



# SAN FRANCISCO PLANNING DEPARTMENT

## Letter of Determination

March 31, 2016

Howard Blecher  
BBUD  
3343 - 22<sup>nd</sup> Avenue  
San Francisco CA 94110

**Site Address:** 826 - 828 Central Avenue  
**Assessor's Block/Lot:** 1159/017B  
**Zoning District:** RH-3 (Residential, House, Three-Family) District / 40-X  
NOPA Historic District  
**Staff Contact:** Sharon M. Young, (415) 558-6346 or [sharon.m.young@sfgov.org](mailto:sharon.m.young@sfgov.org)  
**Record No.:** 2016-003096ZAD

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

Dear Mr. Blecher:

This letter is in response to your request for a Letter of Determination regarding the property at 826 - 828 Central Avenue. The subject property is located within the RH-3 (Residential, House, Three-Family) Zoning District, NOPA Historic District, and 40-X Height and Bulk District. The subject lot is approximately 1,664 square feet in area (20.167 feet wide by 82.50 feet deep) and is occupied by a two-story over basement, two-family dwelling constructed circa 1900. The existing building is listed in the NOPA Historic District as having architectural significance (Category A – Historic Resource Present).

The request is to (1) release the Notice of Special Restrictions No. F211099 to provide the property owners the full development potential of their property; (2) release all of the developmental restrictions under Notice of Special Restrictions No. F173750 granted under Variance Case No. 92.271V which legalized the subdivision of Lots 17A, 17B, and 17; and (3) enabling the property owners the ability to add a third dwelling unit to the subject property.

### BACKGROUND ON NOTICE OF SPECIAL RESTRICTIONS

Notice of Special Restrictions (NSR F211099) under Building Permit Application No. 9200595 specified the following restrictions for the development of the property:

1. That said lower (floor) basement area shall be used only as accessory to the dwelling above, as under the RH-3 zoning of the subject property, Section 209.1 of the City Planning Code provides that one (1) three-family shall occupy a lot and that Section 151 of said Code provides that one (1) standard-size, independently accessible, on-site off-street parking space shall be provided for any new dwelling unit and the subject property contains no (0) such additional space; and
2. That this lower floor (basement) shall not be used as a story of residential occupancy nor as a separate dwelling unit or rooming unit, and no boarder shall reside therein; that utility, other services, mailbox and doorbells shall be provided for this property solely on a two-family basis; and

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3. That for the purposes of this restriction and the City Planning Code, installation of any appliances for cooking, such as a stove or hot plate, in the lower (basement) area shall be deemed creation of a kitchen and therefore creation of an additional separate dwelling unit as defined in Section 102.6 of the City Planning Code.
4. No vertical or horizontal expansion of the subject buildings shall be allowed unless such expansion is specifically authorized by the Zoning Administrator after the property owner or authorized agent has sought and justified a new variance request pursuant to the public hearing and all other applicable procedures of the City Planning Code. However, the Zoning Administrator, after finding that such expansion complies with applicable Codes, is compatible with existing neighborhood character and scale, and does not cause significant loss of light, air, view or privacy to adjacent buildings, may determine that a new variance is not required.

Notice of Special Restrictions (NSR F173750) under Variance Case No. 92.271V specified the following restriction for the development of the property:

1. No vertical or horizontal expansion of the subject buildings shall be allowed unless such expansion is specifically authorized by the Zoning Administrator after the property owner or authorized agent has sought and justified a new variance request pursuant to the public hearing and all other applicable procedures of the City Planning Code. However, the Zoning Administrator, after finding that such expansion complies with applicable Codes, is compatible with existing neighborhood character and scale, and does not cause significant loss of light, air, view or privacy to adjacent buildings, may determine that a new variance is not required.

#### **DETERMINATION**

I have reviewed the Planning Department records and supplemental information you provided, and conclude that Notice of Special Restrictions (NSR F211099) is no longer necessary due to amendments and interpretations of the Planning Code regarding addition of dwelling units and development of ground floor accessory rooms in residential buildings. As such, the addition of a third dwelling unit on the subject property may be permitted if the proposed project meets current Planning Code requirements, residential design, environmental, and historic preservation guidelines within the RH-3 Zoning District, NOPA Historic District, and 40-X Height and Bulk District.

