



# SAN FRANCISCO PLANNING DEPARTMENT

**MEMO**

RECORDING REQUESTED BY: )  
 )  
 And When Recorded Mail To: )  
 )  
 Name: Scott F. Sanchez )  
 Zoning Administrator )  
 Address: 1650 Mission Street, Suite 400 )  
 City: San Francisco, CA 94103 )

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
 Information:  
**415.558.6377**

) Space Above this Line For Recorder's Use

## RELEASE OF NOTICE OF SPECIAL RESTRICTIONS

Property Address: 300 Grant Avenue (aka 290 Sutter Street) and 272 Sutter Street  
 Block and Lot: 0287/013 and 0287/014

Notice is given that the Notice of Special Restrictions recorded on the land records by 290 Sutter LP on January 30, 2009 as Document No. I714387, and by 290 Sutter LP on January 5, 2012 as Document Nos. J329142 and J329143 of the Official Records is hereby **RELEASED** as it pertains to the property situated in the City and County of San Francisco, State of California, more particularly described as follows:

(PLEASE ATTACH THE LEGAL DESCRIPTION AS ON DEED)

Said Notices of Special Restrictions are no longer necessary since the project approved pursuant to Motion No. 17615 (Case No. 2004.1245VX for Section 309 authorization and variance to construct a 10-story residential and commercial mixed-use building with below-grade parking), Motion No. 18460 and associated Variance (Case No. 2011.0567VX for extension of performance period for Motion No. 17615, Case No. 2004.1245VX) has been superseded by new project approvals as follows: Motion Nos. 19811, 19812, 19813 (Case No. 2015-000878DNXCUAOFA) to demolish the existing buildings and construct one six-story office and commercial retail building on the site. The new project approvals have recorded Notices of Special Restrictions on the land records by Grant Avenue Properties LLC on April 3, 2017 as Document Nos K429264, K429265 and K429266 which remain in full force and effect.

Dated: 9/27/17 at San Francisco California

By:   
 Scott F. Sanchez  
 Zoning Administrator  
 PLANNING DEPARTMENT  
 CITY AND COUNTY OF SAN FRANCISCO

**EXHIBIT A**

**LEGAL DESCRIPTION**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTHERLY LINE OF SUTTER STREET, DISTANT THEREON 57 FEET, 6 INCHES EASTERLY FROM THE EASTERLY LINE OF GRANT AVENUE; THENCE EASTERLY ALONG SAID LINE OF SUTTER STREET, 20 FEET; THENCE AT A RIGHT ANGLE NORTHERLY 60 FEET; THENCE AT A RIGHT ANGLE EASTERLY 20 FEET; THENCE AT A RIGHT ANGLE NORTHERLY 60 FEET TO THE SOUTHERLY LINE OF HARLAN, FORMERLY BERRY PLACE; THENCE AT A RIGHT ANGLE WESTERLY, ALONG LAST MENTIONED LINE, 37 FEET, 6 INCHES; THENCE AT A RIGHT ANGLE SOUTHERLY 60 FEET; THENCE AT A RIGHT ANGLE WESTERLY 2 FEET, 6 INCHES; THENCE AT A RIGHT ANGLE SOUTHERLY 60 FEET TO THE POINT OF COMMENCEMENT.

BEING PORTION OF 50 VARA BLOCK NO. 95.

APN: LOT 013, BLOCK 0287



**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 )

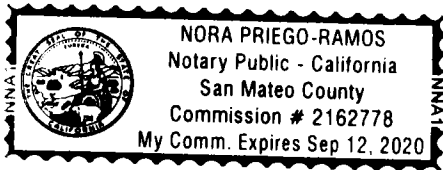
On September 27, 2017 before me, Nora Priego-Ramos, Notary Public,  
Date Here Insert Name and Title of the Officer

personally appeared -----Scott Sanchez-----  
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: Release of Notice of Special Restrictions Document Date: September 27, 2017  
Number of Pages: 1 Signer(s) Other Than Named Above: None

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

Signer's Name: Scott Sanchez  
 Corporate Officer -- Title(s): \_\_\_\_\_  
 Partner --  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: Zoning Administrator  
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: \_\_\_\_\_

September 11, 2017

BY MESSENGER

Scott Sanchez  
Zoning Administrator  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

Re: Request for Determination  
300 Grant Avenue - NSRs

Dear Mr. Sanchez:

We represent Grant Avenue Properties, owner of the two properties that together make up the site of the 300 Grant Avenue Project (Block 0287, Lots 13 and 14). The purpose of this letter is to request a determination, and issuance of Notice(s) of Rescission, to remove from the title record certain Notices of Special Restriction ("NSR") recorded for a project, approved in 2008, that have been recently superseded by a new project approved in December 2016.

### Background

In 2008, the Planning Commission approved a 10 story mixed use (retail and residential) building at the project site ("2008 Project"). Subsequently, an NSR was recorded for that approval on January 30, 2009 (Doc 2009-1714387-00). The final paragraph of this NSR states that no release, modification, or elimination of these restrictions shall be valid unless notice thereof is recorded by the Zoning Administrator. Later, the then-property owner requested an extension of the 2008 approval. This three year extension was granted by the Planning Commission on October 20, 2011, which extended the Performance Period to October 6, 2014. Two NSRs were recorded for this extension (Doc 2012-J329142-00 and 2012-J329143-00).

The Project Site was sold, and the current Property Owner filed an application for further extension beyond 2014. However, the Owner ultimately decided to pursue a different project. On December 8, 2016, the Planning Commission approved a six story project, with no residential uses or parking, but with retail on the three lower floors and office use above ("2016 Project"). Three NSRs reflecting the conditions of approval of the 2016 Project were recorded in April 2017. The Owner is currently processing a Site Permit application to construct the 2016 Project, and there is no intent to pursue the 2008 Project.

