



Department of Public Works  
Office of the City and County Surveyor

1155 Market Street, 3rd Floor  
San Francisco, CA 94103

Edwin M. Lee, Mayor  
Mohammed Nuru, Director  
Fuad S. Sweiss, PE, PLS,  
City Engineer & Deputy Director of Engineering

Bruce R. Storrs, City and County Surveyor

### TENTATIVE MAP DECISION

SE

Date: July 28, 2014

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

Project ID: 8285			
Project Type: 447 Residential and 1 Commercial Units Mixed Use new Construction Condominium			
Address#	StreetName	Block	Lot
399	FREMONT ST	3747	320
Tentative Map Referral			

Attention: Mr. Scott F. Sanchez

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.

X

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 NCRS & CONDITIONS OF APPROVAL

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, P.L.S.  
City and County Surveyor

TL

DATE ~~8.21.14~~ 3.19.15

PLANNING DEPARTMENT

Mr. Scott F. Sanchez, Zoning Administrator



# SAN FRANCISCO PLANNING DEPARTMENT

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Per the most recent NSR #2012J475280 for Case No. 2012.0645X, adopted by the Planning Commission of the City and County of San Francisco on July 26, 2012, as set forth in Planning Commission Motion No. 18676, 18129, and 17671, per case numbers 2012.0645X, 2010.0248X, 2008.0711X, respectively to construct a new residential building (up to 452 dwelling units, 258 automobile parking spaces, and 150 bicycle parking spaces).

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Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

CL: G:\DOCUMENTS\2013\Condos\2175 Market St - Approval Memo.doc

**RECORDING REQUESTED BY:** )  
 )  
**And When Recorded Mail To:** )  
 )  
**Name:** Andrew J. Junius ) **CONFORMED COPY of document recorded**  
 ) **08/17/2012, 2012J475280**  
**Address:** Reuben & Junius, LLP ) **OR** with document no. \_\_\_\_\_  
 ) **This document has not been compared with the original**  
**City:** One Bush St., Ste. 600 ) **SAN FRANCISCO ASSESSOR-RECORDER**  
 San Francisco, )  
**State:** California 94104 ) **Space Above this Line For Recorder's Use**

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

I, (We) OM/UDR SF, 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: (LEGAL DESCRIPTION AS ON DEED).

LOT 320 OF FINAL MAP 4181, FILED JUNE 20, 2007, BOOK 101 OF CONDOMINIUM  
 MAPS, PAGES 67 AND 68, SAN FRANCISCO COUNTY RECORDS.  
 APN: LOT: 3747; BLOCK: 320

BEING Assessor's **Block 3747, Lot 002**, commonly known as **399 Fremont Avenue**,  
 hereby give notice that there are special restrictions on the use of said property under Part II,  
 Chapter II of the San Francisco Municipal Code (City Planning Code).

Said restrictions consist of conditions attached to the Conditional Use Application No.  
**2012.0645X** approved by the Planning Commission of the City and County of San Francisco on  
**July 26, 2012**, as set forth in Planning Commission Motion No. **18676**.

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

**GENERAL CONDITIONS**

1. Performance. This authorization is valid for a period of 12 months after the date of expiration of the previous extension granted per Motion No. 18411. Specific procedures regarding the performance requirement follow Planning Code Section 309.1(e).
2. Recordation. Prior to the issuance of any building or site permit for the construction of 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, which notice shall state that construction of the Project has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the

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

extent to which the conditions of this Motion have been satisfied, and record said writing if requested.

3. The property shall be kept free of weeds, debris, and blight. The Project Sponsor shall install a fence to prevent vagrant camping, unlawful dumping and to minimize the security threat to the neighborhood. The fence shall be kept free of graffiti and postings.

The use of said property contrary to these special restrictions shall constitute a violation of the City 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: Aug. 13, 2012 at San Francisco, California

OM/UDR SF LLC,  
a Delaware limited liability company

By: OM Fremont Equity, LLC  
California limited liability company  
its Manager

  
\_\_\_\_\_  
(Signature of owner)

William P. Pensky  
\_\_\_\_\_  
(Printed Name)

CFO  
\_\_\_\_\_  
(Title)

8.13.12  
\_\_\_\_\_  
(Date)

**This signature must be notarized prior to recordation; add Notary Public Certification and Official Notarial Seal below.**

U:\BFU\DOCUMENTS\NSRs\CU\399 Fremont Street=2012.0645X.doc

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

State of California

County of San Diego

On Aug 13, 2012  
Date

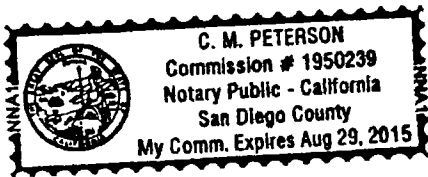
before me,

C.M. Peterson  
Here Insert Name and Title of the Officer

personally appeared

William P. Persky  
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:

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: \_\_\_\_\_

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

RIGHT THUMBPRINT OF SIGNER

Top of thumb here



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Inclusionary Housing (Sec. 315)
- Jobs Housing Linkage Program (Sec. 313)
- Downtown Park Fee (Sec. 139)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 314)
- Other

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## Planning Commission Motion No. 17671

