

RECORDING REQUESTED BY:  
CITY & COUNTY OF  
SAN FRANCISCO

WHEN RECORDED MAIL TO:

DEPARTMENT OF TOXIC  
SUBSTANCES CONTROL  
700 HEINZ AVENUE, SUITE 200  
BERKELEY, CALIFORNIA 94710  
ATTN.: BARBARA J. COOK, P.E.

  
San Francisco Assessor-Recorder  
Doris M. Ward, Assessor-Recorder  
**DOC- 2000-G795616-00**

Acct 25-NO CHARGE DOCUMENT  
Wednesday, JUL 05, 2000 08:08:45  
Ttl Pd \$0.00 Nbr-0001430637

**REEL H672 IMAGE 0058**  
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SPACE ABOVE THIS LINE RESERVED FOR RECORDERS USE

COVENANT  
TO RESTRICT USE OF PROPERTY

This Covenant and Agreement ("Covenant") is made on the 20<sup>th</sup> day of April, 2000, by the City and County of San Francisco, acting by and through the San Francisco Port Commission (the "Port," "Covenantor"), who is the owner of record of certain property situated in San Francisco, County of San Francisco, State of California, the San Francisco Redevelopment Agency, who is the lessee ("Covenantor"), Site K, Inc., a sublessee ("Covenantor"), and South Beach Family Associates, a sub-sublessee ("Covenantor"), and by the Department of Toxic Substances Control (the "Department"). The property which is the subject of this Covenant is as described in Exhibit A (the "Property") and is shown in Exhibit B (Site Plan). Exhibit A and Exhibit B are attached hereto and incorporated herein by this reference. Pursuant to Health and Safety Code ("H&SC") section 25355.5(a)(1)(C) and Civil Code section 1471(c), the Department has determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the land of hazardous materials as defined in H&SC section 25260. The Covenantor and the Department, collectively referred to as the "Parties", therefore intend that the use of the Property be restricted as set forth in this Covenant, in order to protect human health, safety and the environment.

ARTICLE 1  
STATEMENT OF FACTS

Section 1.1 Site Description. There has been constructed an affordable housing rental unit complex on the Property, the street address of which is 10 King Street, 49 Townsend Street, and 800 Embarcadero, San Francisco, California 94105. The surface of the Property is

approximately 62,290 square feet. It is located approximately 200 feet west of San Francisco Bay. The property was created by landfilling during the 1900-1913 time period.

Section 1.2 Site History. Site uses are not well documented to the mid-1940s. Port leasing files indicate that various bus, railroad, trucking and ship services companies have occupied the Site. The Property has been leased to the San Francisco Redevelopment Agency (the "Agency") for a term which expires September 25, 2050, pursuant to that certain Lease dated May 9, 1991, a memorandum of which is dated June 28, 1991, and recorded as Document E932553 on July 2, 1991 (Reel F409, Image 0787). The Agency subleased the Property to Site K, Inc., a California nonprofit benefit corporation, pursuant to that certain Development Sublease dated June 11, 1991, a memorandum of which is dated June 28, 1991, and recorded as Document E932557 on July 2, 1991 (Reel F409, Image 0791). Site "K", Inc. sub-subleased the Property to South Beach Family Associates, a California limited partnership, pursuant to that certain Site K Sublease dated June 28, 1991, and recorded as Document E932562 on July 2, 1991 (Reel F409, Image 0796). South Beach Family Associates has the exclusive right to possession of the Property until June 29, 2046.

Section 1.3 Site Investigations. Five underground fuel storage tanks were removed in 1987 as part of the San Francisco Department of Public Works Emergency Underground Tank Abandonment Program. Following a soil investigation near two of the former onsite tanks (tanks #56 and 57) and one tank (tank #58) located offsite in November 1988, soil containing total petroleum hydrocarbons above 1,000 parts per million was removed in May 1989. Two additional phases of investigation were conducted in late 1989 and January 1990, to determine the extent of contamination at the Site and to comply with Part II, Chapter 10, Article 20 of the San Francisco Municipal Code (article 20) as amended by Ordinance 253-86 (Maher Ordinance), dated June 27, 1986. Polynuclear aromatic hydrocarbons (PNAs), total petroleum hydrocarbons, arsenic and lead exist at the Site above the U.S. Environmental Protection Agency Region IX residential preliminary remedial goals.

