

**Respondent’s Brief for Appeal 23-008 of Alterations Permit
for Fence at 22nd St & Harrison St**

INTRODUCTION

On March 2, 2023, 17th & Peralta LLC an affiliate of Another Corporate ISP, LLC dba Monkeybrains, a San Francisco-based Internet Service Provider (“Respondent”), owner of the warehouse property at 931-933 Treat Avenue, applied for and received an alterations permit to replace the damaged fence on the former railroad right-of-way abutting its property, known as “Parcel 36” and referred to within the permit application as 957 Treat Ave. On April 6, 2023, a local group of “guerrilla gardeners,” Friends of Mission Greenway (herein “Appellants”), appealed DBI’s issuance of the fence permit. Appellants’ appeal is based on a number of factual misstatements and a claim of public entitlement to the use of a private lot, which goes far beyond the scope of this alterations permit for a simple fence repair. For all the reasons stated below, we respectfully request that the Board of Appeals deny Appellants’ appeal and affirm DBI’s issuance of a permit to replace the damaged fence.

FACTUAL BACKGROUND

A. Parcel 36 and Surrounding Neighborhood

The fence that we seek to repair and replace is located at the northern end of a parcel that cuts diagonally from Harrison and 22nd Streets to 23rd Street and Treat Avenue, which was historically APN 3639-036 and is now three subparcels, APNs 3639-036A, 3639-036B, 3639-036C (collectively referred to herein as “Parcel 36”). The current owner of Parcel 36 is unknown, and for decades it has been used by the neighboring parcels for parking and loading operations and fenced off from both the abutting public streets.¹ Some of the property owners whose lots adjoin Parcel 36 have recorded easements over Parcel 36; other adjoining property owners, like ourselves, have prescriptive easements

¹ Respondents have been informed by the former owners of 933 Treat Ave that neighbors adjoining the parcel erected fences around Parcel 36 in the 1980s after a dead body was found on the lot. (See letter of support from Jim Heinzer sent to the BOA.)

over Parcel 36 based on decades of open and notorious use. Our predecessor, the Heinzer family, and its tenants used the Parcel 36 lot for parking and/or loading for over 50 years.²

B. Purchase of 931-933 Treat Ave Based on Longstanding Commercial Uses of Parcel 36 and Operations within San Francisco

In February 2023, after a long search for a warehouse property in San Francisco, we purchased the 931- 933 Treat Avenue—one of an increasingly small number of “PDR” (Production Distribution & Repair) properties left in San Francisco. Historically, the lots adjacent to Parcel 36 have been used for various PDR and commercial activities, consistent with the zoning of the area (Urban Mixed Use or “UMU”). The 931-933 Treat Avenue Property has two loading docks abutting/on Parcel 36 (*See Exhibit B*) that have reportedly been in use by our predecessors for nearly one hundred years. The use of these loading docs and the abutting Parcel 36 was included in the leases provided by the Heinzer Family to their tenants,³ and we purchased the 931-933 Treat Avenue warehouse property in reliance on its predecessor’s longstanding use of and claim to Parcel 36.

Our continued use and development of the 931-933 Treat Avenue warehouse is necessary for the expansion of our operations in and around the City. Our company – Another Corporate ISP, LLC (dba Monkeybrains) – has been in operation in the Bay Area for 25 years. We are self-funded and have grown organically from a company of two to now a company of 60 employees—41% of which are minorities and people of color. We provide a 100% health care benefit to all employees and any of their dependents—currently 90 people! Our job roles range from trades workers to administrative staff behind computers. Our core business involves providing low cost Internet connectivity to residents and business in the Bay Area and currently operate a network of 22,000 subscribers which range from single family homes to class A high rises downtown. We also provide zero cost Internet to over 8000 units of subsidized housing via a joint program with Mayor’s Office of Housing and the Department

² See <https://missionlocal.org/2018/04/sf-mission-group-elicits-design-ideas-for-a-greenway-on-old-rail-line/>, attached to Appellants’ brief as Exhibit B-4.

³ See <https://missionlocal.org/2018/04/sf-mission-group-elicits-design-ideas-for-a-greenway-on-old-rail-line/>, attached to Appellants’ brief as Exhibit B-4.

Technology⁴. Additionally, through the federal Affordable Connectivity Program we provide free Internet to eligible residents not in subsidized housing. Businesses rely on us as well – we were the ISP that got Uber and AirBNB off the ground.

We also do a significant amount of work with anchor organizations such as KQED, Glide Foundation, Rec & Park, Conservatory of Flowers, UCSF, SF Aids Foundation, SF Port Authority, SF Department of Elections, SF Symphony, SF Ballet, Pride, Bayview Opera House, Castro Theater, TNDC, Immigration Center for Women & Children, Global Fund for Women and MEDA to name a few. During the pandemic we worked with City agencies to provide emergency connectivity at no cost to COVID isolation facilities, testing facilities and vaccination centers across the city. When the City issued the Stay At Home order in March of 2020, our staff bravely showed up and business was as ‘unusual’. We masked, gloved, and were on the front-line without a break. Our service was essential for remote workers, student Zoom sessions, tele-medicine, and watching Tiger King. We are an organization deeply rooted in the San Francisco Bay Area and are committed to servicing our community for years to come now from our new location on Treat Ave.