HEARING DATE: AUGUST 08, 2008

Date: July 31, 2008  
Case No.: 2008.0711X  
Project Address: 399 FREMONT STREET  
Zoning: RH DTR (Rincon Hill Downtown Residential Mixed Use) District  
85/400-R Height And Bulk Designation  
Block/Lot: 3747/002  
Project Sponsor: Fifield Realty Corp.  
425 Market Street, Suite 2229  
San Francisco, CA 94105  
Staff Contact: Ben Fu – (415) 558-6318  
[ben.fu@sfgov.org](mailto:ben.fu@sfgov.org)

**ADOPTING FINDINGS UNDER PLANNING CODE SECTIONS 309.1 AND 827 TO AUTHORIZE AN EXTENSION IN THE PERFORMANCE PERIOD FOR ANOTHER 12 MONTHS FROM THE ORIGINAL APPROVAL DATE WITHIN THE RH DTR (RINCON HILL DOWNTOWN RESIDENTIAL MIXED USE) DISTRICT WITH A 85/400-R HEIGHT AND BULK DESIGNATION.**

### PREAMBLE

On May 27, 2008, Fifield Realty Corp. (hereinafter "Project Sponsor") filed Application No. 2008.0711X (hereinafter "Application") with the Planning Department (hereinafter "Department") for the extension of performance period per Planning Code Sections 309.1 and 827 for an additional 12 months from the original approval date. The proposal was approved on June 15, 2006 to construct a new residential project that would consist of approximately 432 dwelling units, up to 432 off-street parking spaces, and for the granting of exceptions to allow greater than one parking space for every two dwelling units under Planning Code Sections 151.1(d) and 309.1(b)(1)(b), for reduction of the dwelling unit exposure requirements under Planning Code Sections 140 and 309.1(b)(1)(d), and to provide exceptions to the separation of towers requirement under Planning Code Sections 270(e) and 309.1(b)(1)(a). Modifications are proposed for unit count and mix, off-street and bicycle parking, and design. The modifications include increasing the number of dwelling units up to 452, reducing off-street parking spaces to 238, increasing bicycle parking spaces from 120 to 150, and minor design improvements. All previously granted exceptions and Conditions of Approval would remain and are attached as Exhibit C. The amendment extends the approval to June 15, 2009.

The environmental effects of the Project were determined by the San Francisco Planning Department (hereinafter "Department") to have been fully reviewed under the Rincon Hill Plan Environmental Impact Report (hereinafter "Rincon EIR"). The Rincon EIR was prepared, circulated for public review and comment, and on May 5, 2005, by Motion No. 17007 certified by the Commission as complying with the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et. Seq., hereinafter "CEQA"). The Rincon EIR is a Program EIR.

The Commission adopted CEQA findings related to the Rincon EIR in support of its approval of the Rincon Hill Plan and related actions in its Motion No. 17008 and hereby incorporates such findings by reference. The Application to extend the approval period was determined by the San Francisco Planning Department (hereinafter "Department") not to require additional environmental review under the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq., hereinafter "CEQA").

On August 07, 2008, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2008.0711X.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

**MOVED**, that the Commission hereby authorizes the extension of the performance period requested in Application No. 2008.0711X, subject to the previously approved conditions and based on the following findings:

## **FINDINGS**

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The approximately 37,812 square foot project site consists of three parcels that are located along the east side of Fremont Street between Harrison Street and Folsom Street. The Project site is on the north slope of Rincon Hill and slopes up toward Harrison Street and down toward Folsom Street. The site was improved with three structures – 355-375 Fremont, known as the Hjul Building, a two-story, approximately 46,500 square-foot office building constructed in 1929 as an industrial building and subsequently converted to office uses; 385 Fremont, a two-story, approximately 15,000 square-foot building with mezzanine containing an auto repair garage and office space; and 399 Fremont, the Apostleship of the Sea, a three-story plus basement, 35,000 square-foot building used as a social service center, with a chapel and temporary shelter for homeless people. The Hjul Building at 355-375 Fremont Street is listed in four local surveys containing buildings that could be considered historic resources. When it certified the Final EIR for the Rincon Hill Plan, the Planning Commission found that the benefits of the Plan, including development of the 355-375 Fremont Street site, outweigh its significant

impacts, including demolition of the Hjul Building. The buildings were demolished in February of 2008.

3. **Past History and Actions.** On November 28, 2005, an application was approved for the construction of a 250-foot residential tower at 375 Fremont Street (Case No. 2002.0449V). That approval was supported by the 375 Fremont Street Final EIR. In addition, on January 13, 2005, an application was submitted for a 250-foot residential project at 399 Fremont Street (Case No. 2003.0169C). An application for environmental review for the 399 Fremont was submitted on February 20, 2003 and a Preliminary Draft EIR was prepared (Case No. 2003.0169E). The proposed Project would be built in lieu of these two separate projects. When the Rincon Hill Downtown Residential Mixed Use plan was approved, it included both the two 250-foot residential projects and, as the preferred alternative, the single, proposed 400-foot Project on the two sites combined. On May 5, 2005, the Planning Commission certified the final Environmental Impact Report ("EIR") for the Rincon Hill Downtown Residential Mixed Use plan. The final EIR included analysis of the potential impacts of the proposed Project. In addition, the Planning Department determined that no further environmental review was required as documented in a letter to the file dated May 25, 2006.

