

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
320 ALEMANY LLC, _____)
Appellant(s))
vs.)
ZONING ADMINISTRATOR, _____)
Respondent

Appeal No. **24-052**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on September 4, 2024, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the ISSUANCE on August 23, 2024, of a Letter of Determination (each of the four properties had alterations without the benefit of building permits and created 17 Unauthorized Dwelling Units (UDUs); the property owner submitted a proposal to the Planning Department to use the State Density Bonus Program to retain 31 or the existing dwelling units, both authorized and unauthorized, across all four properties; the request seeks various determinations regarding the Department’s application of California Government Code Section 65915 (State Density Bonus Program); the Zoning Administrator determined that the proposal is not eligible for the density bonus under Government Code Section 65915) at 316-318, 320, 322, & 326-328 Alemany Boulevard.

Record No. 2024-004246ZAD

FOR HEARING ON October 23, 2024

Address of Appellant(s):

Address of Other Parties:

320 Alemany LLC, Appellant(s) c/o Emily Brough, Attorney for Appellant(s) Zacks & Freedman, PC 180 Montgomery Street, Suite 1950 San Francisco, CA 94104	N/A
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Date Filed: September 4, 2024

**CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS**

PRELIMINARY STATEMENT FOR APPEAL NO. 24-052

I / We, **320 Alemany LLC**, hereby appeal the following departmental action: **ISSUANCE of Letter of Determination. Record No. 2024-004246ZAD** by the **Zoning Administrator** which was issued or became effective on: **August 23, 2024**, for the property located at: **316-318, 320, 322, & 326-328 Alemany Boulevard**.

BRIEFING SCHEDULE:

Appellant's Brief is due on or before: 4:30 p.m. on **October 3, 2024, (no later than three Thursdays prior to the hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy shall be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org, corey.teague@sfgov.org, tina.tam@sfgov.org

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **October 17, 2024, (no later than one Thursday prior to hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be doubled-spaced with a minimum 12-point font. An electronic copy shall be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org, and emily@zfplaw.com

Hard copies of the briefs do NOT need to be submitted to the Board Office or to the other parties.

Hearing Date: **Wednesday, October 23, 2024, 5:00 p.m., Room 416 San Francisco City Hall, 1 Dr. Carlton B. Goodlett Place**. The parties may also attend remotely via Zoom. Information for access to the hearing will be provided before the hearing date.

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any changes to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should email all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. to boardofappeals@sfgov.org. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

Please note that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection on the Board's website at www.sfgov.org/boa. You may also request a hard copy of the hearing materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

The reasons for this appeal are as follows:

See attachment to the preliminary Statement of Appeal.

Appellant or Agent:

Signature: Via Email

Print Name: Emily Brough, attorney for appellant



ZACKS & FREEDMAN PC

September 4, 2024

Jose Lopez, President
San Francisco Board of Appeals
boardofappeals@sfgov.org

Via Email Only

*Re: 316-318, 320, 322, & 326-328 Alemany Boulevard, San Francisco, CA
Appeal of August 23, 2024 Letter of Determination, Record No. 2024-004246ZAD
Preliminary Statement*

Dear Board of Appeals:

This office represents the owner (“**Appellant**”) of the above-referenced properties (“**Properties**”). Appellant files this appeal of the attached Zoning Administrator’s (“**ZA**”) Letter of Determination (“**LOD**”) on the following grounds:

1. The ZA erred as a matter of law when he determined that the proposed project for the Properties does not qualify as a “housing development” under Gov. Code § 65915(i).
2. The ZA erred as a matter of law when he determined that legalization of the unpermitted units at the Properties did not count towards the number of units needed to qualify for “a development project for five or more residential units” under Gov. Code § 65915(i).
3. The ZA erred as a matter of law when he determined that Gov. Code § 65915(i) does not permit counting the proposed legalization of residential units on all contiguous four Properties as one project.
4. The ZA erred as a matter of law when he determined that the project at the Properties would not “replace” currently permitted units at the properties, per Gov. Code § 65915(c)(3)(A)(i) & (B)(i).

Appellant therefore respectfully requests the Board overrule the ZA’s findings in the LOD as error and prejudicial abuse of discretion.

ZACKS & FREEDMAN, PC



Emily L. Brough



LETTER OF DETERMINATION

August 23, 2024

Emily L. Brough
Zacks & Freedman, PC
180 Montgomery Street, Suite 1950
San Francisco, CA 94104

Record No.: **2024-004246ZAD**
Site Address: **316-318, 320, 322, & 326-328 Alemany Boulevard**
Assessor's Block/Lot: 5817 / 010, 011, 012, & 013
Zoning District: NC-S (Neighborhood Commercial Shopping Center District)
Staff Contact: Matt Dito – (628) 652-7358 or matthew.dito@sfgov.org

Dear Emily Brough:

This letter is in response to your request for a Letter of Determination regarding the properties at 316-318 Alemany Boulevard (Assessor's Block 5817/Lot 013), 320 Alemany Boulevard (Assessor's Block 5817/Lot 012), 322 Alemany Boulevard (Assessor's Block 5817/Lot 011), and 326-328 Alemany Boulevard (Assessor's Block 5817/Lot 010). The request seeks various determinations regarding the Department's application of California Government Code Section 65915 (State Density Bonus Program).

BACKGROUND

Lot 8 in Assessor's Block 5817 was subdivided into 4 separate lots in 2002-2003. Four separate building permits were issued between 2004 and 2006 to construct 4 separate residential buildings, one on each lot. Construction of the 4 buildings was completed in April 2008. The properties were authorized for the following amounts of dwelling units:

- 316-318 Alemany Boulevard (Lot 013) – Five (5) dwelling units
- 320 Alemany Boulevard (Lot 012) – Three (3) dwelling units
- 322 Alemany Boulevard (Lot 011) – Three (3) dwelling units
- 326-328 Alemany Boulevard (Lot 010) – Four (4) dwelling units

In November 2022, it was discovered that each of the four properties had undergone alterations without the benefit of a building permit and created 17 unauthorized dwelling units (UDUs), as described below:

- 316-318 Alemany Boulevard – Seven (7) UDUs + Five (5) dwelling units (Total of 12)
- 320 Alemany Boulevard – Three (3) UDUs + Three (3) dwelling units (Total of 6)
- 322 Alemany Boulevard – Four (4) UDUs + Three (3) dwelling units (Total of 7)
- 326-328 Alemany Boulevard – Three (3) UDUs + Four (4) dwelling units (Total of 7)
- Total of 32 units

On December 8, 2022, Notices of Enforcement were issued to each of the 4 properties detailing the unauthorized addition of units and other various violations. On October 6, 2023, Notices of Violation were issued to each of the 4 properties.

On March 18, 2024, a proposal was submitted to the Planning Department to use the State Density Bonus Program to retain 31 of the 32 existing dwelling units, both authorized and unauthorized, across all four properties. The proposal considered the various scopes of work across the four properties to be a single development project. In an email response on April 24, 2024, the Department stated that the scopes of work were considered four separate projects, not one, and that each project did not individually qualify for the State Density Bonus Program. Additionally, the email stated that even if the proposal was considered one development project, the project did not propose the creation of 5 or more new residential units and would not be eligible for the State Density Bonus Program.

In response, the request for a Letter of Determination was filed. Please see the specific requests and determinations below:

1. **Whether the project qualifies as a “housing development” under Government Code Section 65915(i), which in part defines a “housing development” as one with “a development project for five or more residential units.”**

As stated in the Department’s April 24, 2024 letter, the proposal is not eligible for the density bonus under Government Code Section 65915. To be eligible, a project must provide at least 5 net new units in the base portion of the project to qualify for the State Density Bonus Program (Gov. Code § 65915(i); Planning Code Section 206.6(b)). As explained in Director’s Bulletin No. 6, on sites where there are existing buildings that will remain, the base density will be calculated using the remaining development potential of the subject lot.

Because the subject properties consist of 4 separate lots, any proposal to add more dwelling units to each lot will be considered a separate project under the Planning Code. We describe this requirement in response to No. 3 below. And as detailed in the table below, none of the individual lots can create 5 or more new, principally permitted residential units. Therefore, none of the proposed scopes of work for any of the 4 lots

are eligible for the State Density Bonus Program.

Lot	Lot Area	Legally Existing Units	Principally Permitted Units*	Remaining Permitted Density
5817/010	3,112 sf	4	5	1
5817/011	2,695 sf	3	4	1
5817/012	2,824 sf	3	5	2
5817/013	4,237 sf	5	6	1

* Includes State ADUs

Please note that even if the lots were merged into a single, merged lot containing the 4 existing buildings (again, see the discussion in No. 3 below), it would not qualify as a “housing development” under Government Code Section 65915(i). This is because such a merged lot would be principally permitted to add one standard dwelling unit plus one State ADU, for a total of only 2 units, which would fall short of the 5-unit threshold.

2. Whether legalization of the unpermitted units (UDUs) at the properties counts towards the number of units needed to qualify for “a development project for five or more residential units.”

The legalization of an unauthorized dwelling unit is counted towards the required 5 or more residential units only when legalization of such unit does not require a discretionary waiver from any Planning Code requirement (i.e., density, open space, etc.) or is not done through a separate density bonus provision of the Planning Code. In other words, only those units that are consistent with the objective controls of the Planning Code may count towards the 5-unit threshold.

As such, the legalization of an unauthorized dwelling unit through Planning Code Section 207.1 (Local Accessory Dwelling Unit Program) or Section 207.3 (Authorization of Dwelling Units Constructed without a Permit in an Existing Building Zoned for Residential Use) does **not** count towards the five or more required residential units because these units either require a waiver of density controls or are a form of density bonus themselves.

However, the legalization of an unauthorized dwelling unit as a principally permitted dwelling unit pursuant to density controls in the Planning Code or through Planning Code Section 207.2 (State Mandated Accessory Dwelling Unit Program) **does** count towards the 5 or more required residential units because such units do not require any discretionary Planning Code waivers.

3. Whether the following provision under Government Code Section 65915(i) permits the Client to count the proposed legalization of residential units on all four parcels as one Project under the law: “For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one

development application, but do not have to be based upon individual subdivision maps or parcels.”

Government Code Section 65915 does not permit the property owner to count the proposed legalization of all the residential units across the 4 lots as one project because the legalization of those units will not be “the subject of one development application.”

The Planning Code Section 102 definition of a Lot and the May 1991 Zoning Administrator Interpretation of Planning Code Section 181(a), attached as Exhibit A, clarify that while contiguous lots under single ownership **may** be considered a single lot in certain cases, that is only the case when the lots at issue have been used and treated that way by the property owner, and in a manner necessary to meet the requirements of the Planning Code. In this case, the property owner chose to subdivide a single lot into 4 separate lots and construct 4 separate residential buildings instead of maintaining the single lot and constructing a single building. Additionally, there is no indication that the 4 separate lots have operated or otherwise been treated as a single lot since the original lot was subdivided. Each lot is independently compliant with the Planning Code and does not need any other lot to meet any Planning Code requirements. Lastly, the proposed project is not different from the existing condition, which has already been permitted as four separate lots. Therefore, there is no justification to consider the four lots as one lot for the purposes of the Planning Code, and the proposal, as defined in the request letter, represents 4 different projects that will require 4 separate development applications.

4. Whether the project “replaces” currently permitted units at the properties, per Government Code Section 65915(c)(3)(A)(i) & (B)(i)

Because the proposed project is not eligible for the State Density Bonus Program, the replacement obligations under Government Code Section 65915 do not apply, and the combined proposal is not considered a “replacement” of currently permitted units per Government Code Section 65915(c)(3)(A)(i) & (B)(i). Further, there is no replacement of any dwelling units proposed because no dwelling units have been eliminated. Instead, additional units (UDUs) were added, resulting in a net increase of units currently existing on each individual lot.

5. Whether the project qualifies as a “housing development” under Government Code Section 65915(i), which in part defines a “housing development” as “the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units.”

Again, the project is not eligible under the State Density Bonus Program. In addition, Government Code Section 65915(i) states that, in addition to a develop project for 5 or more residential units, a “housing development” also includes “a **subdivision or common interest development**, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county **and** consists of residential units or unimproved residential lots **and** either a project to substantially rehabilitate and convert an existing commercial building to residential use **or** the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units” [Emphasis added].

Planning Code Section 206.6 is intended to implement Government Code Section 65915, but it does not define or otherwise address this additional type of “housing development.” While the Zoning Administrator

does not interpret State Law for the City, the plain language of this provision requires the project to contain ownership units that are part of a subdivision or common interest development, and not rental units. Additionally, there is no claim that the existing buildings are in disrepair or otherwise in need of rehabilitation, and the proposed project scope does not constitute a “substantial rehabilitation” of any of the existing building. Instead, the proposal is only to legalize unauthorized units constructed without the necessary approvals.

Given that the proposal does not include a subdivision of lots or common interest developments, and that no substantial rehabilitation of the existing buildings is proposed, it is unlikely that the Planning Department would consider the proposal to be a “housing development” pursuant to this specific provision of Government Code Section 65915(i).

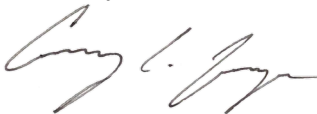
6. Even if the four parcels were considered separate projects, whether each of the four projects qualify as a “housing development” under Government Code Section 65915(i), which in part defines a “housing development” as “the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units.”

The same response to No. 5 above also applies here. The distinction of whether the parcels are considered separate projects is irrelevant.

Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.

APPEAL: An appeal may be filed with the Board of Appeals within 15 days of the date of this letter if you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator. Please contact the Board of Appeals in person at 49 South Van Ness Ave, Suite 1475, call (628) 652-1150, or visit www.sfgov.org/bdappeal.

Sincerely,



Corey A. Teague, AICP
Zoning Administrator

cc: Property Owner
Neighborhood Groups
Ella Samonsky, Planning Department
Megan Ryan, City Attorney's Office

Enclosures: Exhibit A – Planning Code References

EXHIBIT A

RELEVANT PLANNING CODE DEFINITIONS AND INTERPRETATIONS

SEC. 102. DEFINITIONS.

Lot. A parcel of land under one ownership that constitutes, or is to constitute, a complete and separate functional unit of development, and that does not extend beyond the property lines along streets or alleys. A lot as so defined generally consists of a single Assessor's lot, but in some cases consists of a combination of contiguous Assessor's lots or portions thereof where such combination is necessary to meet the requirements of this Code. In order to clarify the status of specific property as a lot under this Code, the Zoning Administrator may, consistent with the provisions of this Code, require such changes in the Assessor's records, placing of restrictions on the land records, and other actions as may be necessary to assure compliance with this Code. The definition of "lot" shall also be applicable to piers under the jurisdiction of the Port Commission.

INTERPRETATIONS BY CODE SECTION

Code Section: 102

Subject: "Lot," two Assessor's lots as one zoning lot

Effective Date: 5/91

Interpretation:

See Interpretation 181(a)

Code Section: 181(a)

Subject: Nonconformity of lots under single ownership

Effective Date: 5/91

Interpretation:

This Section states that uses which do not conform to the Code cannot be increased in size or intensity or changed in such a way as to increase an existing noncompliance. Section 102 ("Lot") states that a lot, for purposes of the Planning Code, may consist of more than one Assessor's lot if necessary to fulfill the requirements of the Code and that the Zoning Administrator may cause Assessor's lots to be merged for such purpose. This raises questions about when adjacent lots under same ownership must be considered to be a single zoning lot. **Single ownership of contiguous lots is irrelevant unless these contiguous lots have been treated by the single owner or the City as a single lot for purposes of the Planning Code**, such as by using an adjacent lot for parking or RELYING on it for density calculation or to meet open space requirements. Contiguous lots could have been relied upon by a single owner to meet a Code requirement but, in the absence of evidence to that effect, the Zoning Administrator will not treat them as a single zoning lot. Therefore, if one such lot is over the current density standard it will not curtail full development of an adjacent lot under the same ownership if the noncomplying unit was built at a time or under circumstances that would have allowed it without reliance on the adjacent lot. To make the record clear, current Zoning Administrator practice is to require the merger of lots when treated as one zoning lot.

BRIEF SUBMITTED BY THE APPELLANT(S)

1 ANDREW M. ZACKS (SBN 147794)
2 EMILY L. BROUGH (SBN 284943)
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10 Attorneys for Appellant,
11 320 Alemany LLC

12 CITY AND COUNTY OF SAN FRANCISCO
13 BOARD OF APPEALS

14 320 Alemany LLC,

Appeal Case No.: 24-052

15 Appellant,

**APPELLANT 320 ALEMANY LLC'S
BRIEF**

16 vs.

17 San Francisco Planning Department Zoning
18 Administrator,

Date: October 23, 2024

Time: 5:00 p.m.

Place: San Francisco City Hall, Room 416, 1
Dr. Carlton B. Goodlett Place

19 Respondent.

20 **INTRODUCTION**

21 Many years ago, 320 Alemany LLC (“Appellant”) made a regrettable mistake: After having
22 lawfully constructed fifteen large dwelling units, and after receiving a sign-off on those units, it erected
23 walls and divided the units into thirty-two, smaller more affordable units. The City quickly discovered
24 this code violation and issued an NOV. But notwithstanding the NOV, the City did nothing further
25 for many years, tacitly allowing Appellant to provide safe and decent affordable housing to dozens of
26 low-income tenants, many of whom enjoy the protections San Francisco’s status as a sanctuary city.

27 In 2023, the City sued Appellant for an injunction and penalties arising out of the unpermitted
28 units. Appellant agreed to the issuance of an injunction that requires correction of the unpermitted
work. Appellant further agreed to pay more than a million dollars in penalties (plus attorney’s fees)
to the City to resolve claims arising out of its admitted mistake made many years ago.

The issue before this Board is: whether the Zoning Administrator (“ZA”) erred by refusing to
acknowledge Appellant’s right to legalize an additional seven *permanently affordable* units in the

1 subject properties under the State Density Bonus Program, California Government Code § 65915
2 (Density Bonus Law”).

3 The subject properties in this matter are 316-318 Alemany Boulevard, 320 Alemany
4 Boulevard, 322 Alemany Boulevard, and 326-328 Alemany Boulevard, San Francisco, CA
5 (“Properties”). Many of the Properties’ tenants and their families (mostly of whom are lower income)
6 have lived at the Properties’ thirty-two residential dwelling units for years, are happy with their living
7 conditions, and have great relationships with Appellant, their landlord. (Exhibits A, B, C, D, E,
8 Declarations of Karol Navarrette, Lourdes Castillo, Mauricio Carrera, Nelson Bustos, and Susana
9 Ramirez.) They are also supportive of Appellant’s efforts in the underlying proceeding – to legalize
10 the unpermitted units at the Properties. (*Ibid.*)

11 On February 12, 2024, in corresponding violation and penalty decisions, the ZA upheld four
12 Notices of Violation regarding (tenant-occupied) Unauthorized Dwelling Units (“UDUs”) at the
13 Properties. Since even before the underlying Notices were issued, Appellant has sought to
14 meaningfully engage with the Planning Department (“Planning”) to legalize the UDUs at the
15 Properties under the Density Bonus Law, in an effort to keep all much needed and occupied housing
16 in place (“the “Project”). The Density Bonus Law applies to projects that propose five or more
17 permitted residential units, like the Properties and Project here. (Gov’t Code § 65915(i).) That law
18 requires local government to award developers increased building density, and grant concessions and
19 waivers of permit requirements in projects when they agree to restrict a percentage of the project units
20 to affordable households. (Gov’t Code § 65915.) Appellant’s Project proposes to do just that. (See,
21 Exhibit F, Declaration of David Locicero, Ex. 1.)

22 Notwithstanding the primacy of the Density Bonus Law, Planning wrongfully insists that the
23 Density Bonus Law does not apply to the Project, and that Appellant is purportedly only entitled to
24 legalize some of the UDUs. In doing so, Planning has significantly held up legalization and delayed
25 resolution of this matter. Further, at the same time it has delayed resolution, the City pursued
26 enforcement proceedings in San Francisco Superior Court in May of 2023 to address Notices of
27 Violation issued to against the Properties. In this enforcement action, the City sought more than ten
28 million dollars in penalties against Appellant, in part related to the UDUs at the Properties. Appellant

1 is currently under court order to legalize the UDUs. (Exhibit G, Stipulation for Permanent Injunction
2 and Order.)

3 Importantly, while Planning tries to prevent the Properties’ UDU legalization plan by claiming
4 that the Density Bonus Law cannot be used to legalize those units, San Francisco *specifically counts*
5 *legalized UDUs towards its Regional Housing Needs Allocation*. (Exhibit H, Declaration of Emily L.
6 Brough, Ex. 1.) It’s no secret that San Francisco is under a State mandate to build 82,000 units by
7 2031 (Exhibit I, SF Chronicle Article, 1/24/2023)—and San Francisco is woefully short of meeting
8 that goal. Legalizing the Properties’ UDUs would create seven new permanently affordable units and
9 therefore assist San Francisco in complying with that mandate. Planning’s erroneous and unreasoned
10 refusal to apply the Density Bonus Law to the Project—a law expressly intended to create more
11 affordable housing in California—is just another a gross example of how the City continues to fail its
12 residents by blocking the creation of affordable housing.

13 As a result of Planning’s continuous delay and unwillingness to allow Appellant to use the
14 Density Bonus Law to renovate and permit the UDUs, Appellant was required to file a Request for a
15 Letter of Determination on this very issue on May 13, 2024. (Exhibit J, Request for Letter of
16 Determination.) In addition, on or about September 20, 2024, Appellant filed applications for the
17 Project using the Density Bonus law. (See, Exhibit F, Declaration of David Locicero ¶ 22, Ex. 1.)

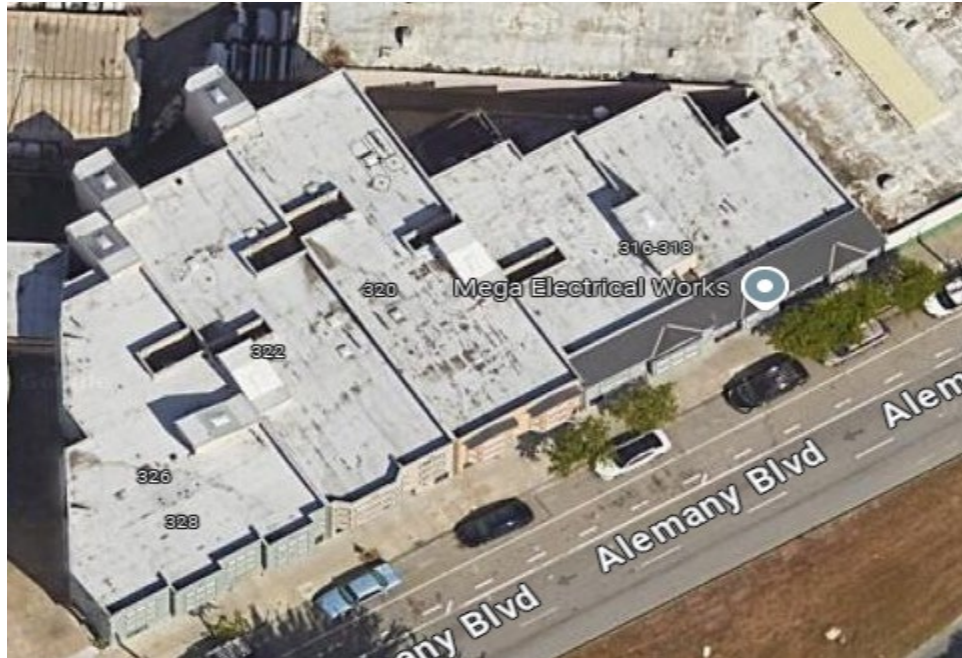
18 On August 23, 2024, and notwithstanding the clear applicability of the law to the Project, the
19 ZA wrongfully determined in an LOD that the Density Bonus Law allegedly did not apply to the
20 legalization of the UDUs at Properties. Appellant filed a timely appeal of this decision on September
21 4, 2024.

22 In sum, the City is using its power of enforcement against Appellant while at the same time it
23 stands in the way of correcting the issues at the Properties in violation of state law, as well continuing
24 to thwart the State-mandated requirement that it create more housing. As detailed below, the ZA’s
25 LOD, finding that the Density Bonus Law does not apply to the Project, conflicts with, and is therefore
26 preempted by State law. The Board should thus reverse that erroneous decision to allow Appellant to
27 meet its court-ordered obligations and preserve this much need affordable housing in San Francisco.

28

1 **STATEMENT OF FACTS**

2 The Properties are four adjacent multi-unit buildings containing thirty-two (32) residential
3 dwelling units and one (1) ground floor commercial unit in total. The Properties lie side-by-side on
4 contiguous sites:



16 The Properties were permitted for a total of fifteen residential units. The permitted units were very
17 large, each approximately 2,500 square feet. Construction of the Properties was finalized on or about
18 April 25, 2008. That same year and in 2009, the City issued Notices of Violation regarding the UDUs
19 at the Properties. Notwithstanding, the City took *no action on this matter* for approximately fifteen
20 years. (In fact, in one of the complaints about the UDUs at the Properties, DBI described the matter
21 as “closed.”) Put simply: the UDUs—which provided safe, clean, affordable housing to the Properties’
22 tenants, didn’t seem to be a problem for the City for well over a decade.

23 During a City task force inspection in 2023, City officials determined that the Properties
24 contained the following number of units: 316-318 Alemany: 1 commercial, 12 residential; 320
25 Alemany – 6 residential; 322 Alemany – 7 residential; and 326-328 Alemany – 7 residential. The
26 Planning Department issued NOV’s to each respective property on or about October 6, 2023,
27 identifying, in addition to the fifteen permitted dwelling units at the Properties, a total of seventeen
28 unpermitted UDUs at the Properties. (See, LOD pp. 1-2.)

1 Appellant has diligently attempted to find a path to legalize the UDUs for over two years now—
2 even prior to the 2023 NOVs issuing. (See, e.g., Exhibit F, Declaration of David Locicero ¶¶ 3-24.)
3 However, since Appellant first submitted a plan to legalize units at the Properties in February 2022,
4 the Planning Department has only delayed and failed to provide Appellant with any meaningful
5 guidance on legalizing the UDUs at the Properties, and *has instead insisted that at least seven of the*
6 *UDUs be demolished.* (Exhibit K, Email from Planning, dated 2/1/2024 [stating only a total of 24
7 units is permissible] & Plan Checks No. 2.) Thus, Appellant’s hands have continuously been tied,
8 resulting in its inability to resolve the pending NOVs at the Properties, including avoiding various
9 accruing penalties as was alleged in the administrative proceedings and Enforcement Action.

10 In the newest chapter of this ongoing saga, on March 18, 2024, Appellant submitted responses
11 to Planning’s most recent plan check in an effort to maximize the number of UDUs to be legalized
12 under the Density Bonus Law. (Exhibit F, Declaration of David Locicero ¶ 19.) The Planning
13 Department refused to apply the Density Bonus Law to the Project, claiming without legal basis that
14 it could not apply here. (Exhibit L, Email from Planning, dated 4/24/2024.) After Appellant filed a
15 Request for a LOD on this issue, the ZA erroneously agreed with Planning. As detailed below, that
16 decision and its analysis, which includes applying local law in favor of the Density Bonus Law, is
17 preempted and void. The Board should therefore overturn the LOD to allow Appellant to proceed
18 with the Project.

19 ARGUMENT

20 **I. THE ZA’S DETERMINATION THAT THE DENSITY BONUS LAW DOES NOT** 21 **APPLY TO THE DEVELOPMENT PROJECT AT THE PROPERTIES** 22 **CONFLICTS WITH STATE LAW AND IS PREEMPTED THEREBY.**

23 Originally enacted in 1979, the Legislature recently revised the Density Bonus Law multiple
24 times over the past decade, to “ensure that the Density Bonus Law creates incentives for the
25 construction of more housing across all areas of the state.” (Gov’t Code § 65915.) Because of the
26 well-known housing crisis in California, the Legislature requires that the Density Bonus Law “**shall**
27 **be interpreted liberally in favor of producing the maximum number of total housing units.**”
28 (Gov’t § 65915(r), *emph. add.*) As such, local policy and law “**is preempted if it conflicts with the**
density bonus law by increasing the requirements to obtain its benefits.” (*Schreiber v. City of Los*

1 *Angeles*, (2021) 69 Cal.App.5th 549, 558, *emph. add.*; also see, *Latinos Unidos Del Valle de Napa Y*
2 *Solano v. County of Napa* (2013) 217 Cal.App.4th 1160, 1169.)

3 This is precisely what the ZA did in his LOD; the ZA has unlawfully increased the requirements
4 for meeting (1) the “development project” definition (i.e., the eligibility criteria) under the Density
5 Bonus Law, (2) and the “contiguous parcel” definition used to calculate increased density under the
6 law. Therefore, that decision is preempted.

7 **A. The Project is a “Housing Development” within the Meaning of the Density Bonus**
8 **Law.**

9 A “housing development,” under the Density Bonus Law very broadly “**means a development**
10 **project for five or more residential units**, including mixed-use developments.” (Gov’t Code §
11 65915(i), *emph. added.*) Here, the original project, submitted under one development application
12 (Exhibit K, Plan Check Letter #2 for 316-318 Alemany, ¶ 11), was for fifteen permitted units
13 throughout the Properties. The new Project requires reconfiguring these original permitted units to
14 allow for the great majority of the UDU—sixteen of them in total—to be legalized, for a total of
15 thirty-one (31) units. (Exhibit F, Declaration of David Locicero, Ex. 1.) In sum, the Project is a
16 development project for sixteen (additional) permitted residential units, with the fifteen existing
17 permitted units to be reconfigured to allow for that. It is therefore a “development project for five or
18 more residential units” and thus a “housing development” under the Density Bonus Law. (Gov’t Code
19 § 65915(i).)

20 The ZA claims that the Project allegedly does not meet this definition because: “To be eligible,
21 a project must provide at least 5 net new units in the base portion of the project to qualify for the State
22 Density Bonus Program.”¹ But that is not what the ‘eligibility’ definition of the Density Bonus Law
23 says. While it is true that the ‘base portion’ of a project comes into play when later calculating the
24 allowable density bonus for a project (see, e.g. Gov. Code § 65915(b)(1), (f)), to *qualify* under the
25 definition of a “development project,” and thus for the various Density Bonus Law benefits, the project

26 _____
27 ¹ The ZA also cites to Planning Code § 206.6(b) and the San Francisco Director’s Bulletin No. 6 in
28 support of this erroneous interpretation. To the extent those regulations conflict with the Density Bonus
Law, those local regulations are likewise void and preempted. (*Schreiber, supra*, 69 Cal.App.5th at p.
558; *Latinos Unidos Del Valle de Napa Y Solano, supra*, 217 Cal.App.4th at p. 1169.)

1 need only be one for five or more residential units, period. (Gov’t Code § 65915(i).) The Project here
2 easily meets that definition.

3 But even if the ZA’s alternative definition was a correct one, the Project here still meets it.
4 Under the law, the “base density” of a project is the “greatest number of units allowed under the zoning
5 ordinance, specific plan, or land use element of the general plan” (Gov’t Code § 65915(o)(6).)
6 A project’s base density is calculated by dwelling units “per acre,” in that zoning district, if the local
7 agency’s ordinances use that method. (*Ibid.*) If a “dwelling-unit-per-acre standard” is *not* used, then
8 the base density shall be calculated by: “**Estimating the realistic development capacity of the site**
9 based on the objective development standards applicable to the project, including, but not limited to,
10 floor area ratio, site coverage, maximum building height and number of stories, building setbacks and
11 stepbacks, public and private open-space requirements, [and] minimum percentage or square footage
12 of any nonresidential component” (Gov’t Code § 65915(o)(6)(A), *emph. add.*) The developer
13 can provide the local agency with a “base density study,” but is not required to. (*Ibid.*)

14 Here, Planning does not use a dwelling-unit-per-acre standard for zoning. For example, in the
15 NC-S zoning district where the Properties are located, there is a 1 unit per 800 square foot standard.
16 (SF Planning Code § 713, Table 713.) Because Planning does not use the dwelling-unit-per-acre
17 standard, base density here is calculated by “estimating the realistic development capacity” under
18 objective development standards. (Gov’t Code § 65915(o)(6)(A).) While the “realistic development
19 capacity of the site” could be calculated using the 1-unit-per-800 sq ft method used by Planning, it
20 could also just as easily be calculated by adding on available state and local ADUs, for example, as
21 proposed by the ZA in its LOD. (LOD p. 3.) The ZA’s claim that a “merger” of the lots would reduce
22 this development capacity is irrelevant for this purpose; as detailed in Section I.B., no merger is
23 required to count units for purposes of the Density Bonus Law—they only need to be located on
24 “contiguous sites.” In short, the “realistic development capacity” of the Project could meet 20 “base
25 density units”—that is 5 net new units in the base portion of the project—and therefore meet the ZA’s
26 (incorrect) proposed definition of a “development project” under the Density Bonus Law. Either way,
27 the Project is a “development project” under the Density Bonus Law and therefore the ZA’s decision
28 to the contrary must be reversed.