C. Ongoing Conflicts with Appellants

In October of 2022, after the former 931-933 Treat Avenue tenants vacated the property now owned by our company, Appellants reportedly sawed through a locked chain link on Parcel 36 and added their lock around the previous lock, and for the first time installed planter boxes on Parcel 36.⁵ Appellants’ lead spokesman, Tree Rubenstein, likened the group’s efforts to “putting a flag up, saying, ‘We think it’s better these days to have this space ... a green walking space, and the cars and parking or driving through there is not compatible.’”⁶ Appellants intended that their “temporary garden is just to, first of all, give people an idea of an alternative, rather than the way it’s been for years.”⁷ Appellants

⁴SF Board of Supervisors File # 220350 <https://sfgov.legistar.com/LegislationDetail.aspx?ID=5548594&GUID=0574C1C9-B7C4-4BF3-9374-7609B92CE62C>

⁵ <https://missionlocal.org/2022/10/mission-greenway-mission-kids-parcel-36-railroad-right-of-way/>, attached to Appellants’ Brief as Exhibit B-5.

⁶ Appellants’ Exhibit B-5.

⁷ Appellants’ Exhibit B-5.

are correct that the use they envision for Parcel 36 is not compatible with the recorded and prescriptive easements over the parcel that span back many decades.

The owners of the properties adjoining Parcel 36 object to Appellants' continued occupancy of Parcel 36, and support our efforts to repair the fence enclosing the lot over which they have recorded and prescriptive easement rights. (See Letters of Support submitted from neighbors Celia Saino, John O'Connor and Mission Kids Preschool, attached as **Exhibit I, J & K** respectively.) These owners have attempted unsuccessfully to resolve the ongoing disputes with Appellants, and the police have been called to Parcel 36 on more than one occasion to respond to altercations between Appellants and Parcel 36's neighbors.

Since the purchase of 931-933 Treat Ave just two months ago, Appellants have filed 10 unfounded DBI complaints which have all been promptly cleared with the exception of this appeal which is still under review. (See **Exhibit H.**) During a recent visit to DBI with our architect on 04/13/2023 we were informed by the department of building inspection that a member of the Appellants had requested that: *"All permit requests by Monkeybrains.net and/or its affiliates for work inside or outside of their property located at 931-933 Treat should be denied until after the pending Board of Appeals hearing."* DBI explained that this was an unreasonable request attempting to combine unrelated matters. It appears that Appellants' motivation here is simply to obstruct our continued use of Parcel 36 and the development of our 931-933 Treat Avenue property, rather than raise a valid concern with the awarded permit.

ARGUMENTS IN SUPPORT OF APPEAL DENIAL

- A. Granting this appeal would effectively make Parcel 36 a public lot, without the benefit of public resources to protect it from blight.

Appellants' grounds for this appeal are "simple"—Respondent "does not own the gate or the parcel." (Appeal No. 23-008, P. 7.) But since the legal owner of Parcel 36 is unknown, Appellants effectively argue that *no one* has the right to fix the fence that has enclosed the lot for decades, and that

it must now be treated as public property—despite the fact that it is not owned by the City or any other public entity, and there will be no public resources to maintain Parcel 36 and protect it from blight.

The compromised fence, in its current state, is contributing to the very blight the Appellant has referenced in several communications online⁸ and elsewhere about Parcel 36’s current condition. Our effort to repair and improve the fence through an alterations permit is a step towards addressing this blight in a lawful manner. Adjoining property owner, Celia Saino, who has a recorded easement over Parcel 36, submitted a letter of support for denial of Appellants’ appeal that describes the serious blight issues in the neighborhood. (See **Exhibit I**.) She describes over 20 requests to the City over the last year alone to clean up the public sidewalk in front of her property—including addressing issues with human feces, broken glass, dumped appliances, clothes and furniture as well as multiple instances of homeless encampments on the sidewalk and graffiti on our building. (See **Exhibit I**.) If Parcel 36 is left open to the public, one can expect all the same health and safety problems, and we and the adjoining property owners will be left to address these issues without any City support.

The City of San Francisco does not own Parcel 36, and a representative of the City Recreation and Parks Department has been quoted saying that that it has no plans to develop it or otherwise cooperate with Appellant’s “greenway plans” for the lot, “since we don’t own it.”⁹

There is strong legal authority to support the City’s issuance of the alterations permit we requested to repair the fence. The California Supreme Court has recognized that the owner of a lot with easement rights over an adjoining property may construct a fence along the easement right of way so long as the fence is not inconsistent with rights of the owner of the property on which the easement runs. *Dolske v. Gormley*, 58 Cal. 2d 513, 520 (1968). Our maintenance of a long-standing fence shared by all easement holders clearly does not interfere with rights of the unknown owner of Parcel 36.