On June 15, 2006, an application was approved for the demolition of the three existing structures, and the construction a single residential high-rise tower that would include the following features:

- The Project will be 400 feet tall (measured from Harrison Street) with an 85-foot podium and total approximately 528,000 gross square feet.
  - The Project will consist of up to 432 dwelling units, including approximately 60 percent one-bedroom and studio units and at least 40 percent two-bedroom and three-bedroom condominium apartments.
  - Off-street parking for up to 432 vehicles will be provided in a four-level underground garage. The parking will include 216 independently accessible spaces and 216 tandem or valet spaces. The tandem spaces will be served by valet. The garage will also include 9 ADA compliant spaces, 2 car share spaces and 120 bicycle storage spaces.
4. **Proposal.** The project proposes to extend the performance period for another 12 months. Modifications are proposed for unit count and mix, off-street and bicycle parking, and design. The Project proposes up to 452 dwelling units and 238 off-street parking spaces.

Unit Mix	Approved	Proposed
Studio	76	66
1-bedroom	183	206
2-bedroom	167	171
3-bedroom	0	5
Townhome	6	4
Total	432	452 (less than 5% increase)
<b>Parking</b>		
Independent	216	202



Indirect	189 Valet / 27 tandem	36 tandem
Total	432	238
Bike Parking	120	150

5. **Public Comment.** The Department has received no opposition to the proposal.
  
6. **The Rincon Hill Downtown Residential Mixed Use District – Planning Commission Design Review and Determination of Compliance Required.** On July 26, 2005, the Board of Supervisors approved the Rincon Hill Plan Element of the General Plan and associated General Plan Amendments. On August 2, 2005, the Board of Supervisors approved, on a first reading, General Plan amendments, zoning text and map amendments, along with other associated legislation in adopting the new Rincon Hill Plan. The new Rincon Hill Plan further encourages the conversion of the existing Rincon Hill area to a high-density residential neighborhood with significant pedestrian and residential amenities such as parks and open space. The proposed new zoning provides more specific direction in designing new buildings, to assure their bulk and height is appropriate and that their interaction with the pedestrian realm contributes to the creation of a new neighborhood. Among the goals of the new zoning controls is to encourage high-rise development in slender towers amply separated, and to limit the amount of excessive off-street parking. To provide more specific direction to project sponsors and to help assure a more predictable project review process, the controls are designed to be more specific and allow less variability. The new controls utilize a design review process before the Commission, similar to the project review process for Downtown C-3 Districts, rather than utilizing the Conditional Use and Planned Unit Development review processes.
  
7. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
  - A. **Parking.** The Rincon Hill Plan limits the number of off-street parking spaces for dwelling units to no more than one parking space for every two dwelling units. Exceptions can be granted to allow up to one-to-one through the Design Review process as long as those parking spaces above the initial one-to-two ratio are either provided by mechanical lifts, tandem, valet or are otherwise not independently accessible, and that they meet the criteria provided under Planning Code Section 151.1 (see finding 9 below for a further discussion). The project sponsor previously sought an exception to this limitation and proposed to provide approximately 432 spaces 216 of which would be considered independently accessible and 216 of which would not. The revised project would reduce the parking spaces to 238, 202 of which would be considered independently accessible.
  
  - B. **Bicycle Parking.** Planning Code Section 155.5 requires one Class I bicycle parking space for every four dwelling units over 50-units plus 25 bicycle parking spaces. For the previously approval 432-unit project, 120 Class I bicycle are required and 120 are being provided on-site in the below-grade parking garage. The revised project proposes a total of 150 bicycle spaces for the proposed 452 units.

8. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
9. The Commission hereby finds that approval of the request for extension would promote the health, safety and welfare of the City.

**DECISION**

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES** Case No. 2008.0711X subject to the following conditions attached hereto as EXHIBIT A (Conditions of Approval) which is incorporated herein by reference as though fully set forth.

**APPEAL AND EFFECTIVE DATE OF MOTION:** Any aggrieved person may appeal this determination of compliance authorization to the Board of Appeals within fifteen (15) days after the date of this Motion No. 17671. The effective date of this Motion shall be the date of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (415) 575-6880, 1660 Mission Street, Third Floor, San Francisco, CA 94103.

I hereby certify that the foregoing Motion was adopted by the Planning Commission on August 08, 2008.

---

Linda Avery  
Commission Secretary

AYES: Commissioners Antonini, Borden, Lee, and Sugaya

NAYS: Commissioners Miguel, Moore, and Olague

ABSENT: None

ADOPTED: August 08, 2008

## Exhibit A

# Conditions of Approval

Whenever "Project Sponsor" is used in the following conditions, the conditions shall also bind any successor to the Project or other persons having an interest in the Project or underlying property.