1 **B. The Project is on “Contiguous Sites” For Purposes of Calculating Increased Density**
2 **Under the Density Bonus Law.**

3 Once a project meets the definition of a “development project” under the Density Bonus Law,
4 a developer may choose to increase the density at the project by restricting a certain percentage of the
5 project’s units to affordable. (see, e.g., Gov. Code § 65915(b)(1).) Generally speaking, the higher the
6 percentage of the project’s units designated as affordable, the more “bonus” units are awarded to a
7 developer. (see, e.g., Gov. Code § 65915(f), (v).) Further, the “units” used for this calculation are
8 those units in any adjacent parcels which are part of the proposed project: “For the purpose of
9 calculating a density bonus, **the residential units shall be on contiguous sites that are the subject**
10 **of one development application**, but do not have to be based upon individual subdivision maps or
11 parcels.” (Gov’t Code § 65915(i), *emph. add.*) Here, the four Properties are on “contiguous sites,”
12 and the development application proposes legalizing units across all sites. (Exhibit F, Declaration of
13 David Locicero, Ex. 1.) Thus, the four Properties’ units may be used to calculate a density bonus
14 under the law.

15 Wrongfully claiming that local regulations’ definitions supersede this plain statement of state
16 law, the ZA argues that Appellant may not “count the proposed legalization of all the residential units
17 across the 4 lots as one project” because the units are allegedly not on a “single lot” as contemplated
18 by the *Planning Code* and will allegedly not be the subject of one development application. (LOD p.
19 4.) Of course, Planning had no problem counting the proposed legalization for all units as one project
20 when it came to application of the local inclusionary housing program. (Exhibit K, Plan Check Letter
21 #2 for 316-318 Alemany, ¶ 12.) The ZA supports this meritless argument by relying on various
22 definitions of a “single lot” in the San Francisco Planning Code, and Appellants alleged past
23 “treatment” of the lots as “separate.” (*Ibid.*) The requirements under this section of the Density Bonus
24 Law are straightforward and clear: the units must be on “contiguous sites” and be the subject of “one
25 development application.” (Gov’t Code § 65915(i).) Moreover, the ZA’s proposed definition
26 regarding a “single lot” requirement is in direct conflict with what the state statute actually says.
27 (Gov’t Code § 65915(i) [“The residential units . . . do **not** have to be based upon individual subdivision
28 maps or parcels” *emph. add.*].) The ZA may not inject additional, nonexistent qualifications into the
Density Bonus Law that do not exist and that conflict with the statute. In doing so, the ZA unlawfully

1 “increase[es] the requirements to obtain [the Density Bonus Law’s] benefits.” (*Schreiber, supra*, 69
2 Cal.App.5th at p. 558; *Latinos Unidos Del Valle de Napa Y Solano*, 217 Cal.App.4th at p. 1169.) The
3 findings and conclusions in the LOD are therefore preempted and must be reversed.

4 **C. The Legalization of UDU counts towards the number of units needed to qualify for**
5 **“a development project for five or more residential units.”**

6 Finally, in another effort to undercut the Density Bonus Law by applying preempted local
7 requirements, the ZA claims that UDU may only count towards the ‘eligibility’ criteria under the
8 Density Bonus Law, if the Planning Code’s provisions allow it. In short, the ZA argues that UDU
9 are only counted toward this eligibility criteria if they “do not require any discretionary Planning Code
10 waivers.” (LOD p. 3.) This argument fails for the reasons already set above: (1) the definition of
11 “development project for five or more residential units” is not constrained in the manner proposed by
12 the ZA; (2) the Density Bonus Law “shall be interpreted liberally in favor of producing the maximum
13 number of total housing units” (Gov’t § 65915(r)); and local policy and law “is preempted if it conflicts
14 with the density bonus law by increasing the requirements to obtain its benefits.” (*Schreiber, supra*,
15 69 Cal.App.5th at p. 558.)

16 **II. CONCLUSION**

17 Pursuant to the above, the Board should grant this appeal and reverse the LOD by ordering
18 Planning to process a building permit application that allows the seven additional, permanently
19 affordable dwelling units as required by state law.

20
21 Dated: October 3, 2024

ZACKS & FREEDMAN, PC

22
23 

24 By: Emily L. Brough
25 Attorneys for Appellant 320 Alemany LLC
26
27
28

EXHIBIT A

1 ANDREW M. ZACKS (SBN 147794)
2 EMILY L. BROUGH (SBN 284943)
3 ZACKS & FREEDMAN, PC
4 180 Montgomery Street, Suite 1950
5 San Francisco, CA 94104
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8 az@zfplaw.com
9 emily@zfplaw.com

10 Attorneys for Appellant,
11 320 Alemany LLC

12 CITY AND COUNTY OF SAN FRANCISCO
13 BOARD OF APPEALS

14 320 Alemany LLC,

Appeal Case No.: 24-052

15 Appellant,

DECLARATION OF KAROL
NAVARRETE

16 vs.

17 San Francisco Planning Department Zoning
18 Administrator,

Date: October 23, 2024

Time: 5:00 p.m.

Place: San Francisco City Hall, Room 416, 1
Dr. Carlton B. Goodlett Place

19 Respondent.

20 I, Karol Navarrete, declare as follows:

21 I reside at 320 1A and 322 1A, Unit 1A San Francisco, CA 94 110.

22 where Jack Tseng is my landlord. I have lived at the above-referenced property ^{since} 2008 years.

23 I am happy with Mr. Tseng as my landlord, he has been a good landlord, and I enjoy living in his rental
24 property. Jack Tseng is responsive to any requests I make, is reasonable regarding the rent and does
25 not issue substantial rent increases, he has never tried to evict me and the living conditions he provides
26 are very nice and well-maintained. I am supportive of his efforts to legalize the units at the property.

27 Jack Tseng is a great person I have ever meet
28 good landlord.

I declare under penalty of perjury under the laws of the State of California that the foregoing
is true and correct and that this Declaration was executed in San Francisco, California.

Dated: October 1, 2024

By: Karol Navarrete
[Signature]

EXHIBIT B

1 ANDREW M. ZACKS (SBN 147794)
2 EMILY L. BROUGH (SBN 284943)
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9 emily@zfplaw.com

10 Attorneys for Appellant,
11 320 Alemany LLC

12 CITY AND COUNTY OF SAN FRANCISCO
13 BOARD OF APPEALS

14 320 Alemany LLC,

Appeal Case No.: 24-052

15 Appellant,

DECLARATION OF LOURDES
CASTILLO (SPANISH)

16 vs.

17 San Francisco Planning Department Zoning
18 Administrator,

Date: October 23, 2024

Time: 5:00 p.m.

Place: San Francisco City Hall, Room 416, 1
Dr. Carlton B. Goodlett Place

19 Respondent.

20 Yo, Lourdes Castilla, declaro lo siguiente:

21 Resido en 322 Alemany, Unidad 4A San Francisco, CA 94 10,

22 donde Jack Tseng es mi propietario. He vivido en la propiedad mencionada anteriormente durante

23 15 años. Estoy contento con el Sr. Tseng como propietario, ha sido un buen propietario y

24 disfruto vivir en su propiedad de alquiler. Jack Tseng responde a cualquier solicitud que hago, es

25 razonable con respecto al alquiler y no ofrece aumentos sustanciales, nunca ha intentado desalojarme

26 y las condiciones de vida que ofrece son muy agradables y están bien mantenidas. Apoyo sus esfuerzos

27 por legalizar las unidades de la propiedad.

28 Jack Tseng es un hombre muy bueno y considerado
Siempre está atento de todos sus tenants y ayuda con nuestras
necesidades.

Declaro bajo pena de perjurio según las leyes del Estado de California que lo anterior es

verdadero y correcto y que esta Declaración fue ejecutada en San Francisco, California.

Fecha: 1 de Octubre de 2024

Lourdes Castilla
By: Lourdes Castilla

1 ANDREW M. ZACKS (SBN 147794)
2 EMILY L. BROUGH (SBN 284943)
3 ZACKS & FREEDMAN, PC
4 180 Montgomery Street, Suite 1950
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6 Tel: (415) 956-8100
7 Fax: (415) 288-9755
8 az@zfplaw.com
9 emily@zfplaw.com

10 Attorneys for Appellant,
11 320 Alemany LLC

12 CITY AND COUNTY OF SAN FRANCISCO
13 BOARD OF APPEALS

14 320 Alemany LLC,

Appeal Case No.: 24-052

15 Appellant,

**DECLARATION OF LOURDES
CASTILLO (ENGLISH)**

16 vs.

17 San Francisco Planning Department Zoning
18 Administrator,

Date: October 23, 2024

Time: 5:00 p.m.

Place: San Francisco City Hall, Room 416, 1
Dr. Carlton B. Goodlett Place

19 Respondent.

20 I, Lourdes Castillo, declare as follows:

21 I reside at 322 Alemany Blvd., Unit 4A San Francisco, CA 94110, where Jack Tseng is my
22 landlord. I have lived at the above-referenced property for 15 years. I am happy with Mr. Tseng as
23 my landlord, he has been a good landlord, and I enjoy living in his rental property. Jack Tseng is
24 responsive to any requests I make, is reasonable regarding the rent and does not issue substantial rent
25 increases, he has never tried to evict me and the living conditions he provides are very nice and well-
26 maintained. I am supportive of his efforts to legalize the units at the property.

27 Jack Tseng is a very good and considerate man. He is always attentive to all tenants and helps
28 with our needs.

I declare under penalty of perjury under the laws of the State of California that the foregoing
is true and correct and that this Declaration was executed in San Francisco, California.

Dated: October 1, 2024

/s/ Lourdes Castillo

By: _____

EXHIBIT C

1 ANDREW M. ZACKS (SBN 147794)
2 EMILY L. BROUGH (SBN 284943)
3 ZACKS & FREEDMAN, PC
4 180 Montgomery Street, Suite 1950
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9 emily@zfplaw.com

10 Attorneys for Appellant,
11 320 Alemany LLC

12 CITY AND COUNTY OF SAN FRANCISCO
13 BOARD OF APPEALS

14 320 Alemany LLC,

Appeal Case No.: 24-052

15 Appellant,

DECLARATION OF MAURICIO
CARRERA

16 vs.

17 San Francisco Planning Department Zoning
18 Administrator,

Date: October 23, 2024

Time: 5:00 p.m.

Place: San Francisco City Hall, Room 416, 1
Dr. Carlton B. Goodlett Place

19 Respondent.

20 I, Mauricio Carrera, declare as follows:

21 I reside at 320 Alemany, Unit 4B San Francisco, CA 94110,

22 where Jack Tseng is my landlord. I have lived at the above-referenced property for 16 years.

23 I am happy with Mr. Tseng as my landlord, he has been a good landlord, and I enjoy living in his rental
24 property. Jack Tseng is responsive to any requests I make, is reasonable regarding the rent and does
25 not issue substantial rent increases, he has never tried to evict me and the living conditions he provides
26 are very nice and well-maintained. I am supportive of his efforts to legalize the units at the property.

27 I'm happy here, always have been.

28 Jack is a great person and landlord.

I love the place Here.

I declare under penalty of perjury under the laws of the State of California that the foregoing
is true and correct and that this Declaration was executed in San Francisco, California.

Dated: October 1, 2024

Mauricio Carrera
By: Mauricio Carrera

EXHIBIT D

1 ANDREW M. ZACKS (SBN 147794)
2 EMILY L. BROUGH (SBN 284943)
3 ZACKS & FREEDMAN, PC
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6 Tel: (415) 956-8100
7 Fax: (415) 288-9755
8 az@zfplaw.com
9 emily@zfplaw.com

10 Attorneys for Appellant,
11 320 Alemany LLC

12 CITY AND COUNTY OF SAN FRANCISCO
13 BOARD OF APPEALS

14 320 Alemany LLC,

15 Appellant,

16 vs.

17 San Francisco Planning Department Zoning
18 Administrator,

19 Respondent.

20 Appeal Case No.: 24-052

21 **DECLARATION OF NELSON**
22 **BUSTOS**

23 **Date:** October 23, 2024

24 **Time:** 5:00 p.m.

25 **Place:** San Francisco City Hall, Room 416, 1
26 Dr. Carlton B. Goodlett Place

27 I, NELSON BUSTOS, declare as follows:

28 I reside at 318, 322 AND 326 ALEMANY, Unit ^{2C}2A/_{3A} San Francisco, CA 94110,

where Jack Tseng is my landlord. I have lived at the above-referenced property for 16 years.

I am happy with Mr. Tseng as my landlord, he has been a good landlord, and I enjoy living in his rental property. Jack Tseng is responsive to any requests I make, is reasonable regarding the rent and does not issue substantial rent increases, he has never tried to evict me and the living conditions he provides are very nice and well-maintained. I am supportive of his efforts to legalize the units at the property.

I'VE BEEN KNOWN JACK TSENG FOR 16 YEARS AND HE'S
A GREAT PERSON, I LIKE THE PLACE HERE

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Declaration was executed in San Francisco, California.

Dated: October 1, 2024

NELSON BUSTOS
By: [Signature]

EXHIBIT E

1 ANDREW M. ZACKS (SBN 147794)
2 EMILY L. BROUGH (SBN 284943)
3 ZACKS & FREEDMAN, PC
4 180 Montgomery Street, Suite 1950
5 San Francisco, CA 94104
6 Tel: (415) 956-8100
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8 az@zfplaw.com
9 emily@zfplaw.com

10 Attorneys for Appellant,
11 320 Alemany LLC

CITY AND COUNTY OF SAN FRANCISCO
BOARD OF APPEALS

12 320 Alemany LLC,

Appeal Case No.: 24-052

13 Appellant,

DECLARATION OF SUSANA
RAMIREZ (SPANISH)

14 vs.

15 San Francisco Planning Department Zoning
16 Administrator,

Date: October 23, 2024

Time: 5:00 p.m.

Place: San Francisco City Hall, Room 416, 1
Dr. Carlton B. Goodlett Place

17 Respondent.

18 Yo, Susana Ramirez, declaro lo siguiente:

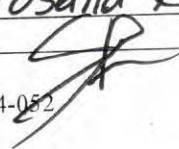
19 Resido en 318 Alemany Blvd, Unidad 313 San Francisco, CA 9410,

20 donde Jack Tseng es mi propietario. He vivido en la propiedad mencionada anteriormente durante
21 6 años. Estoy contento con el Sr. Tseng como propietario, ha sido un buen propietario y
22 disfruto vivir en su propiedad de alquiler. Jack Tseng responde a cualquier solicitud que hago, es
23 razonable con respecto al alquiler y no ofrece aumentos sustanciales, nunca ha intentado desalojarme
24 y las condiciones de vida que ofrece son muy agradables y están bien mantenidas. Apoyo sus esfuerzos
25 por legalizar las unidades de la propiedad.

26 El dueño Jack Tseng es una persona muy generosa siempre esta atento a lo que sus inquilinos Necesitamos

27 Declaro bajo pena de perjurio según las leyes del Estado de California que lo anterior es
28 verdadero y correcto y que esta Declaración fue ejecutada en San Francisco, California.

Fecha: 1 de Octubre de 2024

By: Susana Ramirez


1 ANDREW M. ZACKS (SBN 147794)
2 EMILY L. BROUGH (SBN 284943)
3 ZACKS & FREEDMAN, PC
4 180 Montgomery Street, Suite 1950
5 San Francisco, CA 94104
6 Tel: (415) 956-8100
7 Fax: (415) 288-9755
8 az@zfplaw.com
9 emily@zfplaw.com

10 Attorneys for Appellant,
11 320 Alemany LLC

12 CITY AND COUNTY OF SAN FRANCISCO
13 BOARD OF APPEALS

14 320 Alemany LLC,

Appeal Case No.: 24-052

Appellant,

**DECLARATION OF SUSANA
RAMIREZ (ENGLISH)**

vs.

San Francisco Planning Department Zoning
Administrator,

Date: October 23, 2024

Time: 5:00 p.m.

Place: San Francisco City Hall, Room 416, 1
Dr. Carlton B. Goodlett Place

Respondent.

15 I, Susana Ramirez, declare as follows:

16 I reside at 318 Alemany Blvd., Unit 3A San Francisco, CA 94110, where Jack Tseng is my
17 landlord. I have lived at the above-referenced property for 6 years. I am happy with Mr. Tseng as my
18 landlord, he has been a good landlord, and I enjoy living in his rental property. Jack Tseng is
19 responsive to any requests I make, is reasonable regarding the rent and does not issue substantial rent
20 increases, he has never tried to evict me and the living conditions he provides are very nice and well-
21 maintained. I am supportive of his efforts to legalize the units at the property.

22 The owner Jack Tseng is a very generous person, he is always attentive to what his tenants
23 need.

24 I declare under penalty of perjury under the laws of the State of California that the foregoing
25 is true and correct and that this Declaration was executed in San Francisco, California.

26 Dated: October 1, 2024

/s/ Susana Ramirez

By: _____

EXHIBIT F

1 ANDREW M. ZACKS (SBN 147794)
2 EMILY L. BROUGH (SBN 284943)
3 ZACKS & FREEDMAN, PC
4 180 Montgomery Street, Suite 1950
5 San Francisco, CA 94104
6 Tel: (415) 956-8100
7 Fax: (415) 288-9755
8 az@zfplaw.com
9 emily@zfplaw.com

10 Attorneys for Appellant,
11 320 Alemany LLC

12 CITY AND COUNTY OF SAN FRANCISCO
13 BOARD OF APPEALS

14 320 Alemany LLC,

Appeal Case No.: 24-052

Appellant,

**DECLARATION OF DAVID
LOCICERO**

vs.

San Francisco Planning Department Zoning
Administrator,

Date: October 23, 2024

Time: 5:00 p.m.

Place: San Francisco City Hall, Room 416, 1
Dr. Carlton B. Goodlett Place

Respondent.

15
16 I, David Locicero, declare as follows:

17 1. I am an architect with over 36 years of experience in the San Francisco area,
18 specializing in ADUs, in-law units, home remodeling, buildings for science and commercial retail.

19 2. I have worked on dozens of projects in San Francisco, including the legalization of
20 unauthorized dwelling units (“UDUs”). I am familiar with state and local building and construction
21 requirements and have liaised with the Planning Department and Department of Building Inspection
22 on such projects.

23 3. I was hired by 320 Alemany LLC in August 2020 to address DBI NOV #2008-81994
24 regarding alleged unauthorized dwelling units at 322 Alemany Boulevard.

25 4. Due to the COVID-19 pandemic, I was unable to visit the property to create drawing
26 sets for submission to legalize the UDUs. Thus, I spent many hours over several months designing
27 drawings from scratch and researching shifting Code requirements to develop a workable solution for
28 legalization.

1 5. In October 2022, The planner assigned to the project, Ella Samonsky, assisted with the
2 development of a plan to legalize some of the project’s units. Ms. Samonsky advised that she would
3 need to get Zoning Administrator (“ZA”) approval prior to issuing the permits. Despite numerous
4 emails and voicemails over the next several months requesting updates from Ms. Samonsky regarding
5 the status of ZA approval for the legalization scheme, Ms. Samonsky continually ignored me or
6 otherwise delayed a substantive response.

7 6. In November 2022, the City conducted a task force inspection of 322 Alemany
8 Boulevard as well as the neighboring properties: 316-318 Alemany Boulevard, 320 Alemany
9 Boulevard, and 326-328 Alemany Boulevard.

10 7. In December 2022, the City issued Notices of Enforcement to each of the four
11 properties alleging several unauthorized dwelling units.

12 8. In February 2023, I was retained to address the Notices of Enforcement for all four
13 properties.

14 9. In April 2023, I began providing weekly status update emails to the Planning
15 Department.

16 10. In May 2023, the City filed a lawsuit against 320 Alemany LLC, the owner of the four
17 properties, alleging various violations of city and state law. This was the next substantive
18 communication from any City department about the 322 Alemany Boulevard project about which I
19 was made aware.

20 11. In June 2023, I filed applications for site permits to legalize unauthorized dwelling units
21 for 316-318 Alemany Boulevard, 320 Alemany Boulevard, and 326-328 Alemany Boulevard.
22 Pursuant to City comment, I amended and revised the existing permit application for 322 Alemany
23 Boulevard around this time.

24 12. In July 2023, all of the permit applications were assigned to Senior Planner Matt Dito.

25 13. Between August 2023 and September 2023, I received preliminary comments from
26 Planning regarding revisions to my drawings. On September 26, 2023, I received a second round of
27 comments from Enforcement Planner Ada Tan requiring additional revisions to the plan sets.

28 14. On October 6, 2023, Planning issued NOVs to each of the four properties.

1 15. On October 31, 2023, Planning issued Plan Check Letter #1.

2 16. On November 20, 2023, I attended a meeting between the Planning Department,
3 including Matt Dito and Ada Tan, and Zacks & Freedman attorneys Andrew Zacks and Andrew
4 Grindstaff, to discuss the City’s position regarding the number of units it expects it will allow to be
5 legalized across the properties. The City indicated that it was our job to develop a proposal to which
6 Planning will then assess for compliance—in other words, the City would not take a position regarding
7 the unit count.

8 17. On December 11, 2023, I submitted responses, including revised drawings, to Plan
9 Check Letter #1.

10 18. On January 19, 2024, Planning issued Plan Check Letter #2.

11 19. On March 18, 2024, I submitted responses, including revised drawings, to Plan Check
12 Letter #2. This submission included a proposal to maximize the number of allowable legalized units
13 using the State Density Bonus Program (“Density Bonus Law”). In total, out of 32 total residential
14 units currently existing at the properties, this proposal would allow for 31 residential units to remain
15 at the properties following legalization.

16 20. On April 24, 2024, Mr. Dito responded by email that Planning’s position is that the
17 properties do not qualify under the Density Bonus Law and thus the plans must be revised. 320
18 Alemany LLC requested a letter of determination from the ZA on this issue thereafter.

19 21. August 28, 2024 we attempted to file new digital building applications for the projects
20 with the Density Bonus Law proposal, however, these were rejected because there were already paper
21 applications in review, so, with Planning’s suggestion, we thereafter determined we would submit the
22 applications through the City’s Electronic Plan Review (EPR) system.

23 22. On September 20, 2024 and September 23, 2024, I filed the addendum applications for
24 the projects with the Density Bonus Law proposal with DBI EPR. A true and correct partial copy of
25 these applications are attached hereto as **Exhibit 1**.

26 23. September 25, 2024, at EPRs request, Jack Tseng, 320 Alemany LLC’s managing
27 member, signed the SFUSD forms and I refiled those forms with EPR.

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24. The applications for the projects with the Density Bonus Law proposal are currently pending with DBI.

I declare, under penalty of perjury of the laws of the State of California that the foregoing is true and correct, and that this was signed in San Francisco California on October 3, 2024.



David Locicero

EXHIBIT 1

Partial Building Application
Filed for 316 Alemany

APPLICATION FOR BUILDING PERMIT ADDITIONS, ALTERATIONS OR REPAIRS

CITY AND COUNTY OF SAN FRANCISCO DEPARTMENT OF BUILDING INSPECTION

FORM 3 [] OTHER AGENCIES REVIEW REQUIRED FORM 8 [] OVER-THE-COUNTER ISSUANCE

APPLICATION IS HEREBY MADE TO THE DEPARTMENT OF BUILDING INSPECTION OF SAN FRANCISCO FOR PERMISSION TO BUILD IN ACCORDANCE WITH THE PLANS AND SPECIFICATIONS SUBMITTED HERewith AND ACCORDING TO THE DESCRIPTION AND FOR THE PURPOSE HEREINAFTER SET FORTH.

NUMBER OF PLAN SETS

DO NOT WRITE ABOVE THIS LINE

Table with 4 columns: DATE FILED (08/27/2024), FILING FEE RECEIPT NO., (1) STREET ADDRESS OF JOB (316-318 Alemany Blvd), BLOCK & LOT (5817 / 013), RECEIPT NO., ISSUED, (2A) ESTIMATED COST OF JOB (\$ 300,000.00), (2B) REVISED COST: BY: DATE:

INFORMATION TO BE FURNISHED BY ALL APPLICANTS

LEGAL DESCRIPTION OF EXISTING BUILDING

Table with 5 columns: (4A) TYPE OF CONSTR. (VA), (5A) NO. OF STORIES OF OCCUPANCY (4), (6A) NO. OF BASEMENTS AND CELLARS (0), (7A) PRESENT USE (Multi-family housing), (8A) OCCUP. CLASS (R-2), (9A) NO. OF DWELLING UNITS (5)

DESCRIPTION OF BUILDING AFTER PROPOSED ALTERATION

Table with 5 columns: (4) TYPE OF CONSTR. (VA), (5) NO. OF STORIES OF OCCUPANCY (4), (6) NO. OF BASEMENTS AND CELLARS (0), (7) PROPOSED USE (LEGAL USE) (Multi-family housing), (8) OCCUP. CLASS (R-2), (9) NO. OF DWELLING UNITS (11)

Table with 3 columns: (10) IS AUTO RUNWAY TO BE CONSTRUCTED OR ALTERED? (NO), (11) WILL STREET SPACE BE USED DURING CONSTRUCTION? (NO), (12) ELECTRICAL WORK TO BE PERFORMED? (NO), (13) PLUMBING WORK TO BE PERFORMED? (NO)

Table with 5 columns: (14) CONTRACTOR (TBD), ADDRESS, ZIP, PHONE, CALIF. LIC. NO., EXPIRATION DATE

Table with 4 columns: (15) OWNER - LESSEE (CROSS OUT ONE) (320 Alemany, LLC), ADDRESS (PO Box 625, Burlingame, CA 94041), BTRC#, PHONE (FOR CONTACT BY DEPT.) (415-725-8899)

(16) WRITE IN DESCRIPTION OF ALL WORK TO BE PERFORMED UNDER THIS APPLICATION (REFERENCE TO PLANS IS NOT SUFFICIENT) To abate NOV 2022-98778, An Addendum to Permit 2023-0623-0798

Legalizing 6 dwellings built without permits, removing 1 dwelling which does not meet the minimum dwelling size. Removing and replacing sheet rock in 6 dwellings, adding R-15 insulation, verifying electrical and plumbing. Building a roof deck with guard rails, replacing vinyl windows at the street with aluminum windows

ADDITIONAL INFORMATION

Table with 4 columns: (17) DOES THIS ALTERATION CREATE ADDITIONAL HEIGHT OR STORY TO BUILDING? (NO), (18) IF (17) IS YES, STATE NEW HEIGHT AT CENTER LINE OF FRONT, (19) DOES THIS ALTERATION CREATE DECK OR HORIZ. EXTENSION TO BUILDING? (NO), (20) IF (19) IS YES, STATE NEW GROUND FLOOR AREA (SQ. FT.)

Table with 4 columns: (21) WILL SIDEWALK OVER SUB-SIDEWALK SPACE BE REPAIRED OR ALTERED? (NO), (22) WILL BUILDING EXTEND BEYOND PROPERTY LINE? (NO), (23) ANY OTHER EXISTING BLDG. ON LOT? (IF YES, SHOW ON PLOT PLAN) (NO), (24) DOES THIS ALTERATION CONSTITUTE A CHANGE OF OCCUPANCY? (NO)

Table with 2 columns: (25) ARCHITECT OR ENGINEER (DESIGN CONSTRUCTION) (David Locicero, Architect), ADDRESS (2340 Powell St, #290, Emeryville, CA 94608), CALIF. CERTIFICATE NO. (C19452)

Table with 2 columns: (26) CONSTRUCTION LENDER (ENTER NAME AND BRANCH DESIGNATION IF ANY. IF THERE IS NO KNOWN CONSTRUCTION LENDER, ENTER "UNKNOWN") (TBD), ADDRESS

IMPORTANT NOTICES

No change shall be made in the character of the occupancy or use without first obtaining a Building Permit authorizing such change. See San Francisco Building Code and San Francisco Housing Code. No portion of building or structure or scaffolding used during construction is to be closer than 6'0" to any wire containing more than 750 volts. See Sec 385, California Penal Code. Pursuant to San Francisco Building Code, the building permit shall be posted on the job. The owner is responsible for approved plans and application being kept at building site. Grade lines as shown on drawings accompanying this application are assumed to be correct. If actual grade lines are not the same as shown, revised drawings showing correct grade lines, cuts and fills, and complete details of retaining walls and wall footings must be submitted to this department for approval. ANY STIPULATION REQUIRED HEREIN OR BY CODE MAY BE APPEALED. BUILDING NOT TO BE OCCUPIED UNTIL CERTIFICATE OF FINAL COMPLETION IS POSTED ON THE BUILDING OR PERMIT OF OCCUPANCY GRANTED, WHEN REQUIRED. APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE AN APPROVAL FOR THE ELECTRICAL WIRING OR PLUMBING INSTALLATIONS. A SEPARATE PERMIT FOR THE WIRING AND PLUMBING MUST BE OBTAINED. SEPARATE PERMITS ARE REQUIRED IF ANSWER IS "YES" TO ANY OF ABOVE QUESTIONS (10) (11) (12) (13) (22) OR (24). THIS IS NOT A BUILDING PERMIT. NO WORK SHALL BE STARTED UNTIL A BUILDING PERMIT IS ISSUED. In dwellings, all insulating materials must have a clearance of not less than two inches from all electrical wires or equipment. CHECK APPROPRIATE BOX [] OWNER [] ARCHITECT [] LESSEE [] AGENT [] CONTRACTOR [] ENGINEER

NOTICE TO APPLICANT

HOLD HARMLESS CLAUSE. The permittee(s) by acceptance of the permit, agree(s) to indemnify and hold harmless the City and County of San Francisco from and against any and all claims, demands and actions for damages resulting from operations under this permit, regardless of negligence of the City and County of San Francisco, and to assume the defense of the City and County of San Francisco against all such claims, demands or actions. In conformity with the provisions of Section 3800 of the Labor Code of the State of California, the applicant shall have worker's compensation coverage under (I) or (II) designated below, or shall indicate item (III), (IV), or (V), whichever is applicable. If however item (V) is checked, item (IV) must be checked as well. Mark the appropriate method of compliance below. I hereby affirm under penalty of perjury one of the following declarations: () I. I have and will maintain a certificate of consent to self-insure for worker's compensation, as provided by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. () II. I have and will maintain worker's compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My worker's compensation insurance carrier and policy number are: Carrier Policy Number () III. The cost of the work to be done is \$100 or less. () IV. I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the worker's compensation laws of California. I further acknowledge that I understand that in the event that I should become subject to the worker's compensation provisions of the Labor Code of California and fail to comply therewith with the provisions of Section 3800 of the Labor Code, that the permit herein applied for shall be deemed revoked. [X] V. I certify as the owner (or the agent for the owner) that in the performance of the work for which this permit is issued, I will employ a contractor who complies with the worker's compensation laws of California and who, prior to the commencement of any work, will file a completed copy of this form with the Central Permit Bureau.

APPLICANT'S CERTIFICATION

I HEREBY CERTIFY AND AGREE THAT IF A PERMIT IS ISSUED FOR THE CONSTRUCTION DESCRIBED IN THIS APPLICATION, ALL THE PROVISIONS OF THE PERMIT AND ALL LAWS AND ORDINANCES THERETO WILL BE COMPLIED WITH.

David Locicero [Signature] 08/27/2024

Signature of Applicant or Agent

Date

CONDITIONS AND STIPULATIONS

REFER TO: <input type="checkbox"/>	APPROVED: _____ HOUSING INSPECTION DIVISION, DEPT. OF BLDG. INSPECTION	DATE: _____ INSPECTOR: _____ BUILDING INSPECTION DIVISION
<input type="checkbox"/>	APPROVED: _____ DEPARTMENT OF CITY PLANNING	DATE: _____ INSPECTOR: _____ ELECTRICAL INSPECTION DIVISION
<input type="checkbox"/>	APPROVED: _____ PLAN REVIEW SERVICES, DEPT. OF BLDG. INSPECTION	DATE: _____ INSPECTOR: _____ PLUMBING INSPECTION DIVISION
<input type="checkbox"/>	APPROVED: _____ CIVIL ENGINEER, DEPT. OF BLDG. INSPECTION	DATE: _____ INSPECTOR: _____ CODE ENFORCEMENT SERVICES
<input type="checkbox"/>	APPROVED: _____ MECHANICAL ENGINEER, DEPT. OF BLDG. INSPECTION	DATE: _____ INSPECTOR: _____
<input type="checkbox"/>	APPROVED: _____ SAN FRANCISCO FIRE DEPARTMENT	DATE: _____ INSPECTOR: _____
<input type="checkbox"/>	APPROVED: _____ SF DEPARTMENT OF PUBLIC WORKS / MAYOR'S OFFICE OF DISABILITY (CROSS ONE OUT)	DATE: _____ INSPECTOR: _____
<input type="checkbox"/>	APPROVED: _____ SF PUBLIC UTILITIES COMMISSION	DATE: _____ INSPECTOR: _____
<input type="checkbox"/>	APPROVED: _____ DEPT. OF PUBLIC HEALTH / OCII (CROSS ONE OUT)	DATE: _____ INSPECTOR: _____

HOLD SECTION - NOTE DATES AND NAMES OF ALL PERSONS NOTIFIED DURING PROCESSING

I agree to comply with all conditions or stipulations of the various bureaus or departments noted on this application, and attached statements of conditions or stipulations, which are hereby made a part of this application.

OWNER'S AUTHORIZED AGENT

ADDENDUM

This building permit application is intended to be part of one development application for purposes of calculating a State Law Density Bonus for the Housing Development Project on contiguous sites 316-328 Alemany Blvd. (Gov. Code § 65915(i).)



INDIVIDUALLY REQUESTED STATE DENSITY BONUS PROGRAM

INFORMATIONAL AND SUPPLEMENTAL APPLICATION PACKET

ATTENTION: A Project Application or a Ministerial Program Application must be included with this Supplemental Application. See the [Project Application](#) or applicable Ministerial Program Application for instructions.

