

San Francisco Co Assessor-Recorder
Doris M. Ward, Assessor-Recorder

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Browning, Wholey & Lenvin
1388 Sutter Street, Suite 900
San Francisco, CA 94109
Attention: Marsha C. Macey, Esq.

DOC - 98-6374362-00
Acct 3-FIRST AMERICAN Title Company
Tuesday, JUN 23, 1998 08:00:00
REC \$14.00;PAG \$10.00;MIC \$1.00
STP \$9.00;
Ttl Pd \$34.00
REEL H160 IMAGE 0001 Nbr-0000948554
ofa/FT/1-10

PH272125

Block 4293, Lot 17

SPACE ABOVE LINE FOR RECORDER'S USE

NOTICE OF SPECIAL RESTRICTIONS UNDER THE CITY PLANNING CODE

I, John A. Tedesco ("Owner"), the owner of that certain real property situated in the City and County of San Francisco, State of California, more particularly described on Exhibit A attached herewith,

BEING Assessor's Block 4293, lot 17 (formerly Lot 9, Lot 10 and Lot 4), identified as 1415 INDIANA 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).

This Notice of Special Restrictions supersedes the previous (i) Notice of Special Restrictions, recorded on March 4, 1998 in the Official Records of the San Francisco County Recorder as Document Number G314890, in Reel H82, Image 535, and (ii) Notice of Special Restrictions, recorded on June 10, 1998 in the Official Records of the San Francisco County Recorder as Document Number G365619, in Reel H151 Image 22; which previous Notices are hereby terminated and of no further force and effect.

Said restrictions consist in part of conditions attached to the approval of Building Permit Application No. 9724661 for the construction of 18 Live/Work units by the Planning Department and are conditions that had to be so attached in order that said application could be approved under the Planning Code (Building Form 2).

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

1. The project approved contains 18 Live/Work units, defined under Section 102.13 of the San Francisco Planning Code. A copy

of Planning Code Section 102.13 is attached herewith as Exhibit B. Section 102.13 limits residential occupancy to not more than 4 adults and defines Live/Work units as living space with an integrated work space principally used by one or more of the residents.

2. Section 102.7 of the Planning Code states that for the purposes of the Planning Code, a Live/Work unit is not considered a dwelling unit. The use of said property for solely residential use would be a violation of the Planning Code. The subject property is located in an M-2 zoning district where residential occupancies are only permitted as a conditional use. The conversion of use for solely residential purposes would require a conditional use permit with associated fees and public hearings and which may not be granted.

3. Each Live/Work unit shall be use as a work space for an authorized art activity (as defined in Section 102.2 of the Planning Code) by at least one of the adults residing there. The project shall meet these and all other applicable provisions of the San Francisco Planning Code.

4. Section 102.2 defines arts activities which are permitted as work activities in the subject Live/Work units. A copy of Planning Code Section 102.2 is attached herewith as Exhibit B.

5. At least one occupant of each Live/Work unit, whether occupying the unit as an owner or tenant, shall hold and maintain a valid and active San Francisco Business License, registered for the project location. The Business License shall authorize an arts activity as defined in Planning Code Section 102.2.

6. The project is located in a Heavy Industrial district which is characterized at all hours of the day and night by: loud noise, heavy vehicular traffic, fumes, odors, vibration, glare and other environmental products of industrial activity which can be considered offensive to residential use. The Municipal Railway (MUNI) operates a yard nearby which has heavy traffic at all hours and bio-technical and medical research laboratories may also move into this area. These industrial uses and the jobs they generate are important to San Francisco and such activities are permitted and to be expected in the industrial districts. The art activities required to be ongoing in the subject Live/Work units may also generate noise, fumes, etc. which may be considered offensive to residential uses.

7. The MUNI Woods Yard, a diesel bus storage and maintenance facility located on the east and west sides of Indiana Street, is north and northwest of the project site. One parcel of the Woods Yard is on the block bounded by 22nd, Indiana and 23rd Streets and the 280 freeway. The other parcel of the Woods Yard is bounded by 22nd, Indiana, Tubbs and Tennessee Streets. Bus maintenance

activities at the Woods Yard generate noise and exhaust emissions from idling buses. Operations at the MUNI Yard occur and generate noise around the clock.

The pull-in route of busses travelling to the Woods Yard includes buses driving along Indiana Street, as well as on Cesar Chavez and other local streets. Although a specific count has not been conducted, at present approximately 200 bus trips per day occur along this pull-in route, along Indiana Street between Cesar Chavez and the Woods Yard. About 60-80 of these bus trips occur in the evening, between the hours of 10 pm and 2 am. A similar pull-out route of buses occurs as they leave the yard very early in the morning and routinely travel on Pennsylvania Avenue, 24th, Cesar Chavez and Indiana Streets. Operation of these diesel buses also generates noise; diesel buses are noisier than electric buses.

