

AGENDA

City of Plymouth

PLANNING COMMISSION

REGULAR MEETING
THURSDAY, FEBRUARY 1, 2024
6:30 P.M.



9426 Main Street, Plymouth, California

Thomas Mikkelsen, Chair

Michael Sullivan, Vice Chair

Gary Diesen, Commissioner

Melvin Cossairt, Commissioner

William Klapproth, Commissioner

PLEASE NOTE: The Planning Commission may take up any agenda item at any time, regardless of the order listed. Action may be taken on any item on the agenda. Members of the public who wish to speak may be subject to a three (3) minute maximum time limit when addressing the Commission, and/or the Commission may require speaker identification sheets be submitted to the Planning Commission Secretary prior to being called upon by the Chairman to provide public comment.



**CITY OF PLYMOUTH
PLANNING COMMISSION
REGULAR MEETING AGENDA
THURSDAY, FEBRUARY 1, 2024 at 6:30 PM**

Plymouth City Hall - 9426 Main Street Plymouth, California

Members of the public not attending in person may submit written public comment prior to the meeting by emailing your comment to the Planning Commission Secretary at dknight@CityofPlymouth.org before 3:30 PM on the day of the meeting. Emailed public comments will be distributed to the Commission and made part of the official record.

Thomas Mikkelsen, Chair

Michael Sullivan, Vice Chair

Melvin Cossairt, Commissioner

Gary Diesen, Commissioner

William Klapproth, Commissioner

This meeting will be recorded. Council Chambers are wheelchair accessible. Special accommodations may be requested by contacting the Commission Secretary 72 hours in advance of the meeting.

Please silence all cell phones or similar devices.

1. CALL TO ORDER / ROLL CALL:

- Roll Call
- Flag Salute

2. APPROVAL OF PLANNING COMMISSION REGULAR MEETING AGENDA FOR FEBRUARY 1, 2024

3. PUBLIC COMMENT:

Under provisions of the California Code, citizens wishing to address the Commission for any matter not on the agenda may do so at this time by completing and submitting a Speaker Submittal Form to the Planning Commission Secretary or following the instructions noted on this agenda. Speakers will be called by the Chair at the point on the agenda when the item will be heard. Speakers should keep comments to three minutes or less and state their name and community of residence. Under provisions of the California Government Code, the Commission is prohibited from materially discussing or taking action on any item not on the agenda unless it can be demonstrated to be of an emergency nature or an urgent need to take immediate action arose after the posting of the agenda.

4. PRESENTATIONS/APPOINTMENTS:

4.1 RECEIVE PRESENTATION REGARDING GENERAL PLAN AMENDMENTS AND REZONES

RECOMMENDATION: Informational Presentation Only

5. CONSENT CALENDAR ITEMS:

All matters listed under the Consent Calendar are to be considered routine and will be enacted

by one motion. If discussion is required, that particular item will be removed from the consent calendar and will be considered separately.

5.1 APPROVAL OF THE PLANNING COMMISSION REGULAR MEETING MINUTES OF JANUARY 18, 2024

5.2 GENERAL PLAN AMENDMENT AND REZONE FOR 9130 MAIN STREET (APPLICATION #2023-08) TO CHANGE LAND USE DESIGNATION FROM PUBLIC INSTITUTIONAL TO SUBURBAN RESIDENTIAL AND REZONE TO CHANGE ZONING FROM PUBLIC/INSTITUTIONAL (P) TO STANDARD RESIDENTIAL (SR)

RECOMMENDATION: Informational only and no action needed as application has been withdrawn

6. PUBLIC HEARINGS: NONE

7. UNFINISHED BUSINESS: NONE

8. NEW BUSINESS:

8.1 RECEIVE PRESENTATION REGARDING DENSITY BONUS LAW AND PROVIDE DIRECTION TO STAFF RE POSSIBLE ORDINANCE CHANGES

RECOMMENDATION: Receive information regarding Density Bonuses and provide direction to staff

8.2 DISCUSSION ON FUTURE STUDY SESSION TOPICS

RECOMMENDATION: Discuss and possibly provide direction to staff

9. REPORTS:

- Commission
- Chairperson
- Planning Director
- City Staff

10. ADJOURNMENT

The next regularly scheduled Planning Commission Meeting date is February 15, 2024. The meeting will begin at 6:30 PM.

ADDITIONAL INFORMATION

Public documents related to items on the open session portion of this agenda, which are distributed to the Planning Commission less than 72 hours prior to the meeting, shall be available for public inspection at the Planning Commission Secretary's office located at Plymouth City Hall and at the time of the meeting.

NOTICE:

In compliance with the Americans with Disabilities Act, if you need a disability-related modification or accommodation, including auxiliary aids or services, to participate in this meeting, please contact the Planning Commission Secretary at (209) 245-6941 Ext. 254 at least 48 hours prior to the meeting.

CERTIFICATION OF POSTING OF AGENDA

I, Dana Knight, Planning Commission Secretary for the City of Plymouth, declare that the foregoing agenda for the February 1, 2024 Regular Meeting of the Plymouth Planning Commission was posted and available for review on January 29, 2024 at the City Hall of the City of Plymouth, 9426 Main Street, Plymouth, California, 95669. The agenda is also available on the city website at www.cityofplymouth.org.

Signed January 29, 2024 at Plymouth, California

//s//

Dana Knight
Planning Commission Secretary

4.1



City of Plymouth

Planning Commission Meeting Staff Report

Item 4.1

Date:

February 1, 2024

Report by:

Erica Fraser, AICP, Consulting Planner

Policy, Program, Project or Issue Title:

General Plan Amendments and Rezones – A brief introduction to the process purpose of a General Plan Amendment and Rezone.

Issue Statement & Discussion:

Staff thought a brief discussion on General Plan Amendments and Rezone application requests and how they are processed would be helpful when reviewing future projects.

General Plan Amendments

A General Plan Amendment can be undertaken by the City or requested by an applicant.

A City may undertake a General Plan Amendment to modify language within the document (such as a goal or policy) or to change the land use designation (which designates the allowed use and density) of a property or area.

Applicant initiated general plan amendments are the most common amendments. These amendments are typically requested to change what is allowed on a property or to move the City Limit line when requesting an annexation (requires a modification to the land use map).

A mandatory element of the general plan may only be amended 4 times per calendar year (Government Code Section 65358(b)). Applicants typically request an amendment to the Land Use Map which is a part of Section 3: Land Use and Community Character of the Plymouth General Plan. Therefore, there can only be four amendments per year to the Land Use Map under the land use element of the City's General Plan. However, more than one change can be made to the element at a time and is considered a single amendment. Many larger cities with a lot of development combine general plan amendment requests and bring them forward once per quarter as a matter of course.