For questions, you can call the Planning counter at 628.652.7300 or email pic@sfgov.org where planners are able to assist you.

Español: Si desea ayuda sobre cómo llenar esta solicitud en español, por favor llame al 628.652.7550. Tenga en cuenta que el Departamento de Planificación requerirá al menos un día hábil para responder.

中文：如果您希望獲得使用中文填寫這份申請表的幫助，請致電628.652.7550。請注意，規劃部門需要至少一個工作日來回應。

Filipino: Kung gusto mo ng tulong sa pagkumpleto ng application na ito sa Filipino, paki tawagan ang 628.652.7550. Paki tandaan na mangangailangan ang Planning Department ng hindi kukulangin sa isang araw na pantrabaho para makasagot.

WHAT IS THE INDIVIDUALLY REQUESTED STATE DENSITY BONUS?

The Individually Requested Density Bonus program, Planning Code section 206.6 offers a path for developers to request a density bonus pursuant to Section 65915 et seq. of the California Government Code.

Please review [Planning Director Bulletin 6](#) for additional information on the implementation of the State Density Bonus in San Francisco.

WHAT DOES THE INDIVIDUALLY REQUESTED STATE DENSITY BONUS PROGRAM OFFER?

- Additional density, and
- Waivers, Concessions and Incentives as identified by the project sponsor.

Concessions and Incentives are reductions of site development standards or architectural design requirements which result in financially sufficient and actual cost reductions. Project sponsors may seek up to five concessions and incentives, depending on the amount of affordable housing provided and the level of affordability of those units. Verification and documentation of these cost reductions and/or impacts on public health, safety, or historic property should include a site-specific analysis and may require a pro forma as a part of the application review. The Department may require an evaluation of the financial analysis by a qualified third-party consultant.

Waivers are modifications of volumetric requirements that are regulated by the Planning Code. Project sponsors may seek waivers necessary to physically accommodate increased density and any requested concession or incentive in the bonus project. Requested waivers may not exceed that which is necessary to accommodate the project with the request bonus and all requested incentives.

This information will be provided to the Planning Commission as part of the project application packet for review prior to any required public hearing.

Waivers and concession incentives may not be used to waive applicable building code and life safety standards.

IS MY PROJECT ELIGIBLE FOR THE INDIVIDUALLY REQUESTED STATE DENSITY BONUS PROGRAM?

- The project must consist of five or more residential units;
- Any existing rental units that are subject to rent or price control, or are subject to a recorded covenant that restricts rent levels to affordable levels for very low or low persons or families must be replaced; and
- The zoning district must permit at least five units on the site by right.

HOW DO I DETERMINE MY BASE PROJECT AND BONUS PROJECT?

State law allows additional density above the maximum allowable gross residential density under current controls. The maximum allowable density for a project is called the “base density.” The Department will require a calculation of the base density to determine the allowable additional density and need for waivers for the final project, called the “bonus project.”

1. Determine the Base Density.

In order to determine how much of a density bonus State Law will allow, the department must calculate the maximum allowable gross residential density allowed by current controls (“base density”). Residential density regulations in San Francisco vary by zoning district. In some districts, residential density is regulated by a ratio of units to lot area, such as one unit per 600 square feet. In these districts, the base density will be determined based on the maximum number of units principally permitted by the Zoning District.

Other districts use form-based density, where residential density is regulated by the permitted volume—either the maximum floor area ratio (FAR) or a maximum building volume controlled by height, bulk, and setback controls (“form-based zoning”). In areas with form-based zoning, the base density will be represented as the maximum residential gross floor area, and the project sponsor will be required to submit a base density study with their Project Application. A base density study is a set of schematic plans that include a code-compliant building massing, building section, and floor plans for the ground floor and any floors below grade that include residential uses.

Residential Gross Floor Area means any floor area that would be counted as Gross Floor Area, as defined in Planning Code Section 102, that is dedicated to the residential uses on the property. For the purpose of calculating the base density, sub-grade residential floor area will not be counted. Additional information on calculating density in a base project may be found in Planning Director Bulletin 6.

2. Calculate Bonus Density.

The amount of density bonus that a project may seek is set forth in the State Law. The maximum density bonus is an additional 50% above the base density. The table included at the end of this informational packet summarizes the amount of density bonus allowed based on the level of affordability. In areas where density is controlled as a ratio of units to lot area, the density bonus will be calculated as 150% of the base density represented as number of units allowed on the site. Any resulting remainder is rounded up to the next whole number. In areas with form-based density, the density bonus will be calculated as 150% of the residential gross floor area permitted in the “base” project. Note: density bonuses from more than one income category cannot be combined.

However, a project that receives a maximum density bonus by providing at least 15% of units at very low income (50% AMI), or 24% of the units at low income (80%AMI), or 44% of the units at moderate income (120%AMI), is eligible to receive an additional density bonus (calculated on the base density) by providing additional affordable units at the very low or moderate-income levels. A sponsor may provide up to an additional 10% of the number of units in the base project at very-low income levels, which would result in up to an additional 38.75% bonus. Alternatively, the sponsor may provide up to an additional 15% of the number of units at moderate income levels, which would result in up to an additional 50% bonus.

Projects that are eligible to receive an additional bonus under this section may be eligible for an additional incentive.

HOW MANY CONCESSIONS OR INCENTIVES MAY BE OBTAINED FOR MY PROJECT?

Individually Requested State Density Bonus projects shall receive concessions or incentives in the amounts specified in the table below.

Target Income Group	Percentage of Affordable Units Provided in the Base Project				
Very Low Income	5%	10%	15%	16%+	-
Low Income	10%	17%	24%	-	100%
Moderate Income	10%	20%	30%	45%+	-
Maximum Number of Incentives/Concessions	1	2	3	4	5

DENSITY BONUSES FOR SPECIFIC HOUSING TYPES

State Law provides various options for projects that are constructing housing for specific populations. Some projects may be eligible to choose between the standard state density bonus described above and the programs below. For example, a 100% affordable project may seek up to 150% density by providing at least 15% of units at a very-low income level, or alternatively, may seek the density bonus that is specific to 100% affordable projects.

100% Affordable Projects

State Density Bonus Law provides a special program for 100% affordable housing projects that are within 1/2 mile of a major transit stop. Under this program, 100% affordable projects will receive form-based density, three additional stories in height (or 33 feet), up to four incentives or concessions, and unlimited waivers. Exclusive of a manager's unit or units, one hundred percent of the total units must, be for low or very-low income households, except that up to 20 percent of the total units in the development may be for moderate-income households.

Student Housing

Student Housing projects are eligible for a 35% density bonus if at least 20% of the beds in the development are affordable to lower income students. For the purposes of calculating a density bonus, the term "unit" means one rental bed and its pro rata share of associated common facilities. Units will be subject to a recorded affordability restriction for 55 years. "Lower-income students" means household income and asset level that does not exceed the Cal Grant A or Cal Grant B levels as set forth in Education Code section 69432.7(k), and the development must provide priority for lower income students experiencing homelessness. Rent for lower-income students shall be calculated at 30% of 65% AMI for a single-room occupancy unit. The student housing development must be used exclusively for undergraduate, graduate or professional students enrolled full time at an institution accredited by WASC or ACCJC. Student housing projects are eligible for one incentive/concession.

Senior Housing

Senior housing projects are eligible for a 20% density bonus. A Senior Citizen Housing Development is further defined in Sections 51.2 and 51.12 of the Civil Code. Mobile home parks that limit residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code are also eligible for a 20% density bonus.

Housing for Transitional Foster Youth, Disabled Veterans and Homeless Persons

Projects that devote 10% of the units to Transitional Foster Youth as defined in Section 66025.9 of the Education Code, Disabled Veterans defined in Section 18541 of the Government Code, or Homeless Persons as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.) may qualify for a 20% density bonus. The units described shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low-income units.

REGULATORY AGREEMENT

Projects that receive a density bonus, waiver, incentive or concession through the State Density Bonus Program shall enter into a regulatory agreement with the City to ensure compliance with the affordability restrictions. The regulatory agreement must be recorded at the Office of the Assessor-Recorder prior to the issuance of the First Construction Document for the project.

FEES

There is no separate application fee for the Individually Requested State Density Bonus Program. Projects approved under the Individually Requested State Density Bonus shall comply with the Fee Schedule for Planning Department review covered under other entitlements. For example, if a project requires Conditional Use Authorization, then the project would pay the fee required for the review of a Conditional Use Authorization. If a project does not require a separate entitlement, then the Individually Requested State Density Bonus Application must be submitted with a Project Application or a Ministerial Streamlining Application. Please refer to the [Planning Department Fee Schedule](#) at sfplanning.org. For questions related to the Fee Schedule, you can call the Planning counter at 628.652.7300 or email pic@sfgov.org where planners are able to assist you.

Fees will be determined based on the estimated construction costs. Should the cost of staff time exceed the initial fee paid, an additional fee for time and materials may be billed upon completion of the hearing process or permit approval. Additional fees may also be collected for preparation and recordation of any documents with the San Francisco Assessor-Recorder's office and for monitoring compliance with any conditions of approval.

DENSITY BONUS CALCULATIONS BASED ON AFFORDABILITY LEVEL AND PERCENTAGE

Density Bonus for Providing Units for Lower Income Households (80% AMI)

A project sponsor may use on-site affordable units to satisfy both the Inclusionary Affordable Housing Program and qualify for a density bonus under State Law. The project sponsor may not reduce the lowest AMI tier that is required by the Inclusionary program, which is 80% AMI for ownership projects; therefore, this chart will generally be used for mixed-income **ownership projects**. Most rental projects will use the chart below titled Maximum Bonus for Very-Low Income Households.

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35
21	38.75
22	42.5
23	46.25
24	50

Density Bonus for Very-Low Income Households (50% AMI)

A project sponsor may use on-site affordable units to satisfy both the Inclusionary Affordable Housing Program and qualify for a density bonus under State Law. Very-low income units provided to qualify for a density bonus under the State Law may be counted toward the low-income inclusionary tier for **rental projects**, which is 55% AMI, but may not be counted towards higher tiers. This chart will generally be used for rental projects. Most ownership projects will use the chart above titled Maximum Bonus for Lower Income Households.

Percentage Very Low Income	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

Density Bonus for Moderate Income Households (120% AMI)

Percentage of Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35
41	38.75
42	42.5
43	46.25
44	50

Additional Bonus for Very Low (50% AMI) or Moderate Income (120% AMI) Households

If a project provides enough very low, low or moderate income units to qualify for the maximum density bonus above, the project may seek an additional density bonus by providing additional very low or moderate income units. The percentage required and the additional density are indicated in the charts below.

Percentage Very Low Income	Percentage Density Bonus
5	20
6	23.75
7	27.5
8	31.25
9	35

Percentage Moderate Income	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50



INDIVIDUALLY REQUESTED STATE DENSITY BONUS PROGRAM

SUPPLEMENTAL APPLICATION

Property Information

Project Address: 316-328 Alemany Blvd

Block/Lot(s): 5817 / 010, 011, 012, 013

Project Details

Density Bonus

Zoning District: NC-S

 Project Tenure: Rental Ownership

 This project is a 100% Affordable Housing Project (if checked, leave Inclusionary rate blank)

 This project is a Student Housing Project (if checked, leave Inclusionary rate blank)

On-site Inclusionary Rate: %

Low Income: % at 55% AMI (rental) or 80% AMI (ownership)

Moderate Income: % at 80% AMI (rental) or 105% AMI (ownership)

Middle Income: % at 110% AMI (rental) or 130% AMI (ownership)

Inclusionary Fee Rate: %

 Maximum Allowable Residential Density (Base Density) 15 square feet / (select one)

Bonus Project Total Area 11325

Total Units in Bonus Project: 31

The project is seeking the following density bonus:

 This project is seeking a % density bonus by providing % of units at Very Low Income (50% AMI)

 This project is seeking a 50 % density bonus by providing 24 % of units at Lower Income (80% AMI)

 This project is seeking a 50 % density bonus by providing 15 % of units at Moderate Income (120% AMI)

 This project is 100% affordable and seeking form-based density with three additional stories of height.

 This project is seeking a 35% density bonus by providing 20% of units to Lower Income Students in a qualifying Student Housing Development.

 This project is seeking a 20% density bonus by providing senior housing.

 This project is seeking a 20% density bonus by providing 10% of units to transitional foster youth, disabled veterans, or homeless persons.

Concessions and Incentives

Please list the concessions and incentives (up to five, see above) the project is seeking, and describe how each requested concession or incentive would result in cost reductions for the project.

Waivers

Please list the waivers the project is seeking and describe how each requested waiver would allow the proposed project to accommodate any additional permitted density.

Waivers to the Exposure requirement for units not facing the street or a yard of sufficient size

Removal of rent-controlled units for the Individually Requested State Density Bonus Program

Does the project remove any residential units? Yes No

Have there been any residential uses removed from the property within the last five years? Yes No

Are any of the existing units on the property subject to the San Francisco Rent Stabilization and Arbitration Ordinance (Administrative Code Section 37)? Yes No

Are any of the existing units on the property occupied by households of low or very low income, consistent with the requirements of the California Government Code Section 65915(c)(3)? Yes No

If you have responded yes to any of the questions above, please provide additional information on the type and size of the existing unit(s), as well as the incomes of persons or families occupying the unit(s).

APPLICANT'S AFFIDAVIT

Under penalty of perjury the following declarations are made:

- a) The undersigned is the owner or authorized agent of the owner of this property.
- b) The information presented is true and correct to the best of my knowledge.
- c) I understand other information or applications may be required.
- d) I hereby authorize City and County of San Francisco Planning staff to conduct a site visit of this property as part of the City's review of this application, making all portions of the interior and exterior accessible through completion of construction and in response to the monitoring of any condition of approval.
- e) I attest that personally identifiable information (PII) - i.e. social security numbers, driver's license numbers, bank accounts - have not been provided as part of this application. Furthermore, where supplemental information is required by this application, PII has been redacted prior to submittal to the Planning Department. I understand that any information provided to the Planning Department becomes part of the public record and can be made available to the public for review and/or posted to Department websites.

David Locicero

Digitally signed by David Locicero
DN: C=US, E=dslocicero@gmail.com, O="David Locicero,
Architect", CN=David Locicero
Date: 2024.08.26 15:25:09-07'00'

David Locicero

Signature

Name (Printed)

8/26/24

Date

Architect

415-342-2204

dslocicero

Relationship to Project

Phone

Email

(i.e. Owner, Architect, etc.)

For Department Use Only

Application received by Planning Department:

By: _____

Date: _____

Partial Building Application
Filed for 320 Alemany

APPLICATION FOR BUILDING PERMIT
ADDITIONS, ALTERATIONS OR REPAIRS

CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF BUILDING INSPECTION

FORM 3 OTHER AGENCIES REVIEW REQUIRED
FORM 8 OVER-THE-COUNTER ISSUANCE

APPLICATION IS HEREBY MADE TO THE DEPARTMENT OF
BUILDING INSPECTION OF SAN FRANCISCO FOR
PERMISSION TO BUILD IN ACCORDANCE WITH THE PLANS
AND SPECIFICATIONS SUBMITTED HERewith AND
ACCORDING TO THE DESCRIPTION AND FOR THE PURPOSE
HEREINAFTER SET FORTH.

NUMBER OF PLAN SETS

DO NOT WRITE ABOVE THIS LINE

DATE FILED 08/27/2024	FILING FEE RECEIPT NO.	(1) STREET ADDRESS OF JOB 320 Alemany Blvd	BLOCK & LOT 5817 / 012
RECEIPT NO.	ISSUED	(2A) ESTIMATED COST OF JOB \$ 250,000.00	(2B) REVISED COST: BY: DATE:

INFORMATION TO BE FURNISHED BY ALL APPLICANTS

LEGAL DESCRIPTION OF EXISTING BUILDING

(4A) TYPE OF CONSTR. VA	(5A) NO. OF STORIES OF OCCUPANCY: 4	(6A) NO. OF BASEMENTS AND CELLARS: 0	(7A) PRESENT USE: Multi-family housing	(8A) OCCUP. CLASS R-2	(9A) NO. OF DWELLING UNITS: 3
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DESCRIPTION OF BUILDING AFTER PROPOSED ALTERATION

(4) TYPE OF CONSTR. VA	(5) NO. OF STORIES OF OCCUPANCY: 4	(6) NO. OF BASEMENTS AND CELLARS: 0	(7) PROPOSED USE (LEGAL USE) Multi-family housing	(8) OCCUP. CLASS R-2	(9) NO. OF DWELLING UNITS: 6
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(10) IS AUTO RUNWAY TO BE CONSTRUCTED OR ALTERED?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(11) WILL STREET SPACE BE USED DURING CONSTRUCTION?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(12) ELECTRICAL WORK TO BE PERFORMED?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(13) PLUMBING WORK TO BE PERFORMED?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
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(14) CONTRACTOR TBD	ADDRESS	ZIP	PHONE	CALIF. LIC. NO.	EXPIRATION DATE
------------------------	---------	-----	-------	-----------------	-----------------

(15) OWNER - LESSEE (CROSS OUT ONE) 320 Alemany, LLC	ADDRESS PO Box 625, Burlingame, CA 940	ZIP	BTRC#	PHONE (FOR CONTACT BY DEPT.) 415-725-8899
---	---	-----	-------	--

(16) WRITE IN DESCRIPTION OF ALL WORK TO BE PERFORMED UNDER THIS APPLICATION (REFERENCE TO PLANS IS NOT SUFFICIENT)
To abate NOV 2022-98778, an Addendum to Permit 2023-0623-0799

Legalizing 3 dwellings built without permits. Remove a 2nd kitchen from the 2nd flr dwelling.

Removing and replacing sheet rock in 3 dwellings, adding R-15 insulation, verifying electrical and plumbing.

Building a roof deck with guard rails, replacing vinyl windows at the street with aluminum windows

ADDITIONAL INFORMATION

(17) DOES THIS ALTERATION CREATE ADDITIONAL HEIGHT OR STORY TO BUILDING?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(18) IF (17) IS YES, STATE NEW HEIGHT AT CENTER LINE OF FRONT	(19) DOES THIS ALTERATION CREATE DECK OR HORIZ. EXTENSION TO BUILDING?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(20) IF (19) IS YES, STATE NEW GROUND FLOOR AREA	SQ. FT.
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(21) WILL SIDEWALK OVER SUB-SIDEWALK SPACE BE REPAIRED OR ALTERED?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(22) WILL BUILDING EXTEND BEYOND PROPERTY LINE?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(23) ANY OTHER EXISTING BLDG. ON LOT? (IF YES, SHOW ON PLOT PLAN)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(24) DOES THIS ALTERATION CONSTITUTE A CHANGE OF OCCUPANCY?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
--	---	---	---	---	---	---	---

(25) ARCHITECT OR ENGINEER (DESIGN <input checked="" type="checkbox"/> CONSTRUCTION <input type="checkbox"/> David Locicero, Architect	ADDRESS 2340 Powell St, #290, Emeryville, CA 946	CALIF. CERTIFICATE NO. C19452
---	---	----------------------------------

(26) CONSTRUCTION LENDER (ENTER NAME AND BRANCH DESIGNATION IF ANY. IF THERE IS NO KNOWN CONSTRUCTION LENDER, ENTER "UNKNOWN") TBD	ADDRESS
---	---------

IMPORTANT NOTICES

No change shall be made in the character of the occupancy or use without first obtaining a Building Permit authorizing such change. See San Francisco Building Code and San Francisco Housing Code.

No portion of building or structure or scaffolding used during construction is to be closer than 6'0" to any wire containing more than 750 volts. See Sec 385, California Penal Code.

Pursuant to San Francisco Building Code, the building permit shall be posted on the job. The owner is responsible for approved plans and application being kept at building site.

Grade lines as shown on drawings accompanying this application are assumed to be correct. If actual grade lines are not the same as shown, revised drawings showing correct grade lines, cuts and fills, and complete details of retaining walls and wall footings must be submitted to this department for approval.

ANY STIPULATION REQUIRED HEREIN OR BY CODE MAY BE APPEALED.

BUILDING NOT TO BE OCCUPIED UNTIL CERTIFICATE OF FINAL COMPLETION IS POSTED ON THE BUILDING OR PERMIT OF OCCUPANCY GRANTED, WHEN REQUIRED.

APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE AN APPROVAL FOR THE ELECTRICAL WIRING OR PLUMBING INSTALLATIONS. A SEPARATE PERMIT FOR THE WIRING AND PLUMBING MUST BE OBTAINED. SEPARATE PERMITS ARE REQUIRED IF ANSWER IS "YES" TO ANY OF ABOVE QUESTIONS (10) (11) (12) (13) (22) OR (24).

THIS IS NOT A BUILDING PERMIT. NO WORK SHALL BE STARTED UNTIL A BUILDING PERMIT IS ISSUED.

In dwellings, all insulating materials must have a clearance of not less than two inches from all electrical wires or equipment.

CHECK APPROPRIATE BOX

- OWNER
- LESSEE
- CONTRACTOR
- ARCHITECT
- AGENT
- ENGINEER

APPLICANT'S CERTIFICATION

I HEREBY CERTIFY AND AGREE THAT IF A PERMIT IS ISSUED FOR THE CONSTRUCTION DESCRIBED IN THIS APPLICATION, ALL THE PROVISIONS OF THE PERMIT AND ALL LAWS AND ORDINANCES THERETO WILL BE COMPLIED WITH.

NOTICE TO APPLICANT

HOLD HARMLESS CLAUSE. The permittee(s) by acceptance of the permit, agree(s) to indemnify and hold harmless the City and County of San Francisco from and against any and all claims, demands and actions for damages resulting from operations under this permit, regardless of negligence of the City and County of San Francisco, and to assume the defense of the City and County of San Francisco against all such claims, demands or actions.

In conformity with the provisions of Section 3800 of the Labor Code of the State of California, the applicant shall have worker's compensation coverage under (I) or (II) designated below, or shall indicate item (III), (IV), or (V), whichever is applicable. If however item (V) is checked, item (IV) must be checked as well. Mark the appropriate method of compliance below.

I hereby affirm under penalty of perjury one of the following declarations:

() I. I have and will maintain a certificate of consent to self-insure for worker's compensation, as provided by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued.

() II. I have and will maintain worker's compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My worker's compensation insurance carrier and policy number are:

Carrier
Policy Number

() III. The cost of the work to be done is \$100 or less.

() IV. I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the worker's compensation laws of California. I further acknowledge that I understand that in the event that I should become subject to the worker's compensation provisions of the Labor Code of California and fail to comply therewith with the provisions of Section 3800 of the Labor Code, that the permit herein applied for shall be deemed revoked.

V. I certify as the owner (or the agent for the owner) that in the performance of the work for which this permit is issued, I will employ a contractor who complies with the worker's compensation laws of California and who, prior to the commencement of any work, will file a completed copy of this form with the Central Permit Bureau.

David Locicero
Digitally signed by David Locicero
DN: C=US, E=dslocicero@gmail.com, O=David Locicero, OU=Architect, CN=David Locicero
Date: 2024.08.27.10:12:24-0700

08/27/2024

Signature of Applicant or Agent

Date

CONDITIONS AND STIPULATIONS

REFER TO: <input type="checkbox"/>	APPROVED: <hr style="border: none; border-top: 1px solid black; margin: 5px 0;"/> <p style="text-align: center;">HOUSING INSPECTION DIVISION, DEPT. OF BLDG. INSPECTION</p>	DATE: _____ INSPECTOR: _____ BUILDING INSPECTION DIVISION
<input type="checkbox"/>	APPROVED: <hr style="border: none; border-top: 1px solid black; margin: 5px 0;"/> <p style="text-align: center;">DEPARTMENT OF CITY PLANNING</p>	DATE: _____ INSPECTOR: _____ ELECTRICAL INSPECTION DIVISION
<input type="checkbox"/>	APPROVED: <hr style="border: none; border-top: 1px solid black; margin: 5px 0;"/> <p style="text-align: center;">PLAN REVIEW SERVICES, DEPT. OF BLDG. INSPECTION</p>	DATE: _____ INSPECTOR: _____ PLUMBING INSPECTION DIVISION
<input type="checkbox"/>	APPROVED: <hr style="border: none; border-top: 1px solid black; margin: 5px 0;"/> <p style="text-align: center;">CIVIL ENGINEER, DEPT. OF BLDG. INSPECTION</p>	DATE: _____ INSPECTOR: _____ CODE ENFORCEMENT SERVICES
<input type="checkbox"/>	APPROVED: <hr style="border: none; border-top: 1px solid black; margin: 5px 0;"/> <p style="text-align: center;">MECHANICAL ENGINEER, DEPT. OF BLDG. INSPECTION</p>	DATE: _____ INSPECTOR: _____
<input type="checkbox"/>	APPROVED: <hr style="border: none; border-top: 1px solid black; margin: 5px 0;"/> <p style="text-align: center;">SAN FRANCISCO FIRE DEPARTMENT</p>	DATE: _____ INSPECTOR: _____
<input type="checkbox"/>	APPROVED: <hr style="border: none; border-top: 1px solid black; margin: 5px 0;"/> <p style="text-align: center;">SF DEPARTMENT OF PUBLIC WORKS / MAYOR'S OFFICE OF DISABILITY (CROSS ONE OUT)</p>	DATE: _____ INSPECTOR: _____
<input type="checkbox"/>	APPROVED: <hr style="border: none; border-top: 1px solid black; margin: 5px 0;"/> <p style="text-align: center;">SF PUBLIC UTILITIES COMMISSION</p>	DATE: _____ INSPECTOR: _____
<input type="checkbox"/>	APPROVED: <hr style="border: none; border-top: 1px solid black; margin: 5px 0;"/> <p style="text-align: center;">DEPT. OF PUBLIC HEALTH / OCII (CROSS ONE OUT)</p>	DATE: _____ INSPECTOR: _____

HOLD SECTION - NOTE DATES AND NAMES OF ALL PERSONS NOTIFIED DURING PROCESSING

I agree to comply with all conditions or stipulations of the various bureaus or departments noted on this application, and attached statements of conditions or stipulations, which are hereby made a part of this application.

OWNER'S AUTHORIZED AGENT

ADDENDUM

This building permit application is intended to be part of one development application for purposes of calculating a State Law Density Bonus for the Housing Development Project on contiguous sites 316-328 Alemany Blvd. (Gov. Code § 65915(i).)



INDIVIDUALLY REQUESTED STATE DENSITY BONUS PROGRAM

INFORMATIONAL AND SUPPLEMENTAL APPLICATION PACKET

ATTENTION: A Project Application or a Ministerial Program Application must be included with this Supplemental Application. See the [Project Application](#) or applicable Ministerial Program Application for instructions.

For questions, you can call the Planning counter at 628.652.7300 or email pic@sfgov.org where planners are able to assist you.

Español: Si desea ayuda sobre cómo llenar esta solicitud en español, por favor llame al 628.652.7550. Tenga en cuenta que el Departamento de Planificación requerirá al menos un día hábil para responder.

中文: 如果您希望獲得使用中文填寫這份申請表的幫助, 請致電628.652.7550。請注意, 規劃部門需要至少一個工作日來回應。

Filipino: Kung gusto mo ng tulong sa pagkumpleto ng application na ito sa Filipino, paki tawagan ang 628.652.7550. Paki tandaan na mangangailangan ang Planning Department ng hindi kukulangin sa isang araw na pantrabaho para makasagot.

WHAT IS THE INDIVIDUALLY REQUESTED STATE DENSITY BONUS?

The Individually Requested Density Bonus program, Planning Code section 206.6 offers a path for developers to request a density bonus pursuant to Section 65915 et seq. of the California Government Code.

Please review [Planning Director Bulletin 6](#) for additional information on the implementation of the State Density Bonus in San Francisco.

WHAT DOES THE INDIVIDUALLY REQUESTED STATE DENSITY BONUS PROGRAM OFFER?

- Additional density, and
- Waivers, Concessions and Incentives as identified by the project sponsor.

Concessions and Incentives are reductions of site development standards or architectural design requirements which result in financially sufficient and actual cost reductions. Project sponsors may seek up to five concessions and incentives, depending on the amount of affordable housing provided and the level of affordability of those units. Verification and documentation of these cost reductions and/or impacts on public health, safety, or historic property should include a site-specific analysis and may require a pro forma as a part of the application review. The Department may require an evaluation of the financial analysis by a qualified third-party consultant.

Waivers are modifications of volumetric requirements that are regulated by the Planning Code. Project sponsors may seek waivers necessary to physically accommodate increased density and any requested concession or incentive in the bonus project. Requested waivers may not exceed that which is necessary to accommodate the project with the request bonus and all requested incentives.

This information will be provided to the Planning Commission as part of the project application packet for review prior to any required public hearing.

Waivers and concession incentives may not be used to waive applicable building code and life safety standards.

IS MY PROJECT ELIGIBLE FOR THE INDIVIDUALLY REQUESTED STATE DENSITY BONUS PROGRAM?

- The project must consist of five or more residential units;
- Any existing rental units that are subject to rent or price control, or are subject to a recorded covenant that restricts rent levels to affordable levels for very low or low persons or families must be replaced; and
- The zoning district must permit at least five units on the site by right.

HOW DO I DETERMINE MY BASE PROJECT AND BONUS PROJECT?

State law allows additional density above the maximum allowable gross residential density under current controls. The maximum allowable density for a project is called the “base density.” The Department will require a calculation of the base density to determine the allowable additional density and need for waivers for the final project, called the “bonus project.”

1. Determine the Base Density.

In order to determine how much of a density bonus State Law will allow, the department must calculate the maximum allowable gross residential density allowed by current controls (“base density”). Residential density regulations in San Francisco vary by zoning district. In some districts, residential density is regulated by a ratio of units to lot area, such as one unit per 600 square feet. In these districts, the base density will be determined based on the maximum number of units principally permitted by the Zoning District.

Other districts use form-based density, where residential density is regulated by the permitted volume—either the maximum floor area ratio (FAR) or a maximum building volume controlled by height, bulk, and setback controls (“form-based zoning”). In areas with form-based zoning, the base density will be represented as the maximum residential gross floor area, and the project sponsor will be required to submit a base density study with their Project Application. A base density study is a set of schematic plans that include a code-compliant building massing, building section, and floor plans for the ground floor and any floors below grade that include residential uses.

Residential Gross Floor Area means any floor area that would be counted as Gross Floor Area, as defined in Planning Code Section 102, that is dedicated to the residential uses on the property. For the purpose of calculating the base density, sub-grade residential floor area will not be counted. Additional information on calculating density in a base project may be found in Planning Director Bulletin 6.

2. Calculate Bonus Density.

The amount of density bonus that a project may seek is set forth in the State Law. The maximum density bonus is an additional 50% above the base density. The table included at the end of this informational packet summarizes the amount of density bonus allowed based on the level of affordability. In areas where density is controlled as a ratio of units to lot area, the density bonus will be calculated as 150% of the base density represented as number of units allowed on the site. Any resulting remainder is rounded up to the next whole number. In areas with form-based density, the density bonus will be calculated as 150% of the residential gross floor area permitted in the “base” project. Note: density bonuses from more than one income category cannot be combined.

However, a project that receives a maximum density bonus by providing at least 15% of units at very low income (50% AMI), or 24% of the units at low income (80%AMI), or 44% of the units at moderate income (120%AMI), is eligible to receive an additional density bonus (calculated on the base density) by providing additional affordable units at the very low or moderate-income levels. A sponsor may provide up to an additional 10% of the number of units in the base project at very-low income levels, which would result in up to an additional 38.75% bonus. Alternatively, the sponsor may provide up to an additional 15% of the number of units at moderate income levels, which would result in up to an additional 50% bonus.

Projects that are eligible to receive an additional bonus under this section may be eligible for an additional incentive.

HOW MANY CONCESSIONS OR INCENTIVES MAY BE OBTAINED FOR MY PROJECT?

Individually Requested State Density Bonus projects shall receive concessions or incentives in the amounts specified in the table below.

Target Income Group	Percentage of Affordable Units Provided in the Base Project				
Very Low Income	5%	10%	15%	16%+	-
Low Income	10%	17%	24%	-	100%
Moderate Income	10%	20%	30%	45%+	-
Maximum Number of Incentives/Concessions	1	2	3	4	5

DENSITY BONUSES FOR SPECIFIC HOUSING TYPES

State Law provides various options for projects that are constructing housing for specific populations. Some projects may be eligible to choose between the standard state density bonus described above and the programs below. For example, a 100% affordable project may seek up to 150% density by providing at least 15% of units at a very-low income level, or alternatively, may seek the density bonus that is specific to 100% affordable projects.

100% Affordable Projects

State Density Bonus Law provides a special program for 100% affordable housing projects that are within 1/2 mile of a major transit stop. Under this program, 100% affordable projects will receive form-based density, three additional stories in height (or 33 feet), up to four incentives or concessions, and unlimited waivers. Exclusive of a manager's unit or units, one hundred percent of the total units must, be for low or very-low income households, except that up to 20 percent of the total units in the development may be for moderate-income households.

Student Housing

Student Housing projects are eligible for a 35% density bonus if at least 20% of the beds in the development are affordable to lower income students. For the purposes of calculating a density bonus, the term "unit" means one rental bed and its pro rata share of associated common facilities. Units will be subject to a recorded affordability restriction for 55 years. "Lower-income students" means household income and asset level that does not exceed the Cal Grant A or Cal Grant B levels as set forth in Education Code section 69432.7(k), and the development must provide priority for lower income students experiencing homelessness. Rent for lower-income students shall be calculated at 30% of 65% AMI for a single-room occupancy unit. The student housing development must be used exclusively for undergraduate, graduate or professional students enrolled full time at an institution accredited by WASC or ACCJC. Student housing projects are eligible for one incentive/concession.

