Appellant’s supplemental brief submitted for the hearing on June 26, 2024.

WHAT DOES THE LAW SAY ABOUT THIS CASE?

1. The Law Says: *public* and *private* rights-of-ways are LEGALLY DIFFERENT:

> "Long ago our Supreme Court made clear the difference between public and private rights of way: 'Public ways, as applied to ways by land, are usually termed "highways" or "public roads," and are such ways as every citizen has a right to use. A private way relates to that class of easements in which a particular person, or particular description or class of persons, have an interest or right as distinguished from the general public.'" *County of Sacramento v. Pacific Gas & Elec. Co*., 193 Cal. App. 3d 300 - Cal: Court of Appeal, 3rd Appellate Dist. 1987.

2. The Law Says: *private* rights-of-ways are EASEMENTS: California Law, Government Code §66475, the US Supreme Court, and the CA Court of Appeals say that *private* rights-of-ways that a subdivider dedicates for a specific purpose are *Easements*.

3. The Law Says: the sub-surface sewer right-of-way is an EASEMENT: California Law, Government Code §66475 and the Title to our property say that the "sub-surface sewer right-of-way" listed on the subdivision map of Ingleside Terraces neighborhood is an *Easement*.

4. The Law Says: *private* rights-of-ways (*Easements*) are not owned by Cities: The CA Court of Appeals, in *County of Sacramento v. Pacific Gas & Elec. Co.,* 193 Cal. App. 3d 300 - Cal: Court of Appeal, 3rd Appellate Dist. 1987, held that 'easements are not owned by municipalities, rather they are private property that are reserved for a specific purpose, and ownership-rights do NOT extend to the public NOR to the municipality.'

5. When the question arose, "What is the *legal* difference between a *public* right-of-way and a *private* right-of-way?" the City Attorney shared SF Public Works Code §723 regarding *public* right-of-way encroachments, INSTEAD of providing this Board with the LEGAL DISTINCTION between a *public* right-of way (*road or highway*) and a *private* right-of-way (*Easement*). This demonstrates unconscious bias.

6. When the question arose, "Can the City *legally* apply codes for *public* rights-of-ways to *private* rights-of-ways?" the City Attorney counseled that 'a Board decision to sustain or overrule DPW's permit denial would not be a decision around property lines affecting an entire neighborhood,' INSTEAD of counseling this Board that codes for *public* rights-of-ways (*roads & highways*) DO NOT LEGALLY apply to *private* rights-of-ways (*Easements*), demonstrating unconscious bias.

7. When the question arose, "How should this Board *legally* proceed if a Minor Sidewalk Encroachment permit was unlawfully mandated for a *private* right-of-way (*Easement*)?" the City Attorney counseled, 'that the Board's *only* options are to sustain or overrule DPW's denial of a Minor Sidewalk Encroachment permit,' INSTEAD of counseling the Board on how to *legally* proceed if a Minor Sidewalk Encroachment permit was *unlawfully* mandated for a *private* right-of-way (*Easement*). This demonstrates unconscious bias.

8. The Law Says: unconscious bias derives from a conflict-of-interest and is unlawful: (1) The CA State Bar's Current Rules of Professional Conduct 1.7 'prevent an attorney from representing two opposing parties in a proceeding before a tribunal' making the City Attorney's counsel to both the Board of Appeals and the Respondent, DPW, an *ethical conflict-of-interest*. (2) CA Government Code §87100 and §87103 'prevent a government official from influencing a government decision in which that official has a financial interest,' making the City Attorney's counsel to the Board of Appeals regarding permit-fees to an agency, DPW, that the City Attorney manages (sfcityattorney.org/aboutus/teams/code/), a *financial conflict-of-interest*.

CASE SUMMARY: In 2017, the City used a neighbor's music complaint to initiate Anti-Blight Enforcement, authorizing DBI, Planning, and DPW to (1) conduct investigations of private property without consent, without probable cause of unsafe property, and without due process

protections, and (2) to issue violation notices (*allegation-conviction-sentencing* for property crime) without evidence of unsafe property, without due process protections, and without equal protection of the law, resulting in fraudulent violation notices for gratuitous and exploitive permits, variances, and abatements. DPW's *allegation* & *conviction* of *public* right-of-way crimes where *no public* right-of-way exists violates SF Admin. Code Chapter 80 and SF Public Works Code §723 requirements that (1) a *public* right-of-way (*road or highway*) exist in order to claim *public* right-of-way crime, (2) unsafe property exist in order to file violation notices (*allegation-conviction-sentencing*) for property crime, and (3) an administrative hearing be offered to challenge violation notices, for which SF Admin. Code §80.7 entitles Appellant civil penalties (for DPW's unlawful violation notices 11/24/21, 12/10/21, 1/13/22, 2/3/22, through June 26, 2024) of between **$4,863,300.00** and **$9,741,000.00**. PUBLIC RECORD: (1) On July 20, 2019, Planning approved Variance 2018-002358VAR *legalizing* the 4-foot height of the fence, which was processed by the Assessor-Recorder's Office on June 6, 2021. (2) On August 25, 2015, DBI approved permit PW20150706557 *legalizing* the gas line for the fire table.

PRAYER FOR RELIEF: Because DPW should have never required a Minor Sidewalk Encroachment Permit (nor other unlawful permits) for a *private* right-of-way (*Easement*), we humbly request this Board (1) rescind and reverse DPW's violation notices requiring unlawful permits for *private* property and (2) direct DPW to issue a new decision holding that (a) DPW erred in searching *private* property without proper consent, without probable cause of unsafe property, and without a *public* right-of-way, (b) DPW erred in filing violation notices that failed to describe a hearing process to appeal their violation notices, and (c) DPW erred in filing violation notices for a *non-existent public* right-of-way (*road or highway*), or if outside of your jurisdiction, remand this case to a higher authority, SF Superior Court Case: CGC-22-601288.

SFPW’s supplemental brief submitted for the hearing on June 26, 2024

Nicolas Huff, PE, Bureau Manager | Bureau of Street-Use & Mapping
nicolas.huff@sfdpw.org | T. 628.271.2000 | 49 South Van Ness Ave. 3rd Floor, San Francisco, CA 94103

June 13, 2024

President Jose Lopez
Vice President Alex Lemberg
Commissioner Rick Swig
Commissioner John Trasviña
Commissioner J.R. Eppler

RE: Appeal No. 23-067 for Minor Sidewalk Encroachment Permit application 21MSE-00688 (201 Ashton Ave.)

Dear Members of the Board of Appeals:

San Francisco Public Works submits this brief in response to the request from the Board, at the hearing of May 15, 2024, to determine which encroaching items Public Works would allow under a Minor Sidewalk Encroachment permit.

Encroachments:

After internal review and consultation with sister agencies, Public Works has determined the following for the encroaching items:

Items that may remain:

1. Landscaping and pavers may remain in place as-is.
2. Fence
    a. After consulting with the Planning Department, BSM will grant a variance to the 3 foot height limitation so the fence may remain in place with a height no greater than 4 feet.

    b. The fence must be modified to provide a minimum clearance of 3 feet in all directions around the base of the streetlight along Holloway Ave. This can be accomplished by creating a cut out around the pole, by adding an unlocked sliding gate, or adding a swinging gate that swings towards the property. If the fence is not modified, the permit will be conditioned such that the fence may be removed, without prior notice and at the owner's expense, to provide access to the streetlight.

c. Plans will need to confirm that there is a minimum of a 3-foot clear path of travel between the fence along Holloway Ave. and the tree wells.

Items to be removed:

1. The cedar pergola must be removed. After consulting with the Planning Department, it was determined that the property does not qualify to allow a standalone structure in the front yard. Furthermore, Public Works does not allow private structures in the right-of-way.

2. The fire table and associated gas piping must be removed. There are safety and liability concerns with having a gas line fire in the right-of-way. Further, encroachment permits are non-exclusive permits that cannot allow private elements in the public right-of-way for private or personal gain.

Next steps:

Updated plans reflecting the items listed above shall be submitted to Public Works within 90 days of the Board of Appeals decision. Furthermore, the plans shall show the location of the property line as determined by the private land surveyor contracted by the applicant.

Documents submitted by the Appellant at the hearing
on June 26, 2024

Board of Appeals #23-067 – Emberton vs. SFPW-BSM

Mihal Emberton, Appellant

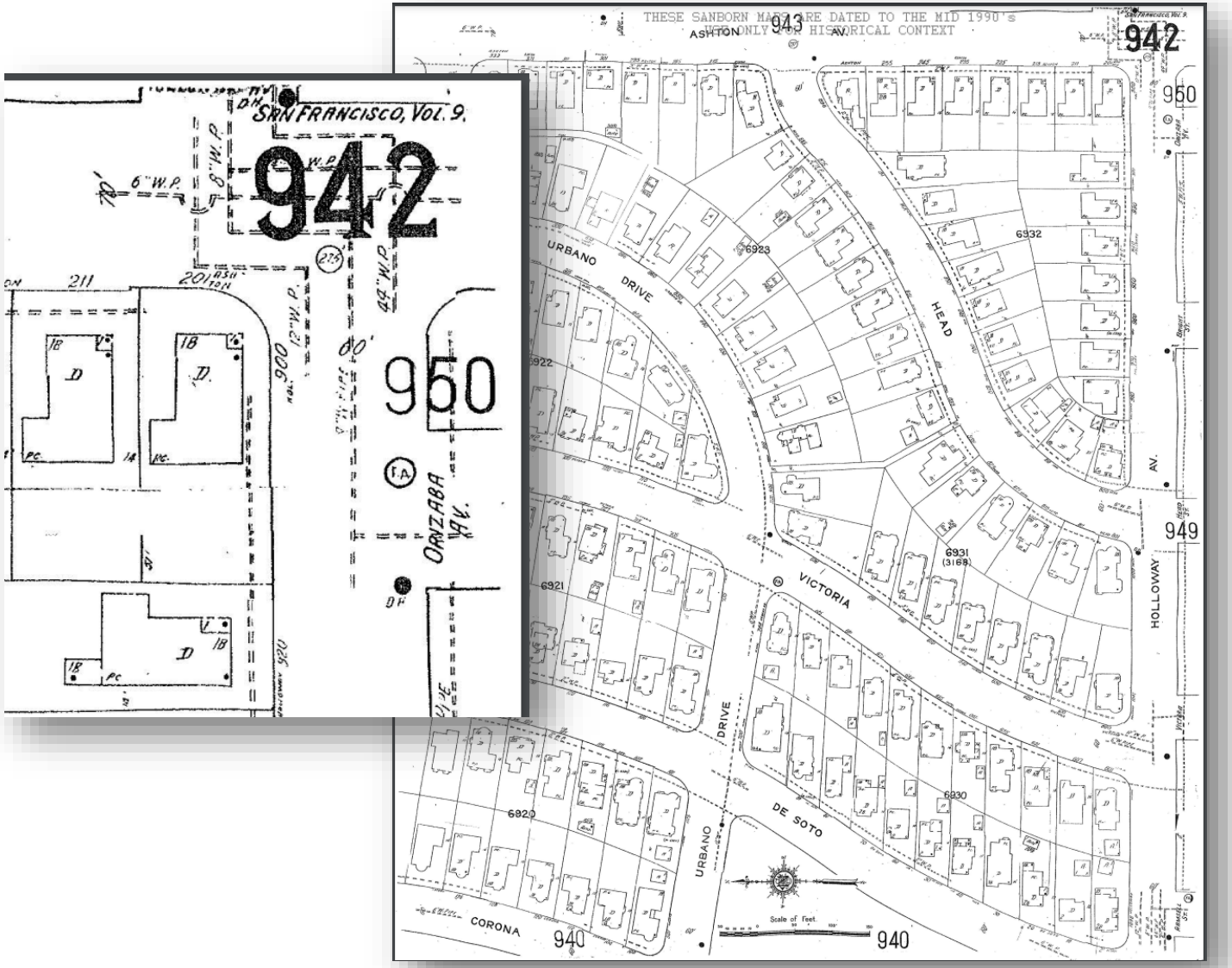
What does the **Law** say about this case?

COMMISSIONER SWIFT'S PARAMOUNT QUESTION

The Law Says: *public* and *private* rights-of-ways are **LEGALLY DIFFERENT**

"Long ago our Supreme Court made clear the difference between public and private rights of way: 'Public ways, as applied to ways by land, are usually termed "highways" or "public roads," and are such ways as every citizen has a right to use. A private way relates to that class of easements in which a particular person, or particular description or class of persons, have an interest or right as distinguished from the general public.'"

County of Sacramento v. Pacific Gas & Elec. Co., 193 Cal. App. 3d 300 - Cal: Court of Appeal, 3rd Appellate Dist. 1987



Historic Sanborn Map showing water pipes in *private* rights-of-ways (easements)

The Law Says: *private* rights-of-ways are Easements

California Law, Government Code §66475, the **US Supreme Court**, and the **CA Court of Appeals** say that **Private rights-of-ways** that a subdivider dedicates for a specific purpose, such as to access public utilities, are **Easements**.

The **Law** Says: the sub-surface sewer right-of-way is an **Easement**

California Law, Government Code §66475 and the **Title** to our property say that the "sub-surface sewer right-of-way" listed on the subdivision map of Ingleside Terraces neighborhood is an **Easement**.

ITEMS: (continued)

Title No. 12-463129-B-KD
Locate No. CAFNT0938-0901-0021-0000463129

5. **Covenants, conditions and restrictions** in the declaration of restrictions but omitting any covenants or restrictions, if any, including, but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law.

Recorded: September 18, 1922, Book 534, Page 308, of Official Records

Modification(s) of said covenants, conditions and restrictions

Recorded: March 3, 1939, Book 3422, Page 98, of Official Records

6. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as reserved in a document;

Reserved by: Urban Realty Improvement Company
Purpose: Public utility
Recorded: September 18, 1922, Book 532, Page 308, of Official Records
Affects: Rear or Interior side lines, not to be nearer than 20 feet to any street

7. **A deed of trust** to secure an indebtedness in the amount shown below, and any other obligations secured thereby

Easement(s) for the purpose(s) shown below and rights incidental thereto as reserved in a document;

Reserved by: Urban Realty Improvement Company
Purpose: Public utility
Recorded: September 18, 1922, Book 532, Page 308, of Official Records
Affects: Rear or Interior side lines, not to be nearer than 20 feet to any street

4

CLTA Preliminary Report Form - Modified (11/17/06)

The Law Says: *private* rights-of-ways (*Easements*) are not owned by Cities

The CA Court of Appeals held that **'easements are not owned by municipalities, rather they are private property that are reserved for a specific purpose, and ownership-rights do NOT extend to the public NOR to the municipality.'**

County of Sacramento v. Pacific Gas & Elec. Co., 193 Cal. App. 3d 300 - Cal: Court of Appeal, 3rd Appellate Dist. 1987

What is the **legal difference** between a *public* right-of-way and a *private* right-of-way?

CITY ATTORNEY SHARED

- SF Public Works Code §723: OBSTRUCTION OF AND ENCROACHMENT UPON PUBLIC RIGHT-OF-WAY PROHIBITED
- *Instead* of providing this Board with the **LEGAL DISTINCTION** between a ***public*** right-of way (*road or highway*) and a ***private*** right-of-way (*Easement*).

WHICH IS UNCONSCIOUS BIAS

Can the City **legally** apply codes for *public* rights-of-ways to *private* rights-of-ways?

CITY ATTORNEY COUNSELED

- that ‘a Board decision to sustain or overrule DPW’s permit denial would not be a decision around property lines affecting an entire neighborhood,’
- *Instead* of counseling this Board that codes for ***public*** rights-of-ways (roads & highways) DO NOT LEGALLY apply to ***private*** rights-of-ways (*Easements*).

WHICH IS UNCONSCIOUS BIAS

How should this Board **legally** proceed if a Minor Sidewalk Encroachment permit was unlawfully mandated for a *private* right-of-way (*Easement*)?

CITY ATTORNEY COUNSELED

- that the Board's *only* options are to sustain or overrule DPW's denial of a Minor Sidewalk Encroachment permit
- *Instead* of counseling the Board on how to ***legally* proceed** if a Minor Sidewalk Encroachment permit was *unlawfully* mandated for a ***private*** right-of-way.

WHICH IS UNCONSCIOUS BIAS

The Law Says: unconscious bias derives from a conflict-of-interest and is unlawful

CA STATE BAR CURRENT RULES OF PROFESSIONAL CONDUCT 1.7 - ETHICAL CONFLICTS OF INTEREST

- The CA State Bar Current Rules of Professional Conduct ‘prevent an attorney from representing two opposing parties in a proceeding before a tribunal’ making the City Attorney’s counsel to both the Board of Appeals and the Respondent, DPW, an ethical conflict-of-interest.

CA GOVERNMENT CODE §§ 87100, 87103 - FINANCIAL CONFLICTS OF INTEREST

- CA Government Code ‘prevents a government official from influencing a government decision in which that official has a financial interest,’ making the City Attorney’s counsel to the Board of Appeals regarding permit-fees to DPW, a financial-conflict-of-interest.

The Law Says: DPW should have never required a Minor Sidewalk Encroachment Permit for a *private* right-of-way (*Easement*)

We humbly request this Board

(1) rescind and reverse DPW's violation notices requiring unlawful permits for *private* property and

(2) direct DPW to issue a new decision holding that

a) DPW erred in searching private property without proper consent, without probable cause of unsafe property, and without a public right-of-way

b) DPW erred in filing violation notices that failed to describe a hearing process to appeal their violation notices, and

c) DPW erred in filing violation notices for a non-existent public right-of-way (road or highway),

or remand this case to a higher authority, SF Superior Court Case: CGC-22-601288.

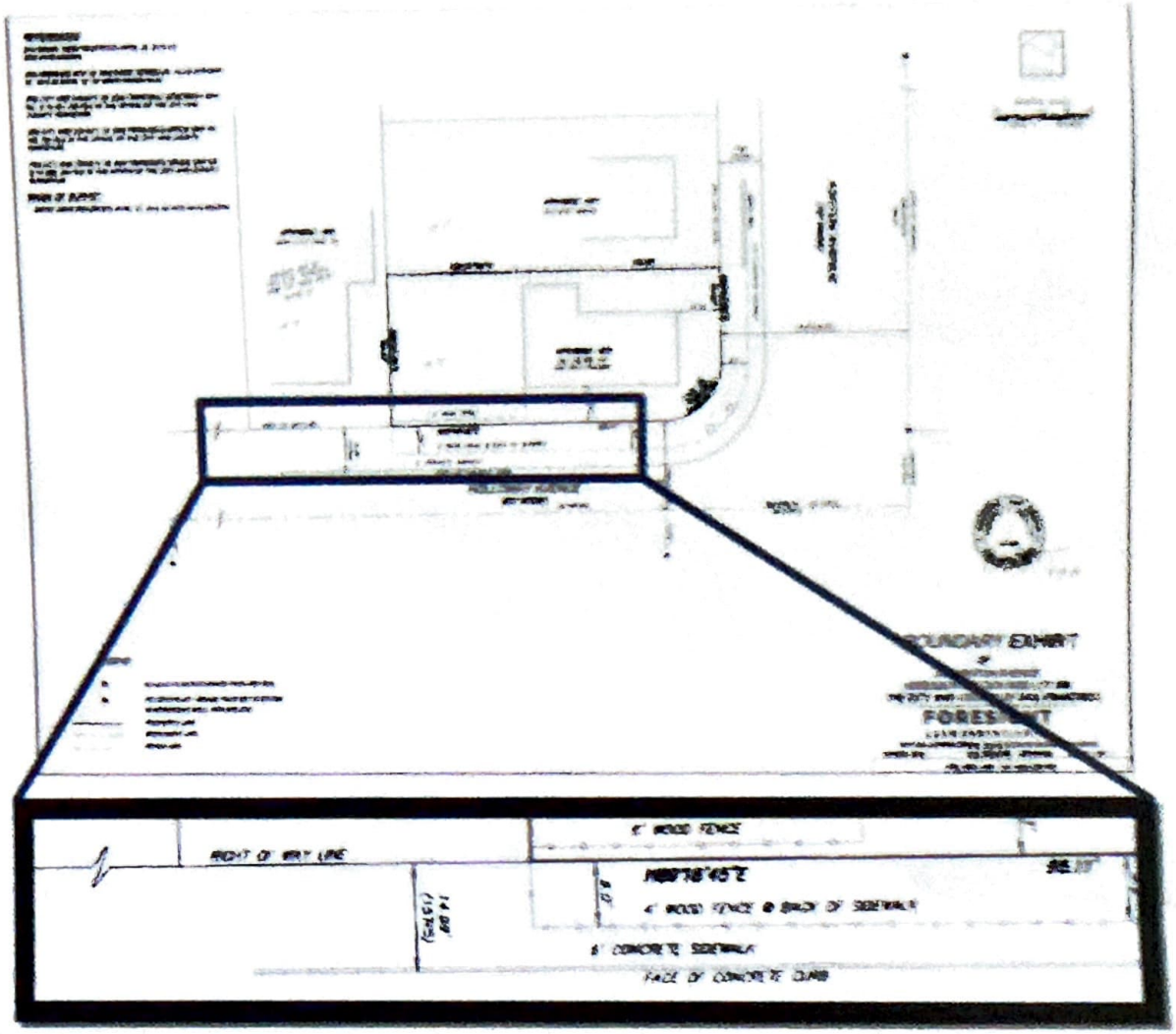
Documents submitted by the Appellant at the hearing on May 15, 2024

Board of Appeals #23-067 – Emberton vs. SFPW-BSM

Mihal Emberton, Appellant

Surveyor confirmed presence of 9-foot 'Right-of-Way,' but the Boundary Exhibit does **NOT** identify the **TYPE** of right-of-way **NOR** the **OWNERSHIP** of this right-of-way

Foresight Land Surveying, Inc Boundary Exhibit (right)



Note! Strip between dotted lines, reserved for automobile driveway and sub-surface sewer Right of Way.

Note! Dotted lines indicate boundaries of sub-surface sewer Right of Way.

Note:- Dotted lines indicate boundaries of sub-surface sewer Right of Way.

consents to the making of said Map or Plat ; but be it known that no part or parcel of said tract or subdivision of land is offered for dedication or dedicated for any public use and that the streets, avenues, roads and ways delineated on the within map or plat, are reserved for the exclusive and private use and benefit of the owners and holders of the lots designated on said map or plat.

Excerpt from 1912 subdivision map: "be it known that no part or parcel of said tract or subdivision of land is offered for dedication or dedicated for any public use and that the streets, avenues, roads and ways delineated on the within map or plat are reserved for the exclusive and private use and benefit of the owners and holders of the lots designated on said map or plat."

DPW's claim that the Right-of-Way is a *public* right-of-way is fraudulent and unlawful.

This 9-foot Right-of-Way was appropriated for the *Sub-Surface Sewer* (*not the public*) and was dedicated as Private Property by Morser's 1912 Subdivision Map of Ingleside Terraces.

The Sub-surface Sewer Right-of-Way continued as Private Property in 1915, and was *formally legalized* as Private Property in 1922

The Sub-Surface Sewer Right-of-way was *NOT* included in the 1915 ownership-transfer to the City because its 9-foot width did not meet the 40-foot width transfer-requirement.

And on September 18, 1922, our Sub-surface Sewer Right-of-Way was reserved as a Public Utility Easement, *inveterating* its legal status as Private Property.

<u>An Easement *by definition* is Private Property reserved for a specific purpose,</u> in our case public utility access, making DPW's claim of ownership as an unpaved sidewalk unlawful and criminal.

Excerpt from 1913 amended Subdivision map of Ingleside Terraces (above): "On and afte[illegible]mber 31st, 1915, all the streets, avenues, roads, and ways de[illegible] said map, forty feet or more in width, are hereby dedicated to [illegible]nd County of San Francisco, for public use as public streets, ave[illegible]ds, and ways."

6. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as reserved in a document;

Reserved by:	Urban Realty Improvement Company
Purpose:	Public utility
Recorded:	September 18, 1922, Book 532, Page 308, of Official Records
Affects:	Rear or interior side lines, not to be nearer than 20 feet to any street

Ingleside Terraces' sidewalks circa 1912-1915 - San Francisco History Center, San Francisco Public Library

Neither CA Building Code nor SF Public Works Code legalize "unpaved" sidewalks

CA Building Code (2022) 1113A.1 legislates that sidewalk "surfaces shall be stable, firm and slip resistant."

SF Public Works Code legislates that sidewalks "in any public street or other public way shall be of concrete," §703, "brick, quarry-tile, exposed concrete aggregate, or other commonly-used sidewalk paving material,"§703.1.

DPW's claim that our Private-Property Public Utility Easement is a "9-foot unpaved sidewalk" is a violation of state and municipal code.

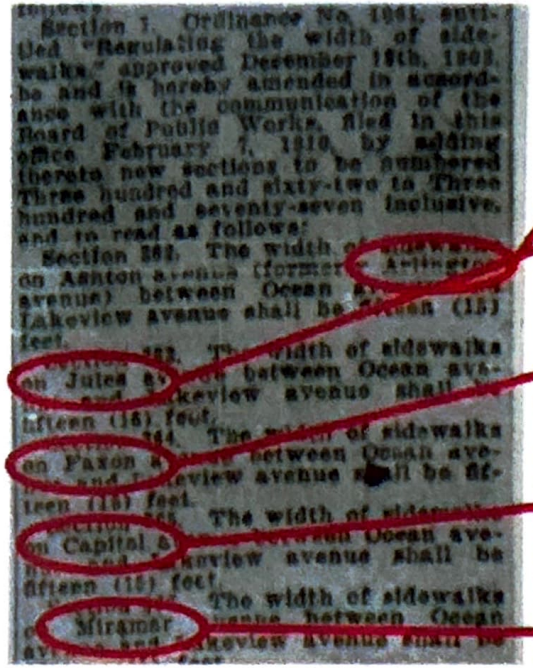
Ordinance 1098 legislated sidewalk widths for Lakeview to the East of Ingleside Racetrack in 1910

SF Board of Supervisors approved Ordinance 1098 on March 9, 1910, legislating the width of Lakeview Neighborhood sidewalks.

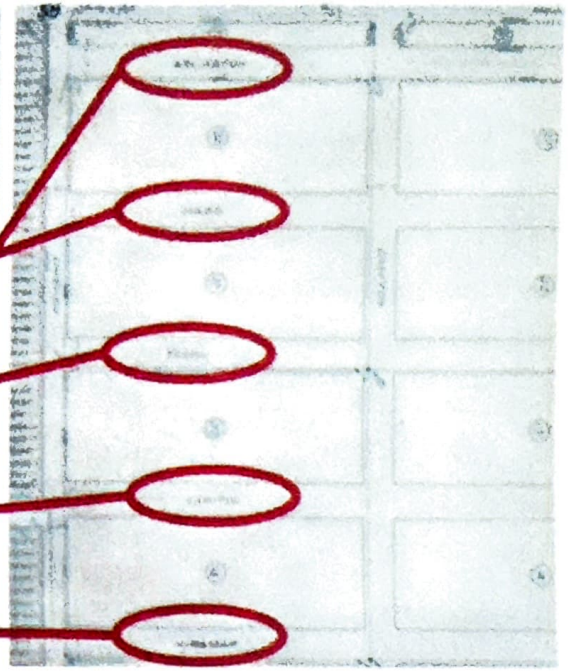
The 148-acre Ingleside Racetrack, which includes our property, was not purchased by the Urban Realty Improvement Co. until 1911.

E.J. Morser's Subdivision Map for the 792-house lots of the Ingleside Terraces Neighborhood was not notarized in and for the City and County of San Francisco until April 24, 1912, more than two years after City Ordinance 1098.

DPW's claim that "[t]he official sidewalk width for this portion of Ashton Ave. is 15 feet and was established by Ordinance 1098 on March 9, 1910," is falsified evidence and a felony, CA Penal Code §134.

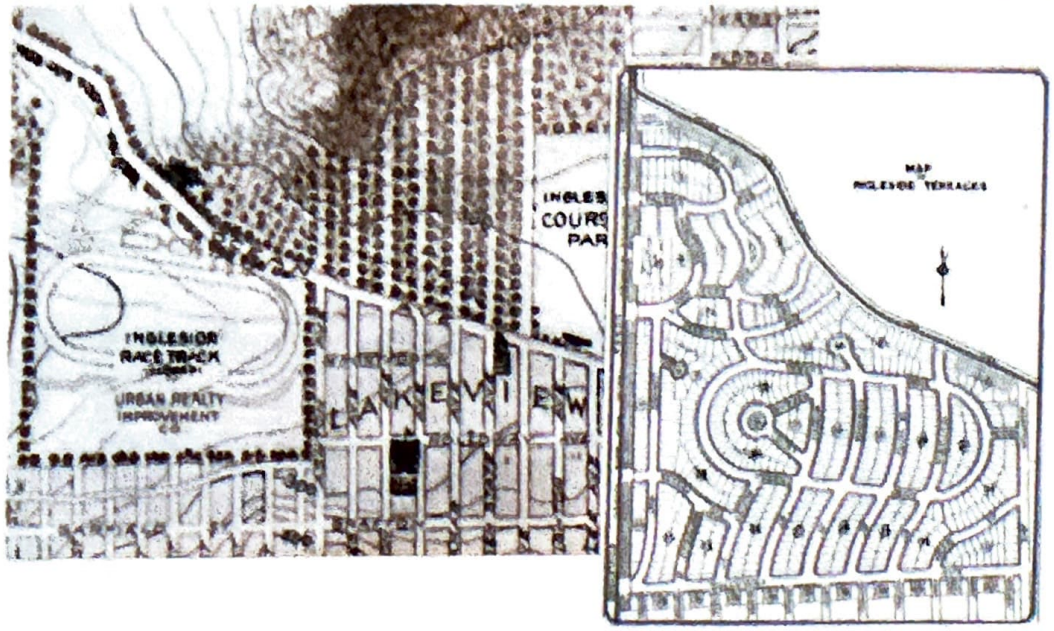


SF City Ordinance 1098



Lakeview Subdivision Map

DPW's claim that "[t]he sidewalk width along Holloway Ave. is 15 feet and was established in 1903," is falsified evidence and a felony, CA Penal Code §134.



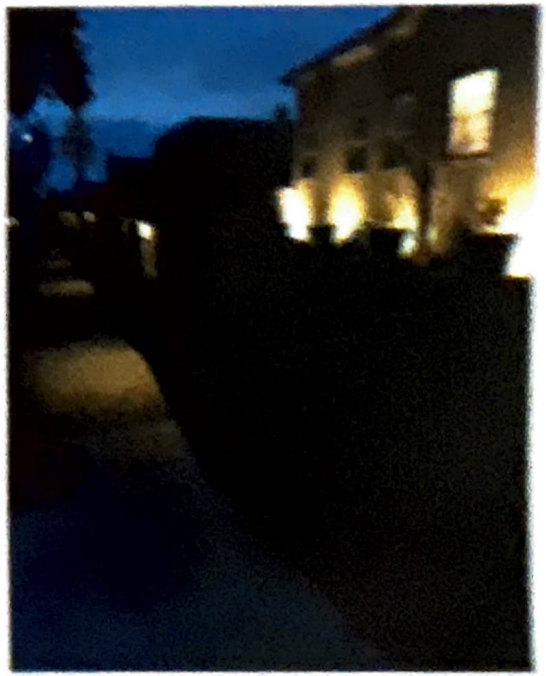
The Clerk of the Board of Supervisors confirmed that this alleged 1903 document was "destroyed in the 1906 earthquake and resulting fire."

And our property was part of the 148-acre Ingleside Racetrack until it was purchased by the Urban Realty Improvement Co. in 1911, *nearly a decade after* this alleged '1903 legislation.'

And the City and County of San Francisco approved and notarized, on April 24, 1912, the plan that the 792-house lots of Ingleside Terraces contain a *sub-surface sewer right-of-way, NOT* a 9-foot unpaved sidewalk.

DPW's "interest" in our Public Utility Easement to destroy green-space improvements to extort gratuitous permits and fees for non-existent property crime *is* Criminal Profiteering

Our private green-spaces including our Public Utility Easement have been cultivated and improved in alignment with municipal code and the City General Plan resulting in improved safety, decreased crime, improved property values, expanded and diversified urban canopy, and increased community and civic outdoor-engagement, as evidenced by the 92 written public-comments of support.



DPW's "interest" in our Public Utility Easement to destroy green-space improvements to extort gratuitous permits and fees for non-existent property crime *is* Criminal Profiteering *and* Harms the Public

BY VIOLATING *29* POLICIES OF THE RECREATION AND OPEN SPACE ELEMENT OF THE CITY'S GENERAL PLAN FOR

- ENSURING A WELL-MAINTAINED, HIGHLY UTILIZED, AND INTEGRATED OPEN SPACE SYSTEM
- INCREASING RECREATION AND OPEN SPACE TO MEET THE LONG-TERM NEEDS OF THE CITY AND BAY REGION
- IMPROVING ACCESS AND CONNECTIVITY TO OPEN SPACE
- PROTECTING AND ENHANCING THE BIODIVERSITY, HABITAT VALUE, AND ECOLOGICAL INTEGRITY OF OPEN SPACES AND ENCOURAGING SUSTAINABLE PRACTICES IN THE DESIGN AND MANAGEMENT OF OUR OPEN SPACE SYSTEM
- ENGAGING COMMUNITIES IN THE STEWARDSHIP OF THEIR RECREATION PROGRAMS AND OPEN SPACES
- SECURING LONG-TERM RESOURCES AND MANAGEMENT FOR OPEN SPACE ACQUISITION, AND RENOVATION, OPERATIONS, AND MAINTENANCE OF RECREATIONAL FACILITIES AND OPEN SPACE

BY VIOLATING MUNICIPAL CODE AND *35* STATE AND FEDERAL LAWS

- SF Admin. Code Chapter 80
- SF Public Works Code §723
- CA Penal Code §§§§§§§§§§ 118, 123, 134, 186.2, 518, 519, 520, 521, 523, 524
- CA Civil Code §§§§§§§§§§§§ 52.1, 1550, 1572, 1574, 1575, 1576, 1577, 1578, 1708, 1709, 1710, 1714
- CA Gov. Code §§§§§§§ 815.2, 815.6, 820, 820.8, 822.2, 87100, 87103
- CA Code Civil Procedure § 325
- Equal Protection and Due Process Clauses of the CA Constitution
- 42 U.S.C. § 1983 [abuse of power]
- 18 U.S.C.A. § 1962 [RICO]

FACTS & PRAYER FOR RELIEF

- The Ingleside Terraces' *homeowners* own their 9-foot Public Utility Easement, *by law*
- The Public Utility Easement is *not* a public right-of-way nor unpaved sidewalk, *by law*
- The allegation of a City-owned 9-foot unpaved sidewalk is *fraudulent* and *unlawful*
- We Pray that this Board, in compliance with CA CCP §1094.5, guide DPW to issue a new decision acknowledging that DPW acted outside of their jurisdiction and erred by (1) claiming a public right-of-way and unpaved sidewalk that do not exist, (2) mandating destruction of Private Property where NO encroachment exists, (3) misinterpreting municipal codes, (4) ignoring utility easements, and (5) preventing completion of other permits.

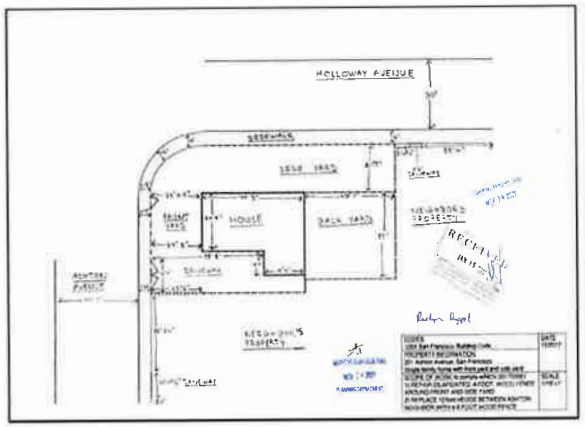
Documents submitted by the Appellant at the hearing on February 7, 2024

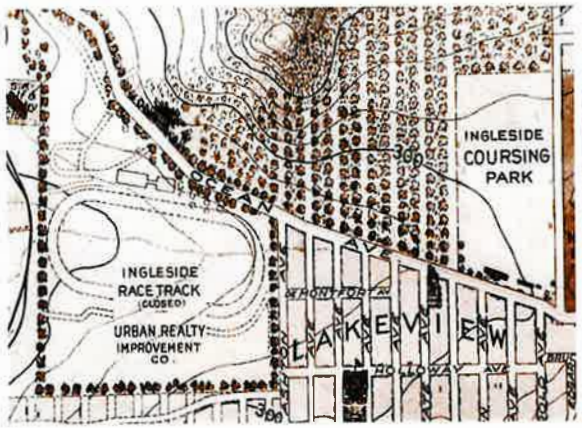
Appellant Submission

Submitted at Public Hearing
S.F. Board of Appeals
Appeal No. 23-067

Board of Appeals #23-067 – Emberton vs. SFPW-BSM

Mihal Emberton, Appellant



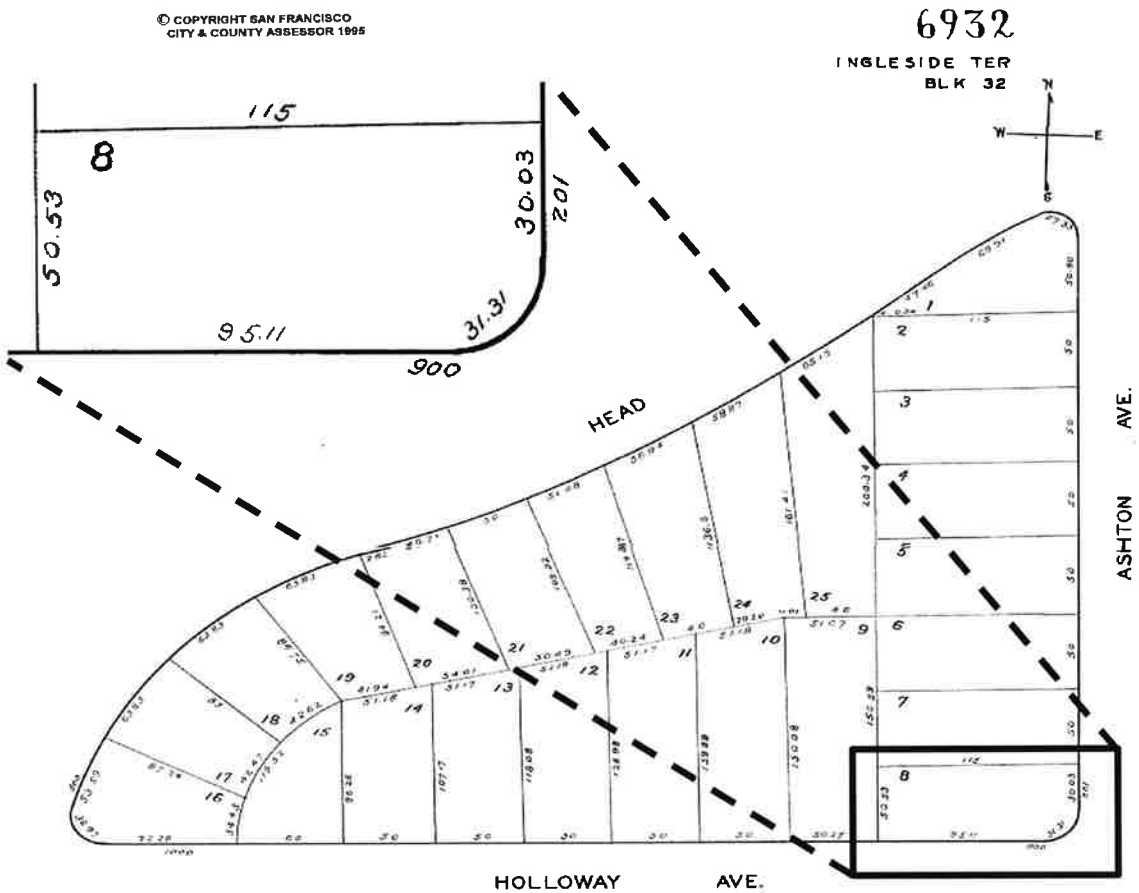


Agenda

The Facts that Correct the 7 Mistakes of Fact & Law in the Opposing Brief,

Facts which also prove that Ingleside Terraces' homeowners own the 9 feet of our properties next to the sidewalk

Prayer for Relief



Undisputed FACT

The East-West dimension of our property at 201 Ashton Avenue is 115-feet as recorded by the City and County of San Francisco's Office of the Assessor-Recorder.

