

RECORDING REQUESTED BY CHICAGO TITLE
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SERIES NO 2006-222467
OFFICIAL RECORDS OF ALAMEDA COUNTY
Chicago Title Co.

BY 

Russ, August & Kabat
12424 Wilshire Boulevard, Suite 1200
Los Angeles, California 90025
Attention: Richard L. August

#S222A0000

(Space Above for Recorder's Use Only)

**BAYSTREET EMERYVILLE
FIRST AMENDMENT OF
AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS AND AMENDMENT OF DECLARATION
OF RECIPROCAL EASEMENTS**

**FIRST AMENDMENT OF
AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS AND AMENDMENT OF
DECLARATION OF RECIPROCAL EASEMENTS
(SERIES NO. 2006-29499)**

THIS FIRST AMENDMENT OF AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS AND AMENDMENT OF DECLARATION OF RECIPROCAL EASEMENTS (this "Amendment") is made as of May 31, 2006, by and between Madison Bay Street LLC formerly known as Madison Manhattan Village, LLC, a Delaware limited liability company ("Project Developer"), Bay Street Housing Partners, L.P., a Delaware limited partnership ("Housing Partners") and Bay Street Condominiums, LLC (the "Condo LLC"), with reference to the following facts:

WHEREAS, Project Developer, Housing Partners and the Condo LLC are the holders of the fee interests in the real property described in Exhibit A attached hereto, and are the sole Parties to that certain Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements and Amendment of Declaration of Reciprocal Easements dated October 27, 2004, recorded on January 27, 2006 in Series 2006-29499, Official Records of Alameda County (the "Declaration"). Project Developer, Housing Partners and the Condo LLC desire to amend the Declaration as more particularly provided herein.

NOW, THEREFORE, with reference to the foregoing recitals, in consideration of the premises, covenants and agreements set forth in this Amendment and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Project Developer, Housing Partners and the Condo LLC, in accordance with Sections 13.05 and 16.02 of the Declaration, hereby amend the Declaration as follows:

1. Defined Terms. Capitalized terms used herein but not defined herein shall have the meanings ascribed to such terms by the Declaration.
2. Revision of Exhibits. Exhibit G to the Declaration is hereby deleted in its entirety and replaced by the Exhibit G attached to this Amendment, which is hereby incorporated in the Declaration by this Reference.
3. Successors and Assigns. This Amendment shall run with the land, and, except as otherwise provided in the Declaration, be binding upon and inure to the benefit of the successors and assigns of the Parties.
4. General Provisions. Except as expressly modified by this Amendment, all terms and provisions of the Declaration shall remain in full force and effect.

This Amendment has been executed by Project Developer, Housing Partners and the Condo LLC as of the day and year first above written.

PROJECT DEVELOPER:

Madison Bay Street LLC,
a Delaware limited liability company

By: Madison Manhattan Village, L.P.,
a Delaware limited liability company
Managing Member

By: Madison Marquette Development Corporation
a Delaware corporation, General Partner

By: 
Paul Andrews, Vice President

HOUSING PARTNERS:

BAY STREET HOUSING PARTNERS, L.P.,
a Delaware limited partnership

By: Bay Street Apartments, LLC
a Delaware limited liability company
Its: Co-Manager

By: MacFarlane Urban Realty Company, LLC,
a California limited liability company
Its: Member

By: 
Jon Knorrpp
Its: Principal

CONDO LLC:

BAY STREET CONDOMINIUMS, LLC,
a Delaware limited liability company

By: Bay Street Residential Partners, LLC
a Delaware limited liability company
Its: Manager

By: California Urban Investment Partners, LLC,
a Delaware limited liability company
Its: Manager

By: MacFarlane Urban Realty Company, LLC,
a California limited liability company
Its: Manager

By: 
Jon Knorrp
Its: Principal

CONSENT

Wells Fargo Bank, National Association, Administrative Agent, as Beneficiary with respect to the Retail Parcel, hereby consents to the foregoing First Amendment of Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements and Amendment of Declaration of Reciprocal Easements dated May __, 2006.

May 22, 2006

WELLS FARGO BANK, NATIONAL ASSOCIATION,
ADMINISTRATIVE AGENT

Erin P. Peart
By: Erin P. Peart
Its: Senior Vice President

DISTRICT OF COLUMBIA) ss.