Requests for a general plan amendment are reviewed first by the Planning Commission during a noticed public hearing. The Planning Commission then makes a recommendation to the City Council regarding the proposed amendment. A recommendation for approval requires an affirmative vote by the majority of the total membership of the Planning Commission (Government Code Section 65354).

The City Council then reviews the proposed amendment and the recommendation of the Planning Commission during a noticed public hearing. The City Council can approve, modify, or disapprove the recommendation of the Planning Commission. Approval of the amendment is made by Resolution and the Resolution must be adopted by an affirmative vote of the majority of the total membership of the City Council (Government Code Section 65356).

Should the City Council make substantial modifications to the proposed amendment(s) that were not previously considered by the Planning Commission, the matter must be referred back to the Planning Commission for its recommendation. (Government Code Section 65356).

If the Planning Commission recommends denial of the amendment, no action by the City Council is taken unless the applicant files an appeal.

Once an amendment is adopted, the amended text, map, or figure should be amended in the general plan and available to the public.

Rezone

Rezoning can also be initiated by a city or an applicant. Cities typically initiate a rezoning as part of a General Plan Update or Housing Element. An applicant typically initiates a rezoning to expand the allowed uses on their site or to allow a project they are proposing.

Rezoning must be consistent with general plan. If an applicant is proposing a rezone and the zoning designation is inconsistent with the general plan land use designation, the applicant must also amend the general plan. For example, if a property is designated as agriculture in the general plan and an applicant requests a rezone to Standard Residential, that zoning designation is inconsistent with the agriculture designation and must be changed.

Chapter 19.96, Zoning Amendments, regulates rezones in the City. Rezones require a noticed public hearing before the Planning Commission for review. The Planning Commission then makes a recommendation to the City Council. The City Council then reviews the proposed amendment and the recommendation of the Planning Commission during a noticed public hearing. If the City Council approves the rezone, the rezone is approved by Ordinance. An Ordinance requires the first reading of the

ordinance at the first City Council meeting, a second reading at the following meeting, and then takes effect 30 days after the second reading.

Following a rezone, the Zoning Map is amended to reflect the new designation for the property.

California Environmental Quality Act (CEQA)

Review under CEQA for a general plan amendment or rezone is typically required. Under CEQA regulations, these applications count as a “project” and any environmental impacts need to be reviewed.

There are some exceptions, such as downzoning a property or a rezone where the result is no more than 10 houses (SB 10). A discussion of the applicability of CEQA should be included with any review of a general plan amendment or rezone.

Fiscal Impact:

There is no fiscal impact associated with this item.

Staff Recommendation:

Receive staff presentation.

5.1



CITY OF PLYMOUTH
PLANNING COMMISSION
DRAFT REGULAR MEETING MINUTES
THURSDAY, JANUARY 18, 2024 at 6:30 PM

Plymouth City Hall - 9426 Main Street Plymouth, California

William (Bill) Klapproth, Chair

Michael Sullivan, Vice-Chair
Gary Diesen, Commissioner

Melvin Cossairt, Commissioner
Thomas Mikkelsen, Commissioner

1. ROLL CALL:

Planning Commissioners Present: Bill Klapproth, Michael Sullivan, Mel Cossairt, Gary Diesen, Thomas Mikkelsen

Planning Commissioners Absent: None

Staff/Advisory Present: City Manager, Margaret S. Roberts; Planning Director, Adrianna Ortiz; Senior Planner, Erica Fraser; Planning Commission Secretary, Dana Knight

2. APPROVAL OF PLANNING COMMISSION REGULAR MEETING AGENDA FOR JANUARY 18, 2024

Motion to approve the Regular Meeting Agenda for January 18, 2024 by Vice Chair Sullivan, second by Commissioner Cossairt. Motion passed by roll call vote with 5 Yes votes by Cossairt, Diesen, Mikkelsen, Sullivan, and Klapproth; with 0 No votes and 0 Abstain votes. With 0 Commissioners Absent.

3. PUBLIC COMMENT: NONE

4. PRESENTATIONS/APPOINTMENTS:

4.1 SELECTION OF A NEW PLANNING COMMISSION CHAIR AND VICE CHAIR

RECOMMENDATION: Discuss and appoint a new Chair and Vice Chair

Vice Chair Sullivan nominated Commissioner Mikkelsen for Chair. There were no other nominations.

A roll call vote for Commissioner Mikkelsen to become the Chair passed with 5 Yes votes by Cossairt, Diesen, Mikkelsen, Sullivan, and Klapproth; with 0 No votes and 0 Abstain votes. With 0 Commissioners Absent.

Commissioner Klapproth nominated Vice Chair Sullivan for Vice Chair. There were no other nominations.

Vice Chair Sullivan will remain Vice Chair due to a unanimous All in Favor vote of the Commission.

4.2 RECEIVE PRESENTATION REGARDING ANNEXATIONS, SPHERE OF INFLUENCE AND THE LOCAL AGENCY FORMATION COMMISSION (LAFCO)

RECOMMENDATION: Informational Presentation Only

Senior Planner Fraser gave a detailed overview of the process of Annexations and how changing the city's Sphere of Influence works, as well as an explanation of what LAFCO is and the role that LAFCO plays in these types of processes.

5. CONSENT CALENDAR ITEMS

All matters listed under the Consent Calendar are to be considered routine and will be enacted by one motion. If discussion is required, that particular item will be removed from the consent calendar and will be considered separately.

5.1 APPROVAL OF PLANNING COMMISSION REGULAR MEETING AGENDA MINUTES OF NOVEMBER 16, 2023

Motion to approve the Consent Calendar as presented by Vice Chair Sullivan, second by Commissioner Cossairt. Motion passed by roll call vote with 5 Yes votes by Cossairt, Diesen, Klaproth, Sullivan, and Mikkelsen; with 0 No votes and 0 Abstain votes. With 0 Commissioners Absent.

6. PUBLIC HEARINGS: NONE

7. UNFINISHED BUSINESS: NONE

8. NEW BUSINESS:

8.1 RECEIVE PRESENTATION REGARDING REGULATIONS CONCERNING ACCESSORY DWELLING UNITS AND POSSIBLE DIRECTION REGARDING REGULATING ADU'S IN PLYMOUTH

RECOMMENDATION: Receive Presentation and Provide Direction

Public Comment: Denise McLaughlin of Plymouth shared her experience with paying for a sewer line hookup and had a question about water meters.

Senior Planner Fraser provided an overview of state laws regarding ADU's and a lengthy discussion was had. It was determined by consensus of the Commission for planning to draft an Ordinance to bring back to the Commission to review and ultimately make a recommendation to the City Council for adoption.