⁸ “Otherwise, this blighted part of our neighborhood will remain useless” February 7, 2018 MissionLocal article by Elizabeth Creely: <https://missionlocal.org/2018/02/sf-neighbors-organize-to-create-a-greenway-in-the-mission/>

⁹ <https://sfstandard.com/community/guerrilla-gardeners-want-to-take-over-this-san-francisco-lot-with-no-known-owner/>

California law generally presumes that “adjoining property owners will share equally in the responsibility for maintaining the boundaries and monuments between them.” Cal. Civ. Code § 841(a). The law also requires that “the owner of any easement in the nature of a private right-of-way[.] . . . shall maintain it in repair,” and states that where “the easement is owned by more than one person” (as is true), the owners of that easement may apportion the cost of maintaining it pursuant to any agreement they may reach. Cal. Civ. Code § 845(a)-(b). Here, the legal owner of Parcel 36 is unknown, so the repair and maintenance of the fences enclosing Parcel 36 must fall to the adjoining property owners who have recorded and prescriptive easement rights on the lot. These easement owners all agree with our efforts to repair the fence, and none have objected to this permit. Beyond the fencing, we are committed to improving the current state of the lot by scheduling regular maintenance and doing some level of landscaping that will allow for our continued use while improving the general aesthetic of the lot. We have the resources and proper insurance to hire local labor to do these improvements and/or pull from our staff who are licensed and bonded for trade’s work. Furthermore, we believe our intent to repair the fence is evidence of our commitment to improve the lot and do so in a lawful manner by obtaining proper permitting from the appropriate municipal agency.

B. Respondent seeks the fence permit in good faith and made no false statements in its permit application.

- i. Mr. Menendez clearly stated that 17th & Peralta LLC owned 933 Treat Ave, which was adjacent to the “vacant lot” known as Parcel 36.

Appellants wrongly claim in their appeal and on their website and social media that Alejandro Menendez falsely identified himself as the owner of 957 Treat Ave when obtaining a permit for replacing a fence and gate in-kind at the aforementioned address. This statement is patently untrue. The permit application clearly shows that 17th & Peralta LLC, of which Alejandro Menendez is a managing member, identified itself as the owner of 933 Treat Ave, a property adjacent to and with direct access and right of use to a “*Vacant Lot*”—a term that is used prominently throughout the application. (See Permit Application, **Exhibit A**.) Mr. Menendez also communicated this information verbally to DBI

during the permit process. The DBI representative entered the application into the system while adding their own notes on the handwritten application. (See Exhibit A.)

- ii. Mr. Menendez truthfully stated that he was an agent of the contractor, not of the lot.

Appellants additionally state that Alejandro Menendez falsely identified himself as an agent of 957 Treat Ave. This is also not accurate and possibly a misunderstanding by Appellant of the permitting process. Alejandro Menendez was given authorization by the contractor – Gomez Iron Works – to act as contractor’s agent to obtain the permit from the City. Appropriate paperwork was completed and submitted to DBI attesting to this during the permit process. Please see attached **Exhibit C** of the form submitted on 03/02/2023 with permit packet.

- iii. The fence Respondent seeks to repair will be an “in-kind replacement” as stated on the application.

Appellants assert that the application’s description of an in-kind replacement is not valid due to a potential lack of use of chain-link material. However, the Appellants neglect to mention that the existing eastern portion of the very fence that the gate is connected to is made of a galvanized iron material. Please see the photos attached to this statement as **Exhibit D**. Our scope of work for this replacement involves replicating the exact style, dimensions and material as can be currently seen on site for the permitted work, making this indeed an in-kind replacement. We also would like to note that the existing bi-parting swing of the gate will be preserved. Moreover, the permitted fencing material provides a more finished look that is consistent with other fencing in the neighborhood, notably the public park right across the street from this very lot – Parque Niños Unidos - as shown in **Exhibit E**.

- iv. The fence Respondent seeks to repair is clearly damaged and represents a security risk to adjoining property owners.

Appellants oddly state the gate is not damaged. However, one can clearly see in **Exhibit F** attached herein (an image taken from the Appellant’s website) that the fence is completely crushed on the lower center latch portion of the bi-parting gate. This damage defeats the structure’s purpose of

securing the area as a person can easily fit through the damaged section. Moreover, a DBI representative confirmed the gate was indeed damaged upon a site visit conducted on 03/15/2023 in response to the filed appeal. During this site visit the inspector recommended adding meshing material across the gap as a temporary solution which we promptly implemented on 03/16/2023. On 03/17/2023 the mesh and lock on the gate were cut, as captured in **Exhibit G** highlighting our continued struggle to secure the gate despite recommendations from the building department. To date, the gate has been compromised no fewer than eleven times and repeatedly left unlocked overnight—despite the fact that Appellants claim to “have committed to work with [adjacent residents] to ensure that the gate is locked at night.” (See Appeal at p. 8.)