DPW acknowledges this Fact.

DPW's First Mistake of Fact

DPW *depicts* the 115-foot, East-West dimension of our property as ending 9-feet short of the property line.

This is a Mistake of Fact.

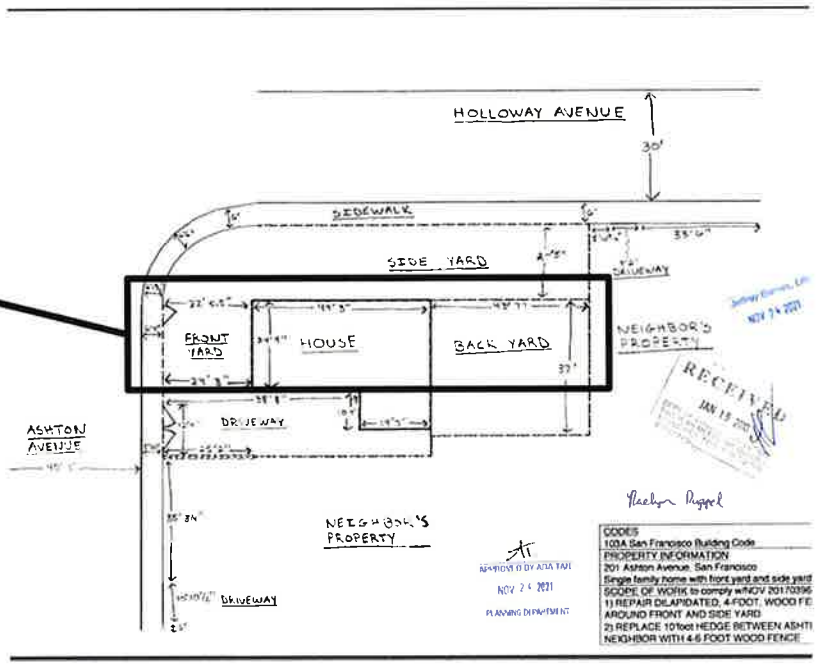
Correcting DPW's First Mistake of Fact

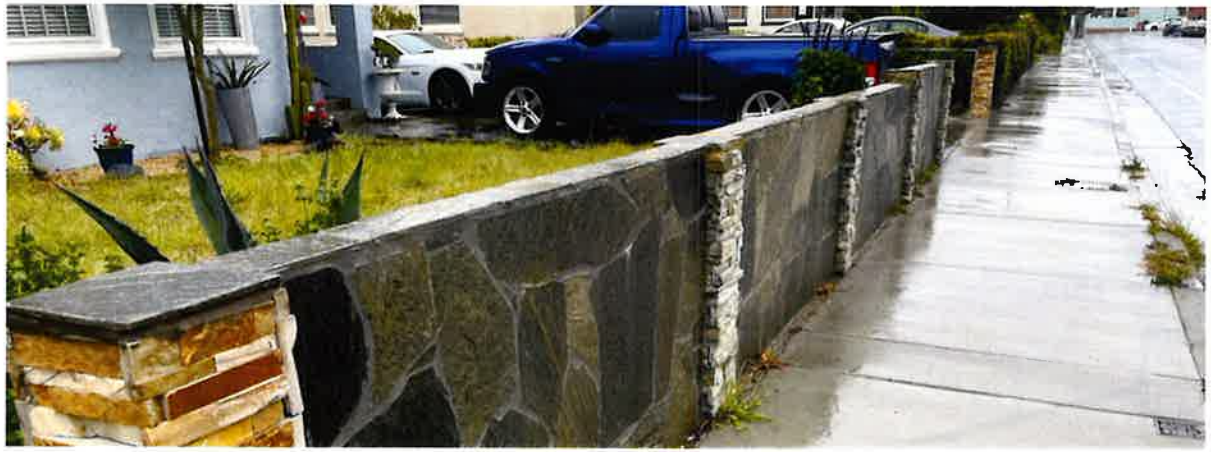
The 115-foot, East-West dimension of our property, as *measured* and *drawn to scale* on our 2017 Fence Repair Permit Application, extends from the backyard fence to the property-edge of the sidewalk.

43.58' + 49.25' + 22.45' = 115.28 feet

This Fact has been additionally ratified by DBI on January 19, 2018, and again on November 24, 2021, and has been ratified by Planning on November 24, 2021.

Thus, this homeowner, and all Ingleside Terraces' homeowners, OWN the 9 feet of our property next-to the 6-foot sidewalk.



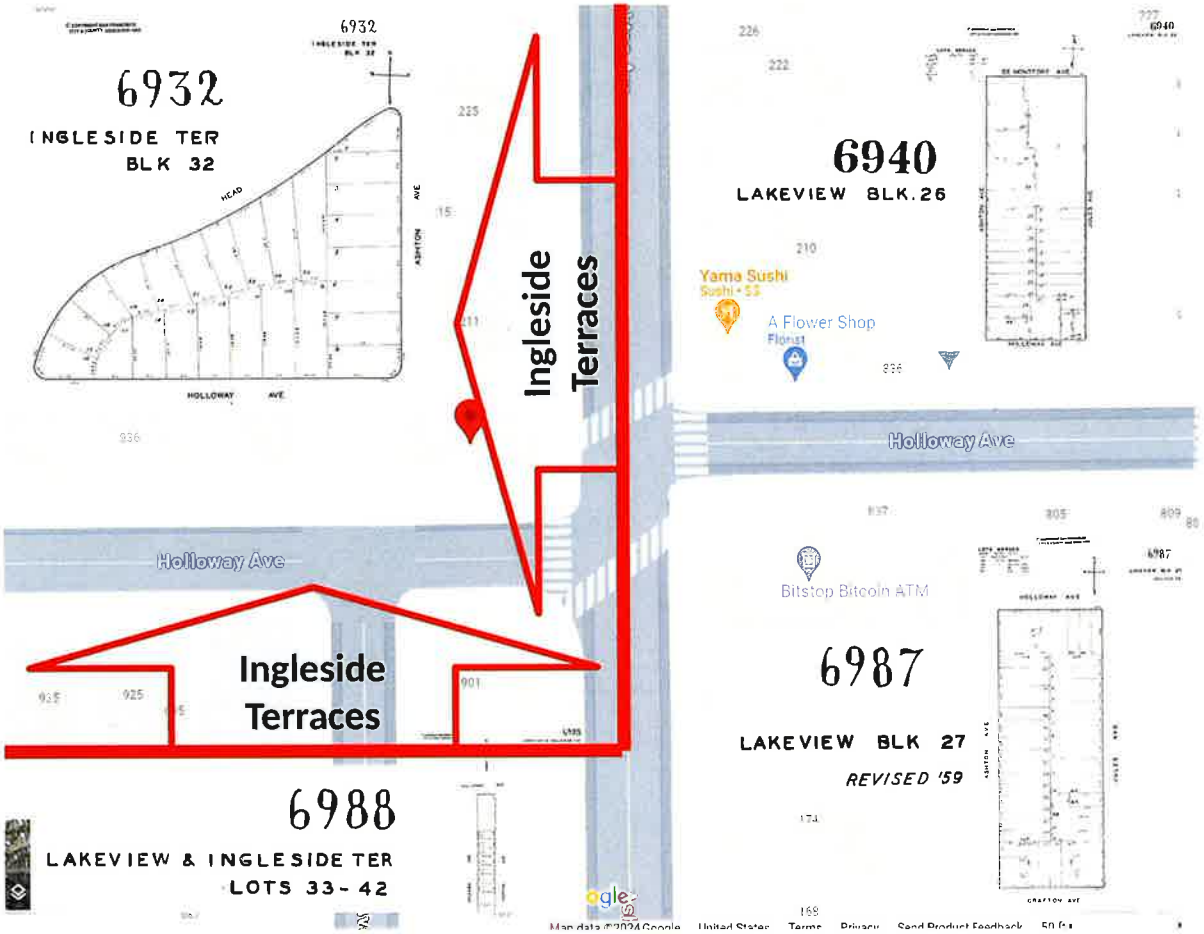


Correcting DPW's Second Mistake of Fact

DPW claims that the 1903-1910 *intention* of the City was that the Ingleside Terraces Neighborhood have 15-foot sidewalks and thus 15-foot sidewalks exist.

This is a Mistake of Fact.

It is a Fact that the Ingleside Terraces' sidewalks are 6-feet wide.



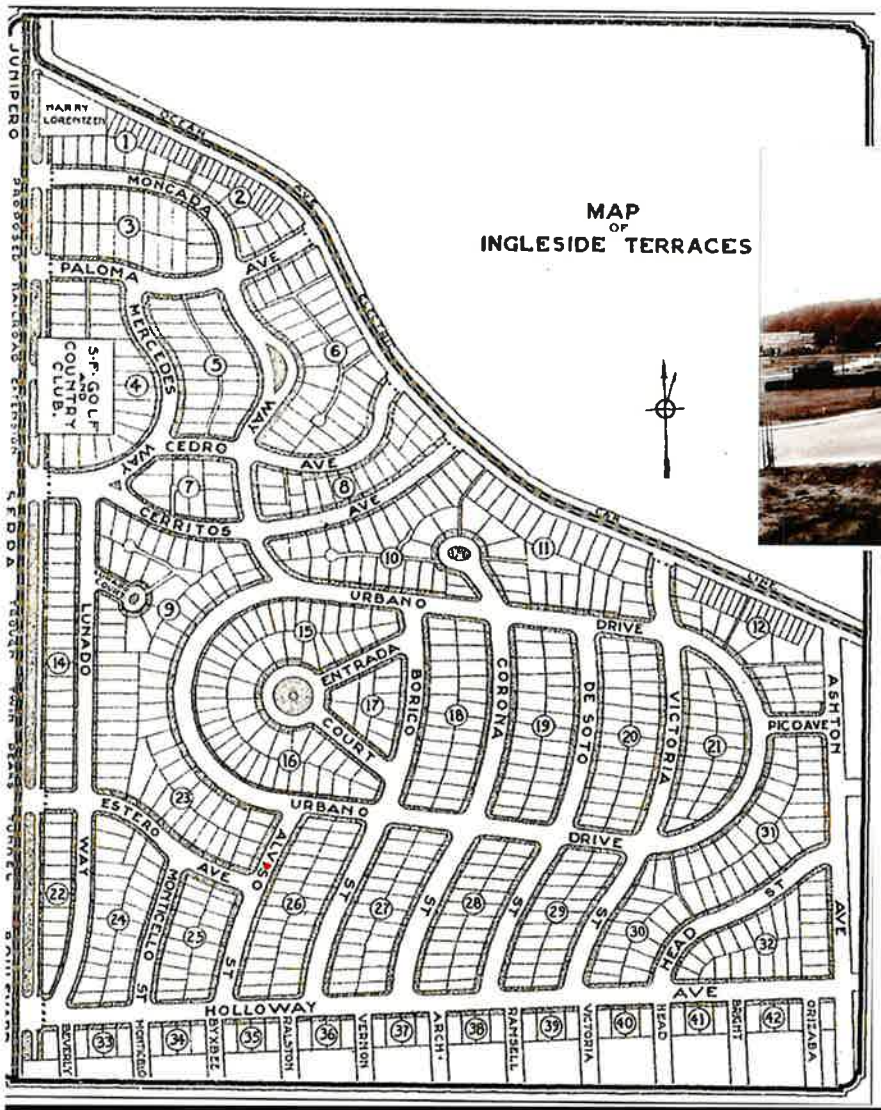
Correcting DPW's Third Mistake of Fact

DPW claims that because the Lakeview *mixed-use* neighborhood to the East of Ingleside Terraces has 15-foot sidewalks, that the 6-foot sidewalks of Ingleside Terraces must have an additional 9-feet of unpaved sidewalk to match the sidewalk width of the Lakeview neighborhood.

This is a Mistake of Fact and Law for 2 reasons.

(1) The "use and purpose" of the two neighborhoods are distinct: These Lakeview blocks are *mixed-use*, comprised of businesses, a school, a church, a shelter, and multiple apartment buildings in addition to single-family homes while these Ingleside Terraces blocks have only single-family homes.

Correcting DPW's Third Mistake of Fact



Above: Victoria and Urbano streets in 1913, with 6-foot sidewalks. *Below*: Urban Realty Improvement Co. completed purchase of Ingleside Racetrack in 1911.[1]

(2) The width of sidewalks in one neighborhood does not change the factual width of sidewalks in a different neighborhood.

In 1910, engineer E.J. Morser was contracted to design the 148 acres of Ingleside Terraces into a "new residence park" with 792 house-lots that ensure "light, air, and sunshine all around," (1) with gas, sewer, and water connections placed ***within lots, next to the sidewalks***, to prevent streets from being excavated for public-utility maintenance, (2) with concrete curbs instead of the granite curbs usually required by City ordinances, and (3) with no house within 14-feet of another, and the City approved E.J. Morser's street plan.[1]

And each deed ensured that the buildings were used for residential purposes only, banning stores, saloons, groceries, mercantile businesses, and multiple-unit buildings such as flats, duplexes and apartment houses.[1]

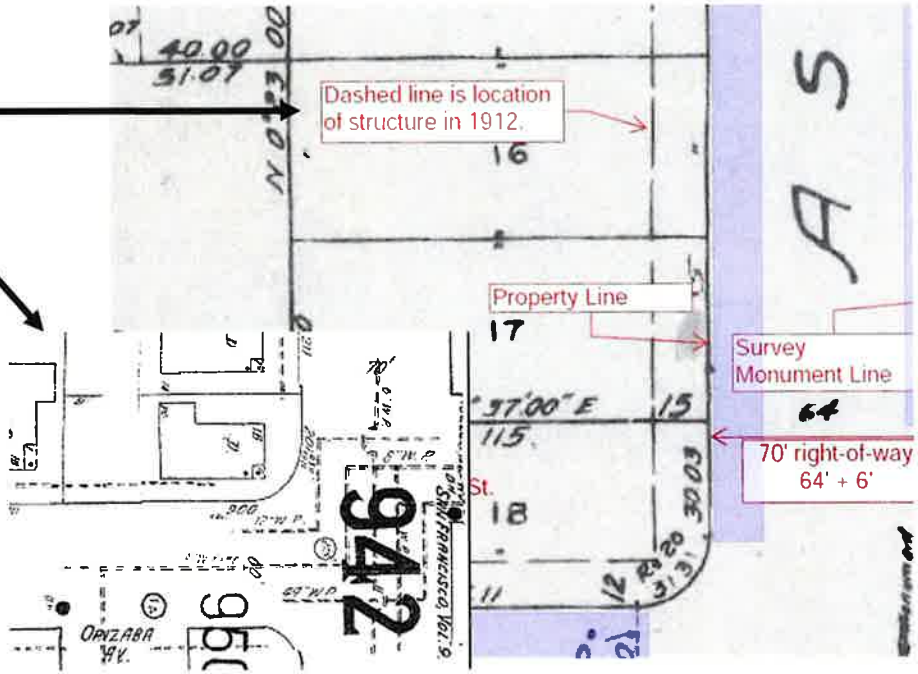
1. Woody LaBounty (2012). **Ingleside Terraces: San Francisco Racetrack to Residence Park**. Outside Lands Media, San Francisco.

Correcting DPW's Fourth Mistake of Fact

DPW's Brief fails to discuss the significance of the "unknown structure" within the Ingleside Terraces' properties along Ashton & Holloway.

The significance of this "water pipe," identified by the Historic Sanborn Map, is that the Urban Realty Company, on September 18, 1922, reserved an *easement* for *City Public Utility access*. And this easement is *legal proof* that the homeowner owns the 9 feet of property next to the sidewalk containing this water pipe.

Furthermore, if the City's 1903-1910 intention was to have a 9-foot unpaved sidewalk next to the 6-foot paved sidewalk in Ingleside Terraces, the City could and would have obtained an easement for that purpose. DPW acknowledges that there is no public right-of-way-easement on our property.



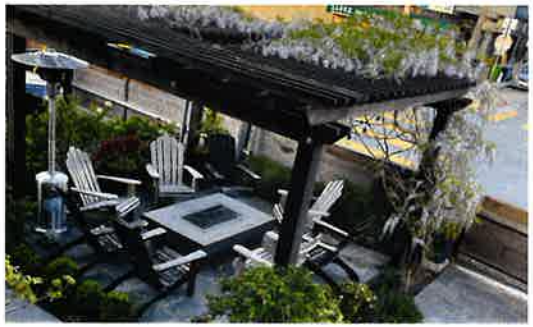
Correcting DPW's Fifth Mistake of Fact

DPW claims that the City can take possession of 9 feet of private property without due process or legal justification.

This is a Mistake of Fact and Law.

CA Code of Civil Procedure § 325: 'Without a written instrument, judgment, or decree, the City cannot claim ownership of the land of another that is (1) protected by a substantial enclosure and (2) that has been usually cultivated or improved by the owner.'

And the 57 public-signatures and 35 public-letters of support for our "cultivation and improvement" of our property also prove its public benefit.



Correcting DPW's Sixth Mistake of Fact

DPW's Brief mentions their concern that there must be 3-feet between the street-tree well and the property-fence to allow wheelchair use of the sidewalk.

DPW's claim that this "path of travel" question has not been answered is a Mistake of Fact.

On June 28, 2022, we sent an email to DPW with four pictures showing that the distance between the street-tree well and the property-fence is over 41 inches, which meets and exceeds ADA's 36-inch requirement.

Gmail mihal emberton

Re: 201 Ashton Ave - BPA#201710110923 - 21MSE-00688
2 messages

mihal emberton <mihal.emberton@gmail.com>
To: Kevin Li <kevin.li@sfdpw.org>

Here are the photos showing more than 36 Inches between the fence and tree cut outs...

Correcting DPW's Seventh Mistake of Fact

DPW's Brief mentions their concern that the property-fence does not allow a 3-foot clearance for streetlight maintenance.

DPW's claim of inadequate clearance for streetlight maintenance is a Mistake of Fact.

The Public Utility Easement, reserved on September 18, 1922, provides public utilities full access to the streetlight from the easement, an easement which our Public Utilities actively utilize today for streetlight maintenance and upgrades.

Prayer for Relief

FACTS

(1) The Ingleside Terraces' *homeowners* own the 9 feet of our properties next-to the sidewalk. (2) And the public is *not* using our property as a public right-of-way or unpaved sidewalk.

Thus, we humbly request this Board declare that DPW abused their discretion and acted outside of their jurisdiction by (1) claiming a public right-of-way and a "9-foot unpaved sidewalk" that do not exist to (2) unlawfully extort property and other considerations, and to (3) unlawfully prevent finalization of our fence-repair permit.

WE PRAY THAT THIS BOARD WILL GUIDE DPW TO ISSUE A NEW DECISION ACKNOWLEDGING THAT DPW ERRED

- in claiming a public right-of-way and "9-foot unpaved sidewalk" that do not exist
- in mandating (and then denying) a Minor Sidewalk Encroachment Permit where no encroachment exits
- in mandating deconstruction & excavation of legal private-property
- in unlawfully misinterpreting regulations for streetlights located in public-utility easements
- and in preventing finalization of fence-repair-permit 2017-1011-0923

Gmail

mihal emberton <mihal.emberton@gmail.com>

RE: record of survey and CA Gov Code §§ 87100, 87103

mihal emberton <mihal.emberton@gmail.com> Sun, May 5, 2024 at 1:17 PM
To: Alec Longaway <alec.longaway@sfgov.org>, "Rosenberg, Julie (BOA)" <julie.rosenberg@sfgov.org>

Dear Alec and Julie,

The purpose of hiring an *independent*, licensed surveyor rather than utilize a DPW surveyor to provide a Boundary Exhibit was an attempt to prevent a conflict-of-interest from corrupting the Board-of-Appeals process.

The independent, licensed surveyor explained the Surveyor Licensing Board Requirements for filing a record of survey:

> "Our licensing board requires that we file a record of survey with the County in certain situations. For your property though, it's technically not required. Your lot is part of a subdivision and I was able to find sufficient monuments to establish the boundary lines so we technically do not need to file a record of survey… I personally don't think you need to file the record of survey. I normally have to explain to clients why they do. But your situation is one of the rare instances where you don't." (attached document)

And filing a Record of Survey would *not* help the City's allegation that they own the Private-Property Sub-Surface Sewer Right-of-Way as an unpaved sidewalk, but it would earn the City INCOME, a filing fee of $816, which would make any City requirement that a Record of Survey be filed a violation of CA Gov Code §§ 87100, 87103, which describes prohibited financial conflicts-of-interest:

> "A public official at any level of state or local government shall not make, participate in making, or in any way attempt to use the public official's official position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest." And "[a] public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on [a]ny business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management."

Therefor, in order to avoid a violation of CA law prohibiting financial conflicts-of-interest of public officials who are employees of the City, we humbly request that President Lopez (1) review the independent, licensed surveyor's explanation of the Surveyor Licensing Board Requirements for filing a record of survey and (2) use this independent surveyor's explanation to guide the Board of Appeal's ruling on whether this Boundary Exhibit needs to be filed with the City (to provide the City income of $816).

In humble solidarity for a just, democratic process,

Mihal

Appeal No.: 23-067
Appeal Title: Emberton vs. SFPW-BSM
Subject Property: 201 Ashton Avenue
Determination Type: Denial of a Minor Sidewalk Encroachment Permit
Permit No.: 21MSE-00688

4/25/24, 11:18 AM Gmail - scheduling a survey in SF

Gmail

mihai emberton <mihai.emberton@gmail.com>

scheduling a survey in SF

mihai emberton <mihai.emberton@gmail.com> Sat, Mar 30, 2024 at 10:01 AM
To: Foresight Land Surveying <info@flsurveys.com>

Dear Greg,

Is the Boundary Exhibit automatically filed with the SF Assessor"s Office? Is there any filing that we need to do to make it official?

Thank you and have a wonderful weekend,

Mihai

[Quoted text hidden]

4/25/24, 11:19 AM Gmail - scheduling a survey in SF

Gmail

mihai emberton <mihai.emberton@gmail.com>

scheduling a survey in SF

Foresight Land Surveying <info@flsurveys.com> Mon, Apr 1, 2024 at 9:10 AM
To: mihai emberton <mihai.emberton@gmail.com>

Hi Mihai,

The boundary exhibit is just for your personal use. If you would like we can file a record of survey with the County (which is a more involved drawing). Our licensing board requires that we file a record of survey with the County in certain situations. For your property though, it's technically not required. Your lot is part of a subdivision and I was able to find sufficient monuments to establish the boundary lines so we technically do not need to file a record of survey. That being said, we can certainly file one if you would like. It would take a few hours of office time to prepare and the filing fee to the City is $816. If that is something you would like to do, let me know and I can send you a formal proposal. Let me know if you have any questions.

Thanks,

[Quoted text hidden]

4/25/24, 11:20 AM Gmail - scheduling a survey in SF

Gmail

mihal emberton <mihal.emberton@gmail.com>

scheduling a survey in SF

mihal emberton <mihal.emberton@gmail.com> Mon, Apr 1, 2024 at 9:22 AM
To: Foresight Land Surveying <info@fls surveys.com>

I think we can wait until we meet with the Board of Appeals again in May and if they would like us to file a record of survey with the County; we could do that then? Hopefully this seems reasonable :-) again, so grateful for your time and expertise!

Have a great week,

Mihal
[Quoted text hidden]

4/25/24, 11:21 AM Gmail - scheduling a survey in SF

Gmail

mihal emberton <mihal.emberton@gmail.com>

scheduling a survey in SF

Foresight Land Surveying <info@fls surveys.com> Mon, Apr 1, 2024 at 9:25 AM
To: mihal emberton <mihal.emberton@gmail.com>

No problem at all. Sounds like a plan. I personally don't think you need to file the record of survey. I normally have to explain to clients why they do. But your situation is one of the rare instances where you don't. Either way, happy to do it if and when needed.

Thanks,
[Quoted text hidden]

Supplemental Brief and Survey submitted by the Appellant for the hearing on 5-15-24

I. Surveyor Findings Confirm the Presence of a 9-foot 'Right-of-Way' Next to the Sidewalk, which was appropriated as a *Sub-Surface Sewer* Right-of-Way.

We are grateful to the Professional Land Surveyor for completing the Boundary Exhibit of our property (Exhibit A) which confirms the presence of a 9-foot "Right-of-Way" next to the sidewalk. This 9-foot 'right-of-way' was appropriated for the "*sub-surface sewer"* as detailed by E.J. Morser's 1912 Subdivision Map (Exhibit B), of which the Urban Realty Improvement Company, on September 18, 1922, reserved as a Public Utility Easement (Exhibit C). This 9-foot Public Utility Easement provides *full public utility access* to the streetlights (Exhibit D) & utility-pole guy wires within Ingleside Terraces and is a design feature of all Ingleside Terraces' house-lots (Exhibit E, F).

II. DPW's Claim that the '9-foot Sub-Surface Sewer Right of Way' is for Public Use as an Unpaved Sidewalk is Fraudulent and Unlawful.

E.J. Morser's April 1912 Subdivision Map, which was approved and notarized in and for the City and County of San Francisco on April 24, 1912 and filed on May 18, 1912, sanctioned the lots within Ingleside Terraces which include a sub-surface sewer right-of-way as *Private Property*: "be it known that no part of parcel of said tract or subdivision of land is offered for dedication or dedicated for any public use and that the streets, avenues, roads, and ways delineated on the within map or plat are reserved for the exclusive and private use and benefit of the owners and holders of the lots designated on said map or plat" (Exhibit G).

III. DPW's Claim that the "Actual Sidewalk" within Ingleside Terraces is 15-feet, of which 9 Feet are Unpaved, is Fraudulent and Unlawful.

Sidewalks in residential neighborhoods are generally 5-6 feet wide to comfortably accommodate two people walking side-by-side and to comfortably allow one person to pass another person, while sidewalks in business districts are generally wider to comfortably accommodate crowds of people. CA Building Code (2022) 1113A.1.1 legislates that "sidewalks shall be a minimum of 48 inches (1219 mm) in width," and the Ingleside Terraces sidewalks were and are 5-6 feet wide (Exhibit H, F, D, A). Furthermore, CA Streets and Highways Code, Division 2.5 City Streets, Chapter 1. Construction and Maintenance, §1805 confirms that "[t]his section

does not require that the width of city streets established or used as such prior to September 15, 1935, be increased or diminished."

Secondly, CA Building Code (2022) 1113A.1 further legislates that sidewalk "surfaces shall be stable, firm and slip resistant," and SF Public Works Code legislates that San Francisco sidewalks "supported on the ground in any public street or other public way as defined in §185 of this Code, shall be of concrete," §703, "brick, quarry-tile, exposed concrete aggregate, or other commonly-used sidewalk paving material,"§703.1. Neither CA Building Code nor SF Public Works Code legalize "unpaved" sidewalks, making DPW's claim of a "9-foot unpaved sidewalk" a violation of state and municipal code.

Thirdly, DPW's claim that "[t]he official sidewalk width for this portion of Ashton Ave. is 15 feet and was established by Ordinance 1098 on March 9, 1910," is falsified evidence, CA Penal Code §134. Ordinance 1098 (Exhibit I) legislates 15-foot sidewalks for the *mixed-use Lakeview Neighborhood* (Exhibit J) to the *East* of Ingleside Terraces and was enacted when our property was still part of the 148-acre Ingleside Racetrack. The Ingleside Racetrack was not purchased by the Urban Realty Improvement Co. until *1911,*[1] *after* this City Ordinance, and E.J. Morser's Subdivision Map for the 792-house lots of Ingleside Terraces was not notarized in and for the City and County of SF until April 24, 1912 (Exhibit E, F), *more than two years after* City Ordinance 1098 was approved for the Lakeview Neighborhood to the East of the Ingleside Racetrack. And the City and County of SF approved and notarized, on April 24, 1912, the plan that the 792-house lots of Ingleside Terraces contain a *sub-surface sewer right-of-way*, *not* a 9-foot unpaved sidewalk (Exhibits A-H).

Fourth, DPW's claim that "[t]he sidewalk width along Holloway Ave. is 15 feet and was established in 1903," is falsified evidence, CA Penal Code §134. (1) The Clerk of the Board of Supervisors confirmed that this 1903 document was "destroyed in the 1906 earthquake and resulting fire." And (2) our property was part of the Ingleside Racetrack until it was purchased by the Urban Realty Improvement Co. in 1911*, nearly a decade after* this alleged '1903 legislation,' and the City and County of SF approved and notarized, on April 24, 1912, the

[1] Woody LaBounty (2012). *Ingleside Terraces: San Francisco Racetrack to Residence Park*. Outside Lands Media. San Francisco).

plan that the 792-house lots of Ingleside Terraces contain a *sub-surface sewer right-of-way*, *not* a 9-foot unpaved sidewalk (Exhibits A-H).

IV. DPW's Attempt to Steal Ownership of our 9-foot Sub-Surface Sewer Right-of-Way for the Purpose of Criminal Profiteering is Unlawful.

Our private green-spaces including our Sub-Surface Sewer Right-of-Way have been cultivated and improved in alignment with municipal code and the City General Plan resulting in improved safety, decreased crime, improved property values, expanded and diversified urban canopy, and increased community and civic outdoor-engagement, as evidenced by the 92 written public-comments of support. The City Attorney's and DPW's "interest," however, in our 9-foot Sub-Surface Sewer Right-of-Way with mandates to remove/demolish/destroy green-space improvements to extort gratuitous permits and fees for *non-existent property crime* not only harms the public by violating *twenty-nine* Policies of the Recreation and Open Space Element of the City's General Plan (1.1, 1.2, 1.3, 1.4, 1.5, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 2.1, 2.2, 2.3, 2.6, 2.7, 2.8, 2.11, 2.12, 3.1, 3.6, 4.1, 4.2, 4.3, 4.4, 5.1, 5.3, 5.4, 6.1), but it also violates SF Admin. Code Chapter 80, SF Public Works Code §723, CA Penal Code §§§§§§§§§§ 118, 123, 134, 186.2, 518, 519, 520, 521, 523, 524, CA Civil Code §§§§§§§§§§§§ 52.1, 1550, 1572, 1574, 1575, 1576, 1577, 1578, 1708, 1709, 1710, 1714, CA Gov. Code §§§§§§§ 815.2, 815.6, 820, 820.8, 822.2, 87100, 87103, CA Code Civil Procedure § 325, the Equal Protection and Due Process Clauses of the CA Constitution, 42 U.S.C. § 1983, and 18 U.S.C.A. § 1962, which continues to cause irreparable harm to our family and SF.

PRAYER FOR RELIEF: As there is NO *Public* Right-of-Way or Unpaved Sidewalk on our property or the other properties within the Ingleside Terraces Neighborhood, a Board decision to merely approve or deny the Minor Sidewalk Encroachment Permit would be an "order or decision not supported by findings or evidence" of an encroachment, CA CCP §1094.5. We humbly ask the Board to declare that DPW abused its discretion by acting outside of its jurisdiction and direct DPW to issue a new decision acknowledging their numerous errors in discretion listed in our original Appeal, or remand any relief request outside of the Board-of-Appeals' jurisdiction to SF Superior Court Case No.: CGC-22-601288.

Exhibit A: Boundary Exhibit of 201 Ashton Avenue

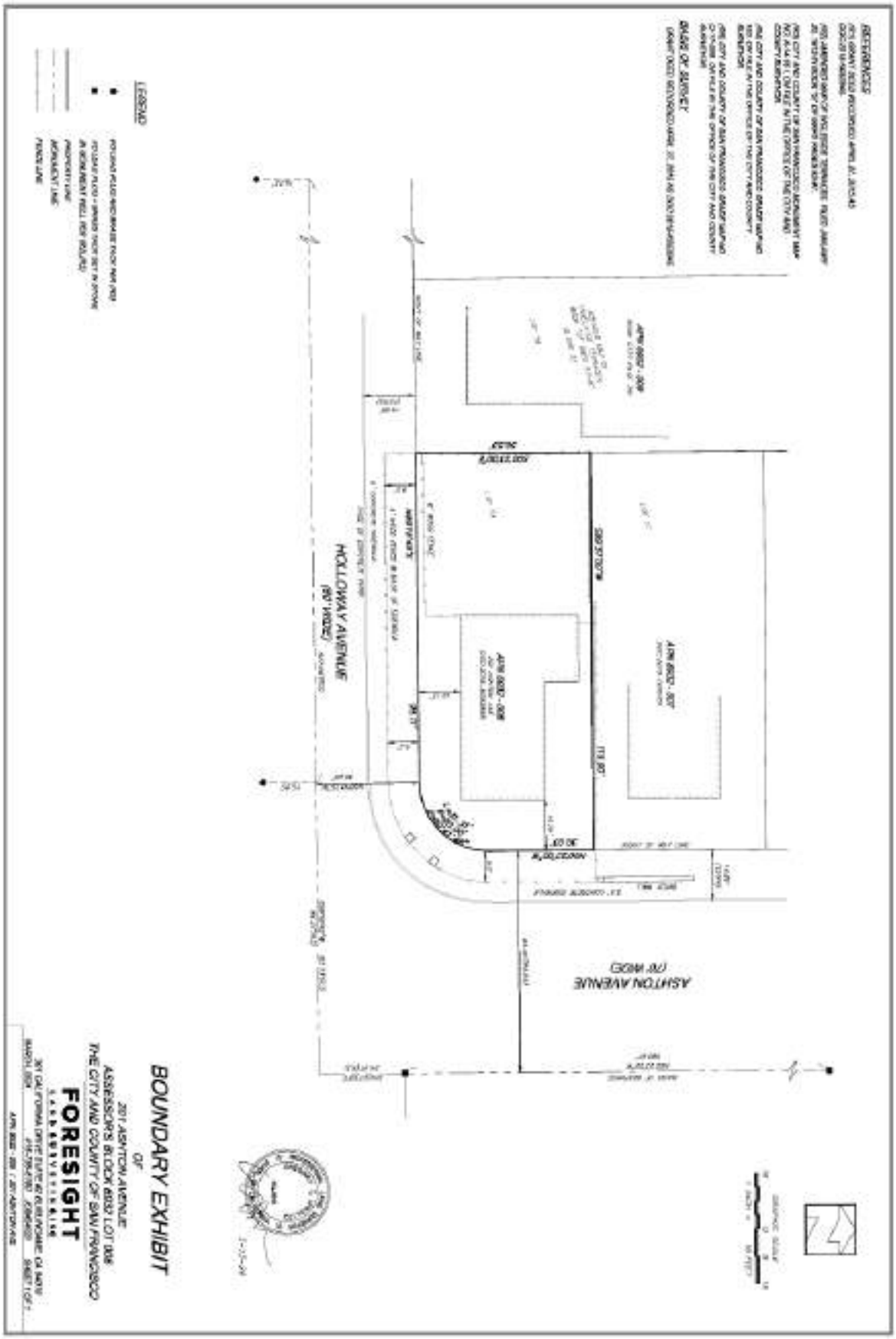
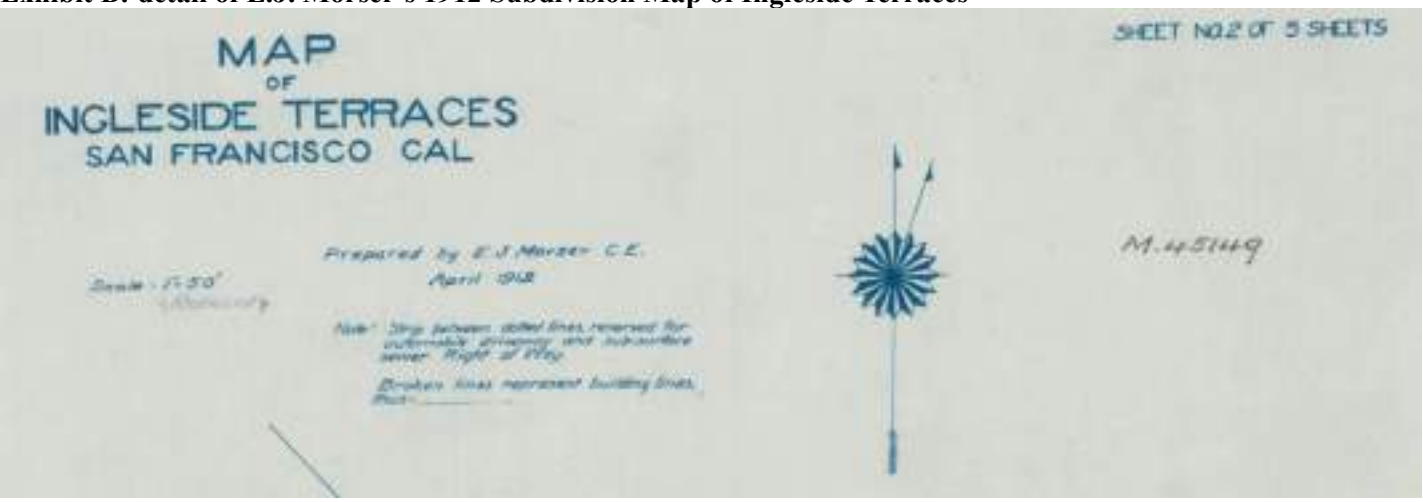
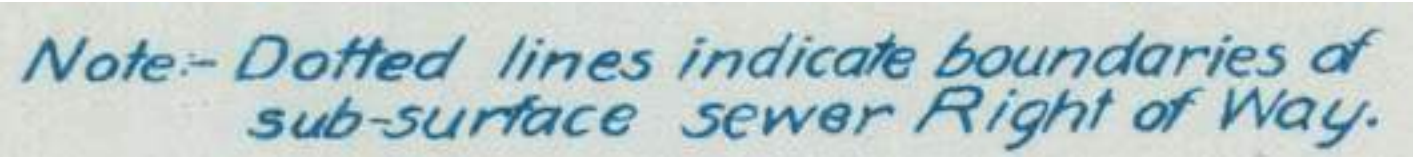


Exhibit B: detail of E.J. Morser's 1912 Subdivision Map of Ingleside Terraces





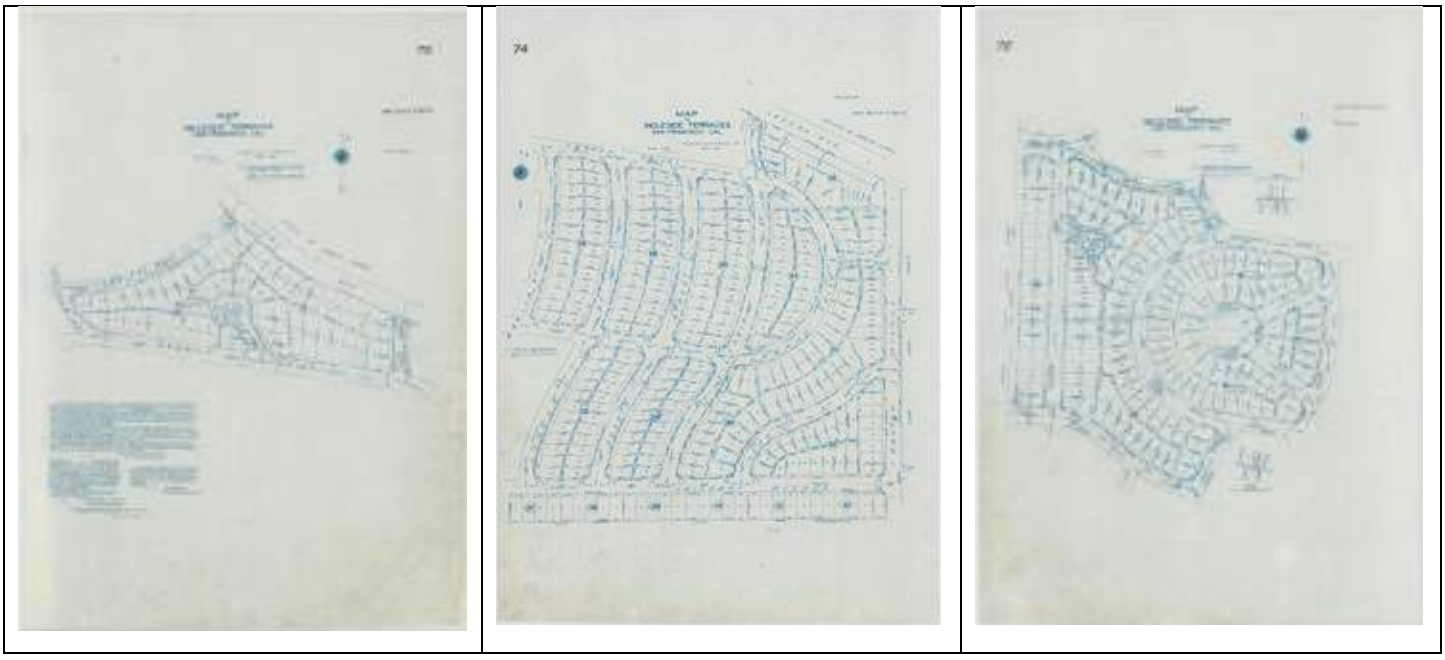


Exhibit C: detail of California Land Title Association Preliminary Report for 201 Ashton Ave

ITEMS: (continued)

Title No. 12-463129-B-KD
Locate No. CAFNT0938-0901-0021-0000463129

5. **Covenants, conditions and restrictions** in the declaration of restrictions but omitting any covenants or restrictions, if any, including, but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law.

