

Recording requested by and
when recorded mail to:

City and County of San Francisco
Real Estate Division
Attn: Director of Property
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102

The undersigned hereby declares this instrument to be
exempt from Recording Fees (Govt. Code § 27383) and
from Documentary Transfer Tax (CA Rev. & Tax.
Code § 11922 and SF Bus. and Tax Reg. Code § 1105)

(Space above this line reserved for Recorder's use only)

APN: 7334-015

**DECLARATION OF RESTRICTIONS FOR PUBLIC ACCESS
PRIVATELY-OWNED ALLEY**

This DECLARATION OF RESTRICTIONS FOR PUBLIC ACCESS ("**Declaration**") is dated as of _____, 2023 by MAXIMUS PM PHASE 1C OWNER LLC, a Delaware limited liability company ("**Declarant**").

RECITALS

A. Declarant is the owner of certain real property located in San Francisco, California, and fully described on the attached Exhibit A (the "**Burdened Property**" or "**Privately-Owned Alley**"). The Burdened Property is Lot A as shown on the Final Map (defined herein).

B. The Burdened Property is located within the Project Site of the Parkmerced Development Project (the "**Project**"), as described 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. 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 and County of San Francisco, a municipal corporation (the "**City**"). All capitalized terms not defined herein shall have the meaning set forth in the Development Agreement.

C. Pursuant to the Development Agreement, Declarant is engaged in subdividing the property that is subject to proposed "Final Map No. 10699" ("**Final Map**"). A tentative subdivision map, entitled "Tentative Final Map 10699", was approved by the Director of the Department of Public Works by Order 206742, acting as the advisory agency for purposes of the Subdivision Map Act, subject to certain requirements and conditions contained in the Public Works Director's Conditions of Approval dated June 23, 2022 (the "**Conditions of Approval**").

D. Declarant and its agents will construct, or cause to be constructed, certain private street improvements and associated improvements or facilities on or under the Burdened Property, including, without limitation, pavement, curbs, sidewalk, slopes, site furnishings, landscaping, irrigation, street lighting, public and private utility facilities (collectively, the “**Privately-Owned Alley Improvements**”), pursuant to that certain Parkmerced Blocks 3W & 4 (“Subphase 1C”) Public Improvement Agreement, dated on or around the date hereof and recorded in the Official Records on or around the date hereof, as such may be amended and supplemented (the “**PIA**”). The Privately-Owned Alley and Privately-Owned Alley Improvements are categorized as Privately-Owned Community Improvements designated for Full Public Access under the Development Agreement.

E. The Privately-Owned Alley is subject to the provisions of Section 3.5.3 of the Development Agreement, which requires that the Privately-Owned Alley be operated and maintained in perpetuity, including after the expiration of the Development Agreement. Exhibit D of the Development Agreement, a copy of which is attached as Exhibit B (“**Access and Maintenance Regulations**”), sets forth more specific requirements for the use, maintenance, and security of the Privately-Owned Alley (among other Privately-Owned Community Improvements).

F. The Conditions of Approval require that Declarant provide a recorded notice for pedestrian access on the Burdened Property. Without modifying the requirements of the Development Agreement, the intent of this Declaration is to satisfy the recorded notice requirement of the Conditions of Approval as to the Burdened Property.

NOW, THEREFORE, incorporating the above Recitals, Declarant does hereby declare that the Burdened Property is to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the following limitations, restrictions, reservations, rights, conditions, and covenants, all of which are imposed as equitable servitudes upon the Burdened Property. All of the limitations, restrictions, reservations, rights, conditions, and covenants in this Declaration shall run with and burden the Burdened Property, any portion of them and any interest in them, and all persons having or acquiring any rights, title, or interest in the Burdened Property (including a Master HOA, as that term is defined in the Development Agreement), any portion of them, and any interest in them, and their successors, heirs, and assigns.

1. Public Access; Permissive Use. Subject to the terms and conditions specified in this Declaration, to comply with the Access and Maintenance Regulations, Declarant shall permit at all times the public use of the surface-level use of the Burdened Property for public travel, which is intended to be primarily pedestrian and may include vehicular and bicycle passage, parking, and loading (hereinafter referred to as “**Public Access**”); *provided, however*, that Declarant may use the Burdened Property for temporary construction staging related to adjacent development (during which time the Privately-Owned Alley shall not be used by the public) to the extent that such construction is, during the Term of the Development Agreement, in accordance with the Development Agreement and thereafter complies with then applicable regulation under the City’s municipal code and other applicable law. Declarant may post at each entrance to the Privately-Owned Alley, 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 Privately-Owned Alley or Privately-Owned Alley Improvements for any purpose or period of time shall be construed, interpreted or deemed to create any rights or interests to or in the Privately-Owned Alley or Privately-Owned Alley Improvements other than the rights and interests expressly granted in this Declaration.

