



ADMINISTRATIVE REPORT

File #: 22-204

Meeting Date: 3/23/2022

Planning Commission Staff Report

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

SUBJECT: Density Bonus #22-01, initiated by Visionary Homes of California, LLC, on behalf Evan R. Rahilly and Marlea Massey, Trustees, property owners. This application involves a request to consider concessions and waivers to certain Design Standards for Multi-family Dwellings. The concessions and waivers would allow the construction of a 108-unit affordable apartment complex on approximately 4.59 acres of land generally located on the east side of Parsons Avenue, approximately 300 feet south of Yosemite Parkway (Hwy 140).

ACTION: PLANNING COMMISSION:

Recommendation to City Council

- 1) Environmental Review #22-17 (Categorical Exemption)
- 2) Density Bonus Application #22-01

CITY COUNCIL:

Approve/Disapprove/Modify

- 1) Environmental Review #22-17 (Categorical Exemption)
- 2) Density Bonus Application #22-01

SUMMARY

This is a request to consider Density Bonus #22-01 which approves concessions and waivers to certain Design Standards for Multi-family Dwellings to allow the construction of a 108-unit affordable apartment complex with five three-story buildings and a single-story community/office building on approximately 4.59 acres of land generally located on the east side of Parsons Avenue, approximately 300 feet south of Yosemite Parkway (Hwy. 140). Staff is recommending the Planning Commission recommend approval to the City Council. No public hearing is required per state statutes or local ordinances.

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend approval to the City Council of Environmental Review #22-17 (Categorical Exemption) and Density Bonus #22-01 (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 The SDBL, as originally enacted, sought to address the affordable housing shortage by encouraging development of low- and moderate-income units; over time, the law was expanded to recognize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. Additionally, the developer may ask for concessions and waivers to certain design standards that may make the project infeasible. A request for the concessions and waivers may be made even if a request for an increase in density is not needed. The request being made with this application is for concessions and waivers, not an increase in density.

The proposed project would provide affordable housing to tenants whose income is less than 60% 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 based on household size:

No. of Persons in Household	1	2	3	4	5	6	7	8

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 #4089 (Attachment A of Planning Commission Staff Report #22-204). Additional information regarding the State Density Bonus Law is provided in Finding A of Draft Planning Commission Resolution #4089. 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 east side of Parsons Avenue, approximately 300 feet south of Yosemite Parkway (Hwy 140) (refer to the location map at Attachment C of Planning Commission Staff Report #22-204). The project would consist of the construction of an apartment complex that would include 108 affordable apartment units, a community center/office building, a sports court, playground area, and associated parking. The apartment buildings would be enclosed by a 6-foot tall wrought-iron fence.

The site would be comprised of five three-story buildings. There are two building types - Building Type A (21 units) and Type B (24 units). There are four Type A buildings and one Type B. Building Type A has a mixture of 2, 3, and 4 bedroom units. Building Type B has a mixture of 1, 2, and 3 bedroom units.

Access to the site is from Parsons Avenue. There are two driveway entrances with the main entrance being the northern driveway and the southern driveway for emergency vehicle access.

Prior to approval of the Density Bonus, a General Plan Amendment and Zone Change are needed. General Plan Amendment #22-02 and Zone Change #430 would be considered by the Planning Commission prior to consideration of the Density Bonus request. If approved, the General Plan Amendment would change the land use designation from Thoroughfare Commercial (CT) to High-Medium Density (HMD) Residential. Zone Change #430 would change the zoning designation from C-T to R-3-1.5. The proposed density for the project (23 units/acre) would be consistent with the HMD General Plan designation and the R-3-1.5 Zoning designation.

In order to provide the affordable housing units, the developer has requested a deviation from 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. These concessions and waivers are allowed even if an increase in density is not needed. 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 #4089 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 #4089 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, one of the requests would be considered a concession and one request would be considered a waiver from development standards.

Standard	Requested Concessions/Incentives	Type of Request
Height	Increase height from 35' to 45'. The number of units proposed would not be feasible without doing three-story buildings at a height of 45 feet. The size of the site and required parking would not accommodate the proposed 108 units unless the buildings are three-story.	Waiver
Mechanical Equipment	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.	Concession

The project site is located on the east side of Parsons Avenue, approximately 300 feet south of Yosemite Parkway (Hwy 140). 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	Vacant/Commercial	C-T	Thoroughfare Commercial (CT)
South	Joe Herb Park	R-1-6	Open Space/Park (OS)
East	Joe Herb Park/Residential	R-1-6 and R-3-1.5	Low Density (LD) Residential and High-Medium Density (HMD) Residential
West	Rancho San Miguel Shopping Center	C-N	Neighborhood Commercial (CN)

Background

The project site was annexed into the City in the 1950's. There was previously a single-family dwelling on the site, but it was demolished in 2010. Since that time there has been no development on the site.