Section 1.4 Site Mitigation. DTSC approved a Hazardous Waste Management Plan on May 6, 1991, following a 30-day public comment period, during which a public meeting was held on March 26, 1991. Approximately 246 cubic yards of soil containing total petroleum hydrocarbons above 1,000 parts per million was excavated, biotreated onsite to reduce contaminant concentrations to less than 100 parts per million on an asphalt paved lot, and subsequently used as backfill. A cap was then installed which covers the entire property, consisting of a layer of 10 mils visqueen and 4 inch concrete slabs. The San Francisco Bay Region, Regional Water Quality Control Board issued a case closure letter for the underground storage tanks located at 55 Townsend Street, San Francisco, on August 26, 1993. The hazardous substances and wastes found on the Property are contained by the placement of a cap consisting of fill, building foundation and asphalt pavement covering the entire Property. Risks to human health and the environmental health do not exist as the Property has been developed. The Hazardous Waste Management Plan required recordation of a deed restriction to ensure full protection of public health and the environment.

ARTICLE 2  
DEFINITIONS

Section 2.1 Cap. "Cap" shall mean the protective cover used to isolate contaminated soils on the Property from human or environmental exposure. The Cap at this Site consists of 1) a reinforced concrete slab over the Site; and 2) a layer of 10 mils visqueen. See Exhibit C.

Section 2.2 Department. "Department" shall mean the California Department of Toxic Substances Control and shall include its successor agencies, if any.

Section 2.3 Improvements. "Improvements" shall mean all buildings, structures, fixtures, roads, driveways, regrading, and paved parking areas, constructed or placed upon any portion of the Property.

Section 2.4 Leases. "Leases," "subleases," or "rental agreements," shall refer only to occupancy agreements for terms of more than thirty (30) days.

Section 2.5 Occupant(s). "Occupant(s)" shall mean Owners and any person or entity entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of the Property.

Section 2.6 Owner(s). "Owner(s)" shall mean the Covenantor, its successors in interest, and their successors in interest, including heirs and assigns, who at any time hold title to all or any portion of the Property, but excluding residential and commercial tenants of South Beach Family Associates.

ARTICLE 3  
GENERAL PROVISIONS

Section 3.1 Restrictions to Run with the Land. This Covenant sets forth protective provisions, covenants, restrictions, and conditions (collectively referred to as "Restrictions"), subject to which the Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. Each and every of the Restrictions: (a) shall run with the land pursuant to Civil Code section 1471; (b) shall inure to the benefit of and pass with each and every portion of the Property; (c) is for the benefit of, and shall be enforceable by the Department; and (d) is imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof.

Section 3.2 Binding Upon Owners/Occupants. Pursuant to H&SC section 25355.5.(a)(1)(C), this Covenant binds all owners of the Property, their heirs, successors, and assignees, and the agents, employees, and lessees of the owners, heirs, successors, and assignees. Pursuant to Civil Code section 1471(b), all successive owners of the Property are expressly bound by this instrument for the benefit of the Department.

Section 3.3 Written Notice of Release of Hazardous Substances. Prior to the sale, nonresidential lease or nonresidential sublease of the Property, the owner, lessor, or sublessor shall give the buyer, lessee, or sublessee notice that hazardous substances are located on or beneath the Property, as required by H&SC section 25359.7.

Section 3.4 Incorporation into Deeds and Leases. The Restrictions set forth herein shall be incorporated by reference in each and all deeds and leases for any portion of the Property; provided, however, for any lease in effect as of the date of this Covenant, the Restrictions are to be incorporated by reference within one year of the date of this Covenant.

Section 3.5 Conveyance of Property. The Owner shall provide notice to the Department not later than thirty (30) days after any conveyance of any ownership interest in the Property (excluding mortgages, liens, and other non-possessory encumbrances). The Department shall not, by reason of this Covenant, have authority to approve, disapprove, or otherwise affect proposed conveyance, except as otherwise provided by law, by administrative order, or by a specific provision of this Covenant.

#### ARTICLE 4 RESTRICTIONS

##### Section 4.1 Non-Interference with Cap.

(a) No activities which will disturb or interfere with the integrity of the Cap shall be permitted on the Property without prior review and approval by the Department. Repairs, restoration and rehabilitation, or similar work at the Property which disturb or interfere with the integrity of the Cap may be performed with the Department's prior written approval.

