



# PLANNING DIRECTOR

## BULLETIN NO. 6

# IMPLEMENTING THE STATE DENSITY BONUS PROGRAM

This Bulletin is an overview of the State Density Bonus Law and describes the implementation procedures for projects seeking to use the program in San Francisco.

<p><b>First Issued:</b> DECEMBER 2018</p> <p><b>Revised:</b> JUNE 2021</p>	<p><b>References:</b> Government Code Section 65915 Planning Code Section 206.6</p>
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### BACKGROUND:

The California State Density Bonus Law (“State Law”) offers development incentives to projects that provide on-site affordable housing. The State Law offers three categories of benefits to incentivize production of on-site affordable housing:

1. A project may seek up to a 50% residential density increase or receive form based density if the project is 100% affordable;
2. A project may receive up to four incentives or concessions (generally, defined as a reduction of development standards, modifications of zoning code requirements, or approval of mixed-use zoning) to offset the costs of providing affordable housing on-site; and
3. The City must waive any local development standard required to construct the additional density and any incentives or concessions.

The amount of the density bonus and the number of incentives or concessions depends on the amount and level of affordability of the on-site affordable units.

The City adopted the Individually Requested State Density Bonus Program (Planning Code Section 206.6) in 2017 to implement the State Law.

### HOW DOES SAN FRANCISCO IMPLEMENT THE STATE DENSITY BONUS PROGRAM?

#### Calculating a Density Bonus

##### *Base Density*

State Law allows projects to receive up to 50% additional residential density. To determine the amount of additional density, Planning Department staff must calculate the principally permitted density under current controls (“base density”). This calculation is referred to as a base density study. The “base density” is the maximum allowable gross residential density principally permitted under the current zoning. 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, base density is the maximum number of units allowed by the zoning district. Other districts use form-based density, where residential density is regulated by the permitted building 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 is the maximum residential gross floor area principally permitted under current zoning and this Bulletin.

In some cases, the Planning Code allows for increased density through a discretionary entitlement process (i.e. Conditional Use authorization). For example, projects in the Residential Transit Oriented (RTO) District have a principally permitted dwelling unit density of one unit per 600 square feet of lot area and require a Conditional Use authorization to exceed one unit per 600 feet of lot area. Because the base density is determined only by the principally permitted density, additional density achieved through required discretionary entitlements, such as the RTO example above, shall not be included in the calculation of base density.

Other provisions of the Planning Code require a discretionary entitlement due to the size of the lot and are not directly related to the size and/or density of a proposed development. For example, Neighborhood Commercial Districts (NC) often require a Conditional Use Authorization for projects on lots greater than 10,000 square feet. In these cases, a project may still assume the maximum allowable density permitted on the site as the base density, provided that the base density study is otherwise Code-compliant.

The Planning Department applies the following provisions when calculating the base density:

- Base Density is calculated using “Residential Gross Floor Area,” which 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 in the property. (December 2018)
- The base density does not need to account for compliance with wind or shadow requirements. (December 2018)
- Sub-grade residential floor area<sup>1</sup> shall not count as residential floor area in the base density study or bonus project for the purposes of calculating the maximum residential floor area.<sup>2</sup> (July 2019)
- Certain zoning districts do not have a rear yard setback requirement under Planning Code Section 134. Instead, setbacks in these districts are controlled by lot coverage provisions. Projects in Central SOMA (Section 249.78(d)(6)) and the Downtown Residential District (DTR – Section 825(b)(2)) shall calculate base density assuming 80% coverage on all residential levels. The base density study may not assume full lot coverage. (July 2019)
- The Base Density study shall assume a floor to floor height of 9 feet, except that the ground floor ceiling height must comply with requirements set forth in Planning Code Section 145 (December 2020, updated May 2021)
- If Production Distribution Repair (PDR) replacement is required, the Base Density study must include this replacement on the ground floor. (December 2020)

#### *Bonus Project*

The amount of additional density 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 State Law summarizes the amount of density bonus allowed based on the level of affordability. To determine the percentage of density bonus allowed based upon affordable units provided, consult the density bonus charts including in the [Individually Requested State Density Bonus Program Supplemental Application](#). In areas where density is controlled as a ratio of units to lot area, the maximum 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 maximum density bonus will be calculated as 150% of the residential gross floor area permitted in the base density study.