Senior Housing

Senior housing projects are eligible for a 20% density bonus. A Senior Citizen Housing Development is further defined in Sections 51.2 and 51.12 of the Civil Code. Mobile home parks that limit residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code are also eligible for a 20% density bonus.

Housing for Transitional Foster Youth, Disabled Veterans and Homeless Persons

Projects that devote 10% of the units to Transitional Foster Youth as defined in Section 66025.9 of the Education Code, Disabled Veterans defined in Section 18541 of the Government Code, or Homeless Persons as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.) may qualify for a 20% density bonus. The units described shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low-income units.

REGULATORY AGREEMENT

Projects that receive a density bonus, waiver, incentive or concession through the State Density Bonus Program shall enter into a regulatory agreement with the City to ensure compliance with the affordability restrictions. The regulatory agreement must be recorded at the Office of the Assessor-Recorder prior to the issuance of the First Construction Document for the project.

FEES

There is no separate application fee for the Individually Requested State Density Bonus Program. Projects approved under the Individually Requested State Density Bonus shall comply with the Fee Schedule for Planning Department review covered under other entitlements. For example, if a project requires Conditional Use Authorization, then the project would pay the fee required for the review of a Conditional Use Authorization. If a project does not require a separate entitlement, then the Individually Requested State Density Bonus Application must be submitted with a Project Application or a Ministerial Streamlining Application. Please refer to the [Planning Department Fee Schedule](#) at sfplanning.org. For questions related to the Fee Schedule, you can call the Planning counter at 628.652.7300 or email pic@sfgov.org where planners are able to assist you.

Fees will be determined based on the estimated construction costs. Should the cost of staff time exceed the initial fee paid, an additional fee for time and materials may be billed upon completion of the hearing process or permit approval. Additional fees may also be collected for preparation and recordation of any documents with the San Francisco Assessor-Recorder's office and for monitoring compliance with any conditions of approval.

DENSITY BONUS CALCULATIONS BASED ON AFFORDABILITY LEVEL AND PERCENTAGE

Density Bonus for Providing Units for Lower Income Households (80% AMI)

A project sponsor may use on-site affordable units to satisfy both the Inclusionary Affordable Housing Program and qualify for a density bonus under State Law. The project sponsor may not reduce the lowest AMI tier that is required by the Inclusionary program, which is 80% AMI for ownership projects; therefore, this chart will generally be used for mixed-income **ownership projects**. Most rental projects will use the chart below titled Maximum Bonus for Very-Low Income Households.

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35
21	38.75
22	42.5
23	46.25
24	50

Density Bonus for Very-Low Income Households (50% AMI)

A project sponsor may use on-site affordable units to satisfy both the Inclusionary Affordable Housing Program and qualify for a density bonus under State Law. Very-low income units provided to qualify for a density bonus under the State Law may be counted toward the low-income inclusionary tier for **rental projects**, which is 55% AMI, but may not be counted towards higher tiers. This chart will generally be used for rental projects. Most ownership projects will use the chart above titled Maximum Bonus for Lower Income Households.

Percentage Very Low Income	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

Density Bonus for Moderate Income Households (120% AMI)

Percentage of Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35
41	38.75
42	42.5
43	46.25
44	50

Additional Bonus for Very Low (50% AMI) or Moderate Income (120% AMI) Households

If a project provides enough very low, low or moderate income units to qualify for the maximum density bonus above, the project may seek an additional density bonus by providing additional very low or moderate income units. The percentage required and the additional density are indicated in the charts below.

Percentage Very Low Income	Percentage Density Bonus
5	20
6	23.75
7	27.5
8	31.25
9	35

Percentage Moderate Income	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50



INDIVIDUALLY REQUESTED STATE DENSITY BONUS PROGRAM

SUPPLEMENTAL APPLICATION

Property Information

Project Address: 316-328 Alemany Blvd

Block/Lot(s): 5817 / 010, 011, 012, 013

Project Details

Density Bonus

Zoning District: NC-S

 Project Tenure: Rental Ownership

 This project is a 100% Affordable Housing Project (if checked, leave Inclusionary rate blank)

 This project is a Student Housing Project (if checked, leave Inclusionary rate blank)

On-site Inclusionary Rate: %

Low Income: % at 55% AMI (rental) or 80% AMI (ownership)

Moderate Income: % at 80% AMI (rental) or 105% AMI (ownership)

Middle Income: % at 110% AMI (rental) or 130% AMI (ownership)

Inclusionary Fee Rate: %

 Maximum Allowable Residential Density (Base Density) 15 square feet / (select one)

Bonus Project Total Area 11325

Total Units in Bonus Project: 31

The project is seeking the following density bonus:

 This project is seeking a % density bonus by providing % of units at Very Low Income (50% AMI)

 This project is seeking a 50 % density bonus by providing 24 % of units at Lower Income (80% AMI)

 This project is seeking a 50 % density bonus by providing 15 % of units at Moderate Income (120% AMI)

 This project is 100% affordable and seeking form-based density with three additional stories of height.

 This project is seeking a 35% density bonus by providing 20% of units to Lower Income Students in a qualifying Student Housing Development.

 This project is seeking a 20% density bonus by providing senior housing.

 This project is seeking a 20% density bonus by providing 10% of units to transitional foster youth, disabled veterans, or homeless persons.

Concessions and Incentives

Please list the concessions and incentives (up to five, see above) the project is seeking, and describe how each requested concession or incentive would result in cost reductions for the project.

Waivers

Please list the waivers the project is seeking and describe how each requested waiver would allow the proposed project to accommodate any additional permitted density.

Waivers to the Exposure requirement for units not facing the street or a yard of sufficient size

Removal of rent-controlled units for the Individually Requested State Density Bonus Program

Does the project remove any residential units? Yes No

Have there been any residential uses removed from the property within the last five years? Yes No

Are any of the existing units on the property subject to the San Francisco Rent Stabilization and Arbitration Ordinance (Administrative Code Section 37)? Yes No

Are any of the existing units on the property occupied by households of low or very low income, consistent with the requirements of the California Government Code Section 65915(c)(3)? Yes No

If you have responded yes to any of the questions above, please provide additional information on the type and size of the existing unit(s), as well as the incomes of persons or families occupying the unit(s).

APPLICANT'S AFFIDAVIT

Under penalty of perjury the following declarations are made:

- a) The undersigned is the owner or authorized agent of the owner of this property.
- b) The information presented is true and correct to the best of my knowledge.
- c) I understand other information or applications may be required.
- d) I hereby authorize City and County of San Francisco Planning staff to conduct a site visit of this property as part of the City's review of this application, making all portions of the interior and exterior accessible through completion of construction and in response to the monitoring of any condition of approval.
- e) I attest that personally identifiable information (PII) - i.e. social security numbers, driver's license numbers, bank accounts - have not been provided as part of this application. Furthermore, where supplemental information is required by this application, PII has been redacted prior to submittal to the Planning Department. I understand that any information provided to the Planning Department becomes part of the public record and can be made available to the public for review and/or posted to Department websites.

David Locicero

Digitally signed by David Locicero
DN: C=US, E=dslocicero@gmail.com, O="David Locicero,
Architect", CN=David Locicero
Date: 2024.08.26 15:25:09-07'00'

David Locicero

Signature

Name (Printed)

8/26/24

Date

Architect

415-342-2204

dslocicero

Relationship to Project

Phone

Email

(i.e. Owner, Architect, etc.)

For Department Use Only

Application received by Planning Department:

By: _____

Date: _____

Partial Building Application
Filed for 322 Alemany

APPROVED FOR ISSUANCE

APPLICATION NUMBER

OSHA APPROVAL REC'D APPROVAL NUMBER

APPLICATION FOR BUILDING PERMIT ADDITIONS, ALTERATIONS OR REPAIRS

CITY AND COUNTY OF SAN FRANCISCO DEPARTMENT OF BUILDING INSPECTION

FORM 3 [] OTHER AGENCIES REVIEW REQUIRED FORM 8 [] OVER-THE-COUNTER ISSUANCE

APPLICATION IS HEREBY MADE TO THE DEPARTMENT OF BUILDING INSPECTION OF SAN FRANCISCO FOR PERMISSION TO BUILD IN ACCORDANCE WITH THE PLANS AND SPECIFICATIONS SUBMITTED HERewith AND ACCORDING TO THE DESCRIPTION AND FOR THE PURPOSE HEREINAFTER SET FORTH.

NUMBER OF PLAN SETS

DO NOT WRITE ABOVE THIS LINE

Table with 4 columns: DATE FILED (08/27/2024), FILING FEE RECEIPT NO., (1) STREET ADDRESS OF JOB (322 Alemany Blvd), BLOCK & LOT (5817 / 011), RECEIPT NO., ISSUED, (2A) ESTIMATED COST OF JOB (\$ 250,000.00), (2B) REVISED COST: BY: DATE:

INFORMATION TO BE FURNISHED BY ALL APPLICANTS

LEGAL DESCRIPTION OF EXISTING BUILDING

Table with 5 columns: (4A) TYPE OF CONSTR. (VA), (5A) NO. OF STORIES OF OCCUPANCY (4), (6A) NO. OF BASEMENTS AND CELLARS (0), (7A) PRESENT USE (Multi-family housing), (8A) OCCUP. CLASS (R-2), (9A) NO. OF DWELLING UNITS (3)

DESCRIPTION OF BUILDING AFTER PROPOSED ALTERATION

Table with 5 columns: (4) TYPE OF CONSTR. (VA), (5) NO. OF STORIES OF OCCUPANCY (4), (6) NO. OF BASEMENTS AND CELLARS (0), (7) PROPOSED USE (LEGAL USE) (Multi-family housing), (8) OCCUP. CLASS (R-2), (9) NO. OF DWELLING UNITS (7)

Table with 3 columns: (10) IS AUTO RUNWAY TO BE CONSTRUCTED OR ALTERED? (NO), (11) WILL STREET SPACE BE USED DURING CONSTRUCTION? (NO), (12) ELECTRICAL WORK TO BE PERFORMED? (NO), (13) PLUMBING WORK TO BE PERFORMED? (NO)

Table with 5 columns: (14) CONTRACTOR (TBD), ADDRESS, ZIP, PHONE, CALIF. LIC. NO., EXPIRATION DATE

Table with 4 columns: (15) OWNER - LESSEE (CROSS OUT ONE) (320 Alemany, LLC), ADDRESS (PO Box 625, Burlingame, CA 94010), BTRC#, PHONE (FOR CONTACT BY DEPT.) (415-725-8899)

(16) WRITE IN DESCRIPTION OF ALL WORK TO BE PERFORMED UNDER THIS APPLICATION (REFERENCE TO PLANS IS NOT SUFFICIENT) To abate NOV 2022-98778, An Addendum to Permit 2022-0222-8380

Legalizing 4 dwellings built without permits. Removing and replacing sheet rock in 4 dwellings, adding R-15 insulation, verifying electrical and plumbing. Building a roof deck with guard rails, replacing vinyl windows at the street with aluminum windows

ADDITIONAL INFORMATION

Table with 4 columns: (17) DOES THIS ALTERATION CREATE ADDITIONAL HEIGHT OR STORY TO BUILDING? (NO), (18) IF (17) IS YES, STATE NEW HEIGHT AT CENTER LINE OF FRONT, (19) DOES THIS ALTERATION CREATE DECK OR HORIZ. EXTENSION TO BUILDING? (NO), (20) IF (19) IS YES, STATE NEW GROUND FLOOR AREA (SQ. FT.), (21) WILL SIDEWALK OVER SUB-SIDEWALK SPACE BE REPAIRED OR ALTERED? (NO), (22) WILL BUILDING EXTEND BEYOND PROPERTY LINE? (NO), (23) ANY OTHER EXISTING BLDG. ON LOT? (IF YES, SHOW ON PLOT PLAN) (NO), (24) DOES THIS ALTERATION CONSTITUTE A CHANGE OF OCCUPANCY? (NO)

Table with 2 columns: (25) ARCHITECT OR ENGINEER (DESIGN [] CONSTRUCTION []) (David Locicero, Architect), ADDRESS (2340 Powell St, #290, Emeryville, CA 94608), CALIF. CERTIFICATE NO. (C19452)

Table with 2 columns: (26) CONSTRUCTION LENDER (ENTER NAME AND BRANCH DESIGNATION IF ANY. IF THERE IS NO KNOWN CONSTRUCTION LENDER, ENTER "UNKNOWN") (TBD), ADDRESS

IMPORTANT NOTICES

No change shall be made in the character of the occupancy or use without first obtaining a Building Permit authorizing such change. See San Francisco Building Code and San Francisco Housing Code. No portion of building or structure or scaffolding used during construction is to be closer than 6'0" to any wire containing more than 750 volts. See Sec 385, California Penal Code. Pursuant to San Francisco Building Code, the building permit shall be posted on the job. The owner is responsible for approved plans and application being kept at building site. Grade lines as shown on drawings accompanying this application are assumed to be correct. If actual grade lines are not the same as shown, revised drawings showing correct grade lines, cuts and fills, and complete details of retaining walls and wall footings must be submitted to this department for approval. ANY STIPULATION REQUIRED HEREIN OR BY CODE MAY BE APPEALED. BUILDING NOT TO BE OCCUPIED UNTIL CERTIFICATE OF FINAL COMPLETION IS POSTED ON THE BUILDING OR PERMIT OF OCCUPANCY GRANTED, WHEN REQUIRED. APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE AN APPROVAL FOR THE ELECTRICAL WIRING OR PLUMBING INSTALLATIONS. A SEPARATE PERMIT FOR THE WIRING AND PLUMBING MUST BE OBTAINED. SEPARATE PERMITS ARE REQUIRED IF ANSWER IS "YES" TO ANY OF ABOVE QUESTIONS (10) (11) (12) (13) (22) OR (24). THIS IS NOT A BUILDING PERMIT. NO WORK SHALL BE STARTED UNTIL A BUILDING PERMIT IS ISSUED. In dwellings, all insulating materials must have a clearance of not less than two inches from all electrical wires or equipment. CHECK APPROPRIATE BOX [] OWNER [] ARCHITECT [] LESSEE [] AGENT [] CONTRACTOR [] ENGINEER

NOTICE TO APPLICANT

HOLD HARMLESS CLAUSE. The permittee(s) by acceptance of the permit, agree(s) to indemnify and hold harmless the City and County of San Francisco from and against any and all claims, demands and actions for damages resulting from operations under this permit, regardless of negligence of the City and County of San Francisco, and to assume the defense of the City and County of San Francisco against all such claims, demands or actions. In conformity with the provisions of Section 3800 of the Labor Code of the State of California, the applicant shall have worker's compensation coverage under (I) or (II) designated below, or shall indicate item (III), (IV), or (V), whichever is applicable. If however item (V) is checked, item (IV) must be checked as well. Mark the appropriate method of compliance below. I hereby affirm under penalty of perjury one of the following declarations: () I. I have and will maintain a certificate of consent to self-insure for worker's compensation, as provided by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. () II. I have and will maintain worker's compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My worker's compensation insurance carrier and policy number are: Carrier Policy Number () III. The cost of the work to be done is \$100 or less. () IV. I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the worker's compensation laws of California. I further acknowledge that I understand that in the event that I should become subject to the worker's compensation provisions of the Labor Code of California and fail to comply therewith with the provisions of Section 3800 of the Labor Code, that the permit herein applied for shall be deemed revoked. [X] V. I certify as the owner (or the agent for the owner) that in the performance of the work for which this permit is issued, I will employ a contractor who complies with the worker's compensation laws of California and who, prior to the commencement of any work, will file a completed copy of this form with the Central Permit Bureau.

APPLICANT'S CERTIFICATION

I HEREBY CERTIFY AND AGREE THAT IF A PERMIT IS ISSUED FOR THE CONSTRUCTION DESCRIBED IN THIS APPLICATION, ALL THE PROVISIONS OF THE PERMIT AND ALL LAWS AND ORDINANCES THERETO WILL BE COMPLIED WITH.

David Locicero [Signature] 08/27/2024

Signature of Applicant or Agent

Date

CONDITIONS AND STIPULATIONS

REFER TO: <input type="checkbox"/>	APPROVED: _____ HOUSING INSPECTION DIVISION, DEPT. OF BLDG. INSPECTION	DATE: _____ INSPECTOR: _____ BUILDING INSPECTION DIVISION
<input type="checkbox"/>	APPROVED: _____ DEPARTMENT OF CITY PLANNING	DATE: _____ INSPECTOR: _____ ELECTRICAL INSPECTION DIVISION
<input type="checkbox"/>	APPROVED: _____ PLAN REVIEW SERVICES, DEPT. OF BLDG. INSPECTION	DATE: _____ INSPECTOR: _____ PLUMBING INSPECTION DIVISION
<input type="checkbox"/>	APPROVED: _____ CIVIL ENGINEER, DEPT. OF BLDG. INSPECTION	DATE: _____ INSPECTOR: _____ CODE ENFORCEMENT SERVICES
<input type="checkbox"/>	APPROVED: _____ MECHANICAL ENGINEER, DEPT. OF BLDG. INSPECTION	DATE: _____ INSPECTOR: _____
<input type="checkbox"/>	APPROVED: _____ SAN FRANCISCO FIRE DEPARTMENT	DATE: _____ INSPECTOR: _____
<input type="checkbox"/>	APPROVED: _____ SF DEPARTMENT OF PUBLIC WORKS / MAYOR'S OFFICE OF DISABILITY (CROSS ONE OUT)	DATE: _____ INSPECTOR: _____
<input type="checkbox"/>	APPROVED: _____ SF PUBLIC UTILITIES COMMISSION	DATE: _____ INSPECTOR: _____
<input type="checkbox"/>	APPROVED: _____ DEPT. OF PUBLIC HEALTH / OCII (CROSS ONE OUT)	DATE: _____ INSPECTOR: _____

HOLD SECTION - NOTE DATES AND NAMES OF ALL PERSONS NOTIFIED DURING PROCESSING

I agree to comply with all conditions or stipulations of the various bureaus or departments noted on this application, and attached statements of conditions or stipulations, which are hereby made a part of this application.

OWNER'S AUTHORIZED AGENT

ADDENDUM

This building permit application is intended to be part of one development application for purposes of calculating a State Law Density Bonus for the Housing Development Project on contiguous sites 316-328 Alemany Blvd. (Gov. Code § 65915(i).)



INDIVIDUALLY REQUESTED STATE DENSITY BONUS PROGRAM

INFORMATIONAL AND SUPPLEMENTAL APPLICATION PACKET

ATTENTION: A Project Application or a Ministerial Program Application must be included with this Supplemental Application. See the [Project Application](#) or applicable Ministerial Program Application for instructions.

For questions, you can call the Planning counter at 628.652.7300 or email pic@sfgov.org where planners are able to assist you.

Español: Si desea ayuda sobre cómo llenar esta solicitud en español, por favor llame al 628.652.7550. Tenga en cuenta que el Departamento de Planificación requerirá al menos un día hábil para responder.

中文：如果您希望獲得使用中文填寫這份申請表的幫助，請致電628.652.7550。請注意，規劃部門需要至少一個工作日來回應。

Filipino: Kung gusto mo ng tulong sa pagkumpleto ng application na ito sa Filipino, paki tawagan ang 628.652.7550. Paki tandaan na mangangailangan ang Planning Department ng hindi kukulangin sa isang araw na pantrabaho para makasagot.

WHAT IS THE INDIVIDUALLY REQUESTED STATE DENSITY BONUS?

The Individually Requested Density Bonus program, Planning Code section 206.6 offers a path for developers to request a density bonus pursuant to Section 65915 et seq. of the California Government Code.

Please review [Planning Director Bulletin 6](#) for additional information on the implementation of the State Density Bonus in San Francisco.

WHAT DOES THE INDIVIDUALLY REQUESTED STATE DENSITY BONUS PROGRAM OFFER?

- Additional density, and
- Waivers, Concessions and Incentives as identified by the project sponsor.

Concessions and Incentives are reductions of site development standards or architectural design requirements which result in financially sufficient and actual cost reductions. Project sponsors may seek up to five concessions and incentives, depending on the amount of affordable housing provided and the level of affordability of those units. Verification and documentation of these cost reductions and/or impacts on public health, safety, or historic property should include a site-specific analysis and may require a pro forma as a part of the application review. The Department may require an evaluation of the financial analysis by a qualified third-party consultant.

Waivers are modifications of volumetric requirements that are regulated by the Planning Code. Project sponsors may seek waivers necessary to physically accommodate increased density and any requested concession or incentive in the bonus project. Requested waivers may not exceed that which is necessary to accommodate the project with the request bonus and all requested incentives.

This information will be provided to the Planning Commission as part of the project application packet for review prior to any required public hearing.

Waivers and concession incentives may not be used to waive applicable building code and life safety standards.

IS MY PROJECT ELIGIBLE FOR THE INDIVIDUALLY REQUESTED STATE DENSITY BONUS PROGRAM?

- The project must consist of five or more residential units;
- Any existing rental units that are subject to rent or price control, or are subject to a recorded covenant that restricts rent levels to affordable levels for very low or low persons or families must be replaced; and
- The zoning district must permit at least five units on the site by right.

HOW DO I DETERMINE MY BASE PROJECT AND BONUS PROJECT?

State law allows additional density above the maximum allowable gross residential density under current controls. The maximum allowable density for a project is called the “base density.” The Department will require a calculation of the base density to determine the allowable additional density and need for waivers for the final project, called the “bonus project.”

1. Determine the Base Density.

In order to determine how much of a density bonus State Law will allow, the department must calculate the maximum allowable gross residential density allowed by current controls (“base density”). Residential density regulations in San Francisco vary by zoning district. In some districts, residential density is regulated by a ratio of units to lot area, such as one unit per 600 square feet. In these districts, the base density will be determined based on the maximum number of units principally permitted by the Zoning District.

Other districts use form-based density, where residential density is regulated by the permitted volume—either the maximum floor area ratio (FAR) or a maximum building volume controlled by height, bulk, and setback controls (“form-based zoning”). In areas with form-based zoning, the base density will be represented as the maximum residential gross floor area, and the project sponsor will be required to submit a base density study with their Project Application. A base density study is a set of schematic plans that include a code-compliant building massing, building section, and floor plans for the ground floor and any floors below grade that include residential uses.

Residential Gross Floor Area means any floor area that would be counted as Gross Floor Area, as defined in Planning Code Section 102, that is dedicated to the residential uses on the property. For the purpose of calculating the base density, sub-grade residential floor area will not be counted. Additional information on calculating density in a base project may be found in Planning Director Bulletin 6.

2. Calculate Bonus Density.

The amount of density bonus that a project may seek is set forth in the State Law. The maximum density bonus is an additional 50% above the base density. The table included at the end of this informational packet summarizes the amount of density bonus allowed based on the level of affordability. In areas where density is controlled as a ratio of units to lot area, the density bonus will be calculated as 150% of the base density represented as number of units allowed on the site. Any resulting remainder is rounded up to the next whole number. In areas with form-based density, the density bonus will be calculated as 150% of the residential gross floor area permitted in the “base” project. Note: density bonuses from more than one income category cannot be combined.

However, a project that receives a maximum density bonus by providing at least 15% of units at very low income (50% AMI), or 24% of the units at low income (80%AMI), or 44% of the units at moderate income (120%AMI), is eligible to receive an additional density bonus (calculated on the base density) by providing additional affordable units at the very low or moderate-income levels. A sponsor may provide up to an additional 10% of the number of units in the base project at very-low income levels, which would result in up to an additional 38.75% bonus. Alternatively, the sponsor may provide up to an additional 15% of the number of units at moderate income levels, which would result in up to an additional 50% bonus.

Projects that are eligible to receive an additional bonus under this section may be eligible for an additional incentive.

HOW MANY CONCESSIONS OR INCENTIVES MAY BE OBTAINED FOR MY PROJECT?

Individually Requested State Density Bonus projects shall receive concessions or incentives in the amounts specified in the table below.

Target Income Group	Percentage of Affordable Units Provided in the Base Project				
Very Low Income	5%	10%	15%	16%+	-
Low Income	10%	17%	24%	-	100%
Moderate Income	10%	20%	30%	45%+	-
Maximum Number of Incentives/Concessions	1	2	3	4	5

DENSITY BONUSES FOR SPECIFIC HOUSING TYPES

State Law provides various options for projects that are constructing housing for specific populations. Some projects may be eligible to choose between the standard state density bonus described above and the programs below. For example, a 100% affordable project may seek up to 150% density by providing at least 15% of units at a very-low income level, or alternatively, may seek the density bonus that is specific to 100% affordable projects.

100% Affordable Projects

State Density Bonus Law provides a special program for 100% affordable housing projects that are within 1/2 mile of a major transit stop. Under this program, 100% affordable projects will receive form-based density, three additional stories in height (or 33 feet), up to four incentives or concessions, and unlimited waivers. Exclusive of a manager's unit or units, one hundred percent of the total units must, be for low or very-low income households, except that up to 20 percent of the total units in the development may be for moderate-income households.

Student Housing

Student Housing projects are eligible for a 35% density bonus if at least 20% of the beds in the development are affordable to lower income students. For the purposes of calculating a density bonus, the term "unit" means one rental bed and its pro rata share of associated common facilities. Units will be subject to a recorded affordability restriction for 55 years. "Lower-income students" means household income and asset level that does not exceed the Cal Grant A or Cal Grant B levels as set forth in Education Code section 69432.7(k), and the development must provide priority for lower income students experiencing homelessness. Rent for lower-income students shall be calculated at 30% of 65% AMI for a single-room occupancy unit. The student housing development must be used exclusively for undergraduate, graduate or professional students enrolled full time at an institution accredited by WASC or ACCJC. Student housing projects are eligible for one incentive/concession.

Senior Housing

Senior housing projects are eligible for a 20% density bonus. A Senior Citizen Housing Development is further defined in Sections 51.2 and 51.12 of the Civil Code. Mobile home parks that limit residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code are also eligible for a 20% density bonus.

Housing for Transitional Foster Youth, Disabled Veterans and Homeless Persons

Projects that devote 10% of the units to Transitional Foster Youth as defined in Section 66025.9 of the Education Code, Disabled Veterans defined in Section 18541 of the Government Code, or Homeless Persons as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.) may qualify for a 20% density bonus. The units described shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low-income units.

REGULATORY AGREEMENT

Projects that receive a density bonus, waiver, incentive or concession through the State Density Bonus Program shall enter into a regulatory agreement with the City to ensure compliance with the affordability restrictions. The regulatory agreement must be recorded at the Office of the Assessor-Recorder prior to the issuance of the First Construction Document for the project.

FEES

There is no separate application fee for the Individually Requested State Density Bonus Program. Projects approved under the Individually Requested State Density Bonus shall comply with the Fee Schedule for Planning Department review covered under other entitlements. For example, if a project requires Conditional Use Authorization, then the project would pay the fee required for the review of a Conditional Use Authorization. If a project does not require a separate entitlement, then the Individually Requested State Density Bonus Application must be submitted with a Project Application or a Ministerial Streamlining Application. Please refer to the [Planning Department Fee Schedule](#) at sfplanning.org. For questions related to the Fee Schedule, you can call the Planning counter at 628.652.7300 or email pic@sfgov.org where planners are able to assist you.

Fees will be determined based on the estimated construction costs. Should the cost of staff time exceed the initial fee paid, an additional fee for time and materials may be billed upon completion of the hearing process or permit approval. Additional fees may also be collected for preparation and recordation of any documents with the San Francisco Assessor-Recorder's office and for monitoring compliance with any conditions of approval.

DENSITY BONUS CALCULATIONS BASED ON AFFORDABILITY LEVEL AND PERCENTAGE

Density Bonus for Providing Units for Lower Income Households (80% AMI)

A project sponsor may use on-site affordable units to satisfy both the Inclusionary Affordable Housing Program and qualify for a density bonus under State Law. The project sponsor may not reduce the lowest AMI tier that is required by the Inclusionary program, which is 80% AMI for ownership projects; therefore, this chart will generally be used for mixed-income **ownership projects**. Most rental projects will use the chart below titled Maximum Bonus for Very-Low Income Households.

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35
21	38.75
22	42.5
23	46.25
24	50

Density Bonus for Very-Low Income Households (50% AMI)

A project sponsor may use on-site affordable units to satisfy both the Inclusionary Affordable Housing Program and qualify for a density bonus under State Law. Very-low income units provided to qualify for a density bonus under the State Law may be counted toward the low-income inclusionary tier for **rental projects**, which is 55% AMI, but may not be counted towards higher tiers. This chart will generally be used for rental projects. Most ownership projects will use the chart above titled Maximum Bonus for Lower Income Households.

Percentage Very Low Income	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

Density Bonus for Moderate Income Households (120% AMI)

Percentage of Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35
41	38.75
42	42.5
43	46.25
44	50

Additional Bonus for Very Low (50% AMI) or Moderate Income (120% AMI) Households

If a project provides enough very low, low or moderate income units to qualify for the maximum density bonus above, the project may seek an additional density bonus by providing additional very low or moderate income units. The percentage required and the additional density are indicated in the charts below.

Percentage Very Low Income	Percentage Density Bonus
5	20
6	23.75
7	27.5
8	31.25
9	35

Percentage Moderate Income	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50



INDIVIDUALLY REQUESTED STATE DENSITY BONUS PROGRAM

SUPPLEMENTAL APPLICATION

Property Information

Project Address: 316-328 Alemany Blvd

Block/Lot(s): 5817 / 010, 011, 012, 013

Project Details

Density Bonus

Zoning District: NC-S

 Project Tenure: Rental Ownership

 This project is a 100% Affordable Housing Project (if checked, leave Inclusionary rate blank)

 This project is a Student Housing Project (if checked, leave Inclusionary rate blank)

On-site Inclusionary Rate: %

Low Income: % at 55% AMI (rental) or 80% AMI (ownership)

Moderate Income: % at 80% AMI (rental) or 105% AMI (ownership)

Middle Income: % at 110% AMI (rental) or 130% AMI (ownership)

Inclusionary Fee Rate: %

 Maximum Allowable Residential Density (Base Density) 15 square feet / (select one)

Bonus Project Total Area 11325

Total Units in Bonus Project: 31

The project is seeking the following density bonus:

 This project is seeking a % density bonus by providing % of units at Very Low Income (50% AMI)

 This project is seeking a 50 % density bonus by providing 24 % of units at Lower Income (80% AMI)

 This project is seeking a 50 % density bonus by providing 15 % of units at Moderate Income (120% AMI)

 This project is 100% affordable and seeking form-based density with three additional stories of height.

 This project is seeking a 35% density bonus by providing 20% of units to Lower Income Students in a qualifying Student Housing Development.

 This project is seeking a 20% density bonus by providing senior housing.

 This project is seeking a 20% density bonus by providing 10% of units to transitional foster youth, disabled veterans, or homeless persons.

Concessions and Incentives

Please list the concessions and incentives (up to five, see above) the project is seeking, and describe how each requested concession or incentive would result in cost reductions for the project.

Waivers

Please list the waivers the project is seeking and describe how each requested waiver would allow the proposed project to accommodate any additional permitted density.

Waivers to the Exposure requirement for units not facing the street or a yard of sufficient size

Removal of rent-controlled units for the Individually Requested State Density Bonus Program

Does the project remove any residential units? Yes No

Have there been any residential uses removed from the property within the last five years? Yes No

Are any of the existing units on the property subject to the San Francisco Rent Stabilization and Arbitration Ordinance (Administrative Code Section 37)? Yes No

Are any of the existing units on the property occupied by households of low or very low income, consistent with the requirements of the California Government Code Section 65915(c)(3)? Yes No

If you have responded yes to any of the questions above, please provide additional information on the type and size of the existing unit(s), as well as the incomes of persons or families occupying the unit(s).

APPLICANT'S AFFIDAVIT

Under penalty of perjury the following declarations are made:

- a) The undersigned is the owner or authorized agent of the owner of this property.
- b) The information presented is true and correct to the best of my knowledge.
- c) I understand other information or applications may be required.
- d) I hereby authorize City and County of San Francisco Planning staff to conduct a site visit of this property as part of the City's review of this application, making all portions of the interior and exterior accessible through completion of construction and in response to the monitoring of any condition of approval.
- e) I attest that personally identifiable information (PII) - i.e. social security numbers, driver's license numbers, bank accounts - have not been provided as part of this application. Furthermore, where supplemental information is required by this application, PII has been redacted prior to submittal to the Planning Department. I understand that any information provided to the Planning Department becomes part of the public record and can be made available to the public for review and/or posted to Department websites.

David Locicero

Digitally signed by David Locicero
DN: C=US, E=dslocicero@gmail.com, O="David Locicero,
Architect", CN=David Locicero
Date: 2024.08.26 15:25:09-07'00'

David Locicero

Signature

Name (Printed)

8/26/24

Date

Architect

415-342-2204

dslocicero

Relationship to Project

Phone

Email

(i.e. Owner, Architect, etc.)

