



City of Santa Ana
20 Civic Center Plaza, Santa Ana, CA 92701
Planning Commission Staff Report
August 28, 2023

Topic: Density Bonus Agreement No. 2023-01 – 4th and Grand (1212 E. Fourth Street)

RECOMMENDED ACTION

Adopt a resolution approving Density Bonus Agreement No. 2023-01 as conditioned.

EXECUTIVE SUMMARY

Oscar Uranga (applicant), on behalf of Unison Real Estate Group, LLC (property owner), is requesting approval of density bonus agreement (DBA) No. 2023-01 to allow the construction of a rental residential development consisting of fifteen apartment units, with one unit proposed as affordable to very-low income households earning less than 30-50 percent of the area median income (AMI), on a vacant site located at 1212 E. Fourth Street. As proposed, the project will utilize waivers from development standards and/or development concessions through the density bonus agreement pursuant to California Government Code sections 65915 through 65918 and Santa Ana Municipal Code (SAMC) Section 41-1600 through 41-1607. Moreover, the project requires approval by the Planning Commission and City Council for a density bonus to allow up to 52.26 dwelling units per acre (du/ac). The request satisfies the purpose and intent of the Transit Zoning Code (TZC) to promote a pedestrian-oriented environment with a mix of land uses and to provide additional affordable housing stock to an underserved segment of the region's population. As a result, staff recommends approval of the DBA.

DISCUSSION

Table 1: Project and Location Information

Item	Information	
Project Address and Council Ward	1212 E. Fourth Street – Ward 6	
Nearest Intersection	East Fourth Street and North Grand Avenue	
General Plan Designation	Urban Neighborhood-Medium (UN-40)	
Zoning Designation	Corridor (CDR) district within the Transit Zoning Code (SD-84)	
Surrounding Land Uses	North	Commercial
	East	Vacant
	South	Single-family residential

	West	Commercial
Property Size	0.287-acres (12,500 square feet)	
Existing Site Development	The site is currently vacant and unimproved.	
Use Permissions	Multi-Family Residential (permitted under Corridor district within the Transit Zoning Code)	
Zoning Code Sections Affected	Uses	Article XVI.I (Density Bonus); CDR, Table 2A – Use Standards
	Development Standards	CDR, Section 41-2013; Section 41-2020; Section 41-2024

Project Description

The project includes the construction of a new four-story residential building with flats/apartments consisting of fifteen apartment units, 591 square feet of open space, seventeen parking spaces, and onsite bicycle storage. The residential development will include six studio units, five one-bedroom plus office units, one one-bedroom unit, and three two-bedroom units. Each of the fifteen units will contain full kitchens, bedrooms, bathrooms, and open/common (living) areas, and nine would include private decks. Of the total units in the development, one unit is proposed to be affordable to households earning less than 30-50 percent of the area median income (AMI), which is currently set at \$71,750, adjusted for a four-person household size, as published by California Department of Housing and Community Development (HCD).

The project features a contemporary architectural style similar to many multiple-family or mixed-use residential communities under construction in Santa Ana and the region. The overall design, massing, features, and materials of the new construction will be compatible with, but differentiated from the existing neighborhood. The contemporary architectural style would include cement board shiplap siding, brick veneer, stucco finishes, vinyl frame windows, metal railings for proposed decks, metal awnings, and high quality architectural detailing. The project would also incorporate a series of art murals along the east and west elevations. Moreover, the structure is designed to fully screen all mechanical equipment within the structure and parapet walls. Overall, the project will include a design and solid construction materials that will ensure that the project ages well for the duration of the building's lifetime.

Density Bonus

The California Density Bonus law allows developers proposing five or more residential units to seek increases in base density for providing on-site housing units in exchange for providing affordable units on site. To help make constructing on-site affordable units feasible, the law allows developers to seek up to three incentives/concessions and an unlimited number of waivers that facilitate production of units, which are essentially variances from development standards that would help the project be built without significant burden and without detriment to public health. The first version of the Density Bonus Law was adopted in 1979 and has since been amended at various times. In early 2017, the law

was amended to restrict the ability of local jurisdictions to require studies to “justify” the density bonus and requested incentives/waivers and places the onus on local jurisdictions to prove that the incentives/concessions or waivers are not financially warranted.

Pursuant to the California Density Bonus law, a project’s affordability level is determined by dividing the number of proposed affordable units by the allowable “base” density (i.e., 40 du/ac). Moreover, the State density bonus law states that units added by a density bonus are excluded from the calculations. As outlined by Table 2 below, the base density for the 0.287-acre site at 40 du/ac is 12 units. Of the total units in the development, one units is proposed to be affordable. Therefore, the project would have an eight-percent affordability rate. As such, State density bonus law allows the developer to request a maximum density bonus of 27.5 percent.