2. Regulation by Declarant. Declarant shall at all times have the following rights relating to Public Access on the Burdened Property:

- a. Arrest or Removal of Persons. Declarant 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 Privately-Owned Alley.
- b. Removal of Obstructions. Declarant 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 Privately-Owned Alley deemed to be an obstruction, interference or restriction of use of the Privately-Owned Alley Improvements for the purposes set forth in this Agreement, including, but not limited to, personal belongings or equipment abandoned in the Privately-Owned Alley.

3. Maintenance and Repair. Declarant shall maintain the Privately-Owned Alley and Privately-Owned Alley Improvements in a clean and safe condition equivalent to the maintenance obligations for publicly dedicated streets and sidewalks as may be further detailed under CC&Rs (as that term is defined in the Development Agreement) recorded against title for the Burdened Property pursuant to Section 3.5.3 of the Development Agreement.

4. Future Improvements. Declarant and its successors-in-interest shall submit a copy of this Declaration as part of any building permit application to improve the Burdened Property that are submitted to the Department of Building Inspection on or after the Effective Date of this Declaration.

5. Parking Enforcement. As of the Effective Date, City has no authority to enforce parking restrictions on the Burdened Property. Because the Burdened Property will be open and passable to the general public, Declarant will make reasonable efforts to (i) maintain appropriate signage under Cal. Vehicle Code Sec. 22658(a)(1) to allow towing, and (ii) actively tow vehicles parked in red zones or otherwise in contravention to posted parking restrictions. With the exception of designated car share spaces, parking spaces within the Privately-Owned Alley shall not be sold, rented, or assigned for the use of individuals or individual dwelling units.

6. Temporary Closure. Declarant 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 Privately-Owned Alley to the public from time to time for one of the following three reasons. In each instance, such temporary closure shall continue for as long as Declarant reasonably deems necessary to address the circumstances and comply with the requirements 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), Declarant may temporarily close the Privately-Owned Alley (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. Declarant may temporarily close the Privately-Owned Alley (or affected portions thereof) in order to make any repairs or perform any maintenance as Declarant, in its reasonable discretion, deems necessary or desirable to repair, maintain or operate the Privately-Owned Alley and any privately owned improvements located on adjacent abutting lots.
- c. Special Events. Members of the public or other entities sponsoring events (“**Event Sponsors**”) shall have the right to request the use of some or all of the Privately-Owned Alley for a private or public special event, including block parties, gatherings, assemblies, celebrations, festivals, receptions, or other event (“**Special Event**”) that is appropriate in scale for the Privately-Owned Alley; provided, however, that pedestrian public access for travel through the Burdened Property must be permitted at all times during the Special Event. Prior to closing any of the Privately-Owned Alley for a Special Event, a notice of the closure shall be posted at all major entrances to the subject Privately-Owned Alley for a period of seventy-two (72) hours prior to the Special Event. All Special Events in the Privately-Owned Alley must be approved in advance by Declarant and are subject to any required approvals or permits from applicable City Agencies with jurisdiction over the Special Event. It shall be the sole responsibility of the requesting member of the public to obtain any such required permits or approvals. Declarant may require payment in the form of a permit fee or other charge for use of the Privately-Owned Alley for a Special Event, so long as the permit fee or use charge does not exceed the reasonable costs for administration, maintenance, security, liability, and repairs associated with such event. Declarant is solely responsible for ensuring compliance with any other easements or other recorded restrictions running against the Burdened Property pertaining to emergency vehicle access.

7. Project Security During Periods of Non-Access. Declarant shall have the right to block entrances to, to install and operate security devices, and to maintain security personnel in and around the Privately-Owned Alley to prevent the entry of persons or vehicles during the time periods when public access to the Privately-Owned Alley or any portion thereof is restricted or not permitted pursuant to this Declaration. Any Declarant’s proposal to install permanent architectural features that serve as security devices such as gates and fences shall: (1) for the Term of the Development Agreement, be subject to Design Review Approval as detailed in the Development Agreement; or (2) after the Term of the Development Agreement, be subject to then applicable regulation under the City’s municipal code and other applicable law.