In September 1999, the MUNI is scheduled to start Phase I of its operations at its new Islais Yard. That yard is bounded by Cesar Chavez and Indiana Streets, India Basin Channel and the 280 freeway. When that yard is fully operational it will be a facility for operations and maintenance of diesel buses. Once operations begin at the new Islais Yard, there will be a substantial pull-in and pull-out traffic of diesel buses from this facility as well as some shuttling between the Woods Yard and the Islais Yard. That traffic will have impacts similar to those at the existing Woods Yard.

8. Prior to the sale, rental or sublease of any Live/Work unit, the potential purchaser, tenant or subtenant shall be delivered a copy of this Notice of Special Restrictions and shall execute, under penalty of perjury, an affidavit in the form attached hereto as Exhibit C, stating that he/she has read and understands this Notice of Special Restrictions agrees to comply with the restrictions contained herein, including, without limitation, the requirement that at least one resident of each unit must be engaged, as a principal use of the space, in arts activity as defined by Planning Code Section 102.2, and designating the person who will be so engaged. No Live/Work unit shall be sold, rented or subleased unless the potential purchaser, tenant or subtenant has submitted such affidavit, and such affidavit has been filed with the condominium owners' association established by Owner in connection with the subdivision of the project into a condominium project (the "Owners' Association"), and, in the case of the four BMR Units (as defined in paragraph 10 below), also with the California Lawyers for the Arts ("CLA") or such other third party agreed to by CLA and Owner. In addition, it shall be a condition of close of escrow for the sale of a Live/Work unit that each potential purchaser shall have executed such an affidavit, and the title insurance company shall be required to deliver such affidavit to the Owners' Association, and, in the case of the four BMR Units, also with CLA or such other third party agreed to by CLA and Owner.

9. The governing documents for any subdivision of the project into a condominium project shall provide that the project is subject to the terms of this Notice of Special Restrictions and that the project shall be operated and managed in compliance with this Notice of Special Restrictions. Any lease or sublease for a Live/Work unit shall provide that it is subject to the terms of this Notice of Special Restrictions.

10. The Owner shall designate a total of four units as affordable units as follows:

(a) Two of the Live/Work units shall be designated as Below Market Rate ("BMR") units to be held for rental, one to an occupant whose gross annual income, adjusted for household size, does not exceed 80% of the median income for the San Francisco Standard Metropolitan Statistical Area ("SMSA"), and one to an occupant whose gross annual income, adjusted for household size, does not exceed 100% of the median income for the SMSA. The percentage of median income specified herein shall be the maximum income for qualifying households and the basis of base rent for rental BMR units.

(b) Two of the Live/Work units shall be designated as BMR units to be sold upon subdivision of the project into a condominium project, one to a purchaser whose gross annual income, adjusted for household size, does not exceed 80% of the median income for the SMSA, and one to a purchaser whose gross annual income, adjusted for household size, does not exceed 100% of the median income for the SMSA.

(c) The median size of the BMR units shall be reasonably equivalent to the median size of the market rate units, and the BMR units shall be distributed throughout the Project and have the same amenities as the market rate units.

(d) The two BMR units to be sold shall be sold to first time homebuyer households, as defined in the Affordable Housing Monitoring Procedures Manual ("Procedures Manual") published and adopted by Resolution No. 13405 on September 10, 1992, by the City Planning Commission, whose gross annual income meets the requirements set forth in subsection (b) above. The two BMR units to be rented shall be rented to qualifying households, as defined in the Procedures Manual, whose gross annual income meets the requirements set forth in subsection (a) above. Sale, resale, rental or re-rental of the BMR units shall meet the marketing, sales and rental procedures established in the Procedures Manual.

(e) The sale price, base rent and permitted rental increases shall be calculated in accordance with the Procedures Manual at the time of sale or rental. For purposes of such calculations, the BMR units to be sold shall each be deemed to be three (3) bedroom units, and one BMR unit to be rented shall be deemed to be a three (3) bedroom unit, and one BMR unit to be rented shall be deemed to be a four (4) bedroom unit.

(f) The restrictions contained in this paragraph 10 shall apply for a 30 year period from the issuance of the first Certificate of Temporary Occupancy.

(g) The references in this paragraph 10 to the Procedures Manual are solely for the purpose of establishing the procedures to be followed by Owner and his successors and assigns in connection with the sale and rental of the BMR units, and shall not impose any obligation on the City and County of San Francisco, the Mayor's Office of Housing, the Planning Commission or any other agency or department of the City and County.

11. Each of the 18 Live/Work units shall have at least one off-street parking space, whether deeded or leased, designated for its sole use. If, after offering parking spaces to project residents there are spaces which remain unassigned, the Owner may offer them to members of the community on a month-to-month rental basis. Leases of parking spaces to parties which do not reside in the project shall contain a clause allowing for termination of the lease on thirty-day notice in order to make parking available to building residents.

12. Street trees shall be provided according to the plans filed with the building permit application.

13. The Owner shall disclose that any property-line windows may be required to be closed or removed as a result of future construction on adjacent properties.

14. The Owner or any person applying for any permit to alter a Live/Work unit shall submit a disclosure form to the Department of Health describing the location, amount and type of hazardous materials, if any, that are located within the building or lot.