Due to the project’s eight-percent affordability rate, the developer can seek one density bonus concession and unlimited waivers, pursuant to Section 65915 et al. of the California Government Code (Density Bonuses and Other Incentives). In addition, California Assembly Bill No. 2345, approved September 28, 2020, revised the State Density Bonus Law originally adopted in 1979 to provide additional benefits for projects that include qualifying affordable housing. Pursuant to Section 65915 et al. of the California Government Code, the developer is requesting a 27.5-percent density bonus. As such, the maximum unit yield for the 0.287-acre site using the most “intense” building type allowed in CDR and the State density bonus is 16 units, as outlined in Table 2. However, the applicant is proposing to develop fifteen units on the site.

Table 2: Density Bonus Calculation

Affordable Unit – 8% (1 unit)*	Density Bonus Calculation	Units Allowed
Base Density - Flex Block Housing type (most “intense” type allowed in CDR)	0.287 acres x 40 du/ac	12 Units**
27.5-Percent State Density Bonus	(12 units x 0.275)	+4 Units**
Total Units		16 Units
Proposed Units		15 Units
*Affordable unit percentage is calculated excluding units added by a density bonus. **AB 2501 states that any density calculations resulting units shall be rounded up to the next whole number. Applies to: Number of affordable units required to be eligible for the density bonus; Base density (i.e. the number of affordable units in the base project); and Eligible bonus units.		

The purpose of the State’s Density Bonus Law is to encourage the development and availability of affordable housing by requiring the inclusion of affordable housing units within new developments. Pursuant to California Government Code sections 65915 (d)(1) and 65915 (e)(1), a local jurisdiction is limited in its ability to deny requested concessions and waivers and is preempted from denying the Density Bonus Agreement application. Although the City has analyzed the project and has identified several areas of concern, the conditions of approval proposed for the project are intended to address any of the project’s potential impacts. Table 3 outlines the incentives/concessions and waivers requested by the applicant.

Table 3: Requested Incentives/Concessions

TZC Standard	Requirement	Provided
Mixed-Use Requirement	<ul style="list-style-type: none"> Multi-family dwellings permitted only on second or upper floors, or behind retail or service ground floor use. <p><i>TZC, Table 2A. Use Standards</i></p>	<ul style="list-style-type: none"> No ground floor retail or service uses provided for this project. Multi-family dwelling proposed on the ground floor, street facing (not behind retail or service ground floor use) – <i>Requires Concession (1 of 1), Cal. Gov’t Code Sec. 65915 (d)(1)</i>
Maximum Height	<ul style="list-style-type: none"> Maximum height in Corridor (CDR) land use district is three stories <p><i>Section 41-2013 - Table CDR-1</i></p>	<p>The project proposes a building height of four stories (58 feet and 9 inches) – <i>Requires Waiver, Cal. Gov’t Code Sec. 65915 (e)(1)</i></p>
Building Size and Massing Standards – Maximum Ratio for each Flex Block story	<p>The second through fourth floor can only be 85-percent of the ground floor volume/gross floor area (cannot exceed 3,309 square feet).</p> <p><i>Section 41-2022 (i)(5) - Table BT-4</i></p>	<p>The second through fourth floor exceed the allowable ratio and are 97.9-percent of the ground floor’s volume (proposed 3,811 square feet). – <i>Requires Waiver, Cal. Gov’t Code Sec. 65915 (e)(1)</i></p>
Open Space Standards	<ul style="list-style-type: none"> Common open space to be designed as a courtyard, or in the front as a forecourt – required to be 15-percent of the lot (1,875 square feet required). Private open space required for each residential unit, not less than 50 square feet with a minimum of 6 feet in each direction (700 square feet of private open space required). <p><i>Section 41-2022 (f)</i></p>	<ul style="list-style-type: none"> No common open space in the form of a courtyard, or in the front as a forecourt, is provided 433 square feet of common interior space provided in the form of lobby space (approximately 3.5-percent of lot) 591 square feet of private open space will be provided in the form of private decks for nine (9) Units. – <i>Requires Concession (1 of 1), Cal. Gov’t Code Sec. 65915 (d)(1)</i>
Landscaping Standards	<ul style="list-style-type: none"> All setbacks, yards, and shared common open spaces are required to be landscaped. A landscape buffer of not less than five feet required to be provided to separate parking lot from an adjacent property Surface parking lots required to be landscaped per City’s commercial area standards, which require full-size landscape planters for every ten parking spaces. <p><i>Section 41-2020 (6)</i></p>	<ul style="list-style-type: none"> A landscape buffer of 2 feet is proposed along the western property lines, 3 feet less than required Partial and diamond-shaped tree planters are provided in the surface parking lot – <i>Requires Waiver, Cal. Gov’t Code Sec. 65915 (e)(1)</i>

Onsite Parking

In addition, the site is parked in compliance with California Government Code 65915 (p)(1)(A) and 65915 (p)(1)(B) and provides 17 total surface parking spaces or 1.1 spaces per unit. The California Density Bonus Law allows a parking ratio of one (1) stall for studio or one-bedroom units, and one and one-half (1.5) stalls for two-bedroom units, inclusive of handicapped and guest parking.