#### **100% Affordable Housing Projects**

The State Law provides a separate program for 100% affordable housing projects depending upon the proximity to transit. Under State Law, 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.

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1 Sub-Grade residential floor area is defined as any floor area that is located below the First Story, as defined in Section 102.

2 This interpretation is narrowly applied to the calculation of maximum residential density for the purpose of implementing the State Law and does not apply to the calculation of Gross Floor Area for other purposes, including FAR and Impact Fee assessments.

### Other Density Bonuses

State Law also provides a density bonus for student housing, senior housing, common interest developments, transitional foster youth, disabled veterans, or homeless persons. When 20% of a proposed student housing development is dedicated for lower income students, a project may receive a 35% bonus. When 10% of the units in a common interest development is dedicated to moderate income housing, a project may receive a 50% bonus. When 10% of the units in a project are devoted to transitional foster youth, disabled veterans, or homeless persons, a project may receive a 20% bonus. A 20% bonus is also available for a senior housing development. The State Law also provides bonuses for land dedication and child care facilities. Please see Government Code section 65915 for additional eligibility requirements.

### Requests for Incentives, Concessions, and Waivers

#### *Incentives or Concessions*

The State Law allows a project the right to request between one and four incentives or concessions “that are required to provide for affordable housing costs.”<sup>3</sup> An incentive or concession can be a reduction in site development standards, a modification of zoning code requirements, approval of mixed-use zoning, or other regulatory incentives or concessions that “result in identifiable and actual cost reductions.”<sup>4</sup> The terms “incentives” and “concessions” are interchangeable; for the purposes of this document they will be referred to simply as “incentives.”

The number of incentives the project may request depends on the number of affordable units provided and the level of affordability, as described in the table below.

Target Group	Restricted Affordable Units			
Very Low Income (50% AMI)	5%	10%	15%	
Low Income (80% AMI)	10%	17%	24%	100%*
Moderate Income (up to 120% AMI)	10%	20%	30%	
Maximum Number of Incentives	1	2	3	4

\*Up to 20% of units may be provided at 120% AMI.

The applicant must provide a written statement describing the requested incentives and may request a meeting with Planning staff to discuss the request. The City must approve the requested incentives unless it finds that they 1) will not result in identifiable and actual cost reductions; 2) will have specific adverse impacts on public health or safety of the physical environment, 3) will have specific adverse impacts on property that is listed on the California Register of Historic Resources, or (4) would be contrary to state or federal law. The Project Sponsor must include the requested incentive(s) in the [Individually Requested State Density Bonus Supplemental Application](#), along with the base density study and plans for the density bonus project. The Department may request additional documentation and verification regarding cost reductions and/or impacts on public health, safety, or historic property. Required verification may include a site-specific analysis (i.e. a pro forma) of the costs reductions to a project that will be provided by the requested incentive. The Department may require an evaluation of the financial analysis by a qualified third-party consultant.

3 CA Govt. Code Section 65915(k)

4 CA Govt. Code Section 65915(k)

The following applies to any requested incentive:

- Projects shall comply with any required entitlement process and pay all required development impact fees.
- Incentives shall be granted only from Planning Code provisions, not standards in other City regulations.
- Projects in form-based zoning districts, shall comply with Dwelling Unit Mix requirements included in Planning Code Sections 207.6 and 207.7.
- If a project includes non-residential uses, incentives will not be granted for uses that are not permitted in the Zoning District for the site.

#### *Waivers*

The Planning Code currently regulates the physical dimensions of residential development through requirements limiting height and bulk, or requiring open space, rear yards, dwelling unit exposure, and other requirements that can preclude the ability to construct the project with the bonus density and the requested incentives.

In accordance with the State Law, the City may not apply any development standards that will preclude the construction of the project with the bonus density or incentives within the permitted building envelope, unless the City finds that the requested waiver 1) would have a specific, adverse impact upon health, safety, or the physical environment, 2) would have an adverse impact on any property listed in the California Register of Historical Resources, or 3) is contrary to state or federal law.