8. Modification or Revocation. This Declaration may not be modified, revoked, or terminated without the written consent of Declarant, and no such modification, revocation or termination shall be effective unless and until the Planning Director consents thereto in writing and such modification, revocation or termination is executed by Declarant or its successor-in-interest and the Planning Director or his/her designee, and is recorded in the Official Records.

9. Beneficiary. The City and County of San Francisco (“City”), acting by and through its Planning Department, is hereby recognized as a beneficiary of this Declaration, with the right to consent to any modification or revocation hereof, and the right and authority, at its sole option, to enforce the provisions hereof; provided, however, that the City shall have no liability whatsoever hereunder with respect to the condition of the Burdened Property. The City shall have no obligation to complete or sign any estoppel certifications in connection with this Declaration.

10. No Liability; Indemnity. Declarant, and each successor owner of the Burdened Property with respect to matters arising during or prior to the period that it remains an owner of the Burdened Property, on behalf of itself and its successors and assigns (“**Indemnitors**”), shall indemnify, defend and hold harmless (“**Indemnify**”) the City including but not limited to, all of its boards, commissions, departments, agencies and other subdivisions, including, without limitation, its Department of Public Works, and all of the heirs, legal representatives, successors and assigns (individually and collectively, the “**Indemnified Parties**”), and each of them, from and against any and all liabilities, losses, costs, claims, judgments, settlements, damages, liens, fines, penalties, and expenses, including, without limitation, direct and vicarious liability of every kind (collectively, “**Claims**”), incurred in connection with or arising in whole or in part from: (a) any accident, injury to or death of a person, or loss of or damage to property, howsoever or by whomsoever caused, occurring in or about the Burdened Property from the use contemplated hereunder; (b) any default by such Indemnitors in the observation or performance of any of the terms, covenants or conditions of this Declaration to be observed or performed on such Indemnitors’ part; (c) the use or occupancy or manner of use or occupancy of the Burdened Property by such Indemnitors or any person or entity claiming through or under the Indemnitors; (d) the condition of the Burdened Property; (e) any construction or other work undertaken by the Indemnitors permitted or contemplated by this Declaration; (f) any acts, omissions or negligence of the Indemnitors in, on or about the Burdened Property by or on behalf of the Indemnitors; (g) any injuries or damages to real or personal property, goodwill, and persons in, upon or in any way allegedly connected with the use contemplated hereunder from any cause or Claims arising at any time; and (h) any release or discharge, or threatened release or discharge, of any hazardous material caused or allowed by Indemnitors in, under, on or about the Burdened Property; however, Indemnitor shall have no obligation to indemnify, defend or hold harmless any Indemnified Party to the extent any Indemnified Claims arise out of or result from the gross negligence or willful misconduct of any Indemnified Party. The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and the City’s costs of investigating any Claim. Declarant on behalf of the Indemnitors specifically acknowledges and agrees that the Indemnitors have an immediate and independent obligation to defend the City from any claim which actually or potentially falls within this Indemnity even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such Claim is tendered to such Indemnitors by the City and continues at all times thereafter. As used herein, “hazardous material” means any substance, waste or material which, because of its quantity, concentration of physical or chemical characteristics is deemed by any federal, state, or local governmental authority to pose a present or potential hazard to human health or safety or to the environment.

12. No Public Dedication. This Declaration will not be deemed a dedication of any portion of the Burdened Property or the Privately-Owned Alley Improvements to or for the benefit of the general public.

13. Declarant Exculpation. Without limiting any obligation or liability of the Declarant entity pursuant to this Declaration, no direct or indirect officer, director, employee, trustee, shareholder, partner, member, principal, parent, subsidiary or other affiliate of Declarant, or any officer, director, employee, trustee, shareholder, partner, member, principal of any such parent, subsidiary or other affiliate will be personally liable for the performance of Declarant's obligations under this Declaration and their individual assets shall not be subject to any claims of any person relating to such obligations. The foregoing shall govern any direct and indirect obligations of Declarant under this Declaration. The provisions of this Section shall survive any termination of this Declaration.

