


NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

RECORDING REQUESTED BY:	)		Doc # 2021182212
And When Recorded Mail To:	)	City and County of San Francisco	
Name: <i>793 SUN LLC</i>	)	Joaquin Torres, Assessor – Recorder	
Address: <i>3364 Sacramento ST.</i>	)	12/14/2021 12:08:49 PM	Fees \$38.00
City: <i>SAN FRANCISCO</i>	)	Pages 9 Title 394 AL	Taxes \$0.00
State: <i>Ca</i> Zip: <i>94118</i>	)	Customer 001	Other \$0.00
	)		SB2 Fees \$75.00
	)		Paid \$113.00
		Space Above this Line For Recorder's Use	

I, (We) Joseph TORRONI, (the "Project Sponsor"), the owner of that certain real property situated in the City and County of San Francisco, State of California more particularly described as follows: (or see attached sheet marked "Exhibit A" on which property is more fully described):

**BEING ASSESSOR'S BLOCK: 3591, LOT: 024;
COMMONLY KNOWN AS: 793 South Van Ness Avenue;**

hereby give notice that there are special restrictions on the use of said property under Part II, Chapter II of the San Francisco Municipal Code (Planning Code).

Said restrictions consist of conditions attached to the Conditional Use Authorization Application No. **2015-001360CUA** authorized by the Planning Commission of the City and County of San Francisco on **December 14, 2017** as set forth in Planning Commission **Motion No. 20077**, for the development of a large lot in a Neighborhood Commercial Zoning District. The project, located at 793 South Van Ness Avenue (Lot 024 in Assessor's Block 3591) is within the Neighborhood Commercial – Moderate Scale (NC-3) Zoning District and 55-X Height and Bulk District. The project consists of the demolition of a vacant gas station and construction of a seven-story over basement mixed-use building with 75 dwelling units and approximately 4,570 square feet of ground floor retail (the "Project"). The Project utilized the State Density Bonus Law (CA Govt. Code Section 65915 – "State Law") and was granted a waiver from the development standards for height (Planning Code Section 260); and was granted incentives/concessions from the development standards for rear yard (Planning Code Section 134) and required off-street parking (Planning Code Section 151).

Motion No. 20077 indicated that the units in the project would be sold as ownership units. Since the project approval, the Project Sponsor has elected to change the tenure of the overall project to rental and will operate the building as a rental project. The Conditions of Approval in this Notice of Special Restrictions reflect the rental tenure.

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The restrictions and conditions of which notice is hereby given are:

INCLUSIONARY HOUSING

1. **Number of Required Units.** Pursuant to Planning Code Section 415.3, the Project is required to provide 14.5% of the proposed dwelling units in the 55-unit base project as affordable to qualifying households. The Project Sponsor has elected to satisfy the Inclusionary Affordable Housing obligation by providing on-site inclusionary units. The Project Sponsor will fulfill this requirement by providing the eight (8) affordable units on-site. In addition, the Project Sponsor has elected to provide three (3) additional affordable units to be rented at 80% of Area Median Income as further described in Condition 6b below. Therefore, the project will provide 11 total affordable units on-site. The following units in the Project have been designated as affordable units to satisfy the Inclusionary Affordable Housing Requirements:

Unit #	Unit Type	Unit Area (gsf)	AMI Level
206	1BR/1BA	677	80%
210	1BR/1BA	677	55%**
213	1BR/1BA	587	50%*
301	1BR/1BA	684	50%*
304	2BR/2BA	865	80%
306	2BR/2BA	843	50%*
407	1BR/1BA	681	50%*
414	1BR/1BA	590	50%*
501	1BR/1BA	684	80%
504	2BR/2BA	865	50%*
506	2BR/2BA	843	50%*

*This Unit satisfies both the Inclusionary Affordable Housing Program and State Density Bonus Law. For the initial 55-year term, rent is determined by Density Bonus Law and shall be rented to very low-income households, as defined as households earning 50% of AMI in the California Health and Safety Code Section 50105 and/or California Government Code Sections 65915-65918, the State Density Bonus Law. The income

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table used to determine the rent and income levels for the Density Bonus units shall be the table required by the State Density Bonus Law which is located at <https://www.huduser.gov/> for the San Francisco, CA HUD Metro FMR Area. If the resultant rent or income levels at 50% of AMI under the table required by the State Density Bonus Law are higher than the rent and income levels at 55% of AMI under the Inclusionary Affordable Housing Program, the rent and incomes levels shall default to the maximum allowable rent and income levels for affordable units under the Inclusionary Affordable Housing Program.