The following provisions shall apply to requests for waivers:

- Waivers shall be granted only from Planning Code provisions, not standards in other City regulations.
- Projects in form-based zoning districts shall comply with Dwelling Unit Mix requirements included in Planning Code Sections 207.6 and 207.7.

To determine whether waivers are necessary to construct the density bonus project, applicants must submit a base density study with a bonus project application. The applicant must identify the requested waivers in the [Individually Requested State Density Bonus Supplemental Application](#). The Department may request additional documentation to demonstrate that the development standard would preclude construction of the project with the additional density and the incentives.

## **Review Process**

### *Eligibility*

A project must provide at least five net new units in the base portion of the project to qualify for the State Density Bonus Program. If an Accessory Dwelling Unit (ADU) can be constructed on a lot ministerially pursuant to State Law, then it may count towards the five unit minimum. ADUs that require a density waiver pursuant to Planning Code Section 207(c)(4) will not count towards the five unit minimum. Please see Section 206.6(b) and State Law for other eligibility requirements.

### *Submittal Requirements*

Applicants must complete the [Individually Request State Density Bonus Supplemental Application](#). Applicants will be required to provide a calculation of the base density consistent with the current Planning Code, and this DB6, and a calculation of the allowable density bonus.

In zoning districts where density is regulated by volume (“form-based” zoning), applicants must demonstrate that the base density can be achieved as a Code-conforming project that requires no waivers, modifications, exceptions, or variances from zoning requirements. This evidence must be presented in the form of a “base density study” submittal, which is a set of schematic plans that comply with [Planning Department’s Plan Submittal Guidelines](#). Architectural details, including floor plans for upper floors, will not be required for a base density study. The applicant shall submit a Code-compliant building massing, building section, and floor plans for the ground floor. Performance-based standards, such as wind controls, will not be evaluated as part of the base density study.

In addition to the base density study, the applicant must submit plans for the density bonus project. The plans for the bonus project must comply with the [Department's Plan Submittal Guidelines](#) before the application will be accepted for review.

The bonus project submittal must include a description of the requested incentives and any necessary waivers, and all relevant supporting documentation. Graphic representations to support the requests for waivers are required, and must include a step-by-step illustration of how the massing of the proposed project shifts as the density bonus and incentives are incorporated into the project. The first step should illustrate a base project massing that complies with all Code requirements and this Bulletin, and should include the total residential gross floor area included in the massing.<sup>5</sup> Each subsequent step should demonstrate how the proposed massing is changing and should include the corresponding increase in residential gross square feet, as well as any incentives, concessions, and waivers that are required to achieve that massing. The last step should illustrate the final massing, describe the final requested waivers, and the final residential gross floor area. Each step in the diagram should clearly delineate between requested incentives and requested waivers by using a different color or hatch for each. A sample massing diagram is included as Exhibit A of this document.

#### *Process*

Projects that are subject to specific entitlements without the density bonus must still secure that specific entitlement with the density bonus. For example, a project in Eastern Neighborhoods that requires a Large Project Authorization approval by the Planning Commission because the base project is over 25,000 square feet will continue to require approval by the Planning Commission. For projects that do not require a Planning Commission entitlement, the Planning Commission must adopt findings that the requested incentives will result in actual cost reductions for the project, and the requested waivers and incentives will not negatively impact public health, safety, or historic property. Incentives or waivers from a required entitlement process or any required development impact fees shall not be allowed.

Below market rate units provided as part of a density bonus project shall be administrated by MOHCD. Planning Code Section 206.6 requires that the applicant enter into a regulatory agreement with the City that will be recorded on the deed of the property. The agreement will include details on the number, location, and affordability of the restricted units, a description of incentives and waivers approved by the City, and other provisions to ensure compliance with Section 206.6. A draft regulatory agreement must be provided to the Planning Department prior to the first discretionary hearing or building permit approval, and the regulatory agreement must be finalized and recorded prior to the issuance of the first construction document. Please contact the staff planner prior to the issuance of the site permit for the project to request a sample regulatory agreement.

