

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Director of Planning
San Francisco Planning
City and County of San Francisco
49 South Van Ness Avenue
San Francisco, California 94103

The undersigned hereby declares this instrument to be
exempt from Recording Fees (CA Govt. Code § 27383)

APN: 7331-260

SPACE ABOVE FOR RECORDER'S USE

**NOTICE OF SPECIAL RESTRICTIONS
NEIGHBORHOOD COMMONS OPEN SPACE – PARKMERCED BLOCK 21S**

This NOTICE OF SPECIAL RESTRICTIONS (the “Notice”) is made as of _____, 2023 (the “Effective Date”) by MAXIMUS PM PHASE 1D OWNER LLC, a Delaware limited liability company, as declarant, and its successors and assigns (“Developer”), in favor of the City and County of San Francisco, a charter city and county of the State of California (the “City”), with reference to the following facts and circumstances:

A. Developer is fee title owner of record of that certain real property located in San Francisco, California, which is depicted and legally described in the attached Exhibit A (the “Property”).

B. The Property is “Lot A”, as shown on that certain map entitled “FINAL MAP No. 10700” filed for record in Book _____ of Final Maps, at Pages _____ - _____ inclusive, in the Office of the Recorder of the City and County of San Francisco, State of California.

C. The Property is part of the Parkmerced Development Project (the “Project”) and located on Block 21S within the Project Site, as defined in that certain Development Agreement dated for reference purposes only July 6, 2011 (the “Development Agreement”) and recorded in the Official Records of San Francisco County (the “Official Records”) as Document No. 2011J20995900.

D. On June 7, 2011, the San Francisco Board of Supervisors adopted Ordinance No. 89-11, approving the Development Agreement and authorizing the Planning Director to execute the Development Agreement on behalf of the City (the “Enacting Ordinance”). The Enacting Ordinance took effect on July 9, 2011. All capitalized terms herein and not otherwise defined herein shall have the meaning set forth in the Development Agreement. All capitalized terms not defined herein shall have the meaning set forth in the Development Agreement.

E. On June 7, 2011, the San Francisco Board of Supervisors adopted Ordinance No. 90-11, approving amendments to the Planning Code to establish the Parkmerced Special Use District (the “SUD”) in Planning Code Section 249.64. The Property is located within the SUD, as indicated on Section Map SU13 of the Zoning Maps of the City and County of San Francisco. The SUD requires that the Project be regulated by the controls contained in the “Parkmerced Design Standards and Guidelines” (the “DSG”).

F. The DSG provides that the Property’s use be restricted for “open space – neighborhood commons” purposes and the zoning designation applicable to the Property is “Parkmerced Open Space (PM-OS)”, as reflected on Section Map ZN13.

G. As shown in DSG Appendix A, the dedicated open space in Block 21 is to be 15,000 square feet in size. On June 3, 2015, the City’s Planning Director approved the Project’s Revised Development Phase 1 Application submitted on April 10, 2015. As detailed in that application and approval letter, site limitations (including existing buildings on Block 21N) make construction of the full Block 21 neighborhood commons open space infeasible during the Project’s first development phase. The City’s Planning Department instead approved the construction of a portion of that neighborhood commons open space as part of Block 21S, with the remainder to be completed upon construction of new residential buildings on Block 21N in a future Project development phase.

H. Exhibit D of the Development Agreement sets forth certain regulations applicable to the Property given its status as a Privately-Owned Community Improvement that is designated and depicted as Full Public Access in Exhibit C of the Development Agreement and designated as a Park in Exhibit D of the Development Agreement (by way of being designated as a “Neighborhood Commons” in Exhibit C of the Development Agreement).

I. The City is requiring Developer to record this Notice to provide additional constructive notice of the SUD, DSG, and Development Agreement use restrictions and regulations to successor owners of the Property.

NOW, THEREFORE, incorporating the above Recitals, Developer agrees and covenants as follows:

1. Special Open Space Regulations Applicable to Property. Upon completion of the Community Improvements on the Property in accordance with the SUD, DSG, and Development Agreement, the Property is subject to the regulations set forth in Exhibit D of the Development Agreement, which is attached hereto as Exhibit B. As set forth in Section 3.5.3 of the Development Agreement, these regulations for the Property shall survive the expiration of the Development Agreement.