****One unit shall be provided as per Inclusionary Affordable Housing Program using income table called "Maximum Income by Household Size derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco, for which the limits are provided by MOHCD at <https://sfmohcd.org/income-limits-and-rent-limits-below-market-rate-rental-units>**

For information about compliance, contact the Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-mohcd.org.

2. **Unit Mix.** The Project contains 45 one-bedroom, and 30 two-bedroom units; therefore, the required affordable unit mix is seven (7) one-bedroom, and four (4) two-bedroom units. If the market-rate unit mix changes, the affordable unit mix will be modified accordingly with written approval from Planning Department staff in consultation with MOHCD.
For information about compliance, contact the Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.mohcdsf.org.
3. **Unit Location.** The affordable units (by Unit Number) listed above in Section 1 are reflected in the reduced set of floor plans, dated July 24, 2018, which are shown as Exhibit B as well as in the State Density Bonus Regulatory Agreement for the project (Recorded Instrument No. 2018-K690419, dated November 1, 2018).
For information about compliance, contact the Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.mohcdsf.org.
4. **Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than fourteen and one half percent (14.5%) of each phase's total number of dwelling units as on-site affordable units.
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5. **Duration.** Under Planning Code Section 415.8, all units constructed pursuant to Section 415.6, must remain affordable to qualifying households for the life of the Project.
For information about compliance, contact the Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.mohcdsf.org.

6. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"), as amended from time to time. The Procedures Manual is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the MOHCD at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing's websites, including on the internet at:
<https://sfmohcd.org/sites/default/files/Documents/MOH/Inclusionary%20Manuals/Inclusionary%20Affordable%20Housing%20Program%20Manual%2010.15.2018.pdf>.

As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for initial rent, re-rental or recertification.

For information about compliance, contact the Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.mohcdsf.org.

- a. The affordable unit(s) shall be designated on the building plans prior to the issuance of the first construction permit by the Department of Building Inspection ("DBI"). The affordable unit(s) shall (1) reflect the unit size mix in number of bedrooms of the market rate units; (2) be constructed, completed, ready for occupancy and marketed no later than the market rate units; (3) be evenly distributed throughout the building; and (4) be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project. The interior features in affordable units should be generally the same as those of the market units in the principal project, but need not be the same make, model or type of such item as long they are of good and new quality and are consistent with then-current standards for new housing. Other specific standards for on-site units are outlined in the Procedures Manual.
- b. If the units in the building are offered for rent, seven of the affordable units that satisfy both the Density Bonus Law and the Inclusionary Affordable Housing Program shall be rented to very low-income households, as defined as households earning 50% of AMI in the California Health and Safety Code Section 50105 and/or California Government Code

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Sections 65915-65918, the State Density Bonus Law. The three additional units provided by the Project Sponsor solely in satisfaction of Density Bonus Law would be affordable to Lower Income households as defined in the California Health and Safety Code Section 50105. The income table used to determine the rent and income levels for the Density Bonus units shall be the table required by the State Density Bonus Law. If the resultant rent or income levels at 50% of AMI under the table required by the State Density Bonus Law are higher than the rent and income levels at 55% of AMI under the Inclusionary Affordable Housing Program, the rent and income levels shall default to the maximum allowable rent and income levels for affordable units under the Inclusionary Affordable Housing Program. After such Density Bonus Law units have been rented for a term of 55 years, the subsequent rent and income levels of such units may be adjusted to 55% of Area Median Income under the Inclusionary Affordable Housing Program, using income table published annually by MOHCD called "Maximum Income by Household Size derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco," and shall remain affordable for the remainder of the life of the Project. The initial and subsequent rent level of such units shall be calculated according to the Procedures Manual.

b.c. The remaining one unit being offered for rent shall be rented to qualifying households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average 55% of Area Median Income under the income table published annually by MOHCD called "Maximum Income by Household Size derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco."

