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Mohammed Nuru, Director  
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City Engineer & Deputy Director of Engineering

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Department of Public Works  
Office of the City and County Surveyor  
1155 Market St 3<sup>rd</sup> Floor  
San Francisco, CA 94103

Bruce R. Storrs, City and County Surveyor

# TENTATIVE MAP DECISION

Date: January 13, 2014

Department of City Planning  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

Attention: Mr. Scott F. Sanchez

<b>Project ID:</b>	7986		
<b>Project Type:</b>	37 Mixed Use Condominium Project (34 Residential and 3 Commercial)		
<b>Address #</b>	<b>Street Name</b>	<b>Block</b>	<b>Lot</b>
400	Grove Street	0793	103

The subject Tentative Map has been reviewed by the Planning Department and does comply with applicable provisions of the Planning Code. On balance, the Tentative Map is consistent with the General Plan and the Priority Policies of Planning Code Section 101.1 based on the attached findings. The subject referral is exempt from environmental review per Class 1 California Environmental Quality Act Guidelines.

*YB* The subject Tentative Map has been reviewed by the Planning Department and does comply with applicable provisions of the Planning Code subject to the following conditions (Any requested documents should be sent in with a copy of this letter to Scott F. Sanchez at the above address):  
*Please see attached 3 Notices of Special Restrictions Under the Planning Code*  
The subject Tentative Map has been reviewed by the Planning Department and does not comply with applicable provisions of the Planning Code. Due to the following reasons (Any requested documents should be sent in with a copy of this letter to Scott F. Sanchez at the above address):

**Enclosures:**

- Application
- Print of Tentative Map

Sincerely,

*Bruce R. Storrs*  
Bruce R. Storrs, P.L.S.  
City and County Surveyor

**PLANNING DEPARTMENT**

DATE 1.27.14

*Mr. Scott F. Sanchez*  
Mr. Scott F. Sanchez, Zoning Administrator



RECORDING REQUESTED BY: )  
 )  
 And When Recorded Mail To: )  
 )  
 Name: Grove Street Hayes Valley LLC )  
 )  
 Address: 448 Linden St. )  
 )  
 City: SAN FRANCISCO )  
 )  
 State: California )



San Francisco Assessor-Recorder  
 Carmen Chu, Assessor-Recorder  
**DOC- 2013-J652025-00**  
 Monday, MAY 06, 2013 13:25:50  
 Ttl Pd \$54.00 Rcpt # 0004675640  
**REEL K890 IMAGE 0615**  
 adm/KC/1-14

Space Above this Line For Recorder's Use

14/6

**NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE**

I(We) Grove Street Hayes Valley LLC, the owner(s) of that certain real property situated in the City and County of San Francisco, State of California more particularly described as follows:

**(PLEASE ATTACH THE LEGAL DESCRIPTION AS ON DEED)**

**BEING ASSESSOR'S BLOCK: 0793; LOT: 103**

**COMMONLY KNOWN AS: 400 GROVE STREET  
 (AKA CENTRAL FREEWAY PARCEL "H")**

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 a variance granted by the Zoning Administrator of the City and County of San Francisco on April 23, 2013, Case No. 2012.0083V, to construct a new development reaching a maximum height of four to five stories containing up to 34 dwelling units, approximately 2,025 square feet of ground floor commercial use, and 17 off-street residential parking spaces, located at 400 Grove Street with 1) insufficient dimensions to meet the standards of Code Section 134 (rear yard), 2) insufficient area to meet the standards of Code Section 135 (usable open space) for 22 dwelling units, 3) projections over the public right-of-way that would exceed the 15-foot maximum dimensional length described in Code Section 136 (horizontal projections), and 4) 12 dwelling units that face onto an area that does not meet Code Section 140 standards for dwelling-unit exposure, generally as described in the Application and on plans dated June 13, 2012, and labeled Exhibit A on file with Application No. 2012.0083ECV, subject to the following conditions:

**NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE**

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

1. Any future physical expansion, even in the buildable area, shall be reviewed by the Zoning Administrator to determine if the expansion is compatible with existing neighborhood character and scale. If the Zoning Administrator determines that there would be a significant or extraordinary impact, the Zoning Administrator shall require either notice to adjacent and/or affected property owners or a new Variance application be sought and justified.
2. The proposed project must meet these conditions, the conditions of Planning Commission Motion No. 18795 and all applicable City Codes. In case of conflict, the more restrictive controls apply.
3. Minor modifications as determined by the Zoning Administrator may be permitted.
4. The owner of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this Variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.
5. This Variance Decision and the Recorded Notice of Special Restrictions shall be reproduced on the Index Sheet of the construction plans submitted with the Site or Building Permit Application for the Project. This Index Sheet of the construction plans shall reference the Variance Case Number.

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.

Dated: May 1, 2013 at San Francisco, California.

*Green Street Hops Valley LLC*

  
\_\_\_\_\_  
(Owner's Signature)

\_\_\_\_\_  
(Agent's Signature)

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

AH:gwf

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

State of California

County of SAN FRANCISCO

On 5/1/2013 before me, JOHN MINJIRAS, NOTARY PUBLIC

personally appeared DANIELLE PIGMAN

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: John Minjiras  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

Corporate Officer — Title(s): \_\_\_\_\_

Individual  Partner —  Limited  General

Attorney in Fact  Trustee

Guardian or Conservator

Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_



Signer's Name: \_\_\_\_\_

Corporate Officer — Title(s): \_\_\_\_\_

Individual  Partner —  Limited  General

Attorney in Fact  Trustee

Guardian or Conservator

Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_



**EXHIBIT A (Legal Description)**

THE LANDS REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WESTERLY LINE OF GOUGH STREET (68.75 FEET WIDE) AND THE NORTHERLY LINE OF GROVE STREET (68.75 FEET WIDE); THENCE ALONG THE SAID NORTHERLY LINE OF GROVE STREET, SOUTH  $80^{\circ}55'00''$  WEST, 112.50 FEET; THENCE NORTH  $9^{\circ}05'00''$  WEST, 68.75 FEET; THENCE SOUTH  $80^{\circ}55'00''$  WEST, 25.00 FEET; THENCE NORTH  $9^{\circ}05'00''$  WEST, 25.75 FEET TO THE SOUTHERLY LINE OF THE REAL PROPERTY SHOWN ON THE CERTAIN MAP ENTITLED "MAP OF 515-521-525 GOUGH STREET", RECORDED ON MAY 11, 2005 IN BOOK 90 OF CONDOMINIUM MAPS AT PAGE 126, OFFICIAL RECORDS, OFFICE OF THE COUNTY RECORDER; THENCE ALONG SAID SOUTHERLY LINE NORTH  $80^{\circ}55'00''$  EAST, 137.50 FEET TO THE WESTERLY LINE OF GOUGH STREET; THENCE ALONG SAID WESTERLY LINE SOUTH  $9^{\circ}05'00''$  EAST, 94.50 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF WESTERN ADDITION BLOCK NO. 150.