2. SUD and DSG Regulations Applicable to Property. The Property is subject to the SUD and the regulations of the DSG as of the Effective Date. The DSG may be amended from time to time pursuant to the SUD and/or Section 2.2.4 of the Development Agreement. For informational purposes, certain excerpts from the DSG that are applicable to the Property as of the Effective Date are attached as Exhibit C. The Planning Department’s Design Review Approval for construction of improvements on the Property pursuant to the SUD, Planning Code Section

249.64(d)(5), shall confirm the conformance of such improvements with applicable SUD and DSG controls.

3. Term; Amendment. This Notice shall continue in full force and effect in perpetuity; provided however, that in the event that the SUD, DSG, and/or the Development Agreement are each amended such that the Developer is no longer required to use, maintain, and operate the Property as open space or pursuant to the SUD, DSG or Development Agreement and the regulations set forth in Exhibit B attached hereto (a "Regulatory Change"), the Developer and the City, acting through the Planning Director, shall modify or terminate this Notice to reflect such Regulatory Change. Any such modification or termination must be in writing and recorded in the Official Records. Developer and the City shall cooperate to execute and record any such written instrument modifying or terminating this Notice in the Official Records.

4. Subsequent Building Permits. As part of the submission of any building permit applications to the Department of Building Inspection on or after the effective date of this Notice that affect the Property, Developer or the then owner of the Property shall submit a copy of this Notice.

5. Governing Law. This Notice shall be governed and construed in accordance with the laws of the State of California.

6. Successors and Assigns; Binding Covenants; Run With the Land. From and after recordation of this Notice, all of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Notice, all of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained shall be binding upon Developer, and City, and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, and all persons or entities acquiring the Property, or any interest therein, whether by sale, operation of law, or in any manner whatsoever, and shall inure to the benefit of the Developer, and City and their respective heirs, successors (by merger, consolidation or otherwise) and assigns. All provisions of this Notice are enforceable by City, acting in its discretion through its Planning Department, as equitable servitudes and constitute covenants and benefits running with the land pursuant to applicable law, including but not limited to California Civil Code section 1468.

7. No Amendment of Development Agreement. The express and sole purpose of this Notice is to restate certain rights and obligations for the Property under the Development Agreement and the SUD and does not modify, amend, expand, or limit the rights and obligations of Developer (including but not limited to the release of liability provisions of Section 11.6 of the Development Agreement and the Default provisions of Section 12.3 of the Development Agreement) or City under the Development Agreement in any manner.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Developer has executed this instrument as of the Effective Date.

DEVELOPER:

MAXIMUS PM PHASE 1D OWNER LLC,
a Delaware limited liability company

By:  _____

Name: Robert A. Bosania

Title: President

Acknowledged and Agreed:

CITY
CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
Rich Hillis
Director of Planning

APPROVED AS TO FORM:

DAVID CHIU, City Attorney

By: _____
name
Deputy City Attorney

ACKNOWLEDGMENT

STATE OF NEW YORK)

) ss.:

COUNTY OF NEW YORK)

On the 30th day of November in the year 2023 before me, the undersigned, a Notary Public in and for said state, personally appeared Robert A. Rosania, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

SARA J. DAVIS
Notary Public, State of New York
No. 01DA6370931
Qualified in Kings County
Commission Expires February 12, 2026



Notary Public

[SEAL]

My commission expires:

CERTIFICATE OF ACKNOWLEDGMENT
OF NOTARY PUBLIC

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 _____, before me, _____, a Notary Public,
personally appeared _____, 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 _____

EXHIBIT A

Depiction and Legal Description of the Property



EXHIBIT A
LEGAL DESCRIPTION
BURDENED PROPERTY

All that certain real property situate in the City and County of San Francisco, State of California, and being more particularly described as follows:

Lot A, in Block 21S, as shown on that certain map entitled "FINAL MAP No. 10700" filed for record on _____, 2023 in Book _____ of Final Maps, at Pages _____-_____ inclusive, in the Office of the Recorder of the City and County of San Francisco, State of California.

Containing 7,931 square feet, more or less.

Being all of APN 7331-260.

