



County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
STEVEN E. WHITE, DIRECTOR

Planning Commission Staff Report Agenda Item No. 8 October 22, 2020

SUBJECT: General Plan Amendment No. 563 amending the Agriculture and Land Use Element of the General Plan to increase the residential density for various land use designations that accommodate housing development, consistent with Program 10 of the County's adopted 5th Cycle Housing Element and to address recent litigation.

Amendment to Text No. 380 modifying the text of the Fresno County Zoning Ordinance to address programs identified in the 5th Cycle Housing Element (Program 10), recent litigation, and state mandated modifications, in particular Government Code 65583 (Housing Element) and Government Code 65915 (Density Bonus).

APPLICANT: County of Fresno

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RECOMMENDATION:

- Recommend that the Board of Supervisors approve General Plan Amendment (GPA) No. 563 amending the Agriculture and Land Use Element to increase the residential density for various land use designations that accommodate housing development consistent with Program 10 of the County's adopted 5th Cycle Housing Element and to address recent litigation; and
- Recommend that the Board of Supervisors approve Amendment to Text No. 380 modifying the text of the Fresno County Zoning Ordinance to address programs identified in the 5th Cycle Housing Element (Program 10), recent litigation, and state mandated modifications, in particular Government Code 65583 (Housing Element) and Government Code 65915 (Density Bonus); and
- Recommend the Board of Supervisors determine that the above Recommended Actions are exempt from the California Environmental Quality Act; and

- Direct the Secretary to prepare a Resolution forwarding GPA No. 563 and AT 380 to the Board of Supervisors with a recommendation to approval.

EXHIBITS:

- A. Proposed Amendment to the Agriculture and Land Use Element of the General Plan
- B. Proposed Amendment to Various Sections of the Zoning Ordinance

ENVIRONMENTAL ANALYSIS:

The recommended actions are exempt from the California Environmental Quality Act (CEQA) under 14 CCCR 15061(b) (3), as the recommended actions do not have the potential for causing a significant effect on the environment as the proposed amendments are to bring consistency between the Housing Element and the Land Use Element of the General Plan and to bring the Zoning Ordinance in compliance with the General Plan and the State Law.

PUBLIC NOTICE:

Notice of the public hearing has been published in the Business Journal, which is a newspaper of general circulation in Fresno County.

PROCEDURAL CONSIDERATIONS:

Adoption of amendments to the text of the Zoning Ordinance and the General Plan are legislative acts requiring final action by the Board of Supervisors (Board). The Planning Commission's action is advisory to the Board. This item is scheduled to be considered by the Board on December 15, 2020. Upon Board approval, the amendments will become effective 30 days thereafter.

BACKGROUND INFORMATION:

The 5th-Cycle Housing Element (HE) of the County General Plan was adopted by the Board on March 15, 2016. The 5th-Cycle HE includes certain programs imposed by the State Department of Housing and Community Development (HCD), and the County is required to implement these programs. The County is amending the land use element of the General Plan to increase residential densities in certain residential land use designations and other designations that would allow residential development to allow for a maximum of 20 units per acre in specified land use designations. The County is also amending the text of the Zoning Ordinance to include certain provisions to bring the Ordinance in compliance with the General Plan and State Law with respect to Single Room Occupancy provisions, Density Bonus, allowable density of 20 units per acre in specified residential and commercial districts, and minor modifications to prior adopted Zoning Ordinance language for Emergency Shelters and Reasonable Accommodations language.

PROPOSED AMENDMENTS:

Amendments to TABLE LU-1 of the Agriculture and Land Use chapter of the General Plan include density increases in the following land use designations. Table LU-1 is attached to the staff report as Exhibit A. The proposed changes are noted below:

- Increase the maximum density in Medium High-Density Residential designation to 20 DU/Acre
- Increase the maximum density in Neighborhood Commercial designation to 20 DU/Acre
- Increase the maximum density in Community Commercial designation to 20 DU/Acre
- Increase the maximum density in Central Business Commercial designation to 20 DU/Acre

Amendments to the Zoning Ordinance

Exhibit “B” attached to the staff report provides details on the proposed amendments to various sections of the Zoning Ordinance. A summary of the proposed amendments are noted below:

Proposed amendments to sections 803.6 and 803.15

- Amendments to Section 803.6 - SPECIFIC DEFINITIONS GROUP E of the ZO establishes a definition for Density Bonus.
- Amendment to Section 803.15 - SPECIFIC DEFINITIONS GROUP N of the Zoning Ordinance to establishes a definition for Single Room Occupancy.

Proposed amendment to R-1 zone district

- Amendment to Section 826 - “R-1”- Single Family Residential District-Section 826.5 – Property Development Standards – Subsection “C”, Population Density, includes the provisions of the Density Bonus Ordinance in the R-1 Zone District.

Proposed amendments to R-2 and R-2-A zone districts

- Amendment to Section 827- “R-2” and “R-2-A”- Low Density Multiple Family Residential Districts -Section 827.5 –Property Development Standards – Subsection “C” Population Density, amends Sub-section “C” by revising Subsection C.1 to increase the density in the “R-2” and “R-2-A” Zone Districts to a maximum of 20 dwelling units per acre. The amendment deletes Subsection C.2 a. and b. and proposes adding a new Subsection C. 2, to allow the provisions of the Density Bonus Ordinance to apply to the “R-2” and “R-2-A” Zone Districts.

Proposed amendments to R-3 and R-3-A zone districts

- Amendment to Section 828- “R-3” and “R-3-A”- Medium Density Multiple Family Residential Districts -Section 828.5 – Property Development Standards - Subsection “C” Population Density, revising Subsection “C” by deleting Subsection 828.5 C. 2 and 2 a. through d., increasing the density in the “R-3” and “R-3-A” Zone Districts to a maximum of 20 dwelling units per acre.
- The amendment also proposes adding a new Subsection C.2 to allow the provisions of the Density Bonus Ordinance to apply to the “R-3” and “R-3-A” Zone Districts.

- The proposed amendment also includes amending Section 828, Subsection 828.1.-Uses Permitted-adding Subsection G. to allow Small Single Room Occupancy (SRO) in R-3 and R-3-A zone districts subject to the Special Standards of Section 855-O of the Zoning Ordinance.
- The proposed amendment includes amending Section 828, Subsection 828.3.-Uses Permitted Subject to Conditional Use Permit -adding Subsection I. to allow Large Single Room Occupancy (SRO) in R-3 and R-3-A zone districts subject to the Special Standards of Section 855-O of the Zoning Ordinance.

Proposed amendments to R-4 zone district

- Amendment to Section 829.5 - "R-4"- High Density Multiple Family Residential Districts - Section 829.5 – Property Development Standards - Subsection "C" Population Density, to delete Subsection C.2. and C.2.a. through i. - to increase the density in the "R-4" Zone Districts to a maximum of 20 dwelling units per acre.
- The amendment proposes amending Section 829.5, Subsection C. –Population Density by adding a new Subsection 2, to allow provisions of the Density Bonus Ordinance to apply to the "R-4" Zone District.
- The amendment also proposes amending Section 829 – Sub-Section 829.1-Uses Permitted- to add subsection "J" to allow Small Single Room occupancy (SRO) subject to Special Standards of Section 855-O of the Zoning Ordinance.
- The amendment also proposes to amend Section 829.3-Uses Subject to Conditional Use Permit- to add Subsection G. to allow Large Single Room Occupancy (SRO) in the R-4 zone districts subject to the Special Standards of Section 855-O of the Zoning Ordinance.

