



Z O N I N G  
A D J U S T M E N T S  
B O A R D  
M E M O R A N D U M

INFORMATIONAL AGENDA ITEM  
DECEMBER 8, 2022

DATE: December 1, 2022  
TO: Zoning Adjustments Board  
FROM: Samantha Updegrave, Zoning Officer  
SUBJECT: Use Permit ZP2021-0210, 2435 Haste Street – Revision and Clarification of Condition of Approval No. 56

The Zoning Officer is revising and clarifying Condition of Approval 56.B of Use Permit ZP2021-0210, 2435 Haste Street, as shown below, to delete the reference to sitting tenants that do not qualify for a below-market-rate unit, because it contradicts BMC section 23.326.030(A)(5)(d) and Condition of Approval 56.A, and is therefore unenforceable.

Per Condition of Approval 63, the applicant shall enter into a Regulatory Agreement to be reviewed, approved, and implemented by the Health, Housing and Community Services Department (HHCS), which will oversee and monitor the income qualification of returning tenants. The Regulatory Agreement will include the following provision for returning tenants: tenants who do not income-qualify for a below-market-rate unit in the new building shall occupy a unit per the terms in Condition of Approval 56; at the end of their tenancy, the unit shall assume the affordability level specified in the Regulatory Agreement.

### **Condition of Approval 56**

#### **56. Occupying Tenant Protections.**

A. Pursuant to BMC 23.326.030(A)(5)(d), (i) sitting tenants who are displaced as a result of demolition shall be provided the right of first refusal to move into the new building, and (ii) tenants of units that are demolished shall have the right of first refusal to rent new below market rate units designated to replace the units that were demolished, at the rent

that would have applied if they had remained in place, as long as their tenancy continues. (iii) Income restrictions do not apply to displaced tenants.

~~B. Sitting tenants that do not qualify for a below-market rate unit shall be provided first right of refusal to rent another unit in the building, at the rent that would have applied if they had remained in place, for as long as their tenancy continues.~~ The maximum rent for such tenancies shall increase on January first of each year by no more than 65% of the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending the previous June 30.

C. Pursuant to Government Code Section 66300(d)(2)(C), any existing residents will be allowed to occupy their units until six months before the start of construction activities with proper notice.