On May 22, 2006, before me, Theresa J. Walker, a Notary Public in and for said state, personally appeared Erin P. Peart, personally known to me (or proved to me on the basis of satisfactory evidence) to be the S.V.P. of Wells Fargo Bank, National Association, Administrative Agent, the whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Theresa J. Walker
Notary Public in and for said jurisdiction
Theresa J. Walker
My Commission Expires 2/14/08
My commission expires: _____

DISTRICT OF COLUMBIA
STATE OF _____)

) ss.

COUNTY OF _____)

On May 25, 2006, before me, Laurie F. Malasky, a Notary Public in and for said state, personally appeared Paul Andrews, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Laurie F. Malasky
Notary Public, District of Columbia
My Commission Expires 06-14-2007

Laurie F. Malasky
Notary Public in and for said State

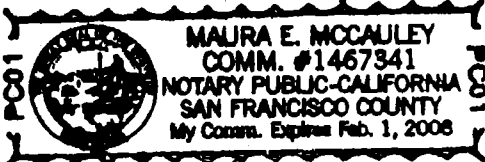
STATE OF California)

) ss.

COUNTY OF San Francisco

On June 1, 2006, before me, Maura E. McCauley, a Notary Public in and for said state, personally appeared Jon Knorpp, personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Maura E. McCauley
Notary Public in and for said State

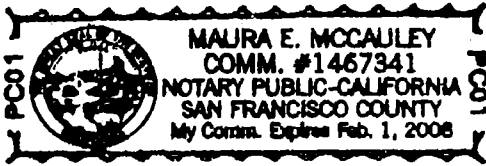
STATE OF California)

) ss.

COUNTY OF San Francisco

On June 1, 2006, before me, Maura E. McCauley, a Notary Public in and for said state, personally appeared Jon Knorpp, personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Maura E. McCauley
Notary Public in and for said State

ILLEGIBLE NOTARY SEAL DECLARATION

GOVERNMENT CODE 27361.7

I declare under penalty of perjury that the Notary Seal on the document to which this statement is attached, reads as follows:

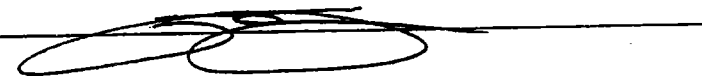
Name of Notary Public: Maura E. McCauley

Commission number: 1467341

Notary Public State: California

Notary Public County: San Francisco

My commission expires: February 1, 2008

Signature of Declarant: 

Print Name of Declarant: Ross Kennedy

City and State of Execution: Pleasanton, California

Date Signed: June 7, 2006

EXHIBIT A

LEGAL DESCRIPTION

Lots 5, 6, 7, 8, 9, 10 and 13, Tract Map No. 7661 in the City of Emeryville, County of Alameda, State of California, as per Map recorded in Book 267, Pages 1 through 20 in the Office of the County Recorder of Alameda, as amended by the Certificate of Correction recorded on July 8 2004 as Series No. 2004-236575).

EXHIBIT A

EXHIBIT G
RETAIL EQUIPMENT AREA

EXHIBIT G

RETAIL EQUIPMENT AREA
Page 1 of 4
BUILDING C

*Water Heater Flue Above -
7'-6" from Finish Floor Elevation
(Not to Interfere with Residential Utilities)*

