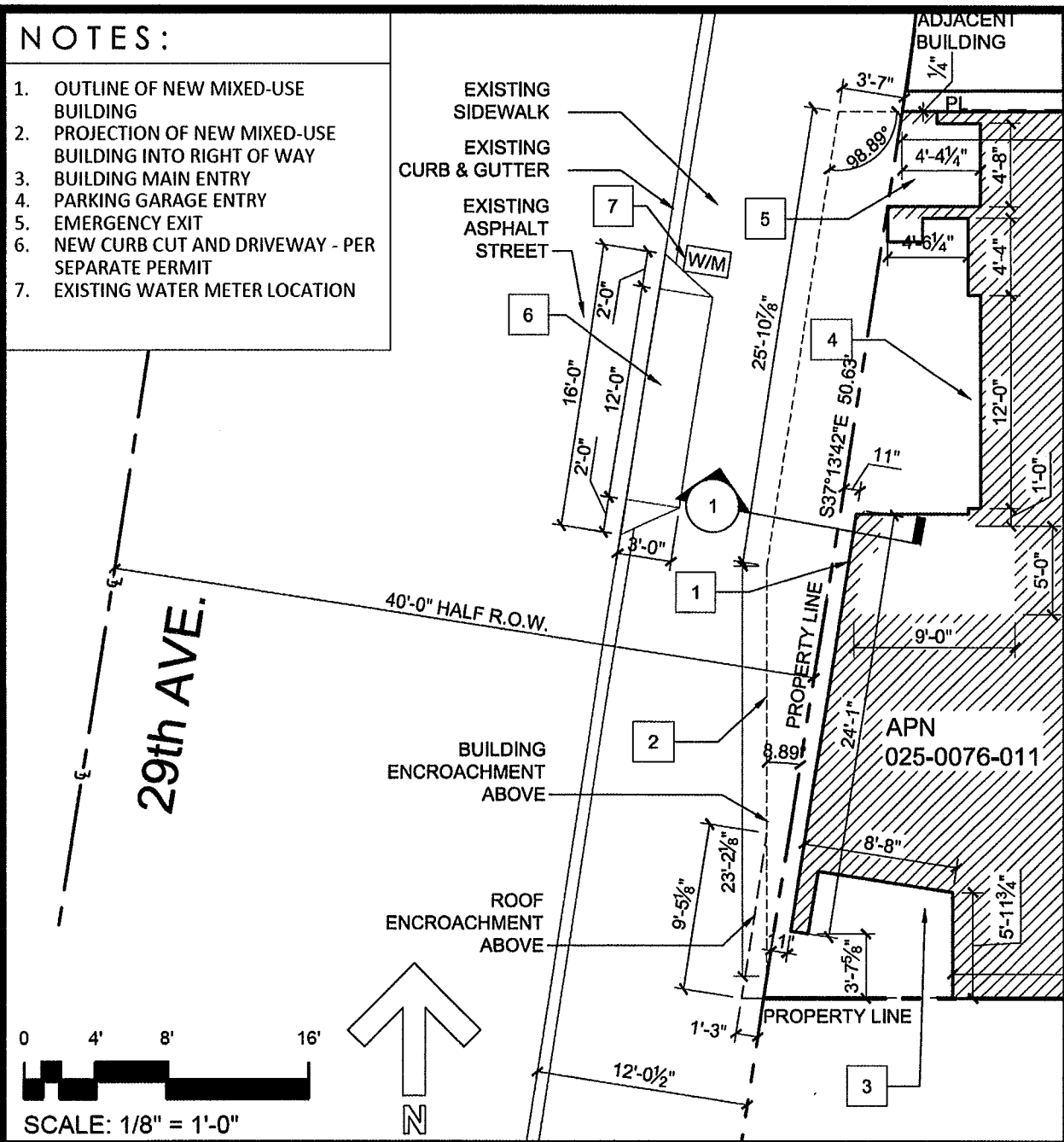
ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