This approval is pursuant to Sections 309.1 to extend the performance period for another 12 months from the original approval date of June 15, 2006. The original proposal was to construct a new residential project that would consist of approximately 432 dwelling units, up to 432 off-street parking spaces, and for the granting of exceptions to allow greater than one parking space for every two dwelling units under Planning Code Sections 151.1(d) and 309.1(b)(1)(b), for reduction of the dwelling unit exposure requirements under Planning Code Sections 140 and 309.1(b)(1)(d), and to provide exceptions to the separation of towers requirement under Planning Code Sections 270(e) and 309.1(b)(1)(a). Modifications are proposed for unit count and mix, off-street and bicycle parking, and design. The modifications include increasing the number of dwelling units up to 452, reducing off-street parking spaces to 238, increasing bicycle parking spaces from 120 to 150, and minor design improvements. All previously granted exceptions and Conditions of Approval would remain and are attached as Exhibit C. The amendment extends the approval to June 15, 2009.

### GENERAL CONDITIONS

1. Performance. This authorization is valid for a period of 12 months after the approval by the Planning Commission, or the Board of Permit Appeals. Specific procedures regarding the performance requirement follow Planning Code Section 309.1(e).
2. Recordation. Prior to the issuance of any building or site permit for the construction of 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, which notice shall state that construction of the Project has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied, and record said writing if requested.



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- |  |   |
|--|---|
| <input type="checkbox"/> Inclusionary Housing (Sec. 315)         | <input checked="" type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 313) | <input type="checkbox"/> Child Care Requirement (Sec. 314)            |
| <input type="checkbox"/> Downtown Park Fee (Sec. 139)            | <input type="checkbox"/> Other  |

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Planning  
Information:  
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## Planning Commission Motion No. 18129 HEARING DATE: JULY 1, 2010

*Date:* June 24, 2010  
*Case No.:* 2010.0248X  
*Project Address:* 399 FREMONT STREET  
*Zoning:* RH DTR (Rincon Hill Downtown Residential Mixed Use) District  
85/400-R Height And Bulk Designation  
*Block/Lot:* 3747/002  
*Project Sponsor:* Fifield Realty Corp.  
425 Market Street, Suite 2229  
San Francisco, CA 94105  
c/o Andrew Junius  
Reuben & Junius, LLP  
1 Bush Street, Suite 600  
San Francisco, CA 94104  
*Staff Contact:* Ben Fu – (415) 558-6318  
[ben.fu@sfgov.org](mailto:ben.fu@sfgov.org)

**ADOPTING FINDINGS UNDER PLANNING CODE SECTIONS 309.1, 825, AND 827 TO AUTHORIZE AN EXTENSION IN THE PERFORMANCE PERIOD FOR 12 MONTHS FROM THE PREVIOUS EXTENSION DATE WITHIN THE RH DTR (RINCON HILL DOWNTOWN RESIDENTIAL MIXED USE) DISTRICT WITH A 85/400-R HEIGHT AND BULK DESIGNATION.**

### PREAMBLE

On April 08, 2010, Fifield Realty Corp. (hereinafter "Project Sponsor") filed Application No. 2010.0248X (hereinafter "Application") with the Planning Department (hereinafter "Department") for the extension of performance period per Planning Code Sections 309.1, 825 and 827 for an additional 12 months from the approval under Motion No. 17901. The proposal was originally approved on June 15, 2006 to construct a new residential project that would consist of approximately 432 dwelling units, up to 432 off-street parking spaces (216 independently accessible and 216 tandem spaces), 120 bicycle spaces, and for the granting of exceptions to allow greater than one parking space for every two dwelling units under Planning Code Sections 151.1(d) and 309.1(b)(1)(b), for reduction of the dwelling unit exposure requirements under Planning Code Sections 140 and 309.1(b)(1)(d), and to provide exceptions to the separation of towers requirement under Planning Code Sections 270(e) and 309.1(b)(1)(a).

Planning Commission Motion No. 17671, granted on August 08, 2008, extended the approval from June 15, 2008 to June 15, 2009, and amended the project by increasing the unit count to 452, reducing the off-street parking spaces to 238, increasing bicycle spaces to 150, and minor design modifications.

Planning Commission Motion No. 17901 extended the approval from June 15, 2009 to June 15, 2010. The current proposal would extend the approval for an additional 12 months to June 15, 2011. No other changes to the project are proposed with this request.

The environmental effects of the Project were determined by the San Francisco Planning Department (hereinafter "Department") to have been fully reviewed under the Rincon Hill Plan Environmental Impact Report (hereinafter "Rincon EIR"). The Rincon EIR was prepared, circulated for public review and comment, and on May 5, 2005, by Motion No. 17007 certified by the Commission as complying with the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et. Seq., hereinafter "CEQA"). The Rincon EIR is a Program EIR.

The Commission adopted CEQA findings related to the Rincon EIR in support of its approval of the Rincon Hill Plan and related actions in its Motion No. 17008 and hereby incorporates such findings by reference. The Application to extend the approval period was determined by the San Francisco Planning Department (hereinafter "Department") not to require additional environmental review under the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq., hereinafter "CEQA").