15. The Owner shall install a plaque, diagram or other appropriate signage in a prominent, well-lit place at the building entrance which would be clearly visible to City emergency personnel from the street. This plaque would notify emergency personnel of the existence of live/Work units within the building. A similar sign indicating the location of Live/Work units within the building should be accessible to emergency personnel inside the building.

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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; except that in the event that the zoning standards above are modified so as to be less restrictive and the uses herein restricted are thereby permitted and in conformity with the provisions of the Planning Code, this document would no longer be in effect and would be null and void.

Dated: 6/19/98, at San Francisco, California



John A. Tedesco

This signature must be acknowledged by a notary public before recordation; add Notary Public Certification and official Notarial Seal below.

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STATE OF CALIFORNIA)
)
COUNTY OF SAN FRANCISCO) ss.

On June 19 1998 before me, the undersigned, a Notary Public in and for said State, personally appeared

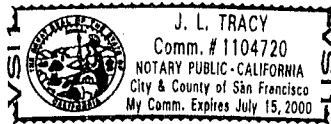
JOHN A. TEDESCO

personally known to me (or 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.

WITNESS my hand and official seal.

Signature _____

Name _____
(typed or printed)



(This area for official notarial seal)

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Order No. PH-272125-NH

The property in the City and County of San Francisco, State of California, described as follows:

Lot 17 of Parcel Map of a portion of new Potrero Block No. 361, also being a portion of Assessor's Block No. 4293, filed January 21, 1988 in Parcel Map Book 36, Page 86, San Francisco County Records.

Excepting therefrom all minerals and mineral rights of every kind and character now known to exist or hereafter discovered in and underlying the above described tract of land including, without limiting the generality of the foregoing, oil and gas and rights thereto, as reserved in the deeds from the Western Pacific Railroad Company, a Delaware Corporation, recorded March 12, 1987 in Book E296 of Official Records, at Page 786, and recorded December 24, 1987 in Book E496, Page 751, Records of the City and County of San Francisco.

EXHIBIT "A"

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EXHIBIT B

SEC. 102.13. LIVE/WORK UNIT. A live/work unit is a structure or portion of a structure combining a residential living space for a group of persons including not more than four (4) adults with an integrated work space principally used by one or more of the residents; provided, however, that no otherwise qualifying portion of a structure which contains a Group A occupancy under the San Francisco Building Code shall be considered a live/work unit. (Added by Ord. 412-88, App. 9/10/88)

SEC. 102.2. ARTS ACTIVITIES AND SPACES. Arts activities shall include performance, exhibition (except exhibition of films), rehearsal, production, post-production and schools of any of the following: Dance, music, dramatic art, film, video, graphic art, painting, drawing, sculpture, small-scale glass works, ceramics, textiles, woodworking, photography, custom-made jewelry or apparel, and other visual, performance and sound arts and crafts. It shall include commercial arts and art-related business service uses including, but not limited to recording and editing services, small-scale film and video developing and printing; titling; video and film libraries; special effects production; fashion and photo stylists; production, sale and rental of theatrical wardrobes; and studio property production and rental companies. Arts spaces shall include studios, workshops, galleries, museums, archives and theaters, and other similar spaces customarily used principally for arts activities, exclusive of theaters subject to Section 221(d), dance halls subject to Section 221(f), adult entertainment subject to Section 221(k) of this Code, and any other establishment where liquor is customarily served during performances. (Added by Ord. 412-88, App. 9/10/88)

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EXHIBIT C

AFFIDAVIT

TO BE READ AND SIGNED UNDER THE PENALTY OF PERJURY
BY EACH POTENTIAL PURCHASER, TENANT OR SUBTENANT

I have read and understand the Notice of Special Restrictions that was imposed by the Department of City Planning as a condition of approval for the creation of Live/Work units in an industrially zoned area of San Francisco located at 1415 Indiana Street.

I understand that Live/Work units in San Francisco are considered a combined commercial and residential occupancy. Live/Work units cannot be used solely for residential purposes. Conversion from live/work to solely residential occupancy requires prior conditional use authorization (with public hearings, fees, etc.) from the Planning Commission.

I understand that the Live/Work units are not considered a dwelling unit under Section 102.7 of the Code; I understand that at least one resident of each unit must also be engaged, as a principal use of the space, in arts activity as defined by Planning Code Section 102.2.

I hereby covenant and agree that I shall abide by the terms and conditions of the Notice of Special Restrictions, and hereby certify that the Live/Work unit will be used, as a principal use of the space, by the following resident of the unit for an authorized art activity as defined by Planning Code Section 102.2:

I understand that the Live/Work units are located in an industrial district with is characterized at varying hours of day and night by: loud noise, heavy vehicular traffic, fumes, odors, vibration, glare and other environmental products of industrial activity which are sometimes offensive to residential neighbors, and such activities are permitted and are to be expected in such an area. Additionally, I have read the disclosure regarding MUNI bus activity in the area of this project contained in the Notice of Special Restrictions.

I declare under penalty of perjury that the above and true and correct and this affidavit was executed on _____, 199_,
at _____, California

Potential Purchaser, Tenant or Subtenant's
Signature