For Department Use Only

Application received by Planning Department:

By: _____

Date: _____

Partial Building Application
Filed for 326 Alemany

APPLICATION FOR BUILDING PERMIT
ADDITIONS, ALTERATIONS OR REPAIRS

CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF BUILDING INSPECTION

FORM 3 OTHER AGENCIES REVIEW REQUIRED
FORM 8 OVER-THE-COUNTER ISSUANCE

APPLICATION IS HEREBY MADE TO THE DEPARTMENT OF
BUILDING INSPECTION OF SAN FRANCISCO FOR
PERMISSION TO BUILD IN ACCORDANCE WITH THE PLANS
AND SPECIFICATIONS SUBMITTED HERewith AND
ACCORDING TO THE DESCRIPTION AND FOR THE PURPOSE
HEREINAFTER SET FORTH.

NUMBER OF PLAN SETS

DO NOT WRITE ABOVE THIS LINE

DATE FILED 08/27/2024	FILING FEE RECEIPT NO.	(1) STREET ADDRESS OF JOB 322 Alemany Blvd	BLOCK & LOT 5817 / 011
RECEIPT NO.	ISSUED	(2A) ESTIMATED COST OF JOB \$ 250,000.00	(2B) REVISED COST: BY: DATE:

INFORMATION TO BE FURNISHED BY ALL APPLICANTS

LEGAL DESCRIPTION OF EXISTING BUILDING

(4A) TYPE OF CONSTR. VA	(5A) NO. OF STORIES OF OCCUPANCY: 4	(6A) NO. OF BASEMENTS AND CELLARS: 0	(7A) PRESENT USE: Multi-family housing	(8A) OCCUP. CLASS R-2	(9A) NO. OF DWELLING UNITS: 4
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DESCRIPTION OF BUILDING AFTER PROPOSED ALTERATION

(4) TYPE OF CONSTR. VA	(5) NO. OF STORIES OF OCCUPANCY: 4	(6) NO. OF BASEMENTS AND CELLARS: 0	(7) PROPOSED USE (LEGAL USE) Multi-family housing	(8) OCCUP. CLASS R-2	(9) NO. OF DWELLING UNITS: 7
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(10) IS AUTO RUNWAY TO BE CONSTRUCTED OR ALTERED?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(11) WILL STREET SPACE BE USED DURING CONSTRUCTION?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(12) ELECTRICAL WORK TO BE PERFORMED?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(13) PLUMBING WORK TO BE PERFORMED?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
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(14) CONTRACTOR TBD	ADDRESS	ZIP	PHONE	CALIF. LIC. NO.	EXPIRATION DATE
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(15) OWNER - LESSEE (CROSS OUT ONE) 320 Alemany, LLC	ADDRESS PO Box 625, Burlingame, CA 940	ZIP	BTRC#	PHONE (FOR CONTACT BY DEPT.) 415-725-8899
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(16) WRITE IN DESCRIPTION OF ALL WORK TO BE PERFORMED UNDER THIS APPLICATION (REFERENCE TO PLANS IS NOT SUFFICIENT)
To abate NOV 2022-98778, an Addendum to Permit 2023-0623-0800

Legalizing 3 dwellings built without permits. Legalizing un-permitted expansion of 1st flr dwelling
Removing and replacing sheet rock in 3 dwellings, adding R-15 insulation, verifying electrical and plumbing
Building a roof deck with guard rails, replacing vinyl windows at the street with aluminum windows

ADDITIONAL INFORMATION

(17) DOES THIS ALTERATION CREATE ADDITIONAL HEIGHT OR STORY TO BUILDING?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(18) IF (17) IS YES, STATE NEW HEIGHT AT CENTER LINE OF FRONT	(19) DOES THIS ALTERATION CREATE DECK OR HORIZ. EXTENSION TO BUILDING?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(20) IF (19) IS YES, STATE NEW GROUND FLOOR AREA SQ. FT.		
(21) WILL SIDEWALK OVER SUB-SIDEWALK SPACE BE REPAIRED OR ALTERED?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(22) WILL BUILDING EXTEND BEYOND PROPERTY LINE?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(23) ANY OTHER EXISTING BLDG. ON LOT? (IF YES, SHOW ON PLOT PLAN)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(24) DOES THIS ALTERATION CONSTITUTE A CHANGE OF OCCUPANCY?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>

(25) ARCHITECT OR ENGINEER (DESIGN <input checked="" type="checkbox"/> CONSTRUCTION <input type="checkbox"/> David Locicero, Architect	ADDRESS 2340 Powell St, #290, Emeryville, CA 946	CALIF. CERTIFICATE NO. C19452
---	---	----------------------------------

(26) CONSTRUCTION LENDER (ENTER NAME AND BRANCH DESIGNATION IF ANY. IF THERE IS NO KNOWN CONSTRUCTION LENDER, ENTER "UNKNOWN") TBD	ADDRESS
---	---------

IMPORTANT NOTICES

No change shall be made in the character of the occupancy or use without first obtaining a Building Permit authorizing such change. See San Francisco Building Code and San Francisco Housing Code.

No portion of building or structure or scaffolding used during construction is to be closer than 6'0" to any wire containing more than 750 volts. See Sec 385, California Penal Code.

Pursuant to San Francisco Building Code, the building permit shall be posted on the job. The owner is responsible for approved plans and application being kept at building site.

Grade lines as shown on drawings accompanying this application are assumed to be correct. If actual grade lines are not the same as shown, revised drawings showing correct grade lines, cuts and fills, and complete details of retaining walls and wall footings must be submitted to this department for approval.

ANY STIPULATION REQUIRED HEREIN OR BY CODE MAY BE APPEALED.

BUILDING NOT TO BE OCCUPIED UNTIL CERTIFICATE OF FINAL COMPLETION IS POSTED ON THE BUILDING OR PERMIT OF OCCUPANCY GRANTED, WHEN REQUIRED.

APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE AN APPROVAL FOR THE ELECTRICAL WIRING OR PLUMBING INSTALLATIONS. A SEPARATE PERMIT FOR THE WIRING AND PLUMBING MUST BE OBTAINED. SEPARATE PERMITS ARE REQUIRED IF ANSWER IS "YES" TO ANY OF ABOVE QUESTIONS (10) (11) (12) (13) (22) OR (24).

THIS IS NOT A BUILDING PERMIT. NO WORK SHALL BE STARTED UNTIL A BUILDING PERMIT IS ISSUED.

In dwellings, all insulating materials must have a clearance of not less than two inches from all electrical wires or equipment.

CHECK APPROPRIATE BOX

- OWNER
- LESSEE
- CONTRACTOR
- ARCHITECT
- AGENT
- ENGINEER

APPLICANT'S CERTIFICATION

I HEREBY CERTIFY AND AGREE THAT IF A PERMIT IS ISSUED FOR THE CONSTRUCTION DESCRIBED IN THIS APPLICATION, ALL THE PROVISIONS OF THE PERMIT AND ALL LAWS AND ORDINANCES THERETO WILL BE COMPLIED WITH.

NOTICE TO APPLICANT

HOLD HARMLESS CLAUSE. The permittee(s) by acceptance of the permit, agree(s) to indemnify and hold harmless the City and County of San Francisco from and against any and all claims, demands and actions for damages resulting from operations under this permit, regardless of negligence of the City and County of San Francisco, and to assume the defense of the City and County of San Francisco against all such claims, demands or actions.

In conformity with the provisions of Section 3800 of the Labor Code of the State of California, the applicant shall have worker's compensation coverage under (I) or (II) designated below, or shall indicate item (III), (IV), or (V), whichever is applicable. If however item (V) is checked, item (IV) must be checked as well. Mark the appropriate method of compliance below.

I hereby affirm under penalty of perjury one of the following declarations:

- () I. I have and will maintain a certificate of consent to self-insure for worker's compensation, as provided by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued.
- () II. I have and will maintain worker's compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My worker's compensation insurance carrier and policy number are:
Carrier
Policy Number
- () III. The cost of the work to be done is \$100 or less.
- () IV. I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the worker's compensation laws of California. I further acknowledge that I understand that in the event that I should become subject to the worker's compensation provisions of the Labor Code of California and fail to comply therewith with the provisions of Section 3800 of the Labor Code, that the permit herein applied for shall be deemed revoked.
- V. I certify as the owner (or the agent for the owner) that in the performance of the work for which this permit is issued, I will employ a contractor who complies with the worker's compensation laws of California and who, prior to the commencement of any work, will file a completed copy of this form with the Central Permit Bureau.

David Locicero
Digitally signed by David Locicero
DN: C=US, E=dllocicero@gmail.com, O=David Locicero, Architect, CN=David Locicero
Date: 2024.08.27 10:16:54-0700

08/27/2024

Signature of Applicant or Agent

Date

CONDITIONS AND STIPULATIONS

REFER TO: <input type="checkbox"/>	APPROVED: _____ HOUSING INSPECTION DIVISION, DEPT. OF BLDG. INSPECTION	DATE: _____ INSPECTOR: _____ BUILDING INSPECTION DIVISION
<input type="checkbox"/>	APPROVED: _____ DEPARTMENT OF CITY PLANNING	DATE: _____ INSPECTOR: _____ ELECTRICAL INSPECTION DIVISION
<input type="checkbox"/>	APPROVED: _____ PLAN REVIEW SERVICES, DEPT. OF BLDG. INSPECTION	DATE: _____ INSPECTOR: _____ PLUMBING INSPECTION DIVISION
<input type="checkbox"/>	APPROVED: _____ CIVIL ENGINEER, DEPT. OF BLDG. INSPECTION	DATE: _____ INSPECTOR: _____ CODE ENFORCEMENT SERVICES
<input type="checkbox"/>	APPROVED: _____ MECHANICAL ENGINEER, DEPT. OF BLDG. INSPECTION	DATE: _____ INSPECTOR: _____
<input type="checkbox"/>	APPROVED: _____ SAN FRANCISCO FIRE DEPARTMENT	DATE: _____ INSPECTOR: _____
<input type="checkbox"/>	APPROVED: _____ SF DEPARTMENT OF PUBLIC WORKS / MAYOR'S OFFICE OF DISABILITY (CROSS ONE OUT)	DATE: _____ INSPECTOR: _____
<input type="checkbox"/>	APPROVED: _____ SF PUBLIC UTILITIES COMMISSION	DATE: _____ INSPECTOR: _____
<input type="checkbox"/>	APPROVED: _____ DEPT. OF PUBLIC HEALTH / OCII (CROSS ONE OUT)	DATE: _____ INSPECTOR: _____

HOLD SECTION - NOTE DATES AND NAMES OF ALL PERSONS NOTIFIED DURING PROCESSING

I agree to comply with all conditions or stipulations of the various bureaus or departments noted on this application, and attached statements of conditions or stipulations, which are hereby made a part of this application.

OWNER'S AUTHORIZED AGENT

ADDENDUM

This building permit application is intended to be part of one development application for purposes of calculating a State Law Density Bonus for the Housing Development Project on contiguous sites 316-328 Alemany Blvd. (Gov. Code § 65915(i).)



INDIVIDUALLY REQUESTED STATE DENSITY BONUS PROGRAM

INFORMATIONAL AND SUPPLEMENTAL APPLICATION PACKET

ATTENTION: A Project Application or a Ministerial Program Application must be included with this Supplemental Application. See the [Project Application](#) or applicable Ministerial Program Application for instructions.

For questions, you can call the Planning counter at 628.652.7300 or email pic@sfgov.org where planners are able to assist you.

Español: Si desea ayuda sobre cómo llenar esta solicitud en español, por favor llame al 628.652.7550. Tenga en cuenta que el Departamento de Planificación requerirá al menos un día hábil para responder.

中文: 如果您希望獲得使用中文填寫這份申請表的幫助, 請致電628.652.7550。請注意, 規劃部門需要至少一個工作日來回應。

Filipino: Kung gusto mo ng tulong sa pagkumpleto ng application na ito sa Filipino, paki tawagan ang 628.652.7550. Paki tandaan na mangangailangan ang Planning Department ng hindi kukulangin sa isang araw na pantrabaho para makasagot.

WHAT IS THE INDIVIDUALLY REQUESTED STATE DENSITY BONUS?

The Individually Requested Density Bonus program, Planning Code section 206.6 offers a path for developers to request a density bonus pursuant to Section 65915 et seq. of the California Government Code.

Please review [Planning Director Bulletin 6](#) for additional information on the implementation of the State Density Bonus in San Francisco.

WHAT DOES THE INDIVIDUALLY REQUESTED STATE DENSITY BONUS PROGRAM OFFER?

- Additional density, and
- Waivers, Concessions and Incentives as identified by the project sponsor.

Concessions and Incentives are reductions of site development standards or architectural design requirements which result in financially sufficient and actual cost reductions. Project sponsors may seek up to five concessions and incentives, depending on the amount of affordable housing provided and the level of affordability of those units. Verification and documentation of these cost reductions and/or impacts on public health, safety, or historic property should include a site-specific analysis and may require a pro forma as a part of the application review. The Department may require an evaluation of the financial analysis by a qualified third-party consultant.

Waivers are modifications of volumetric requirements that are regulated by the Planning Code. Project sponsors may seek waivers necessary to physically accommodate increased density and any requested concession or incentive in the bonus project. Requested waivers may not exceed that which is necessary to accommodate the project with the request bonus and all requested incentives.

This information will be provided to the Planning Commission as part of the project application packet for review prior to any required public hearing.

Waivers and concession incentives may not be used to waive applicable building code and life safety standards.

IS MY PROJECT ELIGIBLE FOR THE INDIVIDUALLY REQUESTED STATE DENSITY BONUS PROGRAM?

- The project must consist of five or more residential units;
- Any existing rental units that are subject to rent or price control, or are subject to a recorded covenant that restricts rent levels to affordable levels for very low or low persons or families must be replaced; and
- The zoning district must permit at least five units on the site by right.

HOW DO I DETERMINE MY BASE PROJECT AND BONUS PROJECT?

State law allows additional density above the maximum allowable gross residential density under current controls. The maximum allowable density for a project is called the “base density.” The Department will require a calculation of the base density to determine the allowable additional density and need for waivers for the final project, called the “bonus project.”

1. Determine the Base Density.

In order to determine how much of a density bonus State Law will allow, the department must calculate the maximum allowable gross residential density allowed by current controls (“base density”). Residential density regulations in San Francisco vary by zoning district. In some districts, residential density is regulated by a ratio of units to lot area, such as one unit per 600 square feet. In these districts, the base density will be determined based on the maximum number of units principally permitted by the Zoning District.

Other districts use form-based density, where residential density is regulated by the permitted volume—either the maximum floor area ratio (FAR) or a maximum building volume controlled by height, bulk, and setback controls (“form-based zoning”). In areas with form-based zoning, the base density will be represented as the maximum residential gross floor area, and the project sponsor will be required to submit a base density study with their Project Application. A base density study is a set of schematic plans that include a code-compliant building massing, building section, and floor plans for the ground floor and any floors below grade that include residential uses.

Residential Gross Floor Area means any floor area that would be counted as Gross Floor Area, as defined in Planning Code Section 102, that is dedicated to the residential uses on the property. For the purpose of calculating the base density, sub-grade residential floor area will not be counted. Additional information on calculating density in a base project may be found in Planning Director Bulletin 6.

2. Calculate Bonus Density.

The amount of density bonus that a project may seek is set forth in the State Law. The maximum density bonus is an additional 50% above the base density. The table included at the end of this informational packet summarizes the amount of density bonus allowed based on the level of affordability. In areas where density is controlled as a ratio of units to lot area, the density bonus will be calculated as 150% of the base density represented as number of units allowed on the site. Any resulting remainder is rounded up to the next whole number. In areas with form-based density, the density bonus will be calculated as 150% of the residential gross floor area permitted in the “base” project. Note: density bonuses from more than one income category cannot be combined.

However, a project that receives a maximum density bonus by providing at least 15% of units at very low income (50% AMI), or 24% of the units at low income (80%AMI), or 44% of the units at moderate income (120%AMI), is eligible to receive an additional density bonus (calculated on the base density) by providing additional affordable units at the very low or moderate-income levels. A sponsor may provide up to an additional 10% of the number of units in the base project at very-low income levels, which would result in up to an additional 38.75% bonus. Alternatively, the sponsor may provide up to an additional 15% of the number of units at moderate income levels, which would result in up to an additional 50% bonus.

Projects that are eligible to receive an additional bonus under this section may be eligible for an additional incentive.

HOW MANY CONCESSIONS OR INCENTIVES MAY BE OBTAINED FOR MY PROJECT?

Individually Requested State Density Bonus projects shall receive concessions or incentives in the amounts specified in the table below.

Target Income Group	Percentage of Affordable Units Provided in the Base Project				
Very Low Income	5%	10%	15%	16%+	-
Low Income	10%	17%	24%	-	100%
Moderate Income	10%	20%	30%	45%+	-
Maximum Number of Incentives/Concessions	1	2	3	4	5

DENSITY BONUSES FOR SPECIFIC HOUSING TYPES

State Law provides various options for projects that are constructing housing for specific populations. Some projects may be eligible to choose between the standard state density bonus described above and the programs below. For example, a 100% affordable project may seek up to 150% density by providing at least 15% of units at a very-low income level, or alternatively, may seek the density bonus that is specific to 100% affordable projects.

100% Affordable Projects

State Density Bonus Law provides a special program for 100% affordable housing projects that are within 1/2 mile of a major transit stop. Under this program, 100% affordable projects will receive form-based density, three additional stories in height (or 33 feet), up to four incentives or concessions, and unlimited waivers. Exclusive of a manager's unit or units, one hundred percent of the total units must, be for low or very-low income households, except that up to 20 percent of the total units in the development may be for moderate-income households.

Student Housing

Student Housing projects are eligible for a 35% density bonus if at least 20% of the beds in the development are affordable to lower income students. For the purposes of calculating a density bonus, the term "unit" means one rental bed and its pro rata share of associated common facilities. Units will be subject to a recorded affordability restriction for 55 years. "Lower-income students" means household income and asset level that does not exceed the Cal Grant A or Cal Grant B levels as set forth in Education Code section 69432.7(k), and the development must provide priority for lower income students experiencing homelessness. Rent for lower-income students shall be calculated at 30% of 65% AMI for a single-room occupancy unit. The student housing development must be used exclusively for undergraduate, graduate or professional students enrolled full time at an institution accredited by WASC or ACCJC. Student housing projects are eligible for one incentive/concession.

Senior Housing

Senior housing projects are eligible for a 20% density bonus. A Senior Citizen Housing Development is further defined in Sections 51.2 and 51.12 of the Civil Code. Mobile home parks that limit residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code are also eligible for a 20% density bonus.

Housing for Transitional Foster Youth, Disabled Veterans and Homeless Persons

Projects that devote 10% of the units to Transitional Foster Youth as defined in Section 66025.9 of the Education Code, Disabled Veterans defined in Section 18541 of the Government Code, or Homeless Persons as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.) may qualify for a 20% density bonus. The units described shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low-income units.

REGULATORY AGREEMENT

Projects that receive a density bonus, waiver, incentive or concession through the State Density Bonus Program shall enter into a regulatory agreement with the City to ensure compliance with the affordability restrictions. The regulatory agreement must be recorded at the Office of the Assessor-Recorder prior to the issuance of the First Construction Document for the project.

FEES

There is no separate application fee for the Individually Requested State Density Bonus Program. Projects approved under the Individually Requested State Density Bonus shall comply with the Fee Schedule for Planning Department review covered under other entitlements. For example, if a project requires Conditional Use Authorization, then the project would pay the fee required for the review of a Conditional Use Authorization. If a project does not require a separate entitlement, then the Individually Requested State Density Bonus Application must be submitted with a Project Application or a Ministerial Streamlining Application. Please refer to the [Planning Department Fee Schedule](#) at sfplanning.org. For questions related to the Fee Schedule, you can call the Planning counter at 628.652.7300 or email pic@sfgov.org where planners are able to assist you.

Fees will be determined based on the estimated construction costs. Should the cost of staff time exceed the initial fee paid, an additional fee for time and materials may be billed upon completion of the hearing process or permit approval. Additional fees may also be collected for preparation and recordation of any documents with the San Francisco Assessor-Recorder's office and for monitoring compliance with any conditions of approval.

DENSITY BONUS CALCULATIONS BASED ON AFFORDABILITY LEVEL AND PERCENTAGE

Density Bonus for Providing Units for Lower Income Households (80% AMI)

A project sponsor may use on-site affordable units to satisfy both the Inclusionary Affordable Housing Program and qualify for a density bonus under State Law. The project sponsor may not reduce the lowest AMI tier that is required by the Inclusionary program, which is 80% AMI for ownership projects; therefore, this chart will generally be used for mixed-income **ownership projects**. Most rental projects will use the chart below titled Maximum Bonus for Very-Low Income Households.

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35
21	38.75
22	42.5
23	46.25
24	50

Density Bonus for Very-Low Income Households (50% AMI)

A project sponsor may use on-site affordable units to satisfy both the Inclusionary Affordable Housing Program and qualify for a density bonus under State Law. Very-low income units provided to qualify for a density bonus under the State Law may be counted toward the low-income inclusionary tier for **rental projects**, which is 55% AMI, but may not be counted towards higher tiers. This chart will generally be used for rental projects. Most ownership projects will use the chart above titled Maximum Bonus for Lower Income Households.

Percentage Very Low Income	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

Density Bonus for Moderate Income Households (120% AMI)

Percentage of Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35
41	38.75
42	42.5
43	46.25
44	50

Additional Bonus for Very Low (50% AMI) or Moderate Income (120% AMI) Households

If a project provides enough very low, low or moderate income units to qualify for the maximum density bonus above, the project may seek an additional density bonus by providing additional very low or moderate income units. The percentage required and the additional density are indicated in the charts below.

Percentage Very Low Income	Percentage Density Bonus
5	20
6	23.75
7	27.5
8	31.25
9	35

Percentage Moderate Income	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50



INDIVIDUALLY REQUESTED STATE DENSITY BONUS PROGRAM

SUPPLEMENTAL APPLICATION

Property Information

Project Address: 316-328 Alemany Blvd

Block/Lot(s): 5817 / 010, 011, 012, 013

Project Details

Density Bonus

Zoning District: NC-S

Project Tenure: Rental Ownership

This project is a 100% Affordable Housing Project (if checked, leave Inclusionary rate blank)

This project is a Student Housing Project (if checked, leave Inclusionary rate blank)

On-site Inclusionary Rate: %

Low Income: % at 55% AMI (rental) or 80% AMI (ownership)

Moderate Income: % at 80% AMI (rental) or 105% AMI (ownership)

Middle Income: % at 110% AMI (rental) or 130% AMI (ownership)

Inclusionary Fee Rate: %

Maximum Allowable Residential Density (Base Density) 15 square feet / (select one)

Bonus Project Total Area 11325

Total Units in Bonus Project: 31

The project is seeking the following density bonus:

This project is seeking a % density bonus by providing % of units at Very Low Income (50% AMI)

This project is seeking a 50 % density bonus by providing 24 % of units at Lower Income (80% AMI)

This project is seeking a 50 % density bonus by providing 15 % of units at Moderate Income (120% AMI)

This project is 100% affordable and seeking form-based density with three additional stories of height.

This project is seeking a 35% density bonus by providing 20% of units to Lower Income Students in a qualifying Student Housing Development.

This project is seeking a 20% density bonus by providing senior housing.

This project is seeking a 20% density bonus by providing 10% of units to transitional foster youth, disabled veterans, or homeless persons.

Concessions and Incentives

Please list the concessions and incentives (up to five, see above) the project is seeking, and describe how each requested concession or incentive would result in cost reductions for the project.

Waivers

Please list the waivers the project is seeking and describe how each requested waiver would allow the proposed project to accommodate any additional permitted density.

Waivers to the Exposure requirement for units not facing the street or a yard of sufficient size

Removal of rent-controlled units for the Individually Requested State Density Bonus Program

Does the project remove any residential units? Yes No

Have there been any residential uses removed from the property within the last five years? Yes No

Are any of the existing units on the property subject to the San Francisco Rent Stabilization and Arbitration Ordinance (Administrative Code Section 37)? Yes No

Are any of the existing units on the property occupied by households of low or very low income, consistent with the requirements of the California Government Code Section 65915(c)(3)? Yes No

If you have responded yes to any of the questions above, please provide additional information on the type and size of the existing unit(s), as well as the incomes of persons or families occupying the unit(s).

APPLICANT'S AFFIDAVIT

Under penalty of perjury the following declarations are made:

- a) The undersigned is the owner or authorized agent of the owner of this property.
- b) The information presented is true and correct to the best of my knowledge.
- c) I understand other information or applications may be required.
- d) I hereby authorize City and County of San Francisco Planning staff to conduct a site visit of this property as part of the City's review of this application, making all portions of the interior and exterior accessible through completion of construction and in response to the monitoring of any condition of approval.
- e) I attest that personally identifiable information (PII) - i.e. social security numbers, driver's license numbers, bank accounts - have not been provided as part of this application. Furthermore, where supplemental information is required by this application, PII has been redacted prior to submittal to the Planning Department. I understand that any information provided to the Planning Department becomes part of the public record and can be made available to the public for review and/or posted to Department websites.

David Locicero

Digitally signed by David Locicero
DN: C=US, E=dslocicero@gmail.com, O="David Locicero,
Architect", CN=David Locicero
Date: 2024.08.26 15:25:09-07'00'

David Locicero

Signature

Name (Printed)

8/26/24

Date

Architect

415-342-2204

dslocicero

Relationship to Project

Phone

Email

(i.e. Owner, Architect, etc.)

For Department Use Only

Application received by Planning Department:

By: _____

Date: _____

EXHIBIT G

FILED
San Francisco County Superior Court

APR 15 2024

CLERK OF THE COURT
By: *Kenneth A. ...*
Deputy Clerk

1 DAVID CHIU, State Bar #189542
City Attorney
2 YVONNE R. MERÉ, State Bar #173594
Chief Deputy City Attorney
3 WADE CHOW, State Bar #168527
Chief Attorney
4 Code Enforcement Team
MEGAN RYAN, State Bar #264922
5 Deputy City Attorney
Fox Plaza
6 1390 Market Street, Seventh Floor
San Francisco, California 94102-5406
7 Telephone: (415) 554-3970
Facsimile: (415) 437-4644
8 E-Mail: megan.ryan@sfcityatty.org

9 Attorneys for Plaintiffs
CITY AND COUNTY OF SAN FRANCISCO and
10 PEOPLE OF THE STATE OF CALIFORNIA

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF SAN FRANCISCO

13 UNLIMITED JURISDICTION

14 CITY AND COUNTY OF SAN
15 FRANCISCO, a Municipal Corporation; and
the PEOPLE OF THE STATE OF
16 CALIFORNIA, by and through David Chiu,
City Attorney for the City and County of San
17 Francisco,

18 Plaintiffs,

19 vs.

20 320 ALEMANY LLC, a California limited
liability company; and JACK TSENG, an
21 individual; and DOE ONE through DOE
22 FIVE,

23 Defendants.

Case No. CGC-23-606810

**STIPULATION FOR PERMANENT
INJUNCTION**

AND ORDER

24
25 This Stipulated Injunction is the result of a negotiated compromise between Plaintiffs CITY
26 AND COUNTY OF SAN FRANCISCO ("CITY") and PEOPLE OF THE STATE OF CALIFORNIA
27 (jointly "PLAINTIFFS") and Defendants 320 ALEMANY LLC, a California limited liability
28 company, and JACK TSENG, an individual (jointly "DEFENDANTS") and was presented before the

1 above-captioned Court, the Honorable CHARLES F. HAINES, presiding.

2 PLAINTIFFS were represented by their attorney DAVID CHIU, City Attorney, appearing through
3 Deputy City Attorneys Wade Chow and Megan Ryan. DEFENDANTS appeared through their
4 counsel Andrew Zacks and Thomas O'Brien of Zacks & Freedman, PC.

5 PLAINTIFFS and DEFENDANTS (collectively "PARTIES") having stipulated to the
6 provisions set forth herein, the Court having reviewed the provisions, the PARTIES having agreed to
7 the issuance of this Order, and good cause appearing:

8 The PARTIES agree that PLAINTIFFS shall be entitled to present this stipulation for entry of
9 an order issuing an injunction ("INJUNCTION") to the San Francisco Superior Court through an *ex*
10 *parte* appearance with notice to DEFENDANTS' counsel and shall not be required to present any
11 evidence demonstrating the alleged violations of law that justify the issuance of the INJUNCTION.
12 DEFENDANTS agree they shall not contest the *ex parte* appearance, nor object to entry of the
13 INJUNCTION, and further agree that the INJUNCTION may be entered upon presentation to the
14 Court.

15 **IT IS HEREBY ORDERED, ADJUDGED, DECREED:**

16 **I. GENERAL PROVISIONS**

17 **A. JURISDICTION**

18 The Court issues this INJUNCTION pursuant to its authority under California Health and
19 Safety Code Section 17981, California Business and Professions Code Section 17204, San Francisco
20 Building Code Section 102A.8, San Francisco Planning Code Section 176(b)(2), and Code of Civil
21 Procedure Section 526. The Court expressly retains jurisdiction to modify this INJUNCTION as the
22 ends of justice may require, provided that the modification is consistent with the terms of this
23 INJUNCTION. The Court may hear and decide issues regarding the scope and effect of the injunctive
24 provisions, herein. Upon at least 7 court days' notice, any party to this INJUNCTION may apply to the
25 Court, after making a reasonable effort to meet and confer with the other parties, for further orders and
26 directions as may be necessary or appropriate for the interpretation, application or carrying out of the
27 injunctive provisions, herein. Any PARTY which seeks *ex parte* relief shall comply with Rules
28 3.1200, *et seq.*, of the California Rules of Court. The Court can modify any of the injunctive

1 provisions hereof and take such further action as may be necessary or appropriate to carry into effect
2 the injunctive provisions hereof, and for the punishment of violations of same, if any. PLAINTIFFS
3 have the authority under California law and the San Francisco Municipal Codes to maintain this action
4 for the protection of the People of the State of California and the citizens of the City and County of
5 San Francisco concerning the conduct alleged in the May 30, 2023 Complaint in this Action
6 (“COMPLAINT”).

7 **B. PERSONS AND ENTITIES BOUND BY THE INJUNCTION**

8 The obligations arising out of this INJUNCTION shall rest with DEFENDANTS, jointly and
9 severally. The provisions of this INJUNCTION are applicable to the DEFENDANTS, their agents,
10 servants, employees, representatives, assigns, or successors and their agents, employees,
11 representatives, assigns, and successors, and to all persons who are acting in concert or participation
12 with them, in connection with the ownership, management and/or operation of the real property
13 located at: (1) 316-318 Alemany Blvd., San Francisco, CA 94110 (APN 5817/013); (2) 320 Alemany
14 Blvd., San Francisco, CA 94110 (APN 5817/012); (3) 322 Alemany Blvd., San Francisco, CA 94110
15 (APN 5817/011); (4) 326-328 Alemany Blvd., San Francisco, CA 94110 (APN 5817/010) (hereinafter,
16 “the PROPERTIES”, or individually as “PROPERTY”). (As used herein, the above terms do not
17 include attorneys.) This INJUNCTION also binds other persons who act in concert with
18 DEFENDANTS in relation to performing (or failing to perform) the obligations imposed by this
19 INJUNCTION, and who have notice of this INJUNCTION.

20 This INJUNCTION shall not be interpreted as a covenant running with the land situated at the
21 PROPERTIES, and shall not be enforceable against a subsequent landowner who is a BONA FIDE
22 THIRD PARTY PURCHASER. A BONA FIDE THIRD PARTY PURCHASER is any entity or
23 individual who is not DEFENDANTS or any person related at any time by blood, marriage, or
24 adoption to DEFENDANTS.

25 **C. INJUNCTIVE TERM.**

26 This INJUNCTION shall remain in effect for a period of sixty (60) months from the date that it
27 is signed into Order and filed with this Court (“INJUNCTIVE TERM”). The terms of this
28

1 INJUNCTION shall expire at the end of the INJUNCTIVE TERM unless extended or shortened by
2 mutual written agreement of the PARTIES or by further order of the Court.

3 **II. PROHIBITION ON MAINTAINING THE PROPERTY AS A PUBLIC NUISANCE**
4 **AND IN VIOLATION OF OTHER LAWS**

5 DEFENDANTS are prohibited from maintaining the PROPERTIES as a public nuisance and in
6 violation of the State Housing Law, Unfair Competition Law, and San Francisco Municipal Codes,
7 including specifically as to the violations identified in the following Notices of Violation (collectively
8 “NOVs”) detailed in the exhibits to the COMPLAINT:

9 **316-318 Alemany Blvd., San Francisco, CA 94110:**

- 10 • San Francisco Fire Department (“SFFD”) NOV No. 2211-0219
- 11 • San Francisco Department of Building Inspection (“DBI”) Plumbing Code NOV No.
12 202297580
- 13 • DBI Building Code NOV No. 202298778
- 14 • San Francisco Planning Department (“PLANNING”) NOV No. 2022-009935ENF

15 **320 Alemany Blvd., San Francisco, CA 94110:**

- 16 • SFFD NOV No. 2211-0226
- 17 • DBI Plumbing Code NOV No. 202299263
- 18 • DBI Building Code NOV No. 202298761
- 19 • PLANNING NOV No. 2022-010941ENF

20 **322 Alemany Blvd., San Francisco, CA 94110:**

- 21 • SFFD NOV No. 2211-0227
- 22 • DBI Housing Code NOV No. 200881994
- 23 • DBI Plumbing Code NOV No. 200988923
- 24 • DBI Plumbing Code NOV No. 202299262
- 25 • DBI Building Code NOV No. 202298759
- 26 • PLANNING NOV No. 2022-009941ENF

27 **326-328 Alemany Blvd., San Francisco, CA 94110:**

- 28 • SFFD NOV No. 2211-0228

- 1 • DBI Plumbing Code NOV No. 202297159
- 2 • DBI Building Code NOV No. 202296918
- 3 • DBI Electrical Code NOV No. 202297124
- 4 • PLANNING NOV No. 2022-009942ENF

5 To this end, DEFENDANTS are ordered as follows:

6 A. DEFENDANTS agree to bring the PROPERTIES into compliance with the San
7 Francisco municipal codes and the state law of California. For those violations detailed in the NOV's
8 that can be abated without a permit, such as lack of fire exit signage, fire sprinkler obstructions, and
9 obstruction of exit stairways, DEFENDANTS will abate those violations within 30 days of the
10 PARTIES' execution of this INJUNCTION. However, if DEFENDANTS' efforts to abate are
11 obstructed by a tenant of the PROPERTIES, DEFENDANTS shall so inform the City in writing and
12 this timeline shall be tolled for so long as DEFENDANTS are reasonably obstructed from abating said
13 violations.

