



Planning Commission Staff Report

August 28, 2013
Item 6.b.

SUBJECT: P13-2102

APPLICANT: City of Pleasanton

PURPOSE: City initiated application to amend Title 17 of the Pleasanton Municipal Code by adding a new Chapter 17.38 (Density Bonus) to comply with State Density Bonus Law

GENERAL PLAN: Housing Element Policy 9, Program 9.6

ZONING: Various

LOCATION: Citywide

EXHIBITS: A. Proposed Code Amendment
B. California Government Code Section 65915-65918

BACKGROUND

The subject application is a City-initiated amendment to the Pleasanton Municipal Code. The purpose of the amendment is to implement Program 9.6 of the 2012 Housing Element of the Pleasanton General Plan and to comply with State Density Bonus Law.

The Pleasanton Housing Element, adopted on February 13, 2012, includes Policy 9 and program 9.6 as follows:

Policy 9: Support the development and rehabilitation of housing affordable to extremely low-, low-, and very-low-income households and review infrastructure needs.

Program 9.6: Adopt a density bonus ordinance consistent with State law.

This proposed code amendment is the last of four amendments that, when adopted, will enable Pleasanton to request a streamlined housing element review for its next housing element. The streamlined review will simplify and shorten the update and review

process significantly. The other three amendments, adopted early this year, include text amendments to facilitate the development of emergency shelters, to provide for supportive and transitional housing, and to establish procedures for reasonable accommodation for persons with disabilities.

Until 2005 State Density Bonus Law allowed developers a 25 percent density bonus when projects provided between 10 and 20 percent of the units as affordable, depending on the level of affordability. Also, housing developers were allowed one "concession" such as a reduction in a development standard or financial assistance. In January 2005 significant changes to the law were enacted so that local governments are now required to bring their ordinances into compliance. The law is found in California Government Code Sections 65915 et seq., and is attached as Exhibit B. It requires that all cities and counties provide a method to grant increases in the density of residential development projects, and incentives or concessions, in exchange for a percentage of the residential units being dedicated as affordable or for seniors. The intent is to increase affordable and senior housing production by improving the financial feasibility of housing construction.

While state density bonus provisions have been in place for over 25 years, City staff has no recollection of any housing proposal in Pleasanton requesting a density bonus under state law. Staff polled nearby cities and housing developers to get a sense of how much this development tool is used. In the past five years neither Livermore or Dublin have received any requests for a density bonus, and Fremont only one. Hayward gets an estimated one or two requests each year but only one project with a density bonus has been completed within the past half-decade. Two housing developers with local experience were contacted. Each was knowledgeable of the law. Braddock and Logan Homes has developed a few multifamily projects with density bonuses but do not find it financially beneficial for single-family development. Sares-Regis Group reported that density bonuses were requested with almost half of their proposed projects statewide. Their decision to request a bonus depends upon the nature of the project and the regulations that apply to the site, including any inclusionary housing requirements.

In some cases a developer may not be seeking increased density for a project but will provide affordable housing in order to apply for the allowable incentives or concessions. For example, there may be specific site circumstance that would require modified development standards, such as reduced parking or a smaller setback, in order to make a project feasible. One key factor limiting requests for added density are the building codes governing the type of construction. Wood-frame construction is much less expensive than concrete and steel, but is only allowed up to a limited height, such as up to five stories over a first-level concrete podium. A density increase that would trigger non-wood construction often results in a project that will not be financially feasible. In addition, some sites are too small or oddly shaped to accommodate additional density when all of the site development standards are applied (even with the "concessions" required by State law).

The proposed code amendment (Exhibit A) has been drafted to implement the housing element and comply with the law.

DISCUSSION

The law requires that the City provide for increases in residential density (density bonuses) and provide incentives or concessions for housing developments that provide a specified percentage of affordable or senior housing. The law establishes a sliding scale for density bonuses up to a maximum of 35 percent, and one or more incentives or concessions, depending on the number of affordable units and the levels of affordability.

Eligibility

A developer of five or more dwelling units is eligible to request one density bonus and one or more incentives or concessions provided the developer agrees to construct affordable or senior housing. The developer must make a specific request to the City and, if the proposal is in conformance with the provision of the density bonus ordinance, the City must grant the bonus and/or incentive(s) or concession(s).