R # 2017-011803 ZAD  
CK # 1155 \$ 678.50  
M. LUELLEN (NIE)

**Steve Atkinson**

Counsel  
415.805.7971 DIRECT  
415.757.5501 FAX  
steve.atkinson@arentfox.com

## Request for Letter of Rescission

In connection with a business transaction scheduled to close in late September, one of the parties has requested that the three NSRs for the 2008 Project be removed from the title records. This can be accomplished by Notices(s) of Rescission being recorded for the three identified NSRs for the 2008 Project.

There are several reasons why this request should be granted. First, as noted above, a new and substantially different project was approved for the Project Site in December 2016, and three new NSRs have been recorded in 2017 for that Project. Nothing in those 2017 NSRs for the new 2016 Project relies in any way on the NSRs for the very different 2008 Project, and removal from the record of the NSRs for the 2008 Project will not in any way affect the enforcement or implementation of the 2017 NSRs. Second, even without the approval of the new project, and recordation of the new NSRs, the status of the 2008 Approval was questionable, since the (extended) Performance Period for the 2008 Project expired almost three years ago (October 6, 2014). Although the current Owner initially applied for an extension beyond the October 2014 date, such extension was not pursued and the Owner chose to pursue the different project that ultimately was approved in 2016. Also, the Owner has demonstrated its intent to pursue the 2016 Project, by applying for a site permit.

For all these reasons, the NSRs implementing the 2008 Approval (and extension of that original 2008 approval) have no further purpose. Rescinding the three NSRs for the 2008 Project will have no impact on the implementation of the 2016 Project or on the Planning Department's role in assuring that the 2016 Project is constructed and operated consistent with the Planning Code and the Planning Commission's intent. Rescission of the three older NSRs will help clear up the title record, and will facilitate the transaction that will expedite permitting and construction of the 2016 Project.

Therefore, on behalf of Grant Avenue Properties, we request that you issue Notice(s) of Rescission that would state that the three NSRs identified above (and included as attachments to this letter) be rescinded/declared to be of no further force and effect.

The transaction is scheduled to close by late September, and removal of the three NSRs as title exceptions is a pre-requisite to such closing. Therefore, we respectfully request that the Department make every effort to issue the Notice(s) of Rescission by September 22, 2017, to avoid delay of the transaction.

Enclosed is a check for the Letter of Determination fee. Please contact me if you have any questions, or if we can be of any assistance in expediting this request.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Steve Atkinson', followed by a long horizontal line extending to the right.

Steve Atkinson

Enclosures

- NSRs from 2009 and 2012
- Check for Determination Fee

cc (by email): Marcelle Boudreaux  
Corey Teague

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

**RECORDING REQUESTED BY:**

**And When Recorded Mail To:**

Name: *Chad Eisenbud  
Madison Marguerite*  
Address: *909 Montgomery St  
#200*  
City: *San Francisco*  
State: *California* *94137*

San Francisco Assessor-Recorder  
Phil Ting, Assessor-Recorder  
DOC- 2009-1714387-00  
Friday, JAN 30, 2009 13:55:29  
Ttl Pd \$53.00 Rpt # 0003610067  
REEL J818 IMAGE 0468  
091/ER/1-16

Space Above this Line For Recorder's Use

*16  
EJ*

I (we) 290 Sutter LP, a Delaware limited partnership 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:

**(PLEASE ATTACH THE LEGAL DESCRIPTION AS ON DEED)**

**BEING ASSESSOR'S BLOCK: 0287 LOT: 013 & 014**

**COMMONLY KNOWN AS: 300 Grant 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 (Planning Code).

Said Restrictions consist of conditions attached to Section 309 & Variance application for Case No2004.1245VX authorized by the Planning Commission and the Zoning Administrator of the City & County of San Francisco on June 12, 2008 as set forth in Planning Commission Motion No. 17615 and variance decision letter from the Zoning Administrator dated July 10, 2008, TO CONSTRUCT A NEW, 10-STORY MIXED-USE BUILDING CONTAINING APPROXIMATELY 45 DWELLING UNITS, A BELOW-GRADE PARKING GARAGE WITH CAPACITY TO PARK UP TO 40 CARS, AND GROUND-FLOOR AND SECOND FLOOR RETAIL SPACE AT 300 GRANT AVENUE, LOTS 13 AND 14 IN ASSESSOR'S BLOCK 0287, IN A C-3-R (DOWNTOWN RETAIL) DISTRICT, AN 80-130-F HEIGHT AND BULK DISTRICT, AND WITHIN THE KEARNY-MARKET-MASON-SUTTER CONSERVATION DISTRICT.

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

Wherever "Project Sponsor" or "Applicant" 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 Planning Code Section 309 Determinations of Compliance and granting of exceptions to otherwise-applicable Code standards for rear yard, building height, building bulk and off-street parking in C-3 Districts, for the construction of a new 10-story mixed-use building at 300 Grant Avenue, Lots 13 and 14 in Assessor's Block 287, with approximately 45 dwelling units, ground- and second-level retail space and a two-level

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

underground garage with a capacity to park up a maximum of 40 cars, generally as described in the application, in the text of the accompanying Motion, and in plans stamped "Exhibit B" and dated "June 12, 2008".

### **1. COMPLIANCE WITH OTHER REQUIREMENTS**

- (A) This decision conveys no right to construct. The Project Sponsor must first obtain a Variance for dwelling-unit exposure (Code Section 140) and projections over streets and alleys (Code Section 136) standards of the Code. The project sponsor must obtain a building permit and satisfy all the conditions thereof, including mitigation measures addressing environmental impacts. The conditions set forth below are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

### **2. GENERAL CONDITIONS**

- (A) **Mitigation Measures** – The following Mitigation and Improvement Measures, all of which are necessary to reduce the potential impacts of the Project, have been agreed to by the project sponsor. They are hereby imposed by the Commission as Conditions of approval and shall be binding on the Applicant and his successors in interest.