Recorded: September 18, 1922, Book 534, Page 308, of Official Records

Modification(s) of said covenants, conditions and restrictions

Recorded: March 3, 1939, Book 3422, Page 98, of Official Records

6. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as reserved in a document;

Reserved by: Urban Realty Improvement Company
Purpose: Public utility
Recorded: September 18, 1922, Book 532, Page 308, of Official Records
Affects: Rear or Interior side lines, not to be nearer than 20 feet to any street

7. **A deed of trust** to secure an indebtedness in the amount shown below, and any other obligations secured thereby

Amount: $752,000.00
Dated: November 14, 2006
Trustor: Laurent Legendre, an unmarried man
Trustee: Town and Country Title Services, Inc.
Beneficiary: Argent Mortgage Company, LLC
Loan No.: 0104420799-9507
Recorded: November 28, 2006, Instrument No. 2006-I289160-00, Book J275, Page 0011, of Official Records

8. **A deed of trust** to secure an indebtedness in the amount shown below, and any other obligations secured thereby

Amount: $170,000.00
Dated: November 14, 2006
Trustor: Laurent Legendre, an unmarried man
Trustee: Town and Country Title Services, Inc.
Beneficiary: Argent Mortgage Company, LLC
Loan No.: 0104421276-9507
Recorded: November 28, 2006, Instrument No. 2006-I289161-00, Book J275, Page 0012, of Official Records

4

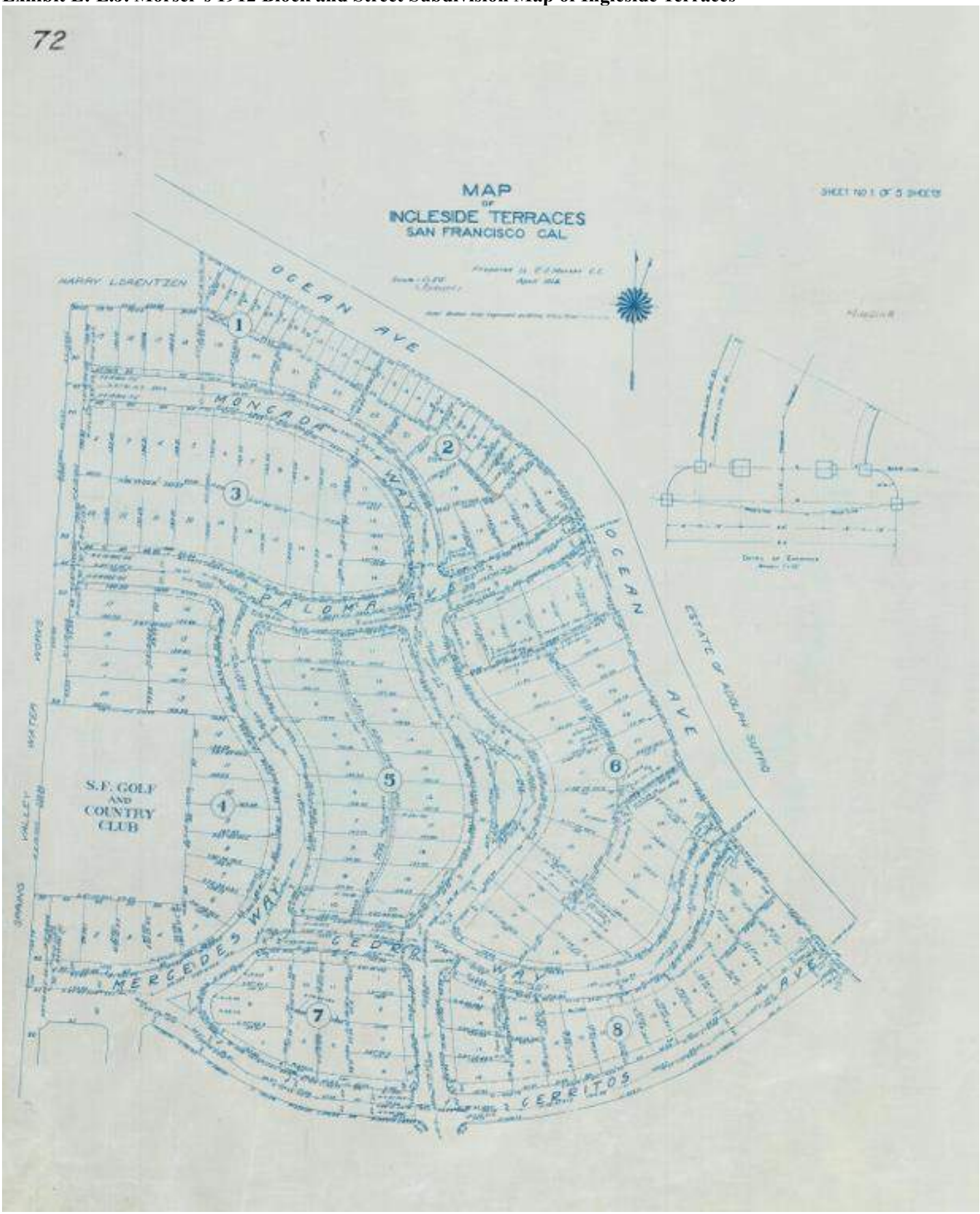
CLTA Preliminary Report Form - Modified (11/17/06)

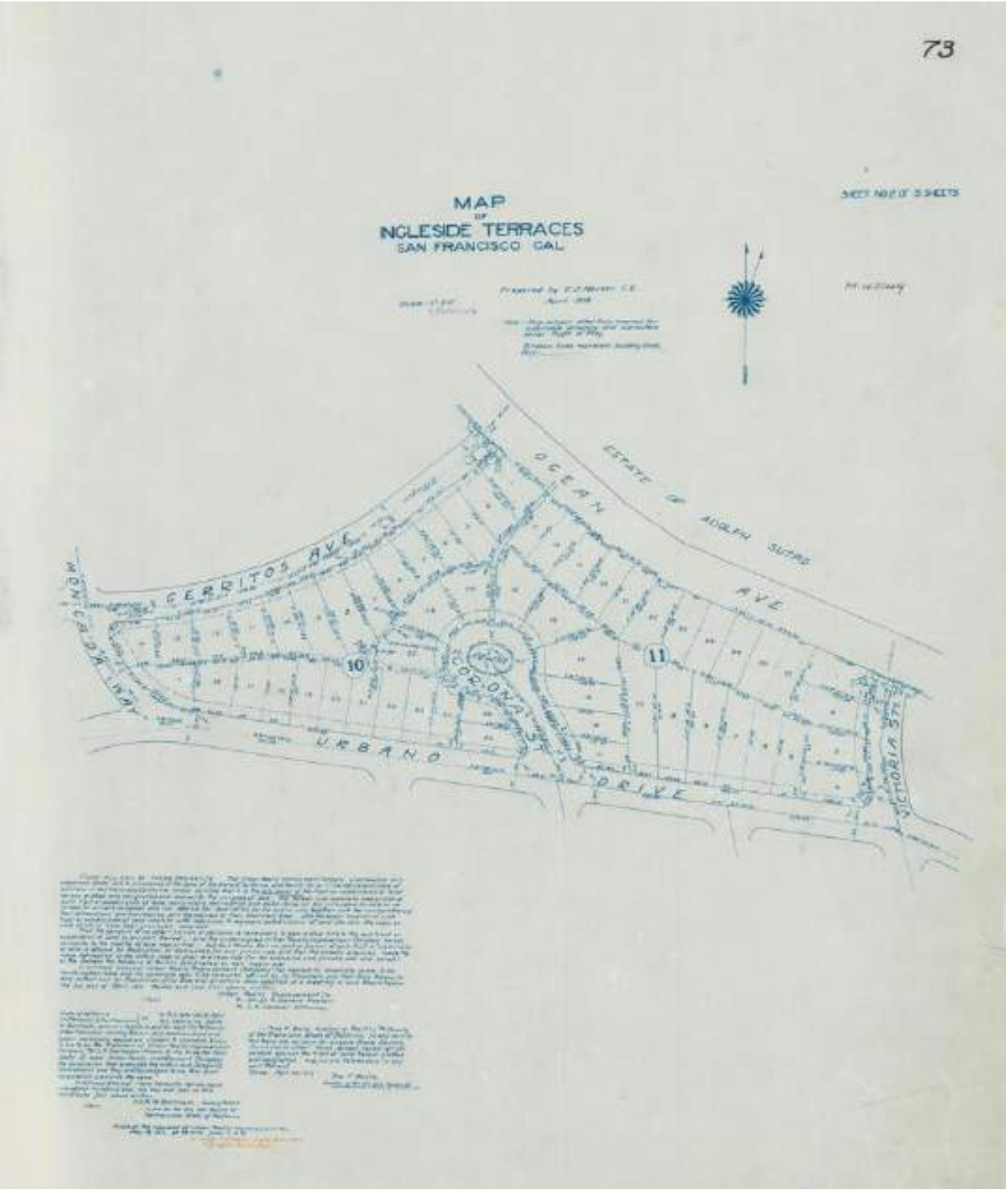
Exhibit D:

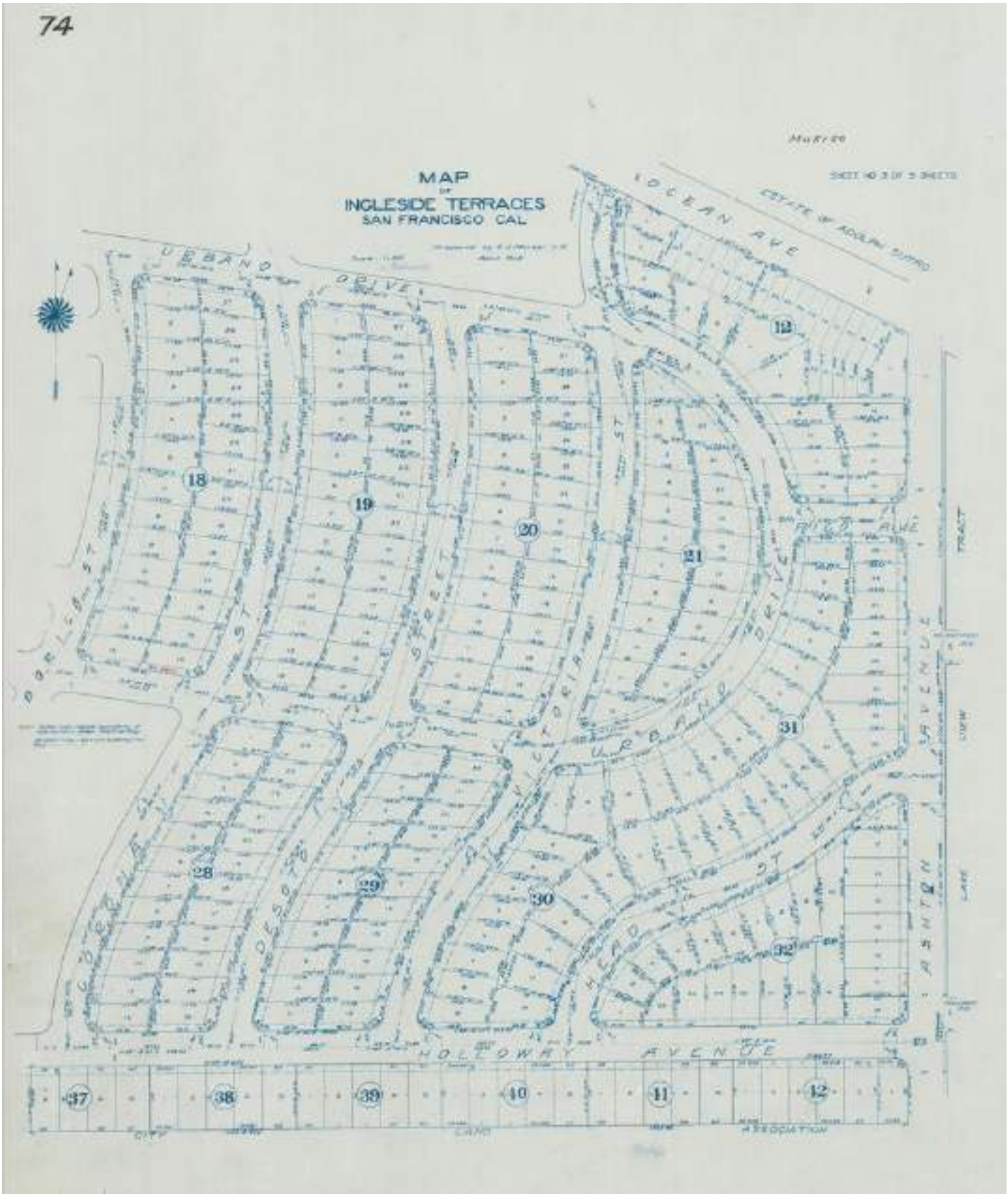
1912-1915 Streetlamp within Public Utility Easement next to sidewalk at Cerritos & Moncada in Ingleside Terraces. From the San Francisco History Center, San Francisco Public Library.

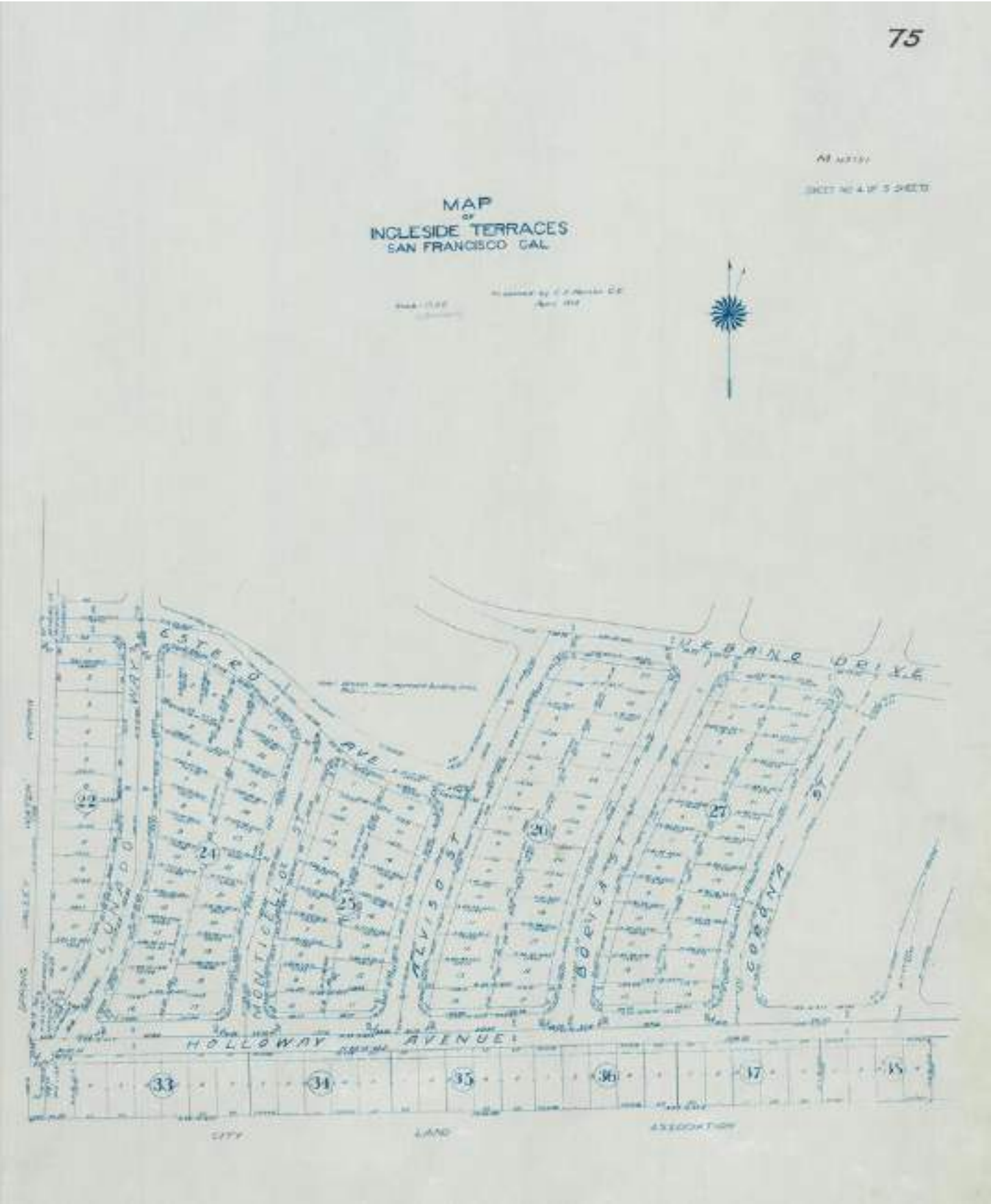
1912-1915 Streetlamp within Public Utility Easement next to sidewalk in Ingleside Terraces. From the San Francisco History Center, San Francisco Public Library.

Exhibit E: E.J. Morser's 1912 Block and Street Subdivision Map of Ingleside Terraces




73
MAP
OF
INGLESIDE TERRACES
SAN FRANCISCO CAL
OCEAN
AVE
ESTATE OF ADOLPH SUTRO
CERRITOS AVE
MONTEREY WAY
10
11
CORONADO ST
URBANO
DRIVE
VICTORIA ST


74
MAP
OF
INGLESIDE TERRACES
SAN FRANCISCO CAL
OCEAN AVE
URBANO DRIVE
HOLLOWAY AVENUE
ASHTON AVENUE
18
19
20
21
12
28
29
30
31
32
37
38
39
40
41
42


75
MAP
OF
INGLESIDE TERRACES
SAN FRANCISCO CAL
ESTERO
AVE.
URBANA DRIVE
LUNADA WAY
MONTICELLO
AVILA
BOREGA
GORDONA
HOLLOWAY AVENUE
22
24
25
26
27
33
34
35
36
37
38
CITY
LAND
ASSOCIATION

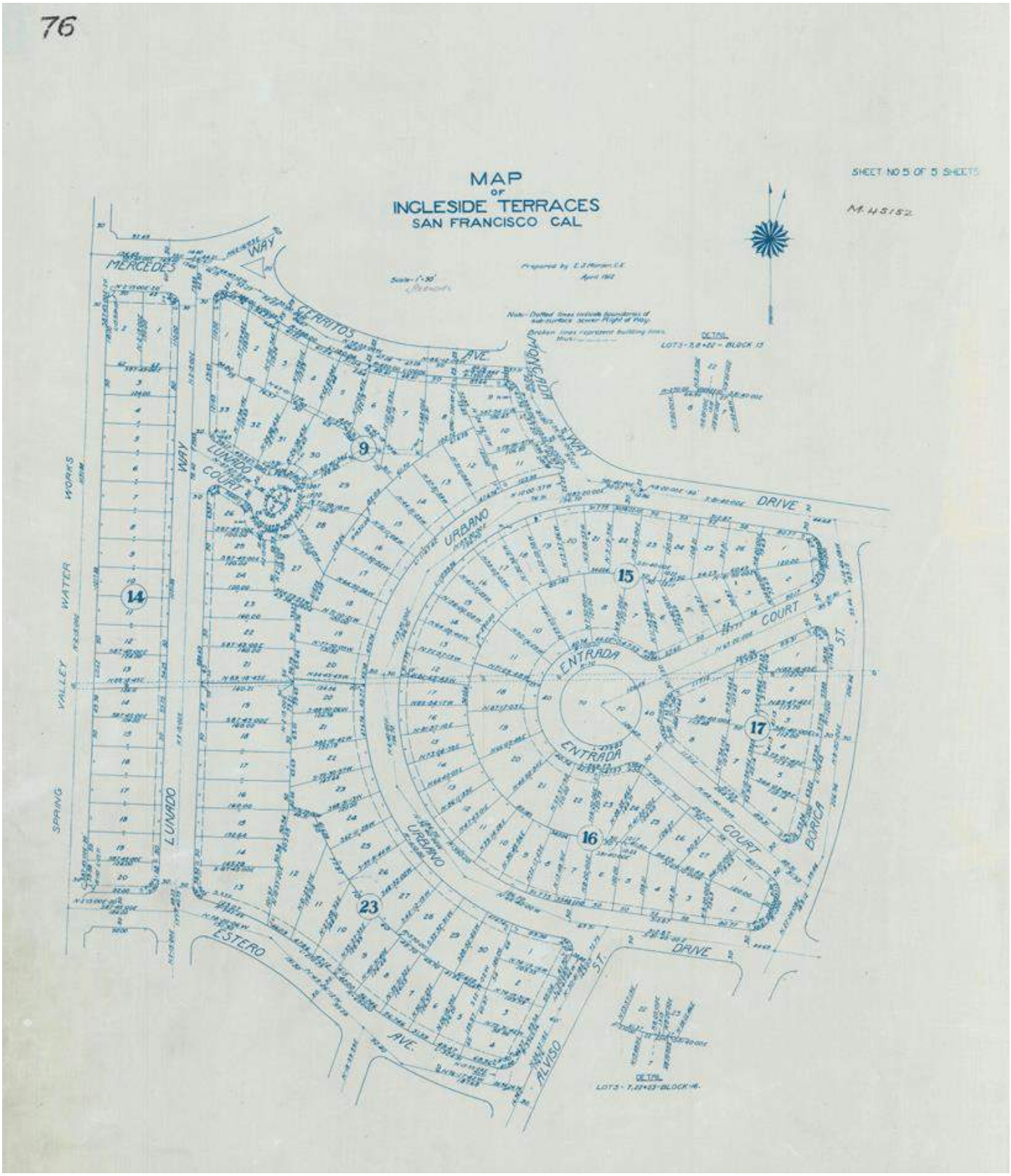

76
MAP
OF
INGLESIDE TERRACES
SAN FRANCISCO CAL
SHEET NO 5 OF 5 SHEETS
MERCEDES
WAY
CERRITOS
AVE.
MONTEREY
WAY
LUNADO
COURT
URBANO
DRIVE
ENTRADA
COURT
ENTRADA
COURT
BORICA
ST.
LUNADO
WAY
VALLEY
WATER
WORKS
SPRING
ESTERO
AVE.
ALVISO
ST.
DRIVE
9
14
15
16
17
23

Exhibit F: Ingleside Grade Sheet Southern Portion

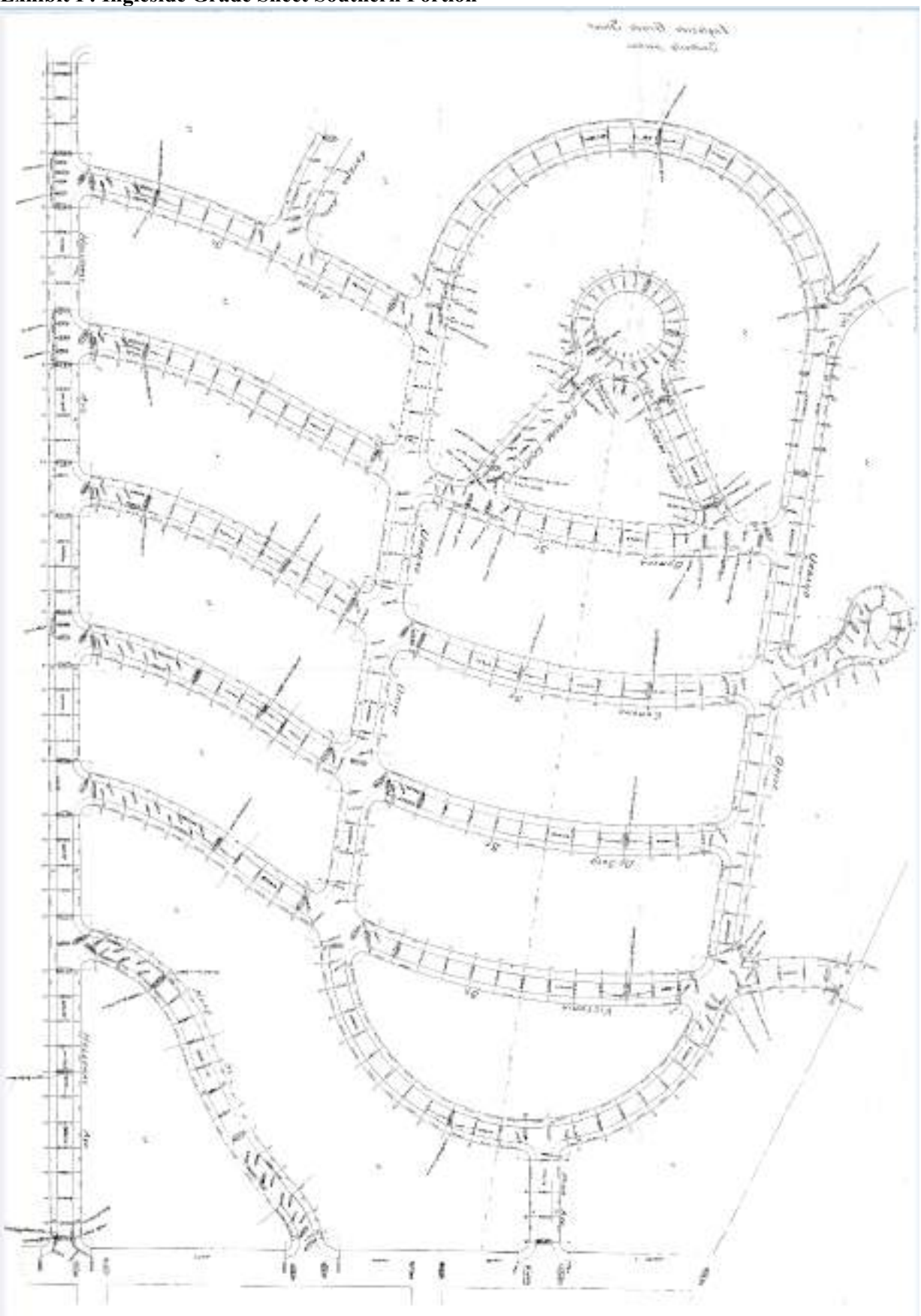


Exhibit G: detail of E.J. Morser's 1912 Block and Street Subdivision Map of Ingleside Terraces

KNOW ALL MEN BY THESE PRESENTS: That Urban Realty Improvement Company, a corporation duly organized under and in pursuance of the laws of the State of California and having its principal office and place of business in San Francisco California hereby certifies that it is the sole owner of the tract or subdivision of land hereon platted and designated and laid out for the purpose of sale; that hereon is an accurate map or plat of such tract or subdivision of land particularly delineating and describing all lots intended for sale or reserved for private purposes and not offered for dedication for the public use, together with the numbers thereof their dimensions and boundaries, and the courses of their boundary lines, also the exact location of such tract or subdivision of land into lots with reference to adjacent subdivisions of land into lots the maps or plats of which have been previously recorded.

That the consent of no other person or persons is necessary to pass a clear title to the said tract or subdivision of land or any part thereof; and the undersigned Urban Realty Improvement Company hereby consents to the making of said Map or Plat; but be it known that no part or parcel of said Tract or subdivision of land is offered for dedication or dedicated for any public use and that the streets avenues roads and ways delineated on the within map or plat are reserved for the exclusive and private use and benefit of the Owners and holders of the lots designated on said map or plat.

In witness whereof Urban Realty Improvement Company has caused its corporate name to be hereto subscribed and its corporate seal to be hereunto affixed by its President and Asst Secy thereunto duly authorized by Resolution of its Board of Directors duly adopted at a meeting of said Board held on the 3rd day of April, 1912, the day and year first above written

(Seal)

Urban Realty Improvement Co
By Joseph A Leonard President
By L H Danauer Asst Secretary.

State of California
City and County of San Francisco } ss

On this 24th day of April, 1912, before me Edith W Burnham, a Notary Public in and for said City and County of San Francisco, residing therein, duly commissioned and sworn, personally appeared Joseph A Leonard, known to me to be the President of Urban Realty Improvement Company, and L H Danhauer known to me to be the Asst. Secty of said Urban Realty Improvement Company, the corporation that executed the within and foregoing instrument and they acknowledged to me that such corporation executed the same.

In Witness Whereof I have hereunto set my hand and affixed my official Seal, the day and year in this certificate first above written.

(Seal)

Edith W Burnham, Notary Public in and for the City and County of San Francisco, State of California

I, Thos. F. Boyle Auditor of the City and County of San Francisco, State of California, hereby certify that there are no liens for unpaid State, County, Municipal or other taxes, except taxes not yet payable against the tract of land herein platted and designated "INGLESIDE TERRACES" or any part thereof.

Dated: April 25, 1912.

Thos. F Boyle,
Auditor of the City and County of San Francisco, State of California

Filed at the request of Urban Realty Improvement Co.
May. 18. 1912. at 38 mins. past 11 A.M.

That the consent of no other person or persons is necessary to pass a clear title to the said tract or subdivision of land or any part thereof; and the undersigned Urban Realty Improvement Company hereby consents to the making of said Map or Plat; but be it known that no part or parcel of said Tract or subdivision of land is offered for dedication or dedicated for any public use and that the streets avenues roads and ways delineated on the within map or plat are reserved for the exclusive and private use and benefit of the Owners and holders of the lots designated on said map or plat

Exhibit H: Sidewalks of Street Block 32, circa 1912-1915

810 Head Street (1912-1915). From the San Francisco History Center, San Francisco Public Library.

Holloway and Head Street (1912-1915). From the San Francisco History Center, San Francisco Public Library.

Head and Holloway NE corner (1912-1915). From the San Francisco History Center, San Francisco Public Library.

Head and Holloway NE corner II (1912-1915). From the San Francisco History Center, San Francisco Public Library.

Exhibit I: San Francisco City and County Ordinance 1098

1098

BILL NO. 1255. ORDINANCE NO. 1098.

(New Series.)—Amending Ordinance No. 1061, entitled "Regulating the width of sidewalks," approved December 18th, 1903, by adding thereto new sections, to be numbered Three hundred and sixty-two to Three hundred and seventy-seven, inclusive.

Be it ordained by the People of the City and County of San Francisco as follows:

Section 1. Ordinance No. 1061, entitled "Regulating the width of sidewalks," approved December 18th, 1903, be and is hereby amended in accordance with the communication of the Board of Public Works, filed in this office February 7, 1916, by adding thereto new sections to be numbered Three hundred and sixty-two to Three hundred and seventy-seven, inclusive, and to read as follows:

Section 362. The width of sidewalks on Ashton avenue (formerly Arlington avenue) between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 363. The width of sidewalks on Juan avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 364. The width of sidewalks on Faxon avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 365. The width of sidewalks on Capitol avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 366. The width of sidewalks on Mizmar avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 367. The width of sidewalks on Golden Gate avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 368. The width of sidewalks on Plymouth avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 369. The width of sidewalks on Brighton avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 370. The width of sidewalks on Lee avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 371. The width of sidewalks on Harold avenue between Ocean avenue and its southerly terminations shall be fifteen (15) feet.

Section 372. The width of sidewalks on Edgerton Place (formerly Edgar Place) between Brush Place (formerly Bruce Place) and its southerly terminations shall be twelve (12) feet.

Section 373. The width of sidewalks on Brush Place (formerly Bruce Place) between Harold avenue and its easterly termination shall be twelve (12) feet.

Section 374. The width of sidewalks on De Montford avenue between Ashton avenue (formerly Arlington avenue) and Mizmar avenue shall be twelve (12) feet.

Section 375. The width of sidewalks on Holloway avenue between Ashton avenue (formerly Arlington avenue) and Harold avenue shall be twelve (12) feet.

Section 376. The width of sidewalks on Grafton avenue between Outside avenue and Harold avenue shall be twelve (12) feet.

Section 377. The width of sidewalks on Lakeview avenue between Orizaba avenue and Lee avenue shall be eight (8) feet.

Section 2. Any expense caused by the above change of walk width shall be borne by the property-owners.

Section 3. This Ordinance shall take effect and be in force from and after its passage.

In Board of Supervisors, San Francisco, March 7, 1916.

After having been published five successive days according to law, taken up and finally passed by the following vote:

Ayes—Supervisors Bancroft, Cotton, Deasy, Hayes, Hayden, Healy, Herget, Hocks, Kelly, Kuenzel, Lenhoff, McLoughlin, Minahan, Murdock, Nelson, O'Brien, Pugh, Walsh.

Approved, San Francisco, March 8, 1916. P. H. McCARTHY, Mayor and ex-officio President of the Board of Supervisors. mar7-31

Rep 5624NS.

1098

BILL NO. 1232. ORDINANCE NO. 1098. **(New Series.)**—Amending Ordinance No. 1061, entitled "Regulating the width of sidewalks," approved December 18th, 1903, by adding thereto new sections, to be numbered Three hundred and sixty-two to Three hundred and seventy-seven, inclusive.

Be it ordained by the People of the City and County of San Francisco as follows:

Section 1. Ordinance No. 1061, enti-

follows:

Section 1. Ordinance No. 1061, enti-

tled "Regulating the width of sidewalks," approved December 18th, 1903, be and is hereby amended in accordance with the communication of the Board of Public Works, filed in this office February 7, 1910, by adding thereto new sections to be numbered Three hundred and sixty-two to Three hundred and seventy-seven inclusive, and to read as follows:

Section 362. The width of sidewalks on Ashton avenue (formerly Arlington avenue) between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 363. The width of sidewalks

feet.

Section 363. The width of sidewalks on Jules avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 364. The width of sidewalks on Faxon avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 365. The width of sidewalks on Capitol avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 366. The width of sidewalks on Miramar avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 367. The width of sidewalks on Golden State avenue between Ocean avenue and Lakeview avenue shall be

on Golden State avenue between Ocean avenue and Lakeview avenue shall be
fifteen (15) feet.

Section 368. The width of sidewalks on Plymouth avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 369. The width of sidewalks on Brighton avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 370. The width of sidewalks on Lee avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 371. The width of sidewalks

(15) feet.

Section 371. The width of sidewalks on Harold avenue between Ocean avenue and its southerly termination shall be fifteen (15) feet.

Section 372. The width of sidewalks on Edgarco Place (formerly Edgar Place) between Brush Place (formerly Bruce Place) and its southerly termination shall be twelve (12) feet.

Section 373. The width of sidewalks on Brush Place (formerly Bruce Place) between Harold avenue and its easterly termination shall be twelve (12) feet.

Section 374. The width of sidewalks on De Montford avenue between Ash-

on De Montford avenue between Ash-
ton avenue (formerly Arlington avenue) and Miramar avenue shall be twelve (12) feet.

Section 375. The width of sidewalks on Holloway avenue between Ashton avenue (formerly Arlington avenue) and Harold avenue shall be twelve (12) feet.

Section 376. The width of sidewalks on Grafton avenue between Orizaba avenue and Harold avenue shall be twelve (12) feet.

Section 377. The width of sidewalks on Lakeview avenue between Orizaba avenue and Lee avenue shall be eight (8) feet.

Section 2. Any expense caused by the above change of walk widths shall

the above change of walk widths shall be borne by the property-owners.

Section 3. This Ordinance shall take effect and be in force from and after its passage.

In Board of Supervisors, San Francisco, March 7, 1910.

