

## Community Benefit Case Studies

### Review of Case Studies

This attachment describes how several cities have approached community benefits programs. This review is based on existing city ordinance or other information available online and when possible, interview with city staff. The table below summarizes key aspects of each program, while the body of the document provides detailed information on each program.

#### Summary of community benefits by city.

Jurisdiction	Applicability	Community Benefits	Program Type
<b>City of Austin, TX</b> <i>Downtown Density Bonus Program</i>	Floor Area Building Height	<ul style="list-style-type: none"> <li>• On-site affordable housing;</li> <li>• Family Friendly Bedroom;</li> <li>• Affordable Housing Fee;</li> <li>• Historic Preservation;</li> <li>• Day Care Services;</li> <li>• Cultural Uses;</li> <li>• Live Music;</li> <li>• Green Building;</li> <li>• Publicly Accessible On-site Plaza;</li> <li>• Off-site Open Space Fee; and</li> <li>• Green Roofs.</li> </ul>	Quantified benefits/bonuses
<b>City of Berkeley, CA</b> <i>Significant Community Benefits in the Downtown</i>	Building Height	<ul style="list-style-type: none"> <li>• Affordable housing;</li> <li>• in-lieu affordable housing fee;</li> <li>• Labor Requirements (i.e. local workers);</li> <li>• Arts and Culture;</li> <li>• Street and Open Space Requirements;</li> <li>• Sustainable Development and Transportation;</li> <li>• Restoration of Historic Civic Center Buildings;</li> <li>• Supportive Social Services and Shelter; and</li> <li>• Option for Alternative Community Benefit Proposals.</li> </ul>	Negotiated benefits/bonuses; but dependent upon quantifiable pro-formas and economic analysis
<b>City of Denver</b> <a href="#"><u>38<sup>th</sup> &amp; Blake Height &amp; Design Overlay</u></a>	Building height Floor Area Setbacks Parking	<ul style="list-style-type: none"> <li>• On-site affordable housing;</li> <li>• off-site affordable housing (but within the immediate area);</li> <li>• in-lieu fee;</li> <li>• Community Amenities;</li> <li>• Cultural Facilities; and</li> <li>• Publicly-Assessible Open Space</li> </ul>	Quasi-quantified benefits/bonuses. Specific community benefits may be negotiated

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<b>City and Borough of Juneau, AK</b> <a href="#">Residential Density Bonus (point system)</a>	Residential Density Building Height	<ul style="list-style-type: none"> <li>• Protections and/or access to sensitive areas (streams, lake shores, wetlands, etc.);</li> <li>• Non-vehicular transportation improvements;</li> <li>• Bus pullouts and shelters;</li> <li>• Traffic mitigation measures;</li> <li>• Public services and facilities (fire safety, utilities, street lights);</li> <li>• Electric conservation;</li> <li>• Mixed-use development;</li> <li>• Project design; and</li> <li>• Vegetation.</li> </ul>	Quasi-quantified benefits/bonuses. The value and amount of points awarded is discretionary
<b>City of Portland, OR</b> <a href="#">Density Bonus Program to Encourage Family-Oriented Housing (33.120.265)</a>	Density	<ul style="list-style-type: none"> <li>• Outdoor recreation fields;</li> <li>• Children’s play areas;</li> <li>• Three-bedroom units;</li> <li>• Storage areas;</li> <li>• Sound insulation;</li> <li>• Crime prevention;</li> <li>• Solar water heating;</li> <li>• Larger required outdoor areas; and</li> <li>• Tree preservation.</li> </ul>	Quantified benefits/bonuses
<b>Ottawa, Canada</b> <a href="#">Section 37-Community Benefits</a>	Building Size Density	<ul style="list-style-type: none"> <li>• Public cultural facilities</li> <li>• Building design and public art</li> <li>• Conservation of heritage resources</li> <li>• Conservation/replacement of rental housing</li> <li>• Provision of new affordable housing units; land for affordable housing or cash in-lieu (applicant discretion)</li> <li>• Child care facilities</li> <li>• Improvement to rapid transit stations</li> <li>• Local improvements as identified in community design plans, community improvement plans, capital budgets etc.</li> <li>• Artist live-work studios</li> <li>• Energy conservation and environmental performance measures</li> <li>• Conservation of existing greenspace or creation of new greenspace</li> </ul>	Negotiated benefits/bonuses

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<b>Palo Alto, CA</b> <a href="#">Public Benefits through Planned Community Zoning</a>	Projects within the Planned Community (PC) zoning where relief to a variety of zoning standards are obtained in exchange for public benefits. The City Council has instituted a de facto moratorium on PC zoning. Not currently an option for development in Palo Alto.	<ul style="list-style-type: none"> <li>• Below market rate housing units</li> <li>• Senior housing</li> <li>• Pedestrian Oriented landscaping</li> <li>• Various kinds of public parking</li> <li>• Public Art</li> <li>• Annexations</li> <li>• Donations including for housing, parking, childcare trust fund, an endowment, finance benefits to residents of the project</li> <li>• Historic Preservation</li> <li>• Land uses including public storage, grocery store (4), emergency veterinary services</li> <li>• Public access including sidewalks</li> </ul>	Negotiated benefits/bonuses
<b>Redwood City, CA</b> <a href="#">Community Benefit Improvement District and other special districts</a>	Building Height Floor Area Density	<ul style="list-style-type: none"> <li>• Sidewalk Operations and Beautification</li> <li>• District Identity and Signage</li> <li>• Parking Management</li> <li>• General Operation costs for District</li> <li>• Contingency fund (e.g., special projects, delinquencies)</li> <li>• Permanently affordable or senior housing</li> <li>• Permanently moderately affordable housing</li> <li>• Specified design and development features in certain zoning districts</li> <li>• Electronic equipment facilities (competitive in Silicon Valley)</li> <li>• Mixed Use development with ground floor retail or restaurants, open space, new streets</li> <li>• Conversion of apartments to condos in Gateway areas</li> </ul>	Quasi-quantified benefits/bonuses. Specific community benefits may be negotiated

## Community Benefit Case Studies

Jurisdiction	Applicability	Community Benefits	Program Type
<b>Santa Monica, CA</b> <a href="#">Land Use and Conservation Element</a>	Building Height Floor Area	<ul style="list-style-type: none"> <li>• Trip Reduction &amp; Traffic Management</li> <li>• Affordable &amp; Workforce Housing</li> <li>• Community Physical Improvements</li> <li>• Social and Cultural Facilities</li> <li>• Historic Preservation</li> </ul>	Quasi-quantified benefits/bonuses. Specific community benefits may be negotiated for largest projects
<b>Santa Barbara, CA</b> <a href="#">Community Benefit Projects (Section 28.40)</a>	Building Height	<ul style="list-style-type: none"> <li>• Community Benefit Housing</li> <li>• Museums</li> <li>• Child Care Facilities</li> <li>• Health Clinics</li> </ul>	Negotiated benefits/bonuses
<b>Seattle, WA</b> <a href="#">Program for Green Building and Affordable Housing</a>	Building Height Floor Area	<ul style="list-style-type: none"> <li>• LEED Certification (Silver)</li> <li>• Affordable housing</li> <li>• Childcare facilities</li> </ul>	Quantified benefits/bonuses
<b>Emeryville, CA</b> <a href="#">Density Bonuses</a>	Floor Area Building Height Density	<ul style="list-style-type: none"> <li>• Affordable Housing</li> <li>• Public Open Space</li> <li>• Net Zero Energy</li> <li>• Public Improvements</li> <li>• Utility Undergrounding</li> <li>• Additional family-friendly units</li> <li>• Small Businesses</li> <li>• Flexible Community Benefit (i.e. other proposed not included on above “list”)</li> </ul>	Quantified benefits/bonuses, with a Flexible Benefit category that can be negotiated
<b>Vancouver, Canada</b> <a href="#">Residential Density Bonus</a>	Density	<ul style="list-style-type: none"> <li>• Walkway connections</li> <li>• Pedestrian convenient kiosks</li> <li>• On-site bus shelters</li> <li>• Bike lockers</li> <li>• Development subject to Trip Reduction Ordinance</li> <li>• Paid Public Parking</li> <li>• Carpool/Vanpool parking facilities</li> <li>• TDM information</li> </ul>	Quasi-quantified benefits/bonuses. Specific community benefits may be negotiated

## Community Benefit Case Studies

Jurisdiction	Applicability	Community Benefits	Program Type
<b>San Diego, CA</b> <a href="#">Downtown FAR Bonus Program</a> & <a href="#">The Civic San Diego Community Benefits Consensus Project</a>	Floor Area	<ul style="list-style-type: none"> <li>Affordable Housing</li> <li>Urban Open Space (10-20% of site)</li> <li>Three-Bedroom Units</li> <li>Eco-Roofs</li> <li>Employment Uses</li> <li>Public Parking</li> <li>Green Building</li> <li>In-lieu fee to purchase parks and open space (TDR)</li> </ul>	Quantified benefits/bonuses
<b>Nashville, TN</b> <a href="#">Nashville Downtown Code</a>	Building Height (in downtown) - Bonus Height Program  Height Modification in Downtown above the Bonus Height Program	<ul style="list-style-type: none"> <li>LEED Building certification</li> <li>LEED Neighborhood certification</li> <li>Pervious surfaces</li> <li>Historic building preservation</li> <li>Inclusionary Housing (no longer applicable due to state law)</li> <li>Civil support uses (child care, etc.)</li> <li>Underground parking</li> <li>Upper level parking garage liners</li> <li>Public Parking</li> </ul> <p>Exceptional Design - requires unique architecture, exceptionally strong streetscapes, and improvement of the project's relationship to surrounding properties</p>	Quantified benefit/bonuses

### Case Study 1

#### ⇒ City of Austin, TX: Downtown Density Bonus Program

##### **Program Summary**

The [Downtown Density Bonus Program](#) (DDBP) was established in 2014 to promote a vibrant, dense, and pedestrian friendly downtown area while also encouraging the development of affordable housing and other community benefits. A downtown density bonus can be requested as part of a site plan review process.

The Downtown Density Bonus Program allows developments in the downtown area to achieve greater height and density in exchange for providing a high quality building and streetscape as well as community benefits.

In order to obtain the bonus area, the applicant must provide community benefits. At least 50% of the bonus must be achieved by providing on-site affordable housing or by paying a development bonus fee into the Affordable Housing Trust Fund. For any portion of the desired bonus area not achieved by providing affordable housing, the applicant must provide one or more of the other community benefits.