C. Appellants’ claim to Parcel 36 cannot be resolved in this appeal, and they will not be prejudiced by its denial.

Appellants’ permit appeal relies on their claim to occupy Parcel 36, which raises issues that go beyond the scope of the alterations permit issued to us for repair of the northeastern Parcel 36 fence. This hearing is not the appropriate time or place to settle the use or ownership rights of the public or any party to this appeal as to Parcel 36. As we understand it, the only question before the Board of Appeals now is whether the City properly issued an alterations permit to us to repair a fence enclosing a private lot that has been there for years. Through our permit to repair the Parcel 36 fence, we seek only to maintain what has existed for decades. In appealing the issuance of the permit, Appellants, on the other hand, ask the Board of Appeal to transform Parcel 36 into a public lot, without any legal authority or City support for doing so.

Unlike us (the Respondent), Appellants will suffer no real prejudice as a result of the appeal’s denial. The northeastern Parcel 36 fence existed long before Appellants showed any interest in the parcel, and they have no legitimate reason to obstruct its repair.

CONCLUSION

We thank the commissioners of the Board of Appeals for your consideration in this matter and appreciate your service. For all the reasons stated above, we respectfully request that the Board of Appeals deny Appeal No. 23-008.

A handwritten signature in black ink, appearing to read 'Alejandro Menendez', written over a horizontal line.

Alejandro Menendez
Managing Member
Monkeybrains.net
April 19, 2023

A handwritten signature in blue ink, appearing to read 'Rudy Rucker', written over a horizontal line.

Rudy Rucker
Managing Member
Monkeybrains.net
April 19, 2023

Exhibit A – Permit Application

SAN FRANCISCO
DEPARTMENT OF BUILDING INSPECTION

OFFICIAL COPY

APPROVED
Dept. of Building Insp.
- San Francisco -

MAR 02 2023

Patrick O'Flaherty
PATRICK O'FLAHERTY
INTERIM DIRECTOR
DEPT. OF BUILDING INSPECTION

BLDG. FORM **3/8**

APPLICATION NUMBER
2023-03-02-2910

OSHA APPROVAL (REQ'D) ☐

APPROVAL NUMBER

APPLICATION FOR BUILDING PERMIT
ADDITIONS, ALTERATIONS OR REPAIRS

FORM 3 ☐ OTHER AGENCIES REVIEW REQUIRED
FORM 8 ☒ OVER-THE-COUNTER ISSUANCE

Identified as a vacant Lot

NUMBER OF PLAN SETS **0**

DATE FILED **3/2/2023**

RECEIPT NO. **23030521**

ISSUED **3/2/23**

(1) STREET ADDRESS OF JOB **957 Treat Ave SF CA 94110 3639-036A**

BLOCK & LOT **3639-036A**

ESTIMATED COST OF JOB **\$14,000.00**

REVISD COST **\$14,000.00**

BY **3/2/23**

DATE **3/2/23**

INFORMATION TO BE FURNISHED BY ALL APPLICANTS

LEGAL DESCRIPTION OF EXISTING BUILDING

(1) TYPE OF CONSTR. **Lot**

(2) NO. OF STORIES OF OCCUPANCY **1**

(3) NO. OF BASEMENTS AND CELLARS **1**

(4) OCCUP. CLASS **79**

(5) NO. OF DWELLING UNITS **1**

DESCRIPTION OF BUILDING AFTER PROPOSED ALTERATION

(6) TYPE OF CONSTR. **Lot**

(7) NO. OF STORIES OF OCCUPANCY **1**

(8) NO. OF BASEMENTS AND CELLARS **1**

(9) OCCUP. CLASS **79**

(10) NO. OF DWELLING UNITS **1**

(10) IS AUTO RUNWAY TO BE CONSTRUCTED OR ALTERED? **NO**

(11) WILL STREET SPACE BE USED DURING CONSTRUCTION? **NO**

(12) ELECTRICAL WORK TO BE PERFORMED? **NO**

(13) PLUMBING WORK TO BE PERFORMED? **NO**

(14) CONTRACTOR **6000 17th St, San Francisco, CA 94104**

(15) OWNER (CROSS OUT ONE) **17th & Peralta LLC 933 Treat Ave SF CA 94110**

EXPIRATION DATE **7/31/2023**

STREET# **933 Treat Ave**

PHONE (FOR CONTACT BY DEPT) **415 441 1110**

WRITE IN DESCRIPTION OF ALL WORK TO BE PERFORMED UNDER THIS APPLICATION (REFERENCE TO PERMITS IS NOT SUFFICIENT)