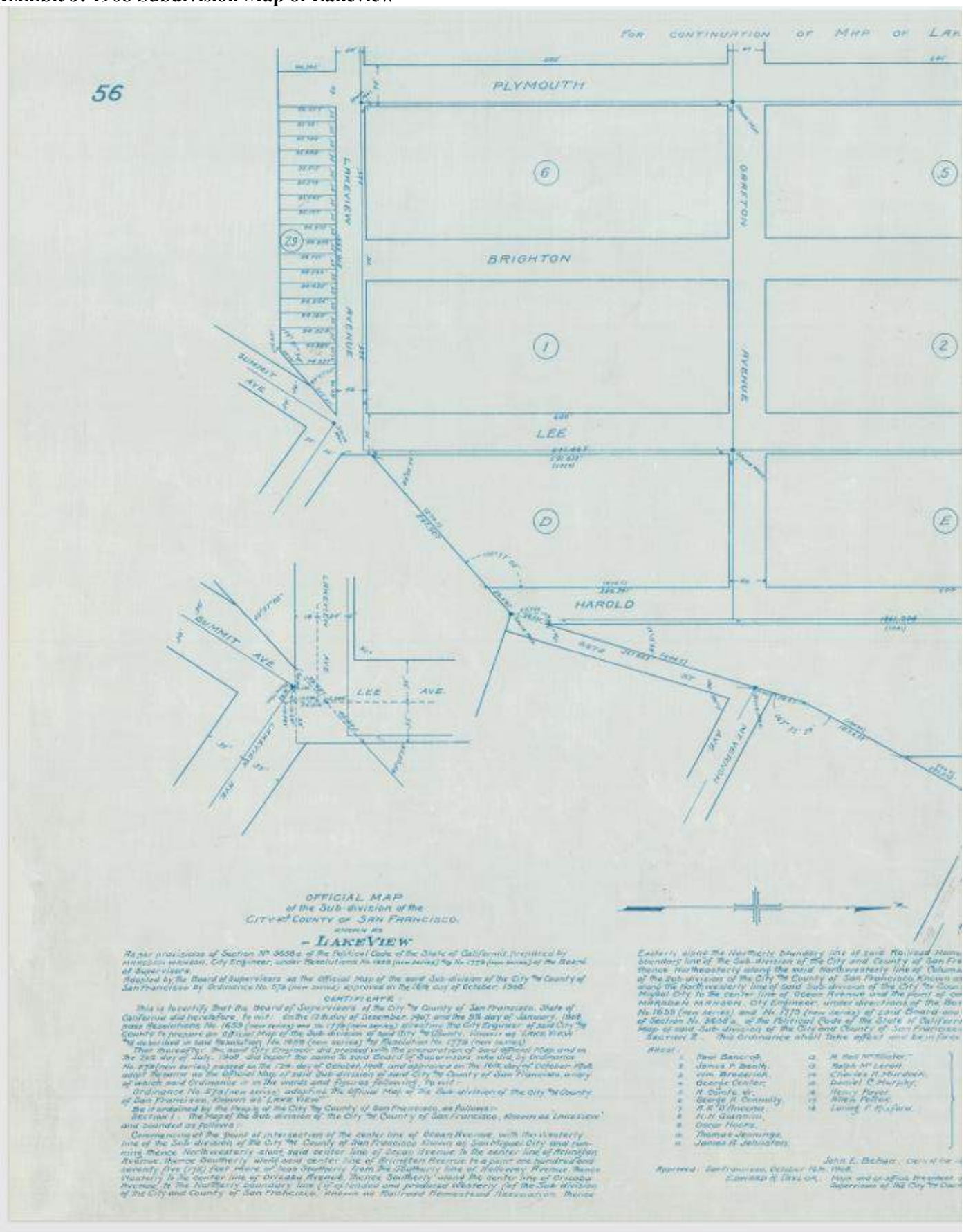
After having been published five successive days, according to law, taken up and finally passed by the following vote:

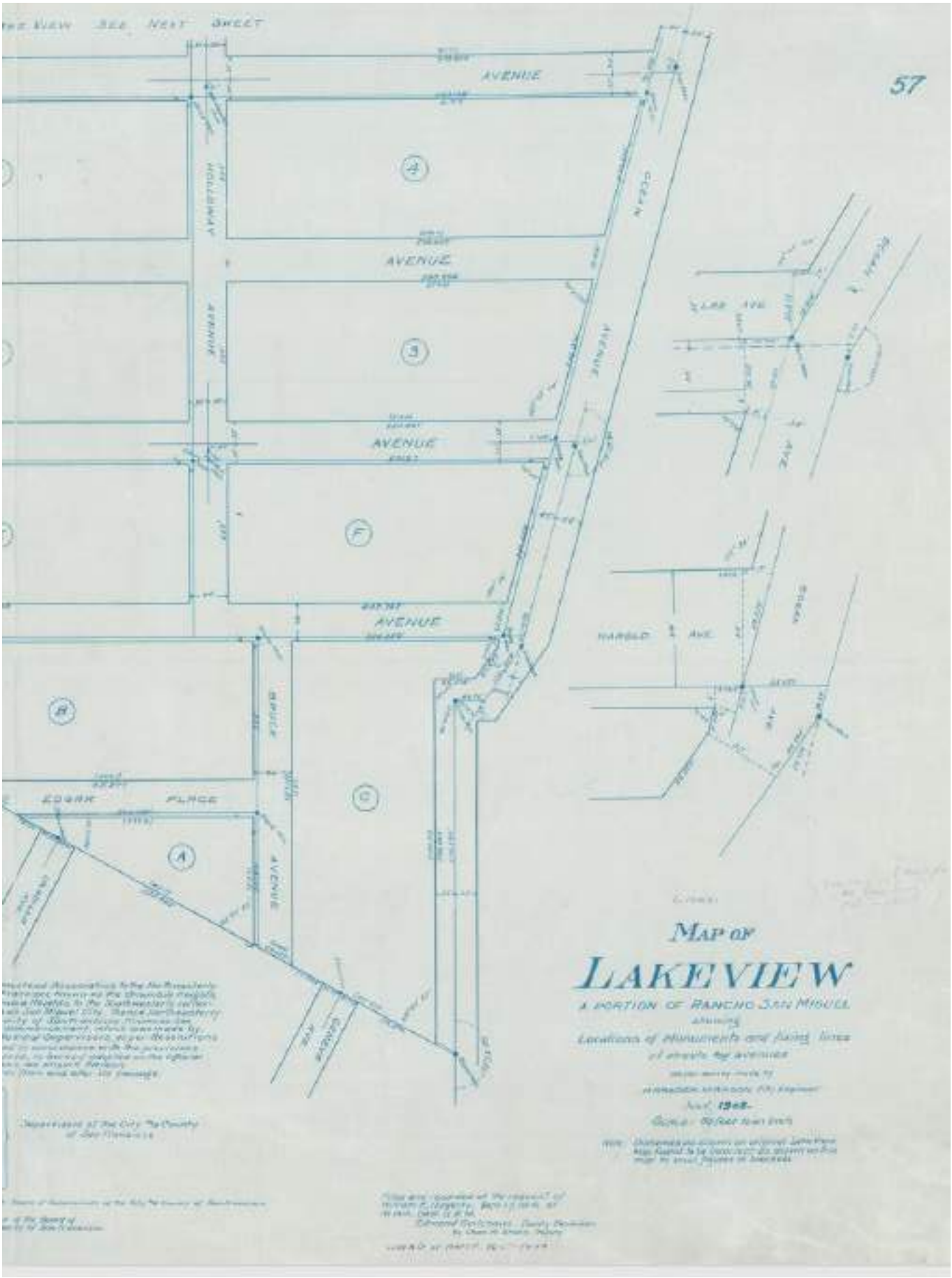
Ayes—Supervisors Bancroft, Cutten, Deasy, Harris, Hayden, Healy, Herget, Hocks, Kelly, Knowles, Loughery, McLaughlin, Minehan, Murdock, Nelson, O'Dowd, Pugh, Walsh.

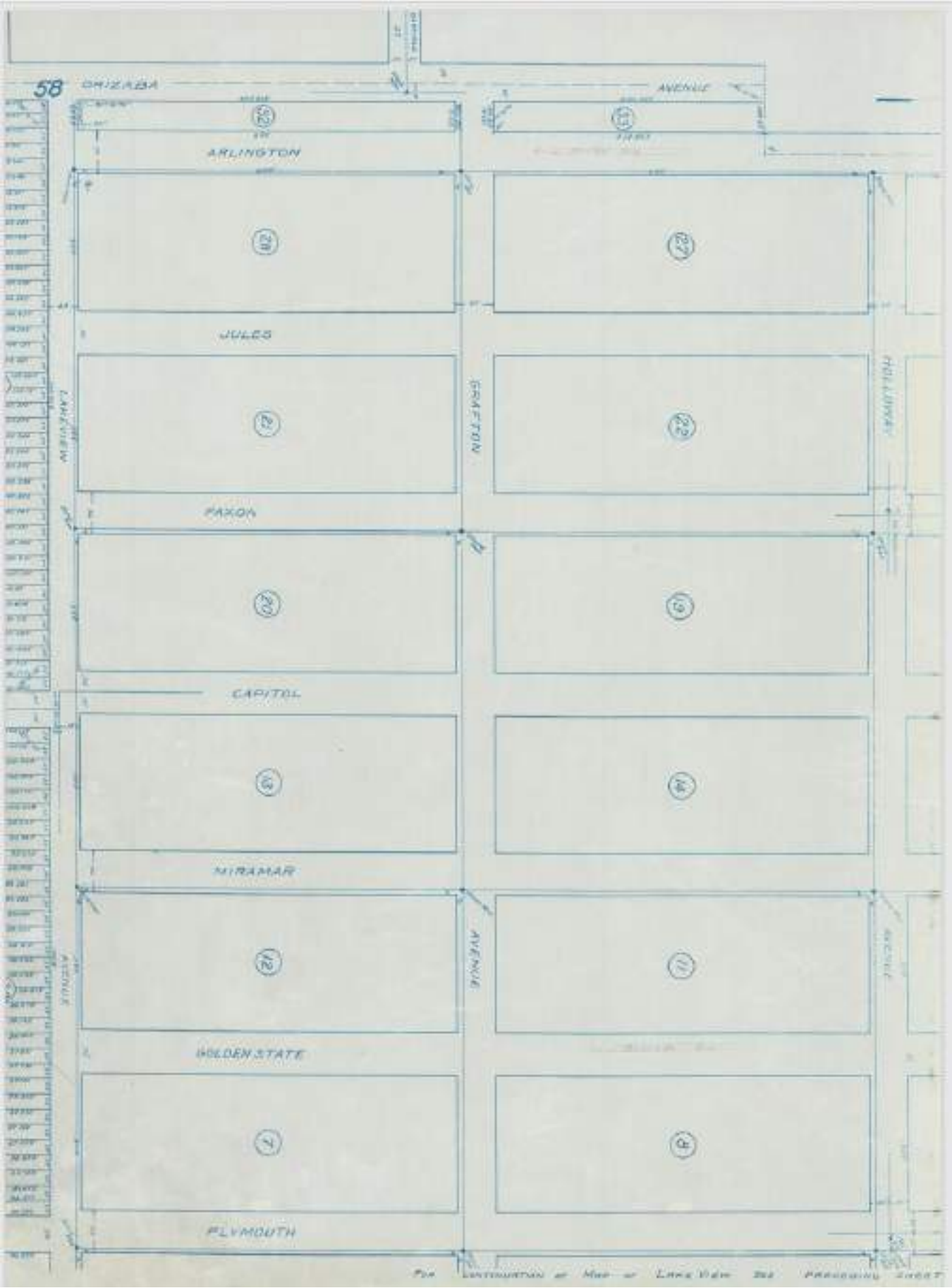
O'Dowd, Pugh, Walsh.

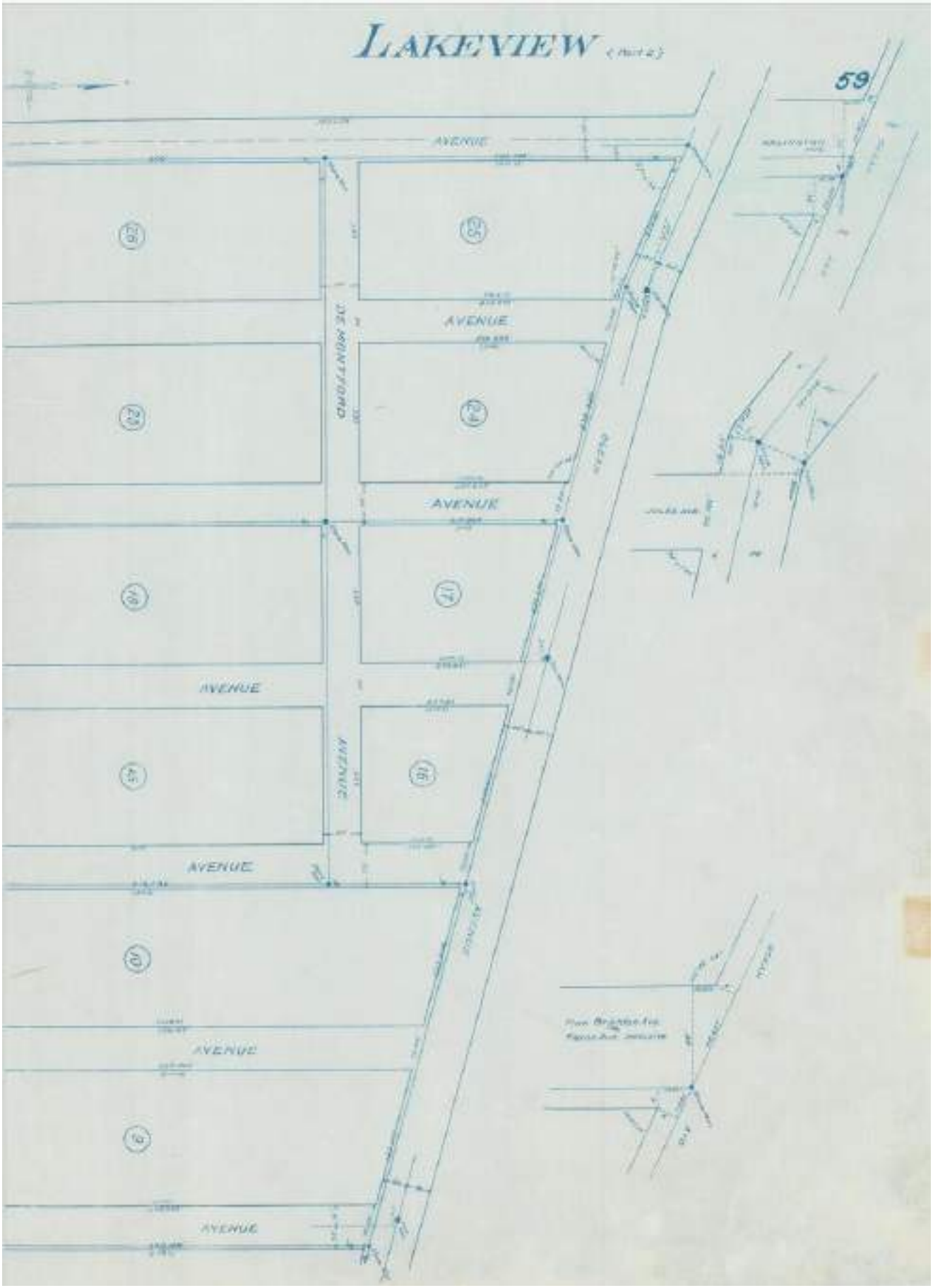
Approved, San Francisco, March 9, 1910. P. H. McCARTHY, Mayor and ex-officio President of the Board of Supervisors. mar12-1t

Exhibit J: 1908 Subdivision Map of Lakeview




57
AVENUE
AVENUE
AVENUE
AVENUE
ASHTON
HUNTER
OCEAN
EDGAR
PLACE
HAROLD
AVE
MAP OF
LAKEVIEW
A PORTION OF RANCHO SAN MIGUEL


58
ORIZABA
AVENUE
ARLINGTON
JULES
PAXON
CAPITOL
MIRAMAR
GOLDEN STATE
PLYMOUTH
GRAFTON
AVENUE
LAKEVIEW
AVENUE
HOLLOWAY
AVENUE


LAKEVIEW
59
AVENUE
AVENUE
AVENUE
AVENUE
AVENUE
AVENUE
AVENUE
AVENUE

Supplemental Brief submitted by the Department for the hearing on 5-15-24

Nicolas Huff, PE, Bureau Manager | Bureau of Street-Use & Mapping
nicolas.huff@sfdpw.org | T. 628.271.2000 | 49 South Van Ness Ave. 3rd Floor, San Francisco, CA 94103

May 8, 2024

President Jose Lopez
Vice President Alex Lemberg
Commissioner Rick Swig
Commissioner John Trasviña
Commissioner J.R. Eppler

RE: Appeal No. 23-067 for Minor Sidewalk Encroachment Permit application 21MSE-00688 (201 Ashton Ave.)

Dear Members of the Board of Appeals:

San Francisco Public Works submits this brief for the appeal of the denial of the above-referenced Minor Sidewalk Encroachment Permit application.

Comments on Boundary Survey:

The survey performed by Foresight Land Surveying confirms Public Work's position concerning the location of the fence being within the public right-of-way. The fence is encroaching in the right-of-way and is located nine feet beyond the property line. Furthermore, the survey confirms the sidewalk widths as being 15 feet wide along both Holloway Ave. and Ashton Ave.

The objective of obtaining a survey was to show the location of the encroaching items relative to the property line. For purposes of this appeal the survey is deficient due to the following items not being shown:

- Pergola
- Fire table
- PG&E guy wire
- PUC streetlight

It should also be noted that a Record of Survey was not submitted to the County Surveyor's office as agreed upon in the previous hearing.

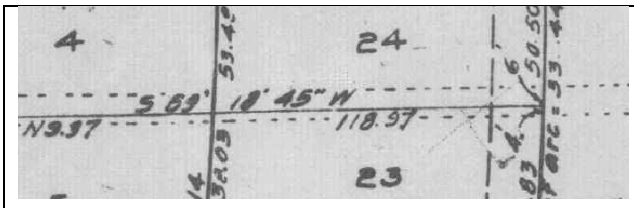
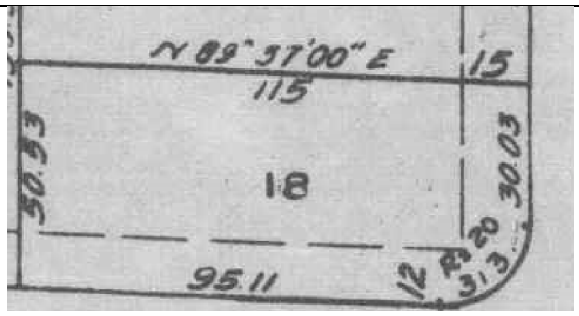
Public Right-of-way:

On January 20, 1913, an Amended Map of Ingleside Terraces was filed and recorded at the request of Urban Realty Improvement Co. On sheet 2 of said map, the developer Urban Realty made a conditional dedication regarding all streets, avenues, roads, and ways that were 40 feet or more in which these streets and similar uses would be private for approximately two years at which point they would be dedicated to the City as public streets on December 31, 1915. The map states: "…the streets, avenues, roads, and ways delineated on the within [sic] map or plat are reserved for the exclusive and private use and benefit of the owners and holders of the lots designated on said map or plat until December 31st, 1915; and that on and after December 31, 1915, all the streets, avenues, roads, and ways delineated on said map, forty feet or more in width, are hereby dedicated to the City and County of San Francisco for public use as public streets, avenues, roads, and ways. This map or plat is made and filed to amend and supersede a prior map or plat of the same tract or subdivision of land . . . filed for record in The Office of The County Recorder . . . on May 18, 1912. . . ." (Emphasis added). The last sentence included in the above quote explicitly states that the January 20, 1913 subdivision map amends and supersedes the earlier 1912 subdivision map that the appellant relies on in their brief to claim that the subject streets are private. See Exhibit A for full page and for closeup of dedication text.

The official sidewalk width for this portion of Ashton Ave. is 15 feet and was established by Ordinance No. 1098 on March 9, 1910 (See Exhibit B). The sidewalk width along Holloway Ave. is 15 feet and was established in 1903 in Ordinance No. 1061. The San Francisco Public Works Code defines a sidewalk as the area between the fronting property line and the back of the nearest curb. Also note that after the 1906 earthquake, many of the City's official records, such as official sidewalk widths, were lost in the ensuing fire that destroyed City Hall. In an effort to re-establish the official widths of sidewalks and streets, the City resurveyed much of the City and enacted various laws to redesignate the official sidewalk widths or create new sidewalk widths. All additions or modifications of official sidewalk widths are addressed as amendments to the original sidewalk width law Ordinance No. 1061 of 1903 through the addition of new section numbers. In this case, Ordinance No. 1098 from March 1910, established the Ashton Avenue sidewalk width by adding Section 362 to the original Ordinance No. 1061.

Depiction of Easement and Building Locations:

The original and amended maps of Ingleside show locations of easements and of the structures. Easements are shown by dotted lines, while structures are shown by broken (dashed) lines. There are no easements shown on the maps for the property in question. The dash lines shown on the parcel are to indicate the location of the building. It is also important to note that solid lines represent property lines. Exhibit C is sheet 3 of the amended map that shows the property in question and samples of both easement and structure locations. Below is a sample for comparison purposes.

 Easement with dotted lines	 Property in question. Location of structure shown with broken (dashed) lines

Request of Board of Appeals:

The boundary survey confirms Public Work's estimated location of the fence in the right-of-way. While the pergola, fire table, PUC streetlight, and PG&E guy wire are not shown on the survey, it can be concluded that they are in the right-of-way as determined by Public Works based on their approximate size and location in relationship to the property line and public right-of-way, including the sidewalk.

Public Works denial of the permit is based on non-compliance with the San Francisco Public Works Code and regulations. Public Works remains concerned about its ability to ensure adequate disabled access to sidewalks, address potential public safety concerns with private natural gas lines in the public sidewalk area, protect sufficient areas for utility maintenance works; and avoid possible vehicular and pedestrian conflicts if vehicular sight lines are blocked by the encroachments. Public Works requests that the Board of Appeals uphold the Departments decision to deny this permit application and require removal of unpermitted items constructed in the public right-of-way in accordance with the permit revision comments that Public Works requested.

Exhibit A

Amended Map of Ingleside Terraces

This page was intentionally left blank.

KNOW ALL MEN BY THESE PRESENTS: That Urban Realty Improvement Co., a corporation duly organized under and in pursuance of the laws of the State of California and having its principal office and place of business in San Francisco, California, hereby certifies that it is the owner of the tract or subdivision of land hereon platted and designated and laid out for the purpose of sale; that hereon is an accurate map or plat in five sheets, of such tract or subdivision of land, particularly delineating and describing all lots intended for sale or reserved for private purposes and not offered for dedication for the public use, together with the numbers thereof, their dimensions and boundaries, and the courses of their boundary lines, also the exact location of such tract or subdivision of land into lots with reference to adjacent subdivisions of land into lots, the maps or plats of which have been previously recorded.

That the consent of no other person or persons is necessary to pass a clear title to the said tract or subdivision of land or any part thereof; and the undersigned Urban Realty Improvement Co. hereby consents to the making of said amended map or plat; but be it known that the streets, avenues, roads and ways delineated on the within map or plat are reserved for the exclusive and private use and benefit of the owners and holders of the lots designated on said map or plat, until December 31st, 1915; and that on and after December 31st 1915, all the streets, avenues, roads and ways delineated on said map, forty feet or more in width, are hereby dedicated to the City and County of San Francisco, for public use, as public streets, avenues, roads and ways. This map or plat is made and filed to amend and supersede a prior map or plat of the same tract or subdivision of land, which prior map or plat was prepared by E. J. MORSER, C.E. and filed for record in the Office of The County Recorder of the City and County of San Francisco, on May 18 1912, and recorded in Map Book G Pages 72 to 76, both inclusive, records of said City and County of San Francisco.

IN WITNESS WHEREOF, Urban Realty Improvement Co. has caused its corporate name to be hereto subscribed and its corporate seal to be hereunto affixed by its President and Asst. Secretary, thereunto duly authorized by Resolution of its Board of Directors, duly adopted at a meeting of said Board held on the 11th day of December, 1912, the day and year first above written.

URBAN REALTY IMPROVEMENT CO.
By Joseph A. Leonard, President.
By L. H. Danhauer, Asst. Secretary. (Seal)

This map of INGLESIDE TERRACES, five sheets, numbered 1 to 5, showing lands subdivided into blocks and lots intended for sale or selected for private purposes; and also lands proposed to be dedicated to the City and County of San Francisco for open public streets, avenues, boulevards, courts and parks, and which proposed dedication of said lands for such public use is not to take effect until December 31st, 1915.

The owners of said lands reserving the rights until December 31st, 1915, to enter upon said streets, avenues, boulevards, courts and parks, for the purpose of constructing street improvements and adornments, except as to future construction of sewers, drains, cesspools, catchbasins, and all work pertaining thereto, the plans for which must be approved by the Board of Public Works and constructed under the supervision of the City Engineer.

is approved this Seventh day of January, 1913, by Resolution No. 21659 (Second Series) of the Board of Public Works of the City and County of San Francisco.

Adolph Judell
Daniel G. Fraser
C. S. Laumeister
} Commissioners of Board of Public Works of the City and County of San Francisco

Attest: Richard J. Cline, Secretary Board of Public Works (Seal)

N 29795
Filed and Recorded at the request of Urban Realty Improvement Co. Jan. 20, 1913, at 15 min. past 3 P.M.
Edmond Godchaux, Recorder
By Edw. T. Derbey, Deputy.

AMENDED MAP OF INGLESIDE TERRACES SAN FRANCISCO CAL

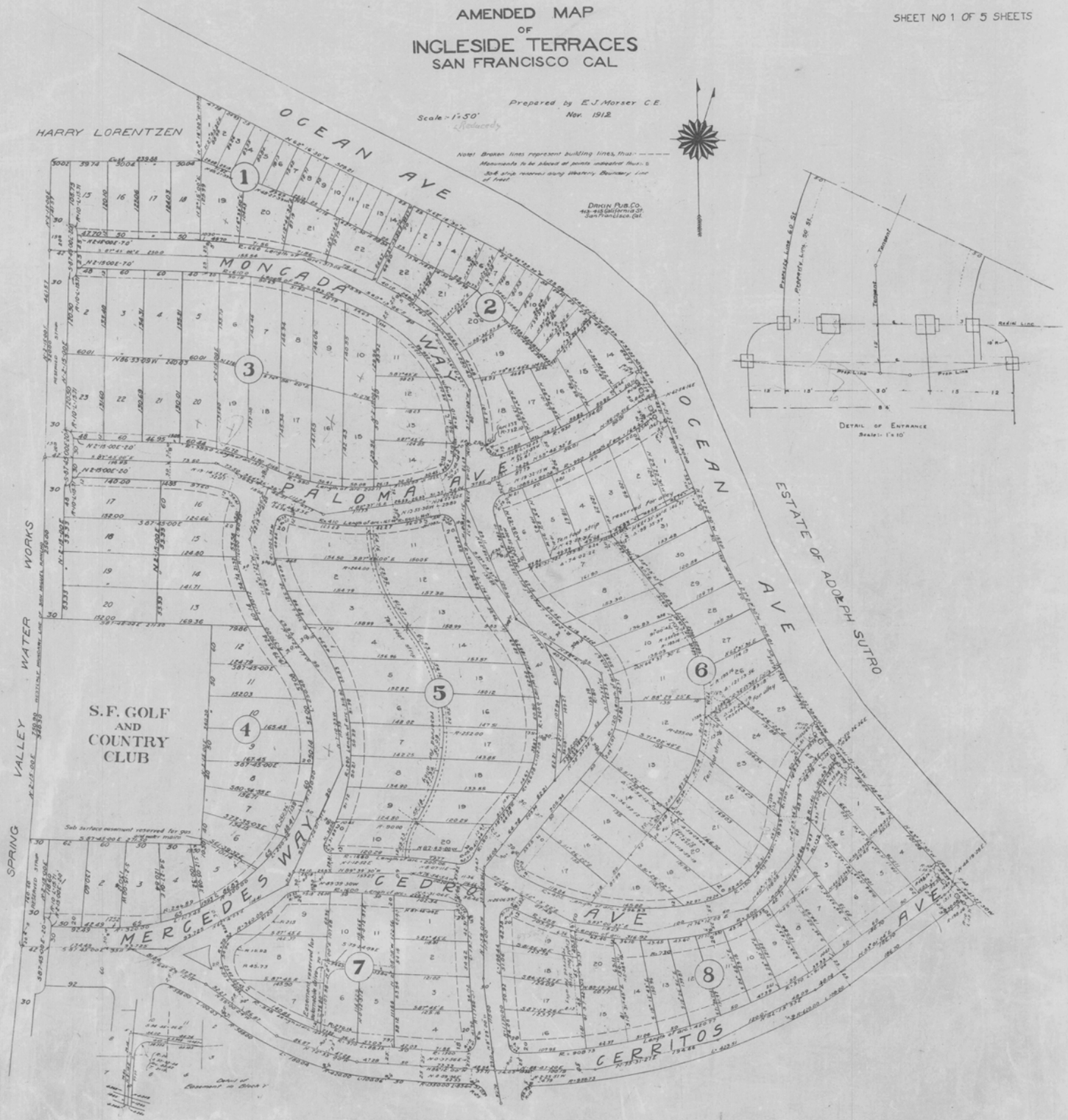
SHEET NO 1 OF 5 SHEETS

Prepared by E.J. Morser C.E.
Nov. 1912

Scale = 1" = 50'
Reduced

Note: Broken lines represent building lines, thus: - - - -
Monuments to be placed at points indicated thus: ⊥
Bolt single numbers along Boundary Line of tract

DAKIN PUB. CO.
419-423 California St.
San Francisco, Cal.



N 29796.
Filed and Recorded at the request of Urban Realty Improvement Co. Jan. 20. 1913. at 16 min. past 3 P.M.
Edmond Godchaux, County Recorder
By Edw. T. Darbey Deputy.

Liber 93

AMENDED MAP
OF
INGLESIDE TERRACES
SAN FRANCISCO CAL.

SHEET NO. 2 OF 5 SHEETS.

Scale - 1" = 50' (Reduced)

Prepared by E. J. Morser C.E.
Nov. 1912

DARKIN PUB. CO.
415-445 California St.
San Francisco, Cal.

Note! Strip between dotted lines, reserved for automobile driveway and sub-surface sewer Right of Way.

Broken lines represent building lines, thus:

Monuments to be placed on points indicated thus ⊗

KNOW ALL MEN BY THESE PRESENTS: That Urban Realty Improvement Co., a corporation, duly organized under and in pursuance of the laws of the State of California, and having its principal office and place of business in San Francisco, California, hereby certifies that it is the owner of the tract or subdivision of land hereon platted and designated and laid out for the purpose of sale; that hereon is an accurate map or plat in five sheets, of such tract or subdivision of land, particularly delineating and describing all lots intended for sale or reserved for private purposes and not offered for dedication for the public use, together with the numbers thereof, their dimensions and boundaries, and the courses of their boundary lines, also the exact location of such tract or subdivision of land into lots with reference to adjacent subdivisions of land into lots, the maps or plats of which have been previously recorded.

That the consent of no other person or persons is necessary to pass a clear title to the said tract or subdivision of land or any part thereof; and the undersigned Urban Realty Improvement Co. hereby consents to the making of said amended map or plat; but be it Known that the streets, avenues, roads and ways delineated on the within map or plat are reserved for the exclusive and private use and benefit of the owners and holders of the lots designated on said map or plat, until December 31st, 1915; and that on and after December 31st 1915 all the streets, avenues, roads and ways delineated on said map, forty feet or more in width, are hereby dedicated to the City and County of San Francisco, for public use, as public streets, avenues, roads and ways. This map or plat is made and filed to amend and supersede a prior map or plat of the same tract or subdivision of land, which prior map or plat was prepared by E. J. MORSER, C.E. and filed for record in the office of The County Recorder of The City and County of San Francisco, on May 18. 1912, and recorded in Map Book G Pages 72 to 76, both inclusive, records of said City and County of San Francisco.

In WITNESS WHEREOF Urban Realty Improvement Co. has caused its corporate name to be hereto subscribed and its corporate seal to be hereunto affixed by its President and Asst. Secretary thereunto duly authorized by Resolution of its Board of Directors, duly adopted at a meeting of said Board held on the 11th day of December, 1912. The day and year first above written.

URBAN REALTY IMPROVEMENT CO.
By Joseph H. Leonard, President. (Seal)
By L. H. Danhauer, Asst. Secretary.

This map of INGLESIDE TERRACES, five sheets, numbered 1 to 5, showing lands subdivided into blocks, and lots intended for sale or selected for private purposes; and also lands proposed to be dedicated to the City and County of San Francisco for open public streets, avenues, boulevards, courts and parks, and which proposed dedication of said lands for such public use is not to take effect until December 31st 1915.

The owners of said lands reserving the rights until December 31st. 1915, to enter upon said streets, avenues, boulevards, courts and parks, for the purpose of constructing street improvements and adornments; except as to future construction of sewers, drains, cesspools, catchbasins, and all work pertaining thereto, the plans for which must be approved by the Board of Public Works and constructed under the supervision of the City Engineer.

is approved this Seventh day of January, 1913, by Resolution No. 21659 (Second Series) of the Board of Public Works of The City and County of San Francisco.

Adolph Judell
Daniel G. Fraser
C. S. Laumeister
} Commissioners of Board of Public Works of the City and County of San Francisco.

Attest: Richard J. Cline. (Seal)
Secretary Board of Public Works

I, Thos. F. Boyle, Auditor of the City and County of San Francisco, State of California, hereby certify that there are no liens for unpaid State, County, Municipal or other taxes, except taxes not yet payable against the tract of land herein platted and designated "Ingleside Terraces" or any part thereof.

Dated Dec. 21. 1912.

Thos. F. Boyle
Auditor of the City and County of San Francisco, State of California.

State of California } ss.
City and County of San Francisco

On this 20th day of December 1912, before me, Edith W. Burnham, a Notary Public in and for said City and County of San Francisco, residing therein, duly commissioned and sworn, personally appeared, Joseph H. Leonard, Known to me to be President of Urban Realty Improvement Co. and L. H. Danhauer, Known to me to be the Asst. Secy. of said Urban Realty Improvement Co. The corporation that executed the within and foregoing instrument and to be the Officers that executed the said indorsements on behalf of said corporation therein named and they acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my Official Seal. The day and year in this certificate first above written.

Edith W. Burnham.
Notary Public. (Seal)
In and for The City and County of San Francisco, State of California.

Recorded at the request of Urban Realty Improvement Co. 1912. at mins. past P.M.

Edmond Godchaux, County Recorder.
By Deputy.

N. 29797
Filed and Recorded at the request of Urban Realty Improvement Co. Jan. 20, 1913, at 17 min. past 3 P.M.
Edmond Godchaux, County Recorder
By Edw. T. Darbey, Deputy

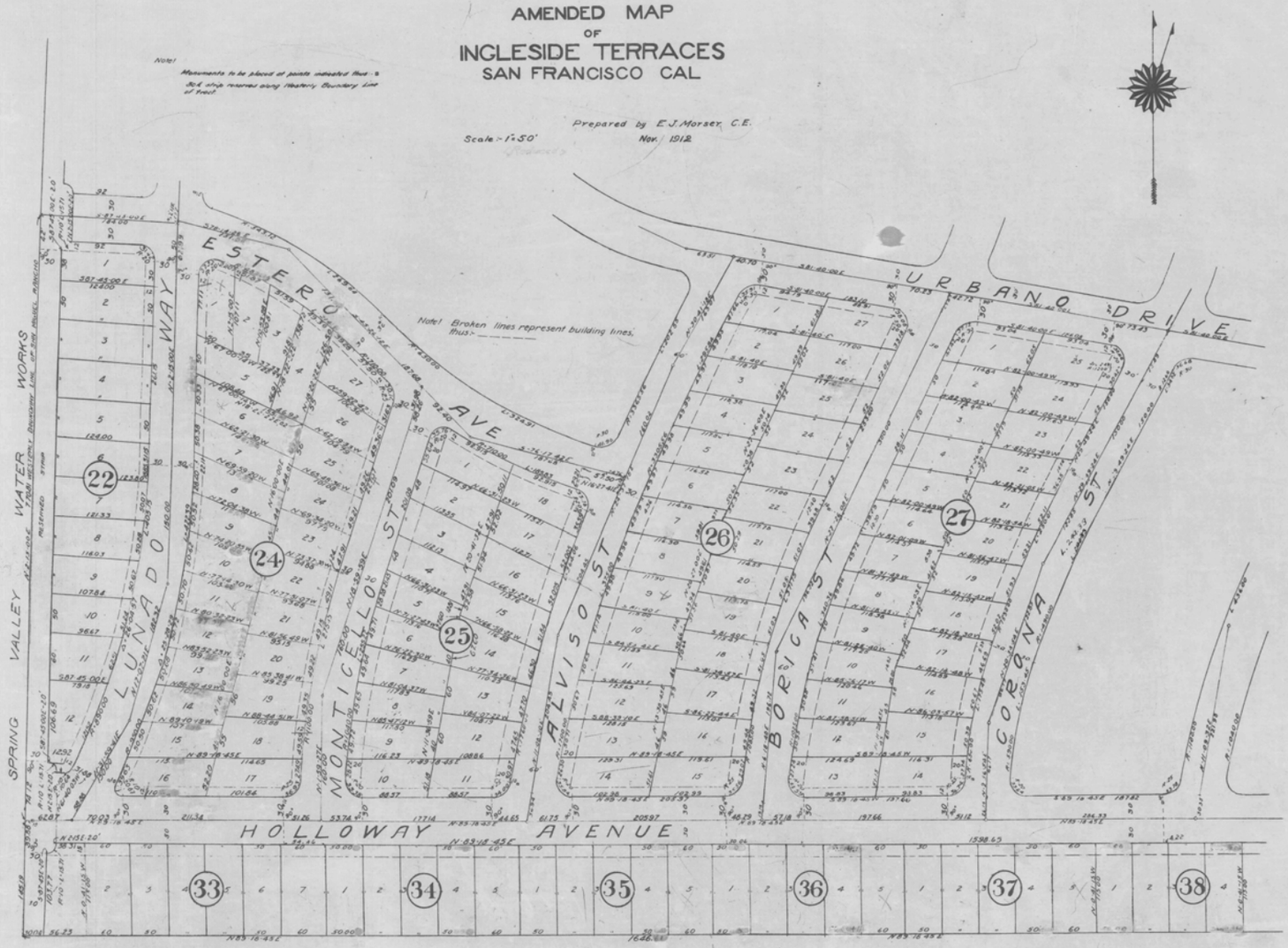
N. 29798
Filed and Recorded at the request of Urban Realty Improvement Co, Jan. 20. 1913, at 18 min. past 3 P.M.
Edmond Godchaux County Recorder
By Edw. T. Parbey, Deputy.

SHEET NO. 4 OF 5 SHEETS.

AMENDED MAP
OF
INGLESIDE TERRACES
SAN FRANCISCO CAL

Note!
Monuments to be placed at points indicated thus: ⊙
30 ft. strip reserved along Westerly Boundary Line of tract

Prepared by E. J. Morsey, C.E.
Scale - 1" = 50'
Nov. 1912



CITY LAND ASSOCIATION

N. 29799.
Filed and Recorded at the request of Urban Realty Improvement Co. Jan. 20, 1913, at 19 mins. past 3 P.M.
Edmond Godchaux, County Recorder.
By Edw. T. Darbey, Deputy

SHEET NO 5 OF 5 SHEETS

AMENDED MAP OF INGLESIDE TERRACES SAN FRANCISCO CAL

Scale - 1" = 50'

DAKIN PUB. CO.
413-415 California St.
San Francisco, Cal.

Prepared by E. W. Forster, C.E.
Nov. 15.

Note - Dotted lines indicate boundaries of sub-surface sewer Right of Way.
Broken lines represent building lines. thus:- — — — —
Monuments to be placed at points indicated thus ⊙
30 ft. strip reserved along Merced Boundary line of tract

DETAIL
LOTS-7, 8 + 22 - BLOCK 15

Detail of Easement in Block 6

DETAIL
LOTS - 7, 22 + 23 - BLOCK - 16.

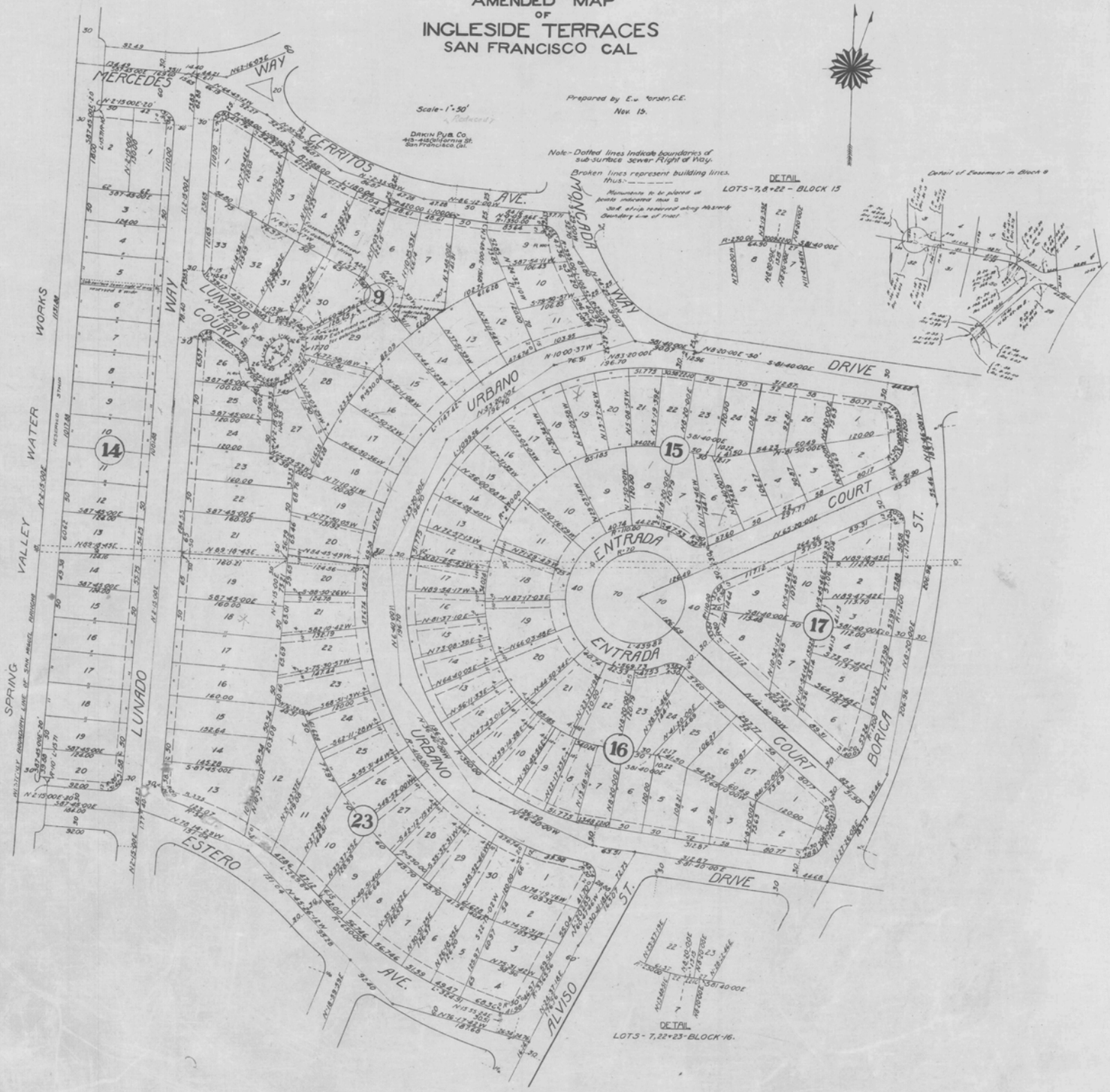


Exhibit B

Sidewalk legislation

This page was intentionally left blank.