Projects must first meet certain “Gatekeeper Requirements” to participate in the bonus program, including streetscape standards, a green building rating and compliance with the city’s Urban Design Guidelines.

##### **Community Benefit Triggers (City of Austin)**

Trigger	Base Maximum	Bonus Maximum
The gross floor area that exceeds the maximum allowable <u>floor-to-area ratio</u> .	Typically 8:1 FAR Building height varies per district.	Varies with downtown districts. Bonus FAR up to 25:1 can be achieved. Building height varies and is not capped in some districts.
The gross floor area contained within the portion of the structure that exceeds the maximum allowed <u>height</u> .	Typically 8:1 FAR, not to exceed the base height limit – building height varies per district.	Varies with downtown districts. Bonus FAR up to 25:1 can be achieved. Building height varies and is not capped in some districts.

##### **Approval Process (City of Austin)**

- Administrative (director) approval: if 100% of the bonused area is provided by community benefits.
- Planning Commission (recommendation) and City Council (decision) if the project proposes a benefit not identified in the ordinance. In that case the city quantifies the amount of the “other” benefit required for the project.

## Community Benefit Case Studies

### *Lessons Learned (Interview) (City of Austin)*

#### **Is the program working the way you envisioned?**

Yes, it's resulting in more community benefits with various downtown projects. It's a standardized process for developers that replaces the Central Urban Redevelopment (CURE) process. The development community knows what to expect from the review process versus the previous system of negotiation on a case-by-case basis with the City Council.

The program has not been successful in achieving onsite affordable housing, as the current fee-in-lieu option is a cheaper alternative available to the applicant. As part of Austin Zoning Code revision currently being undertaken, the fee-in-lieu for affordable housing will be better calibrated (raised) to further incentivize on-site affordable housing with projects using the Downtown Density Bonus Program.

#### **Have any projects used the program? If so, how did the process work?**

Approximately 15-20 projects have used the program. The process has been simple and straightforward, although applicants new to the process have questions and take additional time to understand the steps. All projects in the program are required to go to Design Commission for an initial informal review meeting, where the Design Commission provides feedback and recommendations on the project regarding Urban Design Guidelines. The applicant then returns with revised plans for a second Design Commission meeting, where a formal non-binding recommendation is made to city staff regarding whether the project is meeting the Urban Design Guidelines. City staff reviews the project, Design Commission recommendations, and the Density Bonus utilization as part of the site plan review process.

Applicants tend to be frustrated by the Design Commission step as it often makes recommendations for revisions to a project's design. However, this has resulted in better designed projects for the city.

#### **How receptive were applicants to the incentives?**

Applicants are receptive to the incentives as they provide a clear and predictable path to increasing density. A typical FAR of 8:1 downtown can be increased upwards of 25:1 with Downtown Density Bonus Program.

#### **What is the ease of administering the program?**

Administration consist of a single staff member coordinating the program, typically dedicating five to eight hours of time to the program per week. It has been a relatively simple and straight-forward process. Although other departments are having to learn that the Density Bonus Program is part of the site plan review (and not an additional review that goes to a board or council).

#### **What else should we know about your program, what would you have done differently, and anything else that we should be thinking about with our study?**

When it was established, should have created metrics for measuring how successful the overall program is, specifically in terms of impacting and implementing broader downtown polices and goals, such as the urban tree canopy.

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### *Community Benefits (City of Austin)*

Community Benefits	Metric	Additional Criteria
<p><b>On-site Affordable Housing</b> Owned and rental units with specific income eligibility requirements.</p>	<p>Project must achieve at least 50 percent of the desired bonus area by providing affordable housing community benefits. If less than 50 percent, other benefits must be provided to fill the gap.</p>	
<p><b>Family-friendly Bedroom</b> Any bedroom over one bedroom within a dwelling unit that provides on-site affordable housing.</p>	<p>150 square feet of bonus area for each family friendly bedroom provided.</p>	
<p><b>Development Bonus Fee for Affordable Housing</b> (i.e. an in-lieu fee)</p>		
<p><b>Historic Preservation</b> On-site option to rehabilitate, preserve or relocate a historically significant building.  Fee option to the city's Historic Preservation Fund.</p>	<p>25,000 square feet of bonus area for each historically significant building that is restored or preserved.  Five square feet of bonus area for each square foot of historic building preserved.  One square foot of bonus area for each district-specific bonus fee.</p>	



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Community Benefits	Metric	Additional Criteria
<p><b>Day Care Services.</b> The provision of one or more of the three day care services defined in Section 25-2-6 (Civic Uses Described) of the City code.</p>	<p>Two square feet of bonus area shall be granted for each one square foot of space for day care services.</p>	<p>Requires a 10-year restrictive covenant that ensures continuation of operations and maintenance of the facility. The facility must be open during normal business hours at least five days per week and fifty weeks each calendar year. Any lapse in operation for more than 180 consecutive days triggers a pro-rated fee into the Affordable Housing Trust Fund (what would have been required with their bonus area).</p>
<p><b>Cultural Uses</b> Uses that are eligible to participate in the City of Austin Core Cultural Funding Program.</p>	<p>Two square feet of bonus area shall be granted for each one square foot of space for cultural uses.</p>	<p>Requires a 10-year restrictive covenant that ensures continuation of operations and maintenance of the facility. Meet the definition of a cultural use and the space must be leased to a 501(c) organization. Any lapse in operation for more than 180 consecutive days triggers a pro-rated fee into the Affordable Housing Trust Fund (what would have been required with their bonus area).</p>
<p><b>Live Music</b> Performance of live music at least four days a week in an indoor public or private facility of at least 2,500 square feet that it opens to the general public and readily equipped with sound, staging, lighting and safety accoutrements to accommodate professional and semi-professional live music needs on a daily basis.</p>	<p>Two square feet of bonus area for each square foot of live music uses.</p>	<p>Requires ten years of continuous operations and maintenance. Any lapse in operation for more than 180 consecutive days triggers a pro-rated fee into the Affordable Housing Trust Fund (what would have been required with their bonus area).</p>

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Community Benefits	Metric	Additional Criteria
<p><b>Green Building</b> A project that includes green building standards that exceed the Gatekeeper Requirements.</p>	<p>Bonus area equal to 25% of the site’s primary entitlement shall be granted for 3-star Austin Energy Green Building (ARGB) rating or LEED for New Construction Silver rating.</p>	<p>The applicant shall execute a restrictive covenant committing to achieve a specified rating under the Austin Energy Green Building (AEGB) program using the ratings in effect at the time the ratings application is submitted for the project or Leadership in Energy &amp; Environmental Design (LEED) program using the most recently launched version of the LEED for New Construction rating at the time of the project's registration. If the specified ARGB rating or LEED certification is not achieved within nine months from the time of occupancy, an owner must pay into the Affordable Housing Trust Fund the applicable development bonus fee for the bonus area initially granted for this community benefit.</p>
<p><b>Publicly Accessible On-Site Plaza</b> A publicly-accessible area provided by an applicant as a community benefit that complies with the Downtown Public Plaza Standards adopted by administrative rule.</p>	<p>Five square feet of bonus area shall be granted for each one square foot of eligible plaza space.</p>	<p>Any lapse in operation for more than 180 consecutive days triggers payment to the Downtown Open Space Fund for the amount that would have been initially granted for the bonus area.</p>
<p><b>Off-site Open Space Development Bonus Fee</b> Payment of a fee for off-site open space (Downtown Open Space Fund).</p>	<p>One square foot of bonus area shall be granted for each district-specific development bonus fee for off-site open space.</p>	<p>The project may achieve bonus area by paying a development bonus fee for off-site open space. The development bonus fee option is only available for open space beyond what is already required by the City Code.</p>

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Community Benefits	Metric	Additional Criteria
<p><b>Green Roofs</b> Must be built to the city's green roof standards.</p>	<p>30-49% of Vegetated Roof Cover = 2 bonus square feet.</p> <p>50% or greater = 3 bonus feet.</p> <p>2 additional square feet if publicly accessible.</p> <p>2 additional square feet if meets Downtown Public Plaza Standards</p>	<p>Any lapse in operation for more than 180 consecutive days triggers payment to the Downtown Open Space Fund for the amount that would have been initially granted for the bonus area. Green roof bonus area can't be combined with the Publicly Accessible On-Site Plaza Community Benefit.</p>

### Case Study 2

#### ⇒ City of Berkeley Downtown Community Benefits

##### ***Program Summary (City of Berkeley)***

In 2010, the voters of Berkeley approved Measure R, guiding development of the Downtown. Among the provisions approved was permitting, but not requiring, five buildings to be built in the Downtown exceeding height limits in exchange for significant community benefits from project applicants.

The value of the community benefit is proposed with the development application and includes a pro forma that includes among other things, the projected rate of return the applicant expects the project to generate. The pro forma considers two scenarios: (i) a base case building of 75 feet or less; and (ii) a high-rise building over 75 feet, considering factors like increased rental rates for higher floors as well as costs associated with building over 75 feet. The financial information is reviewed by an independent third party, selected by the city and paid for by the applicant, to confirm the highest reasonable amount of community benefits a project can support.

Project developers are also required to address the financial impact of displacement created by the project on community resources (including but not limited to non-profits and arts and cultural amenities/organizations) which serve the Berkeley community; such payments are made upon the issuance of a project's building permit.

To incentivize the immediate production of community benefits, developers may provide 90% of that predetermined total value (minus the labor credit) if they complete the community benefits prior to/concurrent with a certificate of occupancy.

##### ***Community Benefit Triggers (City of Berkeley)***

Trigger	Base Maximum	Bonus Maximum
Building Height (downtown only) over 75 feet	75 feet	120 – 180 feet

##### ***Approval Process (City of Berkeley)***

- The Zoning Adjustments Board reviews the community benefits package during a public hearing (including independent economic analysis) and either accepts, rejects or proposes modifications. The board should find that the community benefits proposed by the applicant:
  - Are beyond what would otherwise be required by the City;
  - Do not principally benefit the project or occupants of the project, but rather the broader Berkeley community;
  - Consider the highest amount the City determines the project can reasonably afford;
  - Comply with the required benefits categories;
  - That the value of the community benefits bear a relationship to the value generated by the project.