13. General Provisions. If any provision of this Declaration is deemed invalid by a judgment or court order, such invalid provision will not affect any other provision of this Declaration, and the remaining portions of this Declaration will continue in full force and effect, unless enforcement of this Declaration as partially invalidated would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the purpose of this Declaration. All section and subsection titles are included only for convenience of reference and will be disregarded in the construction and interpretation of the Declaration.

14. Effective Date. This Declaration shall be effective as to any portion of the Burdened Property as of the first date upon which both of the following have occurred: (i) this Declaration is fully executed and recorded in the Official Records, and (ii) the Public Works Director issues a Certificate of Conformity for the Privately-Owned Alley Improvements on such Burdened Property (the "**Effective Date**").

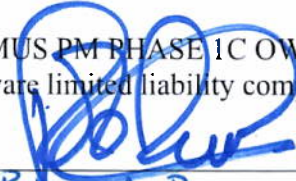
15. Duration. The restrictions in this Declaration shall remain in place for perpetuity, unless modified, revoked or terminated pursuant to Paragraph 8 above.

16. Counterparts. This Declaration may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same Declaration.

[Signatures on Following Page]

DECLARANT, as owner of the Burdened
Property:

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

By: 
Name: Robert A. Korania
Title: President

APPROVED

THE CITY AND COUNTY OF SAN
FRANCISCO, acting by and through its
Planning Department

By: _____
Rich Hillis
Planning Director

APPROVED AS TO FORM

DAVID CHIU, City Attorney

By: _____
John Malamut
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
Burdened 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 03W, as shown on that certain map entitled "FINAL MAP No. 10699" 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 28,516 square feet, more or less, as calculated at and above an elevation of 106.75 feet.

Being all of APN 7334-015.

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.

Vertical Datum & Reference System

The vertical datum is the "CCSF 2013 NAVD88 Vertical Datum" (SFVD13) and referenced by the "CCSF 2013 Leveling Network".

Benchmark 10510: 2-1/2" domed brass disk at northeast corner of Lake Merced Blvd & Brotherhood Way stamped "T-0158." in concrete island formed by northbound Lake Merced Blvd & turn lanes of westbound Brotherhood Way. 10.3' north of north face of curb of handicap ramp in island. 10.3' east of pedestrian traffic signal. 6.7' east of east face of curb of Lake Merced Blvd. Elevation = 52.034 U.S. Survey Feet.

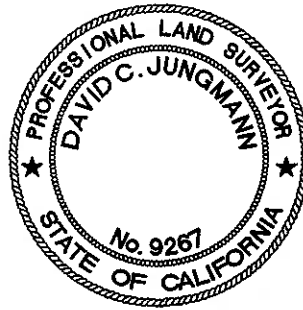
Benchmark 10166: 1/2" domed steel pin at southwest corner of 19th Ave & Crespi Drive in concrete sidewalk at curb return. Near back of walk. On line with end curb return. 10' southwesterly -radial of face of curb. Elevation = 176.214 U.S. Survey Feet.