1098

BILL NO. 1282. ORDINANCE NO. 1098. (New Series.)—Amending Ordinance No. 1061, entitled "Regulating the width of sidewalks," approved December 18th, 1903, by adding thereto new sections, to be numbered Three hundred and sixty-two to Three hundred and seventy-seven, inclusive.

Be it ordained by the People of the City and County of San Francisco as follows:

Section 1. Ordinance No. 1061, entitled "Regulating the width of sidewalks," approved December 18th, 1903, be and is hereby amended in accordance with the communication of the Board of Public Works, filed in this office February 1, 1910, by adding thereto new sections to be numbered Three hundred and sixty-two to Three hundred and seventy-seven inclusive, and to read as follows:

Section 362. The width of sidewalks on Ashton avenue (formerly Arlington avenue) between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 363. The width of sidewalks on Jules avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 364. The width of sidewalks on Faxon avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 365. The width of sidewalks on Capitol avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 366. The width of sidewalks on Miramar avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 367. The width of sidewalks on Golden State avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 368. The width of sidewalks on Plymouth avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 369. The width of sidewalks on Brighton avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 370. The width of sidewalks on Lee avenue between Ocean avenue and Lakeview avenue shall be fifteen (15) feet.

Section 371. The width of sidewalks on Harold avenue between Ocean avenue and its southerly termination shall be fifteen (15) feet.

Section 372. The width of sidewalks on Edgarco Place (formerly Edgar Place) between Brush Place (formerly Bruce Place) and its southerly termination shall be twelve (12) feet.

Section 373. The width of sidewalks on Brush Place (formerly Bruce Place) between Harold avenue and its easterly termination shall be twelve (12) feet.

Rep 5624 N.S.

Section 374. The width of sidewalks on De Montford avenue between Ashton avenue (formerly Arlington avenue) and Miramar avenue shall be twelve (12) feet.

Section 375. The width of sidewalks on Holloway avenue between Ashton avenue (formerly Arlington avenue) and Harold avenue shall be twelve (12) feet.

Section 376. The width of sidewalks on Grafton avenue between Orizaba avenue and Harold avenue shall be twelve (12) feet.

Section 377. The width of sidewalks on Lakeview avenue between Orizaba avenue and Lee avenue shall be eight (8) feet.

Section 2. Any expense caused by the above change of walk widths shall be borne by the property-owners.

Section 3. This Ordinance shall take effect and be in force from and after its passage.

In Board of Supervisors, San Francisco, March 7, 1910.

After having been published five successive days, according to law, taken up and finally passed by the following vote:

Ayes—Supervisors Bancroft, Cutten, Deasy, Harris, Hayden, Healy, Herget, Hocks, Kelly, Knowles, Loughery, McLaughlin, Minahan, Murdock, Nelson, O'Dowd, Pugh, Walsh.

Approved, San Francisco, March 9, 1910.

P. H. McCARTHY,
Mayor and ex-officio President of the Board of Supervisors.

mar12-1t

Exhibit C

Sheet 3 of Amended Map of Ingleside Terraces

Easements Vs. Building line types

This page was intentionally left blank.

N. 29797
Filed and Recorded at the request of Urban Realty Improvement Co. Jan. 20, 1913, at 17 min. past 3 P.M.
Edmond Godchaux, County Recorder
By Edw. T. Darbey, Deputy

DOCUMENTS SUBMITTED FOR THE ORIGINAL HEARING DATED FEBRUARY 7, 2024

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
MIHAL EMBERTON,)
Appellant(s))
)
vs.)
)
SAN FRANCISCO PUBLIC WORKS)
BUREAU OF STREET USE & MAPPING,)
Respondent

Appeal No. **23-067**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on December 12, 2023, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the ISSUANCE, on December 1, 2023, of a Public Works Order (DENIAL of an application for a Minor Sidewalk Encroachment Permit. All items encroaching the public right-of-way shall be deconstructed and removed from the public right-of-way. The applicant did not provide updated plans with the following conditions and alterations: reduction of the fence height to three feet; three feet of clearance around the streetlight pole and box on Holloway Ave.; three feet path of travel between the trees and fence on Holloway Avenue and the removal of the approximate 10 ft x 10 ft cedar pergola and the propane fire table. The plans also need to show all features in the right-of-way such as the streetlight and box, trees, location of pavers, location of landscaping, and the altered location of the fences) at 201 Ashton Avenue.

APPLICATION NO. 21MSE-00688

FOR HEARING ON February 7, 2024

Address of Appellant(s):	Address of Other Parties:
Mihal Emberton, Appellant(s) 201 Ashton Avenue San Francisco, CA 94112	N/A

Date Filed: December 12, 2023

CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS

PRELIMINARY STATEMENT FOR APPEAL NO. 23-067

I / We, **Mihal Emberton**, hereby appeal the following departmental action: **DENIAL** of a **Minor Sidewalk Encroachment Permit No. 21MSE-00688** by the **San Francisco Public Works, Bureau of Street Use & Mapping** which was issued or became effective on: **December 1, 2023**, for the property located at: **201 Ashton Avenue**.

BRIEFING SCHEDULE:

Appellant's Brief is due on or before: 4:30 p.m. on **January 18, 2024**, **(no later than three Thursdays prior to the hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy shall be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org, Nicolas.huff@sfdpw.org and javier.rivera@sfdpw.org.

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **February 1, 2024**, **(no later than one Thursday prior to hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be doubled-spaced with a minimum 12-point font. An electronic copy shall be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org and mihal.emberton@gmail.com.

Hard copies of the briefs do NOT need to be submitted to the Board Office or to the other parties.

Hearing Date: **Wednesday, February 7, 2024, 5:00 p.m., Room 416 San Francisco City Hall, 1 Dr. Carlton B. Goodlett Place.** The parties may also attend remotely via Zoom. Information for access to the hearing will be provided before the hearing date.

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any changes to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should email all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. to boardofappeals@sfgov.org. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

Please note that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection on the Board's website at www.sfgov.org/boa. You may also request a hard copy of the hearing materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

The reasons for this appeal are as follows:

See attachment to the Preliminary Statement of Appeal.

Appellant:

Signature: Via Email

Print Name: Mihal Emberton, appellant

1. The fence within our property-line does not encroach on any part of the sidewalk.

2. There is no easement for a public right-of-way on our property, nor has the public needed to travel across our property to access any public area.

3. Despite the absence of a public right-of-way on our property and the absence of any encroachment onto the sidewalk, DPW fraudulently claimed the presence of a non-existent public right-of-way to assert an unlawful jurisdiction to (a) place an unlawful hold on our 2017 fence-repair permit application 2017-1011-0923, in order to (b) to unlawfully mandate a Minor Sidewalk Encroachment Permit for our 2017 fence-repair and to collect $206.55 for this permit, and to predicate approval of the Minor Sidewalk Encroachment on further unlawful mandates outside of DPW jurisdiction to (c) reduce the historically 4-foot fence to 3-feet despite the fence being entirely within our property and despite Planning 2019-Variance-approval for the 4-foot height of the historically 4-foot fence, to (d) remove the fire table that is entirely within our property and despite DBI 2015-permit legalizing the gas line for the fire table, to (e) remove the arbor that is entirely within our property, and to (f) remove the fence to allow 3-foot clearance around our 72-inches-from-the-curb streetlight pole, despite the inapplicability of SFPUC Streetlight Guideline #17 which only applies to streetlight poles that are less than 24-inches from the curb, and despite the fact that our streetlight pole is safely within a public utility easement which already ensures a 3-foot working clearance around the streetlight pole and box.

4. We pray that the Board of Appeals declare that DPW abused their discretion by acting outside of their jurisdiction and direct DPW to issue a new decision holding that DPW erred in unlawfully mandating and collecting fees for a gratuitous Minor Sidewalk Encroachment permit and erred in placing an unlawful hold on our 2017 fence-repair permit application 2017-1011-0923.

Nicolas Huff, PE, Bureau Manager | Bureau of Street-Use & Mapping
nicolas.huff@sfdpw.org | T. 628.271.2000 | 49 South Van Ness Ave. 3rd Floor, San Francisco, CA 94103

December 1, 2023

Mihal Emberton
201 Ashton Ave
San Francisco, CA 94112

Subject: Denial of Minor Sidewalk Encroachment Permit 21MSE-00688

Dr. Emberton,

This letter shall serve as notice that Public Works is denying your application, 21MSE-00688, for a Minor Sidewalk Encroachment Permit. The denial is effective as of the date of this letter. All of the items that are encroaching onto the public right-of-way shall be deconstructed and removed from the public right-of-way.

On January 13, 2022, you were notified via email of the conditions and alterations required to be reflected on your plans for your permit review to proceed. This included reducing the fence height to three feet; providing three feet of clearance around the streetlight pole and box on Holloway Ave.; providing three feet path of travel between the trees and fence on Holloway Ave.; and, the removal of the approximate 10 ft X 10 ft cedar pergola and the propane fire table. Further, the plans needed to show all features in the right-of-way such as the streetlight and box, trees, location of pavers, location of landscaping, and the altered location of the fence.

On June 2, 2022, you were notified that your permit application would be placed in inactive status on July 1, 2022 if updated plans were not provided. To date, updated plans have not been provided to Public Works.

Per Public Works Code Section 723.2(e)(2), you have the right to file an appeal with the San Francisco Board of Appeals (https://sf.gov/departments/board-appeals) within 15 days of the permit denial.

Regards,

Javier Rivera
Construction Permit Supervisor
Public Works

BRIEF SUBMITTED BY THE APPELLANT(S)

TABLE OF CONTENTS

I. INTRODUCTION

(1) Citizens and San Francisco Department of Public Works (DPW) have a (*presumed*) joint interest in maintaining safe public right-of-ways to prevent human disease, injury, or death.

(2) However, DPW's administration of Anti-Blight Enforcement unlawfully disregards the jurisdictional requirement that a public right-of-way exist in order for DPW to claim violations within a public right-of-way, SF Public Works Code § 723 and SF Admin Code Chapter 80, which is fraud used to conduct unlawful investigations, convictions, and sentencing for non-existent public right-of-way crimes to extort money, property, and other considerations from innocent citizens. DPW's unlawful actions regarding private property where no public right-of-way exists, do not make public right-of-ways safer and thus do not prevent human disease, injury, or death.

(3) While Citizens and DPW should have a joint interest in maintaining safe public right-of-ways to prevent human disease, injury, or death, DPW's systemic negligence of the jurisdiction requirement that a public right-of-way exist in order to file violation notices claiming public right-of-way blight, violates fundamental civil rights of privacy, liberty, property, due process, and equal protection of the law which destroys physical and mental health and escalates socioeconomic inequality, contributing to and even causing human disease, injury, and death, ensuring that DPW's interest in Anti-Blight Enforcement is in direct conflict with the Citizens' interest to maintain safe public right-of-ways to prevent human disease, injury, and death.

(4) Our family has suffered gratuitous physical, mental, emotional, and socioeconomic harm from DPW's unlawful disregard of the jurisdictional requirement that a public right-of-way exist in order for DPW to claim violations within a public right-of-way, an infamous disregard of the law that perpetrates systemic and unrelenting civil rights violations at the hands of DPW: DPW

abused their discretion by (a) conducting an unconstitutional search of our *private* property outside of their jurisdiction as there is no public right-of-way on our property, which was also without the civil right, due process requirement of consent, to (b) unlawfully claim a public right-of-way that does not exist, to (c) unlawfully claim a public right-of-way crime where no public right-of-way exists, to (d) unlawfully require (but then deny) a Minor Sidewalk Encroachment Permit outside of their jurisdiction as no encroachment onto any sidewalk nor any public right-of-way exists, to (e) unlawfully require deconstruction and excavation of legal and safe *private* property outside of their jurisdiction as no encroachment onto any public right-of-way exists, to (f) unlawfully list misinterpretations of streetlight statutes to claim a non-existent streetlight violation which is also outside of their jurisdiction as our streetlight is not located in any public right-of-way, to ultimately and (g) unlawfully prevent the completion of our fence-repair permit 2017-1011-0923 which was also outside of DPW jurisdiction as our fence does *not* encroach onto any sidewalk *nor* is it located within any public right-of-way.

II. PARTIES

(5) Appellant is a physician and scientist who has studied public policy and civil rights for more than 25 years, with multiple copyrights and publications uncovering the science of democracy and social justice. Together, my wife and I own the subject property, 201 Ashton Avenue, of which the outdoor space is a community fixture that housed an outdoor school for 5 neighborhood children throughout the Covid-19 pandemic, continued to provide a safe afterschool harbor for families long affected by the Covid-19 pandemic, and continues to host a thriving monthly community book club, a garden with more than 45 trees contributing to the urban canopy, and regular neighborhood and civic gatherings. Our family continues to be

victimized by the City's unconstitutional and non-statutory administration of Anti-Blight Enforcement which began in 2017.

(6) The San Francisco Department of Public Works (DPW), Respondent, is an agency within the City and County of San Francisco, a charter city and county organized and existing under the Constitution and laws of the State of California, charged with keeping the public safe from public right-of-way hazards by lawfully implementing Anti-Blight provisions of the municipal code and state law. DPW is among the SF government agencies undergoing federal investigations and convictions for decades of unlawful activities and unlawful discretion.

III. STATEMENTS OF FACT

A. DPW's Administration of Anti-Blight Enforcement Unlawfully Disregards the Jurisdictional Requirement that a Public Right-of-Way Exist in order for DPW to Claim Violations within a Public Right-of-Way, which CA Law Defines as Fraud.

(7) In 2017 we repaired/replaced (**Exhibit A**) a blighted 4-foot wooden fence along our property (**Exhibit B, C**), following local statutes regarding blight and sidewalk safety. Removing blight is mandated by SF Admin. Code Chapter 80, SF Public Works Code Article 15 §723.2(a), SF Housing Code Chapter 10 §1001, and SF Building Code §102A. The addition of safety lighting to enhance nighttime pedestrian safety along the sidewalk is supported by SF Public Works Code Article 15 §706. The style of the fence to prevent "nuisance," "vegetable matter," "grass," "weeds," and "vegetation overgrowth" from impinging the sidewalk is supported by SF Public Works Code Article 5.1 §174. The increased visibility and safety of the fence from its repair also protects the historic Ingleside Terraces Landmark Pillars in alignment with SF Planning Code Article 10 §1008.

(8) Neither the historic, blighted fence nor the repaired fence extend onto or over the sidewalk/public right-of-way (**Exhibit A, B, C**).

(9) On September 11, 2017, after responding to a noise complaint (**Exhibit D**) by a citizen, SF Department of Building Inspection (DBI) issued a Violation Notice (NOV) (**Exhibit E**) mandating a permit for the repaired/replaced fence despite the fact that neither SF Admin. Code Chapter 80 nor SF Building Code §102A require a permit to remove/repair blight, a violation by DBI of the fundamental civil rights of liberty and equal protection of the law. Additionally, DBI's claim of "instillation of a new fence" was another mistake of fact (fraud) as a 4-foot wooden fence was present along the edge of the property when we purchased the property in 2012 (**Exhibit B, C**). We applied for a fence-repair permit (**Exhibit F**) for our 2017 repair of the pre-existing, blighted fence as mandated by DBI's violation notice (NOV). A Planning Variance No 2018-002358VAR allowing the 4-foot height of the historically 4-foot fence was also mandated by DBI and was approved by the Planning Zoning Administrator on July 20, 2019. The Notice of Special Restrictions (NSR) allowing the 4-foot height of the historically 4-foot fence was notarized on March 28, 2021, and processed by the Assessor-Recorder's Office on June 6, 2021.

(10) On November 24, 2021, the Notice of Special Restrictions (NSR) for the Variance allowing the 4-foot height of the historically 4-foot fence, which was required to complete the Permit for the fence repair, which was required to close the Enforcement Case, was approved by DBI and Planning, and was to be reviewed by DPW.

(11) However, on November 24, 2021, SF Department of Public Works (DPW) conducted an unconstitutional search of our property without probable cause of a public right-of-way on our property, without probable cause of a public right-of-way hazard, and without

consent[1] in violation of both CA Civil Code § 1550 and the due process requirement of the CA Constitution, which constitute deprivations of our fundamental civil rights of privacy, equal protection of the law, and due process without a valid government interest in public safety, DPW's *first*, *second,* and *third* negligent mistakes of law for which DPW is liable. After this unlawful search of our property, DPW then put a hold on the fence-repair permit claiming that the fence is located *within* a public right-of-way despite the absence of a public right-of-way on our property (**Exhibit A, B, C**), a deprivation of our fundamental civil rights of liberty and equal protection of the law without a valid government interest in public safety, DPW's *fourth* and *fifth* negligent mistakes of fact and law for which DPW is liable.

(12) Public rights-of-way are described by SF Public Works Code § 723: "'Public right-of-way' shall mean the area across, along, beneath, in, on, over, under, upon, and within the dedicated public alleys, boulevards, courts, lanes, roadways, sidewalks, spaces, streets, and ways within the City, as they now exist or hereafter will exist and which are or will be under the permitting jurisdiction of the Department of Public Works." A *city or county public right-of-way* is an *easement* for public travel across designated parts of private property to access a public area. An easement is a privilege or a right, distinct from ownership, to use the land of another in some way. **The California Land Title Association Preliminary Report for our property does *not* list an easement for the public to travel across our property (Exhibit G), nor has the public needed to travel across our property to access any public area (Exhibit A, B, C).**

[1] "Nevertheless, one governing principle, justified by history and by current experience, has consistently been followed: except in certain carefully defined classes of cases, a search of private property without proper consent is "unreasonable" unless it has been authorized by a valid search warrant," *Camara v. Municipal Court of City and County of San Francisco*, 387 US 523 - Supreme Court 1967.

(13) Despite the absence of a public right-of-way on our property, DPW has fraudulently and unlawfully claimed that a public right-of-way exists 9 feet beyond the sidewalk into our property (**Exhibit H**), (a) negligently ignoring the 115-feet East-West property dimension described on the Assessor's Block Map (**Exhibit I**) which extends from the back-yard fence to the property-edge along the sidewalk as *measured and drawn-to-scale*, 43.58' + 49.25' + 22.45' = 115.28 feet, on fence-repair-permit application 2017-1011-0923 (**Exhibit J**); (b) negligently ignoring the fact that the California Land Title Association Preliminary Report for our property does *not* list an easement for a public right-of-way through our property (**Exhibit G**); and (c) negligently ignoring the fact that there is no current (or historic) use of our property as a public right-of-way (**Exhibit A, B, C**).

(14) Claiming public right-of-way violations where no public right-of-way exists is an abuse of DPW discretion as this DPW claim (a) violates SF Admin. Code 80 and SF Public Works Code § 723 which require that a public right-of-way exist in order to claim a violation within a public right-of-way, (b) is outside of DPW jurisdiction as DPW is only given permitting jurisdiction within public right-of-ways, SF Public Works Code § 723, (c) constitutes fraud as defined by California Law because it is the assertion, as a fact, of that which is not true, (CA Civil Code §§§§§§§§ 1708, 1709, 1710, 1711, 1712, 1713, 1714, 1721) and (d) constitutes an unlawful mistake of fact and law for the purpose to deceive, a further violation of CA law, (CA Civil Code §§§§§§§§§§§§ 1565, 1567, 1568, 1569, 1570, 1572, 1574, 1575, 1576, 1577, 1578, 1588).

(15) DPW's Fraud violates CA Law: CA Civil Code 1708 – 1721 ensures that every person is bound, without contract, to abstain from injuring the person or property of another, or infringing upon any of his or her rights, noting specifically that one who willfully deceives

another with intent to induce him to alter his position to his injury or risk, is liable for any damage which he thereby suffers. A deceit, within the meaning of the law, is either (a) the suggestion, as a fact, of that which is not true, by one who does not believe it to be true, or (b) the assertion, as a fact, of that which is not true, by one who has no reasonable ground for believing it to be true. And all DPW agents are responsible, not only for the result of his or her willful acts, but also for an injury occasioned to any citizen by his or her want of ordinary care or skill in the management of his or her property or person.

(16) DPW's mistakes of fact and law violate CA Law: CA Civil Code 1565- 1588 ensures that consent or agreements between citizens and government must be free and mutual, and such consent or agreement is not real or free when obtained through duress, menace, fraud, undue influence, or mistake. Duress and menace include unlawful detention of the property of a citizen or fraudulently made unjust harassment or oppression of a citizen. Fraud is always a question of fact and is (a) the suggestion, as a fact, of that which is not true, by one who does not believe it to be true, or (b) the positive assertion, in a manner not warranted by the information of the person making it, of that which is not true, though he believes it to be true, or (c) any other act fitted to deceive. Undue influence occurs when DPW, who holds a real or apparent authority over a citizen, uses their authority for the purpose of obtaining an unfair advantage over the citizen. A mistake of fact is an unconscious ignorance or forgetfulness of a fact past or present, material to the agreement between citizens and DPW, or the DPW agent's belief in the present existence of a thing material to the agreement, which does not exist, or in the past existence of such a thing, which has not existed. And a mistake of law is a misapprehension of the law by all DPW agents, all supposing that they knew and understood it, and all making substantially the same mistake as to the law.

(17) The six additional DPW violation notices that unlawfully suggest public right-of-way crime where no public right-of-way exists, additional mistakes of fact, mistakes of law, and fraud, occurred on December 10, 2021, January 13, 2022, February 3, 2022, April 5, 2022, May 4, 2022, and December 1, 2023 (**Exhibit H)**, and constitute DPW's *sixth*, *seventh, eighth, nineth, tenth* and *eleventh* negligent mistakes of law and fact for which DPW is liable.

(18) DPW's abuse of discretion by fraudulently claiming a public right-of-way violation where no public right-of-way exists does not qualify for government immunity according to California Law; CA Gov. Code § 822.2 specifies that 'a government employee acting in the scope of his employment is liable for an injury caused by his misrepresentation, whether or not such misrepresentation be negligent or intentional, when he is guilty of actual fraud, corruption, or actual malace,' fulfilling the requirement for DPW liability. And Gov. Code § 820.8 emphasizes that "[n]othing in this section exonerates a public employee from liability for injury proximately caused by his own negligent or wrongful act or omission."

B. DPW's Unlawful Disregard of the Jurisdictional Requirement that a Public Right-of-Way Exist in Order to Claim Violations Within a Public Right-of-Way Constitutes Fraud Used to Conduct Unlawful Investigations, Convictions, and Sentencing for Non-Existent Public Right-of-Way Crimes to Extort Money, Property, and Other Considerations from Innocent Citizens, which CA Law Defines as Extortion.

(19) DPW used their fraudulent claim of a public right-of-way where no public right-of-way exists (**Exhibit A-J**), to unlawfully convict our family of non-existent public right-of-way crimes in order to extort money, property, and other considerations (**Exhibit H**), such as (a) obtaining a minor sidewalk encroachment permit, (b) paying the fee of $206.55 for Minor Sidewalk Encroachment Permit, (c) moving our legal fence 9 feet into our property, (d)

deconstructing our legal-4-foot fence to 3-feet in height, (e) moving our legal fence to allow 3 feet clearance around the streetlight pole and box on Holloway Ave which is also a misinterpretation of SFPUC streetlight guidelines by DPW,[2] (f) acquiring and paying for a DPW General Excavation permit to remove our legal arbor, (g) removing our legal arbor, (h) acquiring and paying for a building permit with plans to remove the legal gas line, (i) acquiring and paying for another plumbing permit to remove the legal gas line, (j) acquiring and paying for a DPW General Excavation permit to remove our legal gas line, and (k) removing our legal gas line for our legal fire table.

(20) DPW's wrongful use of force, fear, and threats with their accusations of non-existent public right-of-way crimes where no public right-of-way exists to extort property and other consideration (anything of value) from this innocent family, is an illegal abuse of discretion defined by California law as extortion, CA Penal Code §§§§§§ 518, 519, 520, 521, 523, 524. CA Penal Code defines extortion as the obtaining of property or other consideration (anything of value) from a citizen, with his or her consent induced by a wrongful use of force or fear, or under color of official right. Fear constituting extortion occurs from DPW's accusation of a crime,

---

[2] Regarding streetlight-pole safety, DPW compliance with SF Public Works Code§ 723 and SF Admin. Code Chapter 80 must include an understanding and compliance with SFPUC Streetlight Guideline #20 (page 5 of revision 4): "All streetlights need to be adequately protected. If the streetlight is not located on the sidewalk with a 6 in curb at least 24 in from the center of the streetlight pole to face of the curb, a variance needs to be requested and approved. The proposed protection needs to be equivalent to the standard. There must be at least a 3 ft working clearance around the streetlight pole and box."

This guideline describes the process to (1) create appropriate protections for streetlights (2) that are less than 24 inches from the curb.

SFPUC Streetlight Guideline #20 does *not* apply to our streetlight pole as our streetlight pole is more than 72 inches from the curb. In addition to the protection of having more than 72 inches between the center of our streetlight pole and the curb, our streetlight pole has the additional protection of the 4-foot fence as well as proper working clearance as this streetlight pole is located safely within our public-utility easement which allows for proper access.

which is a threat. And those who extort are guilty of a misdemeanor punishable by imprisonment and/or fine. And CA Gov Code §820.4 imputes DPW liability for false accusations and false convictions of public right-of-way crimes where no public right-of-way exists.

(21) DPW's acts of extortion on November 24, 2021, December 10, 2021, January 13, 2022, February 3, 2022, April 5, 2022, May 4, 2022, June 13, 2022, and December 1, 2023 (**Exhibit H)**, to deprive this family of our fundamental civils rights of property, liberty, equal protection of the law, and due process are DPW's *twelfth, thirteenth, fourteenth* and *fifteenth* negligent mistakes of law and fact for which DPW is liable.

C. DPW's Unlawful Disregard of the Jurisdictional Requirement that a Public Right-of-Way Exist in Order to Claim Violations Within a Public Right-of-Way Constitutes Fraud Used to Unlawfully Convict and Sentence Citizens for Non-Existent Public Right-of-Way Crimes to Extort Money, Property, and Other Considerations from Innocent Citizens to Deprive Citizens of their Fundamental Civil Rights of Privacy, Liberty, Property, Equal Protection of the Law, and Due Process, which CA Law Defines as Abuse of Power.

(22) DPW conducted unlawful and unconstitutional searches of our property without probable cause of public right-of-way dangers and without consent to deprive us of our fundamental civil rights of privacy, equal protection of the law, and due process. DPW then unlawfully convicted us of non-existent public right-of-way crime, depriving us of our fundamental civil rights of liberty, equal protection of the law, and due process. DPW then unlawfully sentenced us to give up money, property, and other considerations that do not make any public right-of-way safer but only devalue, denigrate, and destroy our *private* property, depriving us of our fundamental civil rights of liberty, property, equal protection of the law, and

due process. DPW's unlawful deprivation of fundamental civil rights without a valid government interest in public safety are illegal abuses of discretion defined by California and Federal law as abuse of power, CA Civil Code § 52.1 and 42 U.S.C. § 1983. First, 42 U.S.C. § 1983 states that every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. And second, CA Civil Code § 52.1, Tom Bane Civil Rights Act, states that any DPW agent is liable when that "person or persons, whether or not acting under color of law, interferes by threat, intimidation, or coercion, or attempts to interfere by threat, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state."

IV. PRAYER FOR RELIEF

Therefore, this family respectfully requests that this Board:

(23) Declare that DPW abused their discretion by (a) conducting an unconstitutional search of our *private* property outside of their jurisdiction as there is no public right-of-way on our property, which was also without the civil right, due process requirement of consent, to (b) unlawfully claim a public right-of-way that does not exist, to (c) unlawfully claim a public right-of-way crime where no public right-of-way exists, to (d) unlawfully require (but then deny) a Minor Sidewalk Encroachment Permit outside of their jurisdiction as no encroachment onto any sidewalk nor any public right-of-way exists, to (e) unlawfully require deconstruction and excavation of legal and safe *private* property outside of their jurisdiction as no encroachment

onto any public right-of-way exists, to (f) unlawfully list misinterpretations of streetlight statutes to claim a non-existent streetlight violation which is also outside of their jurisdiction as the streetlight is not located in any public right-of-way, to ultimately and (g) unlawfully prevent the completion of our fence-repair permit 2017-1011-0923 which was also outside of DPW jurisdiction as our fence does *not* encroach onto any sidewalk *nor* is it located within any public right-of-way.

(24) We pray that the Board of Appeals directs DPW to issue a new decision holding that (a) DPW erred in claiming a public right-of-way that does not exist to unlawfully suggest jurisdiction, that (b) DPW erred in mandating a Minor Sidewalk Encroachment Permit where no encroachment onto any public right-of-way exists which was also outside of their jurisdiction, that (c) DPW erred in mandating deconstruction and excavation of private property where no public right-of-way exists which was also outside of their jurisdiction, that (d) DPW erred in unlawfully listing misinterpretations of streetlight statutes as violations, and that (e) DPW erred in preventing finalization of fence-repair-permit 2017-1011-0923 outside of their jurisdiction as the subject fence is not located within any public right-of-way but rather is located within private property.

(25) If any of the relief sought here is outside of the Board of Appeal's jurisdiction, we humbly request that the Board of Appeals remand any relief request outside of your jurisdiction to be included in SF Superior Court Case No.: CGC-22-601288; SF Superior Court Case No.: CGC-22-601288 includes all circumstances surrounding Enforcement Case 2017-012837ENF, under which this DPW unlawful investigation, unlawful mandate for a minor sidewalk encroachment permit, and unlawful prevention of finalization of fence-repair-permit 2017-1011-0923 are included.

Exhibit A: repaired fence with the addition of sidewalk lighting

Exhibit B: <u>Zillow Pictures</u> of the fence along the property edge prior to our 2012 purchase of the property

Exhibit C: Google historic pictures of the fence along our property edge prior to our 2017 repair

Exhibit D: Citizen noise complaint

"The resident at this address has been consistently doing construction and playing loud music from 10am-6pm/7pm most days of the week. I would like to request the music volume be lowered or turned off. I can hear it in my apartment all day."

Welcome to our Permit / Complaint Tracking System!

COMPLAINT DATA SHEET

Complaint Number:	201703961		
Owner/Agent:	OWNER DATA SUPPRESSED	Date Filed:	
Owner's Phone:	--	Location:	201 ASHTON AV
Contact Name:		Block:	6932
Contact Phone:	--	Lot:	008
Complainant:	COMPLAINANT DATA SUPPRESSED	Star:	
		Rating:	
		Occupancy Code:	
		Received By:	Adora Conolal
Complainant's Phone:		Division:	PID
Complaint Source:	311 INTERNET REFERRAL		
Assigned to Division:	CES		
Description:	The resident at this address has been consistently doing construction and playing loud music from 10am-6pm/7pm most days of the week. I would like to request the music volume be lowered or turned off. I can hear it in my apartment all day.		
Instructions:	311 SR No. 7570260		

INSPECTOR INFORMATION

DIVISION	INSPECTOR	ID	DISTRICT	PRIORITY
CES	LAM	6383		

REFFERAL INFORMATION

DATE	REFERRED BY	TO	COMMENT
1/31/2019	Mauricio Hernandez	BID	Case refer to BID per email, owner is working on a variance process with DCP. mh
12/18/2017	Sylvia Thai	CES	per Carl Weaver to CES
3/28/2022	Thu Ha Thi Truong	CES	per JG

COMPLAINT STATUS AND COMMENTS

DATE	TYPE	DIV	INSPECTOR	STATUS	COMMENT
09/06/17	CASE OPENED	BID	Weaver	CASE RECEIVED	
09/07/17	OTHER BLDG/HOUSING VIOLATION	BID	Weaver	CASE UPDATE	case reviewed, to be assigned to complaint investigation team. mh
09/08/17	OTHER BLDG/HOUSING VIOLATION	BID	Weaver	CASE UPDATE	Case review permit research. C Weaver
09/11/17	OTHER BLDG/HOUSING VIOLATION	BID	Weaver	FIRST NOV SENT	A complaint investigation revealed the installation of a new fence without the benefit of a building permit. A notice of violation was issued. C Weaver
09/12/17	OTHER BLDG/HOUSING VIOLATION	INS	Weaver	CASE UPDATE	Mailed 1st NOV. s.tha
10/13/17	OTHER BLDG/HOUSING VIOLATION	BID	Weaver	CASE UPDATE	PA 201710110923 was filed to comply with NOV. C Weaver

Exhibit E: Department of Building Inspection September 11, 2017, Violation Notice

NOTICE OF VIOLATION

of the San Francisco Municipal Codes Regarding Unsafe, Substandard or Noncomplying Structure or Land or Occupancy

DEPARTMENT OF BUILDING INSPECTION
City and County of San Francisco
1660 Mission St. • San Francisco, CA 94103 - 2414

X FIRST NOTICE
☐ SECOND NOTICE
☐ OTHER:

COMPLAINT NUMBER 201703961

ADDRESS 201 Ashton Ave
DATE 9/11/17
OCCUPANCY / USE R-3
BLOCK 6932 LOT 008
CONST. TYPE V
STORIES 1 ☐ BASEMENT
X If checked, this information is based upon site observation only. Further research may indicate that legal use is different. If so, a revised Notice of Violation will be issued.
OWNER / AGENT
PHONE #
MAILING ADDRESS
CITY
ZIP
PERSON CONTACTED @ SITE
PHONE #

VIOLATION DESCRIPTION:

X WORK WITHOUT PERMIT (SFBC 103A); ☐ ADDITIONAL WORK-PERMIT REQUIRED (SFBC 106A.4.7);
☐ EXPIRED PERMIT (SFBC 106A.4.4); ☐ CANCELLED PERMIT (SFBC 106A.3.7) PA#
☐ UNSAFE BUILDING (SFBC 102A); ☐ SEE ATTACHMENTS

CODE / SECTION #

A complaint investigation has revealed the installation of a new fence on a corner lot without the benefit of a building permit. The fence is on three sides of the property and ranges between 4' and 6' in height — 103A

Monthly monitoring fee per table 1 A-K SFBC

BC - Building Code HC - Housing Code PC - Plumbing Code EC - Electrical Code MC - Mechanical Code

CORRECTIVE ACTION:

X STOP ALL WORK SFBC 104A.2.4

X FILE BUILDING PERMIT APPLICATION WITHIN 30 DAYS X WITH PLANS. A Copy of This Notice Must Accompany the Permit Application.
X OBTAIN PERMIT WITHIN 60 DAYS AND COMPLETE ALL WORK WITHIN 90 DAYS, INCLUDING FINAL INSPECTION AND SIGNOFF.
☐ CORRECT VIOLATIONS WITHIN ____ DAYS. ☐ NO PERMIT REQUIRED.
☐ YOU FAILED TO COMPLY WITH THE NOTICE(S) DATED ____. THEREFORE THIS DEPT. HAS INITIATED ABATEMENT PROCEEDINGS.
☐ FAILURE TO COMPLY WITH THIS NOTICE WILL CAUSE ABATEMENT PROCEEDINGS TO BEGIN. SEE REVERSE SIDE FOR ADDITIONAL WARNINGS.

Obtain building permit with plans and Planning Department approval. Or, Reduce fence to 3' in height.

INVESTIGATION FEE OR OTHER FEE WILL APPLY See reverse side for further explanation
△ 3x Permit Fee (Work w/o Permit after 9/1/80) △ 2x Permit Fee (Work Exceeding Scope of Permit)
☐ Other ____ ☐ Reinspection Fee $ ____ X No penalty (Work w/o permit prior to 9/1/80)

APPROX. DATE OF WORK W/O PERMIT ____ VALUE OF WORK PERFORMED WITHOUT PERMITS ____

BY ORDER OF THE DIRECTOR, DEPARTMENT OF BUILDING INSPECTION

CONTACT INSPECTOR Carl Werner (Inspector – Print Name)
OFFICE HOURS 7:30 TO 8:30 AM AND 3:00 TO 4:00 PM
PHONE # 415 558 6634
By: (Inspector's Signature) Carl Werner DISTRICT #
cc: X DCP ☐ EID ☐ PID ☐ BID ☐ HS ☐ CED ☐ PRS ☐ DAD ☐ SFFD ☐ DPH ☐ PS

X Building Inspection Division, 3rd Floor, 1660 Mission St. 558-6086
☐ Housing Inspection Services, 6th Floor, 1660 Mission St. 558-6220
☐ Electrical Inspection Division, 3rd Floor, 1660 Mission St. 558-6070
☐ Plumbing Inspection Division, 3rd Floor, 1660 Mission St. 558-6054
☐ Code Enforcement Division, 3rd Floor, 1660 Mission St. 558-6454

REMOVE TAPE AND SEAL ENVELOPE

Pursuant to SFBC 107A.5 and 106A.4.7 investigation fees are charged for work begun or performed without permits or for work exceeding the scope of permits. Such fees may be appealed to the Board of Permit Appeals within 15 days of permit issuance, at 1650 Mission St. 3rd floor. 415-575-6880

WARNING: Failure to take immediate action as required to correct the above violations will result in abatement proceedings by the Department of Building Inspection. **If an Order of Abatement is recorded against this property, the owner will be billed or the property will be liened for all costs incurred in the code enforcement process from the posting of the first "Notice of Violation" until all costs are paid.** SFBC 100A

WARNING: Section 204 of the San Francisco Housing Code provides for immediate fines of $100 for each instance of initial non-compliance, followed by $200 fines per violation for the second instance of non-compliance, up to a maximum of $7,500 per building. This section also provides for issuance of a criminal charge as a misdemeanor for each violation, resulting in fines of not less than $1,000 per day or six months' imprisonment or both.

WARNING: Anyone who derives rental income from housing determined by the Department of Building Inspection to be substandard cannot deduct from state personal income tax and bank and corporate income tax interest, depreciation or taxes attributable to such substandard structure. If correction work is not completed or being diligently, expeditiously and continuously prosecuted after six (6) months from the date of this notice, notification will be sent to the Franchise Tax Board as provided in Section 17264(c) of the Revenue and Taxation Code.

WARNING: Section 106A.1 of the San Francisco Building Code provides for civil fines of up to $500 per day for any person who violates, disobeys, omits, neglects or refuses to comply with or opposes the execution of any provisions of this code. The section also provides for misdemeanor fines, if convicted, of up to $500 and/or imprisonment up to six months for each separate offense for every day such offense occurs.