BEING SHOWN AND DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED MARCH 23, 2010, SERIES NO. 2010-1941800 OFFICIAL RECORDS.



# SAN FRANCISCO PLANNING DEPARTMENT

## Variance & Rear Yard Modification Decision

*Date:* April 23, 2013  
*Case No.:* 2012.0083ECV  
*Project Address:* 400 GROVE STREET (AKA CENTRAL FREEWAY PARCEL "H")  
*Zoning:* Moderate-Scale Neighborhood Commercial Transit District (NCT-3)  
40-X & 50-X Height and Bulk Districts  
*Block/Lot:* 0793/103  
*Applicant/Owner:* Mark McDonald of  
Grove Street Hayes Valley I.L.C  
448 Linden Street  
San Francisco, CA 94102  
*Staff Contact:* Aaron Hollister - (415) 575-9078  
aaron.hollister@sfgov.org

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

### DESCRIPTION OF VARIANCES – REAR YARD MODIFICATION, USABLE OPEN SPACE, PROJECTIONS OVER PUBLIC RIGHT-OF-WAY AND DWELLING UNIT EXPOSURE:

The proposal is to construct a new development reaching a maximum height of four to five stories containing up to 34 dwelling units, approximately 2,025 square feet of ground floor commercial use, and 17 off-street residential parking spaces with access from Grove Street. The project will be "C"-shaped and will wrap around a common courtyard area. The ground-floor retail space will be a corner space and will have frontage on both Gough and Grove Streets. The remainder of the Grove Street frontage will contain a common residential lobby area, the vehicular entry/exit and a walk-up residential unit. The Gough Street frontage will primarily feature ground-floor retail, but will also include a raised entry into the central common courtyard area and a raised residential unit. A bulb-out is proposed at the Grove and Gough intersection. The building will step-down in height from east to west to match the prescribed height and bulk districts with the five-story massing located on the easterly portion of the lot and the four-story massing located on the westerly portion of the lot. The dwelling units would be offered as condos and the inclusionary affordable housing would be provided on-site.

Section 134 of the Planning Code requires that a rear yard shall be provided at the lowest story containing a dwelling unit, and at each succeeding level or story of a building in the NCT-3 District equal to 25% of lot depth. The entire subject lot does not meet the definition of a corner lot as defined in Planning Code Section 102.15, which stipulates that a corner lot may be a maximum of 125 feet in width or depth. As such, the project is not able to utilize the rear yard reduction or waiver for corner lots that is set forth in Planning Code Section 134(e)(2) due to the maximum width of the subject lot at 136.5 feet. In this instance, Grove Street must be considered the primary frontage and the required rear yard must be located opposite of the primary Grove Street frontage on the rear-most 25% of the lot depth. Since

portions of the project will be located in the above-described required rear yard area for the entire depth of the required rear yard, the project will need to seek a rear yard modification as set forth in Planning Code Section 134(e)(1) et seq.

**Section 135 of the Planning Code** requires that a specific amount of usable open space be provided for each dwelling unit. The NCT-3 District requires dwelling units to have 80 square feet of private open space per unit, 106.4 square feet of common open space per unit, or a combination of the two standards. Both private and common open space must meet specific requirements for dimensions, location, and exposure to light and air.

The project would provide open space as both common and private open space. Private usable open space would be provided for five of the units in the form of roof decks and a yard area. Private balconies and decks will also provide private open space for four of the units, but will not meet the dimensional and area requirements of Code Section 135(f) to be considered private usable space.

The project would provide common open space in the forms of a roof deck and a common courtyard area for a total of approximately 3,049 square feet of common open space. 749 square feet of the proposed common open space would be counted as common usable space, which would provide enough common usable open space for seven of the units. Although the project would exceed the open space area requirements of the Code, much of the proposed open space is not considered usable because it does not meet the dimensional requirements prescribed in Section 135. Between the proposed private and common usable space, the project would contain usable open space for 12 of the proposed units. The project requires a variance to address the usable open space deficiency for 22 of the dwelling units.

**Section 136 of the Planning Code** allows various decorative or architectural features to extend over a street or alley. Per Section 136(c)(2) of the Planning Code, buildings may include bay windows that project over the public right-of-way, provided that such windows meet certain requirements for dimensions and separation. The maximum length of each bay window is 15 feet at the line establishing the required open area, and must be reduced in proportion to the distance from such line by means of 45 degree angles drawn inward from the ends of such 15-foot dimension, reaching a maximum of nine feet along a line parallel to and at a distance of three feet from the line establishing the required open area. Additionally, window bays may project into the public right-of-way a maximum of three feet provided that the sidewalk is a minimum of nine feet wide.

The project proposes several planes which would project over the public rights-of way along the street frontages, but the projecting planes would not completely comply with the requirements of Code Section 136(c)(2). The planes projecting over the public right-of-way would exceed the 15-foot maximum dimensional length on the Gough Street frontage, but would not add area to the building that would increase the area of the building over the amount that would be allowed with Code-complying bay windows. The project will require a variance from the bay window requirements of Section 136(c) of the Planning Code to allow the proposed planes to exceed the 15-foot length limit.

**Section 140 of the Planning Code** requires that one room of each dwelling unit must face onto the street, onto a Code-complying rear yard, a side yard at least 25 feet in width or onto a courtyard generally of minimum dimensions of at least 25 feet in each direction. The courtyard space must



increase in both its horizontal dimensions as it rises from its lowest level and must be unobstructed, except for certain specified permitted obstructions as specified in Code Section 140(a)(2).