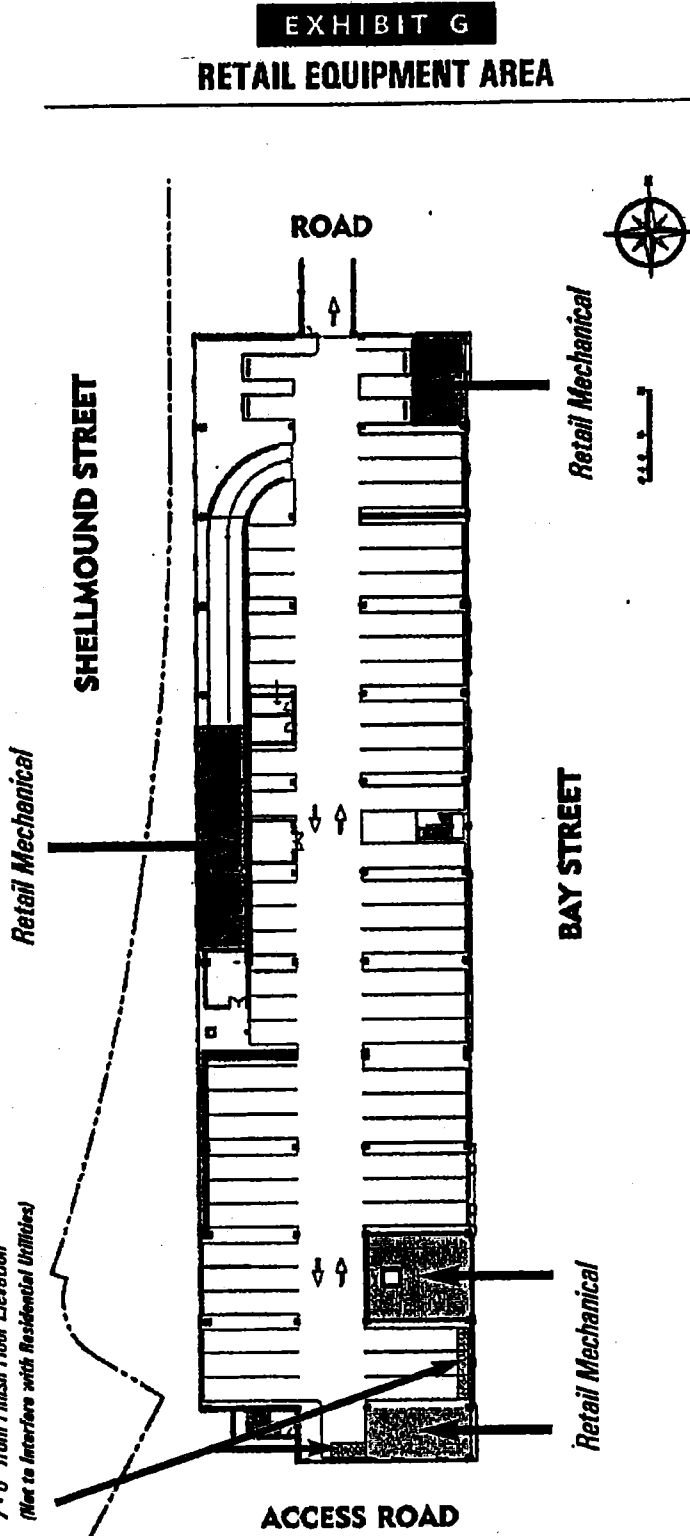
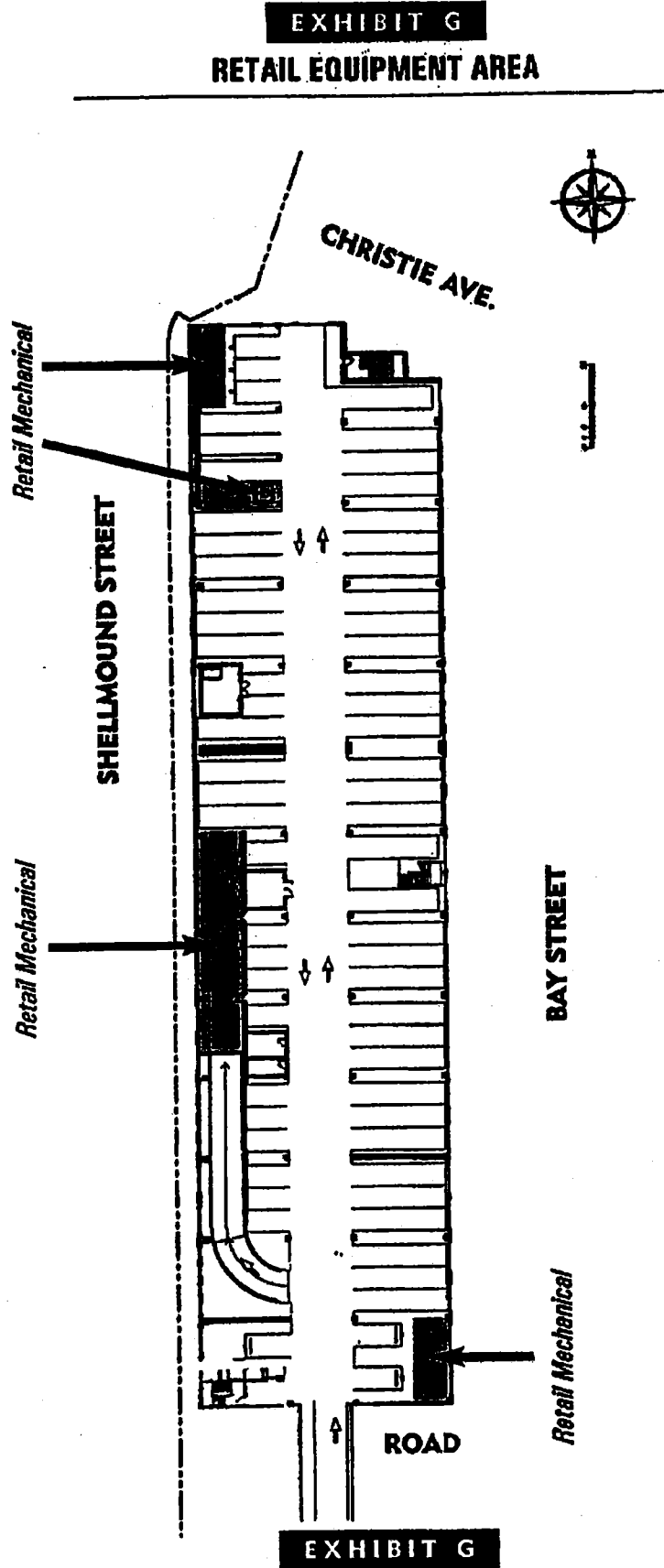