#### **Mitigation Measure 1**

##### **Archeological Resources (Testing)**

Based on a reasonable presumption that archeological resources may be present within the Project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The Project Sponsor shall retain the services of a qualified archeological consultant having expertise in California prehistoric and urban historical archeology. The archeological consultant shall undertake an archeological testing program as specified herein. In addition, the consultant shall be available to conduct an archeological monitoring and/or data recovery program if required pursuant to this measure. The archeological consultant's work shall be conducted in accordance with this measure and with the requirements of the project ARDTP (*Archeological Research Design and Treatment-Plan for the 300 Grant/272-290 Sutter Project, Archeo-Tec, October 2006*) at the direction of the Environmental Review Officer (hereinafter "ERO"). In instances of inconsistency between the requirement of the project ARDTP and of this archeological mitigation measure, the requirement of this archeological mitigation measure shall prevail. All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of four weeks. At the direction of the ERO, the suspension of construction can be extended beyond four weeks only if such a suspension is the only feasible means to reduce to a less-than-significant



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level potential effects on a significant archeological resource as defined in CEQA Guidelines Section 15064.5 (a)(c).

*Archeological Testing Program.* The archeological consultant shall prepare and submit to the ERO for review and approval an archeological testing plan (hereinafter "ATP"). The archeological testing program shall be conducted in accordance with the approved ATP. The ATP shall identify the property types of the expected archeological resource(s) that potentially could be adversely affected by the proposed project, the testing method to be used, and the locations recommended for testing. The purpose of the archeological testing program will be to determine to the extent possible the presence or absence of archeological resources and to identify and to evaluate whether any archeological resource encountered on the project site constitutes an historical resource under CEQA.

At the completion of the archeological testing program, the archeological consultant shall submit a written report of the findings to the ERO. If based on the archeological testing program the archeological consultant finds that significant archeological resources may be present, the ERO in consultation with the archeological consultant shall determine if additional measures are warranted. Additional measures that may be undertaken include additional archeological testing, archeological monitoring, and/or an archeological data recovery program. If the ERO determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed Project, at the discretion of the Project Sponsor either:

- A) The proposed Project shall be re-designed so as to avoid any adverse effect on the significant archeological resource; or
- B) A data recovery program shall be implemented, unless the ERO determines that the archeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.

*Archeological Monitoring Program.* If the ERO in consultation with the archeological consultant determines that an archeological monitoring program (hereinafter "AMP") shall be implemented the archeological monitoring program shall minimally include the following provisions:

- The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the AMP reasonably prior to any project-related soils-disturbing activities commencing. The ERO in consultation with the archeological consultant shall determine what project activities shall be archeologically monitored. In most cases, any soils-disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archeological monitoring because of the risk these activities pose to potential archeological resources and to their depositional context;
- The archeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the

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

evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archeological resource;

- The archeological monitor(s) shall be present on the Project site according to a schedule agreed upon by the archeological consultant and the ERO until the ERO has, in consultation with the project archeological consultant, determined that project construction activities could have no effects on significant archeological deposits;
- The archeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis;
- If an intact archeological deposit is encountered, all soils-disturbing activities in the vicinity of the deposit shall cease. The archeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction activities and equipment until the deposit is evaluated. If in the case of pile driving activity (foundation, shoring, etc.), the archeological monitor has cause to believe that the pile driving activity may affect an archeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archeological consultant shall immediately notify the ERO of the encountered archeological deposit. The archeological consultant shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archeological deposit, and present the findings of this assessment to the ERO.

Whether or not significant archeological resources are encountered, the archeological consultant shall submit a written report of the findings of the monitoring program to the ERO.

*Archeological Data Recovery Program.* The archeological data recovery program shall be conducted in accord with an archeological data recovery plan (hereinafter "ADRP"). The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the ADRP prior to preparation of a draft ADRP. The archeological consultant shall submit a draft ADRP to the ERO. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery methods shall not be applied to portions of the archeological resources if nondestructive methods are practical.

The scope of the ADRP shall include the following elements:

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

- **Field Methods and Procedures.** Descriptions of proposed field strategies, procedures, and operations.
- **Cataloguing and Laboratory Analysis.** Description of selected cataloguing system and artifact analysis procedures.
- **Discard and Deaccession Policy.** Description of and rationale for field and post-field discard and deaccession policies.
- **Interpretive Program.** Consideration of an on-site/off-site public interpretive program during the course of the archeological data recovery program.
- **Security Measures.** Recommended security measures to protect the archeological resource from vandalism, looting, and non-intentionally damaging activities.
- **Final Report.** Description of proposed report format and distribution of results.
- **Curation.** Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities.

**Human Remains and Associated or Unassociated Funerary Objects.** The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity shall comply with applicable State and Federal laws. This shall include immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (hereinafter "NAHC") who shall appoint a Most Likely Descendant (hereinafter "MLD") (Pub. Res. Code Sec. 5097.98). The archeological consultant, Project Sponsor, and MLD shall make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains, and associated or unassociated funerary objects (CEQA Guidelines, Section 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects.

**Final Archeological Resources Report.** The archeological consultant shall submit a Draft Final Archeological Resources Report (hereinafter "FARR") to the ERO that evaluates the historical significance of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.

Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archeological Site Survey Northwest Information Center (hereinafter "NWIC") shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive three copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the

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

National Register of Historic Places/California Register of Historical Resources. In instances of high public interest in or the high interpretive value of the resource, the ERO may require a different final report content, format, and distribution than that presented above.

### **Mitigation Measure 2**

#### **Construction Air Quality**

The project sponsor shall require the contractor(s) to spray the Project site with water during demolition, excavation, and construction activities; spray unpaved construction areas with water at least twice per day; cover stockpiles of soil, sand, and other material; cover trucks hauling debris, soils, sand, or other such material; and sweep surrounding streets during demolition, excavation, and construction at least once per day to reduce particulate emissions. Ordinance 175-91, passed by the Board of Supervisors on May 6, 1991, requires that non-potable water be used for dust control activities. Therefore, the Project Sponsors shall require that the contractor(s) obtain reclaimed water from the Clean Water Program for this purpose. The Project Sponsors shall require the Project contractor(s) to maintain and operate construction equipment so as to minimize exhaust emissions of particulates and other pollutants, by such means as a prohibition on idling motors when equipment is not in use or when trucks are waiting in queues, and implementation of specific maintenance programs to reduce emissions for equipment that would be in frequent use for much of the construction period.