22 of the proposed dwelling units will have exposure onto Grove and Gough Streets, which are both at least 25 feet in width. 12 of the units would have their exposures onto an inner courtyard area. The inner courtyard is at least 25 feet in each direction, but does not increase in both horizontal dimensions as it rises from its lowest level and it is not unobstructed as described in Code Section 140(a)(2). Because the courtyard area does not meet the requirements of the Planning Code for dwelling unit exposure, the project will require a variance for the exposure requirements of the 12 units that face onto the courtyard area

#### PROCEDURAL BACKGROUND:

1. The environmental effects of the project were determined by the San Francisco Planning Department to have been fully reviewed under the Market and Octavia Area Plan Environmental Impact Report (hereinafter "EIR"). The EIR was prepared, circulated for public review and comment, and, at a public hearing on April 5, 2007, by Motion No. 17406, certified by the Commission as complying with the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq., hereinafter "CEQA"). The certification of the EIR was upheld on appeal to the Board of Supervisors at a public hearing on June 19, 2007. The Commission has reviewed the Final EIR, which has been available for this Commission's review as well as public review.

The EIR is a Program EIR. Pursuant to CEQA Guideline 15168(c)(2), if the lead agency finds that no new effects could occur or no new mitigation measures would be required, the agency may approve the project as being within the scope of the project covered by the program EIR, and no additional or new environmental review is required. In approving the Market and Octavia Area Plan, the Commission adopted CEQA Findings in its Motion No. 17406 and hereby incorporates such Findings by reference.

Additionally, State CEQA Guidelines Section 15183 provides an exemption from environmental review for projects that are consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified, except as might be necessary to examine whether there are project-specific effects which are peculiar to the project or its site. Section 15183 specifies that examination of environmental effects shall be limited to those effects that (a) are peculiar to the project or parcel on which the project would be located, (b) were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent, (c) are potentially significant off-site and cumulative impacts which were not discussed in the underlying EIR, and (d) are previously identified in the EIR, but which are determined to have a more severe adverse impact than that discussed in the underlying EIR. Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, then an EIR need not be prepared for that project solely on the basis of that impact.

Pursuant to the Guidelines of the State Secretary of Resources for the implementation of the California Environmental Quality Act (CEQA), on January 24, 2013, the Planning Department of the City and County of San Francisco determined that the proposed application was exempt from further environmental review per Section 15183 of the CEQA Guidelines and California

Public Resources Code Section 21083.3. The project is consistent with the adopted zoning controls in the Market and Octavia Area Plan and was encompassed within the analysis contained in the Final EIR. Since the Final EIR was finalized, there have been no substantial changes to the Market and Octavia Area Plan and no substantial changes in circumstances that would require major revisions to the Final EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the Final EIR. The file for this project, including the Market and Octavia Area Final EIR and the Community Plan Exemption certificate, is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, San Francisco, California.

2. On January 31, 2013, the Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2012.0083ECV, which requested a Conditional Use Authorization pursuant to Sections 121.1 and 303 to allow development on a lot greater than 10,000 square feet. The Conditional Use Authorization was approved by the Commission on January 31, 2013, with the adoption of Motion No. 18795.
3. On January 31, 2013, the Zoning Administrator considered the requested variances under Case Number 2012.0083ECV at a concurrent public hearing with the Planning Commission.
4. Section 312 notice was performed under Case No. 2012.0083ECV.

**DECISION:**

**GRANTED**, to construct a new development reaching a maximum height of four to five stories containing up to 34 dwelling units, approximately 2,025 square feet of ground floor commercial use, and 17 off-street residential parking spaces, located at 400 Grove Street with 1) insufficient dimensions to meet the standards of Code Section 134 (rear yard), 2) insufficient area to meet the standards of Code Section 135 (usable open space) for 22 dwelling units, 3) projections over the public right-of-way that would exceed the 15-foot maximum dimensional length described in Code Section 136 (horizontal projections), and 4) 12 dwelling units that face onto an area that does not meet Code Section 140 standards for dwelling-unit exposure, generally as described in the Application and on plans dated June 13, 2012, and labeled Exhibit A on file with Application No. 2012.0083ECV, subject to the following conditions:

1. Any future physical expansion, even in the buildable area, shall be reviewed by the Zoning Administrator to determine if the expansion is compatible with existing neighborhood character and scale. If the Zoning Administrator determines that there would be a significant or extraordinary impact, the Zoning Administrator shall require either notice to adjacent and/or affected property owners or a new Variance application be sought and justified.
2. The proposed project must meet these conditions, the conditions of Planning Commission Motion No. 18795 and all applicable City Codes. In case of conflict, the more restrictive controls apply.
3. Minor modifications as determined by the Zoning Administrator may be permitted.

4. The owner of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this Variance Decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.
5. This Variance Decision and the recorded Notice of Special Restrictions shall be reproduced on the Index Sheet of the construction plans submitted with the Site or Building Permit Application for the project. This Index Sheet of the construction plans shall reference the Variance Case Number.

**FINDINGS:**

Section 305(c) of the Planning Code states that in order to grant a variance, the Zoning Administrator must determine that the facts of the case are sufficient to establish the following five findings:

**FINDING 1.**

That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other properties or uses in the same class of district.

**Requirement Met.**

- A. The subject block on which the subject property is located is developed in an unusual pattern for a low- to moderate-scale San Francisco neighborhood as the block does not contain a clearly defined mid-block open space. The lack of clearly defined mid-block open space is largely due to the location of the former elevated Central Freeway, which traversed the subject property. Adjacent properties were developed in response to the location of the former Central Freeway by locating the typical rear yard open space in the middle of the nearby properties in a courtyard form. The subject property is the last vacant property to be developed on the block, and as a result, is being developed in a fashion that would match the non-typical rear yard pattern of the surrounding development.
- B. The Market & Octavia Area Plan envisioned a structure with a height of approximately 50 to 55 feet to anchor the visually prominent corner site. Pursuant to Section 135, the minimum corresponding horizontal courtyard dimension would need to be 50 to 55 feet to match the desired and proposed height of the corner structure. A courtyard with this dimensional requirement would severely limit the development potential of the site, which has maximum dimensions of approximately 94.5 feet by 137.5 feet. Additionally, the common courtyard proposed by the project matches the existing pattern of open space found in the vicinity, which is typically in the form of a courtyard.
- C. The articulation and massing of the project's street-facing facades is in response to the existing nearby built condition. Literal interpretation of the bay window dimensional provisions of Section 136 would eliminate or reduce the projecting planes in size and would diminish the exterior architectural and contextual quality of the project design.