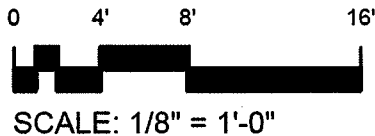
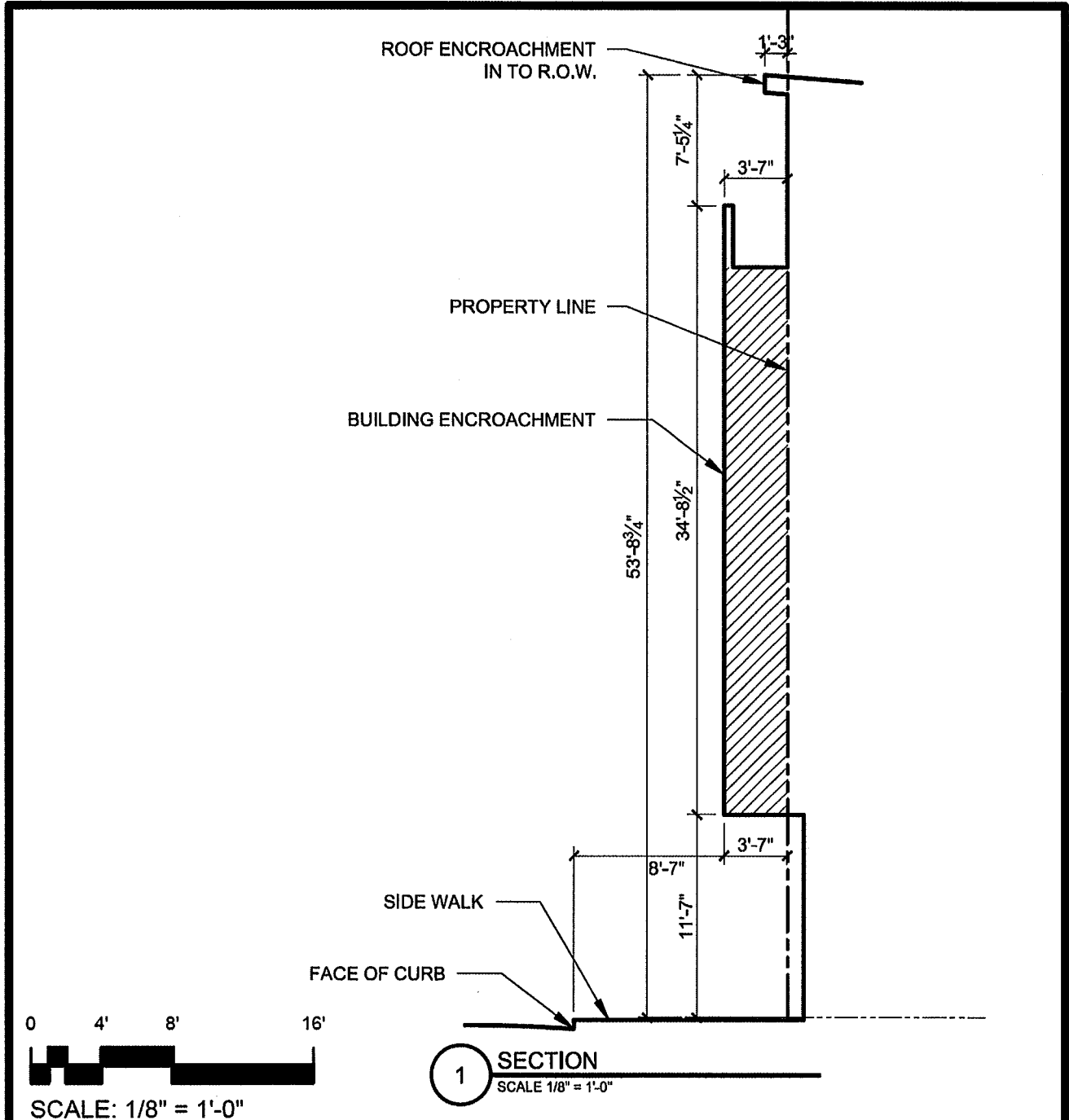
EXHIBIT: 414 29th Avenue (2 pages)

NOTES:

1. OUTLINE OF NEW MIXED-USE BUILDING
2. PROJECTION OF NEW MIXED-USE BUILDING INTO RIGHT OF WAY
3. BUILDING MAIN ENTRY
4. PARKING GARAGE ENTRY
5. EMERGENCY EXIT
6. NEW CURB CUT AND DRIVEWAY - PER SEPARATE PERMIT
7. EXISTING WATER METER LOCATION



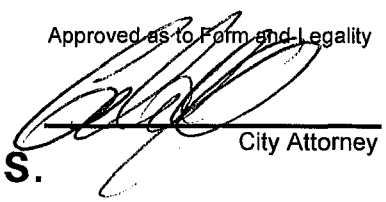
<p>REF:</p> <p>PROJECT NO: 1410</p> <p>DATE: 1410</p> <p>CAD DWG FILE: ENCROACHMENT PLAN.DWG</p> <p>DRAWN BY: A.C.S., J.C.R.</p> <p>CHK'D BY: A.C.S.</p>	<p>TECHNE</p> <p>DESIGN DEVELOPMENT</p> <p>3956 30th Street, San Diego, CA 92104 techn-us.com sustainablearchitecture.org O 619-940-5814 M 313-595-5814</p>	<p>SHEET TITLE</p> <h2 style="margin: 0;">Encroachment Plan</h2> <p>PROJECT</p> <h1 style="margin: 0;">414 29th Ave.</h1>
		<p>DRAWING</p> <h1 style="margin: 0;">1</h1>



		SHEET TITLE	
		Encroachment Plan	
3956 30th Street, San Diego, CA 92104 techne-us.com sustainablearchitect.org o 619-940-5814 m 313-595-5814		PROJECT	
		414 29th Ave.	
		DRAWING	
		2	
REF:			
PROJECT NO:	1410		
DATE:	1410		
CAD DWG FILE:	ENCROACHMENT PLAN.DWG		
DRAWN BY:	A.C.S., J.C.R.		
CHK'D BY:	A.C.S.		

2016 SEP - 1 AM 10: 33

OAKLAND CITY COUNCIL



City Attorney

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION GRANTING A CONDITIONAL AND REVOCABLE MAJOR ENCROACHMENT PERMITS TO CRP/THC OAKLAND BROADWAY UPTOWN VENTURE, LLC TO ALLOW PORTION OF THE BUILDING ABOVE THE SIDEWALK AT 2630 BROADWAY TO ENCROACH INTO THE PUBLIC RIGHT-OF-WAY ALONG THE BUILDING FRONTAGE ON BROADWAY, 26TH STREET, AND 27TH STREET, MAJOR ENCROACHMENT PERMIT ENMJ16056

WHEREAS, CRP/THC Oakland Broadway Uptown Venture, LLC ("Permittee"), the owner of the real property known as at 2630 Broadway and described in a Grant Deed Recorded by the Alameda County Clerk-Recorder and identified by the Alameda County Assessor as APN:009-0685-018-06 and commonly known as 2630 Broadway hereto and incorporated herein, has filed an application with Public Works for a conditional and revocable permit (ENMJ16056) to allow portions the existing building fronting Broadway, 26th Street, and 27th Street to encroach into the public right-of-way;

WHEREAS, the limits of the encroachment are delineated in Exhibit hereto and Incorporated herein; and

WHEREAS, the City has issued conditional and revocable major encroachment permit for encroachments into the right of way which must comply with the Oakland Municipal Code; and