### **Mitigation Measure 3**

#### **Underground Storage Tank (hereinafter "UST")**

Should a UST be found during construction, work shall be stopped and permits from the Hazardous Material Unified Program Agency (hereinafter "HMUPA"), Fire Department, and Department of Public Works (hereinafter "DPW") (Streets and Sidewalk) shall be obtained for the UST (and related piping) removal. HMUPA, SFFD (maybe DPW) will make inspections prior to removal and only upon approval of the inspector may the UST be removed from the ground. Appropriate soil and, if necessary, groundwater samples shall be taken at the direction of the HMUPA inspector and analyzed. Appropriate transportation and disposal of the UST shall be arranged. If analytical results indicate non-detectable or low levels of contamination, HMUPA will issue a "Certificate of Completion." If the HMUPA inspector requires that an Unauthorized Release (Leak) Report is required due to holes in the UST or odor or visual contamination, or if analytical results indicate there are elevated levels of contamination, the case will be referred to the Local Oversight Program for further action.

### **Mitigation Measure 4**

#### **Hazards (PCBs and Mercury)**

The Project Sponsor would ensure that building surveys for PCB-containing equipment (including elevator equipment), hydraulic oils, and fluorescent lights are performed

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

prior to the start of demolition. Any hazardous materials so discovered would be abated according to federal, state, and local laws and regulations.

### **Improvement Measure 1**

#### **Transit (MUNI Eyebolt)**

Construction of the proposed Project would require installation of a temporary pole to support MUNI's overhead wire lines that are currently attached to the 290 Sutter Street building via an eyebolt. When construction is completed, the eyebolt would be replaced, or a decorative permanent pole on the sidewalk could be installed. As an improvement measure, the project sponsor could be required to contribute to the full cost of the replacement poles, if the eyebolt option is not chosen. If the eyebolt option were chosen, MUNI would prefer to enter into a 25-year agreement with the Project Sponsor.

### **Improvement Measure 2**

#### **Encourage Alternate Modes of Travel**

As improvement measures to reduce the proposed project's parking demand and parking shortfall and to encourage use of alternative modes, the Project Sponsor could provide a transportation insert for the move-in packet that would provide information on transit service (MUNI and BART lines, schedules and fares), information on where FastPasses could be purchased, and information on the 511 Regional Rideshare Program.

Under the recently-approved C-3 legislation the proposed project would be required to provide one car-sharing space either on-site, or within 800 feet of the project site. Participation by residents in a car-sharing program would serve to reduce the proposed Project's on-site parking demand and shortfall.

### **Improvement Measure 3**

#### **Timing of Construction Truck Traffic**

The following measure would minimize disruption of the general traffic flow on adjacent streets:

- To the extent possible, truck movements should be limited to the hours between 9:00 a.m. and 3:30 p.m. (or other times, if approved by the Department of Parking and Traffic [hereinafter "DPT"]).
- The project sponsor and construction contractor(s) would meet with the Traffic Engineering Division of DPT, the Fire Department, MUNI, the Planning Department, and other City agencies to determine feasible traffic mitigation measures to reduce traffic congestion during construction of the project.

- (B) **Community Liaison:** The Project Sponsor shall appoint a community liaison officer to deal with issues of concern to owners and occupants of nearby properties at all times

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

during construction of the Project. Prior to the commencement of construction activities, the Project Sponsor shall provide the Zoning Administrator and the owners of the properties within 300 feet of the project site written notice of the name, business address, and telephone number of the community liaison.

- (C) **Recordation.** Prior to the issuance of any building permit application 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 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.
- (D) **Reporting.** The Project Sponsor shall submit two copies of a written report describing the status of compliance with the conditions of approval contained within this Motion every six months from the date of this approval through the issuance of the first temporary certificate of occupancy. Thereafter, the submittal of the report shall be on an annual basis. This requirement shall lapse when the Zoning Administrator determines that all the conditions of approval have been satisfied or that the report is no longer required for other reasons.
- (E) **Construction:**
- (1) The Project Sponsor shall ensure the construction contractor will coordinate with the City and other construction contractor(s) for any concurrent nearby projects that are planned for construction so as to minimize, to the extent possible, negative impacts on traffic and nearby properties caused by construction activities.
  - (2) Truck movements shall be limited to the hours between 9:30 a.m. and 3:30 p.m. to minimize disruption of the general traffic flow on adjacent streets.
  - (3) The contractor shall arrange for off-street parking for construction workers until workers can park at the proposed project's parking garage.
  - (4) The Applicant and construction contractor(s) shall meet with the Traffic Engineering Division of the Department of Parking and Traffic, the Fire Department, MUNI, and the Planning Department to determine feasible traffic mitigation measures to reduce traffic congestion and pedestrian circulation impacts during construction of the proposed project.
- (F) **Performance:**
- (1) A site permit or building permit for the herein-authorized Project shall be obtained within three years of the date of this action, and construction, once commenced, shall be thenceforth pursued diligently to completion or the said authorization may become null and void.