- D. As outlined above, the project has been designed to match the open space pattern of nearby development, which tends to be in the form of courtyards. Also, as outlined above, any courtyard provided by the project would not likely be able to meet the dimensional requirements of the Code due to site dimensional restraints. As such, any dwelling unit with its only exposure onto the courtyard area would not meet the dwelling unit exposure requirements of Section 140.

**FINDING 2.**

That owing to such exceptional and extraordinary circumstances the literal enforcement of specified provisions of this Code would result in a practical difficulty or unnecessary hardship not created by or attributed to the applicant or the owner of the property.

**Requirement Met.**

- A. The development pattern of the subject block features closely spaced buildings, as well as an undefined mid-block open space. The applicant did not create these conditions, and as such, requiring the applicant to provide a rear yard in a typical fashion would result in a building that would be inconsistent with massing and siting characteristics of neighboring properties.
- B. The existing dense pattern of development on the subject block combined with the lot dimensions has presented the applicant with limited opportunities to provide Code-complying usable open space that is also sensitive to the surrounding pattern of open space, which was not created by the applicant. Requiring the applicant to provide open space with Code-complying dimensions would result in a building that would be inconsistent with the massing and siting characteristics of neighboring properties, and would decrease the overall development potential of the site.
- C. The literal enforcement of the Planning Code regulations imposes prescribed limits on the projecting planes, presenting a practical and aesthetic difficulty in designing larger-scale, high density urban structures. The Code, as applied, has roots in historic bay window designs characterized in older 19th Century Victorian architecture. While the design of the projecting planes for the project is referential, the strict application of the Code in this case would reduce the opportunity for a creative facade design that is compatible with the surrounding context and provides appropriately-scaled articulation of the facade for large-scaled projects.
- D. The applicant did not create the pattern of development on the block where there is not a defined mid-block open space, and buildings are spaced closely together. Requiring the applicant to provide the required dwelling unit exposure for the courtyard-facing dwelling units would result in a substantial reduction in unit sizes and possibly the number of units as well, resulting in a building that would be inconsistent with the massing and siting characteristics of neighboring properties.

**FINDING 3.**

That such variance is necessary for preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

**Requirement Met.**

- A. Adjacent and nearby residential and mixed-use buildings, most built within the past 10-25 years with variances, do not provide rear yards, usable open space and dwelling unit exposure in exact Code-complying dimensions or locations. Granting this variance would allow the applicant to develop the project site in a manner consistent with the character of the surrounding neighborhood, which is not typical of a San Francisco block development pattern due to the presence of the former elevated Central Freeway. Adjacent properties were developed in response to the location of the former Central Freeway before it was removed by locating the typical rear yard open space in the middle of the nearby properties in a courtyard form instead of locating the open space in the rear of the properties that abutted the freeway. The subject property is the last vacant lot on the block due to the former Central Freeway that traversed the site. The project will require similar variances in order to match the existing development pattern that was established in response to the former Central Freeway.
- B. The Market and Octavia Area Plan supports contemporary architecture that is compatible and contextual with both the existing older and contemporary structures in the neighborhood. Older structures within the immediate area exhibit various heights and were developed organically over time, with different building systems and styles. Thus, both historic and contemporary buildings should enjoy the same property right of design, provided that the contextual expression of the area is maintained by the use projecting planes that fit appropriately with neighboring buildings.

**FINDING 4.**

That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

**Requirement Met.**

- A. By granting the rear yard variance, the project will be developed in a fashion that will allow the project to be situated in a similar fashion as the existing development in the area. Furthermore, the project will be situated against blank side property line walls so as to minimize any loss of light and air by adjacent properties as a result of the project. As such, the project is expected not to be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.
- B. The residential open space that will be provided by the project has been provided in a fashion that will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity as the open space has been provided within the existing building footprint and does not intrude on the privacy of any property or improvements in the vicinity. As outlined above, the project would provide open space in an amount that would exceed Code standards; however, the provided open space does not meet specific Code-required dimensions for the open space in order for it to be considered usable open space.
- C. Granting the variance for the projecting planes will not be detrimental to the urban landscape at Gough and Grove Streets. As proposed, the design is well scaled to this intersection, and as noted above, the proposed design is in scale and compatible with the existing neighbors

through the use of forms and articulation which reflect the character of the surrounding stock of existing buildings.

- D. The surrounding properties are developed in a similar manner with very small rear yard areas and dwelling unit exposures that do not meet the requirements of Section 140. The design of the proposed project is in character with the surrounding neighborhood and will not result in significantly diminished light and air to surrounding properties any more so than a Code-complying project would. Furthermore, the 12 dwelling units subject to the dwelling unit exposure variance will be south-facing and will face onto a sizeable courtyard that will allow for continued light and air reception by the on-site units.
- E. The Hayes Valley Neighborhood and the Housing Action Coalition have submitted formal endorsements of the project.
- F. Neighbors in the residential building located directly to the north of project site at 525 Gough Street have voiced concerns that the project would adversely affect their reception of light and air through property line openings. Two neighbors that are located at 419 Fulton Street have commented that they believe the project is too tall; the proposed residential density is too high; and the neighbors have also suggested that a community garden or park might be preferable to the project. An additional neighbor at 459 Fulton Street has suggested that the availability of on-street parking will be affected by the proposed 0.5:1 parking ratio the project proposes. Both of the Fulton Street neighbors are located within 300 feet of the project site, but are not located immediately adjacent to the project site.

The Market and Octavia Plan encourages walking, biking and public transit and has instituted a parking maximum; hence the proposed 0.5:1 parking ratio, which is the maximum amount of principally permitted parking allowed for the project in the NCT-3 Zoning District. The plan also envisioned dense, mixed-use projects on the former Central Freeway parcels such as the density that has been proposed under the project.