Analysis of the Issues

Pursuant to Section 41-1607 of the SAMC, an application for a density bonus agreement is required to be approved by the Planning Commission for any project containing “deviations” (incentives/concessions and/or waivers). The Planning Commission’s review of the density bonus agreement is based on the following findings:

1. The proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the city.
2. The development will not be inconsistent with the purpose of the underlying zone or applicable designation in the general plan land use element.
3. The deviation is necessary to make it economically feasible for the applicant to utilize a density bonus authorized for the development pursuant to section 41-1603.

Because the project does not exceed four stories in height, the project does not require a Site Plan Review Application pursuant to Table 2A (Use Standards) as part of the Transit Zoning Code (TZC). Accordingly, the Planning Commission’s review and determination for this request are limited to the provisions of the Density Bonus Agreement application only.

Table 4: Analysis of the Requested Incentives/Concessions (1) and Waivers (4)

Standard	Analysis
Mixed-Use Requirement	<p>Table 2A (Use Standards) in the Transit Zoning Code (TZC) states that multi-family dwellings are a permitted use in the Corridor (CDR) district, but only on second or upper floors, or behind retail or service ground floor use.</p> <p>Pursuant to Government Code Section 65915 (k)(1), a concession may be sought by the applicant not only to modify or eliminate a development standard but also to modify “zoning code requirements.” In this case, the requirement for ground floor commercial is a zoning code requirement. Strict adherence to this requirement would result in a reduction in the number of units that can be provided in the overall project, thus not achieving the full 27.5-percent density bonus to which the applicant is entitled. Moreover, the ground floor commercial requirement is subordinate in function to the primary zoning classification of <i>Multi-Family Dwellings</i> within the CDR district. Lastly,</p>

Standard	Analysis
Maximum Height	<p>adherence to ground floor commercial requirement would be economically infeasible, as it would require adding an additional story to the building to meet the ground floor commercial requirement and to still provide the number of units that the applicant is entitled to under State law.</p> <p>The maximum height permitted in the CDR district of the TZC is three stories. As proposed, the maximum height of the new structure would be four stories (58-feet, nine-inches). However, only the stairwell and elevator penthouse will be at the maximum height, the rest of the four-story structure would be 51-feet, nine-inches in height.</p> <p>The proposed fourth story is required to accommodate the number of units permissible under the Density Bonus Law. The gross site area and existing site conditions severely restrict the applicant from providing a site plan that could accommodate the proposed number of units with a three story building type. With the current maximum height restriction, the applicant could propose underground parking to take advantage of the limited gross site area. However, this would result in a project that is financially infeasible. Strict adherence to the maximum height requirement would result in a loss of four residential units, would physically preclude construction of the project, and would preclude the construction of the affordable unit to be dedicated to very-low income occupants. This would also make the project infeasible and would not allow the applicant to achieve the full 27.5-percent density bonus to which the applicant is entitled under State law.</p>
Building Size and Massing Standards – Maximum Ratio for each Flex Block story	<p>Pursuant to Section 41-2022 of the TZC, the residential building is designed as Flex Block Building Type. The building type establishes a maximum ratio for each flex block story/level. Specifically, the second through fourth floor can only be 85-percent of the ground floor volume/gross floor area. As designed, the second through fourth floor cannot exceed 3,309 square feet.</p> <p>The second through fourth floor of the proposed building exceed the allowable ratio and are 97.9-percent of the ground floor's volume. The second through fourth floor are proposed to be 3,811 square feet, exceeding the maximum allowable by 502 square feet. The proposed site has a smaller than average lot depth and lot width, compared to most lots in the downtown area. Lots in Downtown area range in lot depth and width but are on average 250 feet by 250 feet. The subject site is approximately 100 feet by 125 feet. Without the increase in the allowable building size and massing standards, the project would need to be redesigned, resulting in several impacts to the feasibility of the site's development. These impacts would include a loss of parking spaces; an incompatible design and unbalanced composition of massing the project site; and a smaller building footprint that would reduce the building's interior floor area and individual unit sizes and result in a loss of units.</p> <p>In order to provide the required building size and massing standards, the developer would be required to construct an additional level, resulting in a different type of construction (steel-frame versus wood), or build underground parking, further increasing development costs and making the project infeasible.</p>