9. REPORTS:

- Commission - None
- Chairperson - None

5.2



City of Plymouth

Planning Commission Meeting Staff Report

Item 5.2

Date:

February 1, 2024

Report by:

Erica Fraser, AICP, Consulting Planner

Policy, Program, Project or Issue Title:

General Plan Amendment and Rezone Application for 9130 Main Street (Application #2023-08) – The Applicant, Chantel Crawley, had requested approval of a General Plan Amendment to change the land use designation of the property from Public Institutional to Suburban Residential and a Rezone to change the zoning of the site from Public/Institutional (P) to Standard Residential (SR).

Issue Statement & Discussion:

After the item was published in the newspaper and mailed to all property owners within 300 feet of the property, the Applicant withdrew their application for a General Plan Amendment and Rezone. This matter need no discussion and has simply been placed on the agenda as a courtesy to members of the public who are interested in the project and its status.

Fiscal Impact:

There is no fiscal impact associated with this item.

Staff Recommendation:

Receive information and take no action.

8.1



City of Plymouth

Planning Commission Meeting Staff Report

Item 8.1

Date:

February 1, 2024

Report by:

Erica Fraser, AICP, Consulting Planner

Policy, Program, Project or Issue Title:

State Law Related to Density Bonuses – A discussion of State Law related to Density Bonus for Residential Developments.

Issue Statement & Discussion:**BACKGROUND**

The State Density Bonus Law (Sections 65915-65918 of the California Government Code, (Attachment 1) allows developers to seek a density bonus in exchange for donating land or for building affordable projects. A density bonus means the increase over the otherwise maximum allowable gross residential density established by the City, the amount of which varies based on the type and percentage of affordable housing provided by the Developer.

The City of Plymouth adopted an Ordinance related to Density Bonuses (Chapter 19.96, Attachment 2) in 2014. Since then, the State of California has passed several Bills which have amended the State Density Bonus Law and how cities can evaluate a density bonus request.

DISCUSSION

The State Density Bonus Law (Sections 65915-65918 of the California Government Code) allows a developer to seek a density bonus in exchange for donating land or for building affordable projects. A density bonus means an increase in the permitted number of dwelling units over the otherwise maximum allowable gross residential density established by the City in the General Plan or Zoning Ordinance, the amount of which varies based on the type and percentage of affordable housing provided by the Developer. A developer does not have to take advantage of the increase in dwelling units permitted by the State Density Bonus Law. A developer may choose to only select an incentive/concession given for the provision of affordable units.

Density Bonus Applicability

An Applicant may only request a Density Bonus for projects that meet the minimum density of the Zoning Ordinance and General Plan and provide the minimum percentages identified in State Law.

To be eligible, the Applicant must dedicate a minimum of 5 percent of the base units to very low-income households, 10 percent of the base units to low-income households, or 10 percent of the base units in a for-sale development (only) to moderate income households.

The State of California defines extremely low-income households as households with 15-30% of the Area Median Income (AMI). Very Low-income households are those with a total annual income of 30%-50% of the AMI. Lower income households are those with a total annual income of 50%-80% of the AMI. And Moderate-income households are those households with a total annual income of 80%-120% of the AMI.

Affordable housing costs for lower income households is defined as being no more than 30 percent of the gross household income (Health and Safety Code Section 50052.5)

The State Income Limits are established by the State of California each year. For example, for 2023, the median income for a family of four in Amador County is \$101,200. A family of four, in 2023, with an annual income of \$73,350 qualifies as a low-income family. A family of four with an annual income of \$45,850 qualifies as a very low-income family. A family of four with an annual income of \$121,450 qualifies as moderate income.

Units designated as affordable housing in a project where the Applicant has requested a density bonus are required to be restricted to the identified affordability level for 55 years (for very low and low-income households only).

Density Bonus Units

The following Table summarizes the percentage of bonus granted by the Target Group (level of affordability) and the percentage of affordable units that are provided on-site.

Table 1: Density Bonus by Target Group and Percentage of Development Affordability

Target Group	Minimum % Target Units	Bonus Granted	Additional Bonus for Each 1% Increase in Target Units	% Target Units Required for Maximum 50% Bonus
Very Low Income	5%	20%	2.5%	15%
Low Income	10%	20%	1.5%	24%
Moderate Income (Common Interest Development, Condo or PUD only)	10%	5%	1%	44%
Senior Citizen Housing Development	100%	20%	–	–
100% Affordable Project (includes bonus units)	100%	80% ¹	–	–

¹ If the housing development is located within one-half mile of a major transit stop, the city shall not impose any maximum controls on density [Gov. Code. Sec. 65915 (f)(3)(D)(ii)]

Density Bonus Example- Standard Residential

A 10-acre lot zoned Standard Residential has a maximum density of 4.8 dwelling units per acre (or 48 units for this property). If an applicant restricted 5 percent of the number of units in the development to very low households and families, the developer is eligible for a 20 percent increase in the total of number of units allowed for the site. If the developer opted to construct up to the maximum and restricts 5 percent of those units to very low-income families (or 3 dwellings), the applicant can apply for a Density Bonus and increase the maximum number of units allowed under the General Plan and Zoning Ordinance to 58 (20 percent above the maximum allows an additional 10 units). The following Table is an example of what could occur on that same parcel with different affordability levels.

Table 2 – Example of Density Bonuses in Plymouth on a 10-acre Parcel Zoned SR (With Maximum Density Selected)

Affordability Level	Density Bonus Increase (in Percentages)	Density Bonus Units**	Total Units Allowed
5% very low	20%	10	58
15% very low	50%	24	72
10% Low	20%	10	58
10% Moderate*	5%	3	51
100% Affordable	80%	39	87

*Moderate Units are only allowed in for-sale developments.

**State Law requires numbers that end in a decimal to be rounded up to a whole number.

Density Bonus Example – Village Residential

If the 10-acre property was zoned Village Residential (VR) the property would have a maximum density of 16 units per acre, or a total of 160 dwelling units. The following Table is an example of what could occur on the parcel if the Applicant designated a portion of the project as affordable housing.

Table 3 – Example of Density Bonuses in Plymouth on a 10-acre Parcel Zoned VR (With Maximum Density Selected)

Affordability Level	Density Bonus Increase (in Percentages)	Density Bonus Units	Total Units Allowed
5% very low	20%	32	192
15% very low	50%	24	184
10% Low	20%	32	192
10% Moderate*	5%	8	168
100% Affordable	80%	128	288

**Moderate Units are only allowed in for-sale developments.*

A developer is not required to build up to the maximum number of allowed units to request a density bonus or take advantage of the density bonus units allowed under State Law. If the project meets the minimum density in the General Plan and Zoning Ordinance and affordable units are included, the developer can still apply for a Density Bonus to take advantage of the incentives and concessions under the Law.