On July 01, 2010, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2010.0248X.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

**MOVED**, that the Commission hereby authorizes the extension of the performance period requested in Application No. 2010.0248X, subject to the previously approved conditions and based on the following findings:

## **FINDINGS**

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The approximately 37,812 square foot project site consists of three parcels that are located along the east side of Fremont Street between Harrison Street and Folsom Street. The Project site is on the north slope of Rincon Hill and slopes up toward Harrison Street and down toward Folsom Street. The site was improved with three structures – 355-375 Fremont, known as the Hjul Building, a two-story, approximately 46,500 square-foot office building constructed in 1929 as an industrial building and subsequently converted to office uses;

385 Fremont, a two-story, approximately 15,000 square-foot building with mezzanine containing an auto repair garage and office space; and 399 Fremont, the Apostleship of the Sea, a three-story plus basement, 35,000 square-foot building used as a social service center, with a chapel and temporary shelter for homeless people. The Hjul Building at 355-375 Fremont Street was listed in four local surveys containing buildings that could be considered historic resources. When it certified the Final EIR for the Rincon Hill Plan, the Planning Commission found that the benefits of the Plan, including development of the 355-375 Fremont Street site, outweigh its significant impacts, including demolition of the Hjul Building. The buildings were demolished in February of 2008.

3. **Past History and Actions.** On November 28, 2005, an application was approved for the construction of a 250-foot residential tower at 375 Fremont Street (Case No. 2002.0449V). That approval was supported by the 375 Fremont Street Final EIR. In addition, on January 13, 2005, an application was submitted for a 250-foot residential project at 399 Fremont Street (Case No. 2003.0169C). An application for environmental review for the 399 Fremont was submitted on February 20, 2003 and a Preliminary Draft EIR was prepared (Case No. 2003.0169E). The proposed Project would be built in lieu of these two separate projects. When the Rincon Hill Downtown Residential Mixed Use plan was approved, it included both the two 250-foot residential projects and, as the preferred alternative, the single, proposed 400-foot Project on the two sites combined. On May 5, 2005, the Planning Commission certified the final Environmental Impact Report ("EIR") for the Rincon Hill Downtown Residential Mixed Use plan. The final EIR included analysis of the potential impacts of the proposed Project. In addition, the Planning Department determined that no further environmental review was required as documented in a letter to the file dated May 25, 2006.

On June 15, 2006, an application was approved under Motion No. 17268 for the demolition of the three existing structures, and the construction a single residential high-rise tower that would include the following features:

- The Project will be 400 feet tall (measured from Harrison Street) with an 85-foot podium and total approximately 528,000 gross square feet.
- The Project will consist of up to 432 dwelling units, including approximately 60 percent one-bedroom and studio units and at least 40 percent two-bedroom and three-bedroom condominium apartments.
- Off-street parking for up to 432 vehicles will be provided in a four-level underground garage.

On August 08, 2008, Planning Commission granted a 12-month extension from the original approval date. The extension expired on June 15, 2009. Motion No. 17671 also amended the project by increasing the unit count to 452, reducing the off-street parking spaces to 238, increasing the bicycle spaces to 150, and minor design modifications. The parking will include 202 independently accessible spaces and 36 tandem spaces. The tandem spaces will be served by valet. The garage will also include 9 ADA compliant spaces, 2 car share spaces and 150 bicycle storage spaces.

On June 11, 2009, Planning Commission granted a 12-month extension from the original approval date. The extension expired on June 15, 2010.

4. **Proposal.** The project proposes to extend the performance period for another 12 months, taken from the date of expiration of the previous extension granted per Motion No. 17901.
5. **Public Comment.** The Department has received no opposition to the proposal.
6. **The Rincon Hill Downtown Residential Mixed Use District – Planning Commission Design Review and Determination of Compliance Required.** On July 26, 2005, the Board of Supervisors approved the Rincon Hill Plan Element of the General Plan and associated General Plan Amendments. On August 2, 2005, the Board of Supervisors approved, on a first reading, General Plan amendments, zoning text and map amendments, along with other associated legislation in adopting the new Rincon Hill Plan. The new Rincon Hill Plan further encourages the conversion of the existing Rincon Hill area to a high-density residential neighborhood with significant pedestrian and residential amenities such as parks and open space. The proposed new zoning provides more specific direction in designing new buildings, to assure their bulk and height is appropriate and that their interaction with the pedestrian realm contributes to the creation of a new neighborhood. Among the goals of the new zoning controls is to encourage high-rise development in slender towers amply separated, and to limit the amount of excessive off-street parking. To provide more specific direction to project sponsors and to help assure a more predictable project review process, the controls are designed to be more specific and allow less variability. The new controls utilize a design review process before the Commission, similar to the project review process for Downtown C-3 Districts, rather than utilizing the Conditional Use and Planned Unit Development review processes.
7. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
8. The Commission hereby finds that approval of the request for extension would promote the health, safety and welfare of the City.



**DECISION**

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES** Case No. 2010.0248X subject to the following conditions attached hereto as EXHIBIT A (Conditions of Approval) which is incorporated herein by reference as though fully set forth.

**APPEAL AND EFFECTIVE DATE OF MOTION:** Any aggrieved person may appeal this determination of compliance authorization to the Board of Appeals within fifteen (15) days after the date of this Motion No. 17901. The effective date of this Motion shall be the date of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (415) 575-6880, 1660 Mission Street, Third Floor, San Francisco, CA 94103.

I hereby certify that the foregoing Motion was adopted by the Planning Commission on **July 1, 2010**.