Applicants must submit an [Individually Requested State Density Bonus Supplemental Application](#) along with the [Preliminary Project Assessment \(PPA\) Application](#) or [Project Application](#). Note that projects that do not submit a complete base density study and bonus project will be considered incomplete and will not be accepted for review. Applicants must submit a completed [State Density Bonus Affidavit](#) at least 30 days prior to the first discretionary decision or building permit issuance.

Projects seeking approval under California Government Code Section 65913.4 (SB 35) are eligible for a streamlined, ministerial approval process different from the process described above. Please see [Planning Director Bulletin 7](#) for more detail.

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<sup>5</sup> 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 a base project may be found on page 2 in the "Base Density" Section.

## **Inclusionary Affordable Housing requirements in State Density Bonus projects**

San Francisco's Inclusionary Affordable Housing Program (Planning Code section 415 et seq.) applies to the entirety of any development project with 10 or more units, regardless of whether the project includes additional density through a state or local program. Section 415 requires a project to pay the Affordable Housing Fee. In lieu of the Affordable Housing Fee, projects may elect to provide a percentage of units as "below market rate" (BMR) units at a price that is affordable to a specified mix of low, moderate, and middle-income households either on-site or off-site, referred to as the On-Site Alternative or Off-Site Alternative, respectively.

Projects that include on-site units to qualify for a density bonus under the State Law may also be able to satisfy all or part of the Affordable Housing Fee requirement, by receiving a "credit" for the on-site units provided. This "credit" is calculated in accordance with Planning Code Section 415.5(g)(1)(D), referred to as the Combination Alternative. The Combination Alternative allows projects to satisfy the Inclusionary Housing requirement through a combination of payment of the fee and provision of on-site units. An example of how to apply the Combination Alternative to a Density Bonus project is provided below.<sup>6</sup>

Under State Law and the Individually Requested State Density Bonus Program, projects may only receive a density bonus for below market rate units provided at a single income level; projects cannot combine different below market rate income levels to receive a greater density bonus. The Inclusionary Affordable Housing Program requires projects with 25 or more units that elect the On-Site Alternative to provide BMR units at three different income levels, or "tiers." These tiers are set at different levels depending on the tenure of the proposed projects. Rental projects must provide units at 55% AMI, 80% AMI, and 110% AMI. Ownership projects must provide units at 80% AMI, 105% AMI, and 130% AMI. When using the required On-Site units to qualify for a density bonus, the project must include the required percentage of low-income (80% AMI) ownership units in both small and large projects. Rental projects will generally qualify for a greater bonus than ownership projects, but note that projects that qualify for a bonus with rental Inclusionary Units may be restricted in the ability to convert from rental to ownership in the future. For purposes of SDB projects, the 55% AMI tier may be lowered to 50% AMI.

If a project that has been approved by the Department or the Commission without a density bonus later resubmits a project using the State Law, the Department will apply the Inclusionary Rate in effect at the time of resubmittal.

### *Calculating the Inclusionary Housing Fee for Density Bonus Projects*

To calculate the applicable Inclusionary Housing Fee for projects seeking a "credit" for on-site units provided to qualify for a density bonus, applicants must submit the following information:

- the number and type of on-site units to be provided, and the percentage of the total number of units in the proposed project these represent;
- documentation that all on-site units comply with the affordability levels, unit size, unit mix, unit distribution and equivalency, and other requirements of Section 415.6 (as further specified in Zoning Administrator Bulletin No. 10), depending on the location, tenure, and number of total units in the project, and the date that the Project Application was accepted; and
- necessary AMI information to verify if/how the project qualifies for a State Density Bonus.

The remaining portion of the Fee requirement not satisfied by the credit for on-site units shall then be provided by payment of a pro-rated amount of the Affordable Housing Fee. The following examples illustrate how the Inclusionary requirement may be satisfied in 1) areas where density is regulated by a ratio of units to lot area, and 2) in areas where density is regulated by the permitted volume on the site (form-based density).

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<sup>6</sup> Projects seeking approval using the Central SOMA HSD must maximize the number of on-site units in the base project.