14 B. For violations in the NOV's requiring a permit for abatement, including all illegal
15 conversion violations, DEFENDANTS shall take all steps necessary to timely obtain DBI, SFFD, and
16 PLANNING permits. DEFENDANTS shall fully and promptly comply with all lawful requests from
17 any City and County of San Francisco agency with respect to obtaining approvals for said permits,
18 including any possible Conditional Use Authorization and any other required approvals under the
19 Planning, Fire, and Building Codes, by the reasonable deadline set by the agency. DEFENDANTS
20 will timely produce all the properly executed forms, plans, drawings, and specifications, as well as
21 timely pay all fees, including Time & Material fees assessed by PLANNING, required to obtain the
22 permits and to abate the violations identified in the NOV's. As part of their permitting application to
23 DBI and PLANNING, DEFENDANTS shall submit to PLANNING AND DBI a construction and
24 tenant relocation plan that provides a proposed plan and timeline for construction phasing and any
25 tenant relocation that minimizes tenant displacement. DEFENDANTS shall work with the CITY to
26 incorporate any feedback that further minimizes tenant displacement during construction. To the
27 extent any part of the proposal conflicts with state or local law, state and local law shall govern.
28

1 DEFENDANTS shall comply with all provisions of the San Francisco Residential Rent Stabilization
2 and Arbitration Ordinance, see Administrative Code Chapter 37, and all other local and state laws.

3 C. Once the permits to abate the NOVs have been issued, DEFENDANTS shall take all
4 steps necessary to timely abate the violations and obtain the necessary inspections, special inspections
5 when required by DBI, SFFD, and PLANNING, and the Final Certificate of Completion to abate all
6 outstanding Notices of Violation and Orders of Abatement against the PROPERTIES. Following
7 issuance of the permits, DEFENDANTS shall continue to follow all instructions and deadlines from
8 CITY agencies in regards to abatement work, including, but not limited to, sharing issued Job Cards
9 with agencies, proposing a construction schedule, and providing monthly updates. DEFENDANTS
10 retain all administrative remedies available within the various City Departments.

11 E. DEFENDANTS shall not accept any new residential tenants for any residential units at
12 a particular PROPERTY until all NOVs and Orders of Abatement at that PROPERTY, are found to be
13 abated by DBI, SFFD, and PLANNING, and a Final Certificate of Completion is issued by DBI. To
14 the extent all violations identified in the COMPLAINT are abated relating to one of the four
15 PROPERTIES and a Final Certificate of Completion is issued for that particular PROPERTY,
16 DEFENDANTS may accept new residential tenants for that particular PROPERTY, but not for other
17 PROPERTIES with outstanding violations.

18 F. If a CITY official determines that an inspection of the PROPERTY is necessary or
19 desirable, DEFENDANTS shall provide access and permit CITY inspections of the PROPERTIES
20 within 72 hours of any such written request, or in the case of a situation deemed by a CITY official to
21 pose a health or safety risk, immediately. However, if DEFENDANTS' efforts to provide access to a
22 particular unit to CITY officials are obstructed by a tenant of the PROPERTIES, DEFENDANTS shall
23 so inform the City and DEFENDANTS shall not be found to be in violation of this INJUNCTION.

24 G. DEFENDANTS are prohibited from engaging in any alteration, construction,
25 modification, or maintenance of the PROPERTY without obtaining all required permits from the
26 CITY in advance of commencing such work.

27 H. If any new Notices of Violation are issued by any CITY agency as related to the
28 PROPERTIES during the INJUNCTIVE TERM, DEFENDANTS shall:

1 1. Notify PLAINTIFFS' counsel within five business days of the issuance of the
2 Notice of Violation; and

3 2. Abate the code violations within the time and in the manner specified in the
4 Notice of Violation (including but not limited to obtaining proper permits), or within an alternative
5 timeframe agreed to in writing by the issuing CITY agency. In responding to any new Notice of
6 Violation or citation, DEFENDANTS shall be entitled to procedural and substantive due process rights
7 and may pursue all lawful actions, appeals, permits and/or alternatives that may be available to
8 respond to any such new violation or citation.

9 I. Within 5 days of the Court's entry of this INJUNCTION, DEFENDANTS shall furnish
10 a copy of this INJUNCTION to David Locicero, Architect, at 2340 Powell Street, Box No. 290,
11 Emeryville, California 94608. DEFENDANTS shall also furnish a copy of the INJUNCTION to all
12 other architects, engineers, and contractors engaged to perform any work at the PROPERTIES within
13 5 business days of their engagement.

14 **III. ENFORCEMENT**

15 Failure to comply with any of the material terms of this INJUNCTION constitutes a violation
16 of this INJUNCTION, for which PLAINTIFFS may seek any remedy provided herein, or available at
17 law or equity, including but not limited to daily civil penalties pursuant to Business & Professions
18 Code section 17207, upon establishing DEFENDANTS' contempt of this injunction, or through a
19 contempt proceeding including but not limited to proceedings under Health & Safety Code sections
20 17995.2 et seq. PLAINTIFFS shall recover reasonable attorney's fees and costs incurred in enforcing
21 this INJUNCTION pursuant to law, including San Francisco Building Code section 102A.8 and
22 Planning Code section 176. The parties stipulate that the Court retains jurisdiction to take such further
23 action as may be necessary or appropriate to carry into effect the provisions of this INJUNCTION.

24 **IV. NO WAIVER OF RIGHTS TO ENFORCE**

25 The failure of PLAINTIFFS to enforce any provision of this INJUNCTION shall in no way be
26 deemed a waiver of such provision or in any way affect the validity of this INJUNCTION. The failure
27 of PLAINTIFFS to enforce any such provision shall not preclude PLAINTIFFS from later enforcing
28 the same or any other provision of this INJUNCTION. No oral advice, guidance, suggestion, or

1 comments by CITY employees or officials regarding matters covered by this INJUNCTION shall be
2 construed to relieve DEFENDANTS of their obligations. However, admissible statements and
3 recommendations of CITY employees may be considered as evidence of good faith efforts by
4 DEFENDANTS and/or evidence of other equitable considerations in determining whether a violation
5 of this INJUNCTION has occurred.

6 **V. NOTICE TO SUBSEQUENT INTEREST HOLDERS.**

7 Should DEFENDANTS, or their agents, servants, employees, representatives, assigns, or
8 successors and their agents, employees, representatives, assigns, and successors of each of them sell,
9 transfer, or assign any of the PROPERTIES prior to abating the code violations alleged in the
10 COMPLAINT, then DEFENDANTS, or their agents, employees, representatives, assigns, or
11 successors, and their agents, employees, representatives, assigns, or successors of each of them shall:

12 1. Notify the City Attorney's Office, through Deputy City Attorney Wade Chow and
13 Deputy City Attorney Megan Ryan at "wade.chow@sfcityatty.org" and "megan.ryan@sfcityatty.org,"
14 of the proposed sale, transfer, or assignment within ten (10) business days of signing the purchase
15 agreement or any other document transferring or assigning the PROPERTIES to the transferee or
16 assignee.

17 2. Identify any personal relationship or previous business relationship between the
18 potential new owner, transferee, or assignee and DEFENDANTS; and

19 3. Prior to opening escrow on or otherwise initiating the sale, transfer, or assignment, give
20 notice of and provide a copy of this INJUNCTION and COMPLAINT to the potential new owner,
21 transferee, or assignee. Prior to opening escrow on or otherwise initiating the sale, transfer, or
22 assignment of the PROPERTIES, DEFENDANTS must disclose to the potential new owner,
23 transferee, or assignee that CITY requires the potential new owner, transferee, or assignee to abate all
24 NOVs identified in the COMPLAINT.

25 **VI. ADMINISTRATIVE ASSESSMENTS**

26 DEFENDANTS acknowledge and understand that they must arrange applicable payments to
27 CITY departments, including but not limited to, DBI, SFFD, and PLANNING for the departments'
28 investigation and assessment fees and costs, time and material fees, and any administrative fines or

1 penalties associated with any and all NOV's and/or Orders of Abatement identified in the
2 COMPLAINT that are outstanding at the time of entry of this INJUNCTION ("ADMINISTRATIVE
3 ASSESSMENTS"). The payment of pending ADMINISTRATIVE ASSESSMENTS shall be made
4 directly and timely to the CITY departments upon demand.

5 DEFENDANTS shall also pay all future CITY departments' investigation and assessment fees
6 and costs, time and material fees, and any administrative fines or penalties associated with the
7 PROPERTIES, while reserving the right to procedural and substantive due process rights and the
8 potential pursuit all lawful actions, appeals, permits and/or alternatives that may be available.

9 **VII. RECORDATION**

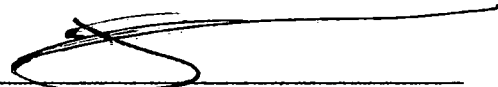
10 This INJUNCTION shall be filed with this Court and recorded at the San Francisco Assessor's
11 Office against title to each of the PROPERTIES.

12 **VIII. AUTHORITY OF SIGNATORIES**

13 Each PARTY and each person who signs this INJUNCTION on behalf of a PARTY covenants,
14 represents and warrants that he or she possesses the necessary capacity and authority to sign and enter
15 into this INJUNCTION on behalf of the PARTY for which he or she signs.

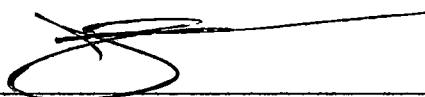
16 IT IS SO STIPULATED:
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1 Dated: 4/9/2024



JACK TSENG For 320 ALEMANY LLC, A California
Limited Liability Company
Defendant

2
3
4 Dated: 4/9/2024



JACK TSENG
Defendant

5
6 Dated: 4/9/24



CITY AND COUNTY OF SAN FRANCISCO
Plaintiff

7
8
9 Dated: 4/9/24

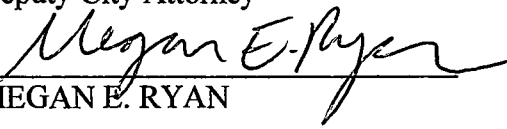


PEOPLE OF THE STATE OF CALIFORNIA
Plaintiff

10
11
12 Approved as to form:

13 Dated: 4/9/24

14 DAVID CHIU
City Attorney
YVONNE R. MERÉ
Chief Deputy City Attorney
JENNIFER E. CHOI
Chief Attorney
Code Enforcement Team
MEGAN E. RYAN
Deputy City Attorney

15
16
17
18
19 By: 

MEGAN E. RYAN

20
21 Attorneys for Plaintiffs
CITY AND COUNTY OF SAN FRANCISCO and
PEOPLE OF THE STATE OF CALIFORNIA

1 Dated: 4/9/2024

2 By: 
3 ANDREW ZACKS
4 THOMAS J. O'BRIEN

5 ZACKS & FREEDMAN, P.C.
6 Attorneys For Defendants 320 ALEMANY LLC, A
7 California Limited Liability Company and JACK TSENG

8 IT IS SO ORDERED:

9 Dated:

4/15/2024

10 
11 JUDGE OF THE SUPERIOR COURT

12 City and County of San Francisco v. 320 Alemany LLC

13 San Francisco Superior Court No. CGC-23-606810

1 DAVID CHIU, State Bar #189542
City Attorney
2 YVONNE R. MERÉ, State Bar #173594
Chief Deputy City Attorney
3 WADE CHOW, State Bar #168527
Chief Attorney
4 Neighborhood and Resident Safety Division
MEGAN RYAN, State Bar #264922
5 Deputy City Attorney
Fox Plaza
6 1390 Market Street, Seventh Floor
San Francisco, California 94102-5406
7 Telephone: (415) 554-3970
Facsimile: (415) 437-4644
8 E-Mail: megan.ryan@sfcityatty.org

9 Attorneys for Plaintiffs
CITY AND COUNTY OF SAN FRANCISCO, and
10 PEOPLE OF THE STATE OF CALIFORNIA

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SAN FRANCISCO
13 UNLIMITED JURISDICTION

14 CITY AND COUNTY OF SAN
15 FRANCISCO, a Municipal Corporation; and
the PEOPLE OF THE STATE OF
16 CALIFORNIA, by and through David Chiu,
City Attorney for the City and County of San
17 Francisco,

18 Plaintiffs,

19 vs.

20 320 ALEMANY LLC, a California limited
liability company; and JACK TSENG, an
21 individual; and DOE ONE through DOE
22 FIVE,

23 Defendants.

Case No. CGC-23-606810

[PROPOSED]
**ORDER GRANTING STIPULATION FOR
PERMANENT INJUNCTION**

Hearing Date: April 15, 2024
Hearing Judge: Hon. Charles F. Haines
Time: 9:00 a.m.
Place: Dept. 501

Date Action Filed: May 30, 2023
Trial Date: August 26, 2024

24
25 Plaintiffs CITY AND COUNTY OF SAN FRANCISCO and PEOPLE OF THE STATE OF
26 CALIFORNIA's (collectively "Plaintiffs") applied ex parte to enter the Stipulated Permanent
27 Injunction on April 15, 2024, at 9:00 a.m. in Department 501 of this Court, the Honorable Charles F.
28

FILED
San Francisco County Superior Court

APR 15 2024

CLERK OF THE COURT

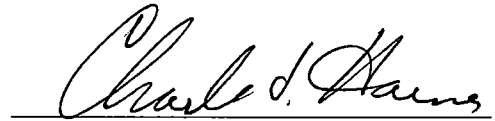
By: *Christina J. Hill*
Deputy Clerk

1 Haines presiding. Deputy City Attorney Megan E. Ryan of the San Francisco City Attorney's Office
2 appeared on behalf of Plaintiffs and moving parties. Counsel for Defendants 320 Alemany LLC and
3 Jack Tseng ("Defendants") did not appear.

4 The Court having jurisdiction of the subject matter and having considered the evidence
5 presented hereby orders that Plaintiffs' Ex Pate Application to enter the Stipulated Permanent
6 Injunction is GRANTED. ~~The Stipulated Permanent Injunction is attached as Exhibit 1.~~

7 IT IS SO ORDERED.

8 Dated: 4/15/2024



JUDGE OF THE SUPERIOR COURT
CHARLES F. HAINES

10 *CCSF, et al. v. 320 Alemany LLC, et al.*
11 S.F. Superior Court CGC-23-606810

EXHIBIT H

1 ANDREW M. ZACKS (SBN 147794)
2 EMILY L. BROUGH (SBN 284943)
3 ZACKS & FREEDMAN, PC
4 180 Montgomery Street, Suite 1950
5 San Francisco, CA 94104
6 Tel: (415) 956-8100
7 Fax: (415) 288-9755
8 az@zfplaw.com
9 emily@zfplaw.com

10 Attorneys for Appellant,
11 320 Alemany LLC

12 CITY AND COUNTY OF SAN FRANCISCO
13 BOARD OF APPEALS

14 320 Alemany LLC,

Appeal Case No.: 24-052

15 Appellant,

**DECLARATION OF EMILY L.
BROUGH**

16 vs.

17 San Francisco Planning Department Zoning
18 Administrator,

Date: October 23, 2024

Time: 5:00 p.m.

Place: San Francisco City Hall, Room 416, 1
Dr. Carlton B. Goodlett Place

19 Respondent.

20 I, Emily L. Brough, declare as follows:

21 1. I am an attorney at Zacks & Freedman, PC, counsel for Appellant 320 Alemany
22 LLC. I have personal knowledge of the following facts discussed below and would testify
23 truthfully thereto if called to do so.

24 2. Attached hereto as **Exhibit 1** is a portion of Appendix F to San Francisco’s 2022
25 Housing Element Update, in which San Francisco evaluates its prior Housing Element cycle, 2015-
26 2012. That evaluation addresses including units in its Regional Housing Needs Allocation (RHNA)
27 that were legalized under Ordinance 43-14, which is San Francisco’s unauthorized dwelling unit
28 (“UDU”) legalization program.

3. On September 25, 2024, I spoke over the phone with Melinda Coy, the Proactive
Accountability Chief, Land Use and Local Government Relations at Housing & Community
Development (HCD). I asked Ms. Coy if HCD currently permits San Francisco to count legalization
of UDUs in its RHNA to assist in meeting its mandated housing goal of 82,000 units by 2031. Ms.

1 Coy advised me that San Francisco was permitted to count UDU's in its RHNA, as long as those units
2 hadn't been counted in previous Housing Element cycles.

3 4. On September 30, 2024, I spoke over the phone with James Pappas, Manager of the
4 Planning Department's Policies & Strategies Team Community Equity Division. I asked Mr. Pappas
5 if San Francisco counted legalization of UDU's in its current RHNA. Mr. Pappas advised that he
6 thought that UDU's were counted in the RHNA. Mr. Pappas then followed up via email with Reza
7 Amindarbari, Manager of the Planning Department's Data & Analytics Group and asked him to
8 confirm. Mr. Amindarbari responded, stating "That is correct, James. We count legalized UDU's
9 toward RHNA target." A true and correct copy of this email correspondence is attached hereto as
10 **Exhibit 2.**

11
12 I declare, under penalty of perjury of the laws of the State of California that the foregoing is
13 true and correct, and that this was signed in San Francisco California on October 3, 2024.

14
15 
16 _____
17 Emily L. Brough

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EXHIBIT 1

Appendix F: Evaluation of the 2014 Housing Element

ADOPTED - January 2023

Prepared as Part of the
San Francisco Planning Department's

Housing Element Update 2022



San Francisco
Planning

Progress in Meeting the Regional Housing Needs Allocation (RHNA)

The State Department of Housing and Community Development (HCD) and the Association of Bay Area Governments (ABAG) set San Francisco’s fair share of the regional housing need for the 2015 to 2023 reporting period at 28,870 units. The 2014 *Housing Element* suggested that in order for the City to be truly successful in achieving the type and amount of housing targeted by the Regional Housing Needs Allocation (RHNA), a full partnership with the state and region is required. The 2014 Housing Element emphasized the need for state and regional funding to prioritize San Francisco’s share of statewide housing and affordability challenges, when allocating funds for affordable housing and public infrastructure to meet RHNA targets.

Table 1 breaks down the final RHNA allocations for San Francisco by the Area Median Income (AMI) of units. According to the allocated targets, Very Low to Moderate-Income housing production altogether (16,333 units) should exceed Above Moderate Housing Production (12,536 units).

Table 1. San Francisco Regional Housing Needs Allocation, 2015 - 2023

	<i>Very Low</i>	<i>Low</i>	<i>Moderate</i>	<i>Above Moderate</i>	<i>Total</i>
Units	6,234	4,639	5,460	12,536	28,869

In accordance with HCD instructions, progress is measured as unit additions authorized for construction (this means unit losses from demolitions or alterations are not included). San Francisco authorized 26,861 units from 2015 to 2021. Table 2 summarizes San Francisco’s progress toward RHNA goals for 2015 to 2021 by AMI of units. The unit gain reflects the cumulative efforts of a range of public agency programs and private investment throughout the city. The City is authorizing an average of 2,837 units per year (not including unit losses). If this continues for 2022, San Francisco will have met the overall RHNA target number set for the City. However, the City has fallen significantly short of authorizing and producing the Very Low to Moderate-Income housing (less than 120 percent AMI) RHNA targets. In contrast, authorization and production of Above Moderate-Income housing surpasses its RHNA target. Currently, authorized units for less than 120 percent AMI stand at 8,035 units, compared to 18,826 for Above Moderate AMI, which is 150 percent of the RHNA target for Above Moderate-Income housing.

Table 2. San Francisco Regional Housing Needs Allocation Progress Summary, 2015 - 2021

<i>Household Affordability</i>	<i>Housing Goals</i>	<i>Authorized Units</i>	<i>Deficit</i>	<i>% Progress</i>	<i>Completed Units</i>
Very Low-income (<50% AMI)	6,234	2,688	3,546	43%	2,657
Low-income (50%-80% AMI)	4,639	2,500	2,139	54%	2,317
Moderate Income (80%-120% AMI)	5,460	2,847	2,613	52%	1,817
Above Moderate (>120% AMI)	12,536	18,826	0	150%	22,220
Total	28,869	26,861	8,298	71%	29,011

*Includes units legalized under Ord. 43-14, and all ADUs.

Source: SF Planning, Authorized Permits

If accounting for the loss of existing units through demolitions, mergers, and conversions, San Francisco produced 25,734 net new units from 2015 to 2021. Table 3 summarizes the number of total net units produced by income levels.

Table 3. San Francisco Units Authorized for Construction, 2015 - 2021¹

<i>Year</i>	<i>Very Low-income</i>	<i>Low-income</i>	<i>Moderate Income - Deed Restricted</i>	<i>Moderate Income - Non Deed Restricted*</i>	<i>Above Moderate</i>	<i>Total Net Units</i>
2015	370	336	83	57	3,237	4,083
2016	427	81	103	143	1,888	2,644
2017	259	447	163	225	3,535	4,629
2018	411	452	72	352	3,300	4,578
2019	309	352	120	565	3,203	4,546
2020	577	439	126	291	1,732	3,161
2021	248	338	220	327	960	2,093
Total	2,601	2,445	887	1,960	17,855	25,734

Source: SF Planning, Authorized Permits

Net production grew from an annual average of 1,765 units from 2007 to 2014, to 3,999 units from 2015 to 2021 (Table 4). Net housing production from 2015 to 2021 accounted for 50 percent of housing production from the last 20 years (2002 to 2021). Affordable units produced from 2015 to 2021 (6,791 units) accounted for 23 percent² of total affordable housing production.

¹ Table numbers to be verified

² Percentage to be verified

EXHIBIT 2

From: [Amindarbari, Reza \(CPC\)](#)
To: [Pappas, James \(CPC\)](#); [Emily Lowther Brough](#)
Subject: Re: Question on UDU legalization and RHNA reporting
Date: Monday, September 30, 2024 4:33:07 PM
Attachments: [image001.png](#)

That is correct, James. We count legalized UDUs toward RHNA target.

Reza Amindarbari
Manager, Data & Analytics Group
San Francisco Planning
49 South Van Ness Avenue, Suite 1400, San Francisco, CA 94103
Direct: 628.652.7560 | www.sfplanning.org
[San Francisco Property Information Map](#)

From: Pappas, James (CPC) <james.pappas@sfgov.org>
Sent: Monday, September 30, 2024 4:24 PM
To: Emily Lowther Brough <emily@zfplaw.com>; Amindarbari, Reza (CPC) <Reza.Amindarbari@sfgov.org>
Subject: Re: Question on UDU legalization and RHNA reporting

Hi Emily and Reza-

After chatting with Emily this afternoon it seemed like her question could best be answered by the data team so Reza I am copying you. Emily asked if legalized unpermitted dwelling units (UDUs) are counted toward our RHNA progress- is that the case? Are there any exceptions or caveats?

Emily had contacted HCD about this question and they said the units could be counted as long as they hadn't been counted before. Since these units were unpermitted and unknown officially in the past, they should be new as far as official records are concerned- is that right Reza?

Thanks for your help Reza!

James

James Pappas (he/him)
Manager, Policies & Strategies Team
Community Equity Division
San Francisco Planning
49 South Van Ness Avenue, Suite 1400, San Francisco, CA 94103
Direct: 628.652.7470 | www.sfplanning.org
[San Francisco Property Information Map](#)

From: Emily Lowther Brough <emily@zfplaw.com>
Sent: Friday, September 27, 2024 5:04 PM
To: Pappas, James (CPC) <james.pappas@sfgov.org>

EXHIBIT I

JUST IN

27m ago

Bay Area heat wave: See list of excessive heat warnings; S.F. could hit 100

BAY AREA // SAN FRANCISCO

S.F. leaders don't always agree on housing but plan to build 82,000 new homes got unanimous OK. Here's why

By **J.D. Morris**, City Hall Reporter

Updated Jan 24, 2023 6:08 p.m.





SF's plan to build 82,000 new homes over 8 years gets city approval. Single family homes in the Sunset district are seen on Frjday, July 23, 2021 in San Francisco, Calif.

Lea Suzuki, Staff Photographer / Lea Suzuki/The Chronicle

San Francisco supervisors on Tuesday signed off on a state-mandated roadmap that details how the city intends to get 82,000 new homes built over the next eight years.

The Board of Supervisors approved the plan, known formally as a housing element, in a unanimous vote that united the legislative body's political factions behind the closely watched blueprint that spells out the city's vision for a huge increase in residential construction.

It's an ambitious plan that would require the city to build 10,000 housing units each year — twice as many as it has built in its most prolific years and about four times as much as it has averaged over the past two decades. More than half of the 82,000 homes must be affordable to low- and moderate-income households, which will be a steep challenge for San Francisco, with one unit of affordable housing costing nearly \$1.2 million.

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All 11 supervisors voted in favor of the plan without making any comments. While housing policy is frequently a politically divisive issue in San Francisco, the board was only allowed to take an up-or-down vote on the housing element — it couldn't make any changes on Tuesday.

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S.F.'s plan to build 82,000 housing units has been approved by the state



S.F. roadmap for 82,000 homes gets key approval as deadline looms



Supervisors still need to vote on the plan one more time next Tuesday — which is also the deadline by which the city has to get state approval of the housing element. Missing the deadline would risk San Francisco losing control over housing approvals within its borders and would also jeopardize funding for transportation projects and affordable housing.

Supervisors did give input [at a public hearing in November](#), when they decried the housing production goals set by the state as unrealistic and said that to meet them, California and the federal government would need to provide more funding.

Supervisors on the board's land-use committee remained skeptical Monday about the city's ability to fully implement the plan.

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“The devil is going to be not in the housing element itself, but (in the) actual implementation along the way, which is going to be a lot of work and is easier said than done,” Board President Aaron Peskin said during the committee meeting Monday.

The plan envisions a sea change in where San Francisco has allowed new homes to be built.

In recent history, the vast majority of new homes have been built in the eastern and central areas of the city, much of it through mid- and high-rise towers that have sprung up in neighborhoods such as SoMa, Mission Bay and others. But the plan assumes that the city will meet much of its goal by rezoning west San Francisco transit corridors such as Geary Boulevard, 19th Avenue, Ocean Avenue and Judah, Taraval and Noriega streets.

About 34,000 units of San Francisco’s 82,000-unit goal would come from rezoning such streets. The remaining 48,000 units would come from housing developments that have already been proposed for various sites in the city, many of which are stalled due to the economics of building new housing.

More intense political debates likely lie ahead as the city works to implement the plan.

Supervisor Dean Preston, a progressive, on Tuesday announced that he was introducing new legislation that would allow nonprofits that advocate for low-income housing to sue the city if it fails to deliver on the affordable unit goals set forth in the housing element.

“We don’t take lightly creating the power for the city to be taken to court,” Preston said in a statement. “But as a legislative body we cannot in good conscience approve plans that have no

possibility of succeeding without also creating a consequence for failure and a remedy that forces the affordable housing we need.”

Mayor London Breed plans to sign the ordinance approving the housing element just after the final vote next week, and state officials may grant their ultimate blessing that day or the following day.

Breed said in a statement Tuesday that, once the state has approved the city’s housing element, local officials will “turn to doing the hard work to change laws and processes that get in the way of building housing in San Francisco.”

“This will require us all to recognize that this work will take not just months, but years, and that we can no longer rely on past thinking to get anywhere near building 82,000 homes over eight years,” Breed said. “I’m hopeful for the work that lies ahead, and optimistic about what we can do. This is our opportunity to be a city that creates housing for all.”

The California Department of Housing and Community Development already granted preliminary approval to San Francisco’s plan last week, telling the city in a letter that the latest draft of the housing element met the requirements of state law.

J.D. Morris is a San Francisco Chronicle staff writer. Email: jd.morris@sfchronicle.com Twitter: [@thejdmorris](https://twitter.com/thejdmorris)

Jan 24, 2023 | Updated Jan 24, 2023 6:08 p.m.



J.D. Morris

CITY HALL REPORTER



J.D. Morris covers San Francisco City Hall, focused on Mayor London Breed. He joined the Chronicle in 2018 to cover energy and spent three years writing mostly about PG&E and California wildfires.

Before coming to The Chronicle, he reported on local government for the Santa Rosa Press Democrat, where he was among the journalists awarded a Pulitzer Prize for their coverage of the 2017 North Bay wildfires.

He was previously the casino industry reporter for the Las Vegas Sun. Raised in Monterey County and Bakersfield, he has a bachelor’s degree in rhetoric from UC Berkeley.

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EXHIBIT J



ZACKS & FREEDMAN PC

May 13, 2024

Corey Teague
Zoning Administrator
49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103

By Electronic Submission

*Re: 316-318, 320, 322, & 326-328 Alemany Boulevard, San Francisco, CA
Letter of Determination Request (San Francisco Planning Code § 307)*

Dear Mr. Teague:

This office represents the owner of the referenced properties (“**Properties**”). On or about March 18, 2024, our client, 320 Alemany LLC (“**Client**”), submitted responses to Plan Check Letters related to legalizing the maximum number of units at the Properties under the State Density Bonus Program. On April 24, 2024, Senior Planner Matt Dito responded that the program was not a viable option for legalization of units at the Properties. By this letter, we respectfully request a letter of determination regarding the application of California Government Code Sections 65915, *et seq.*, to the Properties.

BACKGROUND

Construction of the Properties was finalized on or about April 25, 2008. The Properties were permitted for the following number of units: 316-318 Alemany – 1 commercial, 5 residential; 320 Alemany – 3 residential; 322 Alemany – 3 residential; and 326-328 Alemany – 4 residential.

During a City task force inspection in November 2022, City officials determined that the Properties contained the following number of units: 316-318 Alemany: 1 commercial, 12 residential; 320 Alemany – 6 residential; 322 Alemany – 7 residential; and 326-328 Alemany – 7 residential. The Planning Department issued NOV’s to each respective property on or about October 6, 2023, identifying the increase in unit count as Unauthorized Dwelling Units.

Client submitted permit applications to legalize all units in or before June 2023. Planning issued Plan Check Letter #1 on October 31, 2023. Client submitted responses to PCL #1 on December 11, 2023. Plan Check Letter #2 was issued on January 19, 2024. On March 18, 2024, Client submitted responses to PCL #2 to maximize the number of units to be legalized under the State Density Bonus Program (“**Project**”). In response, the Planning Department determined that the Properties are not a single project for purposes of the State Density Bonus Program, and even if they were treated as a single project, because of the existing number of authorized units at the Properties, the Project would still fall below the required threshold of number of proposed units to utilize the State Density Bonus Program.

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PROPERTY INFORMATION

- Block | Lot Numbers: 5817 | 013, 012, 011, & 010
- Zoning: NC-S
- SUDs: None
- Lot Size: 12,783 sq. ft. (11,325 sq. ft. minus commercial space)
 - 316-318 Alemany: 4,237 sq. ft. (2,779 sq. ft. minus commercial space)
 - 320 Alemany: 2,824 sq. ft.
 - 322 Alemany: 2,610 sq. ft.
 - 326-328 Alemany: 3,112 sq. ft.
- Existing Residential Unit Count (Permitted and Unauthorized Totals): 32 residential units
 - 316-318 Alemany: 12 residential units
 - 320 Alemany: 6 residential units
 - 322 Alemany: 7 residential units
 - 326-328 Alemany: 7 residential units
- Year Built: 2008

DISCUSSION

We respectfully request a determination as to the following:

1. Whether the Project qualifies as a “housing development” under Government Code Section § 65915(i), which in part defines a “housing development” as one with “a development project for five or more residential units.”
2. Whether legalization of the unpermitted units at the Properties counts towards the number of units needed to qualify for “a development project for five or more residential units.”
3. Does the following provision under Government Code Section 65915(i) permit the Client to count the proposed legalization of residential units on all four parcels as one Project under the law: “For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, *but do not have to be based upon individual subdivision maps or parcels.*” (Emph. add.)
4. Whether the Project “replaces” currently permitted units at the properties, per Government Code Section § 65915(c)(3)(A)(i) & (B)(i).
5. Whether the Project qualifies as a “housing development” under Government Code Section § 65915(i), which in part defines a “housing development” as “the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units.”

Letter of Determination Request

May 13, 2024


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6. Even if the four parcels were considered separate projects, whether each of the four projects qualify as a “housing development” under Government Code Section § 65915(i), which in part defines a “housing development” as “the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units.”