It should be noted that the adjacent property at 525 Gough Street contains a five-story building with 21 dwelling units that was constructed in 2005 and received variances from the exposure and usable open space requirements and a rear yard modification (Case Nos. 2002.0313V and 2005.0144V).

#### **FINDING 5.**

The granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.

#### **Requirement Met.**

- A. This development is consistent with the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development. Planning Code Section 101.1 establishes eight priority-planning policies and requires review of variance applications for consistency with said policies. The project meets all relevant policies, including conserving neighborhood character, and maintaining housing stock.

1. Existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced. The new residents in the project will patronize area businesses, bolstering the viability of surrounding commercial establishments. Additionally, the project will include retail spaces to provide goods and services to residents in the area, contribute to the economic vitality of the area, and will define and activate the streetscape
2. Existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods. The project will not diminish existing housing stock, and will add dwelling units in a manner that enhances the vitality of the neighborhood.
3. The proposed project will have no effect on the City's supply of affordable housing. Four affordable dwelling units will be provided on-site by the project.
4. The proposed project does not adversely affect commuter traffic and does not impede MUNI transit service or overburden our streets or neighborhood parking. A wide variety of goods and services are available within walking distance of the project site without reliance on private automobile use. The area is also well-served by public transit, providing connections to all areas of the City and to the larger regional transportation network.
5. The project will not displace any service or industry establishment, and does not propose any office development. The project will include ground-floor retail space that will provide employment opportunities for area residents.
6. The proposed project will have no effect on the City's preparedness to protect against injury and loss of life in an earthquake. The project is designed and will be constructed to conform to the structural and seismic safety requirements of the City Building Code
7. The project will have no effect on the City's landmarks or historic buildings.
8. The project will not cast net new shadows or impede views for parks and open spaces in the area, nor have any negative impact on existing public parks and open spaces.

The effective date of this decision shall be either the date of this decision letter if not appealed or the date of the Notice of Decision and Order if appealed to the Board of Appeals.

Once any portion of the granted variance is utilized, all specifications and conditions of the variance authorization became immediately operative.

The authorization and rights vested by virtue of this decision letter shall be deemed void and cancelled if (1) a Building Permit has not been issued within three years from the effective date of this decision; or (2) a Tentative Map has not been approved within three years from the effective date of this decision for Subdivision cases; or (3) neither a Building Permit or Tentative Map is involved but another required City action has not been approved within three years from the effective date of this decision. However, this authorization may be extended by the Zoning Administrator when the issuance of a necessary

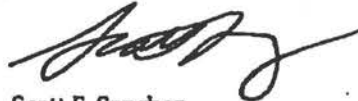
Variance & Rear Yard Modification Decision  
April 23, 2013

CASE NO. 2012.0083ECV  
400 Grove Street

Building Permit is delayed by a City agency or by appeal of the issuance of such a permit or map or other City action.

**APPEAL:** Any aggrieved person may appeal this Variance Decision to the Board of Appeals within ten (10) days after the date of the issuance of this Variance Decision. For further information, please contact the Board of Appeals in person at 1650 Mission Street, 3<sup>rd</sup> Floor (Room 304) or call 575-6880.

Very truly yours,



Scott F. Sanchez  
Zoning Administrator

---

THIS IS NOT A PERMIT TO COMMENCE ANY WORK OR CHANGE OCCUPANCY. PERMITS FROM APPROPRIATE DEPARTMENT'S MUST BE SECURED BEFORE WORK IS STARTED OR OCCUPANCY IS CHANGED.



**NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE**

RECORDING REQUESTED BY:



And When Recorded Mail To:

San Francisco Assessor-Recorder  
Carmen Chu, Assessor-Recorder  
DOC- 2013-J652027-00

Name: Grove Street Hayes Valley LLC

Monday, MAY 06, 2013 13:26:01  
Ttl Pd \$33.00 Rept # 0004675642

Address: 448 LINDEN ST.

REEL K890 IMAGE 0617  
adm/KC/1-7

City: SAN FRANCISCO

State: California

Space Above this Line For Recorder's Use

I (We) Grove Street Hayes Valley LLC, the owner(s) 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 0793, Lot 103, commonly known as 400 Grove Street (Central Freeway Parcel "H") 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 Conditional Use Application No. 2012.0083C, authorized by the Planning Commission of the City and County of San Francisco on January 31, 2013 as set forth in Planning Commission Motion No. 18795, TO CONSTRUCT A NEW DEVELOPMENT REACHING A MAXIMUM HEIGHT OF FOUR TO FIVE STORIES CONTAINING UP TO 34 DWELLING UNITS, APPROXIMATELY 2,025 SQUARE FEET OF GROUND FLOOR COMMERCIAL USE, AND 17 OFF-STREET RESIDENTIAL PARKING SPACES LOCATED AT 400 GROVE STREET (AKA CENTRAL FREEWAY PARCEL "H") LOT 103 IN ASSESSOR'S BLOCK 0793, WITHIN THE MODERATE-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT (NCT-3), AND THE 40-X & 50-X HEIGHT AND BULK DISTRICTS, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

## NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

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

### Affordable Units

- 1. Affordable Units. Requirement. Number of Required Units.** Pursuant to Planning Code Section 415.6, the Project is required to provide 12% of the proposed dwelling units as affordable to qualifying households. The Project contains 34 units; therefore, four (4) affordable units are required. The Project Sponsor will fulfill this requirement by providing the four (4) affordable units on-site. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing ("MOH").

*For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*
- 2. Unit Mix.** The Project contains nine (9) studios, eight (8) one-bedroom, and 17 two-bedroom units; therefore, the required affordable unit mix is one (1) studio, one (1) one-bedroom and two (2) two-bedrooms. 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 MOH.

*For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*
- 3. Unit Location.** The affordable units shall be designated on a reduced set of plans recorded as a Notice of Special Restrictions on the property prior to the issuance of the first construction permit.

*For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*
- 4. Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than twelve percent (12%) of the each phase's total number of dwelling units as on-site affordable units.

*For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*
- 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 Case Planner, Planning Department at 415-575-9078, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*
- 6. Other Affordable Housing 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"). The Procedures Manual, as amended from time to time, is

## NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

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 MOH at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing's websites, including on the internet at:

<http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>.

