



ADMINISTRATIVE REPORT

File #: 21-956

Meeting Date: 12/8/2021

Planning Commission Staff Report

Report Prepared by: Julie Nelson, Senior Planner, Development Services Department

SUBJECT: Density Bonus #21-01, initiated by UP Holdings, LLC, on behalf of the Stan Short Trust, property owner. This application involves a request to consider Density Bonus #21-01 which permits an increase in density and provides for concessions to development standards to allow the construction of 65 affordable permanent supportive housing units, a manager's unit, and a community/office area within a three-story building on a 1.54-acre parcel, generally located on the west side of Park Avenue, between Olive Avenue and Alexander Avenue. The site has a General Plan Designation of High-Medium Density (HMD) Residential and a Zoning designation of Planned Development (P-D) #4.

ACTION: PLANNING COMMISSION:

Recommendation to City Council

- 1) Environmental Review #21-43 (Categorical Exemption)
- 2) Density Bonus Application #21-01

CITY COUNCIL:

Approve/Disapprove/Modify

- 1) Environmental Review #21-43 (Categorical Exemption)
- 2) Density Bonus Application #21-01

SUMMARY

This is a request to consider Density Bonus #21-01 which permits an increase in density and provides for concessions and waivers of development standards to allow the construction of 65 affordable permanent supportive housing units, a manager's unit, and a community/office area within a three-story building on a 1.54-acre parcel, generally located on the west side of Park Avenue, between Olive Avenue and Alexander Avenue. Staff is recommending the Planning Commission recommend approval to the City Council. No public hearing is required per state statues or local ordinances.

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend approval to the City Council of Environmental Review #21-43 (Categorical Exemption) and Density Bonus #21-01 (including the

adoption of the Draft Resolution at Attachment A) subject to the findings/considerations in Exhibit A of the Draft Resolution.

DISCUSSION

The California State Density Bonus Law (SDBL) was adopted in 1976 in recognition of California’s acute and growing affordable housing needs. The SDBL has been amended multiple times since adoption in response to evolving housing conditions, to provide clarification on the legislation, to respond to legal and implementation challenges, and to incorporate new or expanded provisions. The SDBL, as originally enacted, sought to address the affordable housing shortage by encouraging development of low- and moderate-income units; over time, the law was expanded to recognize the need for housing for households at a wider range of income levels and with specialized needs.

The SDBL incentivizes affordable and other specialized housing production by requiring local agencies to grant an increase to the maximum allowable residential density for eligible projects, and to support the development of eligible projects at greater residential densities by granting incentives, concessions, waivers, or reductions to applicable development regulations. An example of a concession or incentive is a reduction in the number of parking spaces that may be required for a project, or an increase in the allowable building height that applies to the project. The SDBL applies to projects providing five or more residential units, including mixed-use developments. Density bonuses and associated incentives, concessions, waivers, or reductions are intended to offset the financial burden of constructing affordable or specialized units.

The City of Merced originally adopted a local Density Bonus Ordinance in 1993 and amended it in 2016 (included in Zoning Ordinance Chapter 20.56) to comply with State law at the time the ordinances were adopted. Several updates to SDBL have occurred since the Zoning Ordinance was adopted in 2016 and the City’s local Ordinance is currently inconsistent with State law. However, the City is committed to complying with State law and will be updating our local ordinance in the future.

To provide additional information and a more in-depth overview of the SDBL, the document entitled Guide to the California Density Bonus Law, prepared by Jon Goetz and Tom Sakai of the Meyers-Nave Law Firm, is provided at Attachment B.

One of the basic elements of this law is that a development that meets the requirements of the state law is entitled to receive the density bonus to increase the density of a project by right. This means that no discretionary review is required to allow an increase in the density of a project. The requested density is allowed to exceed the density established by the General Plan and/or Zoning. The City may require an agreement to memorialize the affordability component of the development or any other incentives given to assist the project.