(b) Emergency Response Action/Notification. In the event of any action or occurrence (such as a fire, earthquake, explosion which results in the potential for human exposure to hazardous substances caused by the release or threatened release of a hazardous substance) during the course of this Covenant, Owner shall take appropriate action in consultation with the Department and in accordance with all applicable provisions of this Covenant. Within seven (7) days of the onset of such event, Owner shall furnish a report to the Department setting forth the events which occurred and the measures taken in the response thereto. In the event that Owner, fails to take appropriate response and the Department takes the action instead, Owner shall be liable to the Department for all costs of the response action taken.

Section 4.2 Access for Department. Covenantor agrees that the Department shall have reasonable right of entry and access to the Property for inspection, monitoring, and other activities consistent with the purposes of this Covenant as deemed necessary by the Department in order to verify or ensure compliance with this Covenant. Nothing in this Section shall prohibit the Department from exercising any other legal authority to inspect the Property.

ARTICLE 5  
ENFORCEMENT

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Section 5.1 Enforcement. Failure of the Covenantor, Owner or Occupant to comply with any of the Restrictions specifically applicable to it shall be grounds for the Department, by reason of this Covenant, to require that the Covenantor and/or Owner modify or remove any improvements ("Improvements" herein shall mean all buildings, roads, driveways, and paved parking areas, constructed or placed upon any portion of the Property) constructed in violation of the Restrictions. Violation of this Covenant shall be grounds for the Department to file civil and/or criminal actions against the Covenantor and/or Owner as provided by law.

ARTICLE 6  
VARIANCE AND TERMINATION

Section 6.1 Variance. Any Owner(s) or, with the Owner(s)' written consent, any Occupant of the Property or any portion thereof may apply to the Department for a written variance from the provisions of this Covenant. Such application shall be made in accordance with H&SC Section 25233.

Section 6.2 Termination. Any Owner(s) or, with the Owner's (s)' written consent, any Occupant of the Property or a portion thereof may apply to the Department for a termination of the Restrictions as they apply to all or any portion of the Property. Such application shall be made in accordance with H&SC Section 25234.

Section 6.3 Term. Unless modified or terminated in accordance with Paragraphs 6.01 or 6.02 above, by law or otherwise, this Covenant shall continue in effect in perpetuity.

ARTICLE 7  
MISCELLANEOUS

Section 7.1 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property or any portion thereof to the general public or for any purposes whatsoever.

Section 7.2 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other communication shall be in writing and shall be deemed effective 1) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served or official of a government agency being served, or 2) three (3) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested:

To: "Covenantor" or "Owner(s)"

City and County of San Francisco  
c/o Port of San Francisco  
Ferry Building, Room 31  
San Francisco, CA 94111  
Attn: Port Director

With copies to: San Francisco Redevelopment Agency  
770 Golden Gate Avenue  
San Francisco, CA 94102  
Attn: Housing Program Manager

and to: "Site K. Inc." and "South Beach Family Associates"  
c/o Bridge Housing Corporation  
One Hawthorne Street  
San Francisco, CA 94105  
Attn: President

To Department: Department of Toxic Substances Control  
700 Heinz Avenue, Suite 200  
Berkeley, CA 94710  
Attention: Barbara J. Cook, P.E., Chief  
Site Mitigation Branch

Any party may change its address or the individual to whose attention a Notice is to be sent by giving written Notice in compliance with this paragraph.

**Section 7.3 Partial Invalidity.** If any portion of the Restrictions or terms set forth herein is determined by a court of competent jurisdiction to be invalid for any reason, the remaining portion of this Covenant shall remain in full force and effect as if such portion had not been included herein.

**Section 7.4 Article Headings.** Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not a part of the Covenant.

**Section 7.5 Recordation.** This instrument shall be executed by the Covenantor and by the Site Mitigation Branch Chief, California Department of Toxic Substances Control. This instrument shall be recorded by the Covenantor in the County of San Francisco within ten (10) days of the date of execution.

**Section 7.6 References.** All references to Code sections include successor provisions.

IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.

COVENANTORS

CITY AND COUNTY OF SAN FRANCISCO, ACTING BY AND THROUGH THE SAN FRANCISCO PORT COMMISSION

BY: [Signature] (DOUGLAS F. WONG)  
TITLE: EXECUTIVE DIRECTOR  
DATE: 5/4/00

REDEVELOPMENT AGENCY OF THE CITY OF SAN FRANCISCO

BY: [Signature]  
TITLE: Deputy Executive Director, Finance & Administration  
DATE: May 1, 2000

SITE K, INC.