Please note that the Client and Properties are currently involved in enforcement matters before both the San Francisco Board of Appeals, Case No. 24-017 and the San Francisco Superior Court, Case No. CGC-23-606810, the subject matter of which relate to the Properties’ Unauthorized Dwelling Units. The Board of Appeals hearing is currently scheduled for June 26, 2024, and the Court trial is currently scheduled for August 26, 2024. Thus, we respectfully request the Zoning Administrator respond to this Letter of Determination Request prior to these enforcement proceedings, so that Court, Board of Appeals and our Client are appropriately advised on the City’s position as to issues herein. Thank you for your time and consideration.

Very truly yours,

ZACKS & FREEDMAN, PC



Emily L. Brough

EXHIBIT K

From: [Andrew Zacks](#)
To: [Emily Lowther Brough](#)
Subject: FW: 316-328 Alemany Boulevard - Plan Check Letters #2
Date: Thursday, February 1, 2024 2:42:24 PM

Andrew M. Zacks
Zacks & Freedman, PC
601 Montgomery Street, Suite 400
San Francisco, CA 94111
Telephone: [\(415\) 956-8100](tel:(415)956-8100)
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From: Dito, Matthew (CPC) <matthew.dito@sfgov.org>
Sent: Thursday, February 1, 2024 2:24 PM
To: david s. Locicero <dslocicero@gmail.com>
Cc: Jack Tseng <jacktseng11@gmail.com>; Andrew Zacks <az@zfplaw.com>; Andrew Grindstaff <agrindstaff@zfplaw.com>; Eric Larizadeh-Saito <banainc1@gmail.com>; Bana Incorporated <banainc@aol.com>; Tan, Ada (CPC) <ada.tan@sfgov.org>
Subject: RE: 316-328 Alemany Boulevard - Plan Check Letters #2

Hi David,

Thank you for your email. I've copied the questions with my answers in red. Please let me know if you need any clarifications.

1. In 316-318, if we reduce the size of unit 1A (the little studio) to its originally permitted size, I do not believe it will be big enough to be a viable unit. It would be roughly 8x8 plus a bathroom. I think, therefore, that we will have to legalize one of the UDUs on the 3rd or 4th floors. But I am unsure under which program we would do that.

Because of the restrictions on the Local ADU program (the 25% limit on ground floor habitable space, not permitting any conversion of upper floor residential space to an ADU, and not permitting the conversion of any commercial space), the benefit of the Local ADU program to allow unlimited ADUs is lost, and the property should use the State ADU program for simplicity. The letter tried to spell this out in so many words, but hopefully this is more direct.

This property is permitted 5 units, and you will add one unit as a State ADU and one unit as a legalization. A total of 7 units should be proposed.

2. Regarding the BMR unit count, if I understand you correctly, because 316-318, 320, and 322 were reviewed and approved as a single project, if we have more than 10 units in that "project" we have to provide BMR units using the formula $.15 \times \text{unit count} = \text{BMR count}$. The buildings will have 18 units ($8+5+5=18$), so $.15 \times 18 = 2.7$, or 3 BMR units.

This requirement is calculated across all four buildings (you did not list 326-328). The original approval was for 15 units with 1 BMR. Additional BMR units are required if you end up legalizing 10 or more units. By my count, you will end up with 9 additional units (24 total across the four properties). If a total of 10 units are legalized, you will be required to provide 2 additional BMR units (15% results in 1.5, which rounds to 2).

We can change the current BMR designated unit from 2C to one of the merged units on the 3rd floor. Do the 2 new BMR units have to be divided among the buildings? or can we have 2 or 3 of them in 316-318? Where can I find the requirements to provide BMR units and how to calculate them?

The 1 required BMR would ideally be within 316-318, but is required to be a two-bedroom unit at relatively the same square footage that was previously approved. If this cannot be provided, the method of compliance will need to be altered to the fee method (Section 415.5), and you will need to file a Mandatory Discretionary Review application.

Again, if you do not propose a total of 10 new legalized units, you will not need to provide any additional BMR units. If units are required, you may opt to pay the inclusionary fee for that. We can dive deeper into that if you hit the 10-unit threshold and the owner wants to explore the fee.

3. Finally, about 326-328, your letter says that we can have a maximum of 5 units, but the letter's recommendations would have us providing 6 units. Our proposal was to provide 6. Was the "5" a typo? In that building the only way we can split the floors into 2 units and have legal exiting, is to add fire escapes on the front of the building for the front units.

Yes, thank you for checking. I've calculated that building at 6 units (4 approved, one ADU, and one legalization). The reference to five units in #5 was a mistake.

4. Can you confirm what I am inferring from your letters, that only the Legal Unit by Density has to meet the "exposure" requirement? That the State ADUs and 43-14 ADUs do not? or will we have to request waivers for the exposure requirements for the State and 43-14 units?

You are correct. Only the "permitted under density" unit needs to meet exposure. This can be accomplished by selecting a street facing unit.

Best,
Matt



PLAN CHECK LETTER #2

January 19, 2024

David Locicero (via email: dslocicero@gmail.com)

2340 Powell Street #290

San Francisco, CA 94133

Project Address: 316-318 ALEMANY BLVD.
Assessor's Block/Lot: 5817 / 013
Zoning District: NEIGHBORHOOD COMMERCIAL, SHOPPING CENTER NC-S/40-X

Building Permit Number: 202306230798
Planning Record Number: 2023-006536PRJ

Project Manager Matthew Dito, Matthew.Dito@sfgov.org, 628-652-7358

The Project Application for the above address has been reviewed by the Planning Department. This Plan Check Letter indicates (1) any information required to proceed with environmental analysis, (2) any missing information or modifications that must be provided to demonstrate compliance with the Planning Code and proceed with environmental analysis, and (3) any other modifications the Department is seeking in order to support the project. **Please review this Plan Check Letter carefully, and follow the instructions provided in order to advance the review process.**

Project Review History

On 10/23/2023, Plan Check Letter #1 was issued.

On 11/17/2023, an extension of the 30-day timeline to respond to Plan Check Letter #1 was granted to 12/11/2023.

On 12/11/2023, a response to Plan Check Letter #1 was received.

Project Review Comments

1. Label the units on the as-built plans with this structure – “[Legal Status] [Floor] [Letter – start at A for each floor]”. Example, label two units on first floor as “UDU 1A” and “UDU 1B”. Label the second floor units as “Permitted Dwelling 2A”, “Permitted Dwelling 2B”, “UDU 2C”, and “UDU 2D”.
2. Label the units on the proposed plans with this structure – “[Unit Type] [Floor][Letter – start at A for each floor]”. For example, label the units on the second floor as “Permitted Dwelling 2A”, “Permitted Dwelling 2B”, and “Legalized UDU 2C”.
3. Standard terminology for Comments 1 and 2:
 - a. Refer to all as-built dwelling units as either “Permitted Dwelling” if permitted in prior BPAs, or “UDU” if not.
 - b. For proposed drawings, units should be labelled as “Permitted Dwellings”, “Legalized UDU”, or “Legalized ADU via Local/State [select one] Program” (Note that only one of the State or Local ADU programs may be used. Both programs cannot be used.), based on the method of abatement proposed. Do not label the units as “to be brought into compliance” as that does not directly indicate how abatement is being pursued.
 - c. Keep unit numbers as consistent as possible between permitted, as-built, and proposed drawings.
4. Provide a table on each floor plan sheet detailing the scope of work for all units in the proposed configurations. For example, the second floor table should be as follows:

As-Built Unit	Scope	Proposed Unit
Permitted Dwelling 2A	Legalize division of “Permitted Dwelling 2A” and “UDU 2C” on as-built plans.	Permitted Dwelling 2A
Permitted Dwelling 2B	Merger of “Permitted Dwelling 2B” and “UDU 2D” on as-built plans.	Permitted Dwelling 2B
UDU 2C	Legalize division of “Permitted Dwelling 2A” and “UDU 2C” on as-built plans. UDU 2C legalized via Ordinance 43-14.	Legalized UDU 2C
UDU 2D	Eliminated by merging back into Permitted Dwelling 2B.	N/A

5. If using the Local ADU program to legalize multiple units as ADUs, note that on the ground floor any ADU may not take space away from an existing commercial space. The unit currently labelled “Unit 1A” occupies a larger space than what was permitted (the kitchen area extends into what should be commercial space). In

order to use the Local ADU program, the space should match the residential area of “Unit 1” on the permitted drawings.

6. An ADU shall not be constructed using space from an existing Dwelling Unit, except that an ADU may expand into habitable space on the ground or basement floors provided that it does not exceed 25% of the total gross square footage of such space on the ground and basement floors. The Zoning Administrator may waive this 25% limitation if (1) the resulting space would not be usable or would be impractical to use for other reasonable uses, including, but not limited to, storage or bicycle parking or (2) waiving the limitation would help relieve any negative layout issues for the proposed ADU. Unit 1A currently occupies space that was originally approved as part of Unit 1. The space in question is the only habitable area on the ground floor. Therefore, proposed Unit 1A exceeds the 25% limitation. To legalize this unit, demonstrate that the resulting space would not be usable or would be impractical to use for other reasonable uses. If the space is determined not to be eligible for legalization as a Local ADU, the property would then be proposing to legalize only one ADU. In that scenario, the ADU may be converted to a State ADU instead of Local.
7. Based on analysis of the methods available, it appears that the maximum possible density of the property is eight units. The eliminated units are not eligible for legalization via the Local ADU program because they require taking habitable space from existing dwelling units above the ground floor. It is suggested the abatement plan be as follows:
 - First floor: Legalize both units as “Legalized ADUs via the Local program”. Reduce size of current “Unit 1” to match permitted drawings. Project Sponsor should research feasibility of Unit 1 as a legalized dwelling (i.e. will the dwelling meet life/safety, building, housing, fire, etc., codes).
 - Second floor: Re-label units per naming convention previously described. Unit 2A + 2B is a permitted unit, Unit 2C is a permitted unit, and Unit 2D is a legalized UDU via Ordinance 43-14.
 - Third floor: Restore to permitted layout (two units) and re-label per naming convention previously described.
 - Fourth floor: Restore to permitted layout (one unit) and re-label per naming convention previously described.
8. Bicycle parking is required at a rate of one space per dwelling unit. Mark a 3'x6' space in the garage dedicated to bicycle parking for each dwelling unit. Only the Ordinance 43-14 legalization unit does not require a bicycle parking space.
9. Provide a table to demonstrate open space compliance. Open space is required at a rate of 80 square feet per unit if the space is private, or 100 square feet if the space is common. If providing both private and common open space for a unit, the common open space shall be provide at a rate of 1.25 times the remaining private requirement (example: 40 square feet of private is provided for a unit, then 50 square feet of common is leftover). A variance will be required if sufficient usable open space is not provided for each dwelling unit.
10. In general, keep in mind other requirements to legalize a unit, such as building code, fire code, life/safety issues, etc. – in particular egress and space requirements for each unit.

11. 316-318 Alemany Boulevard (Block 5817/ Lot 013), 320 Alemany Boulevard (5817/ 012), 322 Alemany Boulevard (5817/011) and 326-328 Alemany Boulevard (5817/010) were originally authorized and constructed as one development project. At the time of the original authorization via Building Permit Application Nos. 2002.1028.0031, 2002.1028.0036, 2002.1028.0039, and 2002.1028.0040, the project required one (1) Below Market Rate (BMR) unit be provided to comply with Inclusionary Housing requirements that were in place at that time. A two-bedroom dwelling unit on the third floor of 316-318 Alemany Boulevard was to be designated as the BMR unit, as recorded in Notice of Special Restrictions No. 2003-H430754. This unit was never provided. A unit that is equivalent in bedrooms and square footage as the previously designated unit ("Unit 3" on the approved third floor of 316-318 Alemany Boulevard) should be identified as the BMR unit. Planning staff will confirm the selected unit is acceptable or work with the applicant to find an acceptable selection. The currently selected unit on the proposed second floor of 316-318 Alemany Boulevard is not comparable in square footage as what was approved. If the property owner desires to alter the method of inclusionary compliance for the project, they may elect to pay an inclusionary fee, pursuant to Planning Code Section 415.5. Altering the method of compliance would require a Mandatory Discretionary Review supplemental and a hearing by the Planning Commission, pursuant to Planning Code Section 415.5(g)(5).
12. If the total amount of dwelling units retained as part of the current legalization/abatement efforts are equal to or exceed 10, the retained dwelling units will be subject to the Inclusionary Housing Program, pursuant to Planning Code Section 415. The current inclusionary rate for developments consisting of 25 or more units is 15% of all new units on the project site. If 10 units are to be legalized, the project would be subject to the Inclusionary Housing Program, and two (2) of dwelling units to be legalized will be BMR units ($.15 \times 10 = 1.5$, which rounds up to 2), pursuant to Planning Code Section 415B.2. Alternatively, the property owner may elect to pay an inclusionary fee, pursuant to Planning Code Section 415B.1. The amount of the fee can be estimated once it is determined which units will be retained.
13. Note the change in material on the front and rear facades from wood to stucco. Stucco is acceptable.
14. Fourth floor deck on floor plan does not illustrate any railings.
15. Vinyl windows are not acceptable for the front façade. Aluminum windows or another acceptable material should be proposed. The installation of the vinyl windows without authorization does not merit their legalization.
16. **Enforcement:** this property has active enforcement case (2022-009935ENF). Failure to respond to this letter within the required 30-day time period will result in enforcement proceedings by the Planning Department. Administrative penalties of up to \$1,000 per day per violation may also be assessed to the responsible party for each day the violation remains unabated, as well as an Enforcement Time and Materials Fee of \$1,649 plus any additional accrued time and materials cost for Code Enforcement investigation and abatement of violation.

Required Action

1. Please include a written response to this letter that discusses how you have addressed the items outlined above and in each of the attachments. Please note that the Department may request further revisions to the project as part of the environmental review process (e.g., to avoid a significant impact), or to ensure

conformity with the Planning Code, design guidelines and other local ordinances and policies.

2. Within thirty (30) days from the date of this letter, please submit the requested information, or contact the project manager listed above if more time is needed to prepare the requested information. If the Department has not received the requested information or a request for additional time within 30 days, the application will be cancelled.

Please do not come to the Planning Department to discuss this letter. Please direct all general questions or meeting requests to the project planner listed above. For questions related specifically to environmental review, please contact the environmental planner listed above.

Thank you,

Matt Dito, Senior Planner
Current Planning Division

CC: [REDACTED] Property Owner, Jack Tseng (jacktseng11@gmail.com)
[REDACTED] Andrew Zacks (az@zfplaw.com)
[REDACTED] Ada Tan, Senior Planner, Current Planning Division



PLAN CHECK LETTER #2

January 19, 2024

David Locicero (via email: dslocicero@gmail.com)

2340 Powell Street #290

San Francisco, CA 94133

Project Address: **320 ALEMANY BLVD.**
Assessor's Block/Lot: **5817 / 012**
Zoning District: **NEIGHBORHOOD COMMERCIAL, SHOPPING CENTER NC-S/40-X**

Building Permit Number: **202306230799**
Planning Record Number: **2023-006548PRJ**

Project Manager Matthew Dito, Matthew.Dito@sfgov.org, 628-652-7358

The Project Application for the above address has been reviewed by the Planning Department. This Plan Check Letter indicates (1) any information required to proceed with environmental analysis, (2) any missing information or modifications that must be provided to demonstrate compliance with the Planning Code and proceed with environmental analysis, and (3) any other modifications the Department is seeking in order to support the project. **Please review this Plan Check Letter carefully, and follow the instructions provided in order to advance the review process.**

Project Review History

On 10/23/2023, Plan Check Letter #1 was issued.

On 11/17/2023, an extension of the 30-day timeline to respond to Plan Check Letter #1 was granted to 12/11/2023.

On 12/11/2023, a response to Plan Check Letter #1 was received.

Project Review Comments

1. Label the units on the as-built plans with this structure – “[Legal Status] [Floor] [Letter – start at A for each floor]”. Example, label the unit on first floor as “UDU 1A”. Label the second floor unit as “Permitted Dwelling 2A”.
2. Label the units on the proposed plans with this structure – “[Unit Type] [Floor][Letter – start at A for each floor]”. For example, label the units on the third floor as “Permitted Dwelling 3A” and “Legalized UDU 3B”.
3. Standard terminology for Comments 1 and 2:
 - a. Refer to all as-built dwelling units as either “Permitted Dwelling” if permitted in prior BPAs, or “UDU” if not.
 - b. For proposed drawings, units should be labelled as “Permitted Dwellings”, “Legalized under Density”, “Legalized UDU”, or “Legalized ADU via Local/State [select one] Program” (Note that only one of the State or Local ADU programs may be used. Both programs cannot be used.), based on the method of abatement proposed. Do not label the units as “to be brought into compliance” as that does not directly indicate how abatement is being pursued.
 - c. Keep unit numbers as consistent as possible between permitted, as-built, and proposed drawings.
4. Provide a table on each floor plan sheet detailing the scope of work for all units in the proposed configurations. For example, the third floor table should be as follows:

As-Built Unit	Scope	Proposed Unit
Permitted Dwelling 3A	Legalize division of “Permitted Dwelling 3A” and “UDU 3B” on as-built plans.	Permitted Dwelling 3A
UDU 3B	Legalize division of “Permitted Dwelling 3A” and “UDU 3B” on as-built plans. Unit will be legalized as principally permitted dwelling unit.	Legalized Under Density 3B

5. Based on analysis of the methods available, it is suggested the abatement plan be as follows:
 - First floor: Legalize the existing UDU as a State ADU. Re-label units per naming convention previously described.
 - Second floor: Remove second kitchen and re-label per naming convention previously described.
 - Third floor: Legalize the UDU via Ordinance 43-14 (Legalized UDU). Re-label units per naming convention previously described.

- Fourth floor: Legalize the UDU as a principally permitted dwelling allowable under density. Re-label units per naming convention previously described.
6. In general, keep in mind other requirements to legalize a unit, such as building code, fire code, life/safety issues, etc. – in particular egress and space requirements for each unit.
 7. Bicycle parking spaces are required. Add six (6) spaces in the garage. Physical structures for bicycles are not needed, just dedicated space (3'x6' per bicycle).
 8. **Variance.** The dwelling unit proposed as a principally permitted dwelling under density (ADUs and UDUs either waive or modify these requirements) may require a variance from the following requirement:
 - a. **Section 140 (All Dwelling Units in All Use Districts to Face on an Open Area).** Each Dwelling Unit in any use district, the required windows (as defined by Section 504 of the San Francisco Housing Code) of at least one room that meets the 120-square-foot minimum superficial floor area requirement of Section 503 of the Housing Code shall face directly onto an open area of one of the following types:
 - (1) A public street, public alley at least 20 feet in width, side yard at least 25 feet in width, or rear yard meeting the requirements of this Code; provided, that if such windows are on an outer court whose width is less than 25 feet, the depth of such court shall be no greater than its width; or
 - (2) An open area (whether an inner court or a space between separate buildings on the same lot) no less than 25 feet in every horizontal dimension for the floor at which the Dwelling Unit in question is located and the floor immediately above it, with an increase of five feet in every horizontal dimension at each subsequent floor, except for SRO buildings in the Eastern Neighborhoods Mixed Use Districts, which are not required to increase five feet in every horizontal dimension until the fifth floor of the building.

If the requirement cannot be met, a variance is required.

9. Bicycle parking is required at a rate of one space per dwelling unit. Mark a 3'x6' space in the garage dedicated to bicycle parking for each dwelling unit. Only the Ordinance 43-14 legalization unit does not require a bicycle parking space.
10. Provide a table to demonstrate open space compliance. Open space is required at a rate of 80 square feet per unit if the space is private, or 100 square feet if the space is common. If providing both private and common open space for a unit, the common open space shall be provide at a rate of 1.25 times the remaining private requirement (example: 40 square feet of private is provided for a unit, then 50 square feet of common is leftover). A variance will be required if sufficient usable open space is not provided for each dwelling unit.
11. 316-318 Alemany Boulevard (Block 5817/ Lot 013), 320 Alemany Boulevard (5817/ 012), 322 Alemany Boulevard (5817/011) and 326-328 Alemany Boulevard (5817/010) were originally authorized and constructed as one development project. At the time of the original authorization via Building Permit

Application Nos. 2002.1028.0031, 2002.1028.0036, 2002.1028.0039, and 2002.1028.0040, the project required one (1) Below Market Rate (BMR) unit be provided to comply with Inclusionary Housing requirements that were in place at that time. A two-bedroom dwelling unit on the third floor of 316-318 Alemany Boulevard was to be designated as the BMR unit, as recorded in Notice of Special Restrictions No. 2003-H430754. This unit was never provided. A unit that is equivalent in bedrooms and square footage as the previously designated unit ("Unit 3" on the approved third floor of 316-318 Alemany Boulevard) should be identified as the BMR unit. Planning staff will confirm the selected unit is acceptable or work with the applicant to find an acceptable selection. The currently selected unit on the proposed second floor of 316-318 Alemany Boulevard is not comparable in square footage as what was approved. If the property owner desires to alter the method of inclusionary compliance for the project, they may elect to pay an inclusionary fee, pursuant to Planning Code Section 415.5. Altering the method of compliance would require a Mandatory Discretionary Review supplemental and a hearing by the Planning Commission, pursuant to Planning Code Section 415.5(g)(5).

12. If the total amount of dwelling units retained as part of the current legalization/abatement efforts are equal to or exceed 10, the retained dwelling units will be subject to the Inclusionary Housing Program, pursuant to Planning Code Section 415. The current inclusionary rate for developments consisting of 25 or more units is 15% of all new units on the project site. If 10 units are to be legalized, the project would be subject to the Inclusionary Housing Program, and two (2) of dwelling units to be legalized will be BMR units (.15 x 10 = 1.5, which rounds up to 2), pursuant to Planning Code Section 415B.2. Alternatively, the property owner may elect to pay an inclusionary fee, pursuant to Planning Code Section 415B.1. The amount of the fee can be estimated once it is determined which units will be retained.
13. Roof deck does not illustrate any railings. Add railings.
14. Note the change in material on the front and rear facades from wood to stucco. Stucco is acceptable.
15. Vinyl windows are not acceptable for the front façade. Aluminum windows or another acceptable material should be proposed. The installation of the vinyl windows without authorization does not merit their legalization.
16. **Enforcement:** this property has active enforcement case (2022-009935ENF). Failure to respond to this letter within the required 30-day time period will result in enforcement proceedings by the Planning Department. Administrative penalties of up to \$1,000 per day per violation may also be assessed to the responsible party for each day the violation remains unabated, as well as an Enforcement Time and Materials Fee of \$1,649 plus any additional accrued time and materials cost for Code Enforcement investigation and abatement of violation.

Required Action

1. Please include a written response to this letter that discusses how you have addressed the items outlined above and in each of the attachments. Please note that the Department may request further revisions to the project as part of the environmental review process (e.g., to avoid a significant impact), or to ensure conformity with the Planning Code, design guidelines and other local ordinances and policies.
2. Within thirty (30) days from the date of this letter, please submit the requested information, or contact the

project manager listed above if more time is needed to prepare the requested information. If the Department has not received the requested information or a request for additional time within 30 days, the application will be cancelled.

Please do not come to the Planning Department to discuss this letter. Please direct all general questions or meeting requests to the project planner listed above. For questions related specifically to environmental review, please contact the environmental planner listed above.

Thank you,

Matt Dito, Senior Planner
Current Planning Division

CC: [REDACTED] Property Owner, Jack Tseng (jacktseng11@gmail.com)
[REDACTED] Andrew Zacks (az@zfplaw.com)
[REDACTED] Ada Tan, Senior Planner, Current Planning Division



PLAN CHECK LETTER #2

January 19, 2024

David Locicero (via email: dslocicero@gmail.com)
2340 Powell St #290
San Francisco, CA 94133

Project Address: **322 ALEMANY BLVD**
Assessor's Block/Lot: **5817 / 011**
Zoning District: **NEIGHBORHOOD COMMERCIAL, SHOPPING CENTER NC-S/40-X**

Building Permit Number: **202202228380**
Planning Record Number: **2022-002309PRJ**

Project Manager Matthew Dito, Matthew.Dito@sfgov.org, 628-652-7358

The Project Application for the above address has been reviewed by the Planning Department. This Plan Check Letter indicates (1) any information required to proceed with environmental analysis, (2) any missing information or modifications that must be provided to demonstrate compliance with the Planning Code and proceed with environmental analysis, and (3) any other modifications the Department is seeking in order to support the project. **Please review this Plan Check Letter carefully, and follow the instructions provided in order to advance the review process.**

Project Review History

On 10/23/2023, Plan Check Letter #1 was issued.

On 11/17/2023, an extension of the 30-day timeline to respond to Plan Check Letter #1 was granted to 12/11/2023.

On 12/11/2023, a response to Plan Check Letter #1 was received.

Project Review Comments

1. Label the units on the as-built plans with this structure – “[Legal Status] [Floor] [Letter – start at A for each floor]”. Example, label the unit on first floor as “UDU 1A”. Label the second floor units as “Permitted Dwelling 2A” and “UDU 2B”.
2. Label the units on the proposed plans with this structure – “[Unit Type] [Floor][Letter – start at A for each floor]”. For example, label the units on the fourth floor as “Permitted Dwelling 4A” and “Legalized UDU 4B”.
3. Standard terminology for Comments 1 and 2:
 - a. Refer to all as-built dwelling units as either “Permitted Dwelling” if permitted in prior BPAs, or “UDU” if not.
 - b. For proposed drawings, units should be labelled as “Permitted Dwellings”, “Legalized under Density”, “Legalized UDU”, or “Legalized ADU via Local/State [select one] Program” (Note that only one of the State or Local ADU programs may be used. Both programs cannot be used.), based on the method of abatement proposed. Do not label the units as “to be brought into compliance” as that does not directly indicate how abatement is being pursued.
 - c. Keep unit numbers as consistent as possible between permitted, as-built, and proposed drawings.
4. Provide a table on each floor plan sheet detailing the scope of work for all units in the proposed configurations. For example, in the current proposal, the fourth floor table would be as-follows:

As-Built Unit	Scope	Proposed Unit
Permitted Dwelling 4A	Legalize division of “Permitted Dwelling 4A” and “UDU 3B” on as-built plans.	Permitted Dwelling 4A
UDU 4B	Legalize division of “Permitted Dwelling 3A” and “UDU 4B” on as-built plans. Unit will be legalized as principally permitted dwelling unit.	Legalized Under Density 4B

5. Based on analysis of the methods available, it appears that the maximum possible density of the property is five units. The eliminated units are not eligible for legalization via the Local ADU program because they require taking habitable space from existing dwelling units above the ground floor. It is suggested the abatement plan be as follows:
 - First floor: Legalize the existing UDU as a State ADU. Re-label units per naming convention previously described.
 - Second floor: Legalize the existing UDU via Ordinance 43-14 (Legalized UDU). Re-label units per naming convention previously described.

- Third floor: Merge units and re-label per naming convention previously described.
- Fourth floor: Merge units and re-label per naming convention previously described.

The project currently proposes to retain four total units, when a maximum of five are permitted. Three existing units are previously permitted, and two additional units may be legalized via an ADU program and Ordinance 43-14, resulting in a total of five. The abatement plan suggested keeps in mind potential life/safety issues around egress and path of travel, which is why the currently proposed new dwelling on the fourth floor is relocated to the second in the suggested plan. It is recommended that the Project Sponsor research these requirements to ensure the feasibility of the proposal prior to submitting revised drawings to the Planning Department.

6. In general, keep in mind other requirements to legalize a unit, such as building code, fire code, life/safety issues, etc. – in particular egress and space requirements for each unit.
7. Bicycle parking is required at a rate of one space per dwelling unit. Mark a 3'x6' space in the garage dedicated to bicycle parking for each dwelling unit. Only the Ordinance 43-14 legalization unit does not require a bicycle parking space.
8. Provide a table to demonstrate open space compliance. Open space is required at a rate of 80 square feet per unit if the space is private, or 100 square feet if the space is common. If providing both private and common open space for a unit, the common open space shall be provide at a rate of 1.25 times the remaining private requirement (example: 40 square feet of private is provided for a unit, then 50 square feet of common is leftover). A variance will be required if sufficient usable open space is not provided for each dwelling unit.
9. 316-318 Alemany Boulevard (Block 5817/ Lot 013), 320 Alemany Boulevard (5817/ 012), 322 Alemany Boulevard (5817/011) and 326-328 Alemany Boulevard (5817/010) were originally authorized and constructed as one development project. At the time of the original authorization via Building Permit Application Nos. 2002.1028.0031, 2002.1028.0036, 2002.1028.0039, and 2002.1028.0040, the project required one (1) Below Market Rate (BMR) unit be provided to comply with Inclusionary Housing requirements that were in place at that time. A two-bedroom dwelling unit on the third floor of 316-318 Alemany Boulevard was to be designated as the BMR unit, as recorded in Notice of Special Restrictions No. 2003-H430754. This unit was never provided. A unit that is equivalent in bedrooms and square footage as the previously designated unit (“Unit 3” on the approved third floor of 316-318 Alemany Boulevard) should be identified as the BMR unit. Planning staff will confirm the selected unit is acceptable or work with the applicant to find an acceptable selection. The currently selected unit on the proposed second floor of 316-318 Alemany Boulevard is not comparable in square footage as what was approved. If the property owner desires to alter the method of inclusionary compliance for the project, they may elect to pay an inclusionary fee, pursuant to Planning Code Section 415.5. Altering the method of compliance would require a Mandatory Discretionary Review supplemental and a hearing by the Planning Commission, pursuant to Planning Code Section 415.5(g)(5).
10. If the total amount of dwelling units retained as part of the current legalization/abatement efforts are equal to or exceed 10, the retained dwelling units will be subject to the Inclusionary Housing Program, pursuant to Planning Code Section 415. The current inclusionary rate for developments consisting of 25 or more units is

15% of all new units on the project site. If 10 units are to be legalized, the project would be subject to the Inclusionary Housing Program, and two (2) of dwelling units to be legalized will be BMR units (.15 x 10 = 1.5, which rounds up to 2), pursuant to Planning Code Section 415B.2. Alternatively, the property owner may elect to pay an inclusionary fee, pursuant to Planning Code Section 415B.1. The amount of the fee can be estimated once it is determined which units will be retained.

11. Roof deck does not illustrate any railings. Add railings.
12. Vinyl windows are not acceptable for the front façade. Aluminum windows or another acceptable material should be proposed. The installation of the vinyl windows without authorization does not merit their legalization.
13. Note the change in material on the front and rear facades from wood to stucco. Stucco is acceptable.
14. **Enforcement:** this property has active enforcement case (2022-009935ENF). Failure to respond to this letter within the required 30-day time period will result in enforcement proceedings by the Planning Department. Administrative penalties of up to \$1,000 per day per violation may also be assessed to the responsible party for each day the violation remains unabated, as well as an Enforcement Time and Materials Fee of \$1,649 plus any additional accrued time and materials cost for Code Enforcement investigation and abatement of violation.

Required Action

1. Please include a written response to this letter that discusses how you have addressed the items outlined above and in each of the attachments. Please note that the Department may request further revisions to the project as part of the environmental review process (e.g., to avoid a significant impact), or to ensure conformity with the Planning Code, design guidelines and other local ordinances and policies.
2. Within thirty (30) days from the date of this letter, please submit the requested information, or contact the project manager listed above if more time is needed to prepare the requested information. If the Department has not received the requested information or a request for additional time within 30 days, the application will be cancelled.

Please do not come to the Planning Department to discuss this letter. Please direct all general questions or meeting requests to the project planner listed above. For questions related specifically to environmental review, please contact the environmental planner listed above.

Thank you,

Matt Dito, Senior Planner
Current Planning Division

CC: Property Owner, Jack Tseng (jacktseng11@gmail.com)
Andrew Zacks (az@zfplaw.com)
Ada Tan, Senior Planner, Current Planning Division



PLAN CHECK LETTER #2

January 19, 2024

David Locicero (via email: dslocicero@gmail.com)

2340 Powell Street #290

San Francisco, CA 94133

Project Address: **326-328 ALEMANY BLVD.**
Assessor's Block/Lot: **5817 / 010**
Zoning District: **NEIGHBORHOOD COMMERCIAL, SHOPPING CENTER NC-S/40-X**

Building Permit Number: **202306230800**
Planning Record Number: **2023-006549PRJ**

Project Manager Matthew Dito, Matthew.Dito@sfgov.org, 628-652-7358

The Project Application for the above address has been reviewed by the Planning Department. This Plan Check Letter indicates (1) any information required to proceed with environmental analysis, (2) any missing information or modifications that must be provided to demonstrate compliance with the Planning Code and proceed with environmental analysis, and (3) any other modifications the Department is seeking in order to support the project. **Please review this Plan Check Letter carefully, and follow the instructions provided in order to advance the review process.**

Project Review History

On 10/23/2023, Plan Check Letter #1 was issued.

On 11/17/2023, an extension of the 30-day timeline to respond to Plan Check Letter #1 was granted to 12/11/2023.

On 12/11/2023, a response to Plan Check Letter #1 was received.