---

Linda Avery  
Commission Secretary

AYES: Commissioners Antonini, Borden, Miguel, Moore, Olague, and Sugaya

NAYS: None

ABSENT: Commissioner Lee

ADOPTED: July 1, 2010

## Exhibit A

# Conditions of Approval

Whenever "Project Sponsor" is used in the following conditions, the conditions shall also bind any successor to the Project or other persons having an interest in the Project or underlying property.

This approval is pursuant to Sections 309.1 to extend the performance period for another 12 months from June 15, 2010. The approved project is to construct a new residential project that would consist of approximately 452 dwelling units, up to 238 off-street parking spaces, and for the granting of exceptions to allow greater than one parking space for every two dwelling units under Planning Code Sections 151.1(d) and 309.1(b)(1)(b), for reduction of the dwelling unit exposure requirements under Planning Code Sections 140 and 309.1(b)(1)(d), and to provide exceptions to the separation of towers requirement under Planning Code Sections 270(e) and 309.1(b)(1)(a). All previously granted exceptions and Conditions of Approval would remain and are attached as Exhibit C. The amendment extends the approval to June 15, 2011.

### GENERAL CONDITIONS

1. Performance. This authorization is valid for a period of 12 months after the date of expiration of the previous extension granted per Motion No. 17901. Specific procedures regarding the performance requirement follow Planning Code Section 309.1(e).
2. Recordation. Prior to the issuance of any building or site permit for the construction of 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, which notice shall state that construction of the Project has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied, and record said writing if requested.
3. The property shall be kept free of weeds, debris, and blight. The Project Sponsor shall install a fence to prevent vagrant camping, unlawful dumping and to minimize the security threat to the neighborhood. The fence shall be kept free of graffiti and postings.
4. The Project Sponsor shall submit plans for revised fencing, grading, and covering of site for Planning Department review and approval within 30 days after the date of this Motion.



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- |  |   |
|--|---|
| <input type="checkbox"/> Inclusionary Housing (Sec. 315)         | <input checked="" type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 313) | <input type="checkbox"/> Child Care Requirement (Sec. 314)            |
| <input type="checkbox"/> Downtown Park Fee (Sec. 139)            | <input type="checkbox"/> Other  |

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

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

## Planning Commission Motion No. 18676 HEARING DATE: JULY 26, 2012

*Date:* July 18, 2012  
*Case No.:* 2012.0645X  
*Project Address:* 399 FREMONT STREET  
*Zoning:* RH DTR (Rincon Hill Downtown Residential Mixed Use) District  
85/400-R Height And Bulk Designation  
*Block/Lot:* 3747/002  
*Project Sponsor:* Fifield Realty Corp.  
425 Market Street, Suite 2229  
San Francisco, CA 94105  
c/o Andrew Junius  
Reuben & Junius, LLP  
1 Bush Street, Suite 600  
San Francisco, CA 94104  
*Staff Contact:* Ben Fu – (415) 558-6318  
[ben.fu@sfgov.org](mailto:ben.fu@sfgov.org)

ADOPTING FINDINGS UNDER PLANNING CODE SECTIONS 309.1, 825, AND 827 TO AUTHORIZE AN EXTENSION IN THE PERFORMANCE PERIOD FOR 12 MONTHS FROM THE PREVIOUS EXTENSION DATE WITHIN THE RH DTR (RINCON HILL DOWNTOWN RESIDENTIAL MIXED USE) DISTRICT WITH A 85/400-R HEIGHT AND BULK DESIGNATION.

### PREAMBLE

On May 17, 2012, Reuben & Junius, LLP (hereinafter "Project Sponsor") filed Application No. 2012.0645X (hereinafter "Application") with the Planning Department (hereinafter "Department") for the extension of performance period per Planning Code Sections 309.1, 825 and 827 for an additional 12 months from the approval under Motion No. 18411. The proposal was originally approved on June 15, 2006 to construct a new residential project that would consist of approximately 432 dwelling units, up to 432 off-street parking spaces (216 independently accessible and 216 tandem spaces), 120 bicycle spaces, and for the granting of exceptions to allow greater than one parking space for every two dwelling units under Planning Code Sections 151.1(d) and 309.1(b)(1)(b), for reduction of the dwelling unit exposure requirements under Planning Code Sections 140 and 309.1(b)(1)(d), and to provide exceptions to the separation of towers requirement under Planning Code Sections 270(e) and 309.1(b)(1)(a).

Planning Commission Motion No. 17671, granted on August 08, 2008, extended the approval from June 15, 2008 to June 15, 2009, and amended the project by increasing the unit count to 452, reducing the off-street parking spaces to 238, increasing bicycle spaces to 150, and minor design modifications.

Planning Commission Motion No. 17901 extended the approval from June 15, 2009 to June 15, 2010. Planning Commission Motion No. 18129 again extended the approval from June 15, 2010 to June 15, 2011. Planning Commission Motion No. 18411 again extended the approval from June 15, 2011 to June 15, 2012. The current proposal would extend the approval for an additional 12 months to June 15, 2013. Exterior façade changes to the project are proposed with this request.