BY: [Signature]  
TITLE: vice president  
DATE: 5/23/00

SOUTH BEACH FAMILY ASSOCIATES

By Site K, Inc., its general partner

BY: [Signature]  
TITLE: vice president  
DATE: 4/20/00

DEPARTMENT

BY: [Signature]  
TITLE: Branch Chief  
DATE: 6/6/2000

APPROVED AS TO FORM:  
LOUISE H. RENNE  
CITY ATTORNEY

BY: [Signature]  
DEPUTY CITY ATTORNEY

ALL-PURPOSE ACKNOWLEDGMENT

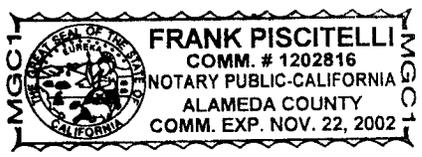
State of California

County of ALAMEDA } SS.

On 6/6/00 before me, FRANK P. Piscitelli,  
(DATE) (NOTARY)

personally appeared BARBARA JEAN COOK  
SIGNER(S)

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.

Frank Piscitelli  
NOTARY'S SIGNATURE

OPTIONAL INFORMATION

The information below is not required by law. However, it could prevent fraudulent attachment of this acknowledgment to an unauthorized document.

CAPACITY CLAIMED BY SIGNER (PRINCIPAL)

- INDIVIDUAL
- CORPORATE OFFICER
- \_\_\_\_\_ TITLE(S)
- PARTNER(S)
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

DESCRIPTION OF ATTACHED DOCUMENT

Covenant to Restrict Use of Property  
TITLE OR TYPE OF DOCUMENT

7  
NUMBER OF PAGES

4/18/00  
DATE OF DOCUMENT

SIGNER IS REPRESENTING:  
NAME OF PERSON(S) OR ENTITY(IES)  
\_\_\_\_\_  
\_\_\_\_\_

OTHER  
\_\_\_\_\_

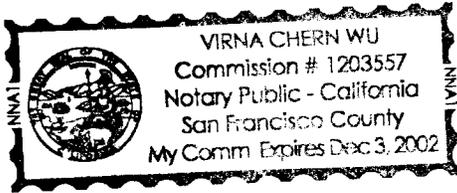
**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of San Francisco } ss.

G795616

On May 17, 2000, before me, Virna C. Wu, "Notary Public",  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
personally appeared Douglas Farrell Wong,  
Name(s) of Signer(s)

personally known to me  
 ~~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.

Virna C. Wu  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

**Description of Attached Document**

Title or Type of Document: covenant to restrict use of property

Document Date: None Number of Pages: CT

Signer(s) Other Than Named Above: None

**Capacity(ies) Claimed by Signer**

Signer's Name: Douglas Farrell Wong

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other Port Executive Director

Signer Is Representing: Port of San Francisco

RIGHT THUMBPRINT OF SIGNER

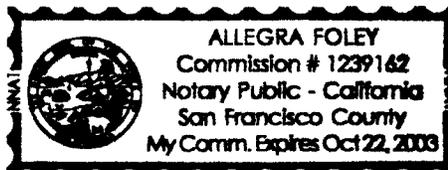
Top of thumb here

STATE OF CALIFORNIA )  
 ) SS  
COUNTY OF San Francisco )

G795616

On 4/20, 2000, before me, a Notary Public in and for State of California, personally appeared Lydia Tan, 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.

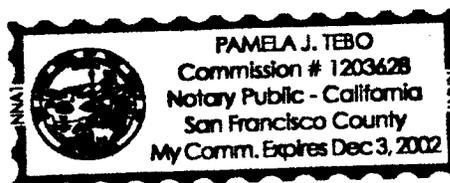


Allegra Foley  
Notary's Signature

STATE OF CALIFORNIA )  
 ) SS  
COUNTY OF San Francisco )

On May 1, 2000, before me, a Notary Public in and for State of California, personally appeared Tiza G. Peterson, 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.

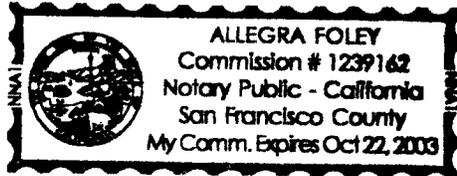


Pamela J. Tebo  
Notary's Signature

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF San Francisco )

On May 23, 2000, before me, a Notary Public in and for State of California, personally appeared Lydia Tan, 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.



Allegra Foley  
Notary's Signature

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2000, before me, a Notary Public in and for State of California, personally appeared \_\_\_\_\_, 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.