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



09/26/2023
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

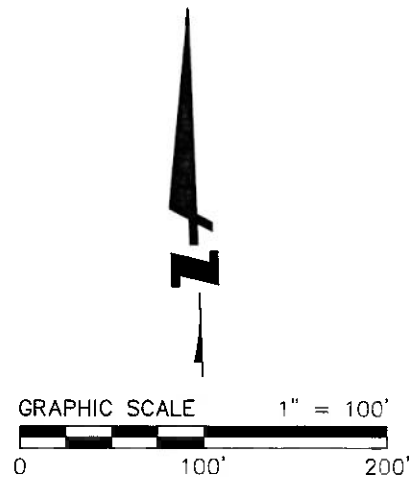
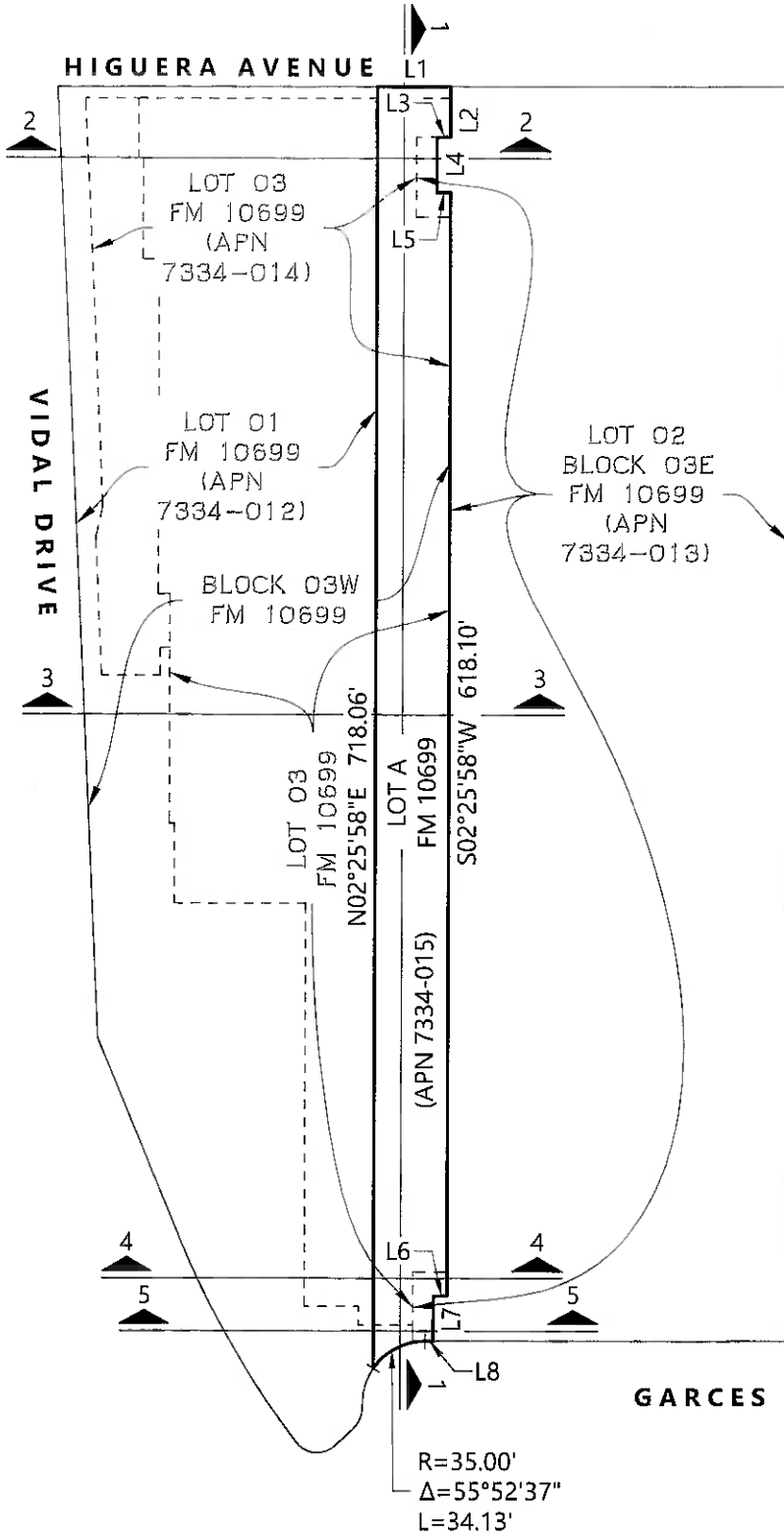
PROJECT NAME: 255 SHORELINE DRIVE, SUITE 200, REDWOOD CITY, CA 94065
 PROJECT ADDRESS: 255 SHORELINE DRIVE, SUITE 200, REDWOOD CITY, CA 94065
 PROJECT DATE: 09/26/2023
 PREPARED BY: MICHAEL PETERSON AND LORRAINE PETERSON
 DATE: MAY 2023
 FILED: 2023-09-26

HIGUERA AVENUE

VIDAL DRIVE

ARBALLO DRIVE

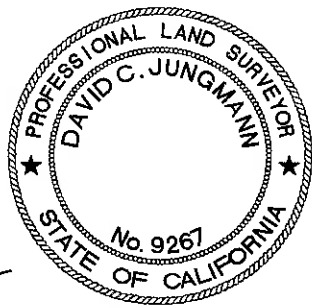
GARCES DRIVE



LINE TABLE		
LINE NO.	DIRECTION	LENGTH
L1	S87°34'02"E	41.00'
L2	S02°25'58"W	27.84'
L3	S87°34'02"E	7.52'
L4	S02°25'58"W	31.14'
L5	S87°34'02"E	7.52'
L6	N87°34'02"W	7.50'
L7	S02°36'00"W	25.62'
L8	N87°33'55"W	4.45'