WHEREAS, staff has determined, based on review of the plans and investigation of the site of the encroachment, said encroachments in the public right-of-way and their location will not interfere with public use of the roadway, sidewalk, buried utilities, and will not endanger the public welfare and convenience during said public use; and

WHEREAS, each as a separate and independent basis, this action is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15301 (existing facilities), 15183 (projects consistent with General Plan and Zoning), and 15061(b)(3) (no significant effect on the environment); now, therefore, be it

RESOLVED: That the City Council has reviewed all relevant documents relating to its grant of the encroachment permit that is the subject of this resolution; and be it

FURTHER RESOLVED: That the City Council finds and determines that the decision made hereby is made in conformance with the requirements of CEQA; and be it

FURTHER RESOLVED: That the City Council hereby grants to the Permittee a conditional revocable major encroachment permit to allow encroach into the public right-of-way and

according to the permit conditions set forth below; and be it

FURTHER RESOLVED: That said major encroachment permit is hereby conditioned by the following special requirements:

1. This agreement may be voided and the associated permit for encroachments may be revoked at any time and for any reason, at the sole discretion of the City Council, expressed by resolution as being in the City's best interest, or the associated permit may be suspended at any time, at the sole discretion of the City Engineer, upon failure of the Permittee to comply fully and continuously with each and all of the conditions set forth herein and in the associated permit.
2. The Permittee hereby disclaims any right, title, or interest in or to any portion of the public right of way, including the sidewalk and street, and agrees that the encroachment is granted for an indeterminate period of time and that the use and occupancy by the Permittee of the public right of way is temporary and does not constitute an abandonment, whether expressed or implied, by the City of Oakland of any of its rights associated with the statutory and customary purpose and use of and operations in the public right-of-way.
3. The Permittee shall maintain fully in force and effect, at its own expense, at all times during the period for which the permit is in effect, good and sufficient public liability insurance in a face amount not less than \$300,000.00 for each occurrence, and property damage insurance in a face amount not less than \$50,000.00 for each occurrence, both including contractual liability, insuring the City of Oakland, its officers, agents, employees, and volunteers against any and all claims arising out of the existence of the encroachment in the public right-of-way, as respects liabilities assumed under this permit. The policy shall contain an endorsement declaring the policy as primary coverage on said liabilities. The Permittee shall submit a written certificate of such insurance or copy of the policy to City Engineer showing that insurance is in effect in compliance with this section, and shall file subsequent notices of the renewal thereof with the City Engineer. Such certificate shall state that the insurance coverage shall not be canceled, amended or be permitted to lapse without thirty (30) days' prior written notice to City Engineer. The Permittee also agrees that the City Engineer, at his or her sole discretion, may review the type and amount of insurance required of the Permittee annually and may require the Permittee to increase the amount of and/or change the type of insurance coverage required as circumstances warrant.
4. The Permittee shall be solely and fully liable and responsible for the repair, replacement, removal, reconstruction, and maintenance of any portion or all of the private improvements constructed or installed in the public right-of-way, whether by cause, neglect, or negligence of the Permittee or others, and for the associated costs and expenses necessary to restore or remove the encroachment to the satisfaction of the City Engineer, and shall not allow the encroachment to become a blight or a menace or a hazard to the health and safety of the general public.
5. The Permittee acknowledges and agrees that the encroachment is out of the ordinary and does not comply with City of Oakland standard installations. The Permittee further acknowledges and agrees that the City of Oakland and public utility agencies will periodically conduct work in the public right-of-way, including excavation, trenching, and relocation of its facilities, all of which may damage the encroachment. The Permittee further

acknowledges and agrees that the City and public utility agencies take no responsibility for repair or replacement of the encroachment which may be damaged by the City or its contractors or public utility agencies or their contractors. The Permittee further acknowledges and agrees that upon notification by and to the satisfaction of the City Engineer, Permittee shall immediately repair, replace, or remove, at the sole expense of the Permittee, all damages to the encroachment that are directly or indirectly attributable to work by the City or its contractors or public utility agencies or their contractors.

6. The Permittee shall remain liable for and shall immediately reimburse the City of Oakland for all costs, fee assessments, penalties, and accruing interest associated with the City's notification and subsequent abatement action for required maintenance, repairs, or removal, whether in whole or in part, of the encroachment or of damaged City infrastructure made necessary by the failure, whether direct or indirect, of the Permittee to monitor the encroachment effectively and accomplish preventative, remedial, or restorative work expeditiously. The City reserves the unqualified right to collect all monies unpaid through any combination of available statutory remedies, including recordation of Prospective Liens and Priority Liens/ Special Assessments with the Alameda County Recorder, inclusion of non-reimbursed amounts by the Alameda County Assessor with the annual assessment of the general levy, and awards of judgments by a court of competent jurisdiction.
7. Upon revocation of the encroachment permit, the Permittee shall immediately, completely, and permanently remove the encroachment from the public right-of-way, repair any damage resulting therefrom, and restore the public right-of-way to its original conditions existing before the construction or installation of the encroachment, to the satisfaction of the City Engineer and all at the sole expense of the Permittee.
8. This agreement and the associated permit for an encroachment shall become effective upon filing of this agreement with the Alameda County Recorder for recordation as an encumbrance of the property and its title.
9. The Permittee acknowledges that the City makes no representations or warranties as to the conditions beneath said encroachment. By accepting this revocable permit, Permittee agrees that it will use the encroachment area at its own risk, is responsible for the proper coordination of its activities with all other permittees, underground utilities, contractors, or workmen operating, within the encroachment area and for the safety of itself and any of its personnel in connection with its entry under this revocable permit.
10. The Permittee acknowledges that the City is unaware of the existence of any hazardous substances in encroachment area, and Permittee hereby waives and fully releases and forever discharges the City and its officers, directors, employees, agents, servants, representatives, assigns and successors from any and all claims, demands, liabilities, damages, actions, causes of action, penalties, fines, liens, judgments, costs, or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise out of or in any way connected with the physical condition or required remediation of the excavation area of any law or regulation applicable thereto, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 466 et seq.), the Safe Drinking Water Act (14 U.S.C. Sections 1401, 1450), the Hazardous Waste Control Law (California Health and Safety Code Sections 25100 et seq.), the Porter-Cologne Water Quality Control

Act (California Health and Safety Code Section 13000 et seq.), the Hazardous Substance Account Act (California Health and Safety Code Sections 253000 et seq.), and the Safe Drinking Water and Toxic Enforcement Act (California Health and Safety Code Section 25249.5 et seq.).