As previously described in this report, in order to allow the proposed project, General Plan Amendment #22-01 and Zone Change must be approved to make the land use designations consistent with the proposed multi-family residential use.

Findings/Considerations

Please refer to Exhibit A of the Draft Planning Commission Resolution at Attachment A for the Findings related to Density Bonus #22-01.

ATTACHMENTS

- A. Draft Planning Commission Resolution #4089 (Attachment 7 of Administrative Report #22-217)
- B. Guide to California Density Bonus Law (Meyer-Nave) (Attachment 3 of Administrative Report #22-217)
- C. Location Map (Attachment 1 of Administrative Report #22-217)
- D. Site Plan (Attachment 2 of Administrative Report #22-217)
- E. Floor Plan (Attachment 4 of Administrative Report #22-217)
- F. Elevations (Attachment 5 of Administrative Report #22-217)
- G. Documentation from applicant (Attachment 6 of Administrative Report #22-217)
- H. Categorical Exemption
- I. Presentation

NOTICE OF EXEMPTION

To: _____ Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

From: (Public Agency)
City of Merced
678 West 18th St.
Merced, CA 95340

X County Clerk
County of Merced
2222 M Street
Merced, CA 95340

Project Title: Density Bonus #22-01

Project Applicant: Visionary Home Buildings of California, Inc.

Project Location (Specific): 1808 Parsons Avenue

APN: 061-390-027

Project Location - City: Merced

Project Location - County: Merced

Description of Nature, Purpose, and Beneficiaries of Project:

Adoption of a Regulatory Agreement in association with a Density Bonus to allow a 108-unit affordable housing project to be constructed.

Name of Public Agency Approving Project: City of Merced

Name of Person or Agency Carrying Out Project: Justin Llata
Visionary Home Builders of California, Inc.

Exempt Status: (check one)

- ____ Ministerial (Sec. 21080(b)(1); 15268);
____ Declared Emergency (Sec. 21080(b)(3); 15269(a));
____ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
X Categorical Exemption. Section Number: 15061(b)(3)
____ Statutory Exemptions. State Code Number: _____
____ General Rule (Sec. 15061 (b)(3))

Reasons why Project is Exempt: The adoption of the regulatory agreement is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3) (Common Sense Exemption) because it can be seen with certainty that the imposition of affordable housing requirements on the project as required under the State Density Bonus Law (Government Code Section 65915, et seq.) will not have a significant effect on the physical environment, and none of the circumstances described in CEQA Guidelines Section 15300.2 applies.

Lead Agency: City of Merced

Contact Person: Julie Nelson, Senior Planner

Area Code/Telephone: (209) 385-6858

Signature:  **Date:** 3/2/2022 **Title:** Senior Planner

X Signed by Lead Agency

Date Received for Filing at OPR: _____
(If applicable)

Authority Cited: Sections 21083 and 21110. Public Resources Code
Reference: Sections 21108, 21152, and 21152.1. Public Resources Code

Density Bonus #22-01

1808 Parsons Avenue

Planning Commission March 23, 2022



DENSITY BONUS LAW

- ☐ California Density Bonus Law adopted in 1976.
- ☐ Intended to address California's growing affordable housing needs.
- ☐ The law has been amended several times since its adoption.
- ☐ The City originally adopted a Density Bonus Ordinance in 1993.
- ☐ The current version of the City's DB Ordinance was adopted in 2016.
- ☐ The City's ordinance is not completely consistent with state law.
- ☐ The City will be updating its ordinance in the near future.



DENSITY BONUS LAW

- ❖ A project that meets the requirements of state law for providing affordable housing is allowed an increase in density “by right.”
- ❖ The amount of the density bonus is determined based on the percentage of affordable housing units provided at each income level.
- ❖ The increase in density may exceed what is allowed by the General Plan and Zoning designations for the project site.
- ❖ The City may require an agreement to memorialize the affordability component of the development or any other incentives given to assist the project.
- ❖ A project may apply for Concessions and Waivers without requesting an increase in density.

Concessions & Incentives

If a project provides low income housing and meets the requirements of the Density Bonus Law, the City is required to provide one or more “concessions” or “incentives” to a project that qualifies for a Density Bonus.

The number of Concessions allowed is based on the percentage of affordable units. The maximum number of concessions allowed for a project is 4.

A concession or incentive is defined as:

1. A reduction in site development standards or modification of zoning requirements or architectural design requirements that exceed the minimum State building standards, such as reductions in setback, square footage, or vehicular and bicycle parking space requirements. The requested concession or incentive must result in an identifiable and actual cost reduction to provide for affordable housing costs or rents.
2. Approval of mixed-use zoning for housing projects if associated commercial, office, industrial, or other land uses will reduce the cost of the housing project, and existing or planned development in the immediate area.
3. Other regulatory incentives or concessions that result in identifiable and actual cost reductions to provide for affordable housing costs, which may include the provision of direct financial incentives or land for housing development by the City.