Repair Damaged Gate to Vacant Lot North of Lot

Owner of 933 Treat. Crossout by DBI

ADDITIONAL INFORMATION

(17) DOES THIS ALTERATION CREATE ADDITIONAL HEIGHT OR STORY TO BUILDING? **NO**

(18) IF (17) IS YES, STATE NEW HEIGHT AT CENTER LINE OF FRONT **NO**

(19) DOES THIS ALTERATION CREATE DECK OR HORIZ. EXTENSION TO BUILDING? **NO**

(20) IF (19) IS YES, STATE NEW GROUND FLOOR AREA **NO**

(21) WILL SIDEWALK OVER SUB-SIDEWALK SPACE BE REPAIRED OR ALTERED? **NO**

(22) WILL BUILDING EXTEND BEYOND PROPERTY LINE? **NO**

(23) ANY OTHER EXISTING BLDG. ON LOT? (IF YES, SHOW ON PLOT PLAN) **NO**

(24) DOES THIS ALTERATION CONSTITUTE A CHANGE OF OCCUPANCY? **NO**

(25) ARCHITECT OR ENGINEER (DESIGN ☐ CONSTRUCTION ☐ ADDRESS **933 Treat Ave** CALIF. CERTIFICATE NO. **253834**

(26) CONSTRUCTION LENDER (ENTER NAME AND BRANCH DESIGNATION IF ANY. IF THERE IS NO KNOWN CONSTRUCTION LENDER, ENTER "UNKNOWN") ADDRESS **933 Treat Ave**

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 is to be closer than 6'0" to any wire containing more than 750 volts. See Sec 380, 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.

Grade lines as shown on drawings accompanying this application are assumed to be correct. If actual grade lines are not the same as shown, revised drawings showing correct grade lines, cuts and fills, and complete details of retaining walls and wall footings must be submitted to the department for approval.

ANY SITUATION REQUIRED HEREIN OR BY CODE MAY BE APPEALED.

BUILDING NOT TO BE OCCUPIED UNTIL CERTIFICATE OF FINAL COMPLETION IS POSTED ON THE BUILDING OR PERMIT OF OCCUPANCY GRANTED, WHEN REQUIRED.

APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE AN APPROVAL FOR THE ELECTRICAL WIRING OR PLUMBING INSTALLATIONS. A SEPARATE PERMIT FOR THE WIRING AND PLUMBING MUST BE OBTAINED. SEPARATE PERMITS ARE REQUIRED IF ANSWER IS "YES" TO ANY OF ABOVE QUESTIONS (10) (11) (12) (13) (22) OR (24).

THIS IS NOT A BUILDING PERMIT. NO WORK SHALL BE STARTED UNTIL A BUILDING PERMIT IS ISSUED.

In dwellings, all insulating materials must have a clearance of not less than two inches from all electrical wires or equipment.

CHECK APPROPRIATE BOX

☐ OWNER ☐ ARCHITECT

☐ LESSEE ☐ AGENT

☐ CONTRACTOR ☐ ENGINEER

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 (I) or (II) designated below, or shall indicate item (III), (IV), or (V), whichever is applicable. If however item (V) is checked, item (IV) must be checked as well. Mark the appropriate method of compliance below.

I hereby affirm under penalty of perjury one of the following declarations:

() I. I have and will maintain a certificate of consent to self-insure for worker's compensation, as provided by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued.

() II. I have and will maintain worker's compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My worker's compensation insurance carrier and policy number are:

Carrier _____

Policy Number _____

() III. The cost of the work to be done is \$100 or less.

() IV. I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the worker's compensation laws of California. I further acknowledge that I understand that in the event that I should become subject to the worker's compensation provisions of the Labor Code of California and fail to comply forthwith with the provisions of Section 3800 of the Labor Code, that the permit herein applied for shall be deemed revoked.

() V. I certify as the owner (or the agent for the owner) that in the performance of the work for which this permit is issued, I will employ a contractor who complies with the worker's compensation laws of California and who, prior to the commencement of any work, will file a completed copy of this form with the Central Permit Bureau.

APPLICANT'S CERTIFICATION

I HEREBY CERTIFY AND AGREE THAT IF A PERMIT IS ISSUED FOR THE CONSTRUCTION DESCRIBED IN THIS APPLICATION, ALL THE PROVISIONS OF THIS PERMIT AND ALL LAWS AND ORDINANCES THEREIN WILL BE COMPLIED WITH.

REV 03/22

OFFICE COPY

Signature of Applicant or Agent

Date

Exhibit B – Lot Access

931-933 Treat Ave



Exhibit C – Agent Authorization



London N. Breed, Mayor
Patrick O'Riordan, C.B.O., Director

LICENSED CONTRACTOR'S STATEMENT

Required documentation: ☐ Government-issued photo ID
☐ Current San Francisco Business License
☒ Current State California contractor's license and classification (the pocket card)

Permit Application Number: 2023-03-02-2910
Permit Application Address: 957 Treat Ave S.F., CA 94110
Print Company Name: Gomez Iron Works
Print Contractor Name: Albert Gomez
CSLB Number: 253834 Contractor Class: C23 Expiration Date: 7/31/2023
Contractor Mailing Address: 1195 Hillside Blvd Daly City, CA 94014
Contractor Telephone: [REDACTED] Contractor Email: info@gomezironworks.com
Contractor Signature: [Signature] Date: 3/2/2023

AUTHORIZATION OF AGENT TO ACT ON CONTRACTOR'S BEHALF

As the contractor listed above, hereby authorizes Alejandro Menendez to obtain a building permit(s), including any supplemental permits, but not limited to electrical, plumbing or temporary street-use permits, on behalf of the company/contractor listed above, with the Department of Building Inspection for the City & County of San Francisco located at 49 South Van Ness Avenue, San Francisco, California 94103.