11. The Permittee further acknowledges that it understands and agrees that it hereby expressly waives all rights and benefits which it now has or in the future may have, under and by virtue of the terms of California Civil Code Section 1542, which reads as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR." The Permittee recognizes that by waiving the provisions of this section. Permittee will not be able to make any claims for damages that may exist, and to which, if known, would materially affect its decision to agree to these encroachment terms and conditions, regardless of whether Permittee's lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.
12. The Permittee shall, and by the acceptance of this revocable permit agrees and promises:
 - a. to indemnify, defend, save and hold harmless the City of Oakland, its officers, agents, employees, and volunteers, to the maximum extent permitted by law, from any and all suits, claims, demands, liabilities, damages, actions, causes of action, penalties, fines, liens, judgments, costs, or expenses whatsoever (including, without limitation, attorneys' fees and costs) (collectively referred to as "claims"), whether direct or indirect, known or unknown, foreseen or unforeseen, brought by any person for or on account of any bodily injuries, disease or illness or damage to persons and/or property sustained or arising in the construction of the work performed under the permit or arising out of the Permittee's failure to perform the obligations with respect to the use and occupancy of the public right-of-way by virtue of the permit, to the extent that such claims were either (1) caused by the Permittee, its agents, employees, contractors or representatives, or (2) in the case of environmental contamination, the claim is a result of environmental contamination that emanates or emanated from 2630 Broadway, Oakland, California site, or was otherwise caused by the Permittee, its agents, employees, contractors or representatives; and
 - b. if any contamination is discovered below or in the immediate vicinity of the encroachment, and the contaminants found are of the type used, housed, stored, processed or sold on the property, such shall amount to a rebuttable presumption that the contamination below, or in the immediate vicinity of, the encroachment was caused by the Permittee, its agents, employees, contractors or representatives; and
 - c. Permittee shall comply with all applicable federal, state, county and local laws, rules, and regulations governing the installation, maintenance, operation and abatement of the encroachment.
13. The encroachment permit and accompanying indenture agreement shall take effect when all the conditions hereinabove set forth shall have been complied with to the satisfaction of the City Engineer, and shall become null and void upon the failure of the Permittee to comply with all conditions.
14. The Indenture Agreement alone does not allow work to be done which requires permitting

and/or inspection, and the Permittee shall obtain any and all required permits before beginning work.

15. The hereinabove conditions shall be binding upon the Permittee and the successive owners and assigns thereof; and be it

FURTHER RESOLVED: That the City Council, at its sole discretion and at a future date not yet determined, may impose additional and continuing fees as prescribed in the Master Fee Schedule, for use and occupancy of the public right-of-way; 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 City Engineer 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

FURTHER RESOLVED: That the City Engineer is hereby directed to file a certified copy of this resolution for recordation with the Office of the Alameda County Clerk-Recorder as an encumbrance of the title of the property identified above.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and
PRESIDENT GIBSON MCELHANEY

