



Legislation Text

File #: 21-482, **Version:** 1

Report regarding consideration of a State Density Bonus Law incentive/concession request to reduce minimum parking standards and convert non-habitable space into livable area to render the project with affordable units economically feasible and determination that the project request is categorically exempt from CEQA. (*Tony Rozzi, AICP, Chief Planner*)

RECOMMENDATION

Staff recommends that the Planning Commission consider the applicant's request and make the findings by separate resolution to approve the request under State Density Bonus Law per SSFMC 20.390 and under California Government Code Sections 65915 - 65918.

BACKGROUND

Previous Entitlement Approval

The Applicant's project was previously approved to construct eight condominium units at 645 Baden Avenue on July 10, 2019 (see report, Attachment 1). The project (P18-0034) proposed two three-story buildings for a total floor area of 12,836 sq. ft. on a 10,500 sq. ft. parcel (FAR of 1.22).

The approved eight units are split between two buildings that are each 6,470 sq. ft. in gross area. The project includes four 3-bedroom/2.5-bath units and four 4-bedroom/3-bath units. Unit sizes range from approximately 1,000 sq. ft. to 1,600 sq. ft. of living space. The site would be served by a one-way driveway that allows entry from Baden Avenue, access to parking in the middle of the site, and exit onto Second Lane.

Affordable Unit Contribution and State Density Bonus Law

The project proposes two units of below market rate housing with six units of market rate housing. The City's inclusionary housing ordinance applies to for-sale units of five units or more and requires a minimum of 15% be inclusionary units. (SSFMC § 20.380.005(B)(1).) Of the 15% inclusionary units, 50% of those units must be designated for low-income households and 50% must be designated for moderate income households. As applied, 15% of the six units permitted by the base density is equal to a minimum of one affordable unit (0.9 to be precise). Where the calculation of designated affordability level results in a fractional number (i.e., one required affordable unit results in 0.5 low income and 0.5 moderate income units), the number of units must be rounded to the higher income level. (SSFMC § 20.380.005(C).) In other words, the one required inclusionary unit shall be designated for moderate income households.

Although the City's inclusionary housing ordinance requires only one inclusionary unit for moderate income households, the Applicants proposed two inclusionary units for moderate income households pursuant to the City's density bonus ordinance and (SSFMC Ch. 20.390 ("Bonus Residential Density") and State Density Bonus provisions (Gov. Code § 65915, *et seq.*). These density bonus provisions permit the project to develop a total of eight units on the site, two of which must be for moderate income households. In exchange for the affordable units, the applicant was eligible for and received State Density Bonus Law waiver of the following development standards:

1. **Locating two entries at the side of the buildings rather than at the street facing sides.**
2. **Reducing the third story setback requirement at certain portions of the upper story.**
3. **Reducing the size of parking spaces.**

No fee waivers or concessions were requested at the City Council's July 2019 public hearing.

DISCUSSION

State Density Bonus Law provisions allow for additional concessions or incentives that may be granted, including fee waiver considerations. Since the project was approved with at least 30% of total units as moderate-income units (four market rate units, two moderate income units, and two market rate density bonus dwelling units), three concessions or incentives are required to be provided. (Gov. Code § 65915(d)(2)(C)).

Since entitlement approval, the economics for small-scale development have changed due to COVID-19 and related material and labor shortages. The applicant team has approached the City to request a revision to their State Density Bonus Law concessions and incentives in order to reduce project costs and ensure feasibility, where the cost reductions would provide for affordable housing costs. Currently, the project is facing a \$500,000 shortfall. The applicant has requested that the City consider a modification to the project to make the project feasible, consistent with the project's Condition of Approval #4:

4. Any modification to the approved plans shall be subject to SSFMC Section 20.450.012 ("Modification"), whereby the Chief Planner may approve minor changes. All exterior design modifications, including any and all utilities, shall be presented to the Chief Planner for a determination.

Given the proposed reduction in parking and floor plan modifications would slightly affect on-site conditions, the Chief Planner has recommended this item to the Planning Commission given the previous neighborhood interest. The proposed modifications have been noticed and made available online to any interested parties to review.

A comprehensive request with exhibits is attached as Exhibit A to the associated Resolution but highlights are copied here - the applicant has requested the following *with the Applicant's reasoning included in italics* below.