\_\_\_\_\_  
Notary's Signature

EXHIBIT A  
Legal Description of the Property

G795616

File No. 46960

DESCRIPTION

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

Commencing at the intersection of the easterly line of Second Street with the southerly line of Townsend Street; thence along said southerly line of Townsend Street, N 46° 17' 01" E, a distance of 295.00 feet to the true point of beginning of this description; thence continuing N 46° 17' 01" E, a distance of 128.80 feet; thence along a curve to the right having a radius of 308.75 feet, a central angle of 43° 29' 59", an arc length of 234.41 feet; thence S 04° 49' 05" W, a distance of 108.23 feet; thence along a curve to the right having a radius of 465.00 feet, a central angle of 35° 34' 50", an arc length of 288.76 feet; thence N 43° 43' 00" W, a distance of 270.55 feet to the true point of beginning.

Excepting therefrom all buildings, structures and other improvements (collectively "Improvements"), which Improvements are and shall remain real property, as described in that certain grant deed from the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic, to Site K, Inc., a California nonprofit public benefit corporation, dated June 28, 1991, recorded concurrently herewith.

Excepting therefrom all subsurface mineral deposits, including oil and gas deposits, as reserved by the State of California, pursuant to Chapter 1333, Statutes of California 1968 ("The Burton Act"), as amended.