Horizontal Datum & Reference System

The horizontal datum is the North American Datum of 1983: NAD 83 (2011) Epoch 2010.00 referenced by the "CCSF-2013 High Precision Network" (CCSF-HPN). Plane coordinates are based on the "City & County of San Francisco 2013 coordinate system (CCSF-CS13). CCSF-CS13 is a low distortion projection designed for CCSF to provide plane coordinates in a ground system. See ROS 8080, filed April 4, 2014, in Book EE of Survey Maps at pages 147-157 in the Office of the Recorder of the City and County of San Francisco.

A plat showing the above described parcel is attached hereto and made a part hereof.

This legal description was prepared by me or under my direction in conformance with the requirements of the Professional Land Surveyors' Act.



David C. Jungmann, PLS 9267



09/01/2023

Dated

APPROVED LEGAL DESCRIPTION

Katharine S. Anderson, City and County Surveyor
City and County of San Francisco

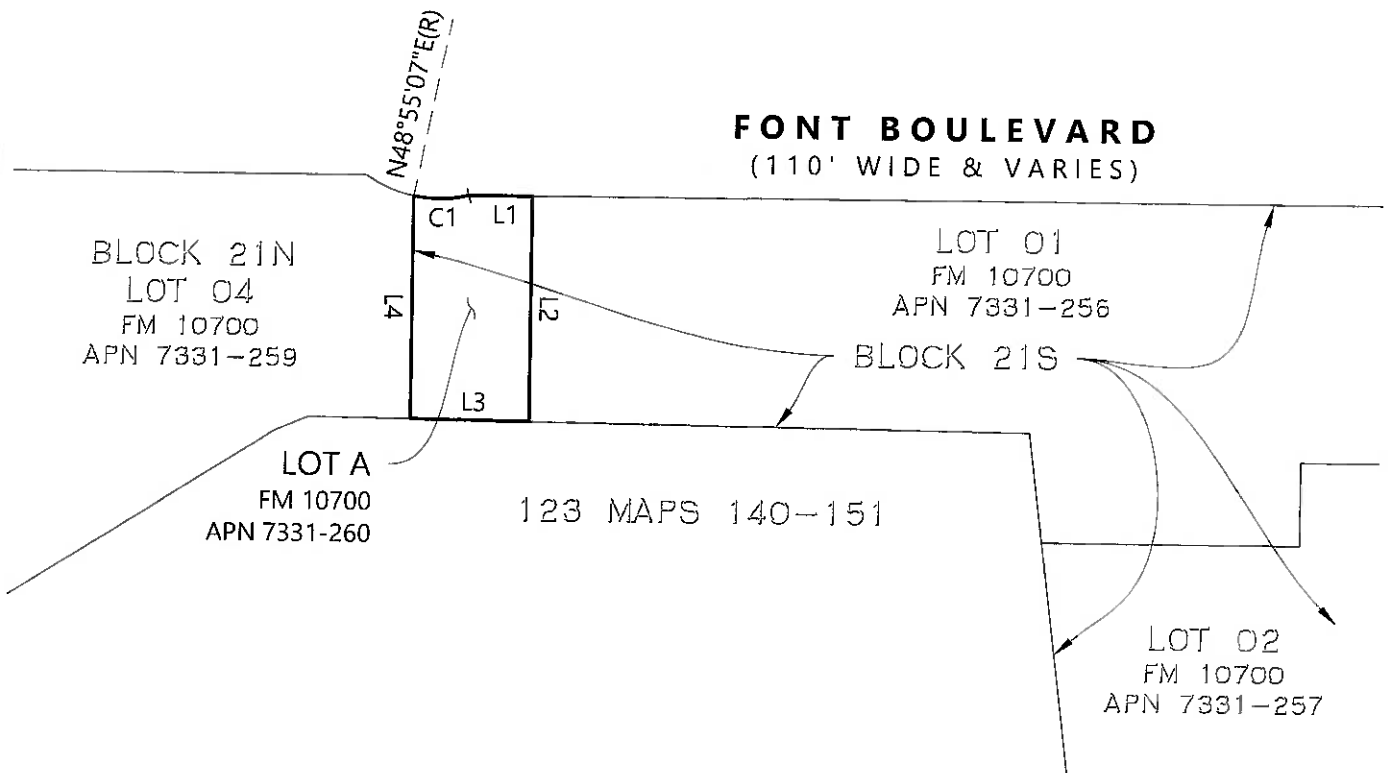
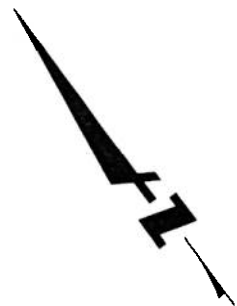
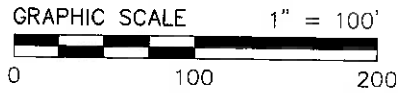
By:

Katharine S. Anderson, P.L.S. 8499

END OF DESCRIPTION

LINE TABLE		
LINE NO.	DIRECTION	LENGTH
L1	S52°33'48"E	34.48'
L2	S37°26'12"W	123.92'
L3	N51°53'59"W	64.55'
L4	N37°26'12"E	122.54'

CURVE TABLE			
CURVE NO.	RADIUS	DELTA	LENGTH
C1	68.50'	25°21'40"	30.32'



LEGEND

- SUBJECT BOUNDARY
- LOT LINE
- - - - - RADIAL LINE
- FM FINAL MAP
- (R) RADIAL BEARING



DCJ

DRAWING NAME: \\BKF-cv\work\Survey\2023\09\01\Plat\20230835_Plat_L101_A_10_2023-09-01.dwg
PLOT DATE: 09-01-23
PLOTTER: BKF

BKF
255 SHORELINE DR.,
SUITE 200
REDWOOD CITY, CA 94065
(650) 482-6300
www.bkf.com

SUBJECT EXHIBIT A - PLAT TO ACCOMPANY
LEGAL DESCRIPTION
JOB NO. 20200835-11
BY CSW APPR. DCJ DATE 09/01/2023
3 OF 3

© BKF Engineers

EXHIBIT B

Development Agreement Exhibit D

EXHIBIT D

REGULATIONS REGARDING ACCESS AND MAINTENANCE OF PRIVATELY-OWNED COMMUNITY IMPROVEMENTS

These Regulations Regarding Access and Maintenance of Privately-Owned Community Improvements (“**Regulations**”) shall govern the use, maintenance and operation of those certain Privately-Owned Community Improvements that are designated as Full Public Access (each, a “**Full Public Access Improvement**” and collectively, the “**Full Public Access Improvements**”). The Full Public Access Improvements are the Parks (as defined in Section 5 of this Exhibit), and those sidewalks, bike paths, and pedestrian paths within the Project Site (as defined in the *Parkmerced Design Standards and Guidelines*) not dedicated to the City.

1. Public Use. Developer or successor Master HOA shall offer the Full Public Access Improvements for the use, enjoyment and benefit of the public for open space and recreation purposes only including, without limitation, leisure, social activities, picnics and barbecues, playgrounds, sports, and authorized special events; *provided, however*, that Developer may use the Full Public Access Improvements for temporary construction staging related to adjacent development (during which time the subject Full Public Access Improvement shall not be used by the public) to the extent that such construction is in accordance with this Agreement, the Basic Approvals, and any Implementing Approvals.

2. No Discrimination. Developer shall not discriminate against, or segregate, any person, or group of persons, on account of race, color, religion, creed, national origin, gender, ancestry, sex, sexual orientation, age, disability, medical condition, marital status, or acquired immune deficiency syndrome, acquired or perceived, in the use, occupancy, tenure or enjoyment of the Full Public Access Improvements.

3. Maintenance Standard. The Full Public Access Improvements shall be operated, managed and maintained in a clean and safe condition in accordance with the anticipated and foreseeable use thereof.

4. Temporary Closure. Developer shall have the right, without obtaining the prior consent of the City or any other person or entity, to temporarily close any or all of the Full Public Access Improvements to the public from time to time for one of the following two reasons. In each instance, such temporary closure shall continue for as long as Developer reasonably deems necessary to address the circumstances described below:

- a. Emergency. In the event of an emergency or danger to the public health or safety created from whatever cause (including flood, storm, fire, earthquake, explosion, accident, criminal activity, riot, civil disturbances, civil unrest or unlawful assembly), Developer may temporarily close the Full Public Access Improvements (or affected portions thereof) in any manner deemed necessary or desirable to promote public safety, security and the protection of persons and property; or

- b. Maintenance and Repairs. Developer may temporarily close the Full Public Access Improvements (or affected portions thereof) in order to make any repairs or perform any maintenance as Developer, in its reasonable discretion, deems necessary or desirable to repair, maintain or operate the Full Public Access Repairs.