Concessions, Incentives, & Waivers

The City is required to grant the concession or incentive proposed, unless it finds one of the following:

- That the proposed concession or incentive does not result in identifiable and actual cost reductions; or,
- Would cause a public health or safety problem; or,
- Would cause an environmental problem; or,
- Would harm historical property; or,
- Would be contrary to law.

The City has the burden of proof in the event it denies a requested concession. Financial incentives, fee waivers, and reductions in dedication requirements may be, but are not required to be granted by the City.

Waivers & Reductions

Projects that are eligible for a Density Bonus, and are approved for concessions or incentives, cannot be subjected to any development standard that will have the effect of physically precluding the construction of the project.

If a local development standard is found to have this effect, the applicant may request a waiver or reduction of any development standard that may preclude completion of the project.

Waivers or reductions do not take the place of concessions or incentives that the project is qualified to receive.

In addition to waivers or reductions, upon request from the developer, the City may not require more than the following parking ratios for a density bonus project:

Type of Unit	Parking Requirement
Studio	1 space
1 Bedroom	1 space
2 Bedroom	1.5 spaces
3 Bedroom	1.5 spaces
4 Bedroom	2.5 spaces

Parking Requirements

Proposed Project
1808 Parsons Ave.
4.59 Acres
Proposed General Plan:
HMD
Proposed Zoning:
R-3-1.5



Background

- The site was annexed in the 1950's.
- Currently has a Thoroughfare Commercial land use designation.
- Previously had a single-family dwelling on the site.
- Applicant has applied for a General Plan Amendment and Zone Change to change the land use designation to allow multi-family residential.

PROJECT SUMMARY

Site Data:
 Gross Site Area: +/- 4.59 ac
 Total Apartment Units: 108
 Gross Density: +/- 22.88 du/ac

Area Data:
 Residential
 Apartment Type 'A' (21 Plex): (4 plotted)
 Apartment Type 'B' (24 Plex): (1 plotted)
 Community Center: +/- 6,000 SF

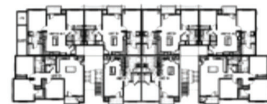
Total Parking 183 Spaces (1.69 ratio)
 - Full-size 140 spaces
 - Compact 43 spaces (23.5%)

***NOTE:** Project areas are preliminary and subject to refinement.

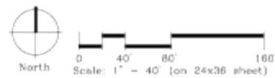
COMMUNITY CENTER
 - 1 level
 - Total +/- 6,000 sf.
 - Leasing office, Office,
 Computer Labs, Headstart day care
 - Playground