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 sale.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.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, and (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 sale, the affordable unit(s) shall be sold to first time home buyer households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average of ninety (90) percent of Area Median Income under the 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." The initial sales price of such units shall be calculated according to the Procedures Manual. Limitations on (i) reselling; (ii) renting; (iii) recouping capital improvements; (iv) refinancing; and (v) procedures for inheritance apply and are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.
- c. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOH shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOH at least six months prior to the beginning of marketing for any unit in the building.
- d. Required parking spaces shall be made available to initial buyers or renters of affordable units according to the Procedures Manual.
- e. 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 that identify the affordable units satisfying the requirements

## NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOH or its successor.

- f. 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 that any affordable units designated as on-site units shall be sold as ownership units and will remain as ownership units for the life of the Project.
- g. 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. If the Project becomes ineligible at any time for the On-site Affordable Housing Alternative, the Project Sponsor or its successor shall pay the Affordable Housing Fee prior to issuance of the first construction permit or may seek a fee deferral as permitted under Ordinances 0107-10 and 0108-10. If the Project becomes ineligible after issuance of its first construction permit, the Project Sponsor shall notify the Department and MOH and pay interest on the Affordable Housing Fee at a rate equal to the Development Fee Deferral Surcharge Rate in Section 107A.13.3.2 of the San Francisco Building Code and penalties, if applicable.

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.

Dated: May 1, 2013 at San Francisco, California

Grove Street Hayes Valley LLC

  
(Owner's Signature)

\_\_\_\_\_  
(Agent's Signature)

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

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

State of California

County of SAN FRANCISCO

On 5/1/2013 before me, JOHN MINJIRAS, NOTARY PUBLIC  
Date Here Insert Name and Title of the Officer

personally appeared DANIELLE DIGMAN  
Name(s) of Signer(s)

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: [Handwritten Signature]  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_ Signer's Name: \_\_\_\_\_

Corporate Officer -- Title(s): \_\_\_\_\_  Corporate Officer -- Title(s): \_\_\_\_\_

Individual  Individual

Partner --  Limited  General  Partner --  Limited  General

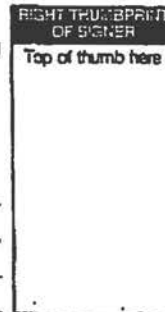
Attorney in Fact  Attorney in Fact

Trustee  Trustee

Guardian or Conservator  Guardian or Conservator

Other: \_\_\_\_\_  Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_ Signer Is Representing: \_\_\_\_\_





**EXHIBIT A (Legal Description)**

THE LANDS REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WESTERLY LINE OF GOUGH STREET (68.75 FEET WIDE) AND THE NORTHERLY LINE OF GROVE STREET (68.75 FEET WIDE); THENCE ALONG THE SAID NORTHERLY LINE OF GROVE STREET, SOUTH 80°55'00" WEST, 112.50 FEET; THENCE NORTH 9°05'00" WEST, 68.75 FEET; THENCE SOUTH 80°55'00" WEST, 25.00 FEET; THENCE NORTH 9°05'00" WEST, 25.75 FEET TO THE SOUTHERLY LINE OF THE REAL PROPERTY SHOWN ON THE CERTAIN MAP ENTITLED "MAP OF 515-521-525 GOUGH STREET", RECORDED ON MAY 11, 2005 IN BOOK 90 OF CONDOMINIUM MAPS AT PAGE 126, OFFICIAL RECORDS, OFFICE OF THE COUNTY RECORDER; THENCE ALONG SAID SOUTHERLY LINE NORTH 80°55'00" EAST, 137.50 FEET TO THE WESTERLY LINE OF GOUGH STREET; THENCE ALONG SAID WESTERLY LINE SOUTH 9°05'00" EAST, 94.50 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF WESTERN ADDITION BLOCK NO. 150.

BEING SHOWN AND DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED MARCH 23, 2010, SERIES NO. 2010-1941800 OFFICIAL RECORDS.





**NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE**

RECORDING REQUESTED BY: )  
And When Recorded Mail To: )  
Name: Grove Street Hayes Valley LLC )  
Address: 498 LINCOLN ST. )  
City: SAN FRANCISCO )  
California )

  
San Francisco Assessor-Recorder  
Carmen Chu, Assessor-Recorder  
**DOC- 2013-J652026-00**  
Monday, MAY 06, 2013 13:25:58  
Ttl Pd \$51.00 Rcpt # 0004675641  
**REEL K890 IMAGE 0616**  
adm/KC/1-13

) Space Above This Line For Recorder's Use

I (We) Grove Street Hayes Valley LLC the  
owner(s) 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 0793 Lot 103, commonly known as 400 Grove Street (AKA  
Central Freeway Parcel "H"), 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 Conditional Use Application No.  
2012.0083C, authorized by the Planning Commission of the City and County of San Francisco  
on January 31, 2013 as set forth in Planning Commission Motion No. 18795, TO CONSTRUCT  
A NEW DEVELOPMENT REACHING A MAXIMUM HEIGHT OF FOUR TO FIVE  
STORIES CONTAINING UP TO 34 DWELLING UNITS, APPROXIMATELY 2,025 SQUARE  
FEET OF GROUND FLOOR COMMERCIAL USE, AND 17 OFF-STREET RESIDENTIAL  
PARKING SPACES LOCATED AT 400 GROVE STREET (AKA CENTRAL FREEWAY  
PARCEL "H") LOT 103 IN ASSESSOR'S BLOCK 0793, WITHIN THE MODERATE-SCALE  
NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT (NCT-3), AND THE 40-X & 50-X  
HEIGHT AND BULK DISTRICTS, AND ADOPTING FINDINGS UNDER THE  
CALIFORNIA ENVIRONMENTAL QUALITY ACT.