NOES -

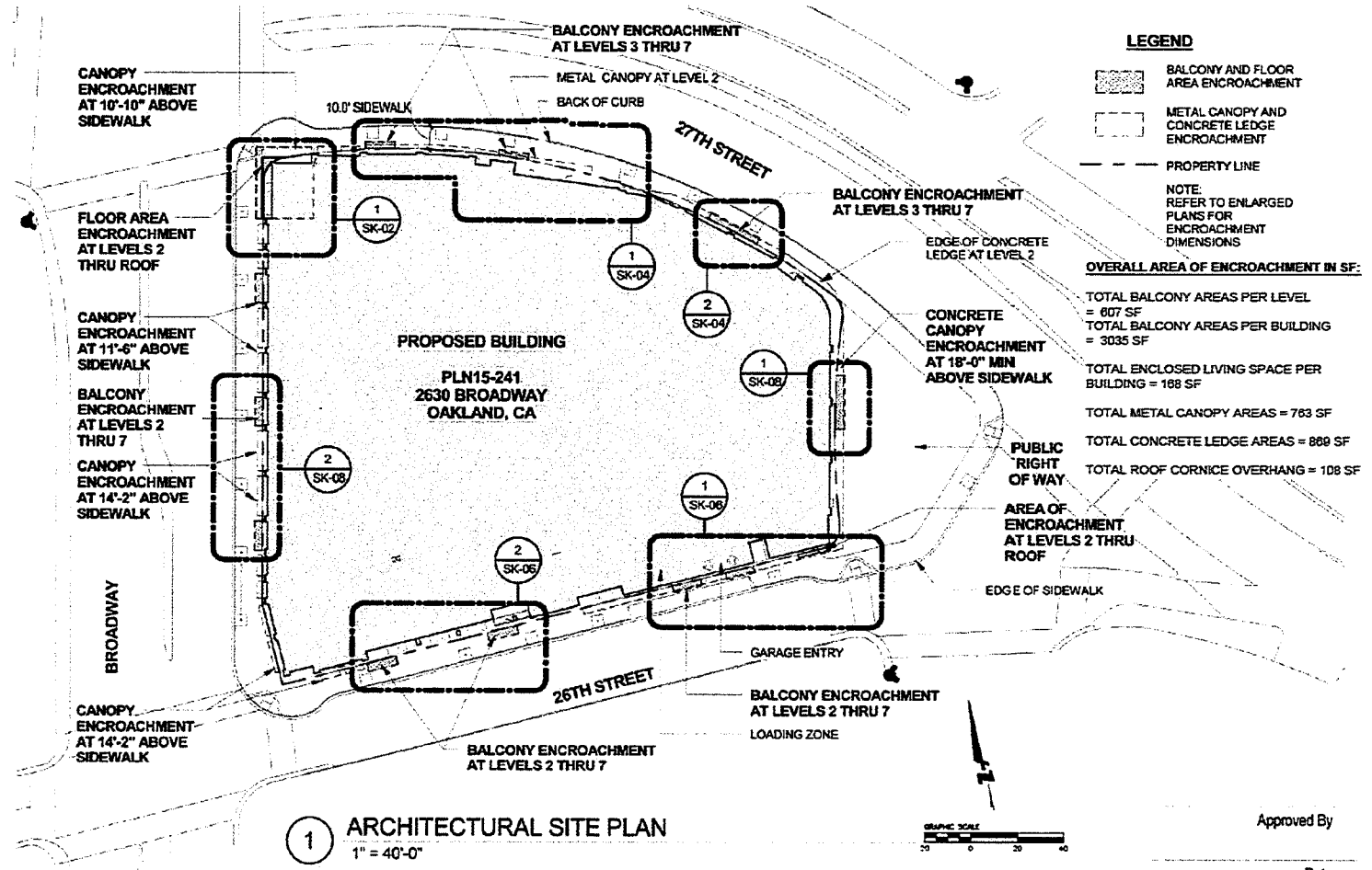
ABSENT -

ABSTENTION -

ATTEST: _____

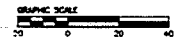
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

EXHIBIT: 2630 Broadway (9 pages)



- LEGEND**
- BALCONY AND FLOOR AREA ENCROACHMENT
 - METAL CANOPY AND CONCRETE LEDGE ENCROACHMENT
 - PROPERTY LINE
- NOTE:
REFER TO ENLARGED PLANS FOR ENCROACHMENT DIMENSIONS
- OVERALL AREA OF ENCROACHMENT IN SF:**
- TOTAL BALCONY AREAS PER LEVEL = 807 SF
 - TOTAL BALCONY AREAS PER BUILDING = 3035 SF
 - TOTAL ENCLOSED LIVING SPACE PER BUILDING = 168 SF
 - TOTAL METAL CANOPY AREAS = 763 SF
 - TOTAL CONCRETE LEDGE AREAS = 889 SF
 - TOTAL ROOF CORNICE OVERHANG = 108 SF

1 ARCHITECTURAL SITE PLAN
1" = 40'-0"



Approved By

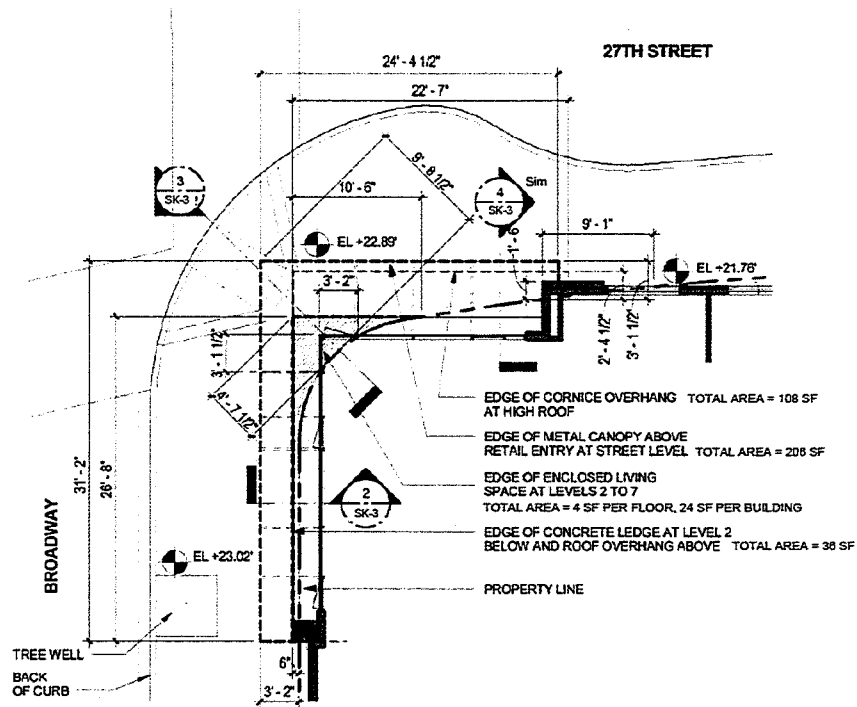
Date



2630 BROADWAY
JUNE 27, 2016

SK-1

6

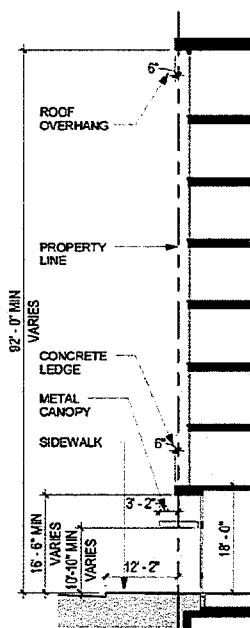


1 27TH & BROADWAY CORNER
1/8" = 1'-0"