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

- (2) This authorization may be extended at the discretion of the Zoning Administrator only where the failure to issue a permit by the bureau of the Department of Building Inspection to construct the proposed building is caused by a delay by a City, state or federal agency or by any appeal of the issuance of such a permit(s). The Project Sponsor shall obtain required site or building permits within three (3) years of the date of this approval or this authorization may be null and void. Construction, once commenced, shall be pursued diligently to completion.
- (G) **First Source Hiring Program:** The Project is subject to the requirements of the First Source Hiring Program (Chapter 83 of the Administrative Code) and the Project Sponsor shall comply with the requirements of this program, including having an Occupancy Program approved by the First Source Hiring Administrator prior to the issuance of the first Certificate of Occupancy.
- (H) **Severability:** 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 of the remaining provisions, clauses, sentences, or sections of these conditions. It is hereby declared to be the intent of the Commission that these conditions of approval would have been adopted had such invalid sentence, clause, or section or part thereof not been included herein.
- (I) Two years after initial occupancy, the Project Sponsor shall report to the Planning Department the number of dwelling units sold and the following data in summary form: (1) the number of children per household at the Project Site; (2) Zip Codes of places of employment of residents; (3) means of transportation to place of employment; (4) number automobiles owned per household at the Project site. The Project Sponsor shall thereafter update this information every six months until the Project Sponsor has sold all dwelling units in the building.
3. **CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF A BUILDING (OR SITE) PERMIT OR FINAL ADDENDUM TO A BUILDING (OR SITE) PERMIT**
- (A) **Design:**
- (1) Highly reflective spandrel glass, mirror glass, or deeply tinted glass shall not be permitted. Only clear glass shall be used at pedestrian levels.
- (2) The Project Sponsor and the Project architect shall continue to work on design development with the Department. Should there be major design changes occasioned by this review, the Project shall be brought back to the Commission for new review and entitlements commensurate with such changes.
- (3) Space shall be included for antennae in the building's design to avoid unattractive appendages.

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

(4) The building design shall provide adequate space designated for trash compactors, trash loading, and recycling. These areas shall be indicated on the building plans.

(5) Final architectural and decorative detailing, materials, glazing, color and texture of exterior finishes shall be submitted for review by, and shall be satisfactory to the Director of the Department. In that a high quality of finish materials is proposed and sought by the Commission, and the design details of the proposed Project are a part of the approval, special efforts shall be made by the Department staff and the Applicant to deliver a final product commensurate with that shown to the Commission at public hearing and on file with the Application. The Project architect shall submit dimensional design drawings for building details with specifications and samples of materials to insure a high design quality is maintained.

(6) Except as otherwise provided in this motion, the Project shall be completed in general accordance with plans dated June 12, 2008, labeled "Exhibit B," and reviewed by the Commission on June 12, 2008.

- (B) **Signage:** The Project Sponsor shall develop a signage program for the Project, which shall be subject to review and approval by Planning Department staff. All subsequent sign permits shall conform to the approved signage program. Once approved by Department staff, the signage program information shall be submitted and approved as part of the first building or site permit for the project.
- (C) **Lighting:** The Project Sponsor shall develop a lighting program for the Project, which shall be subject to review and approval by Planning Department staff. The lighting program shall include any lighting required or proposed within the public right-of-way as well as lighting attached to the building. Once approved by Department staff, the lighting program information shall be submitted and approved as part of the first building or site permit for the project.
- (D) **Transferable Development Rights (TDR):** The Project shall comply with Code Section 128(h), which states that when TDR is necessary for the approval of a Site Permit for a project on a Development Lot, the Zoning Administrator shall impose as a condition of approval of the site permit the requirement that the Superintendent of the Bureau of Building Inspection shall not issue the first addendum to the site permit unless the Zoning Administrator has issued a written certification that the owner of the Development Lot owns the required amount of TDR. Alternately, the Project Sponsor may attempt to procure the necessary additional FAR through the method established in Code Section 124(f).
- (E) **Pedestrian Streetscape Improvements:** The Project shall include pedestrian streetscape improvements generally as described in this Motion and in conformance with Planning Code Section 138.1, and the Downtown Streetscape Plan.
- (F) **Inclusionary Affordable Housing Program:** Sections 315.1–315.9 set forth the requirements and procedures for the Residential Inclusionary Affordable Housing



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

Program (hereinafter "Program"). The Program requires, in the subject case (because of the off-street parking exception), that 12 percent of the dwelling units on site must be affordable. Alternatively, if additional accessory parking is approved an applicant may elect to provide affordable off-site housing equal to 17 percent of the dwelling units or pay an in lieu fee for an equivalent number of units.

The Project shall comply with the Inclusionary Housing Ordinance through the payment of an appropriate in lieu fee, as determined by the Mayor's Office of Housing. Based on the date of the application (i.e., prior to July 18, 2006, as set forth in Code Section 313.3), the Project is not subject to the increased affordable percentages set forth in the inclusionary housing amendments.

- (G) **Public Artwork:** The Project shall include the work(s) of art valued at an amount equal to one percent of the hard construction costs for the Project as determined by the Director of the Department of Building Inspection. The project sponsor shall provide to the Director necessary information to make the determination of construction cost hereunder.

The project sponsor and the Project artist shall consult with the Department during design development regarding the height, size, type and location of the art. The final art concept and location shall be submitted for review by, and shall be satisfactory to the Planning Director in consultation with the Commission. The project sponsor and the Director shall report to the Commission on the progress of the development and design of the art concept no later than six months after the date of this approval.

- (H) **Garbage and Recycling:** The building design shall provide adequate space designated for trash compactors and trash loading. Space for the collection and storage of recyclable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program, shall also be provided at the ground level of the project. Enclosed trash areas with provisions for separating recyclable and non-recyclable materials shall be provided for Project residents on each floor of the residential tower. These areas shall be indicated on the building plans.

- (I) **Parking:** Off-street parking provided in conjunction with the Project shall not exceed the parking for more than a total of 40 vehicles whether independently-accessible, stacked or "valet" parked, or the Applicant shall seek and be authorized a new exception pursuant to Code Section 309.

### **4. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF A TEMPORARY OR PERMANENT CERTIFICATION OF OCCUPANCY**

- (A) **Public Artwork:**

- (1) The Project Sponsor shall install the public art generally as described in Code Section 149 and make it available to the public. If the Zoning Administrator concludes that it is not feasible to install the work(s) of art within the time herein

## NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

specified and the Project Sponsor provides adequate assurances that such works will be installed in a timely manner, the Zoning Administrator may extend the time for installation for a period of not more than twelve (12) months.