The initial and subsequent rent level of such units shall be calculated according to the Procedures Manual. Limitations on (i) occupancy; (ii) lease changes; (iii) subleasing; (iv) re-rental; and (v) recertification are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.

e.d. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOHCD shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOHCD at least eight months prior to the beginning of marketing for any unit in the building.

e.e. Required parking spaces shall be made available to renters of affordable units according to the Procedures Manual.

e.f. Prior to the issuance of the first construction permit by DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that contains these conditions of approval and a reduced set of plans and corresponding table that identify

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the affordable units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOHCD or its successor.

f.g. The Project Sponsor has demonstrated that it is eligible for the On-site Affordable Housing Alternative under Planning Code Section 415.6 instead of payment of the Affordable Housing Fee, and has submitted the *Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415* to the Planning Department stating the intention to enter into an agreement with the City to qualify for a waiver from the Costa-Hawkins Rental Housing Act based upon the proposed density bonus and concessions (as defined in California Government Code Section 65915 et seq.) provided herein. The Project Sponsor has executed the Costa Hawkins agreement and will record a Memorandum of Agreement prior to issuance of the first construction document or must revert payment of the Affordable Housing Fee.

g-h. _____ If the Project Sponsor fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Section 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all available remedies at law.

h-i. If the Project becomes ineligible at any time for the On-site Affordable Housing Alternative, prior to the issuance of the first construction permit, these approvals shall be null and void. If the Project becomes ineligible after issuance of its first construction permit, the Project Sponsor or its successor shall pay the Affordable Housing Fee on the entirety of the project, including any additional density as allowed under the State Law, and shall notify the Department and MOHCD and pay interest on the Affordable Housing Fee and penalties, if applicable. The Project Sponsor must pay the Fee portion of the Inclusionary Affordable Housing obligation in full sum to the Development Fee Collection Unit at the DBI for use by MOHCD prior to the issuance of the first construction document.

The use of said property contrary to these special restrictions shall constitute a violation of the Planning Code, and no release, modification or elimination of these restrictions shall be valid unless notice thereof is recorded on the Land Records by the Zoning Administrator of the City and County of San Francisco; except that in the event that the zoning standards above are modified so as to be less restrictive and the uses therein restricted are thereby permitted and in conformity with the provisions of the Planning Code. This document would no longer be in effect and would be null and void.

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Project Sponsor



(Signature)

Joseph TORONI, Mgr

(Print Name)

Dated: 12/14, 20 21 at San Francisco, California.
(Month, Day) (City)

Each signature must be acknowledged by a notary public before recordation; add Notary Public Certification(s) and Official Notarial Seal(s) below.

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Francisco)

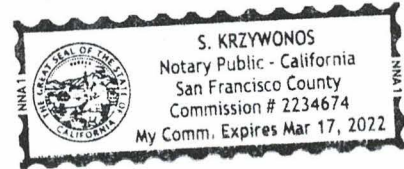
On 12/14/2021 before me, S. Krzywonos, Notary Public
(insert name and title of the officer)

personally appeared Joseph Toboni,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



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EXHIBIT A

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Parcel One:

Beginning at the point of intersection of the Northerly line of Nineteenth Street and the Easterly line of South Van Ness Avenue, running thence Northerly along said Easterly line of South Van Ness Avenue 146 feet; thence at a right angle Easterly 102 feet and 6 inches; thence at a right angle Southerly 14 feet and 7 inches; thence at a right angle Easterly 20 feet; thence at a right angle Southerly 131 feet and 5 inches to the Northerly line of Nineteenth Street 122 feet and 6 inches to the point of beginning.

Parcel Two:

An Easement for the ingress and egress for pedestrians and automobiles over and along the following property:

Beginning at a point on the Easterly line of South Van Ness Avenue, distant thereon 146 feet Northerly from the Northerly line of 19th Street; running thence Northerly along said line of South Van Ness Avenue 3 feet 9 inches; thence at a right angle Easterly 87 feet; thence at a right angle Southerly 3 feet 9 inches; thence at a right angle Westerly 87 feet to the point of beginning.

EXCEPTING THEREFROM Parcels One and Two, any oil, gas and other minerals (including, without limitation, helium, lignite, sulfur, phosphate and other solid, liquid and gaseous substances), as reserved in that certain grant deed recorded July 1, 1998, in Book H166, at Page 461, Official Records.

Being a portion of Mission Block No. 58

Assessor's Lot 024; Block 3591