The proposed project would provide permanent supportive housing to tenants whose income is less than 30% of the Area Median Income (AMI). The Area Median Income for 2021 in Merced County is \$70,700. The table below shows the income limits for the different income levels:

No. of Persons in Household	1	2	3	4	5	6	7	8
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Extremely Low Income	\$14,700	\$17,420	\$21,960	\$26,500	\$31,040	\$35,580	\$40,120	\$44,660
Very Low Income	\$24,500	\$28,000	\$31,500	\$34,950	\$37,750	\$40,550	\$43,350	\$46,150
Low Income	\$39,150	\$44,750	\$50,350	\$55,900	\$60,400	\$64,850	\$69,350	\$73,800
Median Income	\$49,500	\$56,550	\$64,650	\$70,700	\$76,350	\$82,000	\$87,650	\$93,300
Moderate Income	\$59,400	\$67,900	\$76,350	\$84,850	\$91,650	\$98,450	\$105,200	\$112,000

As part of the process for a Density Bonus, the developer/property owner will enter into an agreement specifying the length of time the units will be kept affordable. This agreement will be recorded and will remain in effect for the term of the agreement. The developer is proposing to keep the units affordable for a term of 55 years. The agreement will be presented to the City Council for approval and execution.

Specific Findings for a Density Bonus are required by Section 20.56 of the City’s Zoning Ordinance. Those Findings are provided at Exhibit A of Draft Planning Commission Resolution #4081 (Attachment A of Planning Commission Staff Report #21-956). Additional information regarding the State Density Bonus Law is provided in Finding A of Draft Planning Commission Resolution #4081. It should be noted that the City may not add conditions to any Density Bonus approval.

Project Description

The proposed project is located on the west side of Park Avenue, between Olive Avenue and Alexander Avenue (refer to the location map at Attachment C of Planning Commission Staff Report #21-956). The project would allow the construction of 65 affordable permanent supportive apartment units, an on-site manager’s unit, and a community/office area within a three-story building as shown on the site plan at Attachment D of Planning Commission Staff Report #21-956. The 65 units would be 1 bedroom, 1 bathroom units. The on-site manager’s unit would be a 2-bedroom unit. All the permanent supportive units would be income restricted for 55 years to tenants whose income does not exceed 30% of the area median income. Permanent Supportive Housing is defined by California legislation as an evidence-based housing intervention that combines on-going rental assistance with supportive services such as health and mental health care for chronically homeless households.

The site is located within P-D #4 and has a Site Utilization Plan designation of multi-family. P-D #4 does not provide design/development standards for multi-family units. Therefore, staff would rely on the design standards of the zoning district that corresponds to the General Plan designation. In this case, the General Plan designation of High-Medium Density Residential corresponds to the R-3 zoning district. As such, the standards (setback, height, etc.) for the R-3 zoning district would apply.

In order to provide the affordable housing units, the developer has requested a Density Bonus to allow a deviation from the allowed density and certain design standards. As previously described, Density Bonus law allows concessions, incentives, waivers, and reductions in order to allow for the construction of affordable housing. Based on the income level served by the proposed units, this project is eligible for 4 concessions or incentives (refer to Finding A of Draft Planning Commission Resolution #4081 on how the number of concessions are determined). In addition to those concessions or incentives, the City may not impose any development standard that would physically

preclude the construction of the affordable housing units.

The table below shows the applicant’s request and whether the request is considered a concession, incentive, waiver, or reduction (refer to Finding A of Planning Commission Resolution #4081 for information on the differences between each type of request). As previously mentioned, the project is eligible for 4 concessions. As shown in the table, the increase in density doesn’t count towards the number of concessions allowed, three of the requests would be considered a concession and four requests are considered waivers from development standards.

Standard	Requested Concessions/Incentives	Type of Request
Density	An increase of 80% above the allowable density. This would increase the allowable number of units from 37 units to 67 units. The project proposes 66 units.	Allowed by right, does not count as a concession
Parking	Reduce the parking requirement from 107 spaces to 30 spaces.	Concession. Reduction is greater than required by state law.
Height	Increase height from 35’ to 45’. The number of units proposed would be feasible without doing three-story buildings at a height of 45 feet. The site is small and would not accommodate the proposed 66 units unless the buildings are three-story.	Waiver
Setbacks	Reduce exterior yard setback from 15’ to 10’ for a portion of the building and waive the requirement for a 1:1 height and setback ratio from an exterior property line as required by Zoning Ordinance Section 20.46.040 (A)(1). The angled shape of this lot allows a portion of the building to meet the 15’ exterior yard setback, but not the entire building. In order to meet the 1:1 ratio, the number of units would have to be reduced or the height increased beyond 3 stories. This is not feasible as it would add additional costs and a 4-story building would be overly obtrusive to the neighborhood.	Waiver
Lot Area per Unit	Per the R-3-1. Standards, 1 unit is allowed for each 1,500 square feet of lot area, the proposal requests 1 unit for every 1,260 square feet of lot area.	Waiver