De acuerdo a las Secciones 107A.5 y 106A.4.7 de el Código de Construcción de Edificios de San Francisco, gastos de investigación serán cobrados por trabajo empezado o realizado sin los debidos permisos o por trabajo que exceda el límite estipulado en los permisos. Dichos cargos pueden ser apelados ante la Junta de Apelaciones de Permisos (Board of Permit Appeals) dentro de los primeros quince días de haberse obtenido el permiso. Las apelaciones se hacen en el 875 de la calle Stevenson, cuarto piso, teléfono 554-6720.

ADVERTENCIA: Si no cumple con las acciones inmediatas requeridas para corregir las infracciones, el Departamento de Inspección de Edificios tendrá el derecho de iniciar el proceso de mitigación. Si una Orden de Mitigación es registrada contra dicha propiedad, los gastos incurridos durante el proceso de aplicación del código, desde la primera puesta del Aviso de Infracción hasta que todos los gastos estén pagados, se le cobrarán al dueño del edificio o la propiedad será embargada para recuperar dichos gastos. Referencia a la Sección 100A de el Código de Construcción de Edificios.

ADVERTENCIA: La Sección 204 de el Código de Vivienda de San Francisco permite que se multe inmediatamente $100 por cada primer caso de inconveniente, seguida por una multa de $200 por cada segunda infracción de inconveniente, aumentando hasta un máximo de $7,500 por cada edificio. Esta Sección también permite obtener cargos criminales como delito menor, resultando en multas de no menos de $1,000 diarios o 6 meses de encarcelamiento o ambas sanciones.

ADVERTENCIA: Cualquier persona que reciba renta por una vivienda que haya sido declarada que no satisface las normas requeridas por el Departamento de Inspección de Edificios, no puede deducir del estado ingresos personales, de banco o empresa, depreciación o taxes atribuibles sobre dicha estructura. Si el trabajo de reparación no se termina o está diligentemente, rapidamente y continuamente seguido después de seis (6) meses de la fecha de este aviso, se le enviará una notificación a la Junta de Concesión de Impuestos (Franchise Tax Board) de acuerdo a la Sección 17264(c) del Código de Ingresos e Impuestos (Revenue and Taxation Code).

ADVERTENCIA: La Sección 106A.1 de el Código de Edificios de San Francisco impone multas civiles hasta de $500 por cada día a cualquier persona que infrinja, desobedezca, omita, descuide, rehuse cumplir, resiste o se opone a la ejecución de las provisiones de este código. Esta sección también impone multas por delito menor, si es declarado culpable, de hasta $500 o encarcelamiento de hasta 6 meses, o ambas sanciones, por cada una de las ofensas y por cada día que dicha ofensa ocurre.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

TAPE AND SEAL ENVELOPE REMOVE TAPE AND SEAL ENVELOPE REMOVE TAPE AND SEAL ENVELOPE REMOV

Exhibit F: Page 1 of Fence-Repair Permit mandated by DBI

BLDG. FORM 3/8

APPROVED FOR ISSUANCE

APPLICATION NUMBER 2017.01.1-0923

OSHA APPROVAL REC'D ☐ APPROVAL NUMBER

CES- 20170396 1
~~20170396 1 BIO~~

APPLICATION FOR BUILDING PERMIT ADDITIONS, ALTERATIONS OR REPAIRS

FORM 3 ☐ OTHER AGENCIES REVIEW REQUIRED
FORM 8 ☑ OVER-THE-COUNTER ISSUANCE
2 NUMBER OF PLAN SETS

CITY AND COUNTY OF SAN FRANCISCO DEPARTMENT OF BUILDING INSPECTION

APPLICATION IS HEREBY MADE TO THE DEPARTMENT OF BUILDING INSPECTION OF SAN FRANCISCO FOR PERMISSION TO BUILD IN ACCORDANCE WITH THE PLANS AND SPECIFICATIONS SUBMITTED HEREWITH AND ACCORDING TO THE DESCRIPTION AND FOR THE PURPOSE HEREINAFTER SET FORTH.

▼ DO NOT WRITE ABOVE THIS LINE ▼

DATE FILED	FILING FEE RECEIPT NO.	(1) STREET ADDRESS OF JOB	BLOCK & LOT
		201 Ashton Av	6932/008
PERMIT NO.	ISSUED	(2A) ESTIMATED COST OF JOB: $1800.00	(2B) REVISED COST: $1800 DATE: 11.24.21

INFORMATION TO BE FURNISHED BY ALL APPLICANTS

LEGAL DESCRIPTION OF EXISTING BUILDING

(4A) TYPE OF CONSTR.	(5A) NO. OF STORIES OF OCCUPANCY	(6A) NO. OF BASEMENTS AND CELLARS	(7A) PRESENT USE	(8A) OCCUP. CLASS	(9A) NO. OF DWELLING UNITS
Wood Frame	1	1	Residental / SFD	~~Single Family~~ R3	1

DESCRIPTION OF BUILDING AFTER PROPOSED ALTERATION

(4) TYPE OF CONSTR.	(5) NO. OF STORIES OF OCCUPANCY	(6) NO. OF BASEMENTS AND CELLARS	(7) PROPOSED USE (LEGAL USE)	(8) OCCUP. CLASS	(9) NO. OF DWELLING UNITS
Wood Frame	1	1	Residental / SFD	~~Single Family~~ R3	1

(10) IS AUTO RAMWAY TO BE CONSTRUCTED OR ALTERED? YES ☐ NO ☑
(11) WILL STREET SPACE BE USED DURING CONSTRUCTION? YES ☐ NO ☑
(12) ELECTRICAL WORK TO BE PERFORMED? YES ☐ NO ☑
(13) PLUMBING WORK TO BE PERFORMED? YES ☐ NO ☑

(14) GENERAL CONTRACTOR: N/A — ADDRESS — ZIP — PHONE — LICENSE NO. — EXPIRATION DATE

(15) OWNER ~~NAME~~ (CROSS OUT ONE): Raelyn Rappel — ADDRESS: 201 Ashton Ave. — ZIP: 94112 — STATE: N/A — PHONE (FOR CONTACT BY DEPT.): 916-879-7748

(16) WRITE IN DESCRIPTION OF ALL WORK TO BE PERFORMED UNDER THIS APPLICATION (REFERENCE TO PLANS IS NOT SUFFICIENT)
In our effort to remove blight, as defined in Chapter 80 of the San Francisco Administrative Code, we would like to ① repair the dilapidated, rotting, dangerous, 4-foot wooden fence surrounding the front of our home, and ② replace a rat-infested, 10-foot high, overgrown hedge alongside our driveway with a 4-6 foot wooden fence. To Comply w/NOV 20170396 1 like for like -

ADDITIONAL INFORMATION

(17) DOES THIS ALTERATION CREATE ADDITIONAL HEIGHT OR STORY TO BUILDING? YES ☐ NO ☑
(18) IF (17) IS YES, STATE NEW HEIGHT AT CENTER LINE OF FRONT
(19) DOES THIS ALTERATION CREATE NEW OR HORIZ. EXTENSION TO BUILDING? YES ☐ NO ☑
(20) IF (19) IS YES, STATE NEW GROSS FLOOR AREA — SQ. FT.
(21) WILL SIDEWALK OVER SUB-SIDEWALK SPACE BE REPAIRED OR ALTERED? YES ☐ NO ☑
(22) WILL BUILDING EXTEND BEYOND PROPERTY LINE? YES ☐ NO ☑
(23) ANY OTHER EXISTING BLDG. ON LOT? (IF YES, SHOW ON PLOT PLAN) YES ☐ NO ☑
(24) DOES THIS ALTERATION CONSTITUTE A CHANGE OF OCCUPANCY? YES ☐ NO ☑

(25) ARCHITECT OR ENGINEER (DESIGN ☐ CONSTRUCTION ☐) — ADDRESS — CALIF. CERTIFICATE NO.
N/A

(26) CONSTRUCTION LENDER (ENTER NAME AND BRANCH DESIGNATION IF ANY. IF THERE IS NO KNOWN CONSTRUCTION LENDER, ENTER "UNKNOWN") — ADDRESS
N/A

IMPORTANT NOTICES

No change shall be made in the character of the occupancy or use without first obtaining a Building Permit authorizing such change. See San Francisco Building Code and San Francisco Housing Code.

No portion of building or structure or scaffolding used during construction to be closer than 6'0" to any wire conducting more than 750 volts. See Sec. 3306, California Penal Code.

Pursuant to San Francisco Building Code, the building permit shall be posted on the job. The owner is responsible for approved plans and application being kept at building site.

NOTICE TO APPLICANT

HOLD HARMLESS CLAUSE. The permittee(s) by acceptance of the permit, agree(s) to indemnify and hold harmless the City and County of San Francisco from and against any and all claims, demands and actions for damages resulting from operations under this permit, regardless of negligence of the City and County of San Francisco, and to assume the defense of the City and County of San Francisco against all such claims, demands or actions.

In conformity with the provisions of Section 3800 of the Labor Code of the State of California, the applicant shall have worker's compensation coverage under (1) or (2) designated below, or shall indicate item (3), (4), or (5), whichever is applicable. If however item (5) is checked, item (4) must be checked as well. Check the appropriate

Exhibit G: The California Land Title Association (CTLA) Preliminary Report containing the conditions under which the title company issued title insurance to our property.

ITEMS: (continued)

Title No. 12-463129-8-KD
Locate No. CAFNT0938-0901-0021-0000463129

5. **Covenants, conditions and restrictions** in the declaration of restrictions but omitting any covenants or restrictions, if any, including, but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law.

Recorded: September 18, 1922, Book 534, Page 308, of Official Records

Modification(s) of said covenants, conditions and restrictions

Recorded: March 3, 1939, Book 3422, Page 98, of Official Records

6. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as reserved in a document;

Reserved by:	Urban Realty Improvement Company
Purpose:	Public utility
Recorded:	September 18, 1922, Book 532, Page 308, of Official Records
Affects:	Rear or Interior side lines, not to be nearer than 20 feet to any street

7. **A deed of trust** to secure an indebtedness in the amount shown below, and any other obligations secured thereby

Amount:	$752,000.00
Dated:	November 14, 2006
Trustor:	Laurent Legendre, an unmarried man
Trustee:	Town and Country Title Services, Inc.
Beneficiary:	Argent Mortgage Company, LLC
Loan No.:	0104420799-9507
Recorded:	November 28, 2006, Instrument No. 2006-I289160-00, Book 3275, Page 0011, of Official Records

8. **A deed of trust** to secure an indebtedness in the amount shown below, and any other obligations secured thereby

Amount:	$170,000.00
Dated:	November 14, 2006
Trustor:	Laurent Legendre, an unmarried man
Trustee:	Town and Country Title Services, Inc.
Beneficiary:	Argent Mortgage Company, LLC
Loan No.:	0104421276-9507
Recorded:	November 28, 2006, Instrument No. 2006-I289161-00, Book 3275, Page 0012, of Official Records

4

CLTA Preliminary Report Form - Modified (11/17/06)

Exhibit H:

Gmail

mihal emberton <mihal.emberton@gmail.com>

Fwd: 201 Ashton Ave

Tan, Ada (CPC) <ada.tan@sfgov.org> Wed, Nov 17, 2021 at 6:07 PM
To: mihal emberton <mihal.emberton@gmail.com>
Cc: Raelyn Ruppel <Raelyn98@hotmail.com>

Hi Mihal,

I'm also moving Jeff Buckley to Bcc since he works for DBI and this enforcement case pertains specifically to Planning Code issues.

I confirmed with DBI that a new building permit application will need to be filed for the fences since the 2017 permit was never reviewed/approved by the required City agencies. Do you have an original copy of the plans without any City stamps on it? These plans will be required to submit a new permit application. Please also email me a digital copy of the plans so I can review and ensure that I can proceed with approving it on Planning's end before I provide instructions regarding how you can file a permit.

The Department of Public Works, Bureau of Street-Use and Mapping (DPW-BSM) is also required to review/approve the permit before it can be issued. I checked in with their agency and they confirmed that the Public right of way (PROW) is 15 feet measured from the curb (along both Ashton Ave and Holloway Ave). Portions of the fence are located within the PROW and DPW stated that a minor encroachment permit is required before they can sign off on the building permit for the fence. If you have any questions regarding this requirement, please email BSMPermitDivision@sfdpw.org

Thanks for taking the time to review the Planning Code. I checked in with my manager and confirmed the following:

1. In regards to Section 132(d)(1), this provision does apply to your property. However, the front setback is measured as follows:
   - The lot depth for your property is **115 feet** per the Assessor's Map. The PROW is **15 feet**. Based on this information, your adjacent neighbor to the North has a required front setback of approximately 14 feet in depth, which results in your front setback being ~ 7 feet. The arbor is located within this area. Please reference the image attached to see how these amounts are measured.

2. Section 136(c)(1) allows for permitted obstructions of an architectural nature. Such obstructions need to be attached to the building itself, resulting in the feature projecting out and over required setbacks (i.e. the examples provided in the Code such as cornices, eaves, sills, etc.). Section 136(c)(22) applies to the sunshade/arbor located on your property - since such structures are not permitted in a required setback, a Variance is required to seek legalization of it.

Please let me know if you have any questions regarding the information provided in this message.

Thank you,

[Quoted text hidden]

201 Ashton Ave - Front Setback Measurement.JPG
343K


STOP


Distance: 15 Feet
PROW
Distance: 7 Feet
Front Setback
Lot Depth
Distance: 115.1 Feet

Gmail

mihal emberton <mihal.emberton@gmail.com>

201 Ashton Ave: minor sidewalk encroachment permit application

BSMpermitdivision (DPW) <bsmpermitdivision@sfdpw.org> Fri, Dec 10, 2021 at 6:30 PM
To: mihal emberton <mihal.emberton@gmail.com>
Cc: "Tan, Ada (CPC)" <ada.tan@sfgov.org>, Raelyn Ruppel <raelyn98@hotmail.com>

Good Evening Mihal—

Thank you for your recent application submittal. Please note that we will not be able to intake the application at this time as the Applicant Information section of the application form is not completed. While most of this information is available in the Property Owner Information section, please ensure that you enter the applicant's Driver's License or State ID number so that we can properly create an account for you in our system to intake the permit. Please resubmit the revised application form including all required permit documentation to this email.

Please keep in mind, however, that the installed fence is not consistent with Public Works' approval standards and it is discouraged to apply for a Minor Sidewalk Encroachment permit as Minor Sidewalk Encroachment permits are intended to provide amenities to the public right-of-way and are not intended to allow for tall, enclosing fence structures that have a privatizing effect on the public right-of-way. Based on the images available and site plan submitted, it is very unlikely we would be able to approve this structure as currently built under a Minor Sidewalk Encroachment permit due to its height and privatizing effect. It would be advisable to instead remove the encroachment or bring the encroachment inside such that it is fully contained within your property lines, and proceed to restore the public right-of-way to standard condition.

Best,

Nicholas Persky

Bureau of Street Use & Mapping | San Francisco Public Works | City and County of San Francisco

49 South Van Ness Avenue, Suite 300 | San Francisco, CA 94103

From: mihal emberton <mihal.emberton@gmail.com>
Sent: Saturday, December 04, 2021 3:31 PM
To: BSMpermitdivision (DPW) <bsmpermitdivision@sfdpw.org>

Cc: Tan, Ada (CPC) <ada.tan@sfgov.org>; Raelyn Ruppel <raelyn98@hotmail.com>
Subject: 201 Ashton Ave: minor sidewalk encroachment permit application

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Department of Public Works,

Here is our application for minor sidewalk encroachment permit for 201 Ashton Avenue:

Thank you,

Mihai and Raelyn

Sent from my iPhone

SAN FRANCISCO PUBLIC WORKS

image001.jpg
10K

Gmail

mihal emberton <mihal.emberton@gmail.com>

RE: 201 Ashton Ave - BPA# 201710110923 - 21MSE-00688

Li, Kevin (DPW) <kevin.li@sfdpw.org> Thu, Jan 13, 2022 at 3:12 PM
To: "mihal.emberton@gmail.com" <mihal.emberton@gmail.com>
Cc: "Tang, Eleanor (DPW)" <eleanor.tang@sfdpw.org>, "Tse, Bernie (DPW)" <bernie.tse@sfdpw.org>

Hi Mihal,

After review of your application, it has been determined that the fence can remain subject to the following conditions/alterations:

1. Fence height to be reduced to 3 feet
2. 3 feet clearance around the streetlight pole and box on Holloway Ave required by SFPUC. For additional information on asset protection of SFPUC facilities, please visit https://sfpuc.org/sites/default/files/documents/StreetlightGuidelines_20210701.pdf
3. 3 feet path of travel required between the trees and fence on Holloway Ave (provide photos with tape measure clearly showing the path of travel width)

In addition, the approximate 10 ft X 10 ft cedar pergola and the propane fire table shall be removed from the right-of-way. The right-of-way is a public space and shall not be altered for private use.

Lastly, the drawing provided is required to show all features in the right-of-way such as street light and box, trees, location of pavers, location of landscaping, and the altered location of the fence.

Thank you,

Kevin Li
Permits Division

Bureau of Street-Use and Mapping | San Francisco Public Works | City and County of San Francisco

49 South Van Ness, 3rd Floor | San Francisco, CA 94103 | direct (628) 271-2027 | sfpublicworks.org · twitter.com/sfpublicworks

From: mihal emberton <mihal.emberton@gmail.com>
Sent: Sunday, December 12, 2021 2:55 PM
To: BSMpermitdivision (DPW) <bsmpermitdivision@sfdpw.org>
Cc: Tan, Ada (CPC) <ada.tan@sfgov.org>; Raelyn Ruppel <raelyn98@hotmail.com>
Subject: RE: 201 Ashton Ave: minor sidewalk encroachment permit application

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Mr. Persky,

Thank you so much for your kind guidance. Here is our updated permit application.

Best,

Mihal Emberton
530-219-0665

Sent from my iPhone

image001.jpg
10K

Gmail

mihal emberton <mihal.emberton@gmail.com>

RE: 201 Ashton Ave - BPA# 201710110923 - 21MSE-00688

Li, Kevin (DPW) <kevin.li@sfdpw.org> Thu, Feb 3, 2022 at 3:48 PM
To: "mihal.emberton@gmail.com" <mihal.emberton@gmail.com>
Cc: "Tang, Eleanor (DPW)" <eleanor.tang@sfdpw.org>, "Tse, Bernie (DPW)" <bernie.tse@sfdpw.org>

Hi Mihal,

The Planning Department Zoning Variance (front setback variance) only applies to fences within your property line as specified in the variance decision document. Planning does not have jurisdiction in the public right-of-way. All other portions of the fence are located in the public right-of-way and subject to DPWs requirements. Thus, DPW's fence height and location requests supersede any other department.

As I mentioned above, the public right-of-way is DPW's jurisdiction and subject to DPW requirements and thus supersedes Building Departments issuance of a 2015 plumbing permit for the gas fire table located in the right-of-way. Under that permit, you are only allowed to have the gas fire table within your property line. Since the gas fire table is currently not within your property line, you are required to acquire a building permit with plans and another plumbing permit to correct this.

In addition, you are required to acquire a DPW General Excavation permit to remove the gas line and pergola and restore the right-of-way to City Standards.

Regarding the trees, please coordinate with Urban Forestry (Susan Nawbury), who has already been in contact with you.

[Quoted text hidden]

[Quoted text hidden]
[Quoted text hidden]

[Quoted text hidden]

Kevin Li

[Quoted text hidden]

image001.jpg
10K

Gmail

mihal emberton <mihal.emberton@gmail.com>

RE: 201 Ashton Ave - BPA#201710110923 - 21MSE-00688

Rivera, Javier (DPW) <Javier.Rivera@sfdpw.org> Tue, Apr 5, 2022 at 12:21 PM
To: "mihal.emberton@gmail.com" <mihal.emberton@gmail.com>
Cc: "Li, Kevin (DPW)" <kevin.li@sfdpw.org>

Good afternoon,

I am Kevin's supervisor and he has brought your application to my attention several times.

The current conditions privatizing the public right-of-way are not approvable. In order for this permit to move forward plans reflecting the alterations listed in Kevin's email of January 13, 2022 must be submitted. Please provide Kevin with updated plans showing the following:

1. The fence height to be reduced to 3 feet
2. 3 feet clearance around the streetlight pole and box on Holloway Ave., as required by SFPUC. For additional information on asset protection of SFPUC facilities, please visit https://sfpuc.org/sites/default/files/documents/StreetlightGuidelines_20210701.pdf
3. 3 feet path of travel required between the trees and fence on Holloway Ave (provide photos with tape measure clearly showing the path of travel width)
4. The removal of the 10 ft X 10 ft cedar pergola and the fire table.
5. Show all features in the right-of-way such as street light and box, trees, location of pavers, location of landscaping, and the altered location of the fence.

Public Works will not recommend the closure of the building complaint until these items are properly shown on the plans and permitted.

Regards,

Javier

SAN FRANCISCO PUBLIC WORKS

Javier Rivera, P.E.

Associate Engineer, Permits Division

Bureau of Street-Use and Mapping | San Francisco Public Works | City and County of San Francisco

49 South Van Ness, 3rd Floor | San Francisco, CA 94103 | direct (628) 271-2029 | sfpublicworks.org
twitter.com/sfpublicworks

Gmail

mihal emberton <mihal.emberton@gmail.com>

RE: 201 Ashton Ave - BPA#201710110923 - 21MSE-00688

Huff, Nicolas (DPW) <nicolas.huff@sfdpw.org> Wed, May 4, 2022 at 9:19 AM
To: mihal emberton <mihal.emberton@gmail.com>
Cc: "Li, Kevin (DPW)" <kevin.li@sfdpw.org>

Dr. Emberton,

We are in receipt of your letter attached to the email dated May 1, 2022.

A dedicated public right-of-way is for the use of all members of the public. Fencing off the public right-of-way for personal or private gain is not permissible. The public right-of-way is not bound to same laws, codes, and regulations as real estate. Furthermore, there are long established standard design and specifications for items in the right-of-way. These designs include, but are not limited to, clearances for safety, maintenance, and ADA accessibility.

Requiring the removal of private items from the right-of-way is not a taking of your property. You are free to keep these items, so long as proper DBI permits are obtained and they are placed within your private property. We understand that many owners want to beautify their neighborhood and permits are available for these items. However, these items must have proper clearances and provide public benefit.

Public Works will not recommend the closure of the building complaint until the alterations listed in Kevin's email of January 13, 2022 are addressed. Please provide Kevin with updated plans showing the following:

1. The fence height to be reduced to 3 feet
2. 3 feet clearance around the streetlight pole and box on Holloway Ave., as required by SFPUC. For additional information on asset protection of SFPUC facilities, please visit https://sfpuc.org/sites/default/files/documents/StreetlightGuidelines_20210701.pdf
3. 3 feet path of travel required between the trees and fence on Holloway Ave (provide photos with tape measure clearly showing the path of travel width)
4. The removal of the 10 ft X 10 ft cedar pergola and the fire table.
5. Show all features in the right-of-way such as street light and box, trees, location of pavers, location of landscaping, and the altered location of the fence.

Thank You,

Nicolas Huff, PE, PMP, CCM
Bureau Manager,
Bureau of Street-Use & Mapping
San Francisco Public Works | City and County of San Francisco
(628) 271-2000 |
sfpublicworks.org - twitter.com/sfpublicworks
P Please consider the environment before printing this e-mail.

Gmail

mihal emberton <mihal.emberton@gmail.com>

Re: 2017-012837ENF

Huff, Nicolas (DPW) <nicolas.huff@sfdpw.org> Mon, Jun 13, 2022 at 10:30 AM
To: mihal emberton <mihal.emberton@gmail.com>

Mr. Emberton -

The application of the codes has been long established and isn't open to mediation.

If you would like to pursue a legal avenue you can reach out to your representative with the Board of Supervisors for special Major Encroachment legislation. If legislation is not possible you can file for litigation with the City.

Thank You
Nicolas Huff

From: mihal emberton <mihal.emberton@gmail.com>
Sent: Sunday, June 12, 2022 11:15 AM
To: Huff, Nicolas (DPW) <nicolas.huff@sfdpw.org>
Subject: Re: 2017-012837ENF

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

[Quoted text hidden]

Sent from my iPhone

Nicolas Huff, PE, Bureau Manager | Bureau of Street-Use & Mapping
nicolas.huff@sfdpw.org | T. 628.271.2000 | 49 South Van Ness Ave. 3rd Floor, San Francisco, CA 94103

December 1, 2023

Mihal Emberton
201 Ashton Ave
San Francisco, CA 94112

Subject: Denial of Minor Sidewalk Encroachment Permit 21MSE-00688

Dr. Emberton,

This letter shall serve as notice that Public Works is denying your application, 21MSE-00688, for a Minor Sidewalk Encroachment Permit. The denial is effective as of the date of this letter. All of the items that are encroaching onto the public right-of-way shall be deconstructed and removed from the public right-of-way.

On January 13, 2022, you were notified via email of the conditions and alterations required to be reflected on your plans for your permit review to proceed. This included reducing the fence height to three feet; providing three feet of clearance around the streetlight pole and box on Holloway Ave.; providing three feet path of travel between the trees and fence on Holloway Ave.; and, the removal of the approximate 10 ft X 10 ft cedar pergola and the propane fire table. Further, the plans needed to show all features in the right-of-way such as the streetlight and box, trees, location of pavers, location of landscaping, and the altered location of the fence.

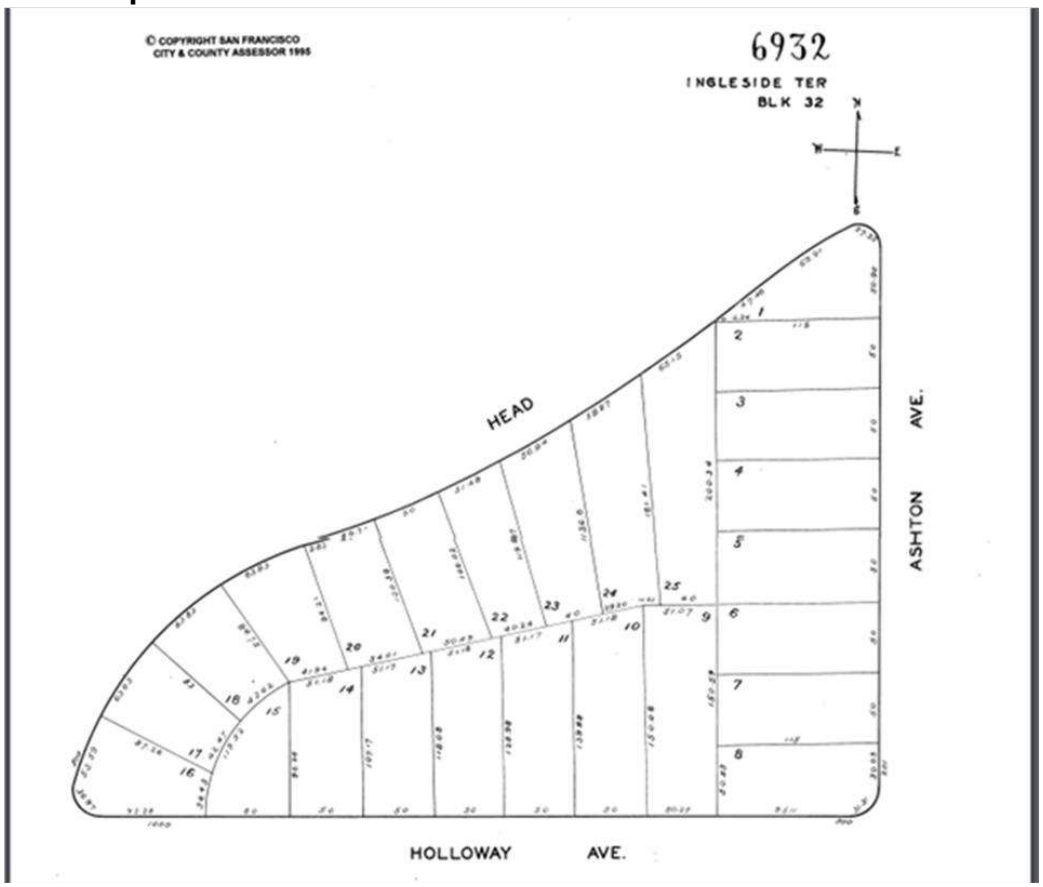
On June 2, 2022, you were notified that your permit application would be placed in inactive status on July 1, 2022 if updated plans were not provided. To date, updated plans have not been provided to Public Works.

Per Public Works Code Section 723.2(e)(2), you have the right to file an appeal with the San Francisco Board of Appeals (https://sf.gov/departments/board-appeals) within 15 days of the permit denial.

Regards,

Javier Rivera
Construction Permit Supervisor
Public Works

Exhibit I: 115-feet East-West property dimension described on the Assessor's Block Map



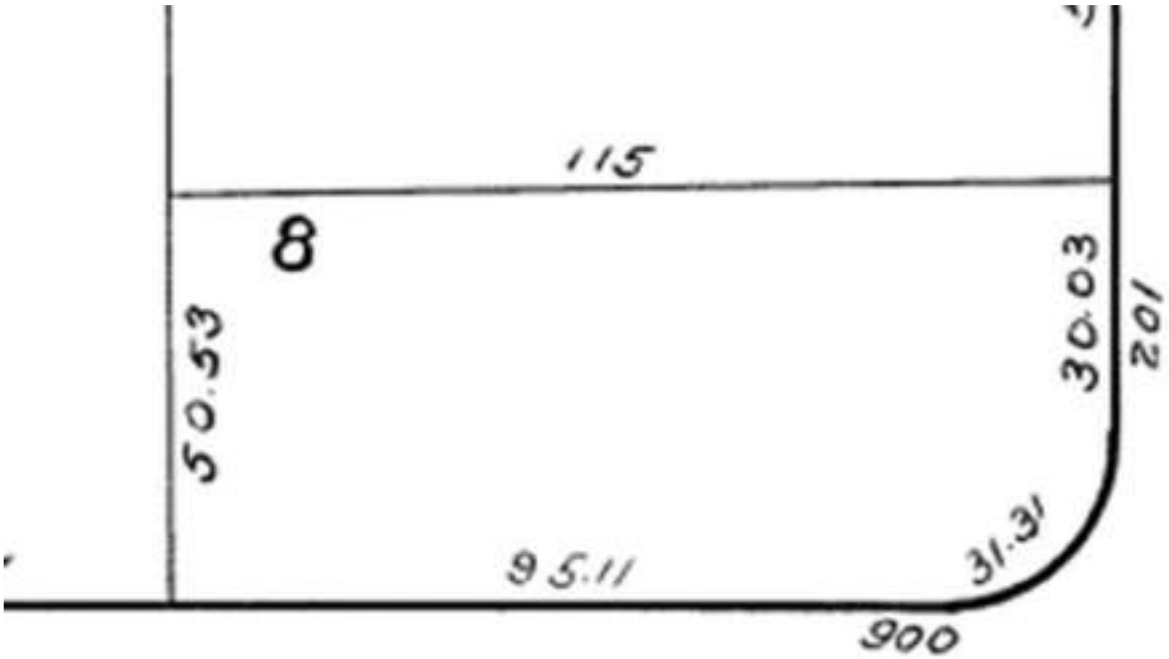
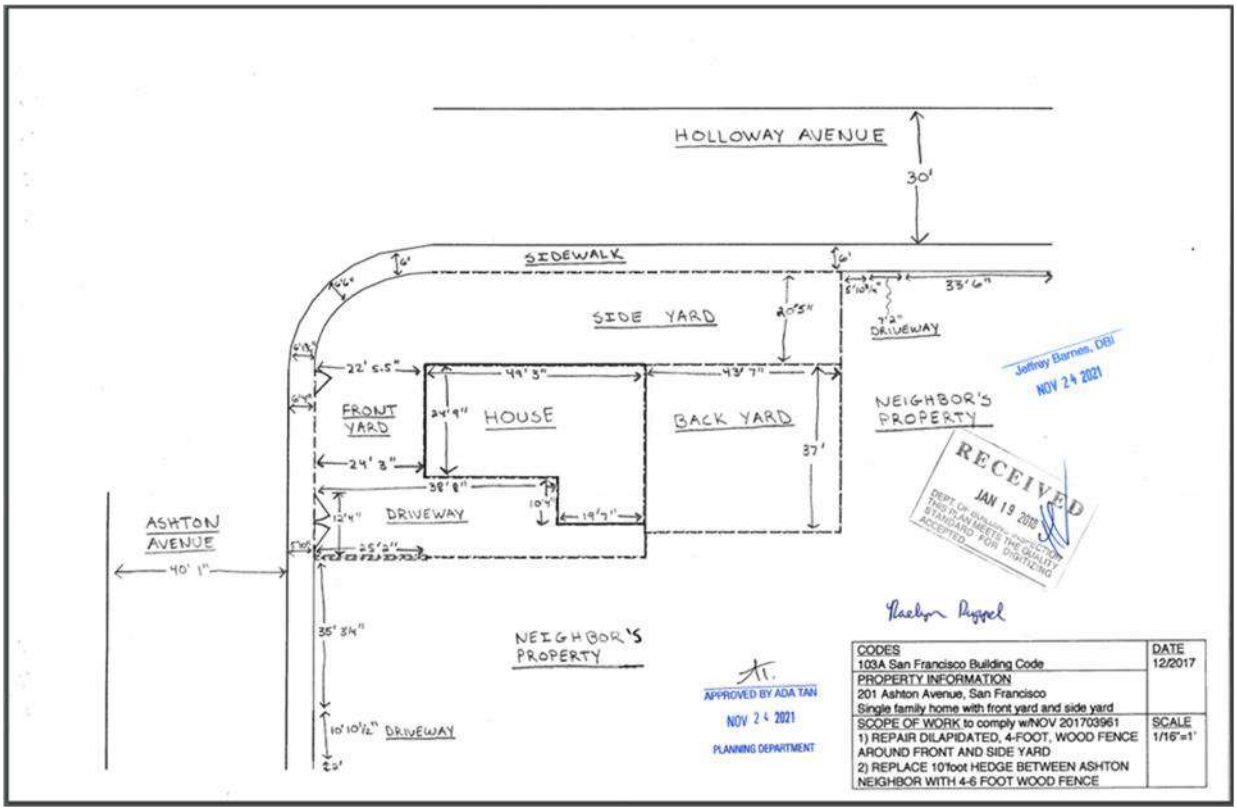


Exhibit J: 115-feet East-West property dimension extends from the back-yard fence to the property-edge along the sidewalk as measured and drawn-to-scale, 43.58' + 49.25' + 22.45' = 115.28 feet, on fence-repair-permit application 2017-1011-0923.



BRIEF(S) SUBMITTED BY RESPONDENT DEPARTMENT(S)

Nicolas Huff, PE, Bureau Manager | Bureau of Street-Use & Mapping
nicolas.huff@sfdpw.org | T. 628.271.2000 | 49 South Van Ness Ave. 3rd Floor, San Francisco, CA 94103

Date

President Jose Lopez
Vice President Alex Lemberg
Commissioner Rick Swig
Commissioner John Trasviña
Commissioner J.R. Eppler

City and County of San Francisco
Board of Appeals
49 South Van Ness, Suite 1475
San Francisco, CA 94103

RE: Appeal No. 23-067 for Minor Sidewalk Encroachment Permit application 21MSE-00688 (201 Ashton Ave.)

Dear Members of the Board of Appeals:

San Francisco Public Works submits this brief for the appeal of the denial of the above-referenced Minor Sidewalk Encroachment Permit application.

Parcel and Right-of-Way:

The property at 201 Ashton Ave. was originally created as Block 32 Lot 18 of the Ingleside Terraces Subdivision (Exhibit A of the appeal response, which shows sheet 3 of a Public Works street map). The parcel is approximately 115 feet by 50.5 feet and is located at the northwest corner of the intersection of Ashton Ave. and Holloway Ave.

The same map established the Ashton Ave. and Holloway Ave. public rights-of-way. The total width of Ashton Ave. is 70 feet, and the total width of Holloway Ave is 60 feet. The width of the right-of-way includes the official sidewalks and the roadway. Unlike most cities in California, the City and County of San Francisco owns most streets in fee simple title. Public Works does not claim to have a right-of-way

easement affecting 201 Ashton Ave. because the City and County of San Francisco owns the entirety of the 15 foot sidewalk area that is the subject of this appeal.

Figure 1(a) below shows the property in question along with right-of-way information (Exhibit B to the appeal response). The property is the green hatched area. The official sidewalks are bounded by the red lines and the green property lines. A larger image can be seen in Exhibit B.

Figure 1(a). Property and right-of-way information. See Exhibit B for a larger image.

Figure 1(b) below is a zoomed-in image of Exhibit A. Public Works has added informational text in red. The approximate locations of the sidewalks are shown in blue. The solid black property lines in Figure 1(b) are equivalent to the green lines in Figure 1(a). The map shows a survey monument line along Ashton Ave. The distance to the west (left) of the monument line is 64'. The distance to the east (right) of the monument line is 6'. Combined the right-of-way width for Ashton Avenue is 70' (this includes 15 foot sidewalks on the east and west sides of the street and a 40 foot wide roadway). Based on the official right-of-way width as described above and the physical design of the street, the 15 foot sidewalk fronting the property is wholly included within the Ashton Avenue 70' right-of-way. Note that this drawing also

shows in a dashed line the location of a structure in 1912 and the 15 foot distance from that line to the property boundary; however, this should not be confused with the official 15 foot sidewalk (approximate location shown in blue) that begins at the western edge of the property line and comprises a part of the 70 foot Ashton Avenue right-of-way.

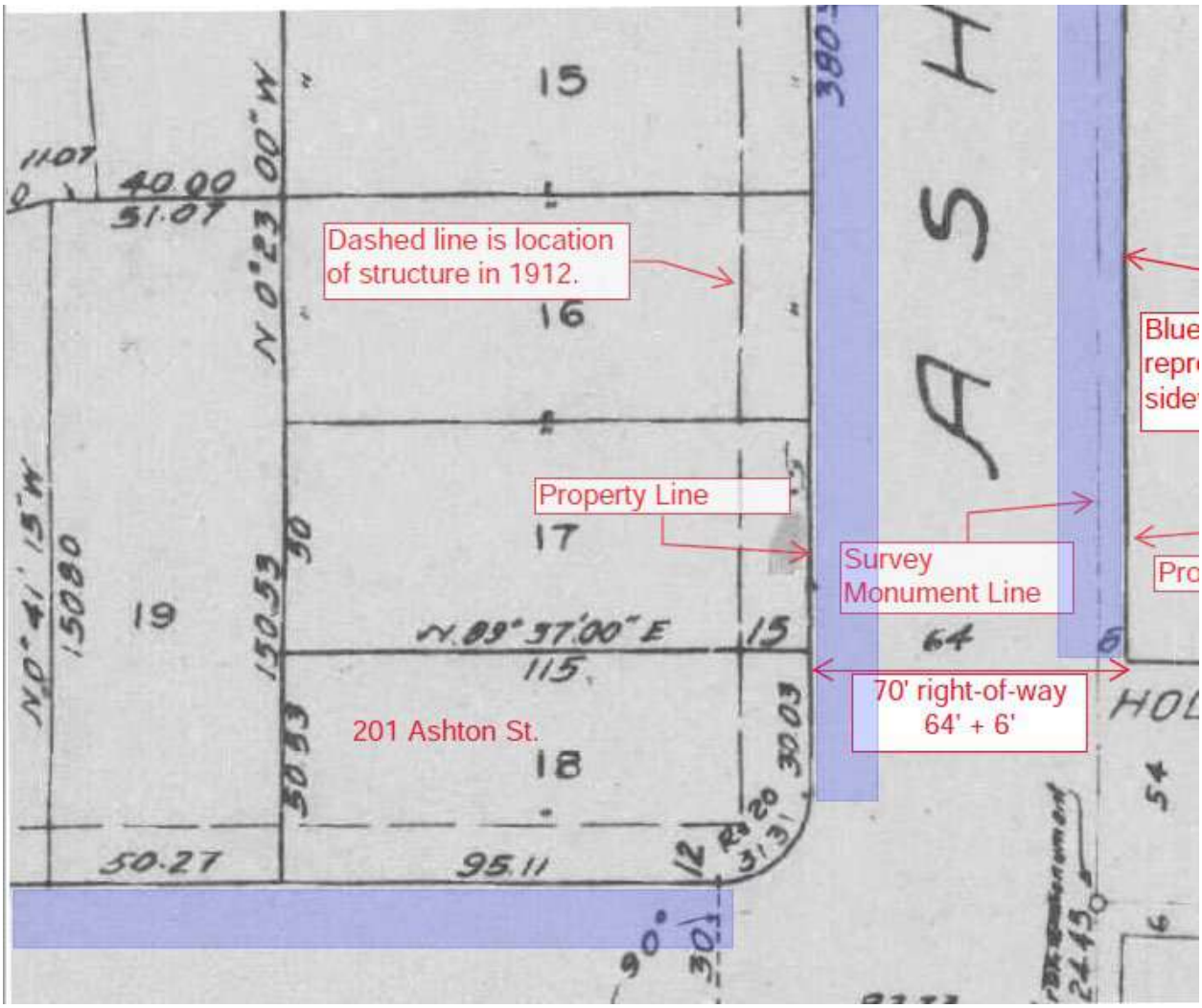


Figure 1(b). Snip of sheet 3 of Exhibit A.