- (2). The Project Sponsor shall comply with Code Section 149(b) by providing a plaque or cornerstone identifying the Project architect, the artwork creator and the Project completion date in a publicly conspicuous location on the Project site. The design and content of the plaque shall be approved by Department staff prior to its installation.
- (B) Pedestrian Streetscape Improvements. The project sponsor shall complete the required pedestrian streetscape improvements. The project sponsor shall be responsible for the upkeep and maintenance of such improvements if they exceed City standards.
- (C) Garbage and Recycling: The Project shall provide containers to collect and store recyclable solid waste and the project sponsor shall contract for recycling pickup. Trash compactors shall not occupy or impede the use of required freight loading spaces.
- (D) Street Trees. Pursuant to the standards set forth in Code Section 143, the Applicant shall plant and maintain a minimum of one tree of 15-gallon size for each 20 feet of frontage along the Grant Avenue and Sutter Street frontages of the Subject Property (with any remainder of ten feet or more of frontage requiring an additional tree) or shall seek a Zoning Administrator exemption from same as provided for in Code Section 143(e).
- (E) Emergency Preparedness Plan: An evacuation and emergency response plan shall be developed by the Project Sponsor or building management staff, in consultation with the Mayor's Office of Emergency Services, to ensure coordination between the City's emergency planning activities and the Project's plan and to provide for building occupants in the event of an emergency. The Project's plan shall be reviewed by the Office of Emergency Services and implemented by the building management insofar as feasible before issuance of the final certificate of occupancy by the Department of Public Works. A copy of the transmittal and the plan submitted to the Office of Emergency Services shall be submitted to the Department. To expedite the implementation of the City's Emergency Response Plan, the Project Sponsor shall post information (with locations noted on the final plans) for building occupants concerning actions to take in the event of a disaster.

The restrictions and conditions pertaining to the Variance granted on July 10, 2008 of which notice is hereby given are:

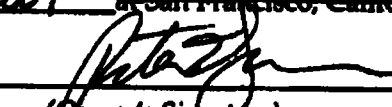
**GRANTED**, to construct a new mixed-use building, as proposed, with seven of the proposed 45 dwelling units facing on a rear-yard that is insufficient in size to meet the letter of the Planning Code (hereinafter "Code") standard for same, and with three-foot projections ("belt course" features) over the public sidewalk on all three street frontages of the subject property (Grant Avenue, Sutter Street and Harlan Place) at the third-floor and tenth-floor levels when the Code would permit such a three-foot projection at the roof level only (with a one-foot projection at every other floor level).

## NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

1. Final plans in general conformity with plans labeled "Exhibit A" on file with the Application shall be reviewed and approved by the staff of the Planning Department prior to the issuance of any Building Permit.
2. The owner of the subject property shall record on the land records of the City and County of San Francisco the conditions contained in this Variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.
3. Minor modifications as determined by the Zoning Administrator may be permitted if it is demonstrated that such modifications are necessary in order to comply with Department of Building Inspection requirements.
4. No further vertical or horizontal expansion of the subject building shall be allowed unless such expansion is specifically authorized by the Zoning Administrator, after the property owner or authorized agent has sought and justified a new Variance pursuant to a public hearing and all other applicable procedures of the Code. However, the Zoning Administrator, after finding that such expansion complies with applicable codes, is compatible with existing neighborhood character and scale, and does not cause significant loss of light and air, view or privacy to adjacent buildings, may determine that a new Variance is not required.

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.

Dated: January 21, 2007 at San Francisco, California

  
\_\_\_\_\_  
(Owner's Signature)

290 Sutter LP, a Delaware Limited Partnership

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

**ACKNOWLEDGMENT**

State of California  
County of DISTRICT OF COLUMBIA


On January 21, 2009 before me, Sanghi Yoon, Notary Public  
(insert name and title of the officer)

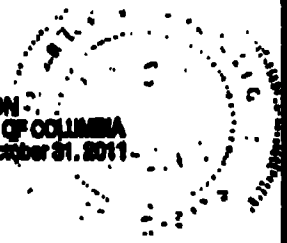
personally appeared Peter Jun  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) 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.

BANGHI YOON  
NOTARY PUBLIC DISTRICT OF COLUMBIA  
My Commission Expires October 31, 2011

Signature  (Seal)



**EXHIBIT A**

**LEGAL DESCRIPTION**

**THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:**

**COMMENCING AT A POINT ON THE NORTHERLY LINE OF SUTTER STREET, DISTANT THEREON 57 FEET, 6 INCHES EASTERLY FROM THE EASTERLY LINE OF GRANT AVENUE; THENCE EASTERLY ALONG SAID LINE OF SUTTER STREET, 20 FEET; THENCE AT A RIGHT ANGLE NORTHERLY 60 FEET; THENCE AT A RIGHT ANGLE EASTERLY 20 FEET; THENCE AT A RIGHT ANGLE NORTHERLY 60 FEET TO THE SOUTHERLY LINE OF HARLAN, FORMERLY BERRY PLACE; THENCE AT A RIGHT ANGLE WESTERLY, ALONG LAST MENTIONED LINE, 37 FEET, 6 INCHES; THENCE AT A RIGHT ANGLE SOUTHERLY 60 FEET; THENCE AT A RIGHT ANGLE WESTERLY 2 FEET, 6 INCHES; THENCE AT A RIGHT ANGLE SOUTHERLY 60 FEET TO THE POINT OF COMMENCEMENT.**

**BEING PORTION OF 50 VARA BLOCK NO. 95.**

**APN: LOT 013, BLOCK 0287**

*ref*

79110061

**EXHIBIT "A"**

**BEGINNING** at the point of intersection of the northerly line of Sutter Street and the easterly line of Grant Avenue; and running thence easterly along said line of Sutter Street 57 feet and 6 inches; thence at a right angle northerly 60 feet; thence at a right angle easterly 2 feet and 6 inches; thence at a right angle northerly 60 feet to the southerly line of Harlan (formerly Berry) Place; thence at a right angle westerly along the southerly line of Harlan Place 60 feet to the easterly line of Grant Avenue; and thence at a right angle southerly along said line of Grant Avenue 120 feet to the point of beginning. *raj*

