



## Legislation Text

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### Planning Commission Staff Report

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

**SUBJECT:** Density Bonus #23-02, initiated by the Richman Group, on behalf of Devonwood 64, LP, property owner. This application involves a request to reduce the minimum parking requirements and concessions for relief from certain Design Standards for Multi-family Dwellings. The reduction in parking requirements and granting of concessions would allow the construction of a 156-unit affordable apartment complex on approximately 5.9 acres of land, generally located on the south side of Devonwood Drive between Loughborough Drive and Austin Avenue.

**ACTION:** PLANNING COMMISSION:

Recommendation to City Council

- 1) Environmental Review #23-30 (Categorical Exemption)
- 2) Density Bonus Application #23-02

CITY COUNCIL:

Approve/Disapprove/Modify

- 1) Environmental Review #23-30 (Categorical Exemption)
- 2) Density Bonus Application #23-02

### SUMMARY

This is a request to consider Density Bonus #23-02 which would allow a reduction to the minimum parking requirements and concessions for relief from certain Design Standards for Multi-family Dwellings. Approval of the Density Bonus would allow the construction of a 100% affordable apartment complex with 156 units on the south side of Devonwood Drive, between Loughborough Drive and Austin Avenue. Staff is recommending the Planning Commission recommend approval to the City Council. No public hearing is required per state statutes and local ordinances.

### RECOMMENDATION

Planning staff recommends that the Planning Commission recommend approval to the City Council of Environmental Review #23-30 (Categorical Exemption) and Density Bonus #23-02 (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 The SDBL, as originally enacted, sought to address the affordable housing shortage by encouraging development of low- and moderate-income units; over time, the law was expanded to recognize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. An ordinance amending the Density Bonus section of the Zoning Ordinance was adopted by City Council on September 5, 2023. This ordinance would become effective October 18, 2023, and would bring the City’s ordinance into compliance with current state law.

To provide additional information and a more in-depth overview of the SDBL, the document entitled Guide to the California Density Bonus Law (revised January 2023), 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 a 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 Ordinance. Additionally, the developer may ask for concessions and waivers to certain design standards that may make the project infeasible. In the case of the project under consideration, the request is not for an increase in density, but to obtain concessions related to certain Design Standards and parking requirements.

The proposed project would provide affordable housing for tenants whose household income is between 0% and 80% of the Area Median Income (AMI). The Area Median Income for 2023 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
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Extremely Low Income	\$16,350	\$18,700	\$23,030	\$27,750	\$32,470	\$37,19	\$41,910	\$46,630
Very Low Income	\$27,300	\$31,200	\$35,100	\$38,950	\$42,100	\$45,200	\$48,300	\$51,450
Low Income	\$43,650	\$49,850	\$56,100	\$62,300	\$37,300	\$72,300	\$77,300	\$82,250
Median Income	\$56,200	\$64,250	\$72,250	\$80,300	\$86,700	\$93,150	\$99,550	\$106,000
Moderate Income	\$67,450	\$77,100	\$86,700	\$96,350	\$104,050	\$111,750	\$119,450	\$127,200

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.

In addition to the concessions and waivers allowed by the SDBL, the law also places maximum parking requirements the City is allowed to impose on a development if the developer requests a reduction in parking. This reduction is not considered a concession or waiver. The minimum parking requirements are shown in the table below:

Type of Unit	Parking Spaces Required Per Unit
Studio	1
1 Bedroom	1
2 Bedroom	1.5 spaces
3 Bedroom	1.5 spaces
4 Bedroom	2.5 spaces

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 #4123 (Attachment A of Planning Commission Staff Report #23-824. Additional information regarding the State Density Bonus Law is provided in Finding A of Draft Planning Commission Resolution #4123. It should be noted that the City may not add conditions to any Density Bonus approval.

Project Description

The proposed project is located on an approximately 6-acre site located on the south side of Devonwood Drive, between Loughborough Drive and Austin Avenue (refer to the Location Map at Attachment C). The project would provide 156 units, all being affordable to either Acutely Low-, Extremely Low-, Very Low-, or Low-income households.