5. Operation of the Parks. Operation of the Parks (defined below) shall be subject to the additional requirements of this Paragraph. For the purposes of these Regulations, the “Parks” shall mean each of the following Full Public Access Improvements: (i) the Neighborhood Commons, (ii) Juan Bautista Circle, (iii) the Athletic Fields, (iv) Belvedere Gardens, and (v) the open space located in the southwest corner of the Project Site other than the Athletic Fields, Organic Farm and Belvedere Gardens. Each of the Parks is described in more detail in the *Parkmerced Design Standards + Guidelines*.

- a. Hours of Operation. The Parks shall be open and accessible to the public for a minimum of seven (7) days per week during daylight hours, unless reduced hours are approved in writing by the City, otherwise expressly provided for in this Agreement (including, without limitation, Paragraphs 4 and 5(b) of these Regulations), or reasonably imposed by Developer, with the City’s reasonable consent, to address security concerns. No person shall enter, remain, stay or loiter in the Parks when the Parks are closed to the public, except persons authorized in conjunction with a Special Event or other temporary closure, or authorized service and maintenance personnel.
- b. Special Events. Developer shall have the right to close temporarily to the public all or portions a Park for a period of up to seventy-two (72) consecutive hours in connection with the use of the subject Park for a private special event such as a wedding, meeting, reception, seminar, lecture, concert, art display, exhibit, convention, parade, gathering or assembly (each, a “Special Event” and collectively, “Special Events”). Prior to closing any Park for a Special Event, a notice of the closure shall be posted at all major entrances to the subject Park for a period of seventy-two (72) hours prior to the Special Event. Developer may require payment of a permit fee or other charge for use of the Parks for Special Events. Developer shall not schedule more than an average of two (2) Full Closure Special Events per Park per month throughout the year, if such Special Event requires closure of more than forty (40) percent the entire Park. Developer shall not schedule more than an average of five (5) Partial Closure Special Events per Park per month throughout the year, if such Partial Closure Special Event requires the closure of up to forty (40) percent of the area of the Park or less. In no event can any one Park be closed for Special Events for more than five (5) consecutive days or more than ten (10) days total in any given month.
- c. Public Events. The public shall have the right to request the use of the Parks for privately- or publicly-sponsored special events, including

meetings, receptions, seminars, lectures, concerts, art displays, exhibits, demonstrations, marches, conventions, parades, gatherings and assemblies, that do not require the closure of the Parks to the public (collectively, “Public Events”). All Public Events must be approved in advance by Developer. Developer may require payment in the form of a permit fee or other charge for use of the Parks for Public Events, so long as the permit fee and/or use charge do not exceed the reasonable costs for administration, maintenance, security, liability and repairs associated with such event. Developer shall post via on the web a clear explanation of the application process and criteria for review and approval of such Public Events and send copies of such criteria and application forms to the Planning Director and the Director of the San Francisco Department of Recreation and Parks for the purpose of each Department publishing such criteria and application forms if they so choose.

- d. Signs. Developer shall post signs at the major public entrances to the Parks, setting forth the applicable regulations imposed by these Regulations, hours of operation, and a telephone number to call regarding security, management or other inquiries.

6. Permissive Use. Developer may post at each entrance to the Full Public Access Improvements, or at intervals of not more than 200 feet along the boundary, signs reading substantially as follows: “Right to pass by permission, and subject to control, of owner: Section 1008, Civil Code.” Notwithstanding the posting of any such sign, no use by the public nor any person of any portion of the Full Public Access Improvements for any purpose or period of time shall be construed, interpreted or deemed to create any rights or interests to or in the Full Public Access Improvements other than the rights and interests expressly granted in this Agreement. The right of the public or any Person to make any use whatsoever of the Full Public Access Improvements or any portion thereof is not meant to be an implied dedication for the benefit of, or to create any rights or interests in, any third parties. Developer expressly reserves the right to control the manner, extent and duration of any such use.

