



ZONING CODE BULLETIN

DATE EFFECTIVE: April 20, 2020 (amended: 2/11/21, 8/27/21, and 3/20/24)

ZONING TOPIC: Clarification on how to calculate the maximum intensities for a site proposed for development.

Overall

1. What is maximum intensity?

Maximum intensity is a combination of the maximum residential density and the maximum nonresidential floor area ratio (FAR) allowed on a site. Maximum residential density is the number of dwelling units allowed on a site and nonresidential FAR is the amount of nonresidential floor area allowed on a site.

2. What is included in the lot area when calculating intensity?

When calculating intensity for a specific site, all areas of the parcel or parcels that make up the site are included in the lot area, except public and private streets and publicly accessible parks and public plazas. Public access easements are also excluded from the area of a site that is calculated to determine development intensity.

3. How is the maximum density calculation rounded?

With one exception, the maximum residential density calculation is always rounded down because the maximum density is expressed as the amount of lot area required per unit. For example, if a density calculation results in a maximum density of 13.9 units, the number of permitted units for the site is 13. The only exception to this is a project that seeks a density bonus through the State Density Bonus law, which specifically states that maximum residential density is always rounded up. In this case, if a density calculation results in a maximum density of 13.1 units, the number of permitted units is 14.

4. Can multiple density bonuses be applied to the same development project?

The Planning Code currently has the following density bonus incentives: the local PUD bonus (Chapter 17.142), the local senior housing bonus (Section 17.106.060), and the state affordable housing density bonus (Chapter 17.107). PUD bonuses and local senior housing bonuses can be “stacked” on the same development. However, the state affordable housing density bonus will typically not be stacked with local bonuses since local bonuses cannot exceed the General Plan maximum density and density bonus projects may automatically use the General Plan maximum density as the starting point for applying bonuses. In addition, per Section 17.106.060 of the

Planning Code, the state senior housing bonus cannot be stacked with 75 percent senior housing bonus in the Planning Code. While the PUD bonus and local senior housing bonus may be stacked, the resulting density cannot exceed the General Plan maximum density. In this case, the PUD density is calculated first.

The Planning Code additionally has provisions for streamlined affordable housing development under the S-13 combining zone which serves to provide unlimited residential density within the allowed building envelope. Because the S-13 combining zone already provides for unlimited residential density, it cannot be combined with other density bonuses and local zoning incentive programs.

Zoning

5. How is Zoning density calculated in mixed use developments?

For mixed use developments, the allowable intensity is measured according to both the maximum nonresidential FAR allowed by the zone and the maximum residential density allowed by the zone. The total lot area is used as a basis for computing both the maximum nonresidential FAR and the maximum residential density. There are no reductions or subtractions from the total lot area when calculating the maximum number of units allowed in a project.

Prior to October 31, 2023, Section 17.106.030(B) of the Planning Code stated that, “for mixed use projects located in areas other than the Central Business District and Jack London district, in which a maximum floor area ratio is generally prescribed for Nonresidential Facilities, no portion of lot area used to meet the density requirements for a Residential Facility shall be used as a basis for computing, through such FAR, the maximum amount of floor area for any Nonresidential Facility on the same lot, unless the total Nonresidential floor area on the lot is less than three thousand (3,000) square feet.” This provision has been deleted from the Planning Code.

This means that the portion of the lot used by nonresidential floor area is no longer subtracted from the total lot area when calculating the maximum number of units allowed in a project

The following provides an example for how to calculate the permitted number of units in a hypothetical development in the CN-3 Zone within a 95-foot height area. The following are the relevant regulations for the height area and data for the project.

Maximum FAR: 4.0

Maximum Density: One regular dwelling unit per 200 square feet of lot area

Lot Area: 13,000

Nonresidential floor area: 11,000 square feet

The allowed residential density for the proposal would simply be the lot area (13,000 square feet) divided by 200 square feet per regular dwelling unit, or 65 regular

dwelling units.

6. How is Zoning density calculated in residential developments that include both regular dwelling units and efficiency dwelling units?

The generalized equation for any zoning designation would be the following:

$$\text{Max Density} = (x)(\text{density rdu}) + (1-x)(\text{density edu})$$

where x is the percentage, stated as a fraction, of the regular dwelling units proposed.