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- If approved, the applicant enters into a Community Benefits Agreement (recorded agreement) prior to building permit, and all benefit are included as Conditions of Approval. Approved permits, including Conditions of Approval requiring provision of Significant Community Benefits, may be subject to the Compliance and Revocation standards as set forth in Berkeley Municipal Code (BMC) Chapter 23B.60.

Applicants for building over 75 feet tall have two community benefit options:

1. **Option A: Affordable Housing, Labor and Other Benefits.** (a) exceed the city's affordable housing requirements; (b) enter into a Project Labor Agreement; and (c) at least one other community benefit category.
2. **Option B: Square Footage Flat Fee.** (a) a PLA; and (b) a per square foot fee determined by an independent financial consultant that would capture the highest reasonable value while maintaining financial feasibility of the project. Such fees would be paid into a City fund that is restricted to providing the community benefits.

### *Lessons Learned (Interview) (City of Berkeley)*

#### **Is the program working the way you envisioned?**

The substantial public benefits program is still being tested, as the downtown developments have not fully taken shape. Here is a recent summary of the history, issues and recent amendments to make the process and expectations more clear:

[https://www.cityofberkeley.info/uploadedFiles/Mayor/Level\\_2\\_-\\_Department\\_Master\\_and\\_Collections/Revised%20Community%20Benefits%20Resolution%202-13-18.pdf](https://www.cityofberkeley.info/uploadedFiles/Mayor/Level_2_-_Department_Master_and_Collections/Revised%20Community%20Benefits%20Resolution%202-13-18.pdf)

#### **Have any projects used the program? If so, how did the process work?**

Several projects have come forward over the past several years, some of which have been approved. One early project was approved on an ad hoc basis because it was ahead of the more formal process being in place. Others went through a process with the Zoning Adjustments Board and City Council.

#### **How receptive were applicants to the incentives?**

A number of applicants have pursued projects under the old system. The new system adopted this year theoretically provides more certainty, but still leaves much to be negotiated. The incentive for tall buildings only works for certain projects, and those projects remain subject to full design review, zoning review, historic preservation review, and potential litigation.

#### **What is the ease of administering the program?**

The program requires the staff to conduct additional analysis with the assistance of outside consultants, and is usually handled in separate hearings from the usual zoning issues, so it does add work. This is intended to separate the analysis from the other urban design issues, and generally works well. It is often helpful to have commissioners that bring certain expertise to the discussion.

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**What else should we know about your program, what would you have done differently, and anything else that we should be thinking about with our study?**

The City conducted extensive analysis almost ten years ago to formulate the program. Since then, we have seen market fluctuations that have affected project feasibility in many ways that lead to uncertainty over whether the community benefit packages are still appropriate.

### *Community Benefits (City of Berkeley)*

Community Benefits	Metric	Additional Criteria
<b>Affordable Housing</b>	More units than what is required through existing requirements.	
<b>Labor Requirements</b> In addition to agreeing to enter into a Project Labor Agreement, applicants would be required to sign an agreement stating that no less than 20% of the project’s construction workers be Berkeley or Green Corridor/Alameda County residents, with priority in that order.	n/a	
<b>Arts and Culture.</b> On-site or off-site benefits for arts and culture, including publicly accessible art or performance space or an in-lieu fee to the Public Art Fund.	Dependent on pro forma, and the total value of the public benefits that the City determines the project can reasonably bear.	
<b>Street and Open Space Requirements (SOSIP).</b> Additional funding for SOSIP beyond what is currently required by law, or construction of SOSIP or similar/updated projects approved by the City, which can include, but are not limited to: <ul style="list-style-type: none"> <li>• Enhanced parks and streetscapes, such as funding for the Center Street Plaza</li> <li>• Improving bicycle networks</li> <li>• Permeable street paving</li> <li>• Pedestrian amenities</li> <li>• Transportation mitigations</li> </ul>	Dependent on pro forma, and the total value of the public benefits that the City determines the project can reasonably bear.	

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Community Benefits	Metric	Additional Criteria
<p><b>Sustainable Development and Transportation.</b> Environmentally friendly community benefits beyond what is currently required, such as, but not limited to:</p> <ul style="list-style-type: none"> <li>• State-of-the-art sustainable building practices (e.g. Zero Net Energy, LEED Platinum)</li> <li>• On-site gray water infrastructure</li> <li>• Rainwater re-use</li> <li>• Funding or building green infrastructure projects in the Downtown area</li> <li>• Secure bicycle parking for public use</li> </ul>	<p>Dependent on pro forma, and the total value of the public benefits that the City determines the project can reasonably bear.</p>	
<p><b>Restoration of Historic Civic Center Buildings.</b> Contributions to the restoration of Old City Hall and/or the Veterans Memorial Hall. Such contributions could be used for other listed community benefits in the event the City determines that restoration of one or both of these buildings is not likely within the foreseeable future.</p>	<p>Dependent on pro forma, and the total value of the public benefits that the City determines the project can reasonably bear.</p>	
<p><b>Supportive Social Services and Shelter.</b> Contributions to supportive social services which may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Funding for the Pathways Project</li> <li>• Funding for Flexible Housing Subsidies Pool</li> <li>• Funding for the HUB (Coordinated Entry System) or the Downtown Drop-In Center</li> <li>• Public restrooms</li> <li>• Funding for non-profit organizations serving Berkeley’s youth</li> </ul>	<p>Dependent on pro forma, and the total value of the public benefits that the City determines the project can reasonably bear.</p>	

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Community Benefits	Metric	Additional Criteria
<p><b>Alternate Community Benefits Proposals.</b>                      In the event an applicant believes that compliance with the foregoing community benefits standards would violate any state or federal law or constitutional provision, an applicant may make an alternative proposal.</p>	<p>Dependent on pro forma, and the total value of the public benefits that the City determines the project can reasonably bear.</p>	



### Case Study 3

## ⇒ City & County of Denver: 38<sup>th</sup> & Blake Incentive Height and Design Overlay

#### *Program Summary (City & County of Denver)*

In 2018 the City of Denver City Council voted to adopt [the incentive height and design overlays for the 38th and Blake Station Area and the River North Arts District](#) at its meeting February 12, 2018. These ordinances implemented amendments made to the 38<sup>th</sup> and Blake Station Area Plan that supported taller building heights in the RTD station area (up to 16 stories) that were adopted in 2016. This program aims to leverage the public investment around the 38<sup>th</sup> and Blake RTD station area and the resulting increase in property values by providing incentives to developers to build taller buildings in return for community benefits. To obtain certain building heights, developers must meet certain requirements for affordable units, fees or subsidized commercial space.

#### Commercial Projects

Commercial projects, such as office buildings, have three options for obtaining the incentive height bonus:

1. Payment of the citywide affordable housing fee, plus fees for development above the base height;
2. Construction of affordable residential units (on- or off-site, but within the incentive height overlay district area boundary); or
3. Payment of the citywide Affordable Housing Fee and provision of a subsidized space for community-serving or non-profit uses.

Examples of community serving uses for option three include arts-related activities like maker spaces and studios; retail of goods needed in the community (e.g. pharmacy, grocery stores); needed services like childcare and medical clinics; and nonprofit organizations.

#### *Community Benefit Triggers (City & County of Denver)*

Trigger	Base Maximum	Bonus Maximum
Increased building height that exceeds the base height limit.	Varies within district: 2 to 8 stories.	Varies within district: 3 to 16 stories.

#### *Approval Process (City & County of Denver)*

Projects seeking to take advantage of the height incentives must submit site development plans to Development Services and a proposal on how they intend to meet overlay requirements to the Office of Economic Development. Both must be approved for a building permit to be issued. The design overlay establishes new high-quality design standards.

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The incentive overlay requires projects that use the height incentives to provide affordable housing units in the station area, or significantly greater contributions to Denver’s Affordable Housing Fund than are required elsewhere in the city.

To meet incentive requirements:

- Affordable housing units must be new units that would otherwise not have been built.
- Affordable units must be comparable to the market-rate housing units that generated the requirement.
- Affordable units must be inside the overlay boundary, not elsewhere in the city.
- The zoning is rooted in a form-based zoning code; floor-area ratios (FAR) do not apply.
- The number of affordable units required for development is based on square footage above the base height.
- Residential buildings must provide affordable housing units.
- Commercial buildings can:
  - provide affordable housing units according to square footage above the base height, or
  - pay the city’s affordable housing fee for the square footage below the base height and pay five times the city’s existing affordable housing fee for square footage above the base height, or
  - pay the city’s affordable housing fee for the full square footage and offset fee for square footage above the base height by providing subsidized space for uses that serve the community, such as day-cares, groceries or artists’ spaces.

### ***Lessons Learned (Interview) (City & County of Denver)***

The Incentive Height and Design Overlays were adopted on February 12, 2018. As of July 1, 2018 no project has submitted a proposal to use the height incentive to the Office of Economic Development.

#### **Is the program working the way you envisioned? When was it implemented?**

The overlay was formerly adopted in February 2018. Overall, the incentive overlay had good community support for increasing density, so long as development also resulted in the creation of a more complete and equitable neighborhood. Ideally this means a community with spaces for artists and other “makers”, whom created the unique character of the community in the first place.

#### **Have any projects used the program? How’s does the process work, and is it working well?**

There are no executed agreements or projects as of yet. However, there are a few potential projects considering their development options. One example is community grocery store that would like to move into the area, that is working with the Office of Economic Development in trying to find a partner to develop a larger project that would then support them and utilize the derived incentive.

#### **How receptive were applicants to the incentives?**

Overall the development community has been receptive, many of the large development projects are residential, so they are already planning on providing affordable housing. The additional bonus height is significantly greater than the by-right base height entitlement, and combined with high land-costs makes economically necessary to use the incentive height in order to have a viable project. While the

## Community Benefit Case Studies

development community wanted more straightforward incentives options, the city needs more certainty on the impacts and permanence of the community benefits.

### **What is the ease of administering the program?**

It will be an administrative review and process handled by staff. The negotiated elements of the program for affordable housing and development agreements are administered by the Office of Economic Development. The incentive fee option is straightforward, simply goes through the permitting process and you pay the applicable incentive bonus fees. Planning will also be involved in the Community Serving Use option, helping to determine whether the proposed community benefit is truly a value-add to the community. Binding and recorded agreements are required.