### *Rounding*

For calculating the base and bonus density, the State Law requires any fractional unit to be rounded up to the next whole number. Planning Code Section 415 requires any fractional unit over 0.5 be rounded up to the next whole number. Fee calculations are rounded to the nearest cent. Ratios and percentages that are not whole numbers are rounded up to the nearest tenth. The rounded number or percentage should be carried through to the next step.

The following examples are hypothetical. Please contact the assigned Planner to determine the applicable on-site rate and the current fee rate per square foot.

*Example 1: Zoning District establishes density as ratio of units to lot area*

**Project Location:** Polk NCD Zoning District

**Project Tenure:** Rental

**On-Site/Fee Rate:** 19% / 30%

**Inclusionary Fee Rate Per Square Foot:** \$199.50

**Maximum Allowable Residential Density (Base Density):** 93 units

**Bonus Project Total Area:** 96,292 gross square feet

**Bonus Project Total Number of Units:** 115

Step 1: Determine the total Fee and total on-site units due as if applied to the entire project.

- Total Fee: Residential Gross Floor Area x Fee Rate x Affordable Housing Fee amount:  
 $96,292 \text{ gsf} \times 30\% \times \$199.50 = \$5,763,076.20$   
(Rounded to the nearest cent – round up from 0.005 and above)
- Total On-Site: 115 units x 19% = 21.9 = 22 units  
(Rounded to the nearest whole unit – round up from 0.5 and above)

Step 2: Determine the number of on-site units required for the project as proposed.

- 93 units (base density) x 19% = 17.7 = 18 units required  
(Rounded to the nearest whole unit – round up from 0.5 and above)

Step 3: Determine the proportion of the Inclusionary requirement satisfied by on-site units

- 18 units provided/22 units to satisfy the On-Site Alternative =  $0.818181 = 81.8\%$   
(Rounded to the nearest tenth of a percent – round up from 0.05% and above)

Step 4: Determine the Fee amount required to satisfy the remainder of the Inclusionary requirement

- 81.8% of Inclusionary requirement met by providing on-site units
- $100\% - 81.8\% = 18.2\%$  of Inclusionary requirement remains
- Total Fee amount x remainder:  $\$5,763,076.20 \times 18.2\% = \$1,048,879.87$   
(Rounded to the nearest cent – round up from 0.005 and above)



*Example 2: Zoning District with form-based zoning*

The Combination Alternative works similarly to the example above, with one additional step (step 2 below) to convert the maximum allowable residential density from floor area into units, and to calculate the Inclusionary requirement

**Project Location:** C-3-G Zoning District

**Project Tenure:** Rental

**On-Site/Fee Rate:** 20%/30%

**Inclusionary Fee Rate Per Square Foot:** \$199.50

**Base Density Study:** 100,000 gross square feet

**Bonus Project Size:** 135,000 gross square feet

**Number of Units:** 200

Step 1: Determine the total Fee and total on-site units due.

- Total Fee: Residential Gross Floor Area x Fee Rate x Affordable Housing Fee amount:  
 $135,000 \text{ gsf} \times 30\% \times \$199.50 = \$8,079,750$   
(Rounded to the nearest cent – round up from 0.005 and above)
- Total On-Site: 200 units x 20% = 40 units  
(Rounded to the nearest unit – round up from 0.5 and above)

Step 2: Convert maximum allowable floor area into units, and apply the on-site rate

- Determine the ratio of the project represented by the maximum allowable residential density (base density):  $100,000 \text{ gross square feet} / 135,000 \text{ gross square feet} = 0.7407 = 74.1\%$   
(Rounded to the nearest tenth of a percent – round up from 0.05% and above)
- Apply that ratio to the total number of units in the project to determine the maximum allowable residential density in units (base density):  $200 \text{ total units} \times 74.1\% = 148.2 = 149 \text{ units (base density)}$   
(Rounded to the next highest whole number – round up any remainder)
- Apply the on-site rate to the maximum allowable residential base density in units:  
 $20\% \times 149 \text{ units} = 29.8 = 30 \text{ units}$   
(Rounded to the nearest whole unit – round up from 0.5 and above)

Step 3: Determine the proportion of the Inclusionary requirement satisfied by on-site units

