

RECORDING REQUESTED BY

*and*

WHEN RECORDED MAIL TO

Old Republic Title Company  
Attn: Helen Dumont  
927 Irving Street  
San Francisco, CA 94122

20169K22083200010  
San Francisco Assessor-Recorder  
Carmen Chu, Assessor-Recorder  
DOC 2016-K220832-00  
Acct 5002-Old Republic Title Company  
Wednesday, MAR 23, 2016 11:14:58  
Ttl Pd \$42.00 Nbr-0005335725  
oar/RE/1-10

SPACE ABOVE THIS LINE FOR RECORDER'S USE

*Situs: 1463 Lombard St*  
*0503/020,021,025*

**Notice of Special Restrictions Under the Planning Code**

# NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

## RECORDING REQUESTED BY

And When Recorded Mail To:

Name: JOE TOBONI

Address: 135 St. Francis Blvd

City: SAN FRANCISCO

State: CA ZIP: 94127

(Space Above This Line For Recorder's Use)

I (We) Joseph P. TOBONI 1463-65 Lombard 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: 0503, LOTS: 020, 021 & 095**

**COMMONLY KNOWN AS: 1463 LOMBARD STREET;**

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. 2013.1022CE** authorized by the Planning Commission of the City and County of San Francisco on **October 8, 2015**, as set forth in **Planning Commission Motion No. 19489**, to allow **demolition of a three-story, two-unit dwelling and construction of a 14-unit residential building (including three Below-Market Rate units) with ground-floor commercial space and parking garage, and to reduce the off-street parking requirement, located at 1463 Lombard Street, Block 0503, Lots 020, 021 and 095, pursuant to Planning Code Sections 161(g), 303(c), 307(i), 317 and 712.37 within the NC-3 (Moderate-Scale Neighborhood Commercial) District and a 40-X Height and Bulk District.**

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

## **AUTHORIZATION**

This authorization is for a Conditional Use to allow demolition of a three-story, two-unit dwelling and construction of a 14-unit residential building (including three Below-Market Rate units) with ground-floor commercial space and parking garage, and to reduce the off-street parking requirement, located at 1463 Lombard Street, Block 0503, Lots 020, 021 and 095, pursuant to Planning Code Sections **161(g), 303(c), 307(i), 317 and 712.37** within the **NC-3 (Moderate-Scale Neighborhood Commercial) District and a 40-X Height and Bulk District**; in general conformance with plans, dated **October 8, 2015**, and labeled **"EXHIBIT B"**

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

included in the docket for Case No. 2013.1022CE and subject to conditions of approval reviewed and approved by the Commission on **October 8, 2015** under Motion No. 19489. 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 **October 8, 2015** under Motion No. 19489.

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

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19489 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 perform said tenant improvements 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).*

### AFFORDABLE UNITS

3. **Number of Required Units.** Pursuant to Planning Code Section 415.6 and 207 (c) (1), the Project is required to provide a minimum of 20% of the proposed dwelling units as affordable to qualifying households. The Project contains 14 units; therefore, a minimum of three (3) affordable units are required. The Project Sponsor will fulfill this requirement by providing three 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 and Community Development ("MOHCD").

*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 and Community Development at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

4. **Unit Mix.** The Project contains 13 one-bedroom, and one (1) two-bedroom unit; therefore, the required affordable unit mix is three (3) one-bedroom units. If the market-rate unit mix changes, the affordable unit mix will be modified accordingly with written approval from Planning Department staff in consultation with MOHCD.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing and Community Development at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

## NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

5. **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 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing and Community Development at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*
6. **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 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing and Community Development at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*
7. **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 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing and Community Development at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*
8. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). 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 MOHCD at 1 South Van Ness Avenue or on the Planning Department or MOHCD 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 and Community Development 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.

## NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

- 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. MOHCD shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOHCD 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 Restrictions to the Department and to MOHCD 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 MOHCD and pay interest on the Affordable Housing Fee and penalties, if applicable.

# NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

## DESIGN – COMPLIANCE AT PLAN STAGE

9. **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 labeled and illustrated on the architectural addenda. 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 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org).*

## SIGNAGE

10. **Signage.** Any signs on the property shall be made to comply with the requirements of Article 6 of the Planning Code.

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

## MONITORING

11. **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.

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

## OPERATION

12. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the tenant space 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.

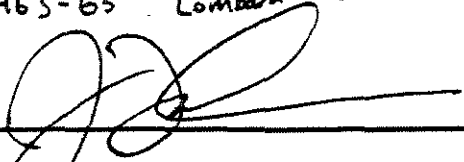
*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org/>*

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

# NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

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.

1463-65 Lombard LLC

  
(Signature)

Joseph P. TORANI  
(Printed Name)

Dated: 3/21, 2016 at San Francisco, California.  
(Month, Day) (City)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

Dated: \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_, California.  
(Month, Day) (City)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

Dated: \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_, California.  
(Month, Day) (City)

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



**EXHIBIT A**

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

Parcel One:

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

Parcel Two:

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

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

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

Being a portion of Mission Block No. 58

Assessor's Lot 024; Block 3591

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

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 3/21/16 before me, Kim Lamb, Notary Public  
Date Here Insert Name and Title of the Officer  
personally appeared Joseph P. Toboni  
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 this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: NSR Document Date: \_\_\_\_\_  
Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

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

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_