### **What else should we know about your program, what would you have done differently, and anything else that we should be thinking about with our study?**

Ideally a more predictable format could have been implemented that provided more certainty (and thus fairness) on what could be built, and what the specific community benefit parameters received would be. A more streamlined system was desired by outside stakeholders (primarily the development community), but the City was concerned that the more streamlined approach could not address certain issues (i.e., what happens if you can't find the right kind of tenant). Therefore, the adopted approach was primarily a result of community and City staff desire to ensure positive outcomes over time. The current negotiated system is at least partially a result of going through the political process. Thus, the outcome of the incentive program is less certain than a more streamlined approach would have been. Regarding the Community Serving Use option, the concern from city is what happens if things don't work-out with the tenant, or the development can't attract the right tenants? The physical space for them may be created and reserved, but no guarantee they'll be attracted to it and fill the spaces unless some additional controls are in place. May need additional controls to ensure the incentivized community-serving uses remain in place and are a value-add to the community.

Planning will conduct an assessment at a later point in time to evaluate how the incentive program is working and the success of the community benefits received. The goal is to see what businesses come in, then evaluate how the program is working and determine whether to change it or not. There may be opportunities to improve upon the incentive program, and eventually institute changes to other areas Denver as well. When too many incentive menu options are available, it waters down the value of the community benefits being provided. Developers will utilize the easiest incentives only, unless prioritized to truly target specific community benefits that are needed and align with planning policies and goals. Thus the 38<sup>th</sup> and Blake Overlay community benefits option is mostly focused on urban-maker spaces and unmet needs of the community (such as grocers). Other cities' community benefit programs that stood out to them during their research were Portland Oregon, which was in the process of being finalized and adopted, and Montgomery County Maryland. Montgomery Maryland's program was a more straightforward points system and included local-retail space community benefit parameters.

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### Community Benefits (City & County of Denver)

Community Benefits	Metric	Additional Criteria
<p><b>Affordable Housing Option</b> Housing must be on site or within the overlay zone</p>	<p>Required for projects containing 50 percent or more residential uses.</p> <p>Residential Projects:</p> <ul style="list-style-type: none"> <li>Standard affordable housing requirement for base area.</li> <li>x4 the standard unit requirement for the bonus portion.</li> </ul> <p>Non-Residential Projects:</p> <ul style="list-style-type: none"> <li>Standard affordable unit requirements for the base portion.</li> <li>x4 the standard unit requirement for the bonus portion.</li> </ul>	<p>Payment of total structure linkage fee.</p> <p>Affordable housing units must be new units that would otherwise not have been built and be comparable to the market rate housing within the development.</p>
<p><b>Incentive (Affordable Housing in-lieu) Fee Option</b></p>	<p><b>Only available to projects with 50 percent or more non-residential uses.</b></p> <p>Non-residential Projects</p> <ul style="list-style-type: none"> <li>Standard in lieu fee requirement for the base portion.</li> <li>x4 the standard in lieu requirement for the bonus portion.</li> </ul>	<p>Payment of total structure linkage fee</p>
<p><b>Community Serving Use Option: Provision of subsidized space for community-serving or nonprofit uses.</b></p>	<p>Non-residential Projects</p> <ul style="list-style-type: none"> <li>Standard in lieu fee for the base portion.</li> <li>Negotiated Community Benefits Agreement for community-serving uses equal to the waived in lieu fee for the bonus area.</li> </ul>	<p>Payment of total structure linkage fee.</p>

### Other Misc. Information (City & County of Denver)

- Examples of community-serving uses that could be considered for option 3 include arts-related activities like maker spaces and studios; retail of goods needed in the community (e.g. pharmacies, grocery stores); needed services, such as child care and medical clinics; and nonprofit organizations. Applicants will be required to enter into an agreement with the Denver Office of Economic Development, which will consider the proposed use in light of area needs. The value of the space provided must be equal to the waived incentive fees.
- Community benefits agreement* means an agreement entered into between an applicant and the city, and administered by the Office of Economic Development, that allows an applicant to provide community serving uses for a portion of a proposed structure in place of payment of any applicable incentive height fees. A community benefits agreement shall not substitute for

## Community Benefit Case Studies

payment of the total structure linkage fee. The Office of Economic Development, in consultation with community planning and development and considering demonstrated community needs and priorities in the surrounding neighborhood(s), and the value of commensurate incentive height fee savings and benefits, shall determine applicable community serving uses for each community benefits agreement. The community benefits agreement shall be executed by the city and the applicant using the city's standard contract process, and prior to approval of a site development plan or issuance of building permits. The community benefits agreement shall include, but is not limited to the following: benefitting tenant use; rent-reduction rate; time period; collateral; and default remedies such as re-leasing or recapture of any obtained incentive height fee savings.

## Case Study 4

### ⇒ City and Borough of Juneau, AK: Residential Density Bonus

#### *Program Summary*

The City and Borough of Juneau may permit additional residential density and building height for “major development” through a discretionary points system.

#### *Community Benefit Triggers (City and Borough of Juneau)*

Trigger	Base Maximum	Bonus Maximum
<p><b>Residential Density</b> Allowable density may be increased by 10% beyond the use-by-right for every seven bonus points awarded.</p>	<p>Depends on zoning district. Districts generally range from 10 or less units per acre up to 80 units per acre. One mixed use district has no maximum density requirement.</p>	<p>Cannot exceed the lesser of:</p> <ol style="list-style-type: none"> <li>1. 50% of the use-by-right density;</li> <li>2. The minimum density of the next higher zoning district;</li> <li>3. The minimum lot size required for any on-site water well or septic system.</li> </ol>
<p><b>Building Height</b> The building height within the Mixed Use – 2 district may be increased to a maximum of 45 feet for no less than five bonus points.</p>	<p>35 Feet.</p>	<p>45 Feet.</p>

#### *Approval Process (City and Borough of Juneau)*

- The Planning Director determines the points accrued by considering (i) the extent to which the proposal furthers the intent of the stated polices, and (ii) the magnitude of the benefit or amenity with respect to the size of the development.
- The commission shall approve the bonus point total.

#### *Lessons Learned (Interview) (City and Borough of Juneau)*

##### **What’s the point system values? Is it consistently applied to various projects?**

This is an issue as the bonus category values can be applied subjectively, as there is no criteria for how many points per category. Generally, just an overall maximum of 5 points per category is allowed, but no criteria exists of how points per degree of benefit.

##### **Is the program working the way you envisioned?**

No, the program became effective in 1988 and only a handful of projects have ever used it, and only one project in the last two years (provided additional greens space for a small increase in overall number of units). As the program is older, many of the envisioned bonuses are simply required anyway by the current Code. For example traffic impact studies and mitigation requirements.

## Community Benefit Case Studies

### Have any projects used the program? If so, how did the process work?

Only a handful of projects since 1988. Projects go to the Planning Commission as a Conditional Use with a public hearing. Required once a project exceeds a threshold of number of units per acre (8/du or 12/du per acre), depending on the zoning district.

### How receptive were applicants to the incentives?

Don't often use the program, as applicants don't want to be bothered by it. Current entitlements or other entitlements processes for greater intensity are utilized instead, such as re-zonings or PUD's.

### What is the ease of administering the program?

The Code needs to be overhauled to be successfully administered and implemented. Currently refers to an administrative code Title 4, not the Zoning Code. A long range goal of the department and city is to integrate a new program into the Zoning Code.

### What else should we know about your program, what would you have done differently, and anything else that we should be thinking about with our study?

Not aligned to current Code, needs a rewrite. The department likes the concept of density bonuses, but the implementation needs to be better. Ways to further the program would be updating the code and recalibrating existing entitlements, educating the development community on the program, and creating a nexus on current trends and needs (such as electric vehicles usage) to bonus options. There is a housing crisis in Juneau- yet the process for increased density is arduous with the Conditional Use review that goes to Planning Commission for a hearing – this is another deterrent to the development community using the bonus. Should be amended to be more streamlined and an administrative staff review to improve the utilization.

### *Community Benefits (City and Borough of Juneau)*

Community Benefits	Metric	Additional Criteria
<b>Sensitive Areas</b> A development within stream corridors and lake shores, eagle nesting areas, wetlands and intertidal areas are eligible.	Protect additional sensitive land (beyond that which is already required by code), provide public access to sensitive land or deed such land to the city. Generally up to 4 points may be allowed, with the potential for additional points.	
<b>Non-vehicular transportation improvements</b>	Pedestrian paths, sidewalks, bike paths and other pedestrian improvements beyond the base requirement. Generally up to 5 points may be allowed, with the potential for additional points.	
<b>Alternative transportation</b>	Bus pullouts and shelters. Generally up to 5 points may be allowed, with the potential for additional points.	

## Community Benefit Case Studies

Community Benefits	Metric	Additional Criteria
<b>Traffic mitigation measures</b>	Traffic impact mitigation on public roads. Generally up to 5 points may be allowed, with the potential for additional points.	
<b>Public services and facilities</b>	Points awarded for: <ul style="list-style-type: none"> <li>• <u>Fire Service</u>: efforts to reduce risk of injury or property damage or improve effectiveness of firefighting measures;</li> <li>• <u>Utilities</u>: connection to a public water, sewer or storm drainage system if it is more than 500 feet away from the site, constructed at the developers' expense; or</li> <li>• <u>Street Lights</u>: development constructed at six or less units per acre that provide any number of street lights.</li> </ul> Generally up to 5 points may be allowed, with the potential for additional points.	
<b>Electric conservation</b>	Minimize the consumption of energy, reduce peak energy demand, or both. Generally up to 5 points may be allowed, with the potential for additional points.	
<b>Mixed-use development</b>	Development of office, retail or other commercial projects in the downtown area that includes residential units. Generally up to 5 points may be allowed, with the potential for additional points.	
<b>Project design</b>	<ol style="list-style-type: none"> <li>1. <u>Scenic Vistas</u>: Site design and arrangement that protects scenic vistas viewable from public places; or</li> <li>2. <u>Awnings, Marquees and Canopies</u>: In the commercial, waterfront and mixed-use districts, a development that provides storefront awnings, marquees and canopies over public ways.</li> </ol> Generally up to 5 points may be allowed, with the potential for additional points.	
<b>Vegetation</b>	Multifamily, industrial and commercial development maintaining more than the minimum required percentage of a site in vegetation. Generally up to 4 points may be allowed, with the potential for additional points.	