- 30 units provided/40 units required to satisfy the On-Site Alternative:  $30/40 = 75\%$   
(Rounded to the nearest tenth of a percent – round up from 0.05% and above)

Step 4: Determine the Fee amount required to satisfy the remainder of the Inclusionary requirement

- 75% of Inclusionary requirement met by providing on-site units
- 25% of Inclusionary requirement
- Total Fee amount x remainder:  $\$8,079,750 \times 25\% = \$2,019,937.50$   
(Rounded to the nearest cent – round up from 0.005 and above)



## ADDITIONAL REQUIREMENTS:

State density bonus projects must comply with the replacement unit provisions of Government Code section 65915(c)(3). Projects must also comply with California Environmental Quality Act (Public Resources Code sections 21000 et seq) and the California Coastal Act (Public Resources Code Sections 30000 et seq.)

Director's Bulletin No. 6 will be updated periodically as the Department continues to issue interpretations related to the implementation of the State Density Bonus Program in San Francisco, and to clarify existing policies as needed. The Department will apply any updates to the Bulletin to projects currently under review. Please check the Planning Department website at [sfplanning.org](http://sfplanning.org) for the most recent version of this Bulletin.

## CONTACTS

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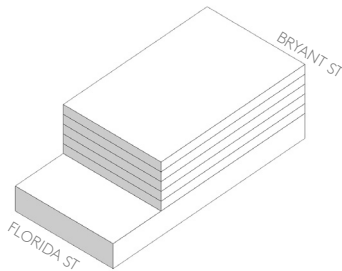
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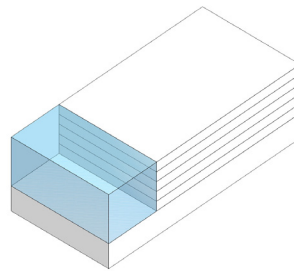
## RESOURCES

[Individually Requested State Density Bonus Informational and Supplemental Application Packet](#)  
[Planning Code Section 206.6](#)  
[Planning Code Section 415](#)  
[Planning Department Plan Submittal Guidelines](#)

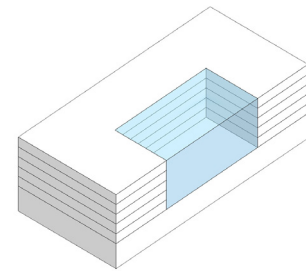
## EXHIBIT A



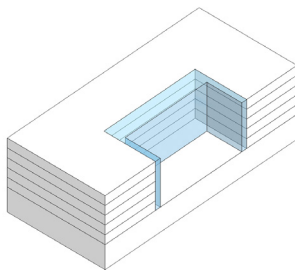
**BASELINE:** Full ground floor with 5 stories of housing above;  
*resid. gross sq. ft. = approx. 87,500*



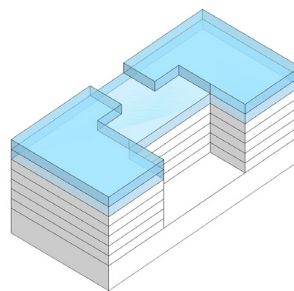
**STEP ONE:** Size of code-compliant rear yard = 25% of lot depth located along one of the street frontages



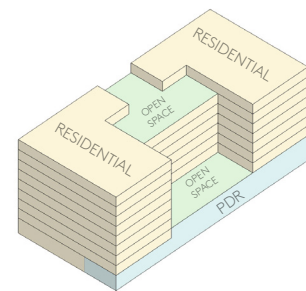
**STEP TWO:** Relocate rear yard to center of massing as courtyard



**STEP THREE:** Reduce rear yard and unit exposure to allow room for double-loaded corridors  
*+ approximately 10,750 residential SF*



**STEP FOUR:** ADD one full story of units and one partial story of units with additional roof-top open space  
*+ approximately 19,800 residential SF*



**FINAL MASSING:** full ground floor with 8-9 stories of housing above  
*resid. gross sq. ft. = approx. 118,050*

## MITHUN

Diagram provided by Mithun San Francisco



**San Francisco  
Planning**

**FOR MORE INFORMATION:  
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