<u>Official Sidewalk:</u>

The official sidewalk width for this portion of Ashton Ave. is 15 feet and was established by Ordinance 1098 on March 9, 1910. The sidewalk width along Holloway Ave. is 15 feet and was established in 1903.

The San Francisco Public Works Code defines a sidewalk as the area between the fronting property line and the back of the nearest curb. It is important to note as discussed above that the official sidewalk is fully within the public right-of-way. In addition, the official sidewalk width may or may not be paved with concrete. As can be seen in Figure 1(a), only a portion of the official 15 foot sidewalk on both Ashton and Holloway Avenues is paved and the remainder has been occupied with various improvements associated with the fronting properties. For illustrative purposes, contrast this to the east side of Ashton Avenue where most if not all of the 15 foot area is paved and open fully to pedestrian use.

Permit Application Findings:

On December 14, 2021, a Minor Sidewalk Encroachment application was submitted to Public Works to legalize a non-permitted fence that was constructed in the right-of-way.

During Public Work's review it was determined that various elements, including the fence, a 10'x10' pergola, a gas fire table, and landscaping were placed beyond the property's boundaries of 115' x 50.5'. Along Holloway Ave. the encroaching fence prevents access to a PUC streetlight. See Exhibit C

Issues with fence:

Public Works is responsible for ensuring that the dedicated public right-of-way is accessible and usable by all members of the public. Fencing off the public right-of-way for personal or private gain is not permissible. It is Public Works policy to require fences in the right-of-way to be no higher than three feet. This aligns with Planning's requirements for front yard fences and is considered part of the landscaping. Furthermore, a fence three feet in height allows for increased visibility, especially during interactions between pedestrians and vehicles at intersections.

Using this property as an example, in Figure 2 below you can see a non-standard curb ramp used to cross Ashton Ave. As can be seen in Figure 3, a vehicle traveling eastbound on Holloway Ave. intending to

make a left hand turn onto Ashton Ave. would not be able to easily see a child or person in wheelchair that has started to cross Ashton Ave.

Figure 2. Non-standard curb ramp.

Figure 3. View from Holloway Ave towards curb ramp and crosswalk on Ashton Ave.

Issues with private items:

As mentioned earlier the use of the public right-of-way for personal or private gain is not permissible. Encroachment permits are non-exclusive, meaning that the permittee does have exclusive rights to the area covered by the permit. In addition to privatizing the right-of-way, the gas fire table presents safety and liability concerns for Public Works. Public Works does not allow private gas lines in the right-of-way. The pergola and gas fire table need to be removed from the right-of-way.

Issue with PUC streetlight:

As can be seen in Exhibit C the fence along Holloway Ave. blocks of access to a PUC streetlight. PUC requires three feet clearance both to protect and to perform maintenance on their facility.

Path of travel concerns:

Holloway Ave. is lined with street trees, see Figure 4. To comply with ADA requirements, it needs to be confirmed that there is at least three feet of clearance between the tree well and the fence. Three feet is required to allow a person in a wheelchair to safely maneuver through a pinch point along the path of travel.

Figure 4. Trees along Holloway Ave.

<u>Key dates for application processing:</u>

- December 14, 2021 – Minor Sidewalk Encroachment Permit application accepted by Public Works.
- January 13, 2022 – Public Works notified applicant that the plans were not acceptable as submitted and would have to be revised as follows for the permit to be approved:

- The fence height has to be reduced to 3 feet.
- Three feet clearance around the streetlight pole and box on Holloway Ave., as required by SFPUC.
- Three feet path of travel required between the trees and fence on Holloway Ave (provide photos with tape measure clearly showing the path of travel width)
- The removal of the 10 ft X 10 ft cedar pergola and the fire table.
- Show all features in the right-of-way such as streetlight and box, trees, location of pavers, location of landscaping, and the altered location of the fence.

- June 2, 2022 – Public Works notified applicant that application would be placed into in-active status if updated plans were not provided by July 1, 2022.
- December 1, 2023 – Public Works notified applicant that the permit had been denied. Per Public Works policy a permit may be denied after 6 months of inactivity.

<u>Request of Board of Appeals:</u>

Public Works requests that the Board of Appeals uphold the Departments decision to deny this permit application and require removal of unpermitted items constructed in the public right-of-way in accordance with the permit revision comments that Public Works requested.

Exhibit A

Subdivision Map of Ingleside Terrace

This page was intentionally left blank.

MAP
OF
INGLESIDE TERRACES
SAN FRANCISCO CAL

SHEET NO 1 OF 5 SHEETS

Prepared by E.J. Morsey C.E.
April 1912

Scale:- 1" = 50'
(Reduced)

Note! Broken lines represent building lines, thus:- ------

M-45148

SHEET NO. 2 OF 5 SHEETS

MAP
OF
INGLESIDE TERRACES
SAN FRANCISCO CAL

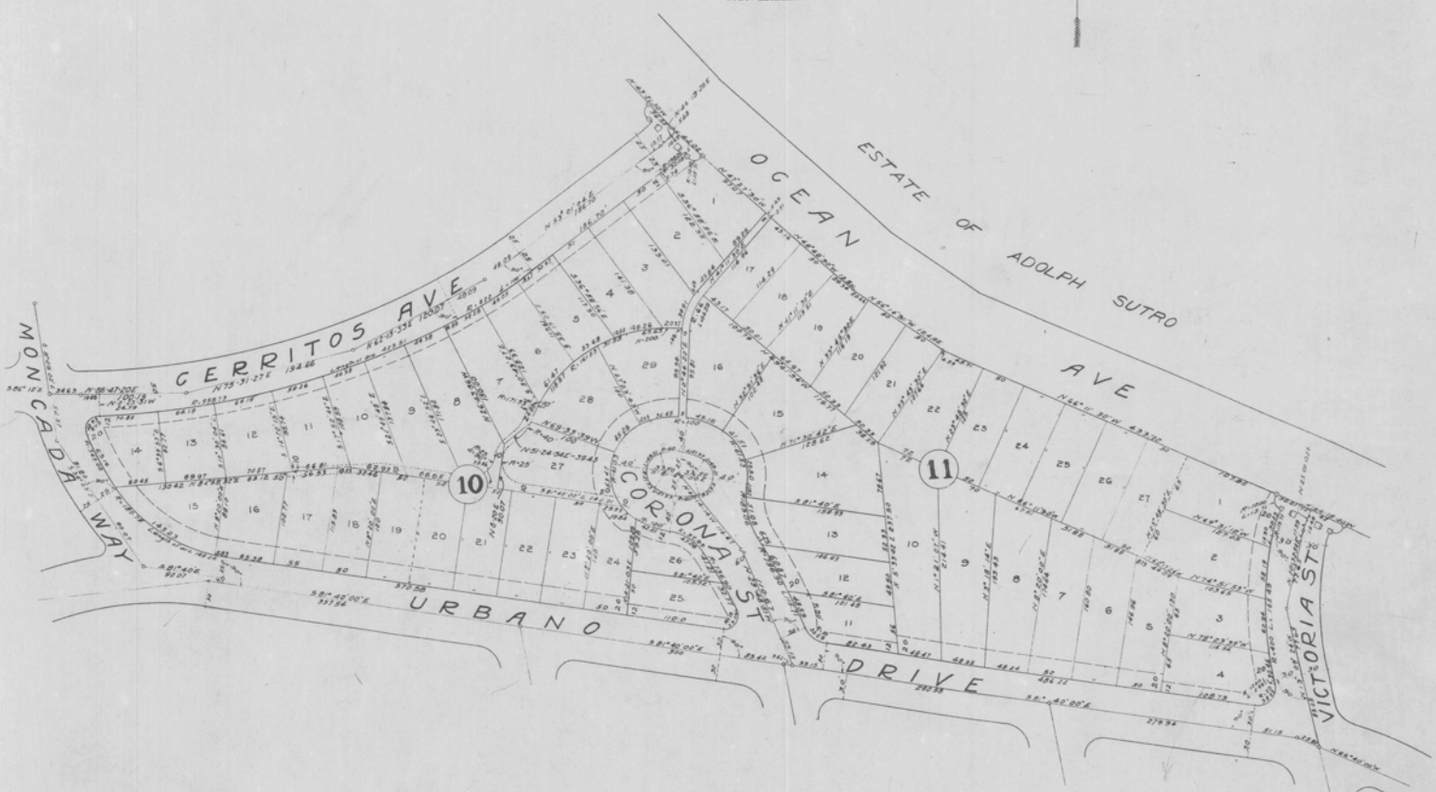
Prepared by E.J. Morser C.E.
April 1912

Scale - 1" = 50'
Reduced

M. 45149

Note! Strip between dotted lines, reserved for automobile driveway and sub-surface sewer Right of Way.

Broken lines represent building lines, thus:-



KNOW ALL MEN BY THESE PRESENTS: That Urban Realty Improvement Company, a corporation duly organized under and in pursuance of the laws of the State of California and having its principal office and place of business in San Francisco, California, hereby certifies that it is the sole owner of the tract or subdivision of land hereon platted and designated and laid out for the purpose of sale; That hereon is an accurate map or plat of such tract or subdivision of land particularly delineating and describing all lots intended for sale or reserved for private purposes and not offered for dedication for the public use, together with the numbers thereof their dimensions and boundaries, and the courses of their boundary lines; also the exact location of such tract or subdivision of land into lots with reference to adjacent subdivisions of land into lots, the maps or plats of which have been previously recorded.

That the consent of no other person or persons is necessary to pass a clear title to the said tract or subdivision of land or any part thereof; and the undersigned Urban Realty Improvement Company hereby consents to the making of said Map or Plat; but be it known that no part or parcel of said Tract or subdivision of land is offered for dedication or dedicated for any public use and that the streets, avenues, roads and ways delineated on the within map or plat, are reserved for the exclusive and private use and benefit of the Owners and holders of the lots designated on said map or plat.

In witness whereof Urban Realty Improvement Company has caused its corporate name to be hereto subscribed and its corporate seal to be hereunto affixed by its President and Asst Secy thereunto duly authorized by Resolution of its Board of Directors, duly adopted at a meeting of said Board held on the 3rd day of April, 1912. the day and year first above written.

Urban Realty Improvement Co.
By Joseph R Leonard President
By L. H. Danauer, Asst Secretary.

(Seal)

State of California } ss.
City and County of San Francisco }

On this 24th day of April, 1912, before me, Edith W Burnham, a Notary Public in and for said City and County of San Francisco, residing therein, duly commissioned and sworn, personally appeared Joseph R. Leonard, known to me to be the President of Urban Realty Improvement Company, and L. H. Danhauer, known to me to be the Asst. Secty. of said Urban Realty Improvement Company the corporation that executed the within and foregoing instrument and they acknowledged to me that such corporation executed the same.

In Witness Whereof I have hereunto set my hand and affixed my official Seal, the day and year in this certificate first above written.

Edith W. Burnham, Notary Public in and for the City and County of San Francisco, State of California

(Seal)

I, Thos F. Boyle, Auditor of the City and County of San Francisco, State of California, hereby certify that there are no liens for unpaid State, County, Municipal or other taxes, except taxes not yet payable against the tract of land hereon platted and designated "INGLESIDE TERRACES" or any part thereof.

Dated: April 25, 1912.

Thos F. Boyle,
Auditor of the City and County of San Francisco, State of California

Filed at the request of Urban Realty Improvement Co. May. 18, 1912. at 38 mins past 11 A.M.

[illegible]
[illegible]

M45150

SHEET NO 3 OF 5 SHEETS

MAP OF INGLESIDE TERRACES SAN FRANCISCO CAL

Prepared by E.J. Morser C.E.
April 1912

Scale - 1" = 50'
Reduced

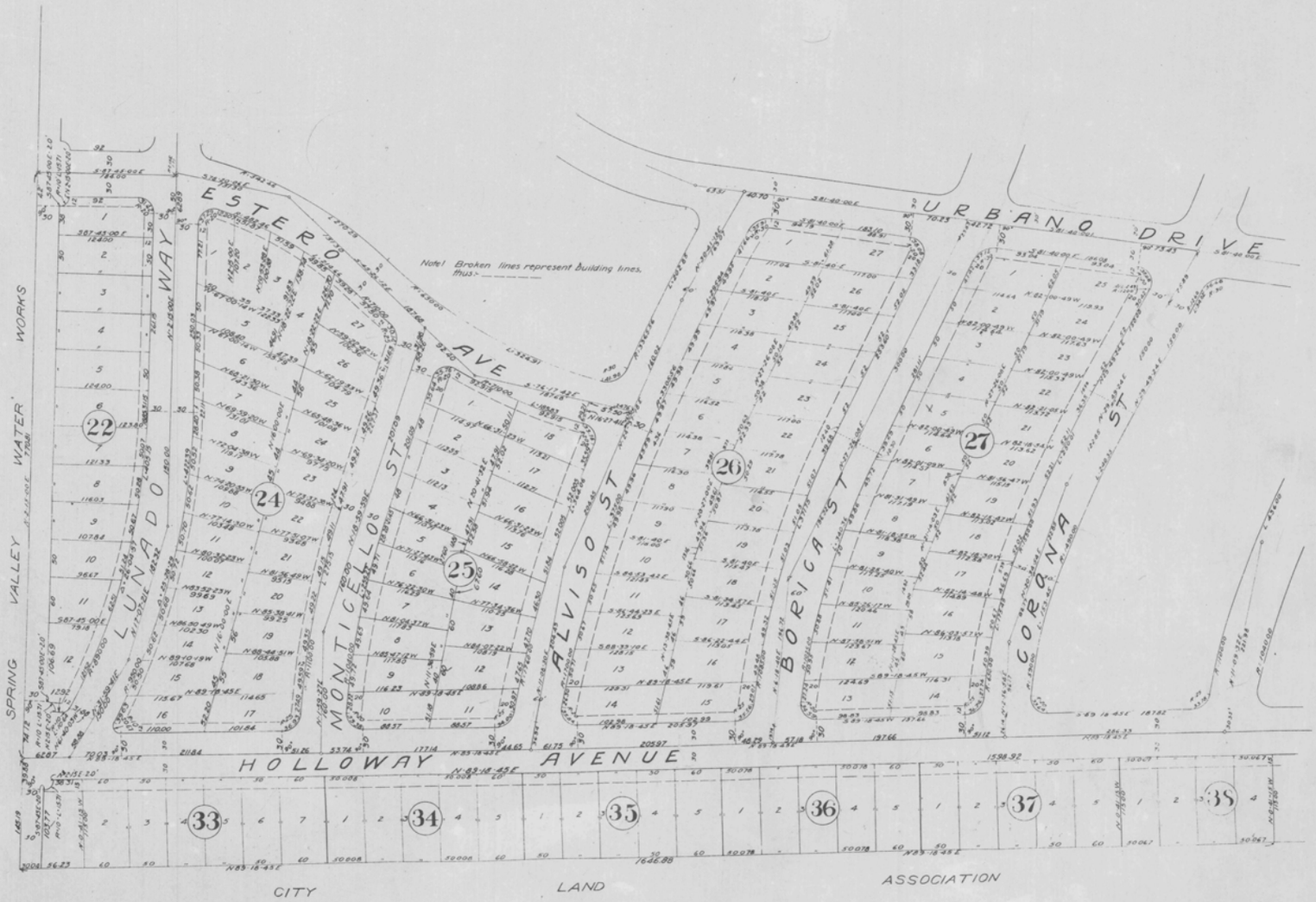
M. 45151

SHEET NO 4 OF 5 SHEETS

MAP
OF
INGLESIDE TERRACES
SAN FRANCISCO CAL

Scale = 1" = 50'
(Redwoods)

Prepared by E J Morser C.E.
April 1912



CITY LAND ASSOCIATION

SHEET NO 5 OF 5 SHEETS

M. 45152

MAP
OF
INGLESIDE TERRACES
SAN FRANCISCO CAL

Prepared by E. J. Marser, C.E.
April 1912

Scale - 1" = 50'
Reduced

Note - Dotted lines indicate boundaries of sub-surface sewer Right of Way.
Broken lines represent building lines. thus:- ———

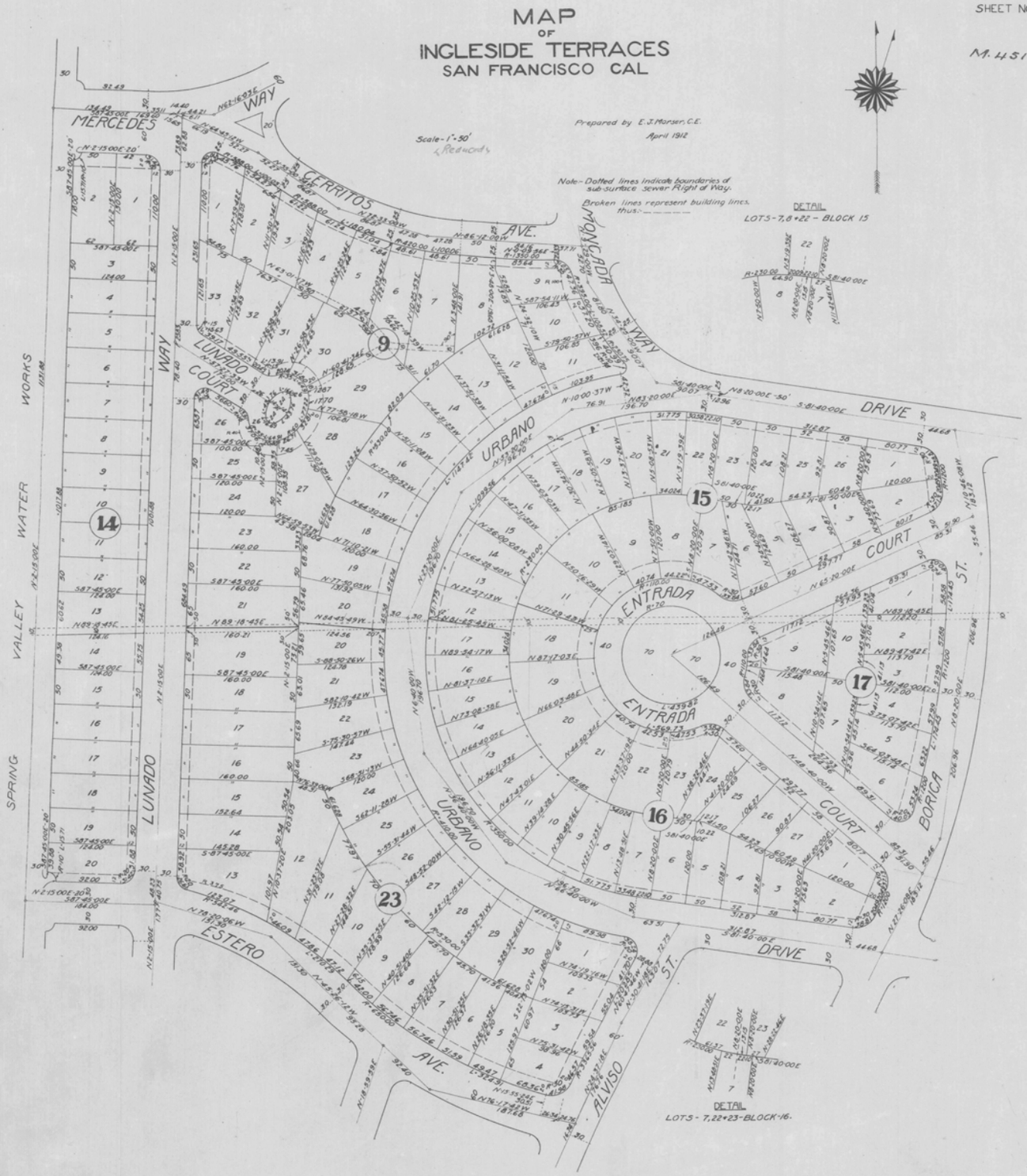


Exhibit B

Aerial View of Encroachment Areas

This page was intentionally left blank.


115 ft.
70 ft.
Right-of-way
15 ft.
Official
Sidewalk
201 Ashton Ave.
Hatched area approximate
location of the property
50.5 ft.
15 ft.
Official
Sidewalk
Holloway Ave
Holloway Ave
Holloway Ave
STOP
STOP
211

Exhibit C

Street View Images of Encroachments

This page was intentionally left blank.

Exhibit C
Encroachment Areas

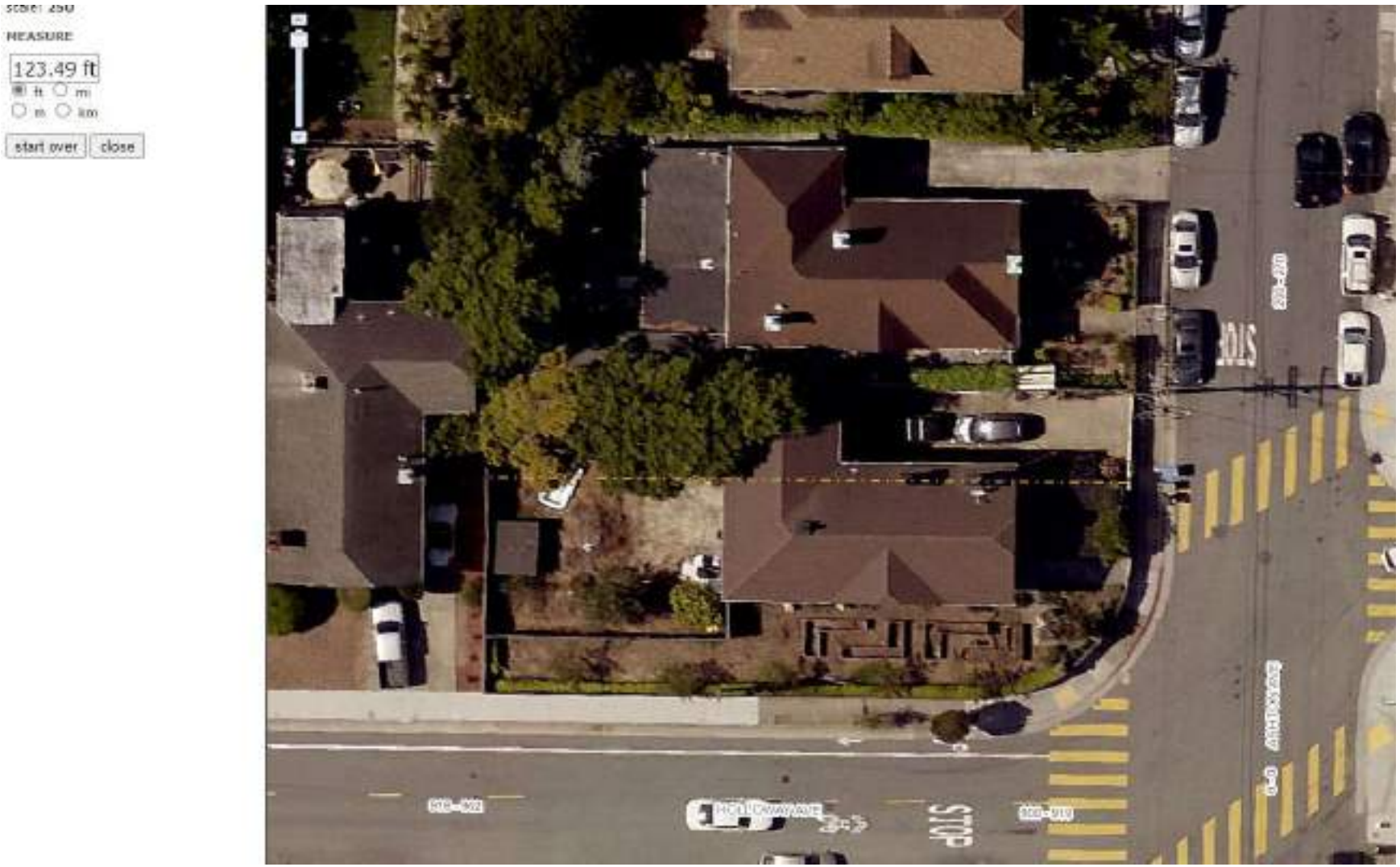


Exhibit C
Encroachment Areas

Portions of the pergola, gas fire table, landscaping, special pavers, and fence encroaching onto Ashton Ave.

Exhibit C
Encroachment Areas

Access to PUC streetlight is prevented by the fence along Holloway Ave. Fence encroaches approximately nine feet into the right-of-way.

PUBLIC COMMENT

From:	Gina Deignan
To:	BoardofAppeals (PAB)
Subject:	Appeal No 23 - 067 - Public Comment
Date:	Saturday, January 27, 2024 5:40:43 PM
Attachments:	Public Comment-10 letters & 57 signatures of support for fence repair (1).pdf

To whom it may concern at the SF Board of Appeals,

Please accept this Public Comment in strong support of the Appeal No 23-067 (information below) which includes a letter I'd written to express our support of the family and their beautiful, neighborhood enhancing property.

Appeal No.: 23-067
Appeal Title: Emberton vs. SFPW-BSM
Subject Property: 201 Ashton Avenue
Determination Type: Denial of a Minor Sidewalk Encroachment Permit
Permit No.: 21MSE-00688

Kind regards,
Gina Deignan

Richard Hendry

423 Faxon Avenue, San Francisco CA 94112

415-823-9988
Rhendry10004@gmail.com

September 30, 2017

To Whom It May Concern,

This is to state that the new fence at 201 Ashton is a good improvement to the neighborhood.

The area is a mix of cared-for and neglected houses. The street-side fence at 201 Ashton was run down and even falling until the current owners put in an excellent replacement. Previously, the fence was a detriment to the neighborhood. Run down properties invite crime and lower the quality of life of all of us.

In addition, the new fence better defines a difficult intersection, as this is a corner lot where Holloway has a jog to one side. The intersection is very large therefore and the old fence was proportionately too small; it got lost and was less visible to drivers negotiating the intersection. The new fence looks much more in place and fits the overall dimensions of the intersection much better. The fence is in proportion to the shrubbery at this address and the neighboring properties, as well as existing neighborhood fences and walls.

I join the other neighbors with whom I have spoken in supporting this improvement to the area. I hope the City will expeditiously approve the construction.

Warm regards,

RAELYN AND MAHAL RUPPEL OWN THE HOUSE AT 201 ASHTON. THEY HAVE MADE MANY IMPROVEMENTS TO THEIR HOME INCLUDING THE NEW FENCE THAT RAELYN HAS BUILT. THE FENCE BLENDS IN NICELY WITH THEIR HOME AND ALSO BEAUTIFIES THE NEIGHBORHOOD. MY NAME IS MIKE MULESKY, RETIRED S.F.F.D., AND I LIVE ACROSS THE STREET AT 901 HOLLOWAY

Mike Mulesky
9-29-2017

Karen and Rudyard Vance
920 Holloway Ave
San Francisco, CA 94132

September 11, 2017

To whom it may concern:

I live as the next door neighbor of Raelyn Ruppel and Mihal Emberton who reside on 201 Ashton Ave. I have lived here for over 30 years and I find them being neighbors has been an asset to our block and community. They have fixed up the outside appearance of their home with painting, landscape, outside lighting, wooden Pergola, water fountain, and a fence.

The fence was completed by Raelyn Ruppel and was a replacement to the old fence that was falling down and was an eye sore to the neighborhood. The replacement was a different design but was the same height and length as the old fence.

I am so happy that we have someone in our community that is putting an effort into making the outside appearance of their home a priority and I hope others follow.

Raelyn Ruppel and Mihal Emberton are wonderful, respectful, and quiet neighbors.

Rudyard Vance

920 Holloway, S.F., CA

The Cool Guys Market

846 Holloway Avenue • San Francisco, CA 94112
Phone: 415-452-1304

Date: 9/11/2017

Department of Building Inspection
Inspector: Carl Weaver
City and County of San Francisco
1660 Mission Street
San Francisco, CA 94103
415-558-6096

Dear Building Inspection Division:

My brother and I have owned our apartment building and corner market since 1995. Our property is directly across the street from Raelyn Ruppel and Mihal Emberton, the owners of 201 Ashton Avenue, and we have known them ever since they moved into their home in the fall of 2012. We have found both Raelyn and Mihal to be respectful and community-minded neighbors. We have witnessed their efforts to invest in the neighborhood, not only with their property improvements, but also with their enthusiasm in building relationships throughout the community.

In regards to their property improvements, we wholeheartedly support them. They have chosen to replace a derelict, rotting 4-foot fence, which had been in place for more than 20 years, with a well-built, attractive 4-foot fence and we couldn't be more pleased. We regularly encourage their efforts and daily watch countless neighbors, passersby, police officers, and the nearby firefighters relay sentiments of approval and praise as they drive by the property. In addition to the stately fence, Raelyn and Mihal have been able to plant about 20 trees in the front yard, put in outdoor lighting that helps to light the neighborhood, and have built a patio to allow them to enjoy spending time in the yard and therefor, the neighborhood.

We are also in our store from 6:30 AM until 10 PM every day and, in regards to Raelyn and Mihal's character, we have never found them to be noisy, disruptive or disrespectful. In contrast, they have proven to be engaged and involved community and neighborhood advocates. We are honored to have them as our neighbors and friends.

Sincerely,

Sukhjinder Singh

Sukhjinder Singh

September 11, 2017

To Whom It May Concern:

I am writing this letter in support of our neighbor Raelyn Ruppel and her family at 201 Ashton Avenue. My husband Greg and I have lived at 218 Ashton for 30 years, and we are thrilled with the beautiful home improvement project Raelyn has been working on in replacing her fence. The old fence was in need of replacement. We as well as all the neighbors love the new fence. She and her family are a wonderful addition to the family, and if you went and asked all the surrounding neighbors, I'm sure you would hear the same. There has never been any problem with noise from her project or music, so we are puzzled as to why someone would feel the need to complain. It's very misguided. Raelyn helps keep an eye on the neighborhood for everyone while she is working at home. She is always respectful of the neighbors and the neighborhood and has taken the time to get to know everyone and the neighborhood is better for her and her family. She is a much needed and welcome addition to the neighborhood.

Please feel free to contact us with any questions.

Sincerely,

Linda and Greg Souza
218 Ashton Avenue
San Francisco, CA 94112

David R. McCauley
Akio K. Kawai
850 Head Street
San Francisco, CA 94132
Tel (415) 307-4390, (415) 350-7185

November 11, 2017

San Francisco Department of Building Inspection
1660 Mission Street
1st, 2nd, 5th Floor
San Francisco, CA 94103
Attn: Permit Services

Re: Fence at Residential Address 160 Ashton Avenue

Dear Permit Services Personnel,

My name is David McCauley and my partner Akio Kawai and I have owned a home in Ingleside Terraces for the past 8 years. We are extremely proud to call this neighborhood our home and are favorably impressed when our neighbors take pride in their properties by maintaining, improving and beautifying their homes and yards.

It has come to our attention that that our friends and neighbors Mihal Emberton and Raelyn Ruppel have been informed by the City that the new fence that they have worked hard to build over this past summer has been found to be in violation of building codes due to a height restriction. While remaining respectful of local rules and ordinances we are asking that the City reconsider its position in this matter by allowing the fence to remain in place, at its current height. We offer the following for your consideration.

The fence is handmade, unique, and well-built. It complements the home and yard that it surrounds, does not obstruct the Ingleside Terraces stone gate, and neatly demarcates the line between public and private property. Keeping in mind that their home is situated at a very busy intersection, with several businesses nearby, we feel that the height of the fence suits the mixed-use neighborhood in which it is situated, and provides a measure of privacy and security for Mihal and Raelyn's family, which includes a young daughter and two large dogs.

We would be happy to meet with the individuals responsible for considering waivers in matterssuch as this to provide more insight to the unique characteristics and dynamics of our neighborhood and in particular this property and its busy location.

Respectfully Yours,
David McCauley
Akio Kawai

201 Ashton - 2018-002358VAR

Patrick Otellini <patrickotellini@gmail.com>

Sat 7/7/2018 10:25 AM

To: jeffery.horn@sfgov.org <jeffery.horn@sfgov.org>

Cc: raelyn98@hotmail.com <raelyn98@hotmail.com>

To whom it may concern,

My wife and I are the owners of 225 Ashton Avenue and we have no objections to the variance application regarding 201 Ashton Avenue. The owners have been fantastic neighbors since they moved in.

Patrick and Marissa Otellini

Sent from my iPhone

7/25/18 Public Hearing for Variance for Fences at 201 Ashton Avenue

Mame Campbell <mamesf@gmail.com>

Tue 7/17/2018 8:19 PM

To: jeffrey.horn@sfgov.org <jeffrey.horn@sfgov.org>

Cc: Raelyn Ruppel <raelyn98@hotmail.com>

Mr. Horn,

I am the owner and resident of the property located at 235 Ashton Avenue.

I am writing to you to state that I have **no objection** to the solid wooden fences constructed on Ashton and Holloway Avenues for the property at 201 Ashton Avenue, owned by Raelyn Ruppel. The fences create a lovely front yard for my neighbors and I hope the variance will be approved.

If you have any questions, you can contact me at mamesf@gmail.com.

Thank you.
Mariellen Campbell

Public Hearing/Variance

Sue Fahey <suefahey7@gmail.com>

Mon 7/16/2018 3:48 PM

To: Jeffrey.horn@sfgov.org <Jeffrey.horn@sfgov.org>

Cc: Raelyn98@hotmail.com <Raelyn98@hotmail.com>

Re: Variance 2018-002358V (201 Ashton Avenue)

Dear Jeff,

I am a property owner on Holloway Avenue, just a few houses away from Raelyn Ruppel, the applicant in the above variance.

Unfortunately, I am not able to attend the July 25th Public Hearing, but would like to submit to you, my concerns and comments as follows:

1) this was a like-for-like project, replacing a blighted, 4-foot wood fence, with a new, 4-foot wood fence. The removal of blight is an important factor in improving our property values and reducing crime in this neighborhood. Here is an article that supports those ideas: https://www.fs.fed.us/nrs/pubs/jrnl/2016/nrs_2016_troy_001.pdf

2) the fence does not limit community engagement but rather has encouraged it as our neighbors regularly enjoy what the new fence brings to the community and we often meet and converse over the short, 4-foot fence. (I have even met new neighbors gathered at the fence) The short height of the fence also allows neighbors to enjoy the 28 trees and countless plants and flowers that the homeowners have already added to the yard. Of note, the homeowners have planted 10 citrus trees, 6 pear varieties on 2 espaliered pear trees, 6 Apple

varieties on 2 espaliered Apple trees, and 6 Mt. Fuji Japanese Cherry trees, to name some of the homeowners' accomplishments. This is a major improvement from previous owners.

3) as the homeowners have a young child and young niece, as well as host play-dates for their child, the 4-foot height of the fence creates an ideal amount of safety from the traffic of the busy corner and the adjacent business districts, to allow the children to play outside safely.

4) the homeowners live at the corner of a busy and unusual intersection and prior to their ownership, the home has been hit by cars on multiple occasions. The fence is appropriately visible and should act to catch the attention of distracted drivers to prevent an additional accident.

5) the beautiful structure of the fence has been instrumental in preventing blowing trash from accumulating along it and really complements the home and the neighborhood. As a neighbor, I much prefer this elegant fence to a chain link, which may comply with city rules but does not add beauty or value to a neighborhood.

I do hope you consider these concerns not only for our Ingleside neighborhood but for Raelyn Ruppel as well,

Sincerely,

Sue Fahey
Holloway Avenue
Ingleside Terraces

Public Hearing- Fence at 201 Ashton

Gina Deignan <gpazdan@gmail.com>

Tue 7/17/2018 11:12 AM

To: jeffrey.horn@sfgov.org <jeffrey.horn@sfgov.org>; Raelyn Ruppel <Raelyn98@hotmail.com>

Cc: JD <jdeignan@gmail.com>

Dear Mr. Horn,

My husband and I will not be able to make the Public Hearing on Wednesday, July 25th because we will be at work. However, we would like to voice our support to legalize the fences that are the subject of the upcoming public hearing, which are located along the property at 201 Ashton Avenue. (Record # 2018-002358VAR).

First, we were surprised and disappointed that there was any issue about this fence, as it was a great improvement over what had been in its place before- a rickety old fence of similar size. This solid wooden fence is also far nicer than the chain-link fences along other properties on Holloway, which inevitably end up in dangerous disrepair as they break and rust, creating a hazard along a popular walking route and where my kids often ride bikes. This fence aligns with the beautification efforts that the area is working to promote, currently focused only along Ocean Avenue.

Second, this family is concerned about safety of their family, and we share that concern. We moved into our house in 2013, and shortly thereafter there were several incidents of gunshots along Ashland. Of course wooden fences do not stop bullets, but we are so grateful that a nice family (who happens to have a daughter the same age as ours, 6) moved into this home and is interested in maintaining a safe, pleasant, family-oriented neighborhood. And, especially at this corner along Ashland, a closed fence is important for additional safety while the kids and families spend time outside in their yard.

Third, it is clear that Ingeside and Ingleside Terrace has a mix of homeowners who care for their homes/properties and some that, unfortunately, clearly do not. We wish, for the sake of our property

value, aesthetics and an overall positive sense of community, more homeowners took even a fraction of the pride and time to maintain such a lovely exterior space around their home. Ultimately this contributes significantly to building a better community, one home at a time.

Thank you for considering my family's perspective on this issue. We hope to hear that this fence will be legalized without issue. And thanks to Raelyn and Mihal for helping to make Ingleside Terrace a safer and more beautiful neighborhood!

Kind regards,
Gina & Jeff Deignan
860 Head Street, SF

I am a neighbor of Mihal Emberton and Raelyn Ruppel, who own 201 Ashton Avenue, San Francisco, and I support their repair of the 30-year old, dilapidated, hazardous, 4-foot wooden fence surrounding their front yard as the repairs are architecturally pleasing, decrease crime, improve property values, improve pedestrian safety, and encourage neighbors to spend time outside, participating in community engagement.

Signature	Printed Name	Address	Phone Number (optional)
	Omar S. Aranda	960 Holloway Ave	(415) 542-8353
	Bob Shelly	980 Holloway Ave.	(415) 596-4445
	Julia Lamparter	975 Holloway Ave.	(415) 866-1051
	SANDRA ALBERT	565 BRIGHT STREET	(415) 324-2871
Jane DeWitt	Jane DeWitt	561 Bright St	(415) 587-7286
Arlene Joch	ARLENE JOCH	557 BRIGHT ST SF	415-587-7518
Gloria Williams	Gloria Williams	541 Bright St. SF	415 577-7435
	Christine Hayes	529 Bright	415-200-8740
	Yorah Huang	517 Bright	415-333-3556
	Jason Brandon	554 Bright St	(415) 533 5560
	DAVID SANDEN	558 BRIGHT ST	415-706-9460
	Jack Reeder	566 Bright ST	
	TAMARA CHIN	572 BRIGHT ST.	~~415~~ 916-217-9369

I am a neighbor of Mihal Emberton and Raelyn Ruppel, who own 201 Ashton Avenue, San Francisco, and I support their repair of the 30-year old, dilapidated, hazardous, 4-foot wooden fence surrounding their front yard as the repairs are architecturally pleasing, decrease crime, improve property values, improve pedestrian safety, and encourage neighbors to spend time outside, participating in community engagement.