A developer may only select one income category when determining the percentage of affordable housing provided. However, a project that is 100 percent affordable may designate up to 20 percent of the units for moderate income housing.

Concessions and Incentives

In addition to granting a density bonus, the City is required to provide one or more incentives or concessions to each project which qualifies for a density bonus. The following Table illustrates the maximum number of concessions or incentives available for a qualifying project. For the purposes of calculating the incentives, the incentives are based on the total number of units within the development (including base and density units) and the percentage dedicated to those units.

Table 4 – Concessions and Incentives Summary

Target Group	Target Units			
Very Low-Income	5%	10%	15%	100% ⁽¹⁾⁽²⁾
Low-Income	10%	17%	24%	100% ⁽¹⁾⁽²⁾
Student Housing Low Income	20%	--	--	--
Moderate Income	10%	20%	30%	--
<i>Maximum Incentive/Concession</i>	1	2	3	4

⁽¹⁾ Projects in this category may include moderate-income units that comprise up to 20% of the development.

⁽²⁾ Projects in this category, within one-half (1/2) mile of a major transit stop, shall also receive a height increase of up to three (3) additional stories, or 33 feet.

The following have been identified as a concession or incentive under the Government Code:

- A reduction in site development standards or a modification of zoning code or architectural design requirements, such as a reduction in setbacks, minimum square footage requirements, lot sizes, or open space requirements; or
- Approval of mixed-use zoning; or
- Other regulatory incentives or concessions which actually result in identifiable and actual cost reductions.

Chapter 19.96, Density Bonus

Several changes have been made to the State Density Bonus Law since the City's Density Bonus Ordinance was adopted in 2014. The following changes have been made after the City's current Ordinance:

- The City must allow for a higher density bonus as listed in Table 1;
- The City must grant a density bonus for the provision of units for foster youths, disabled veterans, homeless and college students;
- The Law now allows a density bonus for mixed-use projects;
- A City is no longer allowed to require a pro-forma or other information which details the costs of the project and the actual cost reduction related to the requested incentive.
- The State Law establishes affordable housing restrictions which are different from what is in the current Zoning Ordinance;

- A City is required to clearly show what information must be submitted for a complete density bonus application;
- Current law increases the total number of incentives the City must provide (up to four incentives);
- A City must grant a density bonus for the provision of a childcare facility on residential and commercial and industrial projects; and
- Permits the City to grant a floor area ratio bonus rather than a tradition density bonus for high density projects adjacent to public transit.

Options

The Planning Commission has two options regarding the Density Bonuses.

1. Repeal Chapter 19.96 and follow State Law.

In this Option, Staff would bring the item back to the Planning Commission for a formal recommendation to the City Council during a Public Hearing. If the Chapter is repealed, any future Density Bonus requests would be evaluated under the requirements of the Government Code upon application.

2. Update Chapter 19.96 so that it is consistent with State Law.

In this option, the existing Chapter 19.96 would be amended and updated with a new Chapter 19.96 that is consistent with State Law. Staff would bring the draft revised Chapter back to the Planning Commission for a formal recommendation to the City Council during a Public Hearing. Any changes in state law, related to density bonuses, in the future would require amendments to the Chapter.

Staff is requesting direction from the Planning Commission on which option is the preferred option. The City Attorney recommends the latter option so the City can retain as much local control as possible. For both options, Staff will prepare a supplemental information form a developer will be required to fill out when applying for a density bonus. This form would be used to assist an applicant with their request and the City when evaluating the proposal.

NEXT STEPS

Based on direction from the Planning Commission at tonight's meeting, Staff will work on any recommended changes.

Attachments

1. Government Code Sections 65915-65918

Fiscal Impact:

There is no fiscal impact associated with this item.

Staff Recommendation:

Receive staff presentation.



California

LEGISLATIVE INFORMATION

[Home](#)
[Bill Information](#)
[California Law](#)
[Publications](#)
[Other Resources](#)
[My Subscriptions](#)
[My Favorites](#)
Code:
Section:


[Up^](#)
[<< Previous](#)
[Next >>](#)
[cross-reference chaptered bills](#)
[PDF](#)
[Add To My Favorites](#)
Search Phrase:

GOVERNMENT CODE - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] (*Heading of Title 7 amended by Stats. 1974, Ch. 1536.*)

DIVISION 1. PLANNING AND ZONING [65000 - 66301] (*Heading of Division 1 added by Stats. 1974, Ch. 1536.*)

CHAPTER 4.3. Density Bonuses and Other Incentives [65915 - 65918] (*Chapter 4.3 added by Stats. 1979, Ch. 1207.*)

65915. (a) (1) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall comply with this section. A city, county, or city and county shall adopt an ordinance that specifies how compliance with this section will be implemented. Except as otherwise provided in subdivision (s), failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(2) A local government shall not condition the submission, review, or approval of an application pursuant to this chapter on the preparation of an additional report or study that is not otherwise required by state law, including this section. This subdivision does not prohibit a local government from requiring an applicant to provide reasonable documentation to establish eligibility for a requested density bonus, as described in subdivision (b), and parking ratios, as described in subdivision (p).

(3) In order to provide for the expeditious processing of a density bonus application, the local government shall do all of the following:

(A) Adopt procedures and timelines for processing a density bonus application.

(B) Provide a list of all documents and information required to be submitted with the density bonus application in order for the density bonus application to be deemed complete. This list shall be consistent with this chapter.

(C) Notify the applicant for a density bonus whether the application is complete in a manner consistent with the timelines specified in Section 65943.

(D) (i) If the local government notifies the applicant that the application is deemed complete pursuant to subparagraph (C), provide the applicant with a determination as to the following matters:

(I) The amount of density bonus, calculated pursuant to subdivision (f), for which the applicant is eligible.

(II) If the applicant requests a parking ratio pursuant to subdivision (p), the parking ratio for which the applicant is eligible.

(III) If the applicant requests incentives or concessions pursuant to subdivision (d) or waivers or reductions of development standards pursuant to subdivision (e), whether the applicant has provided adequate information for the local government to make a determination as to those incentives, concessions, waivers, or reductions of development standards.

(ii) Any determination required by this subparagraph shall be based on the development project at the time the application is deemed complete. The local government shall adjust the amount of density bonus and parking ratios awarded pursuant to this section based on any changes to the project during the course of development.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and, if requested by the applicant and consistent with the applicable requirements of this section, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p), if an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development, including a shared housing building development, for rental or sale to lower income households, as defined in Section 50079.5 of the Health and Safety Code.