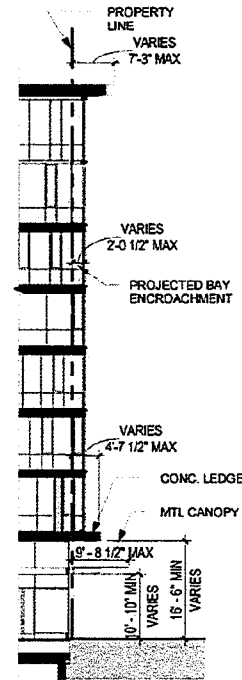
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2630 BROADWAY
JUNE 27, 2016

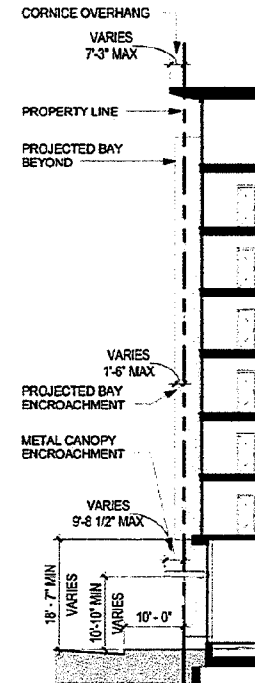




2 SECTION 2
1/16" = 1'-0"



3 SECTION 3
1/16" = 1'-0"



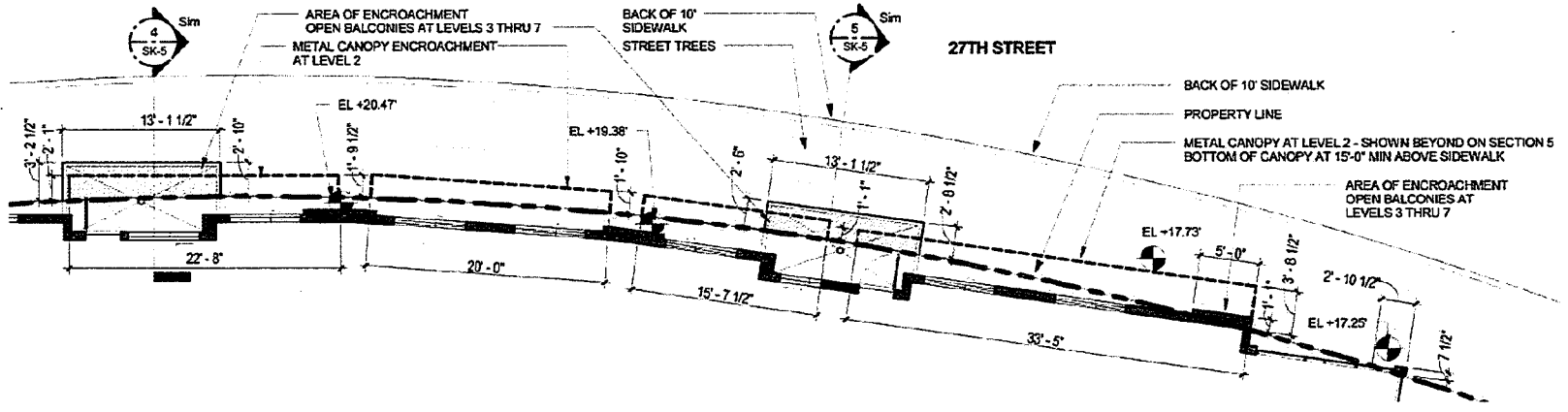
4 SECTION 4
1/16" = 1'-0"



2630 BROADWAY
JUNE 27, 2016

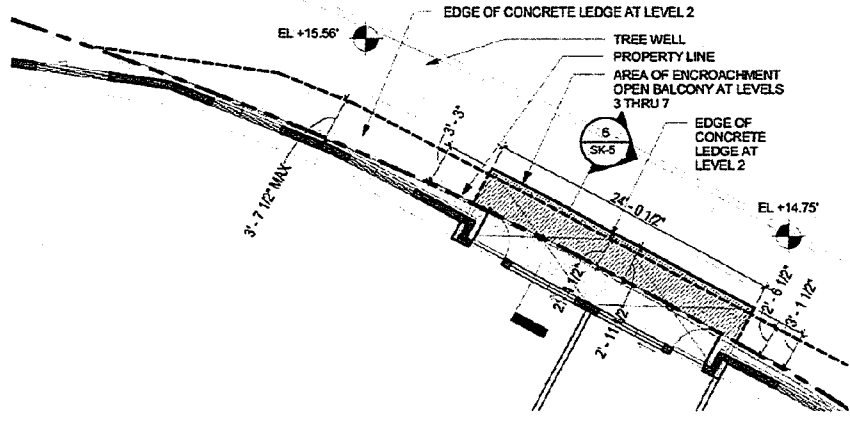
PAGE 3 OF 9

SK-3



1 27TH STREET PARTIAL PLAN AT RESIDENTIAL LEVELS
1/8" = 1'-0"

AREA OF ENCROACHMENT AT 27TH STREET FRONTAGE:
 TOTAL BALCONY AREAS PER FLOOR = 182 SF
 TOTAL BALCONY AREAS PER BUILDING = 910 SF
 TOTAL CANOPY AREAS = 204 SF
 TOTAL CONCRETE LEDGE AREAS = 260 SF



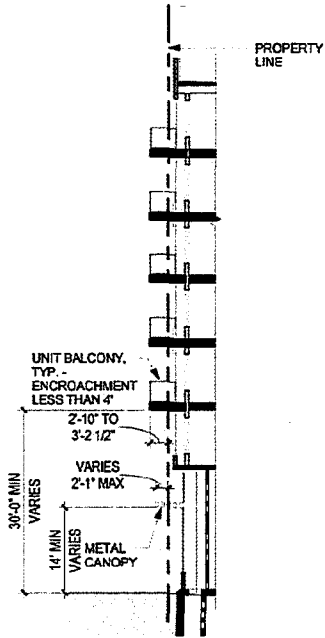
2 27TH STREET PARTIAL PLAN AT RESIDENTIAL LEVELS
1/8" = 1'-0"