There are four categories defining the "target housing groups" that are eligible for a bonus, and a developer can choose only one per project, as follows:

1. At least ten percent of the total units of a housing development must be for low income households; or
2. At least five percent of the total units of a housing development must be for very low income households; or
3. The project is a senior citizen housing development; or
4. At least ten percent of the total dwelling units in a newly constructed common interest development must be for sale to moderate income households.

Very low income households are those who earn less than 50 percent of the area median income (AMI). Low income households are those earning between 50 and 80 percent AMI. Households earning between 80 and 120 percent AMI are considered moderate income households. A senior citizen housing development is housing for people 55 years or older that has at least 35 dwelling units.

Calculation of bonus

The amount of density bonus is calculated according to the following summary table:

Density Bonus Calculation

Target Group	Minimum % Target Units	Bonus Granted	Additional Bonus for Each 1% Increase in Target Units Over the 5% Minimum	% Target Units Required for Maximum 35% Bonus
Very Low Income	5%	20%	2.5%	11%
Low Income	10%	20%	1.5%	20%
Moderate Income (Common Interest Development, Condo or PUD only)	10%	5%	1%	40%
Senior Citizen Housing Development	100%	20%	–	–

Example: A developer proposes to construct a 100-unit housing project, which is the maximum residential density allowed for the site. The developer seeks a density bonus for providing 10 units (10%) targeted to very low income households. The bonus is calculated as follows:

Number of units of proposed project	100
Bonus requested for 10 Very Low Income (VLI) units	
A 20% bonus is granted for the minimum 5%: 5% of 100 units is 5 VLI units 20% bonus of 100 units =	20 units
An additional bonus of 2.5% is granted for each 1% increase over the 5% minimum. Five additional VLI units are proposed for a 5% increase. 2.5 x 5 =	12.5 units
<i>Total bonus (rounded up from 32.5)</i>	<i>33 units</i>
Total units (project plus bonus)	133

The law allows for bonuses to exceed the maximum allowable density of the site as follows: *"The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval."*

Calculating the amount of bonus units is predicated on determining the maximum allowable residential density for a site. In Pleasanton maximum residential density is determined by the general plan, any applicable specific plan, the development standards and guidelines established for high density housing sites or by an established PUD. The Pleasanton General Plan includes a range of residential density designations that determine the density of housing in units per acres throughout the city. For low and medium density areas the minimum, maximum and average (midpoint) number of units per acre are listed, as follows:

Land Use Designation	Allowable Density Range	Average Density
Low Density Residential	0 to less than 2 units/acre	1 unit/acre
Medium Density Residential	2 to 8 units/acre	5 units/acre

Policies are included in the general plan indicating that residential projects in the low and medium density designations should be consistent with the average density, and that projects that propose densities greater than the average are to provide public amenities to justify the increased density.

For a project requesting a density bonus in the low or medium density areas, the maximum residential density that could be exceeded by the bonus would be interpreted as the high end of the allowable density range, assuming there is no specific plan or other document establishing a different maximum density. The public amenity policy would apply, however, a developer could request and be eligible for exemption of the amenity as an incentive or concession, as described below.

For the high density residential designation, the general plan specifies an allowable density of 8+ units per acre, and no maximum amount is provided. Similarly, the mixed use designation specifies an allowable density of 20+ units per acre with no maximum amount. General plan Policy 11 indicates that the maximum density of properties designated as high density residential or mixed use shall be determined on a case-by-case basis based on the site characteristics, amenities, and affordable housing incorporated in the development. Therefore, the number of bonus units allowed for high density- and mixed use-designated properties would be calculated on a case-by-case basis.

Incentives and concessions

An incentive or concession may be requested by developers proposing to provide target units except that, under the law, bonuses for senior housing are not eligible for incentives or concessions. Incentives and concessions means any reduction in site development standards, or any modification of zoning or design requirements, or other regulatory exceptions that will result in cost reductions to facilitate the development of housing.

The City is required to grant the concession or incentive proposed by the developer unless it finds that the proposed concession or incentive is not required in order to achieve the required affordable housing costs or rents, or would cause a public health

or safety problem, cause an environmental problem, harm historical property, or would be contrary to law.