## **NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE**

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

### **AUTHORIZATION**

This authorization is for a Conditional Use to allow development of a lot exceeding 10,000 square feet to construct a new development reaching a maximum height of four to five stories containing up to 34 dwelling units, approximately 2,025 square feet of ground floor commercial uses, and 17 off-street residential parking spaces located at 400 Grove (AKA Central Freeway Parcel "H"), Lot 103 in Assessor's Block 0793, within the Moderate-Scale Neighborhood Commercial Transit District (NCT-3), and the 40-X & 50-X Height and Bulk Districts; in general conformance with plans, dated June 13, 2012, and stamped "EXHIBIT B" included in the docket for Case No. 2012.0083E~~C~~V and subject to conditions of approval reviewed and approved by the Commission on January 31, 2013 under Motion No. 18795. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

### **RECORDATION OF CONDITIONS OF APPROVAL**

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on January 31, 2013 under Motion No 18795.

### **PRINTING OF CONDITIONS OF APPROVAL ON PLANS**

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18795 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use Authorization and any subsequent amendments or modifications.

### **SEVERABILITY**

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

### **CHANGES AND MODIFICATIONS**

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use Authorization.

## NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

### Conditions of approval, Compliance, Monitoring, and Reporting PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Conditional Use Authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

2. **Extension.** This authorization may be extended at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to construct the project and/or commence the approved use is caused by a delay by a local, State or Federal agency or by any appeal of the issuance of such permit(s).

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

3. **Mitigation Measures.** Mitigation measures described in the MMRP for the Market and Octavia Area Plan EIR (Case No. 2003.0347F) attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

### DESIGN – COMPLIANCE AT PLAN STAGE

4. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

*For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, [www.sf-planning.org](http://www.sf-planning.org)*

5. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly

## NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

*For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, [www.sf-planning.org](http://www.sf-planning.org)*

6. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

*For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, [www.sf-planning.org](http://www.sf-planning.org)*

7. **Signage.** The Project Sponsor shall develop a signage program for the Project which shall be subject to review and approval by Planning Department staff before submitting any building permits for construction of the Project. All subsequent sign permits shall conform to the approved signage program. Once approved by the Department, the signage program/plan information shall be submitted and approved as part of the site permit for the Project. All exterior signage shall be designed to compliment, not compete with, the existing architectural character and architectural features of the building.

*For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, [www.sf-planning.org](http://www.sf-planning.org)*

8. **Transformer Vault.** The location of individual project PG&E Transformer Vault installations has significant effects to San Francisco streetscapes when improperly located. However, they may not have any impact if they are installed in preferred locations. Therefore, the Planning Department recommends the following preference schedule in locating new transformer vaults, in order of most to least desirable:

1. On-site, in a basement area accessed via a garage or other access point without use of separate doors on a ground floor façade facing a public right-of-way;
2. On-site, in a driveway, underground;
3. On-site, above ground, screened from view, other than a ground floor façade facing a public right-of-way;
4. Public right-of-way, underground, under sidewalks with a minimum width of 12 feet, avoiding effects on streetscape elements, such as street trees; and based on Better Streets Plan guidelines;
5. Public right-of-way, underground; and based on Better Streets Plan guidelines;
6. Public right-of-way, above ground, screened from view; and based on Better Streets Plan guidelines;

## NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

7. On-site, in a ground floor façade (the least desirable location).

Unless otherwise specified by the Planning Department, Department of Public Work's Bureau of Street Use and Mapping (DPW BSM) should use this preference schedule for all new transformer vault installation requests.

*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>*

9. **Overhead Wiring.** The Property owner will allow MUNI to install eyebolts in the building adjacent to its electric streetcar line to support its overhead wire system if requested by MUNI or MTA.

*For information about compliance, contact San Francisco Municipal Railway (Muni), San Francisco Municipal Transit Agency (SFMTA), at 415-701-4500, [www.sfmta.org](http://www.sfmta.org)*

10. **Noise, Ambient.** Interior occupiable spaces shall be insulated from ambient noise levels. Specifically, in areas identified by the Environmental Protection Element, Map1, "Background Noise Levels," of the General Plan that exceed the thresholds of Article 29 in the Police Code, new developments shall install and maintain glazing rated to a level that insulate interior occupiable areas from Background Noise and comply with Title 24.

*For information about compliance, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, [www.sfdph.org](http://www.sfdph.org)*

11. **Streetscape Plan.** Pursuant to Planning Code Section 138.1, the Project Sponsor shall submit a pedestrian streetscape improvement plan to the Planning Department for review in consultation with the Department of Public Works and the Department of Parking and Traffic prior to Building Permit issuance.

*For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, [www.sf-planning.org](http://www.sf-planning.org)*

12. **Street Trees.** Pursuant to Planning Code Section 138.1 (formerly 143), the Project Sponsor shall submit a site plan to the Planning Department prior to Planning approval of the building permit application indicating that street trees, at a ratio of one street tree of an approved species for every 20 feet of street frontage along public or private streets bounding the Project, with any remaining fraction of 10 feet or more of frontage requiring an extra tree, shall be provided. The street trees shall be evenly spaced along the street frontage except where proposed driveways or other street obstructions do not permit. The exact location, size and species of tree shall be as approved by the Department of Public Works (DPW). In any case in which DPW cannot grant approval for installation of a tree in the public right-of-way, on the basis of inadequate sidewalk width, interference with utilities or other reasons regarding the public welfare, and where installation of such tree on the lot itself is also impractical, the requirements of this Section 428 may be modified or waived by the Zoning Administrator to the extent necessary.

*For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, [www.sf-planning.org](http://www.sf-planning.org)*

## NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

### PARKING AND TRAFFIC

13. **Bicycle Parking.** The Project shall provide no fewer than 17 Class 1 bicycle parking spaces as required by Planning Code Sections 155.1 and 155.5.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

14. **Parking Maximum.** Pursuant to Planning Code Section 151.1, and as indicated on Exhibit B, the Project shall provide no more than 17 independently accessible off-street parking spaces, excluding car share spaces.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

15. **Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

### PROVISIONS

16. **First Source Hiring.** The Project shall adhere to the requirements of the First Source Hiring Construction and Employment Program approved by the First Source Hiring Administrator, pursuant to Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.

*For information about compliance, contact the First Source Hiring Manager at 415-401-4960, [www.onestopSF.org](http://www.onestopSF.org)*

17. **Transit Impact Development Fee.** Pursuant to Planning Code Section 411 (formerly Chapter 38 of the Administrative Code), the Project Sponsor shall pay the Transit Impact Development Fee (TIDF) as required by and based on drawings submitted with the Building Permit Application. Prior to the issuance of a temporary certificate of occupancy, the Project Sponsor shall provide the Planning Director with certification that the fee has been paid.