Print Named of Authorized Agent(s): Alejandro Menendez
Address of Authorized Agent(s): 933 Treat Ave. S.F. Ca 94110
Agent's Telephone: [REDACTED] Agent's Email: amen@monkeybrains.net

Pursuant to the Business and Professions Code Sec. 7031.5, I hereby affirm, under penalty of perjury, that I am licensed under the provisions of Chapter 9 (commencing with Sec. 7000) of Division 3 of the Business and Professions Code, and that my license is full force and effect.

Contractor Signature: [Signature] Date: 3/2/2023

Revised 06/06/2022

Central Permit Bureau
49 South Van Ness Avenue, Suite 200 – San Francisco CA 94103
Office (628) 652-3240 – FAX (628) 652-3249
www.sfdbi.org

Exhibit D – Permitted Work

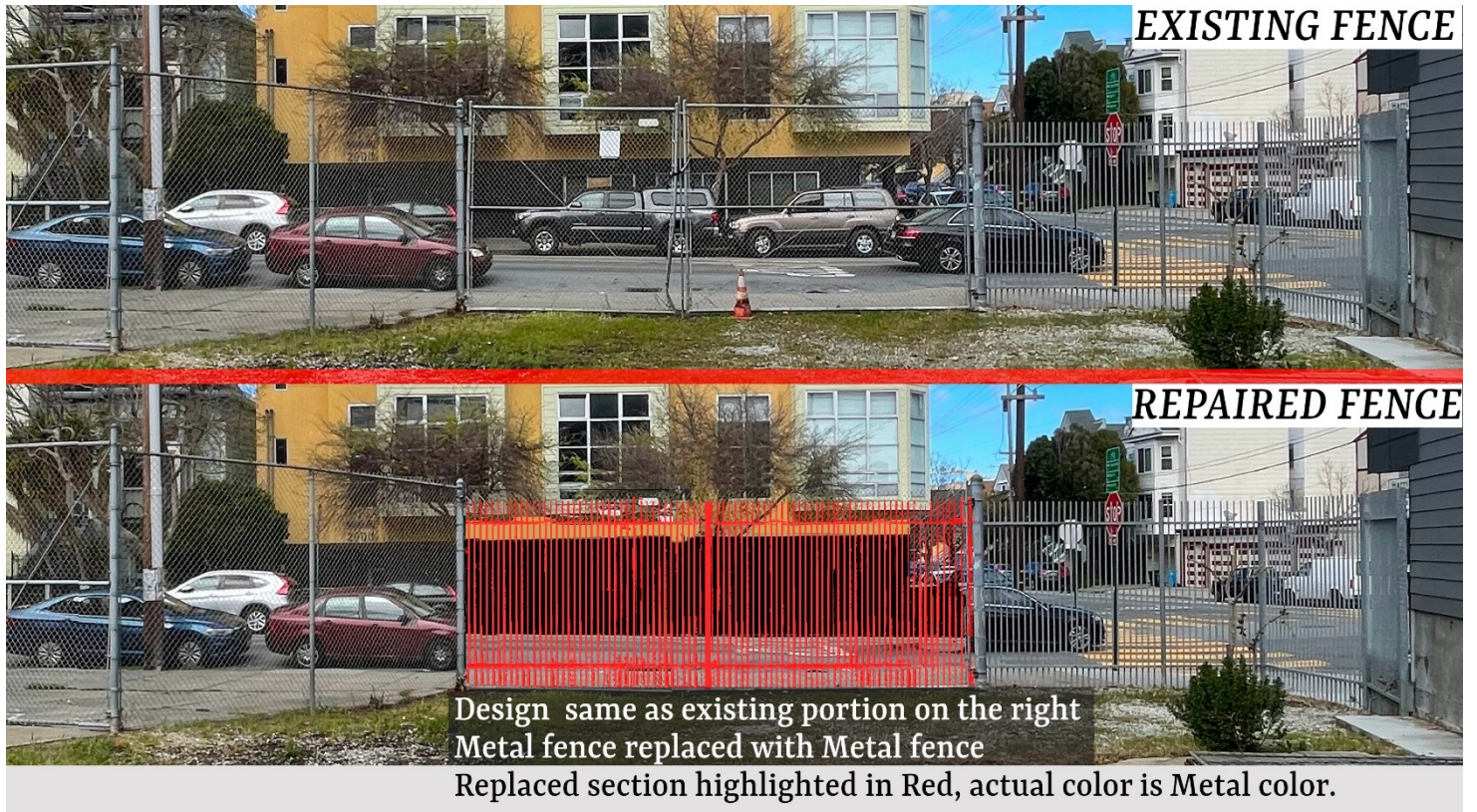


Exhibit E – Rec and Park Fence



Exhibit F – Damaged Gate

10



¹⁰ Image Source: missiongreenway Accessed via: <https://www.instagram.com/missiongreenway/reels/>

Exhibit G – Compromised Gate



Exhibit H – 10 Complaints

Home » Most Requested

Welcome to our Permit / Complaint Tracking System!