**BEING** a portion of 50 Vara Block No. 95.

**Assessor's Lot 14, Block 287**

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

**RECORDING REQUESTED BY:**

**And When Recorded Mail To:**

Steve Atkinson, Esq.  
Luce Forward Hamilton & Scripps, LLP  
121 Spear Street, Suite 200  
San Francisco, CA 94105



San Francisco Assessor-Recorder  
Phil Ting, Assessor-Recorder  
**DOC- 2012-J329143-00**

Check Number 594  
Thursday, JAN 05, 2012 14:28:58  
Ttl Pd \$23.00 Rcpt # 0004311408  
**REEL K556 IMAGE 0553**  
gar/AK/1-4

**State: California**

**Space Above this Line For Recorder's Use**

*7 m<sup>2</sup>*

I (We) 290 Sutter LP, 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:

**(PLEASE ATTACH THE LEGAL DESCRIPTION AS ON DEED)**

**BEING ASSESSOR'S BLOCK: 0287 LOTS: 013 & 014**

**COMMONLY KNOWN AS: 300 Grant Avenue (aka 272 & 290 Sutter 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 variance granted by the Zoning Administrator of  
the City and County of San Francisco on October 20, 2011, Case No. 2011.0567V), **demolish two  
existing buildings to construct a new 10-story building containing approximately 45 dwelling  
units, 16,000 square feet of ground- and second-floor retail space, and up to 40 off-street parking  
spaces (Case No. 2004.1245! EKVX, Motion No. 17615). No modifications are proposed to the  
design or intensity of the project as originally approved.**

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

**GRANTED**, to amend the conditions of approval for a previously approved project (Case No  
2004.1245!EKVX) in order to extend the performance period for three years from the date of the  
public hearing (until October 6, 2014), subject to the following conditions:

1. Any future physical expansion, even in the buildable area, shall be reviewed by the Zoning  
Administrator to determine if the expansion is compatible with existing neighborhood  
character and scale. If the Zoning Administrator determines that there would be a  
significant or extraordinary impact, the Zoning Administrator shall require either notice to  
adjacent and/or affected property owners or a new Variance application be sought and  
justified.

## NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

2. The proposed project must meet these conditions and all applicable City Codes. In case of conflict, the more restrictive controls apply.
3. Minor modifications as determined by the Zoning Administrator may be permitted.
4. The owner of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this Variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.
5. This Variance Decision and the recorded Notice of Special Restrictions shall be reproduced on the Index Sheet of the construction plans submitted with the Site or Building Permit Application for the Project. This Index Sheet of the construction plans shall reference the Variance Case Number.

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.

Dated: 10.31.11 at San Francisco, California

  
(Owner's Signature)

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



# CALIFORNIA NOTARY ACKNOWLEDGEMENT

State of California  
County of SAN FRANCISCO

On 10/31/2011 before me Mina Lee, Notary Public  
(Insert the name and title of the officer)

Personally appeared Cedric Younger

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  (SEAL)

290 Sutter LP



**LEGAL DESCRIPTION**

**EXHIBIT "A"**

**THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF San Francisco, COUNTY OF San Francisco, STATE OF California AND IS DESCRIBED AS FOLLOWS:**

**BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHERLY LINE OF SUTTER STREET AND THE EASTERLY LINE OF GRANT AVENUE; AND RUNNING THENCE EASTERLY ALONG SAID LINE OF SUTTER STREET 57 FEET AND 6 INCHES; THENCE AT A RIGHT ANGLE NORTHERLY 60 FEET; THENCE AT A RIGHT ANGLE EASTERLY 2 FEET AND 6 INCHES; THENCE AT A RIGHT ANGLE NORTHERLY 60 FEET TO THE SOUTHERLY LINE OF HARLAN (FORMERLY BERRY) PLACE; THENCE AT A RIGHT ANGLE WESTERLY ALONG THE SOUTHERLY LINE OF HARLAN PLACE 60 FEET TO THE EASTERLY LINE OF GRANT AVENUE; AND THENCE AT A RIGHT ANGLE SOUTHERLY ALONG SAID LINE OF GRANT AVENUE 120 FEET TO THE POINT OF BEGINNING.**

**BEING A PORTION OF 50 VARA BLOCK NO. 95.**

**APN: Lot 014 Block 0287**

**THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF San Francisco, COUNTY OF San Francisco, STATE OF California AND IS DESCRIBED AS FOLLOWS:**

**COMMENCING AT A POINT ON THE NORTHERLY LINE OF SUTTER STREET, DISTANT THEREON 57 FEET, 6 INCHES EASTERLY FROM THE EASTERLY LINE OF GRANT AVENUE; THENCE EASTERLY ALONG SAID LINE OF SUTTER STREET, 20 FEET; THENCE AT A RIGHT ANGLE NORTHERLY 60 FEET; THENCE AT A RIGHT ANGLE EASTERLY 20 FEET; THENCE AT A RIGHT ANGLE NORTHERLY 60 FEET TO THE SOUTHERLY LINE OF HARLAN, FORMERLY BERRY PLACE; THENCE AT A RIGHT ANGLE WESTERLY, ALONG LAST MENTIONED LINE, 37 FEET, 6 INCHES; THENCE AT A RIGHT ANGLE SOUTHERLY 60 FEET; THENCE AT A RIGHT ANGLE WESTERLY 2 FEET, 6 INCHES; THENCE AT A RIGHT ANGLE SOUTHERLY 60 FEET TO THE POINT OF COMMENCEMENT.**

**BEING PORTION OF 50 VARA BLOCK NO. 95.**

**APN: LOT 013, BLOCK 0287**

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

**RECORDING REQUESTED BY:**

**And When Recorded Mail To:**

Steve Atkinson, Esq.  
Luce Forward Hamilton & Scripps, LLP  
121 Spear Street, Suite 200  
San Francisco, CA 94105