EXHIBIT G

Bay Street, Emeryville

BUILDING C
Residential Parking Level Plan



Bay Street, Emeryville

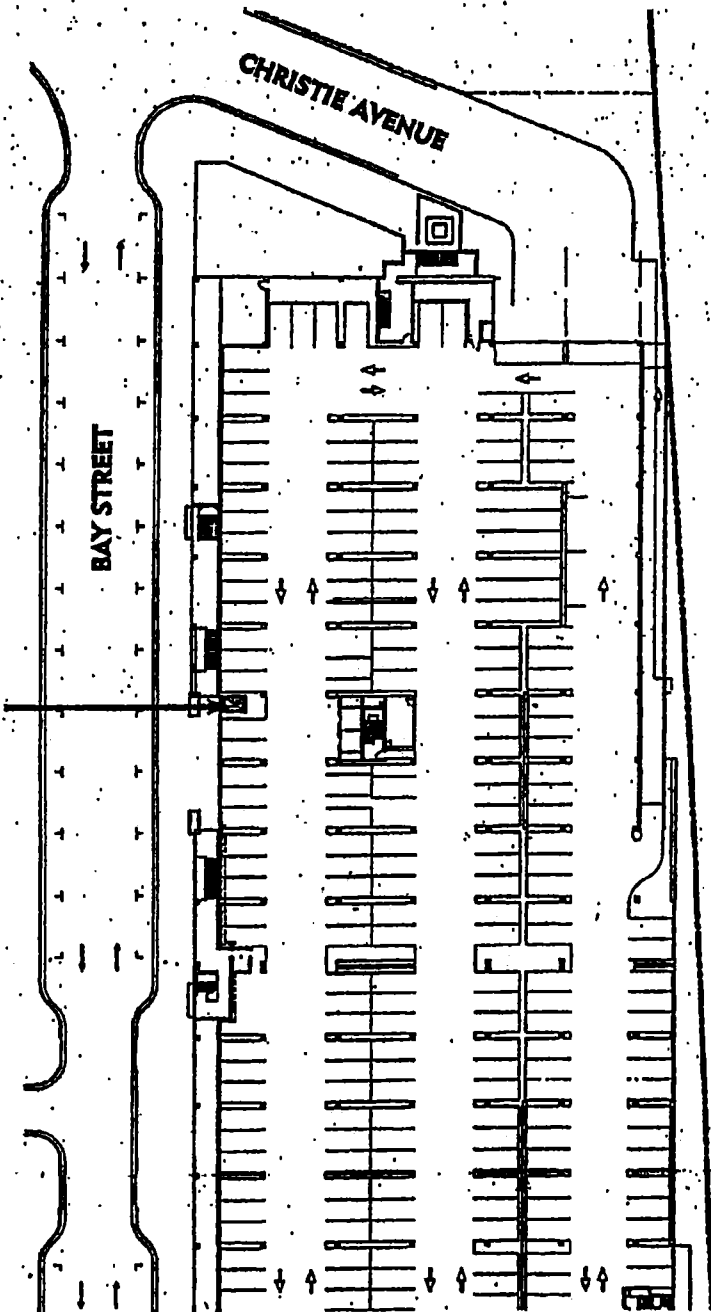
BUILDING D
Residential Parking Level Plan