You selected:

Address: 957 TREAT AV Block/Lot: 3639 / 036

Please select among the following links, the type of permit for which to view address information:

Electrical Permits Plumbing Permits Building Permits Complaints

(Complaints matching the selected address.)

Complaint #	Expired	Date Filed	Status	Div	Block	Lot	Street #	Street Name
202304672		03/07/2023	CLOSED	BID	3639	036	957	TREAT AV
202304660		03/07/2023	ACTIVE	BID	3639	036	957	TREAT AV
202303935		02/23/2023	CLOSED	BID	3639	036	957	TREAT AV



Home » Most Requested

Welcome to our Permit / Complaint Tracking System!

You selected:

Address: 931 TREAT AV Block/Lot: 3639 / 030

Please select among the following links, the type of permit for which to view address information:

Electrical Permits Plumbing Permits Building Permits Complaints

(Complaints matching the selected address.)

Complaint #	Expired	Date Filed	Status	Div	Block	Lot	Street #	Street Name
202306590		04/10/2023	CLOSED	BID	3639	030	931	TREAT AV
202304540		03/03/2023	CLOSED	BID	3639	030	931	TREAT AV
202304024		02/24/2023	CLOSED	BID	3639	030	931	TREAT AV
202304025		02/24/2023	CLOSED	BID	3639	030	931	TREAT AV
201174313		12/02/2011	CLOSED	CES	3639	030	931	TREAT AV



Home » Most Requested

Welcome to our Permit / Complaint Tracking System!

You selected:

Address: 933 TREAT AV Block/Lot: 3639 / 029

Please select among the following links, the type of permit for which to view address information:

Electrical Permits Plumbing Permits Building Permits Complaints

(Complaints matching the selected address.)

Complaint #	Expired	Date Filed	Status	Div	Block	Lot	Street #	Street Name
202306372		04/05/2023	CLOSED	BID	3639	029	933	TREAT AV
202304137		02/27/2023	CLOSED	BID	3639	029	933	TREAT AV
202304032		02/24/2023	CLOSED	BID	3639	029	933	TREAT AV
202021901		03/02/2020	ACTIVE	BID	3639	029	933	TREAT AV
201176319		12/13/2011	CLOSED	BID	3639	029	933	TREAT AV
201176320		12/13/2011	CLOSED	EID	3639	029	933	TREAT AV
201176315		12/13/2011	CLOSED	PID	3639	029	933	TREAT AV

1 2

View all



Exhibit I – Letter of Support Celia Saino

Response Letter Sent by Celia Saino (Property Owner 2660 Harrison St.)

To whom it may concern:

We, the owners of parcel Parcel 3639/004A on Block 36 are writing to support the approval of Permit No. 2023/03/02/2910 to repair the fence and gate on the north end of Block 3639.

We purchased our building on Harrison Street in 2010 and strive to create a safe and clean environment for both our commercial and residential tenants and for the general public who use the sidewalk in front of our building. One of the improvements we made to the building was planting an extensive green space on the sidewalk in front of our building which we undertook by getting the necessary approvals through the SFPDW. Maintaining the cleanliness of this green space has turned out to be an ongoing struggle despite the daily efforts of the building owners and tenants. In the last year alone, we logged over twenty SF311 requests for clean up the sidewalk including addressing issues with human feces (five requests not including incidents we have taken care of ourselves), broken glass, dumped appliances, clothes and furniture as well as multiple instances of homeless encampments on the sidewalk and graffiti on our building.

We would be very surprised if the efforts of the Mission Greenway to encourage public access to Parcels 36a, 36b and 36c do not result in similar cleanliness and safety issues. Because Parcels 36a-c are not public sidewalks but instead are privately owned, Mission Greenway will not be able to enlist the services of SF311. We have not seen any plan or commitment from Mission Greenway to ensure that Parcels 36a-c are property maintained or a plan to address issues with safety and graffiti. On multiple occasions since Mission Greenway began cutting the locks on the north gate, we have observed the gate on the north side open and unattended due to their actions, a situation which we never observed in the 10+ years we have been on the block.

The safety and cleanliness of Parcels 36a-c has historically been maintained by the fences and gate and the north and west borders of the Parcels with access arranged by cooperation among the

building owners. The block has a long history of commercial use that continues today with the block's UMU zoning. The individuals who operate MonkeyBrains have in the short time since they became property owners on our block made efforts to support the local community and communicate with other property owners on our block. They held a fundraiser for a local business on 24th Street and stopped by our building beforehand to introduce themselves, invite tenants in our building, and provide contact information in case our tenants had any issues with noise (which was not an issue). Their latest efforts to invest in the security of our block is another example of their cooperative attitude and interest in improving conditions. We support their permit to repair and improve the fence and gate on Block 3639.