7. Arrest or Removal of Persons. Developer shall have the right (but not the obligation) to use lawful means to effect the arrest or removal of any person or persons who creates a public nuisance, who otherwise violates the applicable rules and regulations, or who commits any crime including, without limitation, infractions or misdemeanors in or around the Full Public Access Improvements.

8. Project Security During Periods of Non-Access. Developer shall have the right to block entrances to, to install and operate security devices, and to maintain security personnel in and around the Full Public Access Improvements to prevent the entry of persons or vehicles during the time periods when public access to the Full Public Access Improvements or any portion thereof is restricted or not permitted pursuant to this Agreement. Developer’s proposal to install permanent architectural features that serve as security devices such as gates and fences shall be subject to Design Review Approval as detailed in the Development Agreement.

9. Removal of Obstructions. Developer shall have the right to remove and dispose of, in any lawful manner it deems appropriate, any object or thing left or deposited on the Full Public Access Improvements deemed to be an obstruction, interference or restriction of use of the Full Public Access Improvements for the purposes set forth in this Agreement, including, but not limited to, personal belongings or equipment abandoned in the Full Public Access Improvements during hours when public access is not allowed pursuant to this Agreement.

10. Temporary Structures. No trailer, tent, shack, or other outbuilding, or structure of a temporary character, shall be used on any portion of the Full Public Access Improvements at any time, either temporarily or permanently; *provided, however*, that Developer may approve the use of temporary tents, booths and other structures in connection with Public Events or Special Events.

EXHIBIT C

Excerpts from DSG

02.24 open space -neighborhood commons

KEY PLAN



Evenly distributed throughout Parkmead, the Neighborhood Commons are intended to be active open spaces dedicated to social engagement for neighborhood residents. As centers of activity at a neighborhood scale, Neighborhood Commons are meant to include opportunities for both passive and active recreation and leisure. These spaces should allow for activities such as: sitting, walking, gathering, gardening, play and contemplation. Many of the Neighborhood Commons will be located along Hedgerow Streets and incorporate water features that directly link rainwater runoff from roofs of adjacent buildings to the neighborhood, low-impact rainwater treatment system.

Standards

02.24.01 Requirements Open space design elements shall comply with Figure 02.24.A - Neighborhood Commons Illustrative Plan Example.

02.24.02 Active Play A minimum of four of the neighborhood commons (Fig.02.17.A - Open Space Plan) must incorporate an active or structured recreational component such as, but not limited to, a playground, community gardens or bocce court.

02.24.03 Soil Depth If a below grade parking structure is incorporated into the design of the Neighborhood Commons, sufficient soil depth must be provided to ensure the success and health of plants and trees. Irrigation and sub-drainage must be provided for all planting.

Guidelines

02.24.04 Community Gatherings An open area, either paved or lawn, should be provided in each Neighborhood Commons to accommodate social gatherings, informal play and sitting.

02.24.05 Programmed Play Neighborhood Commons should include clearly defined areas for

programmed activities such as, but not limited to, a picnic area, a community garden, a bocce ball court, a mini soccer field, basketball or tennis court, a playground or an outdoor dining area.

02.24.06 Trees and Plants Neighborhood Commons should be planted with native or acclimated tree and plant species, as listed in Figure 02.24.B – Proposed Trees and Proposed Shrubs and Groundcovers.

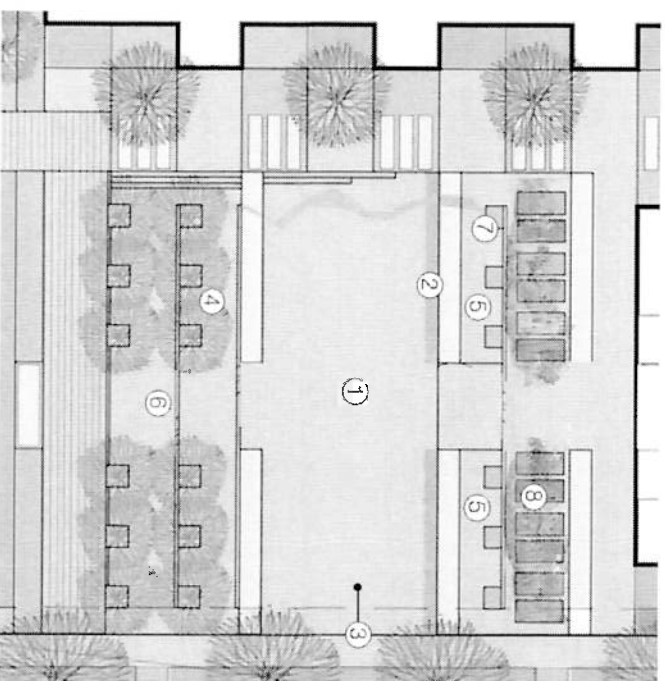
02.24.07 Diversity of Planting Separately defined areas within the Neighborhood Commons should be defined by distinct planting schemes.