- (B) Five percent of the total units of a housing development, including a shared housing building development, for rental or sale to very low income households, as defined in Section 50105 of the Health and Safety Code.
- (C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code. For purposes of this subparagraph, "development" includes a shared housing building development.
- (D) Ten percent of the total dwelling units of a housing development are sold to persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.
- (E) Ten percent of the total units of 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 are subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low income units.
- (F) (i) Twenty percent of the total units for lower income students in a student housing development that meets the following requirements:
- (I) All units in the student housing development shall be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the city, county, or city and county that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. An operating agreement or master lease entered into pursuant to this subclause is not violated or breached if, in any subsequent year, there are insufficient students enrolled in an institution of higher education to fill all units in the student housing development.
 - (II) The applicable 20-percent units shall be used for lower income students.
 - (III) The rent provided in the applicable units of the development for lower income students shall be calculated at 30 percent of 65 percent of the area median income for a single-room occupancy unit type.

(IV) The development shall provide priority for the applicable affordable units for lower income students experiencing homelessness. A homeless service provider, as defined in paragraph (3) of subdivision (e) of Section 103577 of the Health and Safety Code, or institution of higher education that has knowledge of a person's homeless status may verify a person's status as homeless for purposes of this subclause.

(ii) For purposes of calculating a density bonus granted pursuant to this subparagraph, the term "unit" as used in this section means one rental bed and its pro rata share of associated common area facilities. The units described in this subparagraph are subject to a recorded affordability restriction of 55 years.

(G) One hundred percent of all units in the development, including total units and density bonus units, but exclusive of a manager's unit or units, are for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the units in the development, including total units and density bonus units, may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code. For purposes of this subparagraph, "development" includes a shared housing building development.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), an applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), (D), (E), (F), or (G) of paragraph (1).

(c) (1) (A) An applicant shall agree to, and the city, county, or city and county shall ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

(B) (i) Except as otherwise provided in clause (ii), rents for the lower income density bonus units shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(ii) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), rents for all units in the development, including both base density and density bonus units, shall be as follows:

(I) The rent for at least 20 percent of the units in the development shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(II) The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for lower income households, as those rents and incomes are determined by the

California Tax Credit Allocation Committee.

(2) (A) An applicant shall agree to ensure, and the city, county, or city and county shall ensure, that a for-sale unit that qualified the applicant for the award of the density bonus meets one of the following conditions:

(i) The unit is initially sold to and occupied by a person or family of very low, low, or moderate income, as required, and it is offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code and is subject to an equity sharing agreement.

(ii) If the unit is not purchased by an income-qualified person or family within 180 days after the issuance of the certificate of occupancy, the unit is purchased by a qualified nonprofit housing corporation that meets all of the following requirements pursuant to a recorded contract that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code:

(I) The nonprofit corporation has a determination letter from the Internal Revenue Service affirming its tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code and is not a private foundation as that term is defined in Section 509 of the Internal Revenue Code.

(II) The nonprofit corporation is based in California.

(III) All of the board members of the nonprofit corporation have their primary residence in California.

(IV) The primary activity of the nonprofit corporation is the development and preservation of affordable home ownership housing in California that incorporates within their contracts for initial purchase a repurchase option that requires a subsequent purchaser of the property that desires to resell or convey the property to offer the qualified nonprofit corporation the right to repurchase the property prior to selling or conveying that property to any other purchaser pursuant to an equity sharing agreement or affordability restrictions on the sale and conveyance of the property that ensure that the property will be preserved for lower income housing for at least 45 years for owner-occupied housing units and will be sold or resold only to persons or families of very low, low, or moderate income, as defined in Section 50052.5 of the Health and Safety Code.

(B) For purposes of this paragraph, a "qualified nonprofit housing corporation" is a nonprofit housing corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

(C) The local government shall enforce an equity sharing agreement required pursuant to clause (i) or (ii) of subparagraph (A), unless it is in conflict with the requirements of another public funding source or law or may defer to the recapture provisions of the public funding source. The following apply to the equity sharing agreement:

(i) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation.

(ii) Except as provided in clause (v), the local government shall recapture any initial subsidy, as defined in clause (iii), and its proportionate share of appreciation, as defined in clause (iv), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote homeownership.

(iii) For purposes of this subdivision, the local government'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 moderate-income household, plus the amount of any downpayment 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.

(iv) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

(v) If the unit is purchased or developed by a qualified nonprofit housing corporation pursuant to clause (ii) of subparagraph (A) the local government may enter into a contract with the qualified nonprofit housing corporation under which the qualified nonprofit housing corporation would recapture any initial subsidy and its proportionate share of appreciation if the qualified nonprofit housing corporation is required to use 100 percent of the proceeds to promote homeownership for lower income households as defined by Section 50079.5 of the Health and Safety Code within the jurisdiction of the local government.

(3) (A) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are located or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price

control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

(i) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in subdivision (b).

(ii) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(B) For the purposes of this paragraph, "replace" shall mean either of the following:

(i) If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. If the income category of the household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and

occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, it shall be rebuttably presumed that low-income and very low income renter households occupied these units in the same proportion of low-income and very low income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(C) Notwithstanding subparagraph (B), for any dwelling unit described in subparagraph (A) that is or was, within the five-year period preceding the application, subject to a form of rent or price control through a local government's valid exercise of its police power and that is or was occupied by persons or families above lower income, the city, county, or city and county may do either of the following:

(i) Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) Require that the units be replaced in compliance with the jurisdiction's rent or price control ordinance, provided that each unit described in subparagraph (A) is replaced. Unless otherwise required by the jurisdiction's rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.

(D) For purposes of this paragraph, "equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

(E) Subparagraph (A) does not apply to an applicant seeking a density bonus for a proposed housing development if the applicant's application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the

concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), 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 subdivision (c).

(B) The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or on any real property that is 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-income and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a development in which the units are for sale.

(B) Two incentives or concessions for projects that include at least 17 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 development in which the units are for sale.

(C) Three incentives or concessions for projects that include at least 24 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 development in which the units are for sale.

(D) Five incentives or concessions for a project meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b). If the project is located within one-half mile of a major transit stop or is located in a very low vehicle travel area in a designated county, the applicant shall also receive a height increase of up to three additional stories, or 33 feet.

(E) One incentive or concession for projects that include at least 20 percent of the total units for lower income students in a student housing development.

(F) Four incentives or concessions for projects that include at least 16 percent of the units for very low income households or at least 45 percent for persons and families of moderate income in a development in which the units are for sale.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. This subdivision shall not be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. This subdivision shall not be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section that shall include legislative body approval of the means of compliance with this section.