Proposed amendments to R-P zone district

- Amendment to Section 831- "R-P"- Residential and Professional Office District, Subsection 831.5 –Property Development Standards- amending Subsection 831.5 C.- Population Density- revising Sections C.1 and deleting Sections C.2, a, b., and c. to increase the maximum residential density to 20 units per acre.

Proposed amendments to C-4 zone district

- Amendment to Section 836- "C-4"- Central Trading District- Subsection 836.1 -Uses Permitted- to amend Subsection 836.1, 20. to allow Multiple-Family dwellings on the same lot with permitted commercial uses, and add Subsection 836.1.35 to allow small SRO as a permitted use. The proposed amendment includes amending Section 836.3- Uses Permitted Subject to Conditional Use Permit to delete Subsection J. and replace Subsection K. with new Subsection J. and add Subsection K. to include large SRO subject to Special Standards of Section 855-O of the Zoning Ordinance.
- The amendment also proposes to amend Section 836 C-4-Central Business District, Sub-Section 836.5 -Property Development Standards- Subsection C, -Population Density- Section 836.5C.2.a. to allow density increase to 20 units per acre.

Proposed amendments to section 855

- Amending Section 855 –Property Development Standards- Section 855-O- Property Development Standards – Special Regulations to Implement Certain Provisions that are included in the 5th-Cycle Housing Element. Proposed amendments are listed below:
- Amending Subsection 855-O.1.-Emergency Shelters- revising Sections (6) (a) and (d) related to “management plan” for such facilities.
- Amending Subsection 855-O.4-Reasonable Accommodations- revising Section 4.C.- Application Requirements Sections (C) (1) and (3) related to application for reasonable accommodation and the responsibility of the applicant in support of the findings respectively. The amendment also includes amending Subsection 4.e.-Notices- Subsection (2) related to contents of the Notice. Also amending Subsection 4.J.- Rescission of Approval of Reasonable Accommodation- Subsection 4J. (3) related to the contents of the application for reasonable accommodation.
- Amending Subsection 855-O- adding Subsection 5-Single Room Occupancy (SRO) - establishing a procedure to establish SRO in zones that would accommodate SRO.
- Amending Section 855- Property Development Standards- adding Section 855-P. - Property Development Standards- establishing Special Standards for Density Bonus incentives in certain zone districts to increase housing affordability.

SUMMARY

The proposed amendments to the Land Use Element of the General Plan and proposed amendments to the Zoning Ordinance are to address certain programs of the Housing Element of the General Plan and to bring it in compliance with the law. Staff recommends approval of the proposed Amendments to the text of the Land Use Element of the General Plan and the text of the Zoning Ordinance as summarized in the staff report and shown in Exhibits A and B.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Approval Action)

- Recommend that the Board of Supervisors approve General Plan Amendment (GPA) No. 563 amending the Agriculture and Land Use Element to increase the residential density for various land use designations that accommodate housing development consistent with Program 10 of the County’s adopted 5th Cycle Housing Element and to address recent litigation as the second General Plan Amendment Cycle in 2020; and
- Recommend that the Board of Supervisors approve Amendment to Text No. 380 modifying the text of the Fresno County Zoning Ordinance to address programs identified in the 5th Cycle Housing Element (Program 10), recent litigation, and state mandated modifications, in particular Government Code 65583 (Housing Element) and Government Code 65915 (Density Bonus); and
- Recommend the Board of Supervisors determine that the above Recommended Actions are exempt from the California Environmental Quality Act; and

- Direct the Secretary to prepare a Resolution forwarding GPA No. 563 and AT 380 to the Board of Supervisors with a recommendation to approval.

Alternative Motion (Denial Action)

- Recommend that the Board of Supervisors not to approve General Plan Amendment Application No. 560 as proposed as the second General Plan Amendment Cycle in 2020 and Amendment to Text application No. 380 a; and
- Direct the Secretary to prepare a Resolution documenting the Commission's recommendation.

Attachments:

Exhibits A and B

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TABLE LU-1		
FRESNO COUNTY GENERAL PLAN		
LAND USE DESIGNATIONS AND DEVELOPMENT INTENSITY STANDARDS ¹		
Land Use Designation	Residential Intensity (in gross acres) ²	Non-residential Intensity Floor Area Ratio (FAR) ³
Agriculture	1 DU/20 acres	0.10 ⁴
Irrigated Agriculture	1 DU/20 acres	0.10 ⁴
Westside Rangeland	1 DU/40 acres	0.10 ⁴
Eastside Rangeland	1 DU/40 acres	0.10 ⁴
Open Space	1 DU/40 acres	0.10 ⁴
Public Lands and Open Space	1 DU/40 acres	0.10 ⁴
Low Density Residential	0.9-2.8 DU/acre	0.35
Medium Density Residential	2.8-5.8 DU/acre	0.40
Medium High Density Residential	5.8- 20 44.5 DU/acre	0.50
Mountain Residential	1 DU/5 acre to 14.5 DU/acre	0.50
Rural Residential	1 DU/5 acre to 1 DU/2 acres	0.30
Foothill Rural Residential	1 DU/5 acre to 1 DU/2 acres	0.30
Planned Urban Village	4.0-8.0 DU / acre (net)	0.50
Planned Rural Community	1.0-2.0 DU/acre	0.50
Rural Settlement Area	1 DU/2 acres to 1 DU/acre	0.50
Office Commercial	5.8-14.5 DU/acre	0.50
Neighborhood Commercial	5.8-20 DU/acre n/a	0.50
Community Commercial	5.8-20 DU/acre n/a	0.50
Central Business Commercial	5.8- 20 44.5 DU/acre	1.00
Regional Commercial	n/a	1.00
Highway Commercial	n/a	1.00
Service Commercial	5.8-14.5 DU/acre	1.00
Special Commercial	n/a	1.00
Mountain Commercial	n/a	1.00
Limited Industry	n/a	1.50
General Industry	n/a	1.50
Public Facilities	n/a	0.50
Mountain Urban	1 DU/5 acres to 14.5 DU/acre	1.00
Reserve Overlay	1 DU/20 acres	0.10 ⁴
San Joaquin River Corridor Overlay	1 DU/20 acres	0.10 ⁴
Westside Freeway Corridor Overlay	n/a	1.00
¹ These are the applicable standards of residential and non-residential building intensity unless otherwise specified in policy text. ² Maximum allowable residential intensity or allowable range of residential intensity. Gross acreage includes roadways and other rights-of-way. Net acreage is about 80 percent of gross acreage. ³ Maximum allowable intensity for non-residential uses allowed as a matter of right in the compatible zone district where parcel size meets or exceeds minimum area requirements of applicable districts. ⁴ Does not apply to facilities necessary for resource production.		

EXHIBIT B

SECTION 803.6 - SPECIFIC DEFINITIONS GROUP E.

(Amended by Ord. 490.133 adopted 6-7-77, **Amended by Ord. adopted - - 20**)

DENSITY BONUS shall mean a density increase over the otherwise maximum allowable residential density specified in the General Plan and this Zoning Ordinance. See Government Code Section 65915 and Section 855-P (Amended by Ord. adopted - - 20).

SECTION 803.15 - SPECIFIC DEFINITIONS GROUP N.

(Amended by Ord. 490.133 adopted 6-7-77, **Amended by Ord. adopted - - 20**)

SINGLE ROOM OCCUPANCY shall mean a facility providing six or more dwelling units where each unit has a minimum floor area of one hundred fifty (150) square feet and a maximum floor area of four hundred (400) square feet. These dwelling units may have kitchen or bathroom facilities and shall be offered on a monthly basis or longer. These SRO regulations are considered to be in addition to the regulations of the underlying zoning districts where SRO development is permitted. SROs must meet the current local standards for building safety. The Special Standards of Section 855-O shall apply. (Amended by Ord. adopted - - 20)

SECTION 826

"R-1" - SINGLE FAMILY RESIDENTIAL DISTRICT

SECTION 826.5 - PROPERTY DEVELOPMENT STANDARDS

C. POPULATION DENSITY

The provisions of Section 826.1 and Section 826.2 shall apply except for Planned Residential Developments wherein the density shall not exceed one dwelling for each six thousand (6,000) square feet of lot area. **Density Bonus is an available option pursuant to Section 855-P (Added by Ord. adopted - -20)**

(Amended by Ord. 490.52 adopted 11 19 68; Ord. 490.66 adopted 2 2 71; Ord. 490.118 adopted 10 19 76; and Ord. T 255 adopted 8 2 82; **Amended by Ord. adopted - - 20**)

SECTION 827

"R-2" AND "R-2-A" - LOW DENSITY MULTIPLE FAMILY RESIDENTIAL DISTRICTS

SECTION 827.5 - PROPERTY DEVELOPMENT STANDARDS

C. POPULATION DENSITY

1. The density shall not exceed one dwelling unit for each ~~two thousand four hundred (2,400)~~ **two thousand one hundred seventy-five (2,175)** square feet of lot area.

(Amended by Ord. 490.42 adopted 6-11-68; Ord. 490.121 adopted 11-9-76, **Amended by Ord. adopted - -20**)

- ~~2. A non-conforming lot of record under separate ownership at the time it became non-conforming may be used for or occupied by any use permitted in this Section subject to the following limitations: (Amended by Ord. 490.42 adopted 6-11-68)~~
- ~~a. Where a lot has less than four thousand (4,000) square feet of lot area, said lot shall not be used for more than one (1) dwelling unit.~~
- ~~b. Where the lot has four thousand (4,000) square feet of lot area, but less than six thousand (6,000) square feet of lot area, said lot shall not be used for more than two (2) dwelling units. (Amended by Ord. 490.22 adopted 12-28-65)~~
- 2. Density Bonus is an available option pursuant to Section 855-P (Added by Ord. adopted - -20)**

SECTION 828

"R-3" AND "R-3-A" MEDIUM DENSITY MULTIPLE FAMILY RESIDENTIAL DISTRICTS

SECTION 828.1 - USES PERMITTED

The following uses shall be permitted in the "R-3" and "R-3-A" Districts. All uses shall be subject to the Property Development Standards in Section 828.5

(Amended by Ord. 490.174 re-adopted 5-8-79, **Amended by Ord. adopted - -20**)

- G. SRO, small subject to the Special Standards of Section 855-O. (Added by Ord. adopted - -20)**

SECTION 828.3 - USES PERMITTED SUBJECT TO CONDITIONAL USE PERMIT

The following uses shall be permitted subject to Conditional Use Permit as provided in Section 873.

- I. SRO, large subject to the Special Standards of Section 855-O. (Added by Ord. adopted - -20)**

SECTION 828.5 - PROPERTY DEVELOPMENT STANDARDS

C. POPULATION DENSITY

1. The following population density standards shall apply to all lots in the District:
 - a. Where both community water supply and public sewage disposal systems exist, there shall be a minimum of one thousand five hundred (1,500) square feet of lot area for each dwelling unit.

- b. Where community water supply or a private water supply and individual sewage disposal systems exist, the minimum lot area for each dwelling unit shall be determined by the County Health Department upon the basis of soil analysis tests approved by the County Health Department. In no case shall the minimum lot area be less than one thousand five hundred (1,500) square feet for each dwelling unit.

~~2. A nonconforming lot of record under separate ownership at the time it became nonconforming may be used for or occupied by any use permitted in this District subject to the following limitations:~~

- ~~a. Where the lot has less than three thousand (3,000) square feet of lot area, said lot shall not be used for more than one (1) dwelling unit.~~
- ~~b. Where the lot has three thousand (3,000) square feet of lot area or more but less than four thousand five hundred (4,500) square feet of lot area, said lot shall not be used for more than two (2) dwelling units.~~
- ~~c. Where the lot has four thousand five hundred (4,500) square feet of lot area or more but less than six thousand (6,000) square feet of lot area, said lot shall not be used for more than three (3) dwelling units.~~
- ~~d. Where the lot has six thousand (6,000) square feet of lot area or more but less than seven thousand (7,000) square feet of lot area, said lot shall not be used for more than four (4) dwelling units.~~

2. Density Bonus is an available option pursuant to Section 855-P (Added by Ord. adopted - -20)

SECTION 829

"R-4" HIGH DENSITY MULTIPLE FAMILY RESIDENTIAL DISTRICTS

SECTION 829.1 - USES PERMITTED

The following uses shall be permitted in the "R-4" District. All uses shall be subject to the Property Development Standards in Section 829.5.

- J. SRO, small subject to the Special Standards of Section 855-O. (Added by Ord. adopted - -20)**

SECTION 829.3 - USES PERMITTED SUBJECT TO CONDITIONAL USE PERMIT

The following uses shall be permitted subject to a Conditional Use Permit as provided for in Section 853.

- G. SRO, large subject to the Special Standards of Section 855-O. (Added by Ord. adopted - -20)**

SECTION 829.5 - PROPERTY DEVELOPMENT STANDARDS

C. POPULATION DENSITY

1. The following population density standards shall apply to all lots in the District.
 - a. Where both community water supply and public sewage disposal systems exist, there shall be a minimum of one thousand (1,000) square feet of lot area for each dwelling unit.
 - b. Where community water supply or a private water supply and individual sewage disposal systems exist, the minimum lot area for each dwelling unit shall be determined by the County Health Department upon the basis of soil analysis tests approved by the County Health Department. In no case shall the minimum lot area be less than one thousand (1,000) square feet for each dwelling unit.
2. ~~A nonconforming lot of record under separate ownership at the time it became nonconforming may be used for or occupied by any use permitted in this District subject to the following limitation:~~
 - a. ~~Where the lot has less than three thousand (3,000) square feet of lot area, said lot shall not be used for more than one (1) dwelling unit.~~
 - b. ~~Where the lot has three thousand (3,00) square feet of lot area or more than but less than four thousand (4,000) square feet of lot area, said lot shall not be used for more than two (2) dwelling units.~~
 - c. ~~Where the lot has four thousand (4,000) square feet of lot area or more but less than five thousand (5,000) square feet of lot area, said lot shall not be used for more than three (3) dwelling units.~~
 - d. ~~Where the lot has five thousand (5,000) square feet of lot area or more but less than six thousand (6,000) square feet of lot area, said lot shall not be used for more than four (4) dwelling units.~~
 - e. ~~Where the lot has six thousand (6,000) square feet of lot area or more but less than seven thousand (7,000) square feet of lot area, said lot shall not be used for more than five (5) dwelling units.~~

- f. ~~Where the lot has seven thousand (7,000) square feet of lot area or more but less than eight thousand (8,000) square feet of lot area, said lot shall not be used for more than six (6) dwelling units.~~
- g. ~~Where the lot has eight thousand (8,000) square feet of lot area or more but less than nine thousand (9,000) square feet of lot area, said lot shall not be used for more than seven (7) dwelling units.~~
- h. ~~Where the lot has nine thousand (9,000) square feet of lot area or more but less than nine thousand five hundred (9,500) square feet of lot area, said lot shall not be used for more than eight (8) dwelling units.~~
- i. ~~Where the lot has nine thousand five hundred (9,500) square feet of lot area or more but less than ten thousand (10,000) square feet of lot area, said lot shall not be used for more than nine (9) dwelling units.~~

**2. Density Bonus is an available option pursuant to Section 855-P
(Added by Ord. adopted - -20)**

SECTION 831

"R-P" RESIDENTIAL AND PROFESSIONAL OFFICE DISTRICT

SECTION 831.5 - PROPERTY DEVELOPMENT STANDARDS

C. POPULATION DENSITY

- 1. The density shall not exceed one dwelling unit for each ~~two thousand four hundred (2,400)~~ **two thousand one hundred seventy-five (2,175)** square feet of lot area. (Amended by Ord. 490.121 adopted 11-9-76, **Amended by Ord. adopted - - 20**)
- 2. ~~A nonconforming lot of record under separate ownership at the time it became nonconforming may be used for residential purposes subject to the following limitations:~~
 - a. ~~Any lot having less than four thousand (4,000) square feet may not be used for residential purposes.~~
 - b. ~~Where the lot has four thousand (4,000) square feet of lot area or more, but less than six thousand five hundred (6,500) square feet of lot area, said lot shall not be used for more than two (2) dwelling units.~~
 - c. ~~Where the lot has six thousand five hundred (6,500) square feet of lot area or more, but less than seven thousand five hundred (7,500) square~~

~~feet of lot area, said lot shall not be used for more than three (3) dwelling units.~~

SECTION 836

"C-4" - CENTRAL TRADING DISTRICT

SECTION 836.1 - USES PERMITTED

20. Multiple family dwellings **including Multiple family dwellings on the same lot with permitted commercial uses (Amended by Ord. adopted - -20)**
35. **SRO, small subject to the Special Standards of Section 855-O. (Added by Ord. adopted - -20)**

SECTION 836.3 - USES PERMITTED SUBJECT TO CONDITIONAL USE PERMIT

- ~~J. Multiple family dwellings on the same lot with permitted commercial uses where permitted by the General Plan. (Added by Ord. 490.170 re-adopted 4-24-79)~~
- J. ~~K.~~ Planned Commercial Developments (Added by Ord. T-284 adopted 5-26-87)
- K. **SRO, large subject to the Special Standards of Section 855-O. (Added by Ord. adopted - -20)**

SECTION 836.5 - PROPERTY DEVELOPMENT STANDARDS

The following property development standards shall apply to all land and structures in the "C-4" District:

C. POPULATION DENSITY

1. None for commercial uses.
2. For residential uses.
 - a. The density shall not exceed one dwelling unit for each ~~two thousand four hundred (2,400)~~ **two thousand one hundred seventy-five (2,175)** square feet of lot area.
 - b. Existing residential uses shall be subject to Section 836.4-A.

(Amended by Ord. 490.156 adopted 9-15-78; Ord. 490.170 re-adopted 4-24-79, **Amended by Ord. adopted - - 20**)

SECTION 855
PROPERTY DEVELOPMENT STANDARDS

SECTION 855-O. PROPERTY DEVELOPMENT STANDARDS – SPECIAL STANDARDS OF PRACTICE AND REGULATIONS TO IMPLEMENT THE FRESNO COUNTY HOUSING ELEMENT (Added by Ord. T-803-371 adopted 12-8-15 **Amended by Ord. adopted - - 20**)

1. Emergency Shelters

- (6) Emergency shelter management plans shall be required and shall be approved by the Fresno County Director of Public Works and Planning or an authorized designee.
- (a) A written management plan is required for all emergency shelters to address management experience, ~~good neighbor issues including~~ neighborhood outreach, **methods for addressing nuisance complaints**, transportation, client supervision, client services, and food services.
- (d) The plan shall include provisions for on-site security including lighting, security cameras, and other measures ~~appropriate~~ **as proposed by the operator** to provide for adequate health and safety of both clients and management, and to aid in avoiding potential nuisances near the site. The operator shall also demonstrate that emergency service providers including the Sheriff's Office, the local fire department and the appropriate ambulance operators have been adequately notified and will provide services to the shelter.

4. Reasonable Accommodations

c. Application Requirements

- (1) An application for Reasonable Accommodation shall include the information and materials specified in the most up-to-date Department handout for Reasonable Accommodation applications, together with the required fee in compliance with the Master Schedule of Fees (**Note: fee may be waived upon determination of hardship**). It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection 855-O.4.g (Findings and Decision) below.
- (3) It is the responsibility of the applicant to provide evidence in support of the findings required by Section Subsection 855-O.4.g (Findings and Decision) below. **Information specific to type of disability may be redacted.**

e. Notices

- (2) **Notices shall be limited to describing the property location, ownership information, summary of proposed physical modifications to property and Department contact information.**
- (3) When a Reasonable Accommodation Request is approved by the Director or the Director's designee, written notice of the decision shall be mailed in accordance with Section 855-O.4.e.(1) above.

j. Rescission of Approval of Reasonable Accommodation

- (3) The review authority may request the applicant or the successor(s)-in-interest to the property to provide documentation that subsequent occupants are qualifying persons with disabilities. **The specific nature of the disability may be redacted from submitted documents.** Failure to provide the documentation within ten (10) days of the date of a request by the review authority shall constitute grounds for discontinuance by the County of a previously-approved Reasonable Accommodation.

5. Single Room Occupancy (SRO)

This Section provides a procedure to establish an SRO, as defined in Section 803.15 (Specific Definitions – Group N) subject to the following:

Permitted SRO zones:

- a. **A “small SRO” (six or fewer units) is an allowed use in the R-3 and R-4 multifamily residential zones and C-4 (Central Business District), subject to the same district requirements applicable to multifamily residential or apartment uses in that zoning district.**
- b. **A “large SRO” (seven or more units) is allowed with a conditional use permit in R-3, R-4 and C-4 zones.**

Minimum development standards:

- a. **The net area of an SRO unit may range from a minimum of 150 square feet to a maximum of 400 square feet.**
- b. **Each unit shall accommodate a maximum of two persons.**
- c. **Laundry facilities that have a minimum of two washers and two dryers must be provided in a separate room. Additional washers and dryers must be provided for any development that has more than 20 units at the ratio of two washers and two dryers for every additional 20 units.**

- d. Cleaning Supply Room.** A cleaning supply room or utility closet with a wash tub with hot and cold running water shall be provided on each floor of the SRO facility.
- e. Bathroom.** An SRO unit is not required to but may contain partial or full bathroom facilities. A partial bathroom facility shall have at least a toilet and sink; a full facility shall have a toilet, sink and bathtub or shower or bathtub/shower combination. If a full bathroom facility is not provided, common bathroom facilities shall be provided in accordance with the California Building Code for congregate residences with at least one full bathroom per floor.
- f. Kitchen.** An SRO unit is not required to but may contain partial or full kitchen facilities. A full kitchen includes a sink, a refrigerator and stove, range top or oven. A partial kitchen is one that is missing at least one of the aforementioned appliances. If a full kitchen is not provided, common kitchen facilities shall be provided with at least one full kitchen per floor.
- g. Closet.** Each SRO unit shall have a separate closet.
- h. Code Compliance.** SRO units shall comply with all requirements of the California Building Code. All units shall comply with all applicable accessibility and adaptability requirements. All common areas shall be fully accessible.
- i. Security Lighting.** SROs must provide adequate exterior security lighting.
- j. Parking.** Off-street parking for tenants shall be provided based upon a demonstrated need; however, the parking standard shall not require more parking than for other residential or commercial uses within the same zone. An SRO facility shall provide one parking space for each SRO unit, one parking space for the on-site manager where required, and one parking space for each additional employee. All parking shall be off-street and on-site.

Conversion of existing structures:

An existing structure may be converted to an SRO facility, consistent with the provisions of this section. Any such conversion must bring the entire structure up to current building code standards, including accessibility and adaptability standards, unless otherwise exempted by the chief building official.

Facility Management:

- a. An SRO facility with more than ten (10) units shall provide on-site management. An SRO facility with ten (10) units or less may provide a management office on-site.
- b. Tenancy. Tenancy of SRO units shall not be for less than thirty (30) days.
- c. Garbage disposal and receptacles shall be provided by the property owner. Garbage receptacles must be located on the lot or property in a manner that does not hinder access to any required off-street parking or loading spaces.
(Amended by Ord. adopted - - 20)

SECTION 855-P. PROPERTY DEVELOPMENT STANDARDS – SPECIAL STANDARDS FOR DENSITY BONUS TO IMPLEMENT AFFORDABLE HOUSING INCENTIVES (Added by Ord. adopted - - 20)

AFFORDABLE HOUSING INCENTIVES - DENSITY BONUS

1. **Eligibility for Bonus, Incentives, or Concessions - In order to be eligible for a density bonus, reduced parking ratios, and other incentives or concessions as provided by this Section, a proposed housing development shall comply with the following requirements and shall satisfy all other applicable provisions of this Zoning Ordinance, except as provided by Section 855-P.3 (Allowed Incentives or Concessions).**
 - a. **Resident requirements. A housing development proposed to qualify for a density bonus shall be designed and constructed so that it includes at least any one of the following:**
 - (1) **10 percent of the total number of proposed units are for lower income households, as defined in Health and Safety Code Section 50079.5;**
 - (2) **Five percent of the total number of proposed units are for very low-income households, as defined in Health and Safety Code Section 50105;**
 - (3) **The project is a senior citizen housing development as defined in Civil Code Sections 51.3 and 51.12, or is a mobile home park that limits residency based on age requirements for housing older persons in compliance with Civil Code Sections 798.76 or 799.5; or**
 - (4) **10 percent of the total dwelling units in a common interest development as defined in Civil Code Section 4100 are for persons and families of moderate income, as defined in Health and Safety Code Section 50093, provided that all units in the development are offered to the public for purchase.**

- (5) 10 percent of the total dwelling units in a housing development for transitional foster youth, as defined in Section 66025.9 of the Education Code; disabled veterans, as defined in Section 18541; or homeless persons, as defined in the Federal McKinney – Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low-income units.
 - b. Applicant selection of basis for bonus. For purposes of calculating the amount of the density bonus in compliance with Section 855-P.2 (Allowed Density Bonuses), below, the applicant who requests a density bonus shall elect whether the bonus shall be awarded on the basis of subparagraphs a. (1), (2), (3), (4), or (5), above.
 - c. Bonus units shall not qualify a project. A density bonus granted in compliance with Section 855-P.2 (Allowed Density Bonuses), below, shall not be included when determining the number of housing units that is equal to the percentages required by Subsection a., above.
 - d. Minimum project size to qualify for density bonus. The density bonus provided by this Section shall be available only to a housing development of five or more dwelling units.
 - e. Condominium conversion projects. A condominium conversion project for which a density bonus is requested shall comply with the eligibility and other requirements specified in Government Code Section 65915.5.
 - f. Replacement of Affordable Units. Units that are replacing affordable dwelling units are eligible for a density bonus if in compliance with Government Code Section 65915.
2. Allowed Density Bonuses - The decision-making body shall determine the amount of a density bonus allowed in a housing development in compliance with this Subsection. For the purposes of this Section, "density bonus" means a density increase over the otherwise maximum allowable residential density under the applicable General Plan Land Use designation and zone as of the date of application by the applicant to the County.
 - a. Density bonus. A housing development that complies with the eligibility requirements specified in Subsections a. (1), (2), (3), or (4), above, shall be entitled to density bonuses as follows, unless a lesser percentage is proposed by the applicant.
 - (1) Bonus for units for lower income households. A housing development that is eligible for a bonus in compliance with the criteria specified in Subsection a. (1) (10 percent of units for lower income households) shall be entitled to a density bonus calculated as follows:

BONUS FOR LOWER INCOME HOUSEHOLDS

Percentage of Low-Income Units Proposed	Percentage of Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

- (2) Bonus for units for very low-income households. A housing development that is eligible for a bonus in compliance with the criteria specified in Subsection 855-P.1.a. (2), (five percent of units for very low-income households) shall be entitled to a density bonus calculated as follows:

BONUS FOR VERY LOW-INCOME HOUSEHOLDS

Percentage of Very- Low Income Units Proposed	Percentage of Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

- (3) Bonus for senior citizen development. A housing development that is eligible for a bonus in compliance with the criteria in Subsection 855-P. 1.a.(3), (senior citizen development or mobile home park) shall be entitled to a density bonus of 20 percent.
- (4) Bonus for moderate income units in common interest development. A housing development that is eligible for a bonus in compliance with the criteria specified in 855-P.1.a.(4), (10 percent of units in a common interest development for persons and families of moderate income) shall be entitled to a density bonus calculated as follows:

BONUS FOR MODERATE INCOME HOUSEHOLDS

Percentage of Moderate-Income Units Proposed	Percentage of Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

(5) Density bonus for land donation. When an applicant for a tentative map, parcel map, or other residential development approval donates land to the County in compliance with this Subsection, the applicant shall be entitled to a density bonus for the entire development, as follows; provided, that nothing in this Subsection shall be construed to affect the authority of the County to require a developer to donate land as a condition of development.

(a) Basic bonus. The applicant shall be entitled to a 15 percent increase above the otherwise maximum allowable residential density under the applicable Land Use Plan designation and zone for the entire development, and an additional increase as follows:

BASIC BONUSES

Percentage of Moderate-Income Units Proposed	Percentage of Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

(b) Increased bonus. The increase identified in the table above shall be in addition to any increase in density required by Subsections a.(1) through (4), up to a maximum combined mandated density increase of 35 percent if an applicant seeks both the increase required in compliance with this Subsection a.(5), as well as the bonuses provided by Subsections a.(1) through a.(4).

(c) Eligibility for increased bonus. An applicant shall be eligible for the increased density bonus provided by this Subsection if all of the following conditions are met:

- (1) The applicant donates and transfers the land no later than the date of approval of the final map, parcel map, or residential development application.**
- (2) The developable acreage and zoning classification of the land being transferred are sufficient to allow construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.**
- (3) The transferred land is at least one acre in size, or of sufficient size to allow development of at least 40 units; has the appropriate Land Use Plan designation; is appropriately zoned for development as affordable**

housing; and is or will be served by adequate public facilities and infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible.

- (4) No later than the date of approval of the final map, parcel map, or of the residential development, the transferred land shall have all of the permits and approvals, other than Building Permits, necessary for the development of the very low income housing units on the transferred land, except that the County may subject the proposed development to subsequent design review to the extent authorized by Government Code Section 65583.2(i) if the design is not reviewed by the County before the time of transfer.
 - (5) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with Section 855-P.7 (Continued Availability), which shall be recorded on the property at the time of dedication.
 - (6) The land is transferred to the County or to a housing developer approved by the County. The County may require the applicant to identify and transfer the land to the approved housing developer.
 - (7) The transferred land shall be within the boundary of the proposed development or, if the County agrees, within one-quarter mile of the boundary of the proposed development.
 - (8) A proposed source of funding for the very low-income units shall be identified no later than the date of approval of the final subdivision map, parcel map, or residential development application.
- b. Greater or lesser bonuses. The County may choose to grant a density bonus greater than provided by this Section for a development that meets the requirements of this Section or grant a proportionately lower density bonus than required by this Section for a development that does not fully comply with the requirements of this Section.
 - c. Density bonus calculations. The calculation of a density bonus in compliance with this Section that results in fractional units shall be rounded up to the next whole number, as required by State law. For the purpose of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels.
 - d. Requirements for amendments or discretionary approval. The granting of a density bonus shall not be interpreted, in and of itself, to require a General Plan amendment, Zone Map amendment, or other discretionary approval. The granting of a density bonus shall not require or be interpreted to require the waiver of a

local ordinance or provisions of a local ordinance unrelated to development standards.

- e. **Location of bonus units.** The developer may locate density bonus units in the housing project in areas other than where the units for the lower income households are located.

3. Allowed Incentives or Concessions

- a. **Applicant request and County approval.**

(1) An applicant for a density bonus in compliance with this Section may submit to the County a proposal for the specific incentives or concessions listed in below Subsection c. (Type of incentives), below, that the applicant requests in compliance with this Section. The applicant may file a request either before filing an application for County approval of a proposed project or concurrently with an application for project approval. The Planning Commission or Board shall grant an incentive or concession request that complies with this Section unless it makes any of the following findings in writing, based upon substantial evidence:

(a) The incentive or concession does not result in identifiable and actual cost reduction to provide for affordable housing costs, as defined in Health and Safety Code Section 50052.5, or for rents for the targeted units to be set as specified in Subsection 855-P.7.b (Unit cost requirements);

(b) The incentive or concession would have a specific adverse impact, as defined in Government Code Section 65589.5(d)(2), upon public health and safety or the physical environment, or on any real property listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households; or

(c) The concession or incentive would be contrary to State or Federal law.

(2) The applicant shall show that a waiver or modification of development standards is necessary to make the housing units economically feasible.

- b. **Number of incentives.** The applicant shall receive the following number of incentives or concessions.

(1) One incentive or concession. One incentive or concession for a project that includes at least 10 percent of the total units for lower income households, at least five percent for very low-income households, or at least 10 percent for persons and families of moderate income in a common interest development.

- (2) **Two incentives or concessions.** Two incentives or concessions for a project that includes at least 20 percent of the total units for lower income households, at least 10 percent for very low-income households, or at least 20 percent for persons and families of moderate income in a common interest development.
 - (3) **Three incentives or concessions.** Three incentives or concessions for a project that includes at least 30 percent of the total units for lower income households, at least 15 percent for very low-income households, or at least 30 percent for persons and families of moderate income in a common interest development.
- c. **Type of incentives.** For the purposes of this Section, concession or incentive means any of the following:
 - (1) **A reduction in the site development standards of this Zoning Ordinance (e.g., site coverage limitations, setbacks, onsite open space requirements, reduced parcel sizes, and/or parking requirements) (see also Section 855-P.4 [Parking Requirements in Density Bonus Projects]), or a modification of architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission in compliance with Health and Safety Code Section 18901 et seq., that would otherwise be required, that results in identifiable, financially sufficient, and actual cost reductions to provide for affordable housing costs as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Section 855-P.7.**
 - (2) **Approval of mixed-use land uses not otherwise allowed by this Zoning Ordinance in conjunction with the housing development, if nonresidential land uses will reduce the cost of the housing development, and the nonresidential land uses are compatible with the housing project and the existing or planned development in the area where the project will be located;**
 - (3) **Other regulatory incentives proposed by the applicant or the County that will result in identifiable, and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Section 855-P.7; and/or**
 - (4) **In its sole and absolute discretion, a direct financial contribution granted by the Board, including writing-down land costs, subsidizing the cost of construction, or participating in the cost of infrastructure.**
- d. **Effect of incentive or concession.** The granting of a concession or incentive shall not be interpreted, in and of itself, to require a General Plan amendment, Zone Map amendment, study, or other discretionary approval.

4. Parking Requirements in Density Bonus Projects

a. Applicability. This Section applies to a development that meets the requirements of Section 855-P.1 (Eligibility for Density Bonus, Incentives, and Concessions), above, but only at the request of the applicant. An applicant may request additional parking incentives or concessions beyond those provided in this Section in compliance with Section 824.3.040 (Allowed Concessions and Incentives), above. A request pursuant to this Section shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to Section 855-P.3.

b. Number of parking spaces required.

(1) Default Parking Ratio. At the request of the applicant, the County shall not require a vehicular parking ratio for a project that complies with the requirements of Section 855-P.1 (Eligibility for Density Bonus, Incentives, and Concessions), above, inclusive of handicapped and guest parking, that exceeds the following ratios:

(a) Zero to one bedroom: One on-site parking space.

(b) Two to three bedrooms: Two on-site parking spaces.

(c) Four and more bedrooms: Two and one half on-site parking spaces.

(2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.

(3) Definition of a Major Transit Stop. For the purpose of this section, major transit stop shall mean a site containing an existing rail transit station served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service internal of 15 minutes or less during the morning and afternoon peak commute periods.

(4) Developments in Proximity to Major Transit Stop. If a development includes the maximum percentage of low-income or very low-income units provided for in Subsection 855-P.2.a (Allowed Density Bonus), and is located within one-half mile of a major transit stop, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, the County shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds 0.5 spaces per bedroom.

(5) Exclusive Rental Units Development. If a development consists of solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50025.5 of the Health and

safety Code, then, upon the request of the developer, the County shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds the following ratios:

- (a) If the development is located within one-half mile of a major transit stop, and there is unobstructed access to the major transit stop from the development, the ratio shall not exceed 0.5 spaces per unit.
 - (b) If the development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed 0.5 spaces per unit. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.
 - (c) If the development is a special needs housing development, as defined in Section 51312 of the Health and Safety Code, the ratio shall not exceed 0.3 spaces per unit. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.
- c. Location of parking. For purposes of this Subsection, a development may provide on-site parking through tandem parking or uncovered parking, but not through on-street parking.
 - d. Rounding. If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.

5. Bonus and Incentives for Developments with Child Care Facilities

- a. Housing developments. A housing development that complies with the resident and project size requirements of Subsections 855-P.1.a and b, above, and also includes as part of that development a child care facility other than a large or small family day care home, that will be located on the site of, as part of, or adjacent to the development, shall be subject to the following additional bonus, incentives, and requirements.
 - (1) Additional bonus and incentives. The County shall grant a housing development that includes a child care facility in compliance with this Section either of the following:
 - (a) An additional density bonus that is an amount of floor area in square feet of residential space that is equal to or greater than the floor area of the child care facility; or

(b) An additional incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(2) Requirements to qualify for additional bonus and incentives.

(a) The County shall require, as a condition of approving the housing development, that:

(1) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable in compliance with Section 855-P.7 (Continued Availability), below; and

(2) Of the children who attend the child care facility, the children of very low-income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income in compliance with Subsection 855-P.1.a (Resident requirements), above.

(b) The County shall not be required to provide a density bonus for a child care facility in compliance with this Section if it finds, based upon substantial evidence, that the community has adequate child care facilities.

b. Child care in commercial and industrial developments. A developer of a commercial or industrial development project, containing at least 50,000 square feet of floor area, may be granted a density bonus when that developer agrees to set aside at least 2,000 square feet of interior floor area and 3,000 outdoor square footage to be used for a child care facility, other than a large or small family day care home, in compliance with Government Code Section 65917.5 (Commercial density bonus).

(1) Allowable density bonuses. The allowable density bonus may be one of the following:

(a) A maximum of five square feet of floor area for each one square foot of floor area contained in the child care facility located in an existing child care facility; or

(b) A maximum of 10 square feet of floor area for each one square foot of floor area contained in the child care facility located in a new child care facility.

(2) Requirements. Requirements to qualify for the additional density bonus shall include all of the following:

- (a) For purposes of calculating the allowable density bonus under this Subsection, both the total area contained within the exterior walls of the child care facility and all outdoor areas devoted to the use of the facility in compliance with applicable State child care licensing requirements shall be considered.**
- (b) The child care facility shall be of a sufficient size to comply with all applicable State licensing requirements in order to accommodate at least 40 children.**
- (c) This facility may be located either on the project site or may be located off-site as agreed upon by the developer and the County.**
- (d) If the child care facility is not located on the site of the development project, the County shall determine whether the location of the child care facility is appropriate and whether it complies with the purpose and intent of this Section.**
- (e) The granting of a density bonus shall not preclude the County from imposing necessary conditions on the development project or on the additional square footage in compliance with Government Code Section 65917.5 (Commercial density bonus).**

6. Commercial Development

- a. Commercial development. When an applicant for approval of a commercial development has entered into an agreement for partnered housing to contribute affordable housing through a joint project or two separate projects encompassing affordable housing, the County shall grant to the commercial developer a development bonus.**
 - (1) Agreement for partnered housing. The agreement for partnered housing shall be between the commercial developer and the housing developer, shall identify how the commercial developer will contribute affordable housing, and shall be approved by the Director. Affordable housing may be contributed by the commercial developer in one of the following manners:**
 - (a) The commercial developer may directly build the units.**
 - (b) The commercial developer may donate a portion of the site or property elsewhere to the affordable housing developer for use as a site for affordable housing.**
 - (c) The commercial developer may make a cash payment to the affordable housing developer that shall be used towards the costs of constructing the affordable housing project.**

- (2) Affordability requirements.** In order to qualify for a development bonus under this section, a commercial developer shall partner with a housing developer that provides at least 30 percent of the total units for low-income households or at least 15 percent of the total units for very low-income households.
- (3) Location of affordable housing.** The housing shall be constructed on the site of the commercial development or on a site that is all of the following:

 - (a) Within the boundaries of the unincorporated County;**
 - (b) Close to public amenities, including schools and employment centers;**
 - (c) Within one-half mile of a major transit stop, as defined in Section 21155(b) of the Public Resources Code.**
- (4) Type of development bonus.** The development bonus granted to the commercial developer shall mean incentives, mutually agreed upon by the developer and the County, that may include, but are not limited to, any of the following:

 - (a) Up to a 20 percent increase in maximum allowable intensity in the General Plan.**
 - (b) Up to a 20 percent increase in maximum allowable floor area ratio.**
 - (c) Up to a 20 percent increase in maximum height requirements.**
 - (d) Up to a 20 percent reduction in minimum parking requirements.**
 - (e) Use of a limited-use/limited-application elevator for upper floor accessibility.**
 - (f) An exception to the zoning ordinance or other land use regulation.**
- (5) Timing of construction.** If the developer of the affordable units does not commence with construction of those units in accordance with timelines ascribed by the agreement described in Subparagraph 1, above, the County may withhold certificates of occupancy for the commercial development under construction until the developer has completed construction of the affordable units.
- (6) Annual report to the State.** The County shall submit to the Department of Housing and Community Development, as part of the annual report required by Government Code Section 65400, information describing a commercial development bonus approved, including the terms of the agreements between

the commercial developer and the affordable housing developer, and the developers and the County, and the number of affordable units constructed as part of the agreements.

7. **Continued Availability** - The units that qualified the housing development for a density bonus and other incentives and concessions shall continue to be available as affordable units in compliance with the following requirements, as required by Government Code Section 65915(c). See also Section 855-P.11 (Control of Resale).
 - a. **Duration of affordability.** The applicant shall agree to, and the County shall ensure, the continued availability of the units that qualified the housing development for a density bonus and other incentives and concessions, as follows.
 - (1) **Low- and very low-income rental units.** The continued affordability of all low- and very low-income qualifying rental units shall be maintained for 55 years, or a longer time if required by the construction or mortgage financing assistance program, mortgage insurance program, rental subsidy program, or by County policy or ordinance.
 - (2) **Units for transitional foster youth, disabled veterans, or homeless persons.** Units for transitional foster youth, disabled veterans, or homeless persons shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low-income units.
 - (3) **Units in common interest for-sale development.** The initial occupant of all for-sale common interest units shall be persons and families of very low-, low-, or moderate-income. The County shall enforce an equity sharing agreement, pursuant to Subsection c., below, unless it is in conflict with the requirements of another public funding source of law.
 - b. **Unit cost requirements.** The rents and owner-occupied costs charged for the housing units in the development that qualify the project for a density bonus and other incentives and concessions, shall not exceed the following amounts during the period of continued availability required by this Section:
 - (1) **Lower income units.** Rents for the lower income density bonus units shall be set at an affordable rent as defined in Health and Safety Code Section 50053; and
 - (2) **Owner-occupied units.** Owner-occupied units shall be available at an affordable housing cost as defined in Health and Safety Code Section 50052.5.
 - c. **Occupancy and resale of for-sale units.** An applicant shall agree to, and the County shall ensure that the initial occupant of for-sale units that are directly related to the receipt of the density bonus, are persons and families of very low-,

low-, and moderate income, as defined in Health and Safety Code Section 50093, and that the units are offered at an affordable housing cost, as defined in Health and Safety Code Section 50052.5. The County shall enforce an equity sharing agreement unless it is in conflict with the requirements of another public funding source or law. The following requirements apply to the equity sharing agreement.

- (1) Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation.
- (2) The County shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used within five years for any of the purposes described in Health and Safety Code Section 33334.2(e) that promote home ownership. For the purposes of this Section:
 - (a) The County's initial subsidy shall be equal to the fair market value of the home at the time of initial sale, minus the initial sale price to the qualified household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value; and
 - (b) The County's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale.

8. Location and Type of Designated Units

- a. **Location/dispersal of units.** As required by the Planning Commission or Board in compliance with Section 855-P.9 (Processing of Bonus Requests), below, designated units shall be reasonably dispersed throughout the project where feasible, shall contain on average the same number of bedrooms as the non-designated units in the project, and shall be compatible with the design or use of remaining units in terms of appearance, materials, and finish quality.
- b. **Phasing.** If a project is to be phased, the density bonus units shall be phased in the same proportion as the non-density bonus units or phased in another sequence acceptable to the County.

9. Processing of Bonus Requests

- a. **Permit requirement.** A request for a density bonus and other incentives and concessions shall be evaluated through the Site Plan Review process in compliance with Section 874.
- b. **Hearing process.** The application shall be heard and decided by the Planning Commission unless the Applicant is requesting incentives requiring Board

approval, as set forth in Subsection (1) below, in which case the application shall be approved by the Board of Supervisors with a recommendation from the Planning Commission. The Planning Commission's decision may be appealed to the Board of Supervisors.

(1) Approval of incentives. The Planning Commission and Board of Supervisors shall be authorized to approve incentives as follows:

(a) The Planning Commission shall be authorized to approve incentives that include the modification of site development standards or the modification of zoning.

(b) Approval by the Board of Supervisors shall be required for all other development incentives.

c. Findings for approval. The approval of a density bonus and other incentives and concessions shall require that the review authority first make all of the following additional findings:

(1) The residential development will be consistent with the General Plan and any applicable specific plan, except as provided by this Section for density bonuses, and other incentives and concessions;

(2) The approved number of dwellings can be accommodated by existing and planned infrastructure capacities;

(3) Adequate evidence exists to indicate that the project will provide affordable housing in a manner consistent with the purpose and intent of this Section; and

(4) There are sufficient provisions to guarantee that the units will remain affordable for the required time period.

10. Density Bonus Agreement

a. Agreement required. An applicant requesting a density bonus shall agree to enter into a density bonus agreement (referred to as the "agreement") with the County in the County's standard form of agreement. The applicant shall prepare the draft agreement for submission to the County for review.

b. Agreement provisions.

(1) Project information. The agreement shall include at least the following information about the project:

- (a) The total number of units approved for the housing development, including the number of designated dwelling units;**
 - (b) A description of the household income group to be accommodated by the housing development, and the standards and methodology for determining the corresponding affordable rent or affordable sales price and housing cost consistent with HUD Guidelines;**
 - (c) The marketing plan for the affordable units;**
 - (d) The location, unit sizes (square feet), and number of bedrooms of the designated dwelling units;**
 - (e) Tenure of the use restrictions for designated dwelling units of the time periods required by Section 855-P.7 (Continued Availability);**
 - (f) A schedule for completion and occupancy of the designated dwelling units;**
 - (g) A description of the additional incentives and concessions being provided by the County;**
 - (h) A description of the remedies for breach of the agreement by the owners, developers, and/or successors-in-interest of the project; and**
 - (i) Other provisions to ensure successful implementation and compliance with this Section.**
- (2) Minimum requirements. The agreement shall provide, at minimum, that:**
- (a) The developer shall give the County the continuing right-of-first-refusal to lease or purchase any or all of the designated dwelling units at the appraised value;**
 - (b) The deeds to the designated dwelling units shall contain a covenant stating that the developer or successors-in-interest shall not assign, lease, rent, sell, sublet, or otherwise transfer any interests for designated units without the written approval of the County;**
 - (c) When providing the written approval, the County shall confirm that the price (rent or sale) of the designated dwelling unit is consistent with the limits established for low and very low-income households, as published by HUD;**
 - (d) The County shall have the authority to enter into other agreements with the developer, or purchasers of the designated dwelling units, to ensure that**

the required dwelling units are continuously occupied by eligible households;

- (e) Applicable deed restrictions, in a form satisfactory to the County Counsel, shall contain provisions for the enforcement of owner or developer compliance. Any default or failure to comply may result in foreclosure, specific performance, or withdrawal of the Certificate of Occupancy;**
 - (f) In any action taken to enforce compliance with the deed restrictions, the County Counsel shall, if compliance is ordered by a court of competent jurisdiction, take all action that may be allowed by law to recover all of the County's costs of action including legal services; and**
 - (g) Compliance with the agreement will be monitored and enforced in compliance with the measures included in the agreement.**
- (3) For-sale housing conditions. In the case of a for-sale housing development, the agreement shall provide for the following conditions governing the initial sale and use of designated dwelling units during the applicable restriction period:**
- (a) Designated dwelling units shall be owner-occupied by eligible households, or by qualified residents in the case of senior housing; and**
 - (b) The initial purchaser of each designated dwelling unit shall execute an instrument or agreement approved by the County which:**
 - (1) Restricts the sale of the unit in compliance with this Section, or other applicable County policy or ordinance, during the applicable use restriction period;**
 - (2) Contains provisions as the County may require ensuring continued compliance with this Section and State law; and**
 - (3) Shall be recorded against the parcel containing the designated dwelling unit.**
- (4) Rental housing conditions. In the case of a rental housing development, the agreement shall provide for the following conditions governing the use of designated dwelling units during the applicable restriction period:**
- (a) The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies, and maintaining the designated dwelling units for qualified tenants;**

- (b) Provisions requiring owners to annually verify tenant incomes and maintain books and records to demonstrate compliance with this Section;**
- (c) Provisions requiring owners to submit an annual report to the County, which includes the name, address, and income of each person occupying the designated dwelling units, and which identifies the bedroom size and monthly rent or cost of each unit; and**
- (d) The applicable use restriction period shall comply with the time limits for continued availability in Section 855-P.7 (Continued Availability), above.**

c. Execution of agreement.

- (1) Following Planning Commission's or Board's approval of the agreement, and execution of the agreement by all parties, the County shall record the completed agreement on the parcels designated for the construction of designated dwelling units, at the County Recorder's Office.**
- (2) The approval and recordation shall take place at the same time as the final map or, where a map is not being processed, before issuance of Building Permits for the designated dwelling units.**
- (3) The agreement shall be binding on all future owners, developers, and/or successors-in-interest.**

11. Control of Resale - In order to maintain the availability of for-sale affordable housing units constructed in compliance with Section 855-P, the following resale conditions shall apply.

- a. Limits on resale price. The price received by the seller of an affordable unit shall be limited to the purchase price plus an increase based on the local consumer price index, an amount consistent with the increase in the median income since the date of purchase, or the fair market value, whichever is less. Before offering an affordable housing unit for sale, the seller shall provide written notice to the County of their intent to sell. The notice shall be provided by certified mail to the Director.**
- b. Units to be offered to the County. Home ownership affordable units constructed, offered for sale, or sold under the requirements of this Section shall be offered to the County or its assignee for a period of at least 90 days from the date of the notice of intent to sell is delivered to the County by the first purchaser or subsequent purchasers. Home ownership affordable units shall be sold and resold from the date of the original sale only to households as determined to be eligible for affordable units by the County in compliance with this Section. The seller shall not levy or charge any additional fees nor shall any "finder's fee" or**

other monetary consideration be allowed other than customary real estate commissions and closing costs.

- c. **Declaration of restrictions.** The owners of any affordable unit shall attach and legally reference in the grant deed conveying title of the affordable ownership unit a declaration of restrictions provided by the County, stating the restrictions imposed in compliance with this Section. The grant deed shall afford the grantor and the County the right to enforce the declaration of restrictions. The declaration of restrictions shall include all applicable resale controls, occupancy restrictions, and prohibitions required by this Section.
- d. **County to monitor resale of units.** The County shall monitor the resale of ownership affordable units. The County or its designee shall have a 90-day option to commence purchase of ownership affordable units after the owner gives notification of intent to sell. Any abuse in the resale provisions shall be referred to the County for appropriate action.

12. Judicial Relief, Waiver of Standards

- a. **Judicial relief.** As provided by Government Code Section 65915(d)(3), the applicant may initiate judicial proceedings if the County refuses to grant a requested density bonus, incentive, or concession.
- b. **Waiver of standards preventing the use of bonuses, incentives, or concessions.**
 - (1) As required by Government Code Section 65915(e), the County shall not apply a development standard that will have the effect of precluding the construction of a development meeting the criteria of Subsection 855-P.1.a (Resident requirements), above, at the densities or with the concessions or incentives allowed by this Section.
 - (2) An applicant may submit to the County a proposal for the waiver or reduction of development and zoning standards that would otherwise inhibit the utilization of a density bonus on a specific site, including minimum parcel size, side setbacks, and placement of public works improvements.
- c. **County exemption.** Notwithstanding the provisions of Subsections a. and b., above, nothing in this Section shall be interpreted to require the County to:
 - (1) Grant a density bonus, incentive, or concession, or waive or reduce development standards, if the bonus, incentive, concession, waiver, or reduction would have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact; or

(2) Grant a density bonus, incentive, or concession, or waive or reduce development standards, if the bonus, incentive, concession, waiver, or reduction would have an adverse impact on any real property that is listed in the California Register of Historical Resources.