Standard	Analysis
Open Space Standards	<p>Pursuant to Section 41-2022 of the TZC, the residential building is designed as <i>Flex Block Building Type</i>. This building type requires common open space to be designed as a courtyard or in the front as a forecourt, have it open to the sky, and to be equal to 15-percent of the lot. Moreover, private open space is required to be provided for each residential unit, no less than 50 square feet with a minimum dimension of six feet in each direction. The total common open space required is 1,875 square feet and the total private open space required is 750 square feet.</p> <p>As proposed, the project provides 433 square feet of common interior space, provided in the form of lobby space (approximately 3.5-percent of lot) to be furnished (e.g., coffee tables, chairs, lounge tables, etc.), where feasible. The project also provides 591 square feet of private open space, in the form of private decks for nine units. The gross site area and existing site conditions severely restrict the ability for the project to accommodate any common open space, and restrict the ability to provide the fully required private open space. Providing the required common open space standard would lead to the elimination of three or more units, which would affect the feasibility to construct the project. In order to maintain the current proposed unit count, the developer would be required to construct additional floor levels or required to provide underground parking, which would further increase development costs and make the project financially infeasible. To help alleviate the common open space deficiency, the project proposes an average of 40 square feet of private open space per unit, through use of private balconies/decks.</p>
Landscaping Standards	<p>Pursuant to Section 41-2020 of the TZC, all setbacks, yards, and shared common open spaces are required to be landscaped. In addition, a landscape buffer of not less than five feet is required to be provided to separate parking lot from an adjacent properties and the surface parking lot is required to be landscaped per City's commercial area standards.</p> <p>As designed, the project provides a landscape buffer of two feet proposed along the western property lines, three feet less than required. In addition, the project does not provide the required landscape planters in the surface parking lot. Due to site constraints, smaller than average lot size, and parking and landscaping requirements, the required landscape buffer and landscape planters cannot be accommodated. Maintaining the required landscape standards would result in a site redesign, reducing the number of parking stall, the drive aisle width, the ability of trash trucks to service the site, and ultimately lead to the loss of bedroom units, resulting in the project becoming infeasible. In order to provide the required landscaping and maintain the current proposed unit count, the developer would be required to construct an additional level, resulting in a different type of construction (steel-frame versus wood), or build underground parking, further increasing development costs.</p>

When analyzed cumulatively, the requested concessions and waivers could be avoided if the project were designed on a different site or using a different site plan. If the project were designed with a multi-level parking and/or subterranean parking structure, or if the applicant used different building materials to construct a taller project, additional area on site would become available to provide the ground floor commercial, minimum required open space,

landscaping, and the required building size and massing. However, these changes would increase development costs, resulting in the housing project becoming financially infeasible due to the significantly increased financial implications of an alternative construction type compared to the relatively smaller scale of the project. In addition, these changes would reduce the number of units that could be constructed on the site and therefore eliminate the affordable housing unit that would result from the project.

In addition, the changes would increase development costs and reduce the financial feasibility of redeveloping the site, resulting in the affordable housing project becoming financially infeasible due to the significantly increased financial implications. Lastly, the proposed deviations are necessary to make the project economically feasible for the applicant to utilize a density bonus authorized for the development pursuant to Section 41-1603 of the SAMC.

Public Notification and Community Outreach

Project notifications were posted, published, and mailed in accordance with City and State regulations. Copies of the public notice, including a 1,000-foot notification radius map, and the site posting are provided in Exhibit 11. In addition, staff contacted the provided contacts for the Saddleback View Neighborhood Association to ensure they were aware of the project and public hearing. At the time this report was printed, no issues of concern were raised regarding the proposed development.

ENVIRONMENTAL IMPACT

Pursuant to the requirements of the California Environmental Quality Act (CEQA), an Environmental Impact Report (EIR) was prepared and certified in 2010 in order to address the potential environmental impacts associated with the Transit Zoning Code. A mitigation monitoring and reporting program (MMRP), findings of fact, and a statement of overriding consideration were adopted with the 2010 EIR.

As proposed, the development is not anticipated to have additional environmental impacts not addressed in the 2010 EIR. Therefore, no additional environmental review will be required. Based on this analysis, a Notice of Exemption, Environmental Review No. 2022-04 will be filed for this project. However, all applicable mitigation measures in the original EIR and associated MMRP will be enforced. The 2010 TZC EIR and MMRP have been provided as Exhibit 10 for reference.

EXHIBIT(S)

1. Resolution Approving DBA No. 2023-01 as conditioned
2. Vicinity Zoning and Aerial View
3. Site Photos
4. Site Plan

DBA No. 2023-01– 4th and Grand (1212 E. Fourth Street)
August 28, 2023
Page 9

5. Unit Floor Plans
6. Building Elevations
7. Building Perspectives
8. Preliminary Landscape Plans
9. Draft Density Bonus Agreement
10. 2010 Transit Zoning Code EIR
11. Copy of Public Notice

Submitted By:
Pedro Gomez, AICP Senior Planner

Approved By:
Minh Thai, Executive Director, Planning and Building Agency