The environmental effects of the Project were determined by the San Francisco Planning Department (hereinafter "Department") to have been fully reviewed under the Rincon Hill Plan Environmental Impact Report (hereinafter "Rincon EIR"). The Rincon EIR was prepared, circulated for public review and comment, and on May 5, 2005, by Motion No. 17007 certified by the Commission as complying with the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et. Seq., hereinafter "CEQA"). The Rincon EIR is a Program EIR. On June 15, 2006, the Commission reviewed and considered the Project's final EIR that included analysis of additional project specific preservation issues, and certified the Final EIR through Motion No. 17268 on June 15, 2006.

The Commission adopted CEQA findings related to the Rincon EIR and the Project Final EIR in support of its approval of the Rincon Hill Plan and related actions in its Motion No. 17008 and hereby incorporates such findings by reference. The Application to extend the approval period was determined by the San Francisco Planning Department (hereinafter "Department") not to require additional environmental review under the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq., hereinafter "CEQA").

The file for this project, including the 2006 Final EIR, the Rincon EIR, and Motions No. 17007 and 17268, is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, San Francisco, California.

On July 26, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2012.0645X.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

**Moved**, that the Commission hereby authorizes the extension of the performance period requested in Application No. 2012.0645X, subject to the previously approved conditions and based on the following findings:

## **FINDINGS**

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The approximately 37,812 square foot project site consists of three parcels that are located along the east side of Fremont Street between Harrison Street and Folsom Street. The Project site is on the north slope of Rincon Hill and slopes up toward Harrison Street and down toward Folsom Street. The site was improved with three structures – 355-375 Fremont, known as the Hjul Building, a two-story, approximately 46,500 square-foot office building constructed in 1929 as an industrial building and subsequently converted to office uses; 385 Fremont, a two-story, approximately 15,000 square-foot building with mezzanine containing an auto repair garage and office space; and 399 Fremont, the Apostleship of the Sea, a three-story plus basement, 35,000 square-foot building used as a social service center, with a chapel and temporary shelter for homeless people. The Hjul Building at 355-375 Fremont Street was listed in four local surveys containing buildings that could be considered historic resources. When it certified the Final EIR for the Rincon Hill Plan, the Planning Commission found that the benefits of the Plan, including development of the 355-375 Fremont Street site, outweigh its significant impacts, including demolition of the Hjul Building. All buildings on the site were demolished in February of 2008.
3. **Past History and Actions.** On November 28, 2005, an application was approved for the construction of a 250-foot residential tower at 375 Fremont Street (Case No. 2002.0449V). That approval was supported by the 375 Fremont Street Final EIR. In addition, on January 13, 2005, an application was submitted for a 250-foot residential project at 399 Fremont Street (Case No. 2003.0169C). An application for environmental review for the 399 Fremont was submitted on February 20, 2003 and a Preliminary Draft EIR was prepared (Case No. 2003.0169E). The proposed Project would be built in lieu of these two separate projects. When the Rincon Hill Downtown Residential Mixed Use plan was approved, it included both the two 250-foot residential projects and, as the preferred alternative, the single, proposed 400-foot Project on the two sites combined. On May 5, 2005, the Planning Commission certified the final Environmental Impact Report (“EIR”) for the Rincon Hill Downtown Residential Mixed Use plan. The final EIR included analysis of the potential impacts of the proposed Project. In addition, the Planning Department determined that no further environmental review was required as documented in a letter to the file dated May 25, 2006.

On June 15, 2006, an application was approved under Motion No. 17268 for the demolition of the three existing structures, and the construction of a single residential high-rise tower that would include the following features:

- The Project will be 400 feet tall (measured from Harrison Street) with an 85-foot podium and total approximately 528,000 gross square feet.
- The Project will consist of up to 432 dwelling units, including approximately 60 percent one-bedroom and studio units and at least 40 percent two-bedroom and three-bedroom condominium apartments.
- Off-street parking for up to 432 vehicles will be provided in a four-level underground garage.

On August 08, 2008, Planning Commission granted a 12-month extension from the original approval date. The extension expired on June 15, 2009. Motion No. 17671 also amended the project by increasing the unit count to 452, reducing the off-street parking spaces to 238, increasing the bicycle spaces to 150, and minor design modifications. The parking will include 202 independently accessible spaces and 36 tandem spaces. The tandem spaces will be served by valet. The garage will also include 9 ADA compliant spaces, 2 car share spaces and 150 bicycle storage spaces.

On June 11, 2009, Planning Commission granted a 12-month extension from the original approval date. The extension expired on June 15, 2010.

On June 24, 2010, Planning Commission granted a 12-month extension from the original approval date. The extension expired on June 15, 2011.

On July 14, 2011, Planning Commission granted a 12-month extension from the original approval date. The extension expired on June 15, 2012.