(4) The city, county, or city and county shall bear the burden of proof for the denial of a requested concession or incentive.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. Subject to paragraph (3), an applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. This subdivision shall not be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. This subdivision shall not be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(3) A housing development that receives a waiver from any maximum controls on density pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f) shall only be eligible for a waiver or reduction of development standards as provided in subparagraph (D) of paragraph (2) of subdivision (d) and clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f), unless the city, county, or city and county agrees to additional waivers or reductions of development standards.

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the city, county, or city and county, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5

20	35
21	38.75
22	42.5
23	46.25
24	50

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

(3) (A) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(B) For housing developments meeting the criteria of subparagraph (E) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that

concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), 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 subdivision (c).

(B) The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or on any real property that is 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-income and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a development in which the units are for sale.

(B) Two incentives or concessions for projects that include at least 17 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 development in which the units are for sale.

(C) Three incentives or concessions for projects that include at least 24 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 development in which the units are for sale.

(D) Five incentives or concessions for a project meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b). If the project is located within one-half mile of a major transit stop or is located in a very low vehicle travel area in a designated county, the applicant shall also receive a height increase of up to three additional stories, or 33 feet.

(E) One incentive or concession for projects that include at least 20 percent of the total units for lower income students in a student housing development.

(F) Four incentives or concessions for projects that include at least 16 percent of the units for very low income households or at least 45 percent for persons and families of moderate income in a development in which the units are for sale.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. This subdivision shall not be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. This subdivision shall not be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section that shall include legislative body approval of the means of compliance with this section.

(4) The city, county, or city and county shall bear the burden of proof for the denial of a requested concession or incentive.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. Subject to paragraph (3), an applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. This subdivision shall not be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. This subdivision shall not be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(3) A housing development that receives a waiver from any maximum controls on density pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f) shall only be eligible for a waiver or reduction of development standards as provided in subparagraph (D) of paragraph (2) of subdivision (d) and clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f), unless the city, county, or city and county agrees to additional waivers or reductions of development standards.

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the city, county, or city and county, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5

20	35
21	38.75
22	42.5
23	46.25
24	50

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

(3) (A) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(B) For housing developments meeting the criteria of subparagraph (E) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that

subparagraph.

(C) For housing developments meeting the criteria of subparagraph (F) of paragraph (1) of subdivision (b), the density bonus shall be 35 percent of the student housing units.

(D) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), the following shall apply:

(i) Except as otherwise provided in clauses (ii) and (iii), the density bonus shall be 80 percent of the number of units for lower income households.

(ii) If the housing development is located within one-half mile of a major transit stop, the city, county, or city and county shall not impose any maximum controls on density.

(iii) If the housing development is located in a very low vehicle travel area within a designated county, the city, county, or city and county shall not impose any maximum controls on density.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14

subparagraph.

(C) For housing developments meeting the criteria of subparagraph (F) of paragraph (1) of subdivision (b), the density bonus shall be 35 percent of the student housing units.

(D) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), the following shall apply:

(i) Except as otherwise provided in clauses (ii) and (iii), the density bonus shall be 80 percent of the number of units for lower income households.

(ii) If the housing development is located within one-half mile of a major transit stop, the city, county, or city and county shall not impose any maximum controls on density.

(iii) If the housing development is located in a very low vehicle travel area within a designated county, the city, county, or city and county shall not impose any maximum controls on density.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage 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
41	38.75
42	42.5

43	46.25
44	50

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income	Percentage 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

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit 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.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) 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, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by

concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), 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 subdivision (c).

(B) The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or on any real property that is 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-income and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a development in which the units are for sale.

(B) Two incentives or concessions for projects that include at least 17 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 development in which the units are for sale.

(C) Three incentives or concessions for projects that include at least 24 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 development in which the units are for sale.

(D) Five incentives or concessions for a project meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b). If the project is located within one-half mile of a major transit stop or is located in a very low vehicle travel area in a designated county, the applicant shall also receive a height increase of up to three additional stories, or 33 feet.

(E) One incentive or concession for projects that include at least 20 percent of the total units for lower income students in a student housing development.

(F) Four incentives or concessions for projects that include at least 16 percent of the units for very low income households or at least 45 percent for persons and families of moderate income in a development in which the units are for sale.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. This subdivision shall not be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. This subdivision shall not be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section that shall include legislative body approval of the means of compliance with this section.

(4) The city, county, or city and county shall bear the burden of proof for the denial of a requested concession or incentive.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. Subject to paragraph (3), an applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. This subdivision shall not be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. This subdivision shall not be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(3) A housing development that receives a waiver from any maximum controls on density pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f) shall only be eligible for a waiver or reduction of development standards as provided in subparagraph (D) of paragraph (2) of subdivision (d) and clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f), unless the city, county, or city and county agrees to additional waivers or reductions of development standards.

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the city, county, or city and county, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5

20	35
21	38.75
22	42.5
23	46.25
24	50

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

(3) (A) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(B) For housing developments meeting the criteria of subparagraph (E) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that

concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), 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 subdivision (c).

(B) The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or on any real property that is 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-income and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a development in which the units are for sale.

(B) Two incentives or concessions for projects that include at least 17 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 development in which the units are for sale.

(C) Three incentives or concessions for projects that include at least 24 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 development in which the units are for sale.

(D) Five incentives or concessions for a project meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b). If the project is located within one-half mile of a major transit stop or is located in a very low vehicle travel area in a designated county, the applicant shall also receive a height increase of up to three additional stories, or 33 feet.

(E) One incentive or concession for projects that include at least 20 percent of the total units for lower income students in a student housing development.

(F) Four incentives or concessions for projects that include at least 16 percent of the units for very low income households or at least 45 percent for persons and families of moderate income in a development in which the units are for sale.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. This subdivision shall not be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. This subdivision shall not be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section that shall include legislative body approval of the means of compliance with this section.

(4) The city, county, or city and county shall bear the burden of proof for the denial of a requested concession or incentive.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. Subject to paragraph (3), an applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. This subdivision shall not be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. This subdivision shall not be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(3) A housing development that receives a waiver from any maximum controls on density pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f) shall only be eligible for a waiver or reduction of development standards as provided in subparagraph (D) of paragraph (2) of subdivision (d) and clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f), unless the city, county, or city and county agrees to additional waivers or reductions of development standards.

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the city, county, or city and county, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5

20	35
21	38.75
22	42.5
23	46.25
24	50

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

(3) (A) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(B) For housing developments meeting the criteria of subparagraph (E) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that

subparagraph.

(C) For housing developments meeting the criteria of subparagraph (F) of paragraph (1) of subdivision (b), the density bonus shall be 35 percent of the student housing units.

(D) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), the following shall apply:

(i) Except as otherwise provided in clauses (ii) and (iii), the density bonus shall be 80 percent of the number of units for lower income households.