This equation can be applied where an applicant knows the ratio between regular dwelling units and efficiency dwelling units they wish to include in the project.

For example, an applicant could decide to have a project in the RU-2 zoning designation that is 50% rdu and 50% edu. RU-2 allows for a permitted density of 1 regular dwelling unit per 750 square feet of lot area and 1 efficiency dwelling unit per 375 square feet of lot area. Therefore, the max density is:

$$\text{Max Density} = (0.5)(750 \text{ sf/du}) + (0.5)(375 \text{ sf/du}) = 537.5 \text{ sf/du.}$$

If instead the applicant wanted to determine the total number of base units allowed but have yet to decide on a ratio between regular and efficiency dwelling units, the following equation could be used:

$$\text{Total Units} = (\text{Density edu}/\text{Density rdu})(x) + (\text{lot square footage})/(\text{density rdu})$$

Here, x is the total number of efficiency units proposed.

For example, if you have a 7,500 square foot lot in RU-2, then the total base units allowed would be

$$\begin{aligned} \text{Total Units} &= (375/750 \text{ sf/du})(x) + (7,500 \text{ sf})/(750 \text{ sf/du}) \\ &= 0.5x + 10 \end{aligned}$$

Using this, an applicant could decide how many efficiency units to include to reach the desired total allowed number of units.

These formulas also apply to projects proposing rooming units. Please note that projects that propose to include efficiency/rooming units and also propose to receive a density bonus require careful calculation to ensure that the density bonus is calculated in consideration of the proposed efficiency/rooming units. The applicant will need to identify a base project with a certain ratio of efficiency and regular units, and then that ratio will need to be carried into the density bonus. Keep in mind that the base density will change based on that ratio, and that results in changes to the number of affordable units needed for certain density bonuses. The formula above will get you there, but

there's also a formula that can be prepared to show the total base number of units allowed based on the number of efficiency units proposed.

General Plan

7. Can a project have a greater intensity than allowed in the General Plan?

Except for projects utilizing the State Density Bonus Law, projects cannot have a residential density or FAR that exceeds the maximum residential density or FAR allowed by the General Plan. This includes projects seeking a density bonus through a Planned Unit Development permit as described in Section 17.142.100 or a Senior Housing density bonus through Section 17.106.060 of the Planning Code.

8. How is the General Plan maximum intensity determined?

As mentioned in #6, the maximum General Plan intensity can be important in calculating the number of units allowed in planned unit developments and senior housing projects.

The Land Use and Transportation Element (LUTE) of the General Plan established 15 land use classifications to graphically depict the type and intensity of allowable future development throughout the City, but also acknowledged that more site-specific maximum densities would be provided through an implementing zoning ordinance:

The Land Use classification and diagrams generally describe citywide development patterns. Designating an area with a particular classification does not entitle a property owner to automatically develop at the maximum stated density. Maximum densities for individual properties will be specified in implementing ordinances, in particular the zoning and subdivision ordinances.

The Zoning Ordinance will provide further definition by regulating densities, intensities, and land uses based on the direction provided by the General Plan. Any one Land Use Classification may correspond to multiple zoning districts to reflect the unique characteristics of Oakland's neighborhoods and business areas. Site and neighborhood-specific conditions, development standards, transportation capacity, and other City requirements also come into play when determining maximum site specific densities.

Land Use and Transportation Element, p. 144.

In 2011, the City adopted new zoning regulations intended to implement the General Plan Land Use and Transportation Element. Consistent with the direction in the General Plan, there are several zoning categories in the Planning Code such as the RM Zones (RM-1 through RM-4), RU Zones (RU-1 through RU-5), CN Zones (CN-1 through CN-4), HBX Zones (HBX-1 through HBX-4), and others. Each of these zoning categories implements a particular LUTE land use classification and are

mapped to coincide with the land use map in the LUTE. For projects located in areas that have been zoned to implement the General Plan, the maximum intensity of a land use classification under the General Plan is the same as the maximum intensity permitted in the “zoning category” that implements the corresponding classification in the plan. For instance, the zones implementing the Mixed Housing Type Residential General Plan classification include, in order of least to greatest maximum density, the RM-1, RM-2, RM-3, and RM-4 Zones. The maximum residential density for a project is equal to the maximum density as stated under the applicable zoning designation; however, the maximum General Plan density corresponds to the maximum density in the highest RM zone, the RM-4 Zone: one unit per 1,000 square feet of lot area. Only a project that applies for and receives a state density bonus can exceed the greatest maximum density under the General Plan designation.