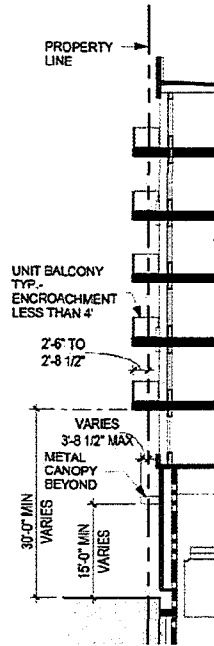
2630 BROADWAY
JUNE 27, 2016



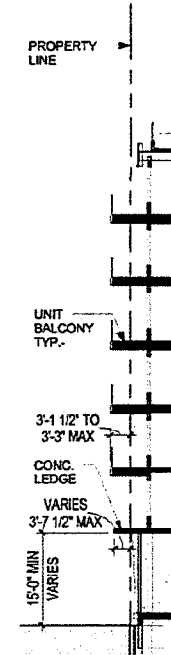
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4 SECTION 4
1/16" = 1'-0"



5 SECTION 5
1/16" = 1'-0"



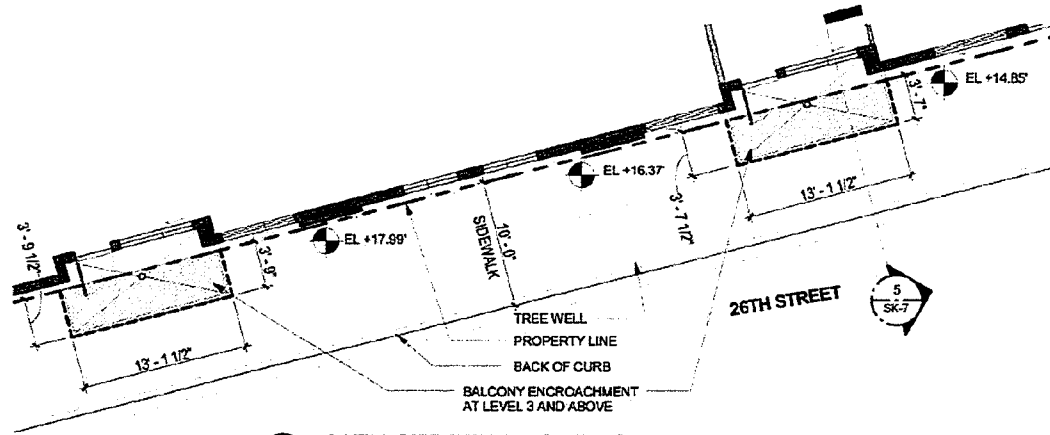
6 SECTION 6
1/16" = 1'-0"



2630 BROADWAY
JUNE 27, 2016

PAGE 5 OF 9

SK-5



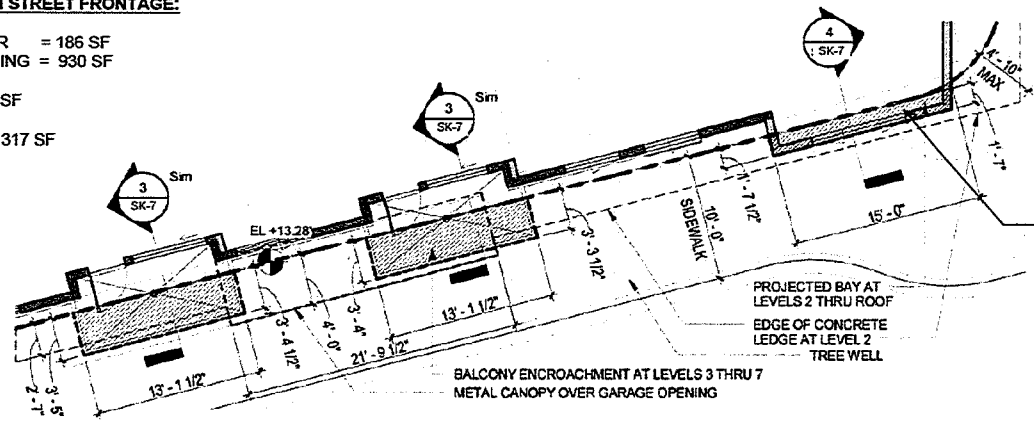
2 26TH STREET FRONTAGE
1/8" = 1'-0"

AREA OF ENCROACHMENT AT 26TH STREET FRONTAGE:

TOTAL BALCONY AREAS PER FLOOR = 186 SF
PER BUILDING = 930 SF

TOTAL METAL CANOPY AREAS = 87 SF

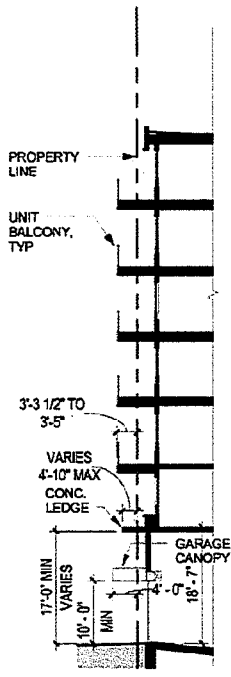
TOTAL CONCRETE LEDGE AREAS = 317 SF



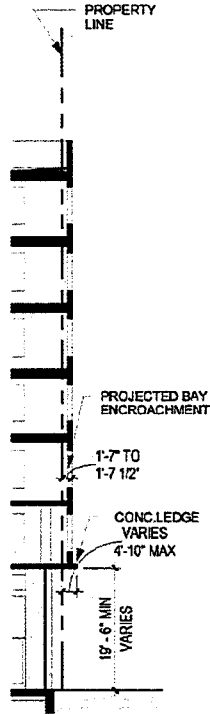
1 26TH STREET & PLAZA FRONTAGE
1/8" = 1'-0"