(ii) If the housing development is located within one-half mile of a major transit stop, the city, county, or city and county shall not impose any maximum controls on density.

(iii) If the housing development is located in a very low vehicle travel area within a designated county, the city, county, or city and county shall not impose any maximum controls on density.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14

subparagraph.

(C) For housing developments meeting the criteria of subparagraph (F) of paragraph (1) of subdivision (b), the density bonus shall be 35 percent of the student housing units.

(D) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), the following shall apply:

(i) Except as otherwise provided in clauses (ii) and (iii), the density bonus shall be 80 percent of the number of units for lower income households.

(ii) If the housing development is located within one-half mile of a major transit stop, the city, county, or city and county shall not impose any maximum controls on density.

(iii) If the housing development is located in a very low vehicle travel area within a designated county, the city, county, or city and county shall not impose any maximum controls on density.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage 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
41	38.75
42	42.5

43	46.25
44	50

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income	Percentage 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

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit 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.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) 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, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by

subdivision (i) of Section 65583.2 if the design is not reviewed by the local government before the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

(h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a childcare facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the childcare facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The childcare 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 pursuant to subdivision (c).

(B) Of the children who attend the childcare 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 pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a childcare facility if it finds, based upon substantial evidence, that the community has adequate childcare facilities.

(4) "Childcare facility," as used in this section, means a child daycare facility other than a family daycare home, including, but not limited to, infant centers, preschools, extended daycare facilities, and schoolage childcare centers.

(i) "Housing development," as used in this section, means a development project for five or more residential units, including mixed-use developments. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) (1) The granting of a concession or incentive shall not require or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, study, or other discretionary approval. For purposes of this subdivision, "study" does not include reasonable documentation to establish eligibility for the concession or incentive or to demonstrate that the incentive or concession meets the definition set forth in subdivision (k). This provision is declaratory of existing law.

(2) Except as provided in subdivisions (d) and (e), 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.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results 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 subdivision (c).

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that 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 subdivision (c).

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this section and Division 20 (commencing with Section 30000) of the Public Resources Code.

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Designated county" includes the Counties of Alameda, Contra Costa, Los Angeles, Marin, Napa, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Barbara, Santa Clara, Solano, Sonoma, and Ventura, and the City and County of San Francisco.

(2) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, a minimum lot area per unit requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation that is adopted by the local government or that is enacted by the local government's electorate exercising its local initiative or

referendum power, whether that power is derived from the California Constitution, statute, or the charter or ordinances of the local government.

(3) "Located within one-half mile of a major transit stop" means that any point on a proposed development, for which an applicant seeks a density bonus, other incentives or concessions, waivers or reductions of development standards, or a vehicular parking ratio pursuant to this section, is within one-half mile of any point on the property on which a major transit stop is located, including any parking lot owned by the transit authority or other local agency operating the major transit stop.

(4) "Lower income student" means a student who has a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in paragraph (1) of subdivision (k) of Section 69432.7 of the Education Code. The eligibility of a student to occupy a unit for lower income students under this section shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education in which the student is enrolled or by the California Student Aid Commission that the student receives or is eligible for financial aid, including an institutional grant or fee waiver from the college or university, the California Student Aid Commission, or the federal government.

(5) "Major transit stop" has the same meaning as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(6) "Maximum allowable residential density" or "base density" means the greatest number of units allowed under the zoning ordinance, specific plan, or land use element of the general plan, or, if a range of density is permitted, means the greatest number of units allowed by the specific zoning range, specific plan, or land use element of the general plan applicable to the project. Density shall be determined using dwelling units per acre. However, if the applicable zoning ordinance, specific plan, or land use element of the general plan does not provide a dwelling-units-per-acre standard for density, then the local agency shall calculate the number of units by:

(A) Estimating the realistic development capacity of the site based on the objective development standards applicable to the project, including, but not limited to, floor area ratio, site coverage, maximum building height and number of stories, building setbacks and stepbacks, public and private open-space requirements, minimum percentage or square footage of any nonresidential component, and parking requirements, unless not required for the base project. Parking requirements shall include considerations regarding number of spaces, location, design, type, and circulation. A developer may provide a base density study and the local agency shall accept it, provided that it includes all applicable objective development standards.

(B) Maintaining the same average unit size and other project details relevant to the base density study, excepting those that may be modified by waiver or concession to accommodate the bonus units, in the proposed project as in the study.

(7) (A) (i) "Shared housing building" means a residential or mixed-use structure, with five or more shared housing units and one or more common kitchens and dining areas designed for permanent residence of more than 30 days by its tenants. The kitchens and dining areas within the shared housing building shall be able to adequately accommodate all residents. If a local ordinance further restricts the attributes of a shared housing building beyond the requirements established in this section, the local definition shall apply to the extent that it does not conflict with the requirements of this section.

(ii) A "shared housing building" may include other dwelling units that are not shared housing units, provided that those dwelling units do not occupy more than 25 percent of the floor area of the shared housing building. A shared housing building may include 100 percent shared housing units.

(B) "Shared housing unit" means one or more habitable rooms, not within another dwelling unit, that includes a bathroom, sink, refrigerator, and microwave, is used for permanent residence, that meets the "minimum room area" specified in Section R304 of the California Residential Code (Part 2.5 of Title 24 of the California Code of Regulations), and complies with the definition of "guestroom" in Section R202 of the California Residential Code. If a local ordinance further restricts the attributes of a shared housing building beyond the requirements established in this section, the local definition shall apply to the extent that it does not conflict with the requirements of this section.

(8) (A) "Total units" or "total dwelling units" means a calculation of the number of units that:

(i) Excludes a unit added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(ii) Includes a unit designated to satisfy an inclusionary zoning requirement of a city, county, or city and county.

(B) For purposes of calculating a density bonus granted pursuant to this section for a shared housing building, "unit" means one shared housing unit and its pro rata share of associated common area facilities.

(9) "Very low vehicle travel area" means an urbanized area, as designated by the United States Census Bureau, where the existing residential development generates vehicle miles traveled per capita that is below 85 percent of

either regional vehicle miles traveled per capita or city vehicle miles traveled per capita. For purposes of this paragraph, "area" may include a travel analysis zone, hexagon, or grid. For the purposes of determining "regional vehicle miles traveled per capita" pursuant to this paragraph, a "region" is the entirety of incorporated and unincorporated areas governed by a multicounty or single-county metropolitan planning organization, or the entirety of the incorporated and unincorporated areas of an individual county that is not part of a metropolitan planning organization.