Project Incentives or Concessions Request - Permitted up to Three Requests

1. *New Request* Modification of Minimum Parking Requirements and redesign of Floor Plans to convert non-livable to habitable area

- a. A modification of minimum parking requirements to allow a Project-wide reduction of two (2) parking stalls, and the conversion of the corresponding garage space into approximately 578 SF into livable square footage over two units. The parking stalls proposed to be eliminated are tandem parking stalls.
- b. As a result of this parking reduction, each unit within the Project will still retain a minimum of one (1) dedicated parking space, while the Project-wide parking ratio will reduce from 1.5 to 1.25 / unit.
- c. This parking ratio is appropriate for a project located within a half-mile of a bus stop, and where

a one-way commute to either major transit station (BART & Caltrain) is less than 15 minutes on public transport. Furthermore, with the rapid adoption of tele-working, the demand for individual automobiles is also expected to decline in coming years.

A concession to the City's parking standards is necessary to reduce the overall project costs associated with building additional parking garages. Providing additional parking is more costly to the overall project than providing habitable space, given that the construction of parking garages is considered a sunk cost. Therefore, eliminating the additional parking garages constitutes an identifiable and actual cost reduction.

Project Waiver of Development Standards Request - Unlimited Requests, as appropriated

1. ***Previously Approved Request* Parking Stall Standard Width Reduction from 20'-0" to 16'-0"**

Given the parcel's narrow $\pm 75'$ width and significant site constraints, this reduction is necessary to physically allow construction of the Project, enabling the Project to preserve side-yard setbacks, maintain a usable drive-aisle, and achieve the allowed project density.

2. ***Previously Approved Request* Third Floor Setback Reduction from 10'-0" to 5'-0"**

This reduction is necessary given the narrow $\pm 75'$ width to ensure that the third floor of the end unit is physically capable of including the bedrooms and bathrooms as proposed.

3. ***Previously Approved Request* Permit Side Entry to Unit which is otherwise prohibited**

This waiver is deemed to be necessary since a side-entry configuration is the only way to provide pedestrian access to the unit. Furthermore, this ground floor unit is required to be fully adaptable under Chapter 11A of the California Building Code, and a side-entry access is the only feasible way to provide barrier-free and wheelchair access. Both front- and rear-facing entrances are physically impossible to include in the Project at the proposed unit count and density and in compliance with the Building Code's accessibility requirements.

Staff and the City Attorney's office reviewed the *Previously Approved Requests* in support of the project entitlement hearing on July 10, 2019. Additionally, staff and the City Attorney's office have reviewed the new request and generally find the data support the concession request. The additional development capacity to replace a portion of garage parking is presented as a viable path forward to bridge the development cost gap. There are no fiscal contributions requested from the City for this project.

Regarding the parking reduction request, the applicant proposes to convert a portion of parking garage space into living area to improve the for-sale value of the market rate units. Two units would go from two parking spaces to one parking space each and two units would add an additional bedroom and bathroom and retain their one parking space each. The total parking provided would go from 12 spaces, consistent with the zoning ordinance, to 10 spaces total. Under State Density Bonus Law, required parking ratios shall be waived or reduced if the modification results in identifiable and actual cost reductions, to provide for affordable housing costs. Under these terms, staff finds that a reasonable case has been made by the applicant related to projects feasibility and the additional square footage would allow a higher sale price for the market rate condominiums. Each unit would have at least one parking space and additional bicycle parking would be added to the site.

CONCLUSION

The applicant has shown that the additional State Density Bonus Law Incentives/Concessions, up to three, and the Development Standard Waivers, unlimited, would help bridge the feasibility gap to construct the affordable units as part of the eight-unit condominium project within the City. Staff recommends that the Planning Commission approve the request via associated resolution.

Attachments

1. City Council Staff Report for July 10, 2019

Associated Documents

1. Resolution making findings to approve the Parking Reduction and Floor Plan Modifications
 - a. Applicant Request for State Density Bonus Law Fee Waiver and Parking Reduction (Exhibit A)
 - i. Ex. Aa - Comparative Contractor Bids
 - ii. Ex. Ab - City Fee Estimate
 - iii. Ex. Ac - Proposed Project Plans
 - iv. Ex. Ad - Project Proforma