## Case Study 5

### ⇒ City of Portland Amenity Density Bonus Program to Encourage Family-oriented Housing

#### Program Summary

[This program](#) is intended to improve the livability of multi-dwelling developments for their residents and to promote family oriented multi-dwelling developments. The bonuses are designed to allow additional dwelling units to larger projects (though smaller projects may still participate) in a manner still consistent with multi-family zoning. The options provide incentives, while leaving the specific choices to the developer.

#### Community Benefit Triggers (City of Portland)

Trigger	Base Maximum	Bonus Maximum
<b>Residential Density</b> All housing types in three residential zoning districts (R1, R2 and R3).	<b>Max. Density:</b> <ul style="list-style-type: none"> <li>• R1: 1 units per 3,000 sq. ft. of site area</li> <li>• R2: 1 units per 2,000 sq. ft. of site area</li> <li>• R3: 1 units per 1,000 sq. ft. of site area</li> </ul> <b>Max. Density with Inclusionary Housing Bonus:</b> <ul style="list-style-type: none"> <li>• R1: 1 units per 2,400 sq. ft. of site area</li> <li>• R2: 1 units per 1,600 sq. ft. of site area</li> <li>• R3: 1 units per 800 sq. ft. of site area</li> </ul>	Up to 50% increase from maximum density.

#### Approval Process (City of Portland)

- The amount of bonus for each option is a result of balancing several factors:
  - The likelihood that the amenity will be provided without the use of incentives;
  - The potential cost to the developer; and
  - The importance of the amenity.

#### Lessons Learned (Interview) (City of Portland)

##### Is the program working the way you envisioned?

Our code went through a significant change on 5/24/18. The bonuses changed. In the old code we had many projects use the easy bonuses (energy efficiency, sound insulation, crime prevention), but fewer of the other options were used very much.

## Community Benefit Case Studies

### Have any projects used the program? If so, how did the process work?

Yes, as documented through building permits through code provisions in the section (33.120.265).

### How receptive were applicants to the incentives?

Usually people want bonuses to increase density, which conflicted with some of the bonuses (e.g. larger outdoor play areas, tree preservation, etc.) so there was sometimes an inherent conflict, meaning they were used most frequently on larger greenfield sites, not urban infill or smaller sites.

### What is the ease of administering the program?

Pretty easy when used – just adding information or additional documentation to the permit drawings – checked by the planner during permitting.

### What else should we know about your program, what would you have done differently, and anything else that we should be thinking about with our study?

Our bonuses have been re-tooled, but are similar. City Council has prioritized affordable housing over other options lately. You might contact the Bureau of Planning and Sustainability (the folks who write our zoning codes – Bureau of Development Services implements their rules) for additional or more detailed feedback.

### *Community Benefits (City of Portland)*

Community Benefits	Metric	Additional Criteria
<b>Outdoor Recreation Facilities</b> May include a tennis or basketball court, ball field, swimming pool, horseshoe pit, gazebo, permanent picnic tables, and similar items.	The density bonus is 2 percent for each 1/2 of 1 percent of the overall project development cost spent on outdoor recreation facilities. There is a maximum of 10 percent density increase allowed for this bonus.	
<b>Children’s Play Areas</b> Requirements include size, layout, play equipment and fencing standards: Min. of 1000 square feet, of which 400 square feet in grass. A play area of at least 100 square feet is required. The play area must be fenced according to the regulations.	5% for a qualifying children’s play area.	
<b>Three Bedroom Units</b>	A bonus of 5 percent is allowed if 10 percent of the development's units have at least 3 bedrooms. A bonus of 10 percent is allowed if 20 percent or more of the development's units have at least 3 bedrooms. If between 10 percent and 20 percent of the units have	

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Community Benefits	Metric	Additional Criteria
	at least 3 bedrooms, then the bonus is prorated.	
<p><b>Storage Areas</b> Requirements include dimensional requirements for interior storage (kitchens, bedrooms, linen closets, entries) and enclosed storage for larger items.</p>	5% if all units area provided with interior storage and additional storage for large items.	
<p><b>Sound Insulation</b> Interior noise must be reduced from adjacent dwellings, outdoors and especially from busy streets. Regulations list three ways to achieve this.</p>	10% density bonus.	
<p><b>Crime Prevention</b> The bonus is allowed if all units have security features which comply with items 1 through 6 of the Residential Security Recommendations of the Portland Police Bureau. In addition, exterior lights which comply with the lighting standards of the Crime Prevention Division of the Portland Police Bureau must be provided.</p>	10% density bonus.	Development plans must be certified by the Crime Prevention Division of the Portland Police Bureau as complying with these provisions
<p><b>Solar water heating.</b> The bonus is allowed if solar-heated water is provided to all units. Systems may be active or passive. Systems must qualify for the Oregon State solar energy tax credit or be rated by the Solar Rating and Certification Corporation (SRRC).</p>	5% density bonus	Applicants must provide documentation that the provisions are met.
<p><b>Larger required outdoor areas.</b> To qualify for this amenity, at least 96 square feet of outdoor area is required for each dwelling unit. All other outdoor area standards must be met (33.120.240).</p>	5% density bonus	

## Community Benefit Case Studies

Community Benefits	Metric	Additional Criteria
<p><b>Tree preservation.</b> The density bonus that may be received for each tree that is preserved in addition to those required to be preserved on the site is shown in Table 120-6</p>	<p>Development proposals that preserve more than the required number or percentage of the trees on the site may receive up to a maximum of 10 percent density bonus. The exact amount of bonus is based on tree diameter:</p> <ul style="list-style-type: none"> <li>• 12-20 inches: 2% density bonus</li> <li>• 20-36 inches: 3% density bonus</li> <li>• 36+ inches: 5% density bonus</li> </ul>	

### *Other Requirements*

- The applicant must sign a covenant that ensure the amenities provided to receive any bonus density will continue for the life of the project.

**Case Study 6**  
 ⇒ **City of Ottawa, Canada: Section 37- Community Benefits**

**Program Summary**

The Province of Ontario, Canada passed enabling legislation in 2003 entitled Section 37 that enables cities to adopt guidelines, plans and processes to require community benefit in exchange for additional density and height. The city of Ottawa has passed such a section that requires community benefit for projects over 75,000 square feet or if the density is more than 25% of the by-right density. Guidelines for the process and a list of community benefits have been developed and each project is handled on a case by case basis. Some localized plans specify needed community benefits for individual neighborhoods. Ultimately, the city must determine the “uplift value” which is the increase in value offered by the increased density or size and then determine an appropriate, equivalent community benefit. The benefit must be found to have a rational nexus to the impacts of the development. Otherwise, it can be determined to be an illegal tax. The review and preparation of a negotiated agreement involves reviewing each proposal against a number of precedent Canadian law cases related to community benefit, many of which are from the city of Toronto that pioneered the community benefit laws.

**Community Benefit Triggers (City of Ottawa)**

Trigger	Base Maximum	Bonus Maximum
Floor Area	Project is greater than 75,000 square feet in size (7,000 square meters)	Not specified
Density	More than by-right density permitted	25% of base density

**Approval Process (City of Ottawa)**

Development proposals that are larger than the thresholds above are required to be reviewed under Section 37 and are subject to the city’s adopted Community Benefit guidelines. It is a negotiated process where the city determines the uplift value and then works with the developer on a community benefit that is commensurate with the value of the uplift. Typically, developers and staff work with Ward members on benefits that are needed in a particular ward of the city. The final product is an enforceable agreement between the city and developer.

**Lessons Learned (Interview) (City of Ottawa)**

**Is the program working the way you envisioned, when was it implemented?**

Yes. There are significant community benefits that have been realized in conjunction with permitted increases in height and density (that prior to this program, were being approved anyways, as they represented good planning).

**Have any projects used the program? If so, how did the process work?**

This is referenced in the guidelines, but in a nutshell, here are the steps:

## Community Benefit Case Studies

- Planners and applicants determine if the project is big enough to trigger a Section 37 contribution
- planners work directly with applicants to agree on what the uplift value is (the difference between permitted and proposed floor area times the uplift value rate/square metre)
- there is then negotiation to determine “draw down” factors of the proposal, or things that are Section 37 like in nature that warrant a reduction in the actual Section 37 contribution
- a value is agreed upon for the Section 37
- the Ward Councillor determines which project they would like the Section 37 funds allocated towards
- these details form part of the zoning by-law that is recommended to Council for approval

Here is what has been constructed to date through Section 37/Section 41 contributions:

- The Hickory Street Pedestrian Bridge
- Jack Purcell Park improvements

Here is what we have received funds towards:

- Ward 14 affordable housing
- Ward 14 streetscaping improvements
- Traffic calming measures in the Civic Hospital Neighbourhood
- Nanny Goat Hill Community Garden

Here is what we are still anticipating funds for:

- Rear lane improvements
- Public art
- Ward 14 streetscaping Improvements
- A community fund for the Tom Brown Arena
- Sir Wilfred Laurier Park improvements
- Jules Morin Park improvements
- MacDonald Gardens Park improvements
- Ward 12 streetscaping improvements
- Beacon Hill Community Centre improvements
- Ken Steele Park improvements
- Eugene Forsey Park improvements
- Dalhousie South Park improvements
- Ward 15 affordable housing
- Lions Park Puddle Rink Infrastructure
- Ward 15 Cycling improvements

This does not include Section 37 draw down elements that were accomplished on site (such as on-site new public parks), which would be captured through Site Plan Agreement conditions, but the above are financial contributions towards off-site improvements. We have taken in a total of \$3,780,102 towards off-site benefits, and there is a total of \$9,587,524 committed through zoning approvals and in various stages.

## Community Benefit Case Studies

### **How receptive were applicants to the incentives?**

They were, of course, not receptive to having to contribute a portion of their development proceeds. However, we have learned that the biggest concern from the development industry is fairness, so once the guidelines were established, they have generally become accepted as part of the development process.

### **What is the ease of administering the program?**

I am the Section 37 co-ordinator, in addition to being a Senior planner in the Central Area. Section 37 administering takes up probably only 5% of my time, but we have staff in legal, and finance who are also involved in tracking projects, writing agreements, etc.

### **What else should we know about your program, what would you have done differently, and anything else that we should be thinking about with our study?**

There are many municipalities that are administering similar programs. Toronto was the city that we initially modelled our program after. Be aware that members of the public may view this as a form of bribery, cash in exchange for bigger projects. However, we feel that good planning with increased height and density was being approved previously and the Section 37 program allows the community to receive directly related beneficial projects where the city doesn't have the money to proceed with them without the program.