4. **Proposal.** The project proposes to extend the performance period for another 12 months, taken from the date of expiration of the previous extension granted per Motion No. 18411.
5. **Public Comment.** The Department has received no opposition to the proposal.
6. **The Rincon Hill Downtown Residential Mixed Use District – Planning Commission Design Review and Determination of Compliance Required.** On July 26, 2005, the Board of Supervisors approved the Rincon Hill Plan Element of the General Plan and associated General Plan Amendments. On August 2, 2005, the Board of Supervisors approved, on a first reading, General Plan amendments, zoning text and map amendments, along with other associated legislation in adopting the new Rincon Hill Plan. The new Rincon Hill Plan further encourages the conversion of the existing Rincon Hill area to a high-density residential neighborhood with significant pedestrian and residential amenities such as parks and open space. The proposed new zoning provides more specific direction in designing new buildings, to assure their bulk and height is appropriate and that their interaction with the pedestrian realm contributes to the creation of a new neighborhood. Among the goals of the new zoning controls is to encourage high-rise development in slender towers amply separated, and to limit the amount of excessive off-street parking. To provide more specific direction to project sponsors and to help assure a more predictable project review process, the controls are designed to be more specific and allow less variability. The new controls utilize a design review process before the Commission, similar to the project review process for Downtown C-3 Districts, rather than utilizing the Conditional Use and Planned Unit Development review processes.
7. **Findings Under the California Environmental Quality Act (CEQA).** After considering the 2006 FEIR and other information in the record, the Commission hereby makes the following findings:
  - A. The Commission has independently reviewed and analyzed the 2006 FEIR, the findings contained in Motion No. 17268, and the other information in the record and has

considered the information contained therein and hereby finds that no additional environmental review is required for the Project for the following reasons:

- (1) No changes have been made to the Project that constitute substantial changes requiring major revisions in the 2006 FEIR due to the involvement of new significant environmental effects or a substantial increase of the severity of previously identified effects;
- (2) Substantial changes have not occurred with respect to the circumstances under which the Project will be undertaken which require major revisions to the 2006 FEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
- (3) There is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the 2006 FEIR was certified, which shows (a) that the Project will have one or more significant effects not discussed in the 2006 FEIR; (b) that significant effects previously examined will be substantially more severe than shown in the 2006 FEIR; or (c) that mitigation measures or alternatives previously found to be infeasible would in fact be feasible and would substantially reduce one or more significant effects on the environment, but the project proponent declines to adopt the mitigation measure or alternative.

Based on the foregoing, the Commission finds that none of the conditions described in Section 15162 or 15164 of the CEQA Guidelines calling for the preparation of a subsequent or supplemental EIR or addendum have occurred and that therefore no further environmental review is required for the Project.

- B. The Commission has reviewed and considered the Final EIR and record as a whole, and finds that the Final EIR is adequate for its use as the decision-making body for the action taken herein and incorporates the CEQA findings contained in Motion No. 17268, including the Statement of Overriding Considerations and adoption of a Mitigation Monitoring and Reporting Program, by this reference thereto as though set forth in this Motion.
  - C. **Mitigation Monitoring and Reporting Program.** The Mitigation Monitoring and Reporting Program for the Project, adopted as Exhibit C to Commission Motion No. 17268, continues to apply to the Modified Project.
8. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
  9. The Commission hereby finds that approval of the request for extension would promote the health, safety and welfare of the City.

**DECISION**

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES** Case No. 2012.0645X subject to the following conditions attached hereto as EXHIBIT A (Conditions of Approval) which is incorporated herein by reference as though fully set forth.

**APPEAL AND EFFECTIVE DATE OF MOTION:** Any aggrieved person may appeal this determination of compliance authorization to the Board of Appeals within fifteen (15) days after the date of this Motion No. 18676. The effective date of this Motion shall be the date of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (415) 575-6880, 1660 Mission Street, Third Floor, San Francisco, CA 94103.

I hereby certify that the foregoing Motion was adopted by the Planning Commission on July 26, 2012.

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Linda Avery  
Commission Secretary

- AYES: Commissioners Antonini, Sugaya, Fong, Antonini, Borden, and Wu
- NAYES: None
- ABSENT: None
- ADOPTED: July 26, 2012



## Exhibit A

# Conditions of Approval

Whenever "Project Sponsor" is used in the following conditions, the conditions shall also bind any successor to the Project or other persons having an interest in the Project or underlying property.

This approval is pursuant to Sections 309.1 to extend the performance period for another 12 months from June 15, 2012. The approved project is to construct a new residential project that would consist of approximately 452 dwelling units, up to 238 off-street parking spaces, and for the granting of exceptions to allow greater than one parking space for every two dwelling units under Planning Code Sections 151.1(d) and 309.1(b)(1)(b), for reduction of the dwelling unit exposure requirements under Planning Code Sections 140 and 309.1(b)(1)(d), and to provide exceptions to the separation of towers requirement under Planning Code Sections 270(e) and 309.1(b)(1)(a). All previously granted exceptions and Conditions of Approval would remain and are attached as Exhibit C. The amendment extends the approval to June 15, 2013.

### GENERAL CONDITIONS

1. Performance. This authorization is valid for a period of 12 months after the date of expiration of the previous extension granted per Motion No. 18411. Specific procedures regarding the performance requirement follow Planning Code Section 309.1(e).
2. Recordation. Prior to the issuance of any building or site permit for the construction of 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, which notice shall state that construction of the Project has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied, and record said writing if requested.
3. The property shall be kept free of weeds, debris, and blight. The Project Sponsor shall install a fence to prevent vagrant camping, unlawful dumping and to minimize the security threat to the neighborhood. The fence shall be kept free of graffiti and postings.