San Francisco Assessor-Recorder  
Phil Ting, Assessor-Recorder  
**DOC- 2012-J329142-00**  
Check Number 584  
Thursday, JAN 05, 2012 14:26:28  
Ttl Pd \$26.00 Rcpt # 0004311407  
**REEL K556 IMAGE 0552**  
ear/AK/1-5

**State: California**

**Space Above this Line For Recorder's Use**

I(We) 290 Sutter LP 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:

**(PLEASE ATTACH THE LEGAL DESCRIPTION AS ON DEED)**

**BEING ASSESSOR'S BLOCK: 0287 LOTS: 013 & 014**

**COMMONLY KNOWN AS: 300 Grant Avenue (aka 272 & 290 Sutter 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 Section 309 and Case No. 2011.0567VX authorized by the Planning Commission of the City and County of San Francisco on October 6, 2011 as set forth in Planning Commission Motion No. 18460 TO ALLOW CONSTRUCTION OF A 10-STORY BUILDING CONTAINING APPROXIMATELY 45 DWELLING UNITS, 16,000 SQUARE FEET OF GROUND- AND SECOND-FLOOR RETAIL SPACE, AND UP TO 40 OFF-STREET PARKING SPACES AT 300 GRANT AVENUE, LOTS 013 AND 014 IN ASSESSOR'S BLOCK 0287, WITHIN THE C-3-R ZONING DISTRICT, THE 80-130-F HEIGHT AND BULK DISTRICT, THE KEARNY-MARKET-MASON-SUTTER CONSERVATION DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

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

**AUTHORIZATION**

This authorization is to extend the performance period under Motion No. 17615 until October 6, 2014, for a project located at 300 Grant Avenue (aka 272 and 290 Sutter Street), Assessor's-Block 0287, Lots 013 and 014, within the C-3-R District, the 80-130-F Height and Bulk District, and the Kearny-Market-Mason-Sutter Conservation District, to construct a 10-story building containing approximately 45 dwelling units, 16,000 square feet of ground- and second-floor retail uses, and up to 40 off-street parking spaces, and subject to conditions of approval reviewed and approved

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

by the Commission on June 12, 2008 under Motion No. 17615, as amended by the Planning Commission on October 6, 2011 under Motion No. 18460. 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 June 12, 2008 under Motion No. 17615, as amended by the Planning Commission on October 6, 2011 under Motion No. 18460.

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

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18460 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 Determination of Compliance 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 Determination of Compliance authorization.

### **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, amending the expiration date of the performance specified the approval granted per Motion No. 17615 (until October 6, 2014). A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Determination of Compliance 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.

# NOTICE OF SPECIAL RESTRICTIONS UNDER 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

2. **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)

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.

Dated: 10.31.11 at San Francisco, California

  
\_\_\_\_\_  
(Owner's Signature)

290 Sutter LP

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

MPL/jma/300 Grant Avenue aka 272 & 290 Sutter Street/NSR

# CALIFORNIA NOTARY ACKNOWLEDGEMENT

State of California  
County of SAN FRANCISCO

On 10/31/2011 before me Mina Lee, Notary Public  
(Insert the name and title of the officer)

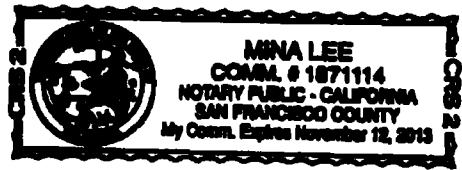
Personally appeared Cedric Young

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  (SEAL)



**LEGAL DESCRIPTION**

**EXHIBIT "A"**

**THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF San Francisco, COUNTY OF San Francisco, STATE OF California AND IS DESCRIBED AS FOLLOWS:**

**BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHERLY LINE OF SUTTER STREET AND THE EASTERLY LINE OF GRANT AVENUE; AND RUNNING THENCE EASTERLY ALONG SAID LINE OF SUTTER STREET 57 FEET AND 6 INCHES; THENCE AT A RIGHT ANGLE NORTHERLY 60 FEET; THENCE AT A RIGHT ANGLE EASTERLY 2 FEET AND 6 INCHES; THENCE AT A RIGHT ANGLE NORTHERLY 60 FEET TO THE SOUTHERLY LINE OF HARLAN (FORMERLY BERRY) PLACE; THENCE AT A RIGHT ANGLE WESTERLY ALONG THE SOUTHERLY LINE OF HARLAN PLACE 60 FEET TO THE EASTERLY LINE OF GRANT AVENUE; AND THENCE AT A RIGHT ANGLE SOUTHERLY ALONG SAID LINE OF GRANT AVENUE 120 FEET TO THE POINT OF BEGINNING.**

**BEING A PORTION OF 50 VARA BLOCK NO. 95.**

**APN: Lot 014 Block 0287**

**THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF San Francisco, COUNTY OF San Francisco, STATE OF California AND IS DESCRIBED AS FOLLOWS:**

**COMMENCING AT A POINT ON THE NORTHERLY LINE OF SUTTER STREET, DISTANT THEREON 57 FEET, 6 INCHES EASTERLY FROM THE EASTERLY LINE OF GRANT AVENUE; THENCE EASTERLY ALONG SAID LINE OF SUTTER STREET, 20 FEET; THENCE AT A RIGHT ANGLE NORTHERLY 60 FEET; THENCE AT A RIGHT ANGLE EASTERLY 20 FEET; THENCE AT A RIGHT ANGLE NORTHERLY 60 FEET TO THE SOUTHERLY LINE OF HARLAN, FORMERLY BERRY PLACE; THENCE AT A RIGHT ANGLE WESTERLY, ALONG LAST MENTIONED LINE, 37 FEET, 6 INCHES; THENCE AT A RIGHT ANGLE SOUTHERLY 60 FEET; THENCE AT A RIGHT ANGLE WESTERLY 2 FEET, 6 INCHES; THENCE AT A RIGHT ANGLE SOUTHERLY 60 FEET TO THE POINT OF COMMENCEMENT.**

**BEING PORTION OF 50 VARA BLOCK NO. 95.**

**APN: LOT 013, BLOCK 0287**