## Community Benefit Case Studies

### *Community Benefits (City of Ottawa)*

<b>Community Benefits</b>	<b>Metric</b>	<b>Additional Criteria</b>
Public cultural facilities	Negotiated	
Building design and public art	Negotiated	
Conservation of heritage resources	Negotiated	
Conservation/replacement of rental housing	Negotiated	
Provision of new affordable housing units; land for affordable housing or cash in-lieu (applicant discretion)	Negotiated	
Child care facilities	Negotiated	
Improvement to rapid transit stations	Negotiated	
Local improvements as identified in community design plans, community improvement plans, capital budgets etc.	Negotiated	
Artist live-work studios	Negotiated	
Energy conservation and environmental performance measures	Negotiated	
Conservation of existing greenspace or creation of new greenspace	Negotiated	



### Case Study 7

#### ⇒ City of Palo Alto, CA: Public Benefits through Planned Community Zoning

##### *Program Summary*

A property owner or developer can request their property be re-designated to the [Planned Community \(PC\) zoning district](#). This is typically done as a way to seek approval of desired uses and site-specific development standards, but in exchange, the property owner or developer must provide a “public benefit” that serves the greater community. While the PC zoning remains in Palo Alto’s zoning code, the local Council has in fact put a de-facto moratorium on the PC zone district and it’s no longer an option for applicants at this time.

##### *Reform Efforts*

Many view the PC process as too opaque and lacking of standards. Others criticize it as too transactional, allowing neighborhood impacts to be “traded” for benefits that accrue to those outside the immediate vicinity. Concerns have been raised about overuse of the PC process and proliferation of buildings that do not comply with underlying zoning. Concerns have also been raised about the inadequacy of the public benefits. Finally, the ad hoc nature of each separate negotiation has contributed to community concerns about the lack of a coherent set of values or vision for the future. As a result, the Council has eliminated the PC zoning district as a development option they are willing to consider, creating a de facto moratorium for the PC zone districts.

Since the early 1950’s the City of Palo Alto has been using PC Zoning to enable the use of particular properties in a manner not specifically addressed in the City’s zoning districts. The use of PC Zoning has allowed the community to be responsive to the opportunities presented by quickly changing needs and values. Examples of this flexibility include mixed residential and commercial development, pre-zoning of properties annexed to the city, and the desire to retain certain specific neighborhood strengthening land uses such as grocery stores.

Regarding housing, a study of the city regulations and market climate has concluded that “oftentimes the density of an affordable housing project needs to be more than the base zoning in order to be financially feasible. This is especially true in communities such as Palo Alto that have robust design guidelines.”

## Community Benefit Case Studies

### *Community Benefit Triggers (City of Palo Alto)*

Trigger	Base Maximum	Bonus Maximum
Density over base maximum	Dependent on zoning district	<p>The city shall grant a 20 percent (20%) density bonus when an applicant for a development of five (5) or more dwelling units seeks and agrees to construct at least any one of the following in accordance with the requirements of this Section and Government Code Section 65915:</p> <ul style="list-style-type: none"> <li>(i) At least 10 percent (10%) of the total dwelling units of the development as restricted affordable units affordable to lower income households. For each one percent (1%) increase in the percentage of restricted lower income units, a development will receive an additional one and one-half percent (1.5%) density bonus up to thirty-five percent (35%) of the maximum residential density; or</li> <li>(ii) At least five percent (5%) of the total dwelling units of the development as restricted affordable units affordable to very low income households. For each one percent (1%) increase in the percentage of restricted very low income units, a development will receive an additional two and one-half percent (2.5%) density bonus up to thirty-five percent (35%) of the maximum residential density; or</li> <li>(iii) A senior citizen housing development; or</li> <li>(iv) A qualifying mobile home park; or</li> </ul>
Request to rezone to Planned Community zoning		See findings in "Approval Process" below.

### *Approval Process (City of Palo Alto)*

An application for rezoning to a PC district can be submitted for any type of project for any given zone or area in the City as long as it follows the city's application process. In practice, the City has recently added a number of additional procedural steps, including an early check-in with the City Council prior to initiation of a PC project by the PTC, and more recently, the City Manager directed that PC's have an independent third party assessment of value and benefit. The zoning code includes a requirement that, "development of the site under the provisions of the PC planned community district will result in public benefits not otherwise attainable by application of the regulations of general districts or combining districts." As stated, the process has received criticism for its unpredictability and a system that may not adequately economically weigh public benefits against the zoning.

## Community Benefit Case Studies

The following findings must be made to establish a PC zoning district:

- (a) The site is so situated, and the use or uses proposed for the site are of such characteristics that the application of general districts or combining districts will not provide sufficient flexibility to allow the proposed development.
- (b) Development of the site under the provisions of the PC planned community district will result in public benefits not otherwise attainable by application of the regulations of general districts or combining districts. In making the findings required by this section, the planning commission and city council, as appropriate, shall specifically cite the public benefits expected to result from use of the planned community district.
- (c) The use or uses permitted, and the site development regulations applicable within the district shall be consistent with the Palo Alto Comprehensive Plan, and shall be compatible with existing and potential uses on adjoining sites or within the general vicinity.

Requests for density bonuses for affordable housing or childcare facilities are reviewed separate from the PC rezoning process.

### ***Lessons Learned (Interview) (City of Palo Alto)***

**Is the program working the way you envisioned? Based on our brief phone call - No. The city council has in fact created a de facto moratorium of the PC zoning, as the system was too opaque and inconsistent in its application and in the benefits produced. The community has not been in support of PC zoning either.**

Correct. While I was not working for the City of Palo Alto at the time, I think blogs such as [this](#) reflect some of the feelings being expressed by more outspoken residents regarding the PC process (note that this is one-sided view so the described benefits in this article may or may not be the complete facts). [This](#) article provides some basic background about the PC process within the City and the decision by Council to implement a moratorium because it was not working entirely as envisioned.

### **What were/are the issues with PC zoning, when was the decision made to no longer consider the PC zoning, and any plans going forward to revise/replace the PC zoning?**

The issue was that people felt that the benefit to developers exceeded the benefit obtained by the public. The decision was made in October 2014 to place a moratorium on the PC process but NOT to scrap the code section. While they discussed fixing it, that is not currently a priority for Council.

However, I will note that it seemed like one key concern in getting rid of/putting a moratorium on PC Zoning was the fact that it allowed for increased density for residential projects, particularly affordable projects. As I'm sure you are well aware that housing is one of our key issues both in California and more particularly in the Bay Area, we did include in the Housing Element text that stated the following:

*"If the PC code is removed, the City will replace the PC zone with another mechanism that would provide the same affordable housing opportunities. A possible substitute or mechanism could be*

## Community Benefit Case Studies

*an Affordable Housing Overlay (AHO). The AHO could be designated in areas identified as appropriate for affordable housing projects. If a developer chooses to develop within the AHO, the developer could receive incentives or additional benefits such as greater density and other modifications to encourage affordable housing development.” (Housing Element p. 109)*

This year we passed code amendments adding two new Combining Districts (the [affordable housing combining district](#) and the [workforce housing combining district](#)) in an effort to create incentives for housing projects in transit-oriented areas. The way we have designed these for our purposes is that the applicant still needs to request a rezoning of their property to add the combining district as an overlay to their site, which in turn allows them to use the development standards of that overlay. This gives less flexibility than a PC obviously but allows for increased GFA, higher density, or whatever other benefits you may be looking to offer while still giving the Planning Commission and/or Council the authority to determine whether that site would be an appropriate location for those incentives.

### **Have any projects used the program? If so, how did the process work?**

There were approximately 100 developments that used the PC process. The final PC that was approved by Council was actually added to a referendum and, through an election process, was overturned. This, in conjunction with several other large PC's that were in process at the time caused enough of a stir for our Planning Commission and Council to reconsider the PC process. So with the caveat that there were several good projects (affordable housing in particular) that were approved through this process, the general feeling at the time was that the process needed improvements.

### **How receptive were applicants to the incentives? The public?**

My understanding is that there were a number of large projects seeking to rezone to PC, so generally I think they were very receptive. The public, it seems, felt that they were not getting sufficient benefits that were equivalent to the benefits that the developer received.

### **What is/was the ease of administering the program?**

N/A

### **What else should we know about your program, what would you have done differently, and anything else that we should be thinking about with our study?**

See additional info above. It seems that at some point there will be direction from Council to come forward with amendments to improve the process. It seems as though the biggest issue would be to resolve what determines the adequacy of the public benefit being offered/approved and how we better enforce the full retention of those benefits to the public once constructed.

## Community Benefit Case Studies

### Community Benefits (City of Palo Alto)

Community Benefits	Metric	Additional Criteria
<p><b>Below market rate housing units</b></p>	<p>The city shall grant a 20 percent (20%) density bonus when an applicant for a development of five (5) or more dwelling units seeks and agrees to construct at least any one of the following in accordance with the requirements of this Section and Government Code Section 65915:</p> <p>(i) At least 10 percent (10%) of the total dwelling units of the development as restricted affordable units affordable to lower income households. For each one percent (1%) increase in the percentage of restricted lower income units, a development will receive an additional one and one-half percent (1.5%) density bonus up to thirty-five percent (35%) of the maximum residential density; or</p> <p>(ii) At least five percent (5%) of the total dwelling units of the development as restricted affordable units affordable to very low income households. For each one percent (1%) increase in the percentage of restricted very low income units, a development will receive an additional two and one-half percent (2.5%) density bonus up to thirty-five percent (35%) of the maximum residential density; or</p> <p>(iii) A senior citizen housing development; or</p> <p>(iv) A qualifying mobile home park.</p>	
<p><b>Senior Housing</b></p>	<p>Same as above</p>	

## Community Benefit Case Studies

Community Benefits	Metric	Additional Criteria
<b>Childcare Facilities</b>	<p>All grant either:</p> <ul style="list-style-type: none"> <li>(i) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the square footage of the child care facility; or</li> <li>(ii) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.</li> </ul> <p>(b) The city shall require, as a condition of approving the development, that the following occur:</p> <ul style="list-style-type: none"> <li>(i) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the restricted affordable units are required to remain affordable pursuant to Section 18.15.040. In the event the childcare operations cease to exist, the Director of Planning and Community Environment may approve an alternative community service use for the child care facility.</li> <li>(ii) Of the children who attend the child care facility, the children of very low, lower and moderate income households shall equal a percentage that is equal to or greater than the percentage of restricted affordable units in the development that are required for very low, lower and moderate income households pursuant to Section 18.15.030.</li> </ul> <p>(c) Notwithstanding subsections (a) and (b) above, the city shall not be required to provide a density bonus or a concession or incentive for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.</p>	
<b>Pedestrian Oriented landscaping</b>	Negotiated	
<b>Various kinds of public parking</b>	Negotiated	
<b>Public Art</b>	Negotiated	
<b>Annexations</b>	Negotiated	
<b>Donations including for housing, parking, childcare trust fund, an endowment, finance benefits to residents of the project</b>	Negotiated	