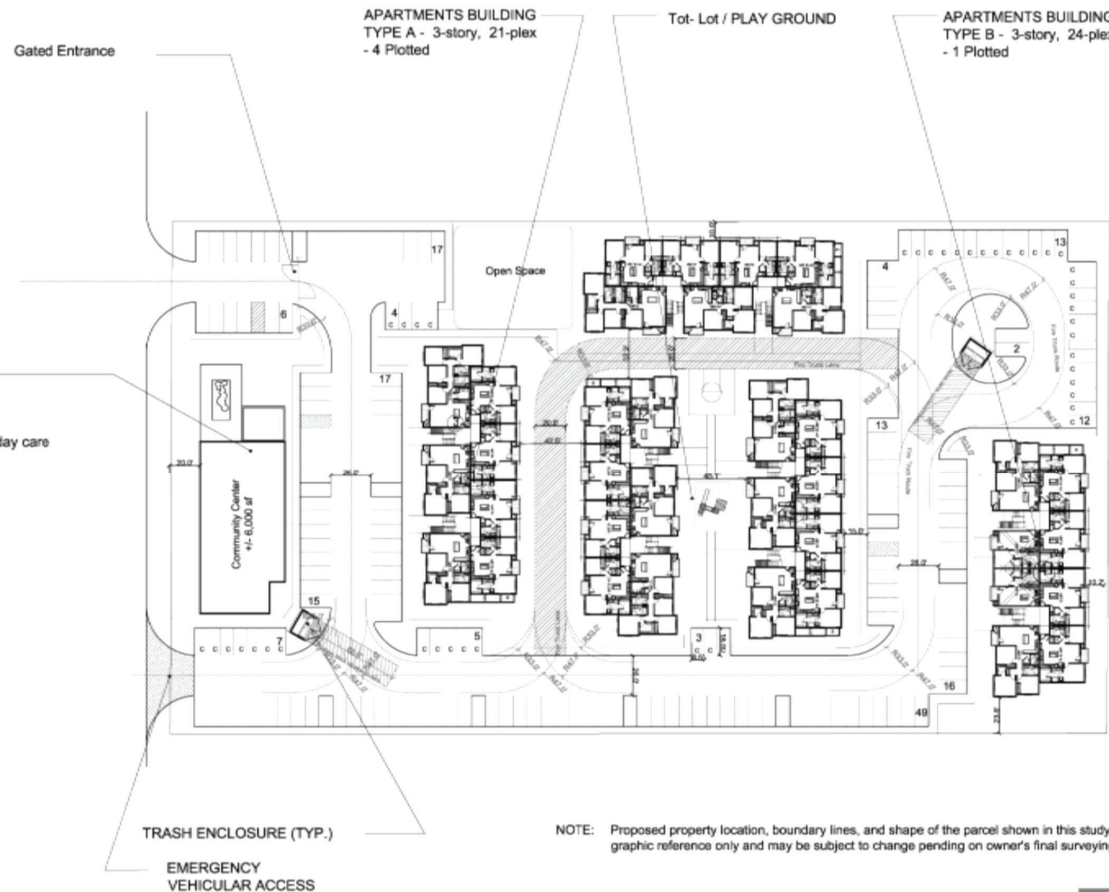
BUILDING TYPE A - 21 PLEX



BUILDING TYPE B - 24 PLEX



VISIONARY HOME BUILDERS
 Sacramento, CA.



NOTE: Proposed property location, boundary lines, and shape of the parcel shown in this study are for graphic reference only and may be subject to change pending on owner's final surveying map.

CONCEPTUAL SITE PLAN - 108 Units

PARSON AVENUE SITE
 MERCED, CA.



108 Units

The drawings presented are illustrative of character and design intent only, and are subject to change based upon final design considerations (i.e., applicable codes, structural, and other design requirements, and other site plan changes, etc.) to 2021. BSB Design, Inc.

February 14, 2022 | MR210426.00



45' to
Roof Peak

FRONT ELEVATION



PERSPECTIVE

BUILDING TYPE - A (21PLEX)

VISIONARY HOME BUILDERS
Sacramento, CA.

Scale: 1/8" = 1'-0"
EXTERIOR ELEVATIONS
PARSON AVENUE SITE
MERCED, CA.



The drawings presented are illustrative of character and design intent only, and are subject to change based upon final design considerations (i.e. applicable codes, structural, and MEP design requirements, unit plan / floor plan changes, etc.) © 2021 BSB Design, Inc.

February 14, 2022 | MR210426.00



Project Details

- 108 Apartment Units
- One on-site Manager's Unit (included in total)
- Mixture of 1, 2, 3 & 4 bedroom units.
- Would be affordable to individuals with an income that does not exceed 60% of the Area Median Income (AMI).
- Would remain affordable for at least 55 years.

Requested Concessions & Waivers

Concession

Mechanical Equipment – allow roof-mounted mechanical equipment.

Waiver

Height – Increase height from 35' to 45'

Findings A & B

Finding A – State Density Bonus Law

- Explains the law and what the City is required to grant and what is discretionary.
- Outlines the number of incentives/concessions are allowed based on the income level of the units.
- Defines concessions/incentives.
- Defines maximum number of parking spaces the City may require per unit.

Finding B – Requested Density

- The applicant is not requesting an increase in density.

Merced Zoning
Ordinance Section
20.56.080 (C)
Required Findings

Finding C

- ❖ The City's Zoning Ordinance sets forth 4 specific findings that must be made to grant a density bonus.
- ❖ Refer to Finding C of Draft Planning Commission Resolution #4089 at Attachment A of Staff Report #22-204.
- ❖ Three of these Findings do not apply to this project.

Finding #4

If a waiver or modification is requested, the developer has to prove by submitting substantial evidence that the waiver or modification is necessary to make the housing units economically feasible.

The requested concession and waiver are outlined in the staff report along with the applicant's justification as to why the request is needed. Documentation provided by the applicant, including the justification for each request and a pro-forma is provided at Attachment G of Planning Commission Staff Report #22-204.

Findings D & E

Finding D – Concessions and Waivers

- Outlines each of the applicant's requests, identifies it as a concession or waiver, and provides justification for each request.
- There is 1 Concession and 1 Waiver requested.

Finding E – Environmental Review

- CEQA Section 15194 provides an exemption for affordable housing.
- CEQA Section 15332 provides an exemption for in-fill development.

A Categorical Exemption is recommended based on the above sections.



Planning Commission Action

Recommend to City Council

Approval/Denial of:

1. Environmental Review #22-17
(Categorical Exemption)
2. Density Bonus #22-01

Questions...