The site would consist of 5 three-story apartment buildings, an office/club house building, open space, and parking. The project would provide 1, 2, and 3-bedroom units. Three of the buildings would contain 36 units (12 units on each floor) and two of the buildings would contain 24 units (8 units on each floor) for a total of 156 units. The complex would be gated with the primary entrance on Devonwood Drive near the center of the complex. A secondary access is located near the western edge of the property (refer to the Site Plan at Attachment D).

Each of the three-story buildings would be approximately 37' 10" tall at the highest point. The office/club house would be a single-story building located next to the main entrance (shown as Building 6 on the Site Plan at Attachment D). The elevations for all the building would be the same. The color palette for the buildings would be a combination of light brown/gray, dusty blue, light gray, and white. Railings for the stairways would be black wrought-iron. The building elevations are provided at Attachment E.

Density Bonus Request

The Density Bonus request is not for additional units. The density of the project is consistent with the developer's vision and design for the site. However, in order to provide affordable housing, the developer is seeking a reduction in the minimum parking requirements and relief from the Multi-Family Design Standard requiring each unit to have a private outdoor space (i.e., a patio or balcony) and the standard prohibiting roof-mounted mechanical equipment.

As previously described, Density Bonus law allows concessions, incentives, waivers, and reductions 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 #4123 on how the number of concessions is 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. According to Density Bonus law, the reduction in parking does not count as a concession or waiver.

The table below shows the applicant's request for two concessions. As previously mentioned, the project is eligible for 4 concessions. Justification for each concession is provided in Finding D of Planning Commission Resolution #4123 at Attachment A. As previously mentioned, in addition to these concessions, the developer is requesting a reduction in parking requirements which does not constitute a concession or waiver.

<b>Standard</b>	<b>Requested Concessions/Incentives</b>	<b>Type of Request</b>
Private Outdoor Space	Allow relief from the requirement of Private Outdoor Space as required by MMC Section 20.46.030 (I) (1) and (2). MMC Section 20.46.030 (I) (1) and (2) states that every unit should have a private outdoor usable space, if feasible, of a minimum size of 5 feet by 8 feet.	Concession
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).	Concession

Surrounding Uses

As shown on the map at Attachment C, the project site is located on the south side of Devonwood Drive, between Loughborough Drive and Austin Avenue. The surrounding uses are identified on the location map at Attachment 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	Merced Marketplace Shopping Center (across Devonwood Drive)	P-D #16	Regional/Community Commercial (RC)
South	Single-family Residential (across the railroad tracks)	RP-D #29	Low-Medium Density Residential (LMD)
East	Single-family Residential	P-D #16	Low-Medium Density Residential (LMD)
West	Walmart	P-D #16	Regional/Community Commercial (RC)

Background

The project site was approved for a 156-unit apartment complex with General Plan Amendment #20-01 and Site Utilization Plan Revision #23 to Planned Development (P-D) #16, and Site Plan Review Permit #479 in 2021. At that time, another developer had intended to construct the project, but was unable to secure funding for the project. The current developer wants to construct the project as originally proposed with the exception of a few minor changes to the site related to the location of parking spaces, the orientation of the office/club house building, and the request for the concessions outlined above.

The proposed developer, the Richman Group, recently completed the Childs Court Apartment complex at Childs Avenue and B Street. They are experienced developers in both market-rate and affordable multi-family developments.

Findings/Considerations

Please refer to Exhibit A of the Draft Planning Commission Resolution at Attachment A for the Findings related to Density Bonus #23-02.

**ATTACHMENTS**

- A) Draft Planning Commission Resolution
- B) Meyers/Nave
- C) Location Map
- D) Site Plan
- E) Elevations
- F) Letter regarding Parking
- G) Letter regarding Patios/Balconies
- H) Categorical Exemption
- I) Presentation