## Community Benefit Case Studies

Community Benefits	Metric	Additional Criteria
Historic Preservation	Same	
Land uses including public storage, grocery store (4), emergency veterinary services	Same	
Public access including sidewalks	Same	

### ***Other Requirements***

Less frequently accepted public benefits were:

- Electric Vehicle (EV) charging stations
- Senior Health Care
- Dwelling units
- Commercial Display Pads
- Traffic Impact Fee
- Right-of-way dedications/public street
- Street lights
- Child care facility
- Park land dedication
- Sales tax from additional hotel rooms
- Eliminating land use conflicts
- Improve traffic flow and TDM

### Case Study 8

#### ⇒ City of Redwood City, CA: Partnership Redwood City

##### *Program Summary*

The City has recently initiated a community program called “Partnership Redwood City.” This program is intended to find new and creative ways to form working relationships within the community to achieve City goals such as improved transportation systems, parks, schools, and affordable housing for the community. The City’s partners include Redwood City businesses, community groups and residents, and developers and property owners. In early 2014, Council directed staff to begin a community benefits study related to new development, which would be one aspect of the “Partnership Redwood City” program. The study purpose included identifying potential incentives and benefits for developers and property owners to achieve their goals of developing their property, while also achieving broader community goals identified by residents and other community members.

The “Community Benefits” Program framework involves three major prongs:

1. Updated Development Fees and Development Requirements (City-Wide)
2. Onsite Community Improvements Incentives (Plan/Zoning Based)
3. Community Fund Incentives (Plan Based)

##### 1. Updated Development Fees and Requirements (City-wide)

In order for a city to adopt any development fee, a “nexus” for the fee must be established. In other words, the fee can only be imposed to offset a direct impact of a development. The nexus for fees are typically established as a result of an economic study. Currently the Partnership Redwood City collects the following impact fees to support the respective community benefit: Affordable Housing, Public Art, Park Impact Fee, Transportation and Parking, and Parks Impact Fee.

##### 2. Precise Plans with incentives “Onsite Community Improvements”:

Much of the City’s existing and future development is expected in concentrated areas near Downtown, El Camino Real or East of the 101. These areas have area-specific plans or zoning requirements that govern development, including any additional community benefits that are needed in those areas.

- A. Inner Harbor Precise Plan This plan will have an integrated program of Community Benefits. Adoption is expected in Summer 2015.
- B. El Camino Real Corridor Plan This proposed plan could have a variety of community benefit requirements. Start of work is expected in Spring 2015, with project continuing through Spring 2016.
- C. Downtown Precise Plan Phase 2 Phase 2 of this plan would have an integrated development “tier” system that would require higher levels of community benefits based on development intensities. Timeline not yet determined.

##### 3. Community Fund

During the process of creating the Partnership Redwood City program, various programs and needs were identified that needed support but did not fall within an impact fee or “onsite community improvement” framework. The Council saw the opportunity to fund these programs via Partnership



## Community Benefit Case Studies

Redwood City. To date, six developments have contributed to the Community Fund, paid in-lieu fees or provided other monetary contributions directly to local non-profit organizations totaling more than \$27,350,000 through the Partnership Redwood City Program. The Community Fund has received \$4 million dollars to date. Later this year, the City Council will establish policies and guidelines for the distribution of the funds in the Community Fund. Examples of programs the community would like to see funded include: Afterschool Programs, Bike Share Program, Community Facilities, Community Projects, Community and Arts Events, Job Training and Apprentice Programs, Education Foundation, Façade Improvements, Recreation Programs and Community Wide Shuttle services. These community priorities could be funded through the establishment of a Community Funds.

Similar to onsite community improvements, a developer is only able to maximize the zoning potential when they make contributions to the community funds. Funds are typically received through development agreements and other mechanisms.

### ***Community Benefit Triggers (City of Redwood City)***

<b>Trigger</b>	<b>Base Maximum</b>	<b>Bonus Maximum</b>
New building square footage in the Community Benefit Improvement District		
New Affordable or senior housing		
Height above 4 stories	4 stories/50 feet	6 stories/85 feet
Conversion of apartments to condominiums in Gateway areas		125 foot height bonus

### ***Approval Process (City of Redwood City)***

Redwood City uses the term Maximum Allowable Development (MAD), which is determined by the underlying zoning or in the case of Downtown, a Precise Plan, which is a hybrid of zoning and area plan for the downtown. City Council is required to be notified when any development is 80% of the MAD. Different requirements are implemented through the development review process dependent on where the project is located.

### ***Lessons Learned (Interview) (City of Redwood City)***

#### **Is the program working the way you envisioned?**

Generally, yes. But important to remember we don't want to cost burden the developer with so many additional requirements, that the incurred cost prevents the development from happening at all. Benefits should be realistic and attainable. Some of the educational benefits take an inordinate amount of staff time implementing and tracking them. Reasonable bonus menu options would be ideal to provide certainty and clarity to the development community. Should also acknowledge that the positive economic impact of a given project is a community benefit in-and-of itself.

We are currently without a permanent manager of the Partnership, and are not able to provide more detailed information on the program at this time.

## Community Benefit Case Studies

### *Community Benefits (City of Redwood City)*

Community Benefits	Metric	Additional Criteria
<b>Permanently affordable or senior housing</b>	A minimum of 5 units and agree to a “specified percentage” of affordable or senior housing can permit at least 25% density bonus	
<b>Permanently moderately affordable housing</b>	At least 20% of units in a condominium project are reserved for moderate-income households can permit a 10% density bonus	
<b>Specified design and development features</b> in certain zoning districts	Bonus floor area ratio to encourage development along specific corridors	
<b>Electronic equipment facilities</b>	30% floor area ratio bonus	Upper floor setbacks from adjacent streets and Redwood Creek
<b>Mixed-Use development</b> with ground floor retail or restaurants, open space, new streets	Height bonus	Stringent step down requirements by residential
<b>Conversion of apartments to condos</b> in Gateway areas	Allows up to a 125 feet height bonus	

## Case Study 9

### ⇒ City of Santa Monica, CA: Community Benefit Program & Land Use and Conservation Element

#### Program Summary

Santa Monica has done extensive research on community benefit. A white paper entitled [Community Benefits and Incentives](#) raises many issues that are relevant to the city of Boulder. Their zoning code includes a specific section on [community benefit](#).

To attain community benefit, Santa Monica has implemented a [Land Use and Conservation Element \(LUCE\)](#), which establishes three approval tiers or procedural tracks to regulate development that are tied to the type, location, and level of development. The tiers provide for administrative (staff level) or by-right approval of projects that meet all applicable requirements and do not exceed the base standards and two discretionary tiers, both of which require applicants to provide community benefits in order to receive approval to increase the project’s height and/or floor area.

#### Community Benefit Triggers (City of Santa Monica)

Trigger	Base Maximum	Bonus Maximum
Floor Area Ratio, or building height, or density increase per zone) – e.g., 1.25, 1.5 FAR, 2 stories, or 2,000 parcel area square feet per unit	<p><b>Tier 1 Base Standard:</b></p> <p>Multi Unit Residential Districts: Varies by district: generally 2 – 3 stories and 30 feet height; Min. parcel size per unit : 1,250-2,000 square feet</p> <p>Commercial and Mixed Use Corridor Districts: Varies by district: generally 1 - 1.25 FAR, 2 stories and up-to 32 feet height; Max. Building footprint: 10,000 - 25,000 square feet</p> <p>Employment Districts: Varies by district: generally 1 - 1.5 FAR, 2 - 3 stories and 32 - 45 feet height</p> <p>Oceanfront District: generally .5 - 1.5 FAR, 2 stories and 23 - 32 feet height</p>	<p><b>Tier 2 with provision of Community Benefits</b></p> <p>Multi Unit Residential Districts: Varies by district: 1 additional story and up-to 45 total feet in height; Min. parcel size per unit: down-to 900 square feet</p> <p>Commercial and Mixed Use Corridor Districts: Varies by district: generally 1.5 – 2.25 FAR (FAR up-to 2.75 available if providing 100% affordable housing), no limit to stories and up-to 50 feet height; Max. building footprint: 15,000 - 35,000 square feet</p> <p>Employment Districts: Varies by district: generally 1.75 – 2.5 FAR (additional FAR available if providing 100% affordable housing), 3 - 5 stories and 45 - 70 feet height (additional stories only available if providing 100% affordable housing)</p> <p>Oceanfront District: 2.0 FAR (FAR up-to 2.25 available if providing 100% affordable housing), 3 stories and up-to 47 feet height (additional stories only available if providing 100% affordable housing)</p>

## Community Benefit Case Studies

### ***Approval Process (City of Santa Monica)***

A core principle underlying Santa Monica's 2010 LUCE is the importance of ensuring that medium- and larger-sized development will provide benefits to the community through a "Tier" structure of project review.

Tier 1 - allows smaller buildings through ministerial (staff-level) review,

Tier 2 - requires community benefits and allows medium-sized buildings with Planning Commission review, and

Tier 3 - requires additional community benefits and allows the largest size of development through a City Council-reviewed Development Agreement.

Projects eligible for Tier 2 will typically be subject to a Conditional Use Permit while Tier 3 projects require the developer to enter into a development agreement with the City. In most commercial areas of the City, including the major boulevards such as Wilshire Boulevard and portions of Lincoln and Santa Monica Boulevards, Tier 1 allows buildings up to 32 feet (two stories) through a ministerial process (i.e. by right). The maximum FAR varies from 1.25 to 1.5 depending on the area. (See LUCE pp. 2.133 to 2.1-39) Projects that include affordable housing on-site in compliance with the City's existing Affordable Housing Production Program or within close proximity to transit corridors are eligible for a four- to seven-foot height bonus, allowing for an additional floor of housing.