Signature	Printed Name	Address	Phone Number (optional)
	Cyrus Jung	695 Orizaba St	
	David Keith	687 Orizaba	
	Sara Chen	671 Orizaba Ave	
	Lisa Leiva	667 Orizaba Ave	
	Steve Mu	663 Orizaba Ave	
	CHARLES KULAS	651 ORIZABA AVE	
	RICHARD GATTER	659 ORIZABA AVE	
	BRIAN TENG	647 ORIZABA AVE	
	Sven Proik	631 Orizaba Ave.	
	AMBER HOUSER	604 ORIZABA AVE	
	Marion Cafferty	101 Ashton Ave	
	Eric Ng	100 Ashton Av.	
	Anthony	[illegible]	

I am a neighbor of Mihal Emberton and Raelyn Ruppel, who own 201 Ashton Avenue, San Francisco, and I support their repair of the 30-year old, dilapidated, hazardous, 4-foot wooden fence surrounding their front yard as the repairs are architecturally pleasing, decrease crime, improve property values, improve pedestrian safety, and encourage neighbors to spend time outside, participating in community engagement.

Signature	Printed Name	Address	Phone Number (optional)
	KELVIN LEONG	117 ASHTON AVE, SF	415-812-1011
	Sharon Cappers	118 Ashton Ave SF	415 361 8885
	Riselle Nicolas	141 Ashton Ave SF	
	ELISA GAO	145 ASHTON AVE	
	David Woo	156 Ashton Ave	
	Enrico Risque	149 Ashton Ave	
	PETER RIDEI	160 ASHTON	
	Landis Lee	169 Ashton	
	John Dunn	174 Ashton Ave	
	Ed Splichal	174 Ashton Ave	
	Shelly Stern	110 Ashton Ave, SF	4158167055
	Pei Hsu He	211 ASHTON AVE	
	Lori St. John Baldwin	549 Bright Street	415 377 3429

I am a neighbor of Mihal Emberton and Raelyn Ruppel, who own 201 Ashton Avenue, San Francisco, and I support their repair of the 30-year old, dilapidated, hazardous, 4-foot wooden fence surrounding their front yard as the repairs are architecturally pleasing, decrease crime, improve property values, improve pedestrian safety, and encourage neighbors to spend time outside, participating in community engagement.

Signature	Printed Name	Address	Phone Number (optional)
	Chris Moreno	134 Ashton Ave S.F	510 290-1426
	Sinaola Moreno	134 Ashton Ave, SF	(650 558-7428
	Sue Fahey	950 Holloway Ave	415-586-2719
	[illegible]	930 Holloway Ave	(415) 531-5865
	René J. Peirano	533 Bright Street	415-205-0916
	Stephen McDaryl	549 Bright St.	(707) 701-1105
	MIKI LEE	930 Holloway Ave	(415) 333-6438
	Malcolm Bell	530 BRIGHT	(415) 587 3614
	Sandra Pinto	960 Holloway Ave	415-286-4384
	Wilson Mei	110 Byxbee St SF 94132	415-533-8857 - 492-7850
	Mrs. Josephine Garrett	576 BRIGHT ST.	415-577-7402
	ADRIENNE KLOPF	23 Juby Avenue	415.606.7669
	LINDA HOPE	200 MIRAMAR & HOLLOWAY	415 334 3603

I am a neighbor of Mihal Emberton and Raelyn Ruppel, who own 201 Ashton Avenue, San Francisco, and I support their repair of the 30-year old, dilapidated, hazardous, 4-foot wooden fence surrounding their front yard as the repairs are architecturally pleasing, decrease crime, improve property values, improve pedestrian safety, and encourage neighbors to spend time outside, participating in community engagement.

Signature	Printed Name	Address	Phone Number (optional)
Laurie Dolly	Laurie Dolly	1018 Capitol Ave SF	laurie.dolly@gmail.com 415-670-1955
Joslyn Goldberg	JOSLYN GOLDBERG	685 - UNIZABA	415 335 5010
[illegible]	LEO PERRETT	670 KIZABA AV	415-740-6547
Ann Nyhan	Ann Nyhan	651 Onizaba Avenue	415-279-5101.
David McCauley	DAVID MCCAULEY	4850 Head St	415-307-4390

From:	Temple Cooley
To:	BoardofAppeals (PAB)
Subject:	Public Comment letters- appeal No. 233-067
Date:	Sunday, January 28, 2024 1:08:03 PM
Attachments:	Public Comment-25 letters of support for arbor.PDF

Dear Board of Appeals,

I have attached 25 public comment letters, which include my own, supporting the arbor at 201 Ashton Ave, for their upcoming hearing in February.

Appeal No.: 23-067
Appeal Title: Emberton vs. SFPW-BSM
Subject Property: 201 Ashton Avenue
Determination Type: Denial of a Minor Sidewalk Encroachment Permit
Permit No.: 21MSE-00688

Thank you for your consideration,

Temple Cooley, SF resident

To the zoning administrator,

I wanted to write you as a member of our community on behalf of Raelyn Ruppel and Mihal Emberton about their beautiful yard.

I have lived in our neighborhood since 2003, and so much has changed for better and for worse in those years. I remember the way that their yard used to look before they were here and I remember the drug dealer that hung out outside of the liquor store across the street. The beauty of the space they have created there was something that my family and I have admired since before we knew who lived there. The difference is stunning. And that street went from one we avoided on the walk to visit friends of my oldest child a few blocks up, to the starting off point for their trick or treating.

There are still shady things going on all around Ocean Ave and the surrounding streets but that intersection is not a place super frequented byt that world because no one really wants to try to sling drugs or break into cars in day light hours in an area where playdates are happening and PCO parents are hanging out and watching.

They have created a home base for so many beginnings of the type of community that all of us should want for our home. My little family in particular only has eachother, we dont have family near us to help us if something goes wrong or seek for support or a soft place to land. We haven't really ever had someone close enough that could take our kids or feed our animals or something if we couldn't. We have many friends that live far away but its such a challenge to make deep community connections with other families with a one bedroom apartment and no yard, and the parks being a pretty big hike away. This couple is creating this beautiful atmosphere and family feeling with their home base for things that lead to the connections where you know people enough to reach out for and to help. There is nothing more valuable to a family with children then support and love and trust beyond the nuclear family unit.

They hosted a school PCO meet and greet that was able to be outside and still covid safer in their beautiful space and it was so wonderful to sit in their arbor and discuss how we all plan to support everything extra that we try to provide to our children beyond what little the school district provides. I know they host a book club and they have the kids of some families that need care for different afternoons which is a huge thing that just isnt available without payment in communities anymore. These types of things are so huge especially to families like mine who dont have family or friends that feel like family in their in-person lives. They connect people and bring the truly special things that make a home place truly a home and not just a place where people live near eachother.

I dont understand going after and trying to destroy something and people that bring nothing but good to everyone. There is no downside to it being there. I dont understand making a priority of something like this when there are so many huge problems in our area, like the scary tiny island muni stops in the middle of the very very busy Ocean ave down the street, that I saw another middle school child hit next to today. Or the falling apart movie theater church building on

Ocean. Or the many dangerous sidewalks that a stroller or wheelchair cant get through because of lifted and broken concrete or bushes that push you into the road, or places badly lit at night. Maybe helping the laundromats that are experiencing daily robbery and vandalism. Just taking a walk around other areas, you can see so many things that need help and looking into. I would love the opportunity to really show the problems to those that make the decisions and dont see the real problems. This beautiful yard isnt a problem, its something that solves so many of them amd hasn't costed our neighborhood anything.

I wish there where more people trying to do real things like this beautiful family to help make our special area better and foster a healthy and caring community for all those that live here. It leads to people feeling a part of it and wanting to make it better, and this neighborhood can use more of that not less.

Thank you for your time,
cristine Kelsey
415-734-7617
flamingobean@gmail.com

San Francisco Planning Department
49 S Van Ness Avenue
Suite 1400
San Francisco, California 94103

September 29, 2022

Dear San Francisco Planning Department,

I am a San Francisco resident writing to express my support for the arbor at 201 Ashton Avenue.

I have lived in the 94112 zipcode for over ten years, driving and walking past 201 Ashton Avenue hundreds of times. I have also had the pleasure of meeting Raelyn and Mihal, the owners and residents of the home at 201 Ashton, through our children's school, Commodore Sloat Elementary, where both dedicate many hours to the improvement and beautification of our school site.

Over the years, Mihal and Raelyn have transformed a spot that was previously a run-down space at a busy intersection and turned it into a source of beauty, pride and community for the neighborhood and our public school community. Several days a week, Raelyn watches my son (and others) afterschool. Without fail when I arrive to pick him up, I find neighbors paused at the corner talking with her or Mihal and enjoying the garden they have built. On one occasion, I was standing in the front yard when an older gentleman approached and said that as a boy he had a paper route in the neighborhood and he was passing by and had to stop and admire what the home and yard look like now. He talked with us for over twenty minutes sharing stories about the neighborhood in years past.

Racyln and Mihal value building these types of connections. With their front yard and arbor, they have created a safe and welcoming space to forge community. This has been critically important these last few years as we have all struggled to keep connected with one another during the pandemic and to find places where we can come together- often through safe outdoor spaces. Their front yard and arbor have hosted parties for our school sports teams, a community book club and other gatherings- both impromptu and planned.

Of late, in an increasingly divided society, the importance of weavers is recognized. Weavers are people who value connections in their community and who weave a social fabric that allows us to see, know and trust one another. Raelyn and Mihal are weavers for our small corner of San Francisco. I wish that our city had more people like them and the spaces they create.

Please consider allowing their arbor to stand.

Sincerely,

Temple Cooley

Temple Cooley

To: Corey Teague, San Francisco Zoning Administrator

Dear Mr. Teague,

My name is Chip Blazey, and I'm writing this letter on behalf of my family to support the efforts by Mihal Emberton and Raelyn Rupple to maintain their arbor at 201 Ashton Avenue.

My wife, Nha-Ai Nguyen-Duc, and I are longtime residents of San Francisco. Except when she was earning her medical degree and completing her residency, Nha-Ai has lived her whole life in the city since coming here with her family as a toddler in 1976. I moved to San Francisco 20 years ago when I started work after completing my Ph.D. at UC Berkeley. We can honestly say there is nowhere else we would rather live, and that's due in no small part to the dedication of people like Mihal and Raelyn who go to great lengths to foster community and to try to help San Francisco grow and improve.

We've known Mihal and Raelyn since our children started attending Commodore Sloat Elementary School together in 2017. They've been heavily engaged in the school's community since the first day our kids started kindergarten. Mihal is just starting her second year serving as co-president of the Parent Club Organization, and Raelyn has been a regular fixture at just about every school-improvement event for the past five years. Mihal and Raelyn are thoughtful and committed when it comes to social and community activism, and you can be confident that the decisions they make regarding the layout and appearance of their property are sincere reflections of their interests in their community.

We can vouch personally for the communal value of the arbor they installed in their front yard. We've attended many an outdoor celebration at 201 Ashton, and in each case, the arbor has served as a comfortable gathering point for friendly conversation and thoughtful discussion. But the value of the arbor extends beyond planned events. It's also a natural facilitator of spontaneous community interaction.

When the country locked down for COVID in 2020, I abandoned my indoor gym workouts in favor of long runs through the city for exercise. In plotting out my running routes, I deliberately developed one that took me past Mihal and Raelyn's home with the expectation that I would occasionally catch them out in their yard as I passed by. Sure enough, that's exactly what has happened over the past 2 ½ years. When the timing and weather accommodate, they'll be out under the arbor enjoying the day when I run by, and I'll stop to catch up for a bit before heading off to complete my run. Invariably while we chat, friends and neighbors will wander by and say hello, clearly demonstrating that Mihal and Raelyn have cultivated a friendly familiarity with their community.

The outdoor space that Mihal and Raelyn have created at 201 Ashton facilitates the types of neighborhood interaction that the City of San

Francisco should value, and the arbor is the central communal feature of the yard. We think the value of the arbor to the neighborhood is obvious. Not only should it be allowed to stay, but the City should encourage similar structures throughout San Francisco when space allows.

Thank you for your time and consideration.

Sincerely,

Chip Blazey and Nha-Ai Nguyen-Duc

Dear Zoning Administrator,

I'm writing in support of the beautiful garden and arbor at 201 Ashton.

In a neighborhood that is high on cement and low on greenery, the corner garden at 201 Ashton is an oasis. The arbor, adorned with vines and soft lights, sits over a fire table, surrounded by an urban garden. It's a gathering spot, a place to host neighborhood events, children, book clubs, community meetings, and more.

Studies conducted (in many places, including San Francisco) link increased heat with a higher amount of concrete. In light of our increasingly hot summers, and the broader issue of climate change, it's hard to understand why anyone would ask the owners to remove any part of their garden.

Heat and environmental issues aside, the corner garden is simply lovely. The Ingleside neighborhood is a diverse community, encompassing both beautiful and run down homes. The home at 201 Ashton is what we all want in our neighborhoods – a property that is beautifully maintained, with neighbors who are outside, chatting with passersby, growing fruit and vegetables that can be shared over the gate, participating in their community – in essence, the definition of a good neighbor.

Please do not insist that the owners take down any of their garden – we need their beautiful, welcoming space, an anchor and gathering spot for a strong, diverse community.

Regards,
Jessica Franklin
District 7 resident

201 Ashton Avenue

My name is Chris Moreno and I am a lifelong resident of Ashton Avenue. My father Paul, who passed away in 2000, was also a lifelong resident of Ashton Avenue. His parents - my Grandparents - immigrated from Spain and began our family on Ashton avenue. In total, my father's side of our family has invested close to 90 years of dedication, support and love to San Francisco, the Ingleside/Lakeview neighborhood, and most importantly – Ashton Avenue. To say we know a little about the area would be an understatement. We've seen the ups and downs, the good and the bad……and through it all, my wife and I – like so many others – have decided to raise our son in this magnificent area we call home.

Prior to 2012, 201 Ashton Avenue was bleak and lifeless. The immediate area was struggling. Persistent vehicle traffic, trash, unkept front yards and a broken sense of community all contributed to the slow decline of a once proud and vibrant area. But along came the Embertons……

Over the years, Mihal and Raelyn have transformed their front yard into an oasis of beauty and a landmark for community pride and togetherness. During neighborhood walks with my family, I often see passerby's gathering in front of their house, inspired by their creation and motivated to follow suit.

The Emberton's have brought life back to our neighborhood by opening their front yard for all to see and appreciate. I thank them for taking steps to improve their home with neighbors, friends, and community in mind. They are a true gift to our area, and I am honored and proud to speak on their behalf.

To: Zoning Administrator
San Francisco, CA.

We have been residents at 218 Ashton Avenue for close to 35 years and have seen the neighborhood experience multiple changes over that time. No change has been as positive as the work Mihal Emberton and Raelyn Ruppel have done to beautify their front yard. Not only has their work created a very pleasant garden, which we can enjoy from the windows of our home, but more importantly created a gathering space for leisurely contact with many of our neighbors who also enjoy this lovely meeting space.

Beyond the natural surrounding this space creates for casual meetings their Arbor also supports the neighborhood by creating a space for a monthly book club, after school play space and neighborhood parties and gatherings. The entire front yard bordering Ashton and Holloway also adds to the neighborhood through the natural beauty of the many plants and trees. A benefit to our climate environment as well. The lighting they have installed acts as a safety enhancement by lighting up a busy and somewhat irregular intersection at Holloway and Ashton. The work they have done to create this Arbor and surrounding garden is truly a major benefit to our neighborhood and adds to our living space both environmentally and socially.

As stated previously we have been residents on Ashton Avenue for close to 35 years and have witnessed and at times tolerated some very distasteful behaviors from previous neighbors. Raelyn and Mihal have created a transformation on their property that has benefitted the entire neighborhood and is enjoyed by many, way beyond the residents of their home. We strongly support the work they have done and are willing to support their continued efforts to maintain and develop their "neighborhood living space" on the corner of Holloway and Ashton.

Greg and Linda Souza
218 Ashton Avenue
San Francisco, CA 94112

Greg Souza
Linda Souza

San Francisco Planning Department
49 South Van Ness Avenue
San Francisco, CA 94103

Dear Corey Teague, Zoning Administrator:

We are writing to express our support for a planning variance for Raelyn Ruppel and Mihal Emberton's landscape improvements to their property as well as their pergola structure at **201 Ashton Avenue**.

This variance is necessary for the preservation and enjoyment of their yard for not only the property owners, but also the community. Rather than being detrimental to the public welfare or injurious to improvements in the vicinity, it *adds* to the public welfare and neighborhood improvements.

As neighbors, we enjoy the beauty and calming effect their garden has brought to the intersection. We have lived in the neighborhood for twelve years and they have turned what was an eyesore into a property that the entire neighborhood takes pride in. What an improvement!

As community members, we have benefitted from Raelyn and Mihal opening their yard to host school events, such as Commodore Sloat Parents' Club Organization meetings, and social events, such as a monthly meeting of the best book club in the world. They are great hosts and truly community- and volunteer-oriented, which means this variance would benefit the public, not just the private owners.

Thank you for your consideration,

Jeff Buckley
Alissa Buckley
471 Faxon Avenue

October 22, 2022

Zoning Administrator
San Francisco, CA

Dear Zoning Administrator,

I am writing to communicate our value and support of the beautified, community-enhancing spaces created and maintained by the Emberton-Ruppel family. As such, we are requesting the support of the Zoning Administration and the city of San Francisco for this wonderful family of San Franciscans.

First, the enhancements to their property has dramatically improved the neighborhood. When we moved into our home nearby on Head Street, around 10 years ago, the intersection of Ashton and Holloway was a somewhat "sketchy" corner. It was the site of shootings, drug deals, and unsafe loiterers. Additionally, the properties in the area were more often in a state of disrepair with weed-filled overgrown yards and rusty chain fences. The Emberton-Ruppel family slowly but surely worked to improve this small area of our neighborhood. Their corner lot is nothing short of beautiful: color- coordinated flowers and plants, small decorative wooden arbors, a raised bed garden with veggies we share, wisteria draped over a gorgeous front arbor with seating. We love visiting their little urban oasis and so do many of our neighbors and our kids' classmates' families. We've spent many an evening under the arbor talking and laughing together, always leaving grateful for the community and friends we have. With their consistent attention to their property and the area around them, Raelyn and Mihal have gotten to know almost all of the neighbors, including some of the transient and unhoused neighbors who pass by frequently. There is a clear and direct correlation to the improved safety, sense of community and neighborly support around the area.

Another important thing to note is how much this family supports the community beyond their corner lot. Mihal is the President of our school's Parent Club Organization (Commodore Sloat Elementary). Raelyn has consistently been the most active member of the Commodore Sloat Parent Community- caring for the school grounds when there is really no one else to do so. One small but impactful example of Raelyn's impact is that she leads the quarterly Green-up Clean-Up that draws the entire school community together to participate in upkeep and improvements to the school and its surrounding

campus. This benefits the City beyond the attendees of the school, as the Sloat campus is enjoyed by the public on weekends or non-school days.

Lastly, I know personally how much angst and stress the actions are causing this family. From years of frustration, to financial burden from the numerous fees, to stress-related health issues, the actions the City of San Francisco against these genuinely well-intended citizens' efforts have been costly and, quite frankly, unacceptable. As San Francisco residents, we expect our city's resources, elected officials and personnel to be dedicated to supporting and safe-guarding San Francisco residents. This situation has proven to be quite the opposite. The actions and resources put toward penalizing this wonderful family appear to be nothing short of harassment.

The Emberton- Ruppel family is dedicated to cultivating beauty and community in San Francisco. They are a kind and respectful family who actively show their love and support of San Francisco, our SFUSD school, and their community of friends. We are grateful to be their neighbors, classmates and friends. We ask that the city of San Francisco to support this family and their efforts to make a positive impact to our amazing City and to our community and approve the variance for the arbor.

Sincerely yours,

Gina and Jeff Deignan

Gina and Jeff Deignan

860 Head Street

San Francisco, CA 94132

Regan Dayton
662 Cayuga Ave
San Francisco, CA 94112
(415) 987-5044

October 17, 2022

Zoning Administrator
San Francisco Planning Dept
49 S Van Ness Ave, Ste 1400
San Francisco, CA 94103

Dear Sir or Madam,

This letter is regarding the requested zoning Variance for 201 Ashton Ave. I am writing in support of the variance as I believe the arbor in question brings a beautiful and much needed community feel to an otherwise desolate intersection.

The intersection of Ashton and Holloway is a wide, paved intersection largely bereft of mature greenery. The arbor at 201 Ashton bears a thriving wisteria and is framed by trees and other greenery which beckon to drivers and pedestrians alike as they approach from Holloway. As a city San Francisco falls behind other major cities like Los Angeles, New York City, Portland, and Seattle in tree cover so we should be encouraging residents to add greenery to the most public facing portions of their properties. The beauty and greenery the arbor and yard provide to this intersection are valuable and should be cherished.

The arbor at 201 Ashton also provides a public space for neighbors to interact. Simply sitting under the arbor invites interest and communication from the numerous passersby, adding a much needed social scene to the bleak surroundings of that intersection. In addition, the property owners have hosted numerous functions in support of our public schools, and provided a vital space for students to be together outdoors during the pandemic. It would be a tremendous shame and regretful loss to the community should the variance not be granted. I urge you to grant the variance and save this beautiful space.

Sincerely,

Regan Dayton

From: Colleen Carrigan colleencarrigan@gmail.com
Subject: Letter of Support
Date: Oct 1, 2022 at 10:52:01 AM
To: Raelyn Ruppel raelyn98@hotmail.com, Mihal Emberton mihal.emberton@gmail.com

Dear Zoning Administrator,

I am writing in support of the homeowners at 201 Ashton Avenue.

Raelyn and Mihal are the embodiment of responsible and engaged San Franciscans. Their home sits on the lopsided intersection of Holloway and Ashton Avenues, a consequence of an older approach to street and neighborhood design. This outdated decision causes safety issues for pedestrians and people living adjacent to it.

Additionally, it is proven that lighting up outdoor spaces helps to deter crime and increase pedestrian safety. So too does community gathering spaces and neighbors getting to know each other. Every neighbor benefits when citizens are active in their community. Raelyn and Mihal's home invites neighbors to get to know each other. Their home welcomes the young and the old.

Stepping into their garden protected from street traffic sparks curiosity in children to learn about science and nature. Sitting under their arbor filled with the fragrance of wisteria invites relaxation and serenity from the cars rounding that crooked intersection. Access to these lovely outdoor spaces was necessary during the pandemic and remains so afterwards.

I hope this letter helps you to visualize the community benefits that are readily available to that corner of the City.

What Raelyn and Mihal have created is inspirational.

Sincerely,

Colleen Carrigan
Owner, 450 Monticello Street

From: Raelyn Ruppel raelyn98@hotmail.com
Subject: Fwd: Letter of support
Date: Oct 11, 2022 at 9:37:07 PM
To: Mihal Emberton mihal.emberton@gmail.com

Sent from my iPhone

Begin forwarded message:

From: erin peters <erinkpeters@me.com>
Date: October 11, 2022 at 9:01:32 PM PDT
To: Raelyn Ruppel <raelyn98@hotmail.com>
Subject: Letter of support

October 11, 2022

To Whom it May Concern,

I am writing in support of Raelyn and Mihal. It is my understanding that the city is holding a hearing about the outdoor garden and arbor on their property.

This amazing garden and outdoor space is beautiful. It is meticulously kept and enhances the neighborhood. I truly wish their were more spaces like this in the city.

Not only does this space improve the feel of the neighborhood, it is also shared with the community. Raelyn and Mihal choose to share their garden and arbor with others. They have hosted children and families during the pandemic and continue to hold monthly book club meetings (of which I am part).

Please consider finding in Raelyn and Mihal's favor allowing them to keep the arbor and this welcoming space.

Sincerely,

Erin Peters
14 Nordhoff Street

San Francisco, CA

From: Danica Fujimori dgfujimori@gmail.com
Subject: 201 Ashton ave arbor
Date: Oct 18, 2022 at 2:15:38 PM
To: mihal emberton mihal.emberton@gmail.com, Raelyn Ruppel raelyn98@hotmail.com

Dear Raelyn and Mihal,

Please feel free to include this email in support of your arbor in your correspondence with the zoning administration.

To the Zoning Administrator:

We are writing with regard to the arbor at the house of Raelyn Ruppel and Mihal Emberton at 201 Ashton Ave. As neighbors and community members, we are grateful that this space exists in our neighborhood. Raelyn and Mihal have generously shared their front yard space with our school community by hosting end of the season celebration events. The arbor has a perfect venue for these events, especially during the ongoing pandemic given the reluctance of many families, our included, to socialize indoors. This inviting space has been a perfect solution - with enough shade for sunny weather and added warmth for cold westside evenings.

In addition, the arbor enhances the safety of the neighborhood. Our older child, a thirteen year old, often walks to Minnie and Lovie for soccer practices. On his way, he passes by 201 Ashton. Light at the arbor makes him feel safer. To us, this enables us to give him more independence, while being less concerned about his safety.

Best regards,
Danica Galonic Fujimori and Shinji Fujimori
101 Pinehurst Way
San Francisco CA 94127

October 9, 2022

Dear Zoning Administrator,

I am a long-time friend of Mihal Emberton and Raelyn Ruppel, and am writing this letter in support of their efforts to keep their arbor. Their arbor provides invaluable community benefits by supporting civic engagement through monthly book club meetings, after school play space, and neighborhood parties and gatherings. Their arbor also enables them to easily engage with local businesses, and has played an especially important role in their community during the Covid-19 pandemic as a safe, outdoor space for friends, family and neighbors to gather, and gain reprieve from the isolation imposed upon us during the pandemic. I myself have spent many afternoons and evenings with Mihal and Raelyn, relaxing under their arbor and taking a break from my hectic life, so I can attest to the important role that their arbor plays in their community.

Furthermore, their arbor adds to the urban canopy of their community by supporting thriving wisteria, and many other plants and trees. Lastly, their arbor improves neighborhood safety by lighting up a busy and irregular intersection. I sincerely hope that they will be permitted to keep their arbor, so that it may continue to support their community for many years to come. Thank you for your time.

Best Regards,

Neetu Kellison

Neetu Kellison

From: Stacey Palevsky Lewis staceydebra@gmail.com
Subject: Letter of support
Date: Sep 29, 2022 at 9:06:00 PM
To: mihal emberton mihal.emberton@gmail.com, raelyn98@hotmail.com

---

Dear Zoning Administrator,

I'm writing to express my support for the beautiful garden created by Mihal Emberton and Raelyn Ruppel in their front yard at 201 Ashton Avenue. I am lucky enough to enjoy their oasis yard once a month as part of a book club Raelyn hosts for mothers from Sloat Elementary School. I consider their garden/yard to be a quasi-community center that is a huge asset to the neighborhood. It enriches the lives of everyone lucky enough to be invited in!

Thank you,
Stacey Lewis
SF Resident, 66 Saint Elmo Way
Sloat Elementary Parent

- - -
Stacey Palevsky Lewis | staceydebra@gmail.com | 415.652.4196

September 28, 2022

Zoning Administrator
San Francisco Planning Department
49 South Van Ness Ave, Suite 1400
San Francisco, CA 94103

Dear Zoning Administrator,

It has come to my attention that there will be a variance hearing next month regarding the arbor at 201 Ashton Avenue. I am asking you to consider granting this property, and its owners Mihal Emberton and Raelyn Ruppel, a variance for the existing arbor.

I became part of their invaluable community and space two years ago in the midst of the pandemic. My older daughter had just started Kindergarten at Commodore Sloat School and all of the instruction that year was online. As a result, I was a new parent to a new community that I could not be a part of. I immediately felt isolated due to the fact that no in person classes or events were happening and therefore had no way of meeting new people and connecting to the community and neighbors. This was until I was invited by a member to join a book club for the parents. Raelyn and Mihal, owners of 201 Ashton Ave., were gracious enough to open their outdoor arbor as a place for us to meet safely and at a distance. Through their generosity and welcoming, I was able to find community and connect with people during trying and isolating times. I know I am by no means the only person who has found respite and a sense of community and belonging below their arbor. To this day, we still continue to gather and connect in this space regularly. This is why I am asking that you consider granting this variance to them, so that we can continue to meet, connect and form community in the neighborhood.

Sincerely,

Sarah Bookwalter

From: **Raelyn Ruppel** raelyn98@hotmail.com
Subject: **Fwd: Letter of Support for 201 Ashton Avenue**
Date: **Sep 28, 2022 at 6:30:43 PM**
To: **Mihal Emberton** mihal.emberton@gmail.com

Sent from my iPhone

Begin forwarded message:

From: Serena Warner <serenawarner@gmail.com>
Date: September 28, 2022 at 12:03:57 PM PDT
To: raelyn98@hotmail.com
Subject: Letter of Support for 201 Ashton Avenue

To The Zoning Administrator,

I write in regards to the upcoming variance hearing on October 26th in relation to the arbor at 201 Ashton Avenue.

Raelyn Ruppel and Mihal Emberton are huge proponents of community involvement, beautification and engagement. They have created a beacon at their home for the Ingleside community, and the arbor adds a huge benefit. During 2020-2021, the Emberton-Ruppel home functioned as a safe and welcoming outdoor space where children who were isolating at home could go to have a bit of socialization during the most strict months of shelter-in-place. The arbor provided shade and cover for these kids to interact and study, without the dangers of the beating sun. The arbor has also been a place of refuge for community book clubs, soccer and baseball team meetings and end-of-season parties, and still functions as a daily haven for a continuing pod of children who still don't feel safe in a larger after-care setting, as COVID remains present and continues to affect all of our lives. The space has benefited the community at-large. It has removed what was once a blight to the street, and deters crime, as people are outside, building community, and have an eye on the goings on in the neighborhood. I can't begin to express what a benefit this arbor has had for our family in particular, as my child has been part of the continuing Pod that is able to safely play and enjoy the arbor each day after school. It is a lovely and pleasing-

to-the-eye addition to the block and the Ingleside community as a whole, and would be a sad and needless loss to the neighborhood if it were to be removed.

Please consider allowing the arbor at 201 Ashton Avenue to remain in place! It is causing no harm, and benefiting the entire Ingleside community!

Thank you so much for your time,

Serena Warner, community member
415-225-8752

Dear Zoning Administration;

As a resident of Ingleside Terraces, I can remember driving past 201 Ashton years ago before I even knew Raelyn and Mihal. I remember their front yard had a pergola and these beautiful wreaths in their windows at Christmas, and really nothing else. But over the years, their front yard has become an oasis that I am so thankful I get to enjoy. They have put so much time and money into creating an amazing space for outdoor living.

About 4 years ago, a group of us moms from Commodore Sloat School decided to create a book club. We first started meeting at Whole Foods on Ocean in their coffee shop. But it was loud and very public. Luckily, Raelyn joined our club and opened up her garden to us. By this time, her yard was much more than a pergola and wreaths at Christmas. There was a fire pit and comfy Adirondack chairs, lush trees, beautiful hydrangeas, hanging lights, a fountain, and creeping vines. Covid shut down our group for a while, but having a safe place to meet-up in person was a godsend for us moms who had been home with our kiddos 24/7 for months and months. Each month we are so blessed to meet up and enjoy each other's company and discuss books and life. It's a beautiful space that is an asset to our neighborhood.

I am saddened to hear of all the trouble the city has given this amazing family for beautifying their home and our entire community. If more people took such care of their yards, our neighborhood would be much improved.

Sincerely,
Suzanne Howe
820 Urbano Dr.

Richard Hendry

September 21, 2022

Corey Teague

Zoning Administrator

City and County of San Francisco

corey.teague@sfgov.org

Re: Zoning variance for 201 Ashton Avenue, San Francisco CA 94112

Dear Mr. Teague:

I understand that you are requiring a zoning variance for an arbor in our neighbors Mihal and Raelyn's front yard at the above address.
I am writing to ask that you allow the variance as this arbor, which supports a very beautiful white wisteria, adds a great deal to the neighborhood.
There are so many blights upon our neighborhood; from the typical houses that are directly on the sidewalk, paved-over their front yards for parking, yards surrounded by ugly cyclone fence and covered with egregious plastic 'grass,' or, worse, are abandoned. In contrast Mihal and Raelyn have created an inviting front yard that has abundant flowers, flowering trees, and vegetable beds. This transforms the lot into an outward-facing park-like corner and adds to the overall livability of the neighborhood.
In addition, because of the inviting, outward-facing yard, Mihal and Raelyn's house is a focal point for walkers to drop by and talk and generally serves as a positive influence in the neighborhood.
Please approve the variance without any further imposition on Mihal and Raelyn or on our neighborhood.
Sincerely,
Richard Hendry

423 PAXON AVENUE, APT. A, SAN FRANCISCO, CA 94112 415-823-9988

Karen Bioski-Simon
(415) 994-4615
karenabioski@gmail.com

11th September 2022

Zoning Administrator
San Francisco Planning Department
49 South Van Ness Ave, Suite 1400
San Francisco, CA 94103

Dear Zoning Administrator,

I am writing in support of Mihai Emberton & Raelyn Ruppel, owners of 201 Ashton Ave, San Francisco, CA at their upcoming Variance Hearing.

Raelyn and Mihai have generously opened their garden and front yard space, including the welcoming space under their arbor, for many community events of which I have been a part of. The space serves as an anchor within the community - during most events neighbors come by, as well, on their regular walks and receive a warm welcome and maybe even a gift of some vegetables from the garden. The space contributes to a sense of community and well-being that San Francisco has strived to create.

As a long time resident of SF since 2004 and a former educator at the former St. Emydius campus, I have witnessed the transformation of the yard at 201 Ashton from an abandoned-appearing space, to one that is a model for the neighborhood, making the nearby students and neighbors feel proud and inspired. It is my opinion that the hard work that has been placed into the creation of the yard, in particular the striking arbor and the warm, secure space it creates, has helped to spur the improvement of many neighboring properties, thereby transforming the neighborhood.

I implore you to consider granting the property a variance to allow the arbor to continue to exist in its current format. To remove or drastically alter it would have a direct negative impact on the community connections and model that the beautification of the yard, in particular the arbor, have created.

Sincerely,

Karen Bioski-Simon

From: loretta jones lorettaj_jones@yahoo.com
Subject: For the Zoning Administrator
Date: Sep 19, 2022 at 8:37:43 PM
To: raelyn98@hotmail.com, mihal.emberton@gmail.com

Dear Sir/Madam --

I'm a neighbor of Raelyn and Mihal and writing to you about the arbor in their yard. I support the arbor (and their garden in general) for a variety of reasons --

1) it's a relaxing and safe place for neighborhood gatherings -- offering an extremely pleasant, natural sanctuary for the neighborhood.

2) The aesthetics of the arbor fits in well with the overall landscape and design of the outdoor area with the garden and fountain. It supports the climbing plants which add to the beauty of the area.

3) Both the arbor and the yard are well maintained.

4) At night the outdoor lighting offers additional safety and a possible deterrent to home invasions/property thefts - which unfortunately are quite rampant in San Francisco these days.

Happy to speak more in person if required.

Thanks!

Loretta Jones
840 Head St, SF, CA 94132
650-218-6280

September 26, 2022

Dear San Francisco Zoning Administrator,

This letter is regarding the arbor and outdoor front yard space at 201 Ashton Ave in San Francisco. My family and I have had the pleasure of enjoying this space for community events such as monthly book club meetings, our elementary school's Parent Club Organization meeting, and SF Youth Baseball League team parties, along with numerous other group gatherings. The space Raelyn Ruppel and Mihal Emberton have created adds beauty, safety, and builds community. It would be a huge loss for this neighborhood if it was removed. Please consider all the wonderful things this outdoor space provides our community and let us continue to enjoy it as it is now.

Thank you,
Joanna Pfeffer and family

From: Raelyn Ruppel raelyn98@hotmail.com
Subject: Fwd: letter of support
Date: Oct 1, 2022 at 11:04:13 AM
To: Mihal Emberton mihal.emberton@gmail.com

Sent from my iPhone

Begin forwarded message:

From: Dimitri Stamatis <dstamatis@gmail.com>
Date: September 30, 2022 at 9:52:45 PM PDT
To: raelyn98@hotmail.com
Cc: Colleen Carrigan <colleencarrigan@gmail.com>
Subject: letter of support

To whom it may concern:

I am very familiar with the intersection of Holloway & Ashton, as it's the south-eastern corner of the Ingleside Terraces neighborhood, where I've lived since 2015.

I appreciate the tremendous effort that Raelyn and Mihal have put into beautifying their garden. They've added a welcomed bit of charm, nature and beauty to what would otherwise be a drab, paved intersection.

I have also visited their lovely garden, when they've graciously hosted Commodore Sloat Elementary's PCO (Parents' Club Organization) meetings.

It is a lovely space, maintained by equally lovely and caring neighbors.

Thank you.

Dimitri Stamatis

Owner, 450 Monticello Street.

Tami Volker
14 Glenview Drive
San Francisco, CA 94131
415-637-9153

Zoning Administrator

San Francisco Planning Department
49 South Van Ness Ave
San Francisco, CA 94103

Dear Zoning Administrator,

I am writing in support of the beautiful arbor in the front yard of Mihal Emberton and Raeyln Ruppel at 201 Ashton Avenue. The arbor provides a wonderful meeting place for the community, as well as beautifies the neighborhood. I attend monthly book club meetings held under the arbor. During the pandemic, the front yard and arbor were one of the few places that people could meet and socialize safely. Since then, it has continued to serve as a gathering place for book club, youth baseball and soccer team gatherings, and kids after school groups. I treasure the time I spend there, as does my child. The community and neighborhood are a better place because of Mihal and Raelyn's beautiful arbor and yard. It would be both unjust and a detriment to the community if their variance were not granted and the arbor was taken down.

Thank you for your sincere consideration,

Tami Volker

Tami Volker
10/02/2022

From: **Raelyn Ruppel** raelyn98@hotmail.com
Subject: **Fwd: Letter of support**
Date: **Oct 5, 2022 at 9:34:38 AM**
To: **Mihal Emberton** mihal.emberton@gmail.com

Sent from my iPhone

Begin forwarded message:

From: Gitanjali Rawat <geetlee@gmail.com>
Date: October 5, 2022 at 9:07:31 AM PDT
To: raelyn98@hotmail.com
Subject: Letter of support

Raelyn, I'm so sorry that I'm late. Just in case this helps.

Dear City officials,

I am Raelyn Ruppel and Mihal Emberton's neighbor. I live a block away from their beautiful home and have enjoyed their outdoor space on many occasions. Particularly, I want to highlight that I have enjoyed community gatherings in their lovely garden. Having recently moved to my new home, I was actively seeking ways to connect with my neighbors and community. Raelyn hosts a book club monthly and this has been an excellent way for me to meet with and strengthen relationships with fellow book readers.

Please consider my letter of support in your considerations.

Warmly,
Gitanjali Rawat
137 Ashton Ave, San Francisco, CA 94112
Ph: 512-879-7580

To Whom It May Concern. Pertaining To The Property At 201 Ashton. The Property Owners, Raelyn & Mahal, Built a Beautiful Arbor, A Fire Pit, Added Nice Plants And Made The Front Of Their House Very Attractive, And They Continue To Beautify The Neighborhood.

Michael + Deborah Murphy
901 Holloway Ave.