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Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: October 13, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Katie Whewell, Chief Planner for Current Planning

Cc: 429 Cherry Street LLC, Applicant  
Terrence P. Morris, Attorney  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Deputy City Solicitor

RE: Request to amend Special Permit #135-18 to convert office space into a dwelling unit

**Applicant: 429 Cherry Street LLC**

<b>Site:</b> 429 Cherry Street	<b>SBL:</b> 33012 0012M
<b>Zoning:</b> BU1	<b>Lot Area:</b> 13,617 square feet
<b>Current use:</b> 13-unit multi-family dwelling with an office condominium	<b>Proposed use:</b> 14-unit multi-family dwelling

### BACKGROUND:

The subject site consists of a 13,617 square foot lot improved with a three-story building with 13 residential dwelling units and one 904 square foot office unit. The project was constructed in 2016 with Special Permit #190-12(3) which was later amended in 2018 (#135-18) to allow compliance with revised provisions for inclusionary units. The petitioner now proposes to convert the office space into a fourteenth residential unit, requiring an amendment to the special permit.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Terrence P. Morris, attorney, dated 8/9/2022
- The Eliot Condominium Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated 3/18/2021
- Condominium Floor Plans, Garage Level Plan, First Level Plan, signed and stamped by David B. Barsky, architect, dated 9/3/2020 (existing conditions)
- First Floor Plan, signed and stamped by David B. Barsky, architect, dated 7/8/2018, revised 5/22/2019, 4/28/2021

**ADMINISTRATIVE DETERMINATIONS:**

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1. The petitioner was granted a special permit in 2013 to construct a mixed-use building with 13 residential units and one 904 square foot office unit. The petitioner seeks to convert the office space into a residential dwelling unit, requiring an amendment to Special Permit #135-18.
2. The building contains 13 residential dwelling units and one office unit. The project was constructed under the incentive provisions of the zoning ordinance at that time, which allowed for an increase in density of one market rate unit per each affordable unit above what was required, as well as a reduced lot area per unit. The development of 11 dwelling units required two inclusionary units. The bonus allowed for an increase of two units: one affordable unit, and one market rate unit. In total, the project was approved for 13 residential units (10 market rate and three affordable units). The petitioner seeks to convert the existing office space into an additional residential unit, resulting in 14 residential units. Per the current inclusionary provisions of section 5.11.4, 15% of the proposed number of units must meet the affordability requirement, resulting in a requirement of two affordable units. Where there are three affordable units, the property meets the inclusionary housing requirements.
3. Per section 5.11.4.C, where a density bonus is granted, the total number of additional units of any type must not exceed 25% of the number of units otherwise permissible on the lot under the lot area per unit requirement. Per section 4.1.2.A.2 the by right lot area per unit in the BU1 district is 1,200 square feet. A 13,617 square foot lot yields a maximum of 11 by right units. The 25% bonus allows for three additional units, for a total of 14 allowable residential units.

See “Zoning Relief Summary” below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
	Request to amend Special Permit #135-18 to convert an office unit into a residential unit	S.P. per §7.3.3