02.24.08 Increased Vibrancy Ground floor active uses are encouraged to open onto and occupy parts of the Neighborhood Commons adjacent to buildings with outdoor spaces, as described in standard 03.06.06 - Active Ground Floors.

02.24.09 Seating Neighborhood Commons should include ample seating. Trees should provide maximum wind protection, and seating should be located to offer sunny, wind protected places to sit and gather.

02.24.10 Celebrate Water Rainwater detention areas should incorporate a water feature as an amenity for residents.

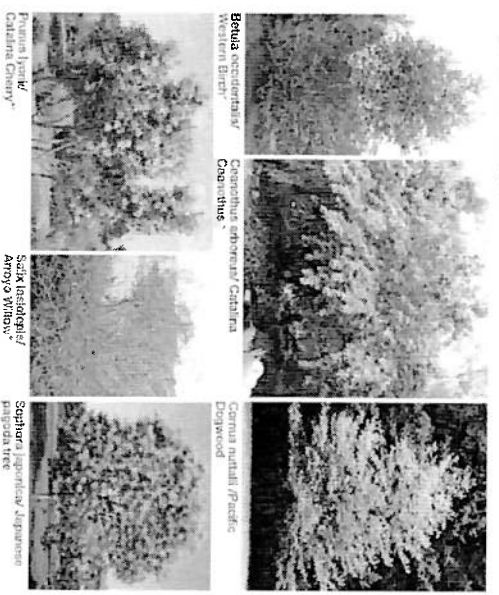
Figure 02.24.A - Neighborhood Commons Illustrative Plan Example



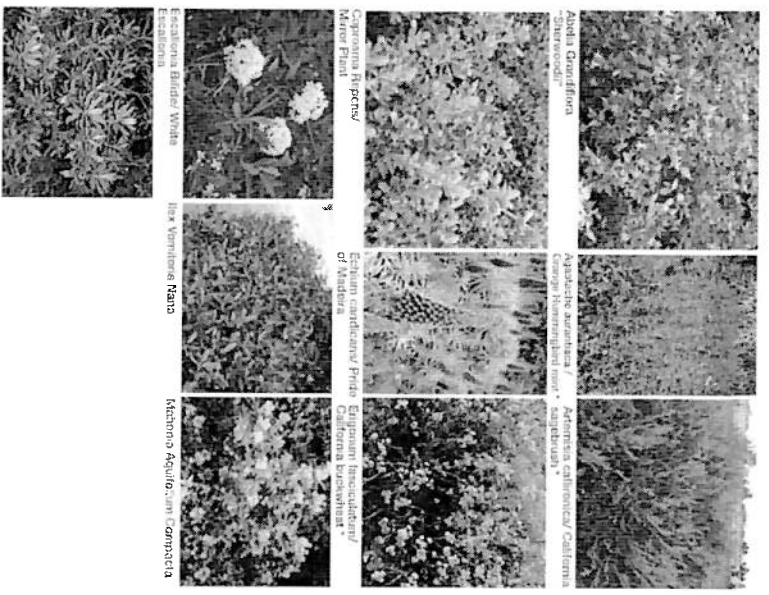
Neighborhood Commons Design Features

1. Multi-purpose surface
2. Planted edge
3. On grade access from street
4. Trees
5. Seating area
6. Area for structured activities
7. Water feature

Figure 02.24.B Proposed Trees
Species / Common Name



Proposed Shrubs and Ground Covers - California native Species / Common Name



View of typical neighborhood commons adjacent to Hedgerow street