1. Label the units on the as-built plans with this structure – “[Legal Status] [Floor] [Letter – start at A for each floor]”. Example, label the unit on first floor as “UDU 1A”. Label the second floor units as “Permitted Dwelling 2A” and “UDU 2B”.
2. Label the units on the proposed plans with this structure – “[Unit Type] [Floor][Letter – start at A for each floor]”. For example, label the units on the third floor as “Permitted Dwelling 3A” and “Legalized UDU 3B”.
3. Standard terminology for Comments 1 and 2:
 - a. Refer to all as-built dwelling units as either “Permitted Dwelling” if permitted in prior BPAs, or “UDU” if not.
 - b. For proposed drawings, units should be labelled as “Permitted Dwellings”, “Legalized under Density”, “Legalized UDU”, or “Legalized ADU via Local/State [select one] Program” (Note that only one of the State or Local ADU programs may be used. Both programs cannot be used.), based on the method of abatement proposed. Do not label the units as “to be brought into compliance” as that does not directly indicate how abatement is being pursued.
 - c. Keep unit numbers as consistent as possible between permitted, as-built, and proposed drawings.
4. Provide a table on each floor plan sheet detailing the scope of work for all units in the proposed configurations. For example, in the current proposal, the fourth floor table would be as-follows:

As-Built Unit	Scope	Proposed Unit
Permitted Dwelling 3A	Legalize division of “Permitted Dwelling 3A” and “UDU 3B” on as-built plans.	Permitted Dwelling 3A
UDU 3B	Legalize division of “Permitted Dwelling 3A” and “UDU 4B” on as-built plans. Unit will be legalized via Ordinance 43-14 (Legalized UDU).	Legalized UDU 3B

5. Based on analysis of the methods available, it appears that the maximum possible density of the property is five units. The eliminated units are not eligible for legalization via the Local ADU program because they require taking habitable space from existing dwelling units above the ground floor. It is suggested the abatement plan be as follows:
 - First floor: Re-label unit per naming convention previously described.
 - Second floor: Legalize the existing UDU via Ordinance 43-14 (Legalized UDU). Re-label units per naming convention previously described.
 - Third floor: Legalize the existing UDU via State ADU program. Re-label units per naming convention

previously described.

- Fourth floor: Remove UDU by merging back into permitted dwelling unit. Re-label unit per naming convention previously described.

The abatement plan suggested keeps in mind potential life/safety issues around egress and path of travel, which is why the currently proposed new dwelling on the fourth floor is relocated to the second in the suggested plan. It is recommended that the Project Sponsor research these requirements to ensure the feasibility of the proposal prior to submitting revised drawings to the Planning Department.

6. In general, keep in mind other requirements to legalize a unit, such as building code, fire code, life/safety issues, etc. – in particular egress and space requirements for each unit.
7. Bicycle parking is required at a rate of one space per dwelling unit. Mark a 3'x6' space in the garage dedicated to bicycle parking for each dwelling unit. Only the Ordinance 43-14 legalization unit does not require a bicycle parking space.
8. Provide a table to demonstrate open space compliance. Open space is required at a rate of 80 square feet per unit if the space is private, or 100 square feet if the space is common. If providing both private and common open space for a unit, the common open space shall be provide at a rate of 1.25 times the remaining private requirement (example: 40 square feet of private is provided for a unit, then 50 square feet of common is leftover). A variance will be required if sufficient usable open space is not provided for each dwelling unit.
9. 316-318 Alemany Boulevard (Block 5817/ Lot 013), 320 Alemany Boulevard (5817/ 012), 322 Alemany Boulevard (5817/011) and 326-328 Alemany Boulevard (5817/010) were originally authorized and constructed as one development project. At the time of the original authorization via Building Permit Application Nos. 2002.1028.0031, 2002.1028.0036, 2002.1028.0039, and 2002.1028.0040, the project required one (1) Below Market Rate (BMR) unit be provided to comply with Inclusionary Housing requirements that were in place at that time. A two-bedroom dwelling unit on the third floor of 316-318 Alemany Boulevard was to be designated as the BMR unit, as recorded in Notice of Special Restrictions No. 2003-H430754. This unit was never provided. A unit that is equivalent in bedrooms and square footage as the previously designated unit (“Unit 3” on the approved third floor of 316-318 Alemany Boulevard) should be identified as the BMR unit. Planning staff will confirm the selected unit is acceptable or work with the applicant to find an acceptable selection. The currently selected unit on the proposed second floor of 316-318 Alemany Boulevard is not comparable in square footage as what was approved. If the property owner desires to alter the method of inclusionary compliance for the project, they may elect to pay an inclusionary fee, pursuant to Planning Code Section 415.5. Altering the method of compliance would require a Mandatory Discretionary Review supplemental and a hearing by the Planning Commission, pursuant to Planning Code Section 415.5(g)(5).
10. If the total amount of dwelling units retained as part of the current legalization/abatement efforts are equal to or exceed 10, the retained dwelling units will be subject to the Inclusionary Housing Program, pursuant to Planning Code Section 415. The current inclusionary rate for developments consisting of 25 or more units is 15% of all new units on the project site. If 10 units are to be legalized, the project would be subject to the Inclusionary Housing Program, and two (2) of dwelling units to be legalized will be BMR units (.15 x 10 = 1.5,

which rounds up to 2), pursuant to Planning Code Section 415B.2. Alternatively, the property owner may elect to pay an inclusionary fee, pursuant to Planning Code Section 415B.1. The amount of the fee can be estimated once it is determined which units will be retained.

11. Roof deck does not illustrate any railings. Add railings and provide five-foot setbacks from eastern property line wall.
12. Vinyl windows are not acceptable for the front façade. Aluminum windows or another acceptable material should be proposed. The installation of the vinyl windows without authorization does not merit their legalization.
13. Note the change in material on the front and rear facades from wood to stucco. Stucco is acceptable.
14. **Enforcement:** this property has active enforcement case (2022-009935ENF). Failure to respond to this letter within the required 30-day time period will result in enforcement proceedings by the Planning Department. Administrative penalties of up to \$1,000 per day per violation may also be assessed to the responsible party for each day the violation remains unabated, as well as an Enforcement Time and Materials Fee of \$1,649 plus any additional accrued time and materials cost for Code Enforcement investigation and abatement of violation.

Required Action

1. Please include a written response to this letter that discusses how you have addressed the items outlined above and in each of the attachments. Please note that the Department may request further revisions to the project as part of the environmental review process (e.g., to avoid a significant impact), or to ensure conformity with the Planning Code, design guidelines and other local ordinances and policies.
2. Within thirty (30) days from the date of this letter, please submit the requested information, or contact the project manager listed above if more time is needed to prepare the requested information. If the Department has not received the requested information or a request for additional time within 30 days, the application will be cancelled.

Please do not come to the Planning Department to discuss this letter. Please direct all general questions or meeting requests to the project planner listed above. For questions related specifically to environmental review, please contact the environmental planner listed above.

Thank you,

Matt Dito, Senior Planner
Current Planning Division

CC: Property Owner, Jack Tseng (jacktseng11@gmail.com)
Andrew Zacks (az@zfplaw.com)
Ada Tan, Senior Planner, Current Planning Division

EXHIBIT L

From: [Dito, Matthew \(CPC\)](#)
To: [Andrew Zacks](#); [Jack Tseng](#); [david s. Locicero](#); [Thomas O'Brien](#); [Emily Lowther Brough](#); [Bana Incorporated](#); [Andrew Grindstaff](#); [Eric Larizadeh-Saito](#)
Cc: [Lam, Gilbert \(DBI\)](#); [Tan, Ada \(CPC\)](#); [RYAN, MEGAN \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#)
Subject: RE: Alemany Blvd - Responses to Plan Check Letters #2
Date: Wednesday, April 24, 2024 11:56:54 AM

Hi everyone,

Thanks for your patience while I reviewed the latest proposal. After reviewing everything, it does not appear that State Density Bonus is a viable path for these properties.

The issues are as-follows:

1. This is not one project, but four separate projects. Each individual project is not eligible for State Density Bonus because they do not result in an increase of five **base** units (meaning principally permitted units). When existing dwelling units are to remain, they are not counted towards the base density (see page 3 of Planning Director Bulletin #6: <https://sfplanning.org/resource/planning-director-bulletin-no-6-implementing-state-density-bonus-program>). The only property with a remaining base unit is 320 Alemany Boulevard, with one unit left.

- a. Here's a ZA interp of base density –

Subject: Nonconformity of lots under single ownership

Effective Date: 5/91

Interpretation: This Section states that uses which do not conform to the Code cannot be increased in size or intensity or changed in such a way as to increase an existing noncompliance. Section 102 ("Lot") states that a lot, for purposes of the Planning Code, may consist of more than one Assessor's lot if necessary to fulfill the requirements of the Code and that the Zoning Administrator may cause Assessor's lots to be merged for such purpose. This raises questions about when adjacent lots under same ownership must be considered to be a single zoning lot. **Single ownership of contiguous lots is irrelevant unless these contiguous lots have been treated by the single owner or the City as a single lot for purposes of the Planning Code, such as by using an adjacent lot for parking or RELYING on it for density calculation or to meet open space requirements.** Contiguous lots could have been relied upon by a single owner to meet a Code requirement but, in the absence of evidence to that effect, the Zoning Administrator will not treat them as a single zoning lot. Therefore, if one such lot is over the current density standard it will not curtail full development of an adjacent lot under the same ownership if the noncomplying unit was built at a time or under circumstances that would have allowed it without reliance on the adjacent lot. To make the record clear, current Zoning Administrator practice is to require the

merger of lots when treated as one zoning lot.

- b. While the lots were previously one single lot, the development of the lot in the early-2000s included the subdivision. Each property is currently Code-compliant and does not rely on treating the lots as a single lot, therefore we consider these four separate projects.
1. Even if treated as a single lot through merger or ZA determination, there is not enough base density remaining to make the project eligible for State Density Bonus. Across all four lots, maximum base density is 16 units. Fifteen units were authorized. Again, existing dwelling units are to remain, they are not counted towards the base density. Therefore the “effective” base density is one (1). State ADUs also count towards base density. As a single lot, the project would be allowed two State ADUs (one of which would be a Junior ADU). This would raise the base density to three, still below the five unit threshold for State Density Bonus.

As such, it does not appear there is any way for the project to be eligible for State Density Bonus. The path that will allow the retention of the most units possible is still the path outlined in the last set of Plan Check Letters.

Please let me know how long you will need to revise the plans in accordance with the Plan Check Letters. We consider the State Density issue to be clear with no grey area, but will review any additional information you have if you feel that we are misinterpreting past practices and current regulations.

Best,
Matt

Matt Dito, Senior Planner
Districts 5 & 8, Current Planning Division
San Francisco Planning
49 South Van Ness Avenue, Suite 1400, San Francisco, CA 94103
Direct: 628.652.7358 | www.sfplanning.org
[San Francisco Property Information Map](#)

From: Dito, Matthew (CPC)
Sent: Friday, April 12, 2024 8:31 AM
To: Andrew Zacks <az@zfplaw.com>
Cc: Lam, Gilbert (DBI) <gilbert.lam@sfgov.org>; Jack Tseng <jacktseng11@gmail.com>; Andrew Grindstaff <agrindstaff@zfplaw.com>; Tan, Ada (CPC) <ada.tan@sfgov.org>; Eric Larizadeh-Saito <banainc1@gmail.com>; Bana Incorporated <banainc@aol.com>; Emily Lowther Brough <emily@zfplaw.com>; david s. Locicero <dslocicero@gmail.com>; RYAN, MEGAN (CAT) <Megan.Ryan@sfcityatty.org>; JENSEN, KRISTEN (CAT) <Kristen.Jensen@sfcityatty.org>; Thomas O'Brien <thomas@zfplaw.com>
Subject: RE: Alemany Blvd - Responses to Plan Check Letters #2

BRIEF(S) SUBMITTED BY RESPONDENT DEPARTMENT(S)



BOARD OF APPEALS BRIEF

HEARING DATE: October 23, 2024

October 17, 2024

Appeal Nos.: 24-052
Project Address: 316-328 Alemany Boulevard
Block/Lot: 5817/010-013
Zoning District: NC-S (Neighborhood Commercial, Shopping Center)
Height District: 40-X
Staff Contact: Corey A. Teague, Zoning Administrator – (628) 652-7328
corey.teague@sfgov.org

Introduction

The only issue before the Board on this appeal is whether the Zoning Administrator erred or abused their discretion when responding to the Appellant's request for determination. The determination issued by the Zoning Administrator responded to 6 specific, technical questions related to the properties at 316-328 Alemany Boulevard. However, it's important to note that the questions and determinations are applicable to any similar scenario in the City, and therefore have relevance beyond the subject properties. The Appellant's determination request is provided as Exhibit A, and the issued determination is provided as Exhibit B.

The responses in the determination letter are clear and represent long-standing Planning Code interpretation and practice, and this brief does not restate the information provided within that letter. However, the Appellant's brief provides an inaccurate narrative of the overarching events leading to their request for the Zoning Administrator determination, much of which is not relevant to the technical decision before the Board in

this case. Therefore, this brief provides direct responses to come of the information and arguments provided in the Appellant's brief to ensure a clearer understanding of the situation.

Responses

1. **Enforcement:** The Planning Department became aware of the potential violations in 2022 and opened an enforcement case in October 2022. Since that time, Planning has worked directly with the property owner, the City Attorney's Office, DBI, and the Fire Department to identify and resolve the various violations. DBI and Fire found that there was inadequate fire egress in most units, including 2 units that were subject to DBI emergency orders to vacate, and 5 units where the tenants were prohibited from using a bedroom until fire escapes had been retrofitted to actually reach bedroom windows. Notices of Violation were issued for each property by the Acting Zoning Administrator on October 6, 2023. Those NoVs were appealed, but those appeals were eventually withdrawn.

On May 30, 2023, the City filed suit against Appellants in San Francisco Superior Court. After significant discovery and prolonged negotiations about injunctive relief, on April 9, 2024, the parties agree to an injunction requiring full legalization of the properties. The injunction was entered by the court on April 15, 2024. On June 27, 2024, the City and Appellants agreed to a stipulated judgment for \$1.2 million in civil penalties. This was less than two months before the scheduled August 26, 2024 trial. The judgment was entered by the court on July 1, 2024. Finally, on September 9, 2024, Appellants agreed to pay the City \$350,000 in attorney's fees and \$2,104.43 in costs. On September 12, 2024, the court entered an amended total judgment for \$1,554,104.43. Defendants have up to two years to pay this judgment, which accrues interest at 10% per year.

2. **Planning Department Engagement:** The Appellant states that the Planning Department has not been timeline in its review of the situation at the subject properties. However, that is entirely incorrect. The

Planning Department has been timeline and consistent with its engagement and feedback and has worked directly with the property owner to understand and work to resolve the situation. In fact, the project architect's declaration (Exhibit F of the Appellant's brief) specifically identifies the timely back and forth with the Planning Department.

3. **State Density Bonus (SDB) Application:** The Appellant includes "partial" SDB applications as exhibits and claims they filed the required SDB applications on September 20, 2024. However, no SDB application has been filed directly with the Planning Department at this time. It seems that the SDB applications were attached to applications filed with DBI instead. The Department will work directly with the property owner to ensure the appropriate submittal requirements are provided and followed for SDB applications.

Additionally, the Appellant states that they are under court order to legalize all the unauthorized units on the properties, which is incorrect. They are instead required to abate the various violations on the properties, which may be done in any manner permitted under applicable City codes. To be clear, the Planning Department did not require the property owner to attempt to use the SDB law or to request a letter of determination from the Zoning Administrator.

4. **State Density Bonus (SDB) Law:** As referenced in the determination, the Zoning Administrator doesn't interpret State Law, although the City's interpretation of State Law may be referenced and relevant to an interpretation of how the Planning Code may apply to a project or situation. In that regard, the City disagrees with the Appellant's claim that "housing development" as defined in SDB includes projects with 5 or more units after the density bonus is added to a project. This is belied by the use of "housing development" in Government Code Section 65915(b)(1) and (f), which state that "housing development" projects that provide a certain percentage of on-site affordable units are entitled to additional density. In other words, the 5 units are a threshold requirement for a project to be eligible for the SDB law in the first place. It would be

redundant to allow the additional density if the term “housing development” to be included the full project after the density bonus is added.

Additionally, the Appellant claims that the permitted density for their proposed project(s) should be calculated using a “development capacity” method instead of a lot area density calculation. However, the SDB law provides that a “development capacity” method may be used if there is no numeric density limit provided. It is the Department’s consistent practice to only use lot area density limits to determine the maximum permitted density for lots that are in a zoning district with such a density control. This includes the subject property’s zoning, NC-S, which has a density limit of 1 unit per 800 square feet lot area, or the density permitted in the nearest R District, whichever is greater.

Conclusion

To conclude, the subject properties are subject to a complex enforcement scenario where various City agencies are heavily involved and invested in achieving a safe and appropriate outcome. However, this appeal before the Board is limited to the much narrow questions asked by the requestor and answered by the Zoning Administrator. The determinations issued are based on long-standing and consistent interpretations and implementation of the Planning Code, and the rationale for each answer is provided in the determination letter. The Department recommends that the Board deny the appeal and uphold the Zoning Administrator’s determination.

316-328 Alemany Blvd - Board of Appeals Brief
Appeal No. 24-052
Hearing Date: October 23, 2024

cc: Emily Brough (Appellant)
Matt Dito (Planning Department)
Megan Ryan (City Attorney's Office)

Enclosure: Exhibit A – Determination Request Letter
Exhibit B – Letter of Determination Issued by the Zoning Administrator

EXHIBIT A



ZACKS & FREEDMAN PC

May 13, 2024

Corey Teague
Zoning Administrator
49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103

By Electronic Submission

*Re: 316-318, 320, 322, & 326-328 Alemany Boulevard, San Francisco, CA
Letter of Determination Request (San Francisco Planning Code § 307)*

Dear Mr. Teague:

This office represents the owner of the referenced properties (“**Properties**”). On or about March 18, 2024, our client, 320 Alemany LLC (“**Client**”), submitted responses to Plan Check Letters related to legalizing the maximum number of units at the Properties under the State Density Bonus Program. On April 24, 2024, Senior Planner Matt Dito responded that the program was not a viable option for legalization of units at the Properties. By this letter, we respectfully request a letter of determination regarding the application of California Government Code Sections 65915, *et seq.*, to the Properties.

BACKGROUND

Construction of the Properties was finalized on or about April 25, 2008. The Properties were permitted for the following number of units: 316-318 Alemany – 1 commercial, 5 residential; 320 Alemany – 3 residential; 322 Alemany – 3 residential; and 326-328 Alemany – 4 residential.

During a City task force inspection in November 2022, City officials determined that the Properties contained the following number of units: 316-318 Alemany: 1 commercial, 12 residential; 320 Alemany – 6 residential; 322 Alemany – 7 residential; and 326-328 Alemany – 7 residential. The Planning Department issued NOV’s to each respective property on or about October 6, 2023, identifying the increase in unit count as Unauthorized Dwelling Units.

Client submitted permit applications to legalize all units in or before June 2023. Planning issued Plan Check Letter #1 on October 31, 2023. Client submitted responses to PCL #1 on December 11, 2023. Plan Check Letter #2 was issued on January 19, 2024. On March 18, 2024, Client submitted responses to PCL #2 to maximize the number of units to be legalized under the State Density Bonus Program (“**Project**”). In response, the Planning Department determined that the Properties are not a single project for purposes of the State Density Bonus Program, and even if they were treated as a single project, because of the existing number of authorized units at the Properties, the Project would still fall below the required threshold of number of proposed units to utilize the State Density Bonus Program.

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PROPERTY INFORMATION

- Block | Lot Numbers: 5817 | 013, 012, 011, & 010
- Zoning: NC-S
- SUDs: None
- Lot Size: 12,783 sq. ft. (11,325 sq. ft. minus commercial space)
 - 316-318 Alemany: 4,237 sq. ft. (2,779 sq. ft. minus commercial space)
 - 320 Alemany: 2,824 sq. ft.
 - 322 Alemany: 2,610 sq. ft.
 - 326-328 Alemany: 3,112 sq. ft.
- Existing Residential Unit Count (Permitted and Unauthorized Totals): 32 residential units
 - 316-318 Alemany: 12 residential units
 - 320 Alemany: 6 residential units
 - 322 Alemany: 7 residential units
 - 326-328 Alemany: 7 residential units
- Year Built: 2008

DISCUSSION

We respectfully request a determination as to the following:

1. Whether the Project qualifies as a “housing development” under Government Code Section § 65915(i), which in part defines a “housing development” as one with “a development project for five or more residential units.”
2. Whether legalization of the unpermitted units at the Properties counts towards the number of units needed to qualify for “a development project for five or more residential units.”
3. Does the following provision under Government Code Section 65915(i) permit the Client to count the proposed legalization of residential units on all four parcels as one Project under the law: “For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, *but do not have to be based upon individual subdivision maps or parcels.*” (Emph. add.)
4. Whether the Project “replaces” currently permitted units at the properties, per Government Code Section § 65915(c)(3)(A)(i) & (B)(i).
5. Whether the Project qualifies as a “housing development” under Government Code Section § 65915(i), which in part defines a “housing development” as “the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units.”

Letter of Determination Request

May 13, 2024


Page 3

6. Even if the four parcels were considered separate projects, whether each of the four projects qualify as a “housing development” under Government Code Section § 65915(i), which in part defines a “housing development” as “the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units.”

Please note that the Client and Properties are currently involved in enforcement matters before both the San Francisco Board of Appeals, Case No. 24-017 and the San Francisco Superior Court, Case No. CGC-23-606810, the subject matter of which relate to the Properties’ Unauthorized Dwelling Units. The Board of Appeals hearing is currently scheduled for June 26, 2024, and the Court trial is currently scheduled for August 26, 2024. Thus, we respectfully request the Zoning Administrator respond to this Letter of Determination Request prior to these enforcement proceedings, so that Court, Board of Appeals and our Client are appropriately advised on the City’s position as to issues herein. Thank you for your time and consideration.

Very truly yours,

ZACKS & FREEDMAN, PC



Emily L. Brough

EXHIBIT B



LETTER OF DETERMINATION

August 23, 2024

Emily L. Brough
Zacks & Freedman, PC
180 Montgomery Street, Suite 1950
San Francisco, CA 94104

Record No.: **2024-004246ZAD**
Site Address: **316-318, 320, 322, & 326-328 Alemany Boulevard**
Assessor's Block/Lot: 5817 / 010, 011, 012, & 013
Zoning District: NC-S (Neighborhood Commercial Shopping Center District)
Staff Contact: Matt Dito – (628) 652-7358 or matthew.dito@sfgov.org

Dear Emily Brough:

This letter is in response to your request for a Letter of Determination regarding the properties at 316-318 Alemany Boulevard (Assessor's Block 5817/Lot 013), 320 Alemany Boulevard (Assessor's Block 5817/Lot 012), 322 Alemany Boulevard (Assessor's Block 5817/Lot 011), and 326-328 Alemany Boulevard (Assessor's Block 5817/Lot 010). The request seeks various determinations regarding the Department's application of California Government Code Section 65915 (State Density Bonus Program).

BACKGROUND

Lot 8 in Assessor's Block 5817 was subdivided into 4 separate lots in 2002-2003. Four separate building permits were issued between 2004 and 2006 to construct 4 separate residential buildings, one on each lot. Construction of the 4 buildings was completed in April 2008. The properties were authorized for the following amounts of dwelling units:

- 316-318 Alemany Boulevard (Lot 013) – Five (5) dwelling units
- 320 Alemany Boulevard (Lot 012) – Three (3) dwelling units
- 322 Alemany Boulevard (Lot 011) – Three (3) dwelling units
- 326-328 Alemany Boulevard (Lot 010) – Four (4) dwelling units

In November 2022, it was discovered that each of the four properties had undergone alterations without the benefit of a building permit and created 17 unauthorized dwelling units (UDUs), as described below:

- 316-318 Alemany Boulevard – Seven (7) UDUs + Five (5) dwelling units (Total of 12)
- 320 Alemany Boulevard – Three (3) UDUs + Three (3) dwelling units (Total of 6)
- 322 Alemany Boulevard – Four (4) UDUs + Three (3) dwelling units (Total of 7)
- 326-328 Alemany Boulevard – Three (3) UDUs + Four (4) dwelling units (Total of 7)
- Total of 32 units

On December 8, 2022, Notices of Enforcement were issued to each of the 4 properties detailing the unauthorized addition of units and other various violations. On October 6, 2023, Notices of Violation were issued to each of the 4 properties.

On March 18, 2024, a proposal was submitted to the Planning Department to use the State Density Bonus Program to retain 31 of the 32 existing dwelling units, both authorized and unauthorized, across all four properties. The proposal considered the various scopes of work across the four properties to be a single development project. In an email response on April 24, 2024, the Department stated that the scopes of work were considered four separate projects, not one, and that each project did not individually qualify for the State Density Bonus Program. Additionally, the email stated that even if the proposal was considered one development project, the project did not propose the creation of 5 or more new residential units and would not be eligible for the State Density Bonus Program.

In response, the request for a Letter of Determination was filed. Please see the specific requests and determinations below:

1. **Whether the project qualifies as a “housing development” under Government Code Section 65915(i), which in part defines a “housing development” as one with “a development project for five or more residential units.”**

As stated in the Department’s April 24, 2024 letter, the proposal is not eligible for the density bonus under Government Code Section 65915. To be eligible, a project must provide at least 5 net new units in the base portion of the project to qualify for the State Density Bonus Program (Gov. Code § 65915(i); Planning Code Section 206.6(b)). As explained in Director’s Bulletin No. 6, on sites where there are existing buildings that will remain, the base density will be calculated using the remaining development potential of the subject lot.

Because the subject properties consist of 4 separate lots, any proposal to add more dwelling units to each lot will be considered a separate project under the Planning Code. We describe this requirement in response to No. 3 below. And as detailed in the table below, none of the individual lots can create 5 or more new, principally permitted residential units. Therefore, none of the proposed scopes of work for any of the 4 lots

are eligible for the State Density Bonus Program.

Lot	Lot Area	Legally Existing Units	Principally Permitted Units*	Remaining Permitted Density
5817/010	3,112 sf	4	5	1
5817/011	2,695 sf	3	4	1
5817/012	2,824 sf	3	5	2
5817/013	4,237 sf	5	6	1

* Includes State ADUs

Please note that even if the lots were merged into a single, merged lot containing the 4 existing buildings (again, see the discussion in No. 3 below), it would not qualify as a “housing development” under Government Code Section 65915(i). This is because such a merged lot would be principally permitted to add one standard dwelling unit plus one State ADU, for a total of only 2 units, which would fall short of the 5-unit threshold.

2. Whether legalization of the unpermitted units (UDUs) at the properties counts towards the number of units needed to qualify for “a development project for five or more residential units.”

The legalization of an unauthorized dwelling unit is counted towards the required 5 or more residential units only when legalization of such unit does not require a discretionary waiver from any Planning Code requirement (i.e., density, open space, etc.) or is not done through a separate density bonus provision of the Planning Code. In other words, only those units that are consistent with the objective controls of the Planning Code may count towards the 5-unit threshold.

As such, the legalization of an unauthorized dwelling unit through Planning Code Section 207.1 (Local Accessory Dwelling Unit Program) or Section 207.3 (Authorization of Dwelling Units Constructed without a Permit in an Existing Building Zoned for Residential Use) does **not** count towards the five or more required residential units because these units either require a waiver of density controls or are a form of density bonus themselves.

However, the legalization of an unauthorized dwelling unit as a principally permitted dwelling unit pursuant to density controls in the Planning Code or through Planning Code Section 207.2 (State Mandated Accessory Dwelling Unit Program) **does** count towards the 5 or more required residential units because such units do not require any discretionary Planning Code waivers.

3. Whether the following provision under Government Code Section 65915(i) permits the Client to count the proposed legalization of residential units on all four parcels as one Project under the law: “For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one

development application, but do not have to be based upon individual subdivision maps or parcels.”

Government Code Section 65915 does not permit the property owner to count the proposed legalization of all the residential units across the 4 lots as one project because the legalization of those units will not be “the subject of one development application.”

The Planning Code Section 102 definition of a Lot and the May 1991 Zoning Administrator Interpretation of Planning Code Section 181(a), attached as Exhibit A, clarify that while contiguous lots under single ownership **may** be considered a single lot in certain cases, that is only the case when the lots at issue have been used and treated that way by the property owner, and in a manner necessary to meet the requirements of the Planning Code. In this case, the property owner chose to subdivide a single lot into 4 separate lots and construct 4 separate residential buildings instead of maintaining the single lot and constructing a single building. Additionally, there is no indication that the 4 separate lots have operated or otherwise been treated as a single lot since the original lot was subdivided. Each lot is independently compliant with the Planning Code and does not need any other lot to meet any Planning Code requirements. Lastly, the proposed project is not different from the existing condition, which has already been permitted as four separate lots. Therefore, there is no justification to consider the four lots as one lot for the purposes of the Planning Code, and the proposal, as defined in the request letter, represents 4 different projects that will require 4 separate development applications.

4. Whether the project “replaces” currently permitted units at the properties, per Government Code Section 65915(c)(3)(A)(i) & (B)(i)

Because the proposed project is not eligible for the State Density Bonus Program, the replacement obligations under Government Code Section 65915 do not apply, and the combined proposal is not considered a “replacement” of currently permitted units per Government Code Section 65915(c)(3)(A)(i) & (B)(i). Further, there is no replacement of any dwelling units proposed because no dwelling units have been eliminated. Instead, additional units (UDUs) were added, resulting in a net increase of units currently existing on each individual lot.

5. Whether the project qualifies as a “housing development” under Government Code Section 65915(i), which in part defines a “housing development” as “the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units.”

Again, the project is not eligible under the State Density Bonus Program. In addition, Government Code Section 65915(i) states that, in addition to a develop project for 5 or more residential units, a “housing development” also includes “a **subdivision or common interest development**, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county **and** consists of residential units or unimproved residential lots **and** either a project to substantially rehabilitate and convert an existing commercial building to residential use **or** the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units” [Emphasis added].

Planning Code Section 206.6 is intended to implement Government Code Section 65915, but it does not define or otherwise address this additional type of “housing development.” While the Zoning Administrator

does not interpret State Law for the City, the plain language of this provision requires the project to contain ownership units that are part of a subdivision or common interest development, and not rental units. Additionally, there is no claim that the existing buildings are in disrepair or otherwise in need of rehabilitation, and the proposed project scope does not constitute a “substantial rehabilitation” of any of the existing building. Instead, the proposal is only to legalize unauthorized units constructed without the necessary approvals.

Given that the proposal does not include a subdivision of lots or common interest developments, and that no substantial rehabilitation of the existing buildings is proposed, it is unlikely that the Planning Department would consider the proposal to be a “housing development” pursuant to this specific provision of Government Code Section 65915(i).

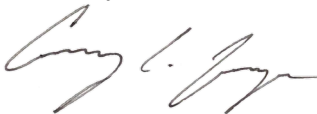
6. Even if the four parcels were considered separate projects, whether each of the four projects qualify as a “housing development” under Government Code Section 65915(i), which in part defines a “housing development” as “the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units.”

The same response to No. 5 above also applies here. The distinction of whether the parcels are considered separate projects is irrelevant.

Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.

APPEAL: An appeal may be filed with the Board of Appeals within 15 days of the date of this letter if you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator. Please contact the Board of Appeals in person at 49 South Van Ness Ave, Suite 1475, call (628) 652-1150, or visit www.sfgov.org/bdappeal.

Sincerely,



Corey A. Teague, AICP
Zoning Administrator

cc: Property Owner
Neighborhood Groups
Ella Samonsky, Planning Department
Megan Ryan, City Attorney's Office

Enclosures: Exhibit A – Planning Code References

EXHIBIT A

RELEVANT PLANNING CODE DEFINITIONS AND INTERPRETATIONS

SEC. 102. DEFINITIONS.

Lot. A parcel of land under one ownership that constitutes, or is to constitute, a complete and separate functional unit of development, and that does not extend beyond the property lines along streets or alleys. A lot as so defined generally consists of a single Assessor's lot, but in some cases consists of a combination of contiguous Assessor's lots or portions thereof where such combination is necessary to meet the requirements of this Code. In order to clarify the status of specific property as a lot under this Code, the Zoning Administrator may, consistent with the provisions of this Code, require such changes in the Assessor's records, placing of restrictions on the land records, and other actions as may be necessary to assure compliance with this Code. The definition of "lot" shall also be applicable to piers under the jurisdiction of the Port Commission.

INTERPRETATIONS BY CODE SECTION

Code Section: 102

Subject: "Lot," two Assessor's lots as one zoning lot

Effective Date: 5/91

Interpretation:

See Interpretation 181(a)

Code Section: 181(a)

Subject: Nonconformity of lots under single ownership

Effective Date: 5/91

Interpretation:

This Section states that uses which do not conform to the Code cannot be increased in size or intensity or changed in such a way as to increase an existing noncompliance. Section 102 ("Lot") states that a lot, for purposes of the Planning Code, may consist of more than one Assessor's lot if necessary to fulfill the requirements of the Code and that the Zoning Administrator may cause Assessor's lots to be merged for such purpose. This raises questions about when adjacent lots under same ownership must be considered to be a single zoning lot. **Single ownership of contiguous lots is irrelevant unless these contiguous lots have been treated by the single owner or the City as a single lot for purposes of the Planning Code**, such as by using an adjacent lot for parking or RELYING on it for density calculation or to meet open space requirements. Contiguous lots could have been relied upon by a single owner to meet a Code requirement but, in the absence of evidence to that effect, the Zoning Administrator will not treat them as a single zoning lot. Therefore, if one such lot is over the current density standard it will not curtail full development of an adjacent lot under the same ownership if the noncomplying unit was built at a time or under circumstances that would have allowed it without reliance on the adjacent lot. To make the record clear, current Zoning Administrator practice is to require the merger of lots when treated as one zoning lot.