The number of incentives or concessions a project may request is summarized in the table below:

Incentives/Concessions Summary

Target Group for Density Bonus	Target Units		
Very Low Income	5%	10%	15%
Low Income	10%	20%	30%
Moderate Income (Common interest development, Condo or PUD only)	10%	20%	30%
Maximum Number of Incentive(s)/Concession(s)	1	2	3

Using the same example above, the developer proposes to provide 10 percent of the units as affordable to very low income households and therefore would be entitled to two incentives/concessions.

The City may require that developers provide a detailed financial report showing how a proposed incentive or concession is required in order to achieve the affordable housing costs or rents. Also, certain incentives or concessions may be identified by the City as preferred incentives or concessions that would require no financial report. For this purpose, the ordinance proposed two groups of incentives and concessions. Group one includes concessions and incentives that are preferred, and that the City recognizes as resulting in a financially sufficient cost reduction to the project. They would be available without need for the developer to provide a financial report demonstrating that the cost reduction is sufficient. This group includes a 20 percent reduction in one of the required setbacks and a 10 percent reduction in minimum lot size and/or dimension. Each of these two items would be counted as one incentive or concession.

The second group of incentives/concessions would require a detailed financial report to demonstrate that the incentives or concessions "would result in necessary identifiable, financially sufficient, and actual cost reductions that could not be achieved without the incentive or concession". This is a broader group of incentives/concessions that includes those that exceed the incentives/concessions identified in group one, e.g., approval of mixed-use zoning in conjunction with the housing development, construction of target units on a different site than the proposed development, fee waivers or deferrals, and other regulatory incentives or concessions that may be identified by the developer.

In addition to the incentives and concessions described above, should a developer identify other development standards that financially preclude the construction of a housing development, with the density bonus and incentives or concessions allowed,

the developer may request, and is eligible for a waiver or modification of the standards upon submittal of a financial report substantiating the need.

Other provisions

In addition to the density bonus and incentive/concession requirements summarized above, pursuant to the law, the density bonus ordinance also allows the following benefits:

- **Parking ratios:** The law allows for reduced parking ratios¹, inclusive of handicapped and visitor parking, as follows:
 - Zero to one bedrooms: one on-site parking space per unit
 - Two to three bedrooms: two on-site parking spaces per unit
 - Four and more bedrooms: two and one-half parking spaces per unit
- **Land donation:** A housing developer who donates land to the City for development of very low income housing is eligible for additional density bonus, not to exceed the maximum of 35 percent;
- **Child care facilities:** A developer of affordable housing who includes child care facilities is also entitled to a bonus of additional square feet or an additional incentive or concession;
- **Condo conversion:** A condo conversion project that includes the provision of low or moderate income units is eligible for a density bonus or incentive;

Lastly, the ordinance provides specific standards for affordability and development standards for the target units. It includes requirements for application submittal and review, including findings, and mandates a density bonus housing agreement with specific provisions.

OUTREACH AND PUBLIC NOTICE

A notice regarding the proposed code amendment and related Planning Commission public hearing were published in The Valley Times on August 3, 2013.

ENVIRONMENTAL ASSESSMENT

The adoption of the 2012 Housing Element was part of the project which was described in the Supplemental Environmental Impact Report certified by the City Council on January 4, 2012. The proposed amendment to the Pleasanton Municipal Code shown

¹ *The current parking requirements for multifamily development are as follows:*

Condominiums: two spaces per unit

Apartments:

Two bedrooms or less: two spaces for first four units; one and one half spaces for each additional unit

Three bedrooms or more: two spaces per unit

Visitor parking: one space for each seven units

TOD sites: one and one half spaces per unit

in Exhibit A constitutes implementation of Program 9.6 of the Housing Element and is therefore consistent with the Housing Element project as described and analyzed in the certified SEIR. Therefore, no further environmental assessment need be conducted to adopt this code amendment.

CONCLUSION

The proposed text amendment to the Pleasanton Municipal Code will implement Program 9.6 of the Pleasanton Housing Element by establishing a density bonus ordinance pursuant to State Density Bonus Law. The ordinance will establish regulations and a process for reviewing any future requests for a density bonus. The adoption of this ordinance will enable Pleasanton to request a streamlined housing element review for its next housing element.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission adopt a resolution recommending approval of P13-2102 to the City Council.

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