Haymishion LLC (owners of 3639/004A on Harrison St)

Exhibit J – Letter of Support John O'Connor

April 18 2023

Appeal No: 23-008

Appeal Title: Friends of the Mission Greenway vs. DBI, PDA.

Subject Property: 957 Treat Avenue

Permit Type: Alteration Permit

Permit No. 2023/03/02/2910

Dear President Swig and members of the Board of Appeals.

We are writing in support of permit no.2023/03/02/2910. We request that you reinstate the permit so the applicant can replace the damaged gate to secure lot 36, otherwise known as 957 Treat Avenue.

We are the owners of 2600 Harrison St. and 2652 Harrison St., block 3639, lot 1 and lot 2.

Before purchasing the properties at Harrison Street, we were regular customers at the previously owned business "Western Plywood" which was located on lot 1, where we frequently purchased plywood and construction materials beginning in the early nineties till the business closed in 2013 and was demolished in 2018.

Over almost three decades we observed the historical industrial/commercial use of lot 36.

Throughout this time the gates were open for business hours and closed for security and safety reasons at the end of each working day.

The gate on 22nd street is currently damaged and needs to be replaced in order to secure the lot.

We respectfully ask the board to deny the appeal on the basis the permit was properly issued by the Department of Building Inspection.

Sincerely,

John O'Connor.

Exhibit K – Letter of Support Mission Kids Preschool



April 10, 2023

Mission Kids, a city-funded child care facility serving primarily low- and moderate-income families, and owner of 969 Treat Ave. (Parcel 3639/25), supports the approval of Permit No. 2023/03/02/2910 to repair the fence and gate on the north end of Block 3639.

Since the 10/24/22 self-titled “guerilla action” by the Mission Greenway, posted on Twitter and reported in Mission Local, where group members initiated self-described guerilla access to Parcel 36, we have experienced a rapidly increasing number of safety, property, and preschool operations concerns.

Our preschool play yard is directly adjacent to the parcel rendered unsecure by the actions of the Mission Greenway, and our concerns for children's safety include what are now regular occurrences of the following near and along our shared fence line with Parcel 36:

- Conflicts with shouting and physical aggression
- Harassment of families and staff
- Drug paraphernalia
- Smoking
- Loud music
- Large gatherings of people
- Individuals experiencing mental illness
- Open flame cooking with charcoal
- Dogs off leash

In the wake of the ongoing and most recent school shootings nationwide, it is irresponsible to have this private space open to public access without typical security measures offered to all other public spaces in the city, including access to 311 and related services.

We support the initiative to secure Parcel 36. The ongoing health and safety issues resulting from the damaged fence and forced entry have been a tiring drain on our organization, which consists of primarily working families from the surrounding community.

We are in favor of the issued permit and respectfully ask that the repairs and the increased safety associated with them are allowed to proceed.

Regards,
Mission Kids (owners of 3639/25)

969 Treat Avenue San Francisco CA 94110
415.970.9027 info@missionkidsco-op.org www.missionkidsco-op.org

**Exhibit L - Letter of Support from Adam Feibelman (Former Tenant of 933 Treat Ave and
Former Liaison with Greenway)**

Hello, my name is Adam Feibelman.

I am a former tenant of the 933 Treat Ave artist studios and was the direct liaison between 23 artists and the Mission Greenway Group. I am also a parent of a child at Mission Kids Co-op.

I am writing today to express my support for Monkey Brains in their efforts. The Mission Greenway Group has been nothing but BAD neighbors for a very long time. They have engaged in bullying, intimidation, and have completely ignored the concerns of the people who border the former Southern Pacific property. They have no shame in getting into yelling confrontations directly in front of the children at the preschool.

The Mission Greenway Group asserts that by occupying the property they should have the only say in its use when they have no reasonable easement claim. The preschool has no less than 80 children on a day-to-day basis, with hundreds of parents struggling to find a way to drop off their children on such a narrow street. The preschool is trying to stay neutral in these disagreements because they want to be good neighbors. However, the Mission Greenway Group doesn't care at all.

They show up around 1 PM to show face and have been inviting classrooms from other schools to come and see the plants on property that is not insured for that type of activity. The pass-through has easements for large trucks to reach the loading dock and has untested formerly industrial soil.

As much as they claim to be stewards of the land, they have only set up shop since October after artists who found their group toxic were evicted. As the lead on interacting with Mission Greenway our entire building was supportive of a green space until we caught members leaving dog excrement by our cars and front steps after several meetings where our concerns were shrugged off and we disagreed to work with them. One member even tried to get into a physical altercation with me while I was working on our loading dock cementing the fact that the group has become unhinged.

Since Monkey brains bought 933, they reached out to ask if the former artists would like to paint a mural. They have offered their ears to the preschool trying to find an appropriate way forward addressing their direct neighbors' concerns, and strike me as very reasonable, friendly, and wonderful new neighbors. It is high time for the city to make decisions surrounding the property so that a small group of people can't just name themselves dictators of property they have no reasonable claim too.

Please take this opinion into consideration in this matter.
Thank you
Adam Feibelman