EXHIBIT G

RETAIL EQUIPMENT AREA / PAGE 3 OF 4, BUILDING E, (NORTH)

RETAIL EQUIPMENT AREA
Page 3 of 4
BUILDING E (North)

Elevator / Equipment



Bay Street, Emeryville

BUILDING E
Residential Parking Level Plan (North)

EXHIBIT G

EXHIBIT G

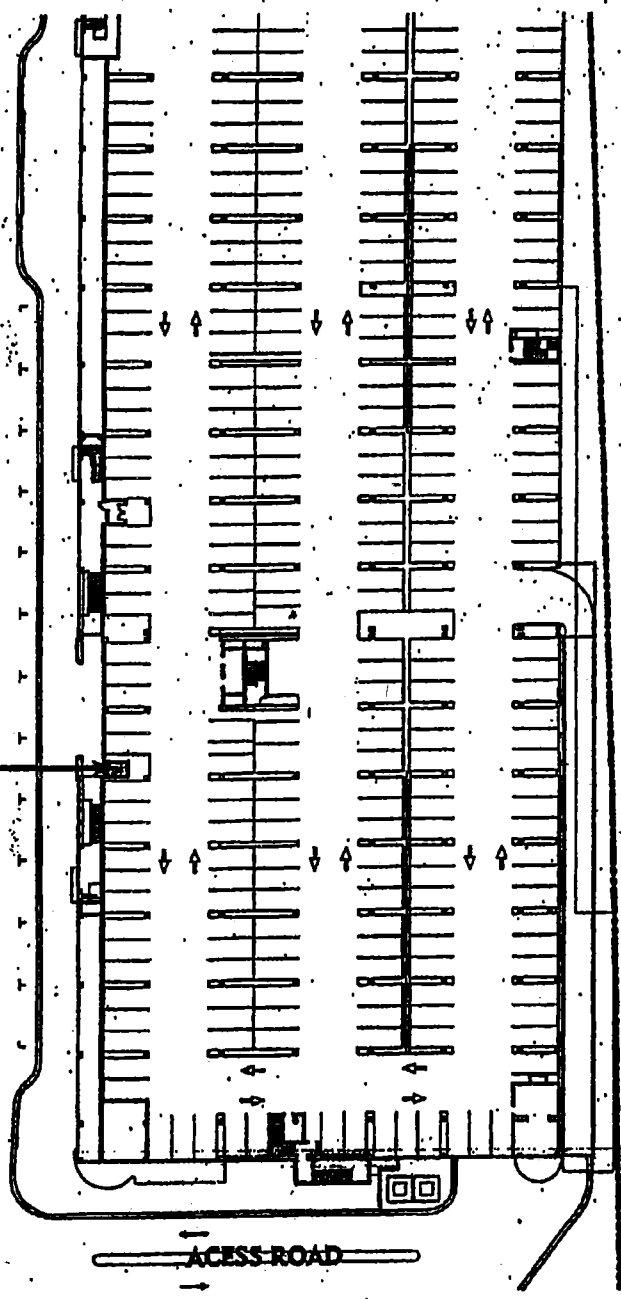
RETAIL EQUIPMENT AREA / PAGE 4 OF 4, BUILDING E (SOUTH)

RETAIL EQUIPMENT AREA
Page 4 of 4
BUILDING E (South)

Elevator / Equipment

BAY STREET

ACCESS ROAD



Bay Street, Emeryville

BUILDING E
Residential Parking Level Plan (South)

EXHIBIT G