TOTAL ENCLOSED LIVING AREAS PER FLOOR = 24 SF
TOTAL ENCLOSED LIVING AREAS PER BUILDING = 144 SF

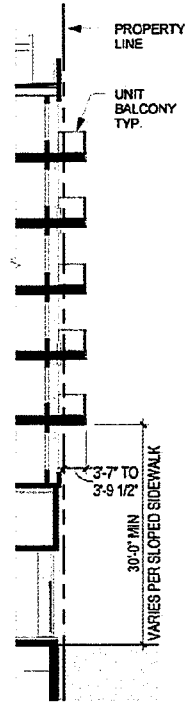
SK-6



3 SECTION 3
1/16" = 1'-0"



4 SECTION 4
1/16" = 1'-0"

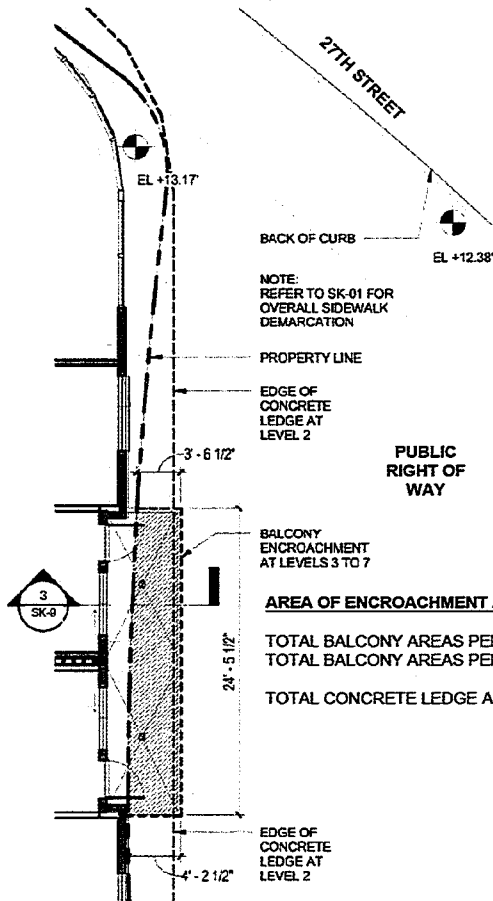


5 SECTION 5
1/16" = 1'-0"

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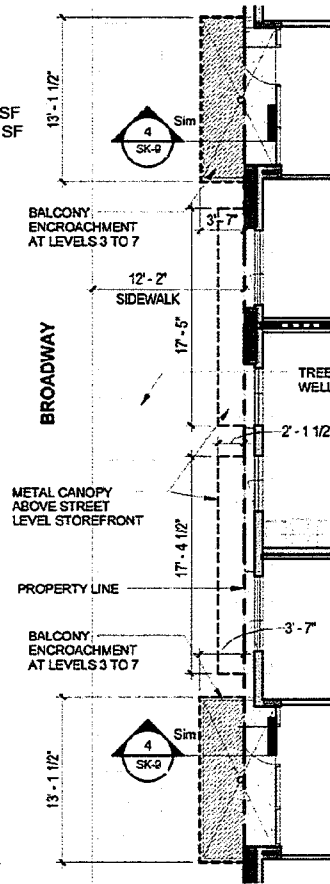


AREA OF ENCROACHMENT AT FUTURE PLAZA:

TOTAL BALCONY AREAS PER FLOOR = 99 SF
 TOTAL BALCONY AREAS PER BUILDING = 495 SF
 TOTAL CONCRETE LEDGE AREAS = 256 SF

AREA OF ENCROACHMENT AT BROADWAY FRONTAGE:

TOTAL BALCONY AREAS PER FLOOR = 140 SF
 TOTAL BALCONY AREAS PER BUILDING = 700 SF
 TOTAL METAL CANOPY AREAS = 266 SF



BROADWAY FRONTAGE

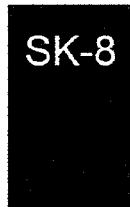
1/8" = 1'-0"

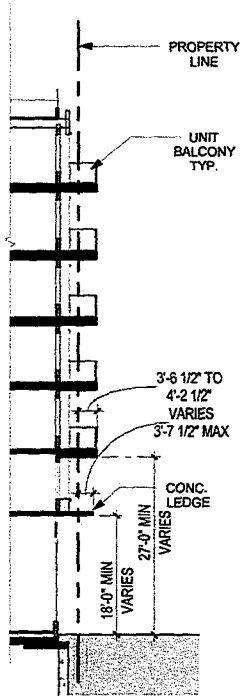
FUTURE PLAZA FRONTAGE

1/8" = 1'-0"

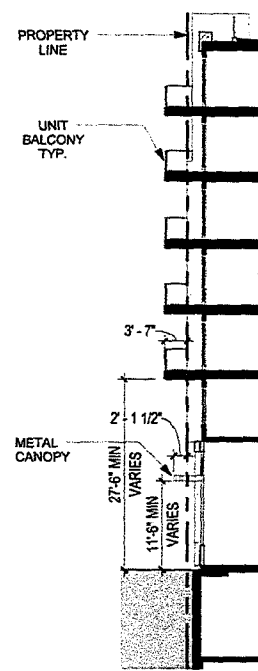


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3 SECTION 3
1/16" = 1'-0"



4 SECTION 4
1/16" = 1'-0"

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