<p>Mechanical Equipment</p>	<p>Allow roof-mounted mechanical equipment if screened from public view. Roof-mounted mechanical equipment is prohibited by Zoning Ordinance Section 20.46.040 (A)(5a). Allowing roof-mounted mechanical equipment screened from public view allows more space on the ground for this small parcel. Placing mechanical equipment on the ground takes up space that could be otherwise used for open space or general outdoor area. Additionally, the cost of a roof-mounted HVAC unit is typically less because the entire unit is on the roof. Ground-mounted units require a portion of the unit to be inside the living area. This not only takes up space, but adds cost to the apartment unit.</p>	<p>Concession</p>
<p>Safety and Defensible Space</p>	<p>Allow more than 12 units to share an entrance to the building. All 66 units will be housed in the same building, but will have 3 distinctive wings with access into 2 of those wings. Zoning Ordinance Section 20.46.030 (H) (2) requires the number of apartments that enter their front door from the same hallway or courtyard be limited to 12 (or as otherwise approved by City staff) so that residents can learn to distinguish fellow neighbors from visitors and/or intruders. Redesigning the project to meet this requirement would add significant cost to the project. Additionally, a design that meets this requirement would add additional costs to the project which would make it infeasible to construct.</p>	<p>Concession</p>
<p>Private Outdoor Space</p>	<p>Requests a reduction in size or elimination of this requirement. Zoning Ordinance Section 20.46.030 (I) requires each unit to be provided with a minimum private outdoor are of 5' x 8' (40 sq. ft.) Because of the limited size of the site and the number of affordable units being provided, it may be difficult to provide each unit with private outdoor space, especially of this size. Additionally, this standard adds significant cost to the project.</p>	<p>Waiver</p>

The project site is located on the west side of Park Avenue, between Olive Avenue and Alexander Avenue. The surrounding uses are all residential uses as shown on the location map at C and listed in the table below.

Surrounding uses as noted in Attachment C.

Surrounding Land	Existing Use of Land	City Zoning Designation	City General Plan Land Use Designation
North	Apartments	P-D #4	High-Medium Density Residential (HMD)
South	Duplexes/Apartments	P-D #2	High-Medium Density Residential (HMD)
East	Apartments (across Park Avenue)	P-D #4	High-Medium Density Residential (HMD)
West	Single-Family Dwellings	R-1-6	Low Density Residential (LD)

Background

Planned Development (P-D) #4 was established in 1966, at which time the project site was designated for multi-family development. The site has remained undeveloped for many years despite having approvals for projects in 1996 and in 2002.

In 1996, the Planning Commission approved Conditional Use Permit (CUP) #920 to allow the construction of a 72-unit, 80-bed assisted elderly care facility. The project was 54,000 square feet with two-story buildings. This project was never constructed and subsequently in 2002, CUP #1018 was approved which approved the construction of a 70-unit, three-story senior apartment project. Construction on this project was started but was never completed. Any construction started on the site would have to be removed prior to the construction of any future projects.

Findings/Considerations

Please refer to Exhibit A of the Draft Planning Commission Resolution at Attachment A for the Findings related to Density Bonus #21-01.

ATTACHMENTS

- A. Draft Planning Commission Resolution #4081 (refer to Attachment 5 of Admin Rpt. 21-988)
- B. Guide to California Density Bonus Law (Meyer-Nave) (refer to Attachment 3 of Admin Rpt. 21-988)
- C. Location Map (refer to Attachment 1 of Admin Rpt. 21-988)
- D. Site Plan (refer to Attachment 2 of Admin Rpt. 21-988)
- E. Documentation from applicant (refer to Attachment 4 of Admin Rpt. 21-988)
- F. Categorical Exemption (refer to Attachment 7 of Admin Rpt. 21-988)
- G. Presentation [refer to Attachment 9 of Admin Rpt. 21-988 (presentation modified for City Council)]