LEGEND

- SUBJECT BOUNDARY
- LOT LINE
- - - - - VERTICAL STEP IN LOT LINE
- FM FINAL MAP



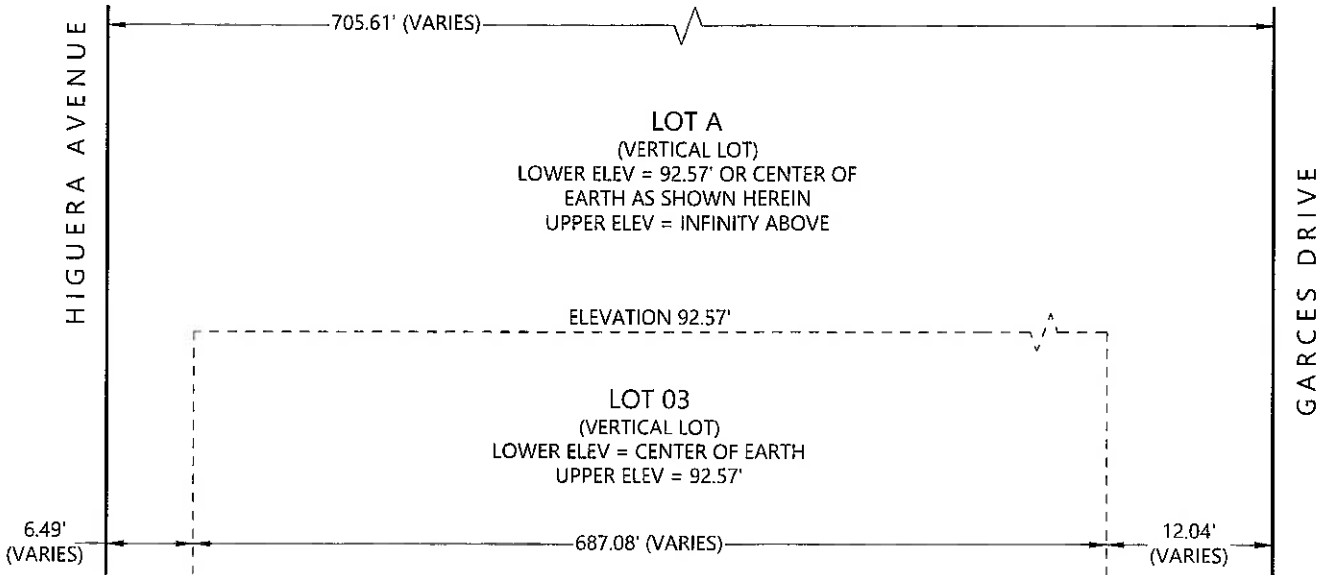
[Handwritten Signature]

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. 20200835-10
 BY JMS APPR. DCJ DATE 09/26/2023
 3 OF 5

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VERTICAL LOT CROSS SECTION 1
NOT TO SCALE



BKF Engineers, Inc. 255 Shoreline Dr., Suite 200, Redwood City, CA 94065
 (650) 482-6300 www.bkf.com
 09/26/2023 10:28:12 AM
 20200835-10 EXHIBIT A - PLAT TO ACCOMPANY