Under Tier 2 procedures, projects may request building heights up to 60 feet and up to 3.0 FAR (depending on the area and the amount of housing provided) if they provide community benefits subject to discretionary review. Applicants that propose heights or floor area ratios that exceed the Tier 2 standards must also provide additional benefits that are established in a development agreement that is negotiated through a process the City establishes subject to State and local law. Several land use designations have a lower base height (Tier 1), a lower maximum height for Tier 2, and no Tier 3 with some specific exceptions.

The city of Santa Monica also uses in-lieu fees and case-by-case negotiation through development agreements to achieve community benefits for the city.

### ***Lessons Learned (Interview) (City of Santa Monica)***

#### **Is the program working the way you envisioned, when was it implemented?**

The new regulatory tiered system was adopted in 2015. Yes, it's resulting as envisioned thus far, providing more predictability and certainty for the public and the development community.

#### **Is there a 3<sup>rd</sup> Tier in effect?**

Yes, the 3<sup>rd</sup> Tier exists as an option for limited areas of the city, such as Bergamot Station. It is a negotiated community benefit. 3<sup>rd</sup> Tier projects must be consistent with the applicable land use policies and plans and implement their goals. This includes areas where nexus studies have been completed that support the corresponding community benefit requirements (for Tier 2 as well).

#### **Have any projects used the program? If so, how does the process work and is it working well?**

Approximately 15-20 projects have used the regulatory (tiered) system community benefit system. The majority of development projects in Santa Monica are residential developments, thus affordable

## Community Benefit Case Studies

housing has been the primary community benefit provided by these projects. The community benefit review is integrated into the project review process. All community benefit projects require Planning Commission approval, although the Tier 2 community benefit review is simply perfunctory.

### How receptive were applicants to the incentives?

So far they are open to them - affordable housing bonus requirements are reasonable and the development community readily utilizes them. Given the Santa Monica market, the city can require 20% additional on-site affordable units without issue within the regulatory Tier 2 system. Affordable housing is the top incentive being utilized along with the augmented fees.

### What is the ease of administering the program?

Integrated into the development review process, relatively straightforward. The city, department and other officials recognize that the regulatory tiered system is a tradeoff, accepting that it's not perfect (but no system is), but allows regulatory, community benefit, and economic simplicity that is readily implemented. The regulatory program was based on prototypes of what was feasible, versus a perfect (but impractical) solution based on a pro-forma for every site and development application.

### What else should we know about your program, what would you have done differently, and anything else that we should be thinking about with our study?

Coming from a system where decision-makers are used to negotiating for every benefit on a case-by-case basis, there was a little initial discomfort with knowing if the city got enough with development projects. Planning thus encourages decision makers that it should be looked at through the lens of implementing the policies, plans and goals of the city, rather than extracting as much as the city can for development on a case by case basis. The regulatory approach provides more predictability for the city, the public and the development community. Community benefit programs should be prioritized based on the primary goals of the city's policies and plans, and should be upfront on the policies and overarching goals the program is implementing.

### Community Benefits (City of Santa Monica)

<b>Community Benefits</b>	<b>Metric</b>	<b>Additional Criteria</b>
<b>Affordable &amp; Workforce Housing</b>	-At least 50% more affordable housing than state density bonus amount -On-site affordable to 30%, 50% or 80% AMI households	-May be off-site -On-site requires a specific unit mix Applicants proposing non-residential and mixed-use projects shall pay a housing mitigation fee 14 percent above the base Affordable Housing fee
<b>Trip Reduction &amp; Traffic Management</b>	-Non-residential projects must pay for 75% the cost of a regional transit pass and provide free bike valet	

## Community Benefit Case Studies

<b>Community Benefits</b>	<b>Metric</b>	<b>Additional Criteria</b>
	Residential projects must 75% the cost of a regional transit pass and provide free on-site bike share	
<b>Transportation Impact Fee</b>	-Tier 2 projects must pay 14% above the base Transportation Impact fee	
<b>Open Space</b>	-Tier 2 projects must pay 14% above the base Open Space Fee (OSF), or provide publicly accessible open space that complies with requirements of the ordinance	7,500 square foot minimum, and other size, function, design and operation requirements.
<b>Community Physical Improvements; childcare</b>		Tier 3
<b>Social and Cultural Facilities</b>	Same as above	Tier 3; negotiated
<b>Historic Preservation</b>	Same as above	Tier 3; negotiated

### **Other Requirements**

*In lieu fees* - The City of Santa Monica also accepts in-lieu fees for community benefits. The city places an emphasis on supporting affordable housing, childcare, park space, and the arts and existing regulatory fees reflect this emphasis. These fees are intended to mitigate the impacts of certain development projects, to require private development to provide specific community benefits, and to provide incentives for specific types of development in addition to the incentives for building affordable housing available under State law. The childcare linkage fee (SMC Section 9.72.040) was enacted under the MFA but the general and medical office fee predates the State law. The office fee program, applicable to projects that include more than 15,000 square feet of new general or medical office development or more than 10,000 square feet of additions to existing development, require developers to pay impact fees or provide low and moderate-income housing or new park space (SMMC Part 9.04.10.12). The City also imposes a transportation management fee (SMC Sections 9.16.050), which will be incorporated in an expanded multimodal transportation impact fee on new development under the LUCE.

*Development Agreements and Community Benefits* - To a greater extent than many other California cities, Santa Monica uses development agreements for larger projects and proposes to continue to do so under the LUCE to negotiate optimal community benefits. The major advantage of the development agreement process is that is flexible. It allows for a broad range of potential benefits that are relevant for the site and district, and permits both the applicant and the City to ask for specific benefits or bonuses that meets both parties' objectives and are not subject to the same constraints applicable to quasi-judicial actions. On the other hand, the process is time-consuming and subject to case-by-case negotiation.

### Case Study 10

#### ⇒ City of Santa Barbara, CA: Community Benefit Projects and Average Unit-Size Density Program

##### *Program Summary*

The City of Santa Barbara's [Nonresidential Growth Management Program ordinance](#) was adopted in 2013, out of the 2011 General Plan update and the city's original 1989 requirement that strictly limited new development square footage over time. The new ordinance limits non-residential construction projects to 1.35 million square feet through 2033, allocating 600,000 for Community Benefit Projects eligible in the Downtown and Airport Development Areas of the city. Applicants may request approval of a "Community Benefit Project" (defined below) in order to use the square footage allocation available for redevelopment (as opposed to small building additions up to 2,000 SF, or vacant property). The allowable 1.5 million SF floor area is allocated from the following categories:

- Community Benefit 600,000 SF
- Small Addition Floor Area 400,000 SF
- Vacant Property 350,000 SF

A project which has been designated by the City Council as satisfying one or more of the following categories is a Community Benefit Project:

1. **Community Priority Project.** A project which has been designated by the City Council as satisfying one or more of the following categories is a Community Benefit Project: 1. Community Priority Project. A Community Priority Project is a project that has a broad public benefit, is not principally operated for private profit, and is necessary to meet a present or projected need directly related to public health, safety or general welfare (e.g., museums, childcare facilities, health clinics).
2. **Economic Development Project.** An Economic Development Project is a project that is consistent with the City Charter, General Plan and this Title, will enhance the standard of living for City and South Coast residents, and will strengthen the local or regional economy by either creating new permanent employment opportunities or enhancing the City's revenue base. An Economic Development Project should also accomplish one or more of the following:
  - a. Support diversity and balance in the local or regional economy by establishing or expanding businesses or industries in sectors which currently do not exist on the South Coast or are present only in a limited manner; or
  - b. Provide new recreational, educational, or cultural opportunities for City residents and visitors; or
  - c. Provide products or services which are currently not available or are in limited supply either locally or regionally; or
  - d. Support a small and local business in the Santa Barbara community which is being started, maintained, relocated, redeveloped or expanded.

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For purposes of this Section, "standard of living" is defined as wages, employment, environment, resources, public safety, housing, schools, parks and recreation, social and human services, and cultural arts.

3. **Planned Development – New Automobile Sales Project.** A Planned Development – New Automobile Sales Project is a project within a Planned Development zone that proposes a project involving new automobile sales, rental and leasing as allowed in Chapter 28.39 of this Code. (Automobile Sale projects are included as a community benefit as they are responsible for a large amount of the city’s sales tax revenue)

The City of Santa Barbara also has a unique housing bonus for projects by allowing increased density in exchange for smaller sized multi-family units. [An Average Unit-Size Density Ordinance](#) (AUD) was adopted in 2013 and carries out a key implementation action of the 2011 General Plan. The AUD incentive program allows for increased density in exchange for providing smaller rental housing units, that in theory, are then priced at workforce housing rates. The program is set for an eight year trial period or until 250 units have been constructed. Projects with very-low or low income housing are not included as part of the AUD program.

### ***Community Benefit Triggers (City of Santa Barbara)***

<b><i>Trigger</i></b>	<b><i>Base Maximum</i></b>	<b><i>Bonus Maximum</i></b>
Non-Residential Community Benefit Program: Any redevelopment adding more than 2,000 square feet, or wholesale redevelopment of an existing building, or transfer of development rights	Static development/existing footprint	Development and allocation of square footage to allow redevelopment up to the base zoning maximums.
Average Unit-Size Density (AUD) Incentive Program projects: Density over the base zoning - dwelling units per acre	12 DU/acre	Medium - High Density Tier: 15-27 du/acre  High Density Tier: 28-36 du/acre  Priority Housing Overlay: 37-63 du/acre

### ***Approval Process (City of Santa Barbara)***

Projects are subject to Planning Commission review of a Development Plan and approval by the Architectural Review Board, and must meet the following criteria:

1. ***Demonstrated Need.*** The applicant has adequately demonstrated a need for the project to exceed 45 feet in height that is related to the project’s benefit to the community, or due to site constraints, or in order to achieve desired architectural qualities;
2. ***Architecture and Design.*** The project will be exemplary in its design;



## Community Benefit Case Studies

3. *Livability*. If the project includes residential units, the project will provide amenities to its residents which ensure the livability of the project with particular attention to good interior design features such as the amount of light and air, or ceiling plate heights; and
4. *Sensitivity to Context*. The project design will complement the setting and the character of the neighboring properties with sensitivity to any adjacent federal, state, and City Landmarks or any nearby designated Historic Resources, including City-designated Structures of Merit.

### ***Lessons Learned (Interview) (City of Santa Barbara)***

#### **Is the program working the way you envisioned, when was it implemented?**

Yes, the AUD program is successful