The maximum density and FAR of several zones in the City are controlled by a height map, not a single density and FAR maximum. For instance, the maximum density for each CN Zone ranges from one unit per 550 square feet of lot area to one unit per 200 square feet of lot area, depending on the location of the parcel on the City’s height map. Similar to above, the maximum residential density for a project will be equal to the maximum density provided by the height map. But the greatest maximum density permitted on the height map for the CN zones corresponds to the maximum density described under the Neighborhood Center Mixed Use LUTE classification (the CN Zones implement this classification). Only a project that receives a state density bonus is able to exceed this greatest maximum density.

Some of the City has not been updated to implement General Plan, such as areas with an M-10, M-20, M-30, M-40, C-40, C-45, R-80, S-1, or S-2 Zoning. In this case, staff will calculate the General Plan maximum intensity for the applicable General Plan designation. The General Plan lists maximum densities in terms of gross acres, which need to be translated into net acres to apply to a site. Overall, an average net-to-gross ratio of 75 percent is assumed, except downtown (including the Jack London District) where 60 percent is assumed. In other words, in general, 75 percent of land outside of Downtown and 60 percent of land within Downtown contains developable parcel area, i.e. areas that do not include park or public right of way.

The following is an example of converting gross density in the General Plan to net density that can apply to a site. Broadway between Embarcadero West and 5th Street is zoned C-45 and has an Estuary Policy Plan (EPP) designation of Retail Dining Entertainment - 2 (RDE-2). According to the EPP, the RDE-2 has a maximum density of 125 units per gross acre. This translates to a net density of 208.33 units per acre ($125/0.6$) or one unit per 209 square feet of lot area ($43,560 \text{ sf}/208.33 \text{ units}$).

Density Bonus

9. What is the maximum allowable density in the State Density Bonus Law?

The State Density Bonus Law (found in California Government Code Sections 65915

– 65918) states that a development containing a certain number of affordable housing units can receive a density bonus on top of the “maximum allowable residential density.” How many more units above this maximum density depends on the percentage of affordable housing units that are included in the proposal.

The law states that maximum allowable residential density is “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, 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.”

Therefore, projects processed under State Density Bonus Law, as well as projects processed under SB 35 (Affordable Housing Streamlined Approval), may use the General Plan density maximum, not the maximum density in the Planning Code for a particular zone. Section 7 describes how to calculate the maximum General Plan Density.

Note: Per State law, projects can take advantage of the state density bonus even if it results in a greater density than allowed under the General Plan.

10. How is density calculated when a project seeks both a PUD and State Density Bonus?

When a project seeks both a PUD and State Density Bonus, the PUD bonus is calculated first and the State Density bonus is calculated from this new allowed number of units. However, in cases where an applicant uses the maximum density provided in the General Plan, then there will be no PUD bonus available. As described in item #6, the PUD bonus cannot go over the General Plan maximum density. The following is an example.

A hypothetical project has the following characteristics:

Zoning designations: CC-2 with a height map designation of 65 feet.

General Plan designation: Community Commercial

Maximum Zoning Density: one unit per 350 square feet of lot area

Maximum General Plan Density: 165 units per gross acres, or one unit per 200 square feet of lot area using the formula described in item #7 above.

PUD Density Bonus: 25 percent

State Density Bonus: 50 percent

Lot Area: 20,000 square feet

In this case, the maximum number of dwelling units allowed on the lot without any bonuses is 57 (20,000 square feet/350 square feet per unit). The 25 percent PUD density bonus would increase this maximum to 71 units ($57 * 1.25$), which is under the General Plan maximum density, which is 100 units (20,000/200). But if the applicant sought to receive a density bonus under State Density Bonus Law as well,

the starting point for the maximum number of dwelling units allowed on the lot would be the General Plan maximum density, or 100 units. No PUD could be provided since already at the General Plan maximum density. This number could be increased by 50 percent to determine the maximum number of units with density bonus under the State Density Bonus Law. Therefore, the maximum number of units on the site with State Density Bonus Law bonuses is 150 units (1.50*100).

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