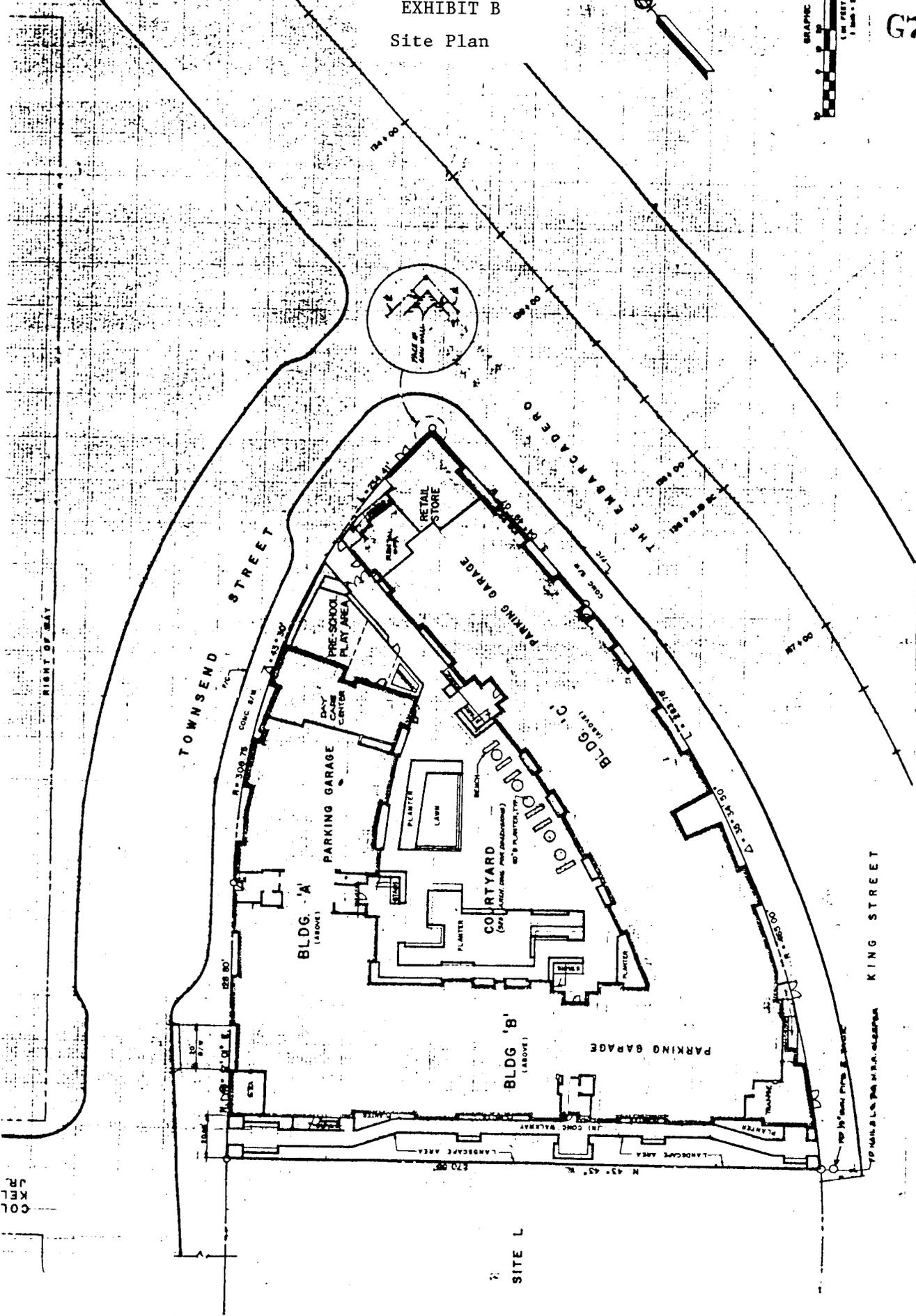
Lot 002, Block 3792

ST. 18  
ST. 18

# EXHIBIT B Site Plan



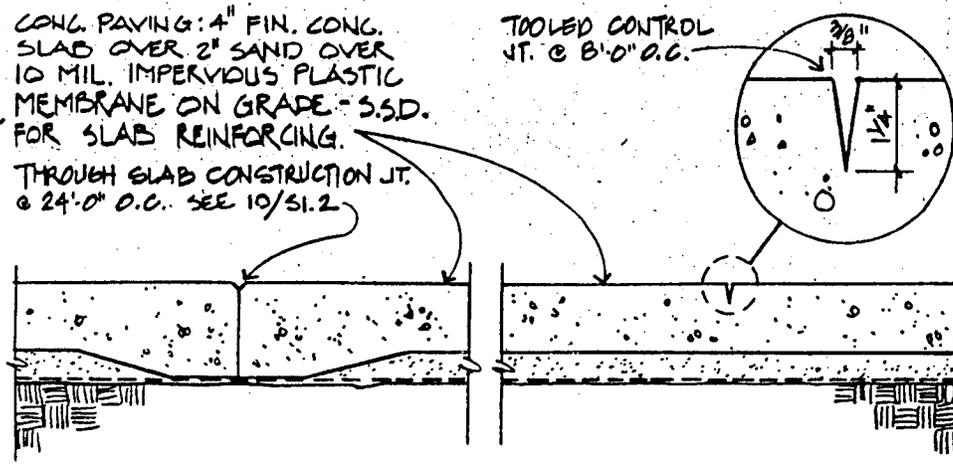
G795616



COL  
KEL  
JR

SITE L

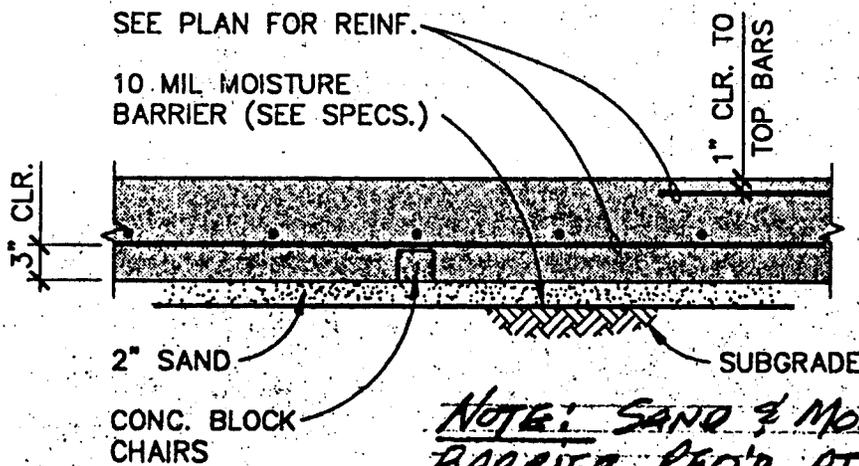
Diagram of Cap



1A CONCRETE PAVING  
A1.5

1 1/2" = 1'-0"

TYPICAL DETAIL AT GARDEN AREAS (NOT TO SCALE)



*NOTE: SAND & MOISTURE BARRIER REQ'D AT COMM. RM., DAYCARE & RETAIL AREAS ONLY.*

TYPICAL 8 1/2" SLAB ON GRADE (GARAGE SLAB)

SECTION

3/4" = 1'-0"

Z0000

15  
S1.2

TYPICAL DETAIL AT GARAGE, RETAIL, DAYCARE SLABS (NOT TO SCALE)