

CITY OF MERCED
Planning Commission

Resolution #4089

WHEREAS, the Merced City Planning Commission at its regular meeting of March 23, 2022, held a public hearing and considered **Density Bonus #22-01**, initiated by Visionary Home Builders of California, Inc., on behalf of Evan R. Rahilly and Marlea Massey, Trustees, property owner. This application involves a request to consider Density Bonus #22-01 which allows concessions to certain development standards to allow the construction of 108 affordable multi-family units within and a community/office building on a 4.59-acre parcel, generally located on the east side of Parsons Avenue, south of Yosemite Parkway (1808 Parsons Avenue); also known as Assessor Parcel: 061-390-027; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through E of Attachment A of Planning Commission Staff Report #22-200 (Exhibit A); and,

NOW THEREFORE, after reviewing the City's Initial Study and Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of a Categorical Exemption regarding Environmental Review #22-17, and recommend approval of Density Bonus #22-01, subject to the Findings set forth in Exhibit A, attached hereto and incorporated herein by the reference.

Upon motion by Commissioner DYLINA, seconded by Commissioner DELGADILLO, and carried by the following vote:

AYES: Commissioners Camper, DeAnda, Delgadillo, Dylina, Greggains, and White

NOES: None

ABSENT: Chairperson Harris

ABSTAIN: None

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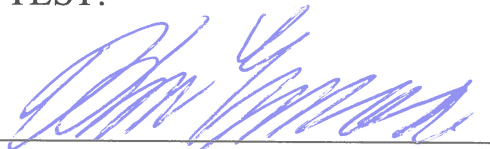
March 23, 2022

Adopted this 23rd day of March 2022.



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Exhibits:

Exhibit A – Findings/Considerations

Findings and Considerations
Planning Commission Resolution #4089
Density Bonus #22-01

FINDINGS/CONSIDERATIONS:

State Density Bonus Law

- A) State Density Bonus Law (SDBL) states that a development which meets the requirements of the SDBL 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 City is required to grant the concession or incentive proposed by the developer 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 project; 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 declines to grant a requested incentive or concession. Financial incentives, fee waivers, and reductions in dedication requirements may be, but are not required to be, granted by the City.

The number of required incentives or concessions is based on the percentage of affordable units in the project as shown in the table below:

No. of Incentives / Concessions	Very Low- Income Percentage	Low-Income Percentage	Moderate Income Percentage
1	5%	10%	10%
2	10%	17%	20%
3	15%	24%	30%
4	100% Low/Very Low/Mod (20% Moderate allowed)	100% Low/Very Low/Mod (20% Moderate allowed)	100% Low/Very Low/Mod (20% Moderate allowed)

A concession or incentive is defined as:

1. A reduction in site development standards or a 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 the housing development by the City.

Concessions and incentives are differentiated from waivers and reductions in the SDBL. Projects that are eligible for a density bonus, and that 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, applicants have the option of requesting a waiver or reduction of any development standard that may preclude completion of the project; there is no limit on the number of waivers that may be requested. 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:

Studio	1 space
1 Bedroom	1 space
2 Bedroom	1.5 spaces
3 Bedroom	1.5 spaces
4 Bedroom	2.5 spaces

State Density Bonus Law requires local governments to grant an 80% density bonus on housing projects in which all the units (other than manager's units) are restricted to very low-, low-, and moderate-income residents, with a maximum of 20% restricted to moderate income units.

Additional information about Density Bonus Law is described in the Discussion Section of Planning Commission Staff Report #22-204. It should be noted that a Density Bonus may be granted even if the developer isn't seeking an increase in density, but is seeking concessions or waivers to design standards.

Requested Density

- B) The applicant is not requesting an increase in density. The proposed project would provide 108 units on approximately 4.59 acres of land. The project would have a density of 23 units/acre (gross) which is consistent with the High-Medium Density (HMD) Residential General Plan designation and the R-3-1.5 Zoning designation.

Zoning Ordinance Findings

- C) Merced Municipal Code Section 20.56.080 (C) establishes specific findings that must be made to approve a Density Bonus. These findings are as following:

1. *The findings included in Section 20.56.030 (land Donation) if the density bonus is based all or in part on donation of land.*

This finding does not apply as the project does not include land donation.

2. *The findings included in Section 20.56.040 (Child Care Facilities) if the density bonus, incentive, or concession is based all or in part on the inclusion of a child care facility.*

Although the project would include a childcare facility within the Community/Office building, the requested concessions are not based on the inclusion of the childcare center. Therefore, this finding is not applicable.

3. *The findings included in Section 20.56.070 (Modifying Development Standards) if the incentive or concession includes mixed use development.*

This finding does not apply as the project does not include a mixed use development.

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, incentive, waiver or modifications are outlined below 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.

Concessions and Waivers

D) Height (Waiver)

The applicant is requesting an increase in height from a maximum of 35' to a maximum of 45'. This increase allows the construction of three-story buildings rather than two-story buildings. If Zone Change #430 is approved, the site would have a height limitation of 35 feet. In order to construct 3-story units, an increase in height is needed. Therefore, a waiver of the height requirement for an R-3-1.5 zone is required.

Justification:

Increasing the height of the buildings allows for greater efficiencies by enabling a greater building mass. This enables greater densities which reduces the cost of land per unit. The size of the site would not accommodate the number of units proposed, the associated parking, and open space without constructing three-story buildings.

Roof-mounted Mechanical Equipment (Concession)

The applicant is requesting a relief from Zoning Ordinance Section 20.46.040 (A)(5a) which prohibits roof-mounted mechanical equipment.

Justification:

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.

As described above, the applicant is requesting one concession and one waiver. Based on the affordability, the project is eligible for four concessions. There is no limit to the number of waivers that may be requested. Without the requested concession and waiver, the project would not be feasible to build. The requested concession would not result in any of the conditions listed in Finding A of this resolution that would result in the denial of the requested concession. Therefore, the concession complies with State Density Bonus Law. Because the project is eligible

for the requested concession, the City may not apply any development standards that would place a financial burden on the project and preclude the construction of the project. The applicant has requested the waiver to the height requirement. Because the project would not be feasible without allowing 3-story buildings, the requested waiver complies with state law.

Environmental Clearance

- E) The adoption of the resolution is exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15061(b)(3) (Common Sense Exemption) because it can be seen with certainty that the adoption of the resolution will not have a significant effect on the environment and none of the circumstances in CEQA Guidelines Section 15300.2 apply.