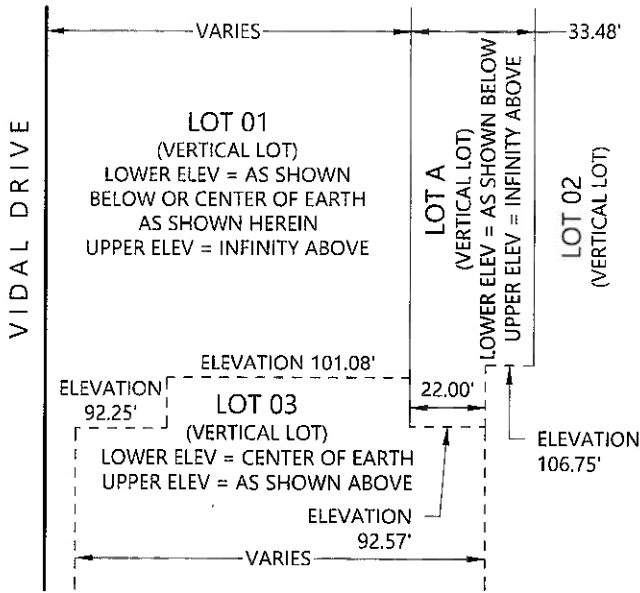


255 SHORELINE DR.,
SUITE 200
REDWOOD CITY, CA 94065
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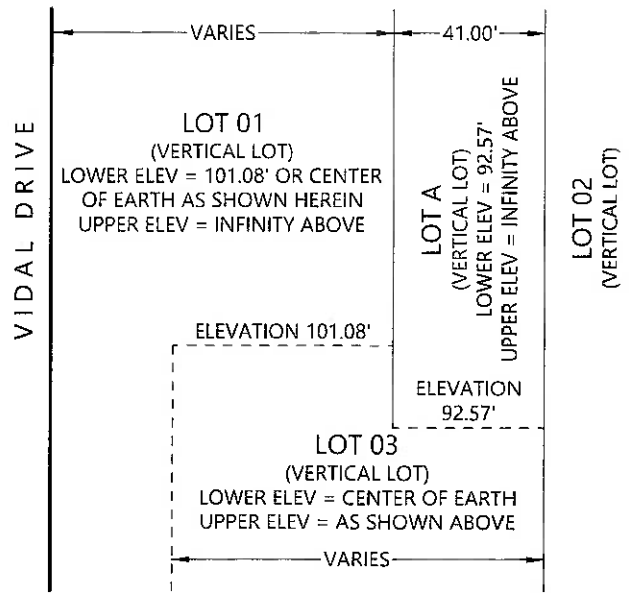
SUBJECT EXHIBIT A - PLAT TO ACCOMPANY
LEGAL DESCRIPTION
 JOB NO. 20200835-10
 BY JMS APPR. DCJ DATE 09/26/2023
 4 OF 5

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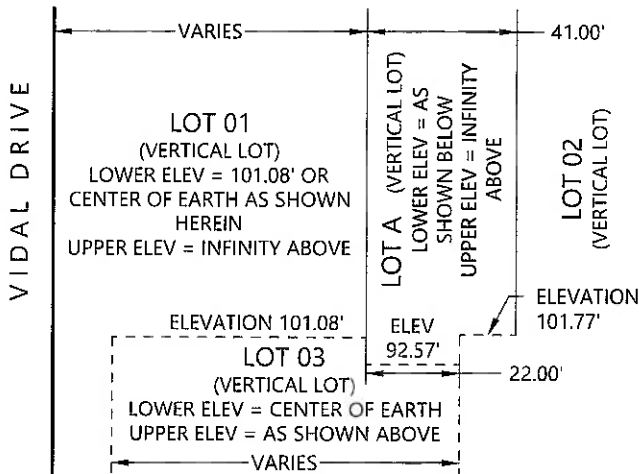
VERTICAL LOT CROSS SECTION 2
NOT TO SCALE



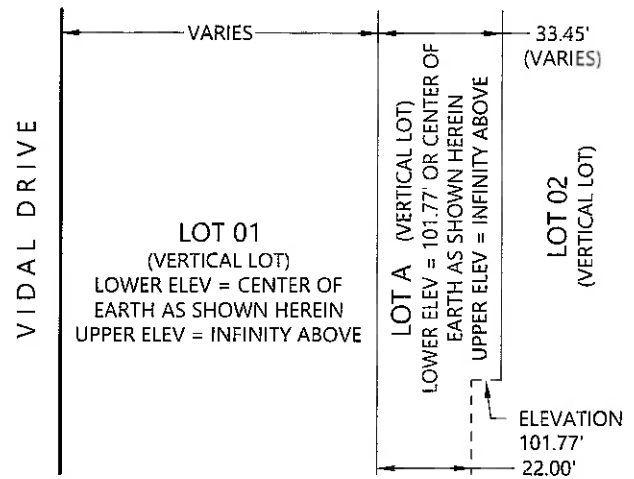
VERTICAL LOT CROSS SECTION 3
NOT TO SCALE



VERTICAL LOT CROSS SECTION 4
NOT TO SCALE



VERTICAL LOT CROSS SECTION 5
NOT TO SCALE



DRAWING NAME: \S:\Projects\2020\20200835-10\20200835-10_Plat\20200835-10_Plat.dwg
DRAWN BY: JMS
DATE: 09/26/2023
CHECKED BY: DCJ
DATE: 09/26/2023



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. 20200835-10

BY JMS APPR. DCJ

DATE 09/26/2023

5 OF 5

BKF Engineers

Exhibit B

Access and Maintenance Regulations

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.