*For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, [www.sf-planning.org](http://www.sf-planning.org)*

18. **Affordable Units. Requirement. Number of Required Units.** Pursuant to Planning Code Section 415.6, the Project is required to provide 12% of the proposed dwelling units as affordable to qualifying households. The Project contains 34 units; therefore, four (4) affordable units are

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required. The Project Sponsor will fulfill this requirement by providing the four (4) affordable units on-site. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing ("MOH").

*For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

19. **Unit Mix.** The Project contains nine (9) studios, eight (8) one-bedroom, and 17 two-bedroom units; therefore, the required affordable unit mix is one (1) studio, one (1) one-bedroom and two (2) two-bedrooms. 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 MOH.

*For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

20. **Unit Location.** The affordable units shall be designated on a reduced set of plans recorded as a Notice of Special Restrictions on the property prior to the issuance of the first construction permit.

*For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

21. **Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than twelve percent (12%) of the each phase's total number of dwelling units as on-site affordable units.

*For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

22. **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 Case Planner, Planning Department at 415-575-9078, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

23. **Other Affordable Housing 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"). The Procedures Manual, as amended from time to time, 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 MOH at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing's websites, including on the internet at:

<http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>.

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 sale.

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*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.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, and (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 sale, the affordable unit(s) shall be sold to first time home buyer households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average of ninety (90) percent of Area Median Income under the 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." The initial sales price of such units shall be calculated according to the Procedures Manual. Limitations on (i) reselling; (ii) renting; (iii) recouping capital improvements; (iv) refinancing; and (v) procedures for inheritance apply and are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.
- c. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOH shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOH at least six months prior to the beginning of marketing for any unit in the building.
- d. Required parking spaces shall be made available to initial buyers or renters of affordable units according to the Procedures Manual.
- e. 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 that identify 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 MOH or its successor.
- f. 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*



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*Program: Planning Code Section 415 to the Planning Department stating that any affordable units designated as on-site units shall be sold as ownership units and will remain as ownership units for the life of the Project.*

- g. 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. If the Project becomes ineligible at any time for the On-site Affordable Housing Alternative, the Project Sponsor or its successor shall pay the Affordable Housing Fee prior to issuance of the first construction permit or may seek a fee deferral as permitted under Ordinances 0107-10 and 0108-10. If the Project becomes ineligible after issuance of its first construction permit, the Project Sponsor shall notify the Department and MOH and pay interest on the Affordable Housing Fee at a rate equal to the Development Fee Deferral Surcharge Rate in Section 107A.13.3.2 of the San Francisco Building Code and penalties, if applicable.

21. **Market Octavia Affordable Housing Fee.** Pursuant to Planning Code Section 416 (formerly 315.4), the Project Sponsor shall comply with the Market Octavia Affordable Housing requirements through payment of the Market Octavia Affordable Housing Fee in full to the Treasurer, prior to the issuance by Department of Building Inspection of the first certificate of occupancy for the development project.

*For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, [www.sf-planning.org](http://www.sf-planning.org)*

22. **Market Octavia Community Improvements Fund.** Pursuant to Planning Code Section 421 (formerly 326), the Project Sponsor shall comply with the Market Octavia Community Improvements Fund provisions through payment of an Impact Fee in full to the Treasurer, or the execution of a Waiver Agreement, or an In-Kind agreement approved as described per Planning Code Section 421 (formerly 326) prior to the issuance by Department of Building Inspection of the construction document for the development project.

*For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, [www.sf-planning.org](http://www.sf-planning.org)*

### MONITORING - AFTER ENTITLEMENT

23. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

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*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

24. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

### OPERATION

25. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>*

26. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>*

27. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

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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.

Dated: May 1, 2013 at San Francisco, California  
GROW GREAT WATERS VALLEY LLC

  
\_\_\_\_\_  
(Owner's Signature)

\_\_\_\_\_  
(Agent's Signature)

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

MS:gwf

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of SAN FRANCISCO

On 5/11/2013 before me, JOHN MINJIRAS, NOTARY PUBLIC

personally appeared DANIELLE DELGADO

who proved to me on the basis of satisfactory evidence to be the person(e) 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: [Handwritten Signature]

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

- Corporate Officer -- Title(s):
Individual
Partner -- Limited General
Attorney in Fact
Trustee
Guardian or Conservator
Other:



Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Corporate Officer -- Title(s):
Individual
Partner -- Limited General
Attorney in Fact
Trustee
Guardian or Conservator
Other:



Signer Is Representing: \_\_\_\_\_

**EXHIBIT A (Legal Description)**

THE LANDS REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA. AND IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WESTERLY LINE OF GOUGH STREET (68.75 FEET WIDE) AND THE NORTHERLY LINE OF GROVE STREET (68.75 FEET WIDE); THENCE ALONG THE SAID NORTHERLY LINE OF GROVE STREET, SOUTH 80°55'00" WEST, 112.50 FEET; THENCE NORTH 9°05'00" WEST, 68.75 FEET; THENCE SOUTH 80°55'00" WEST, 25.00 FEET; THENCE NORTH 9°05'00" WEST, 25.75 FEET TO THE SOUTHERLY LINE OF THE REAL PROPERTY SHOWN ON THE CERTAIN MAP ENTITLED "MAP OF 515-521-525 GOUGH STREET", RECORDED ON MAY 11, 2005 IN BOOK 90 OF CONDOMINIUM MAPS AT PAGE 126, OFFICIAL RECORDS, OFFICE OF THE COUNTY RECORDER; THENCE ALONG SAID SOUTHERLY LINE NORTH 80°55'00" EAST, 137.50 FEET TO THE WESTERLY LINE OF GOUGH STREET; THENCE ALONG SAID WESTERLY LINE SOUTH 9°05'00" EAST, 94.50 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF WESTERN ADDITION BLOCK NO. 150.

BEING SHOWN AND DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED MARCH 23, 2010, SERIES NO. 2010-1941800 OFFICIAL RECORDS.