The condition contained in Notice of Special Restrictions (NSR F173750) is still necessary and must be retained. Such condition is a standard condition of approval for all variances, was not appealed or contested at the time of the Variance Decision and can only be removed through the variance process. It should be noted that this condition does not automatically require a new variance for any expansion of the building envelope, as it allows the Zoning Administrator to determine that a variance is not required if the project "complies with all applicable Codes, is compatible with existing neighborhood character and scale, and does not cause significant loss of light, air, view or privacy to adjacent buildings." If your proposed addition complies with these requirements, a new variance would not be required.

A "Release from Notice of Special Restrictions" is enclosed to be recorded at the San Francisco Recorder's Office. This release form will remove the restrictions established in 1992 from Notice of Special Restrictions (NSR F211099).

**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**

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**permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.**

**APPEAL:** If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,



Scott F. Sanchez  
Zoning Administrator

Enclosure: Release of Notice of Special Restrictions

cc: Sharon M. Young, Planner  
Seminar House Revocable Trust, 826 - 828 Central Avenue, San Francisco CA 94115  
Neighborhood Groups



# SAN FRANCISCO PLANNING DEPARTMENT

**RECORDING REQUESTED BY**

**And When Recorded Mail To:**

**Name:** Scott F. Sanchez  
**Zoning Administrator**  
**Address:** 1650 Mission Street, Suite 400  
**City:** San Francisco, CA 94103

1650 Mission St.  
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San Francisco,  
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(Space Above This Line For Recorder's Use)

## RELEASE OF NOTICE OF SPECIAL RESTRICTIONS

**Property Address:** 826 - 828 Central Avenue

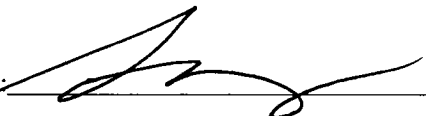
**Block and Lot:** 1159/017B

Notice is given that the Notice of Special Restrictions recorded on the land records on **September 28, 1992** as **Document No. F211099** under Building Permit Application No. 9200595 and of the Official Records is hereby **RELEASED** as it pertains to the property situated in the City and County of San Francisco, State of California, more particularly described as follows:

**(PLEASE ATTACH THE LEGAL DESCRIPTION AS ON DEED)**

Said Notices of Special Restrictions are no longer necessary or applicable to the subject property which is occupied by a two-story over basement, two-family dwelling. A proposal for the addition of a third dwelling unit on the subject property may be permitted if the proposed project meets the current Planning Code requirements, residential design, environmental, and historic preservation guidelines within the RH-3 Zoning District, NOPA Historic District, and 40-X Height and Bulk District. The Notice of Special Restrictions provided under Document No. F173750 related to Variance Case No. 92.271V remain in effect.

Dated: 3.31.16 at San Francisco California

By: 

Scott F. Sanchez

Zoning Administrator

PLANNING DEPARTMENT

CITY AND COUNTY OF SAN FRANCISCO

# CALIFORNIA ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of SAN FRANCISCO }

On MARCH 31st 116 before me, PUNAMBHAI C. PATEL  
(Here insert name and title of the officer)

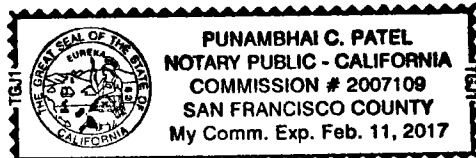
personally appeared SCOTT F SANCHEZ  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public Signature

(Notary Public Seal)



### ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

\_\_\_\_\_  
(Title or description of attached document)

\_\_\_\_\_  
(Title or description of attached document continued)

Number of Pages \_\_\_\_\_ Document Date \_\_\_\_\_

### CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
- Corporate Officer
- \_\_\_\_\_ (Title)
- Partner(s)
- Attorney-in-Fact
- Trustee(s)
- Other \_\_\_\_\_

### INSTRUCTIONS FOR COMPLETING THIS FORM

*This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.*

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they~~, is /are ) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.