

EPC Questions – January 20, 2021

Item 5.1 – Density Bonus Ordinance

1. Per 36.48.75 (g), it states that the City has discretion to grant lower density bonuses separate and apart from the density bonus ordinance. From what ordinances does that power derive, and how often is that power used?

It is not separate and apart from the density bonus ordinance, since it contains guidance that the bonus would have to be “proportional” to the ordinance. For example, if a development provides 5% low-income units, it is within the City’s discretion to allow a 10% density bonus (half the otherwise minimums). That power would derive from this ordinance, as well as language in Gov Code Sec 65915(n). It is anticipated to be used very seldom, but staff recommends the inclusion of the language since the scale of bonuses would be small and the additional flexibility may be beneficial.

2. In what ways, if any, does the city's density bonus ordinance substantially exceed the requirements of state law? A rough answer would be sufficient.

The City’s ordinance exceeds state law through additional requirements incorporated from the BMR ordinance:

- The affordability term is longer for ownership projects (perpetuity)
- Lower-income ownership projects are required to provide an HOA reserve.
- Affordable units must be distributed throughout the project and be similar in appearance and quality.

In addition, 100% affordable NOFA projects are allowed the opportunity to be granted a density bonus above the state maximum. This is allowed by State law, but not mandated by it.

3. Generally, does the City ever perform audits of projects that made affordability commitments, to ensure that promises are kept and future renters or purchasers continue to benefit long after the project is completed?

Yes, these units are administered through the BMR program. Deed restrictions that specify the affordability term are recorded with the County should the property ever be sold to continue to require their affordability?. Additionally, tenants in rental units are recertified (in terms of income qualifications) annually and homeowners in affordable ownership units are surveyed annually to ensure that the unit is their primary residence. The City’s BMR Administrator manages the waitlist for affordable units, and coordinates with property managers to fill vacant affordable

units as necessary and facilitates the sale of affordable ownership units to ensure they are sold to income eligible households.

4. What data is available for utilization of the density bonus program? Do we know, even roughly, how often it is used during project approvals, and how many affordable units have been provided for through it? More broadly, is the bonus density law successfully doing what it was designed to do, and how do we know?

The City tracks projects using State Density Bonus, and includes that information in notices, resolutions and staff reports. Currently, 7 such projects are in some stage of review. There weren't any cases of Density Bonus projects before 2014, and the number of requests has increased since then (Table 1 below lists the City's approved density bonus projects, and the number of affordable units provided in each). While the number of projects utilizing density bonus is increasing, the majority of residential projects the City is reviewing currently are not utilizing density bonus.

Density Bonus has several intended outcomes, including increasing the number of affordable units, reducing the cost and increasing the supply of housing, and improving the economic feasibility of housing developments with affordable units. While staff is not aware of studies analyzing these outcomes, the fact that developers are choosing to apply for density bonuses signals that they have some positive effect on development feasibility and reduce the cost of providing affordable units. 100% affordable projects also benefit from the program, since they often experience additional financial feasibility constraints.

Table 1 - Approved Density Bonus Projects

Address	Tenure	Affordable Units
1101 W El Camino Real	Owner	5
2700 W El Camino Real	Rental	11
828 Sierra Vista Ave	Owner	1
1998 Montecito Ave	Owner	1
1701 W El Camino Real	Rental 100% Affordable	67
400 San Antonio Rd	Rental	48
950 W El Camino Real	Rental 100% Affordable	69
1313 W El Camino Real	Rental	2
2645 Fayette Dr	Owner	5