(p) (1) Except as provided in paragraphs (2), (3), and (4), upon the request of the developer, a city, county, or city and county shall not require a vehicular parking ratio, inclusive of parking for persons with a disability and guests, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: one and one-half onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) (A) Notwithstanding paragraph (1), if a development includes at least 20 percent low-income units for housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b) or at least 11 percent very low income units for housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), 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, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds 0.5 spaces per unit. Notwithstanding paragraph (1), if a development includes at least 40 percent moderate-income units for housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and the residents of the development have unobstructed access to the major transit stop from the development then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds 0.5 spaces per bedroom.

(B) For purposes of this subdivision, "unobstructed access to the major transit stop" means a resident is able to access the major transit stop without encountering natural or constructed impediments. For purposes of this subparagraph, "natural or constructed impediments" includes, but is not limited to, freeways, rivers, mountains, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit.

(3) Notwithstanding paragraph (1), if a development meets the criteria of subparagraph (G) of paragraph (1) of subdivision (b), then, upon the request of the developer, a city, county, or city and county shall not impose vehicular parking standards if the development meets any of the following criteria:

(A) 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.

(B) The development is a for-rent housing development for individuals who are 55 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code and the development has either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(C) The development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code. A development that is a special needs housing 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.

(4) 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. For purposes of this subdivision, a development may provide onsite parking through tandem parking or uncovered parking, but not through onstreet parking.

(5) This subdivision shall apply to a development that meets the requirements of subdivisions (b) and (c), but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

(6) This subdivision does not preclude a city, county, or city and county from reducing or eliminating a parking requirement for development projects of any type in any location.

(7) Notwithstanding paragraphs (2) and (3), if a city, county, city and county, or an independent consultant has conducted an areawide or jurisdictionwide parking study in the last seven years, then the city, county, or city and county may impose a higher vehicular parking ratio not to exceed the ratio described in paragraph (1), based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low-income and very low income individuals, including seniors and special needs individuals. The city, county, or city and county shall pay the costs of any new study. The city, county, or city and

county shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.

(8) A request pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(q) Each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number. The Legislature finds and declares that this provision is declaratory of existing law.

(r) This chapter shall be interpreted liberally in favor of producing the maximum number of total housing units.

(s) Notwithstanding any other law, if a city, including a charter city, county, or city and county has adopted an ordinance or a housing program, or both an ordinance and a housing program, that incentivizes the development of affordable housing that allows for density bonuses that exceed the density bonuses required by the version of this section effective through December 31, 2020, that city, county, or city and county is not required to amend or otherwise update its ordinance or corresponding affordable housing incentive program to comply with the amendments made to this section by the act adding this subdivision, and is exempt from complying with the incentive and concession calculation amendments made to this section by the act adding this subdivision as set forth in subdivision (d), particularly subparagraphs (B) and (C) of paragraph (2) of that subdivision, and the amendments made to the density tables under subdivision (f).

(t) When an applicant proposes to construct a housing development that conforms to the requirements of subparagraph (A) or (B) of paragraph (1) of subdivision (b) that is a shared housing building, the city, county, or city and county shall not require any minimum unit size requirements or minimum bedroom requirements that are in conflict with paragraph (7) of subdivision (o).

(u) (1) The Legislature finds and declares that the intent behind the Density Bonus Law is to allow public entities to reduce or even eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning ordinance in exchange for affordable units. It further reaffirms that the intent is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional public subsidy.

(2) It is therefore the intent of the Legislature to make modifications to the Density Bonus Law by the act adding this subdivision to further incentivize the construction of very low, low-, and moderate-income housing units. It is further the intent of the Legislature in making these modifications to the Density Bonus Law to ensure that any additional benefits conferred upon a developer are balanced with the receipt of a public benefit in the form of

adequate levels of affordable housing. The Legislature further intends that these modifications will ensure that the Density Bonus Law creates incentives for the construction of more housing across all areas of the state.

(v) (1) Provided that the resulting housing development would not restrict more than 50 percent of the total units to moderate-income, lower income, or very low income households, a city, county, or city and county shall grant an additional density bonus calculated pursuant to paragraph (2) when an applicant proposes to construct a housing development that conforms to the requirements of paragraph (1) of subdivision (b), agrees to include additional rental or for-sale units affordable to very low income households or moderate income households, and meets any of the following requirements:

(A) The housing development conforms to the requirements of subparagraph (A) of paragraph (1) of subdivision (b) and provides 24 percent of the total units to lower income households.

(B) The housing development conforms to the requirements of subparagraph (B) of paragraph (1) of subdivision (b) and provides 15 percent of the total units to very low income households.

(C) The housing development conforms to the requirements of subparagraph (D) of paragraph (1) of subdivision (b) and provides 44 percent of the total units to moderate-income households.

(2) A city, county, or city and county shall grant an additional density bonus for a housing development that meets the requirements of paragraph (1), calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	23.75
7	27.5
8	31.25
9	35
10	38.75

Percentage Moderate-Income Units	Percentage Density Bonus
5	20

6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

(3) The increase required by paragraphs (1) and (2) shall be in addition to any increase in density granted by subdivision (b).

(4) The additional density bonus required under this subdivision shall be calculated using the number of units excluding any density bonus awarded by this section.

(Amended by Stats. 2023, Ch. 784, Sec. 1.3. (SB 713) Effective January 1, 2024.)

8.2



City of Plymouth

Planning Commission Meeting Staff Report

Item 8.2

Date:

February 1, 2024

Report by:

Erica Fraser, AICP, Consulting Planner

Policy, Program, Project or Issue Title:

Future Study Sessions – Staff is requesting direction from the Planning Commission on what topics they would like to have information on/discussion of during future study sessions.

Issue Statement & Discussion:

During a prior meeting, the Planning Commission requested study educational information on several matters including annexations, administrative use permits and the Planning Commission's role and responsibility when reviewing Environmental Impact Reports. At the last meeting, the Planning Commission discussed the Local Agency Formation Commission (LAFCO) as well as an additional discussion regarding Accessory Dwelling Units (ADUs).

Staff would like to begin bringing more educational items before the Planning Commission for discussion. In addition to the ones requested by the Planning Commission, Staff has identified a few more items the Planning Commission might want to consider.

Staff has prepared the following list of potential educational topics for future meetings. Staff is requesting that the Planning Commission review this list, add or delete items, and rank them in order of preference so Staff can schedule these items for future discussion.

- Conditional Use Permit (Administrative and Planning Commission Review) – what they are/purpose, process, and noticing.
- Process after an environmental document (i.e. Mitigated Negative Declaration or Environmental Impact Report) is prepared.
- Senate Bill 9 – Two unit residential developments and lot splits.

- Housing Accountability Act.
- Additional requests?

No actions would be taken on any of the above items.

Fiscal Impact:

There is no fiscal impact associated with this item.

Staff Recommendation:

Review the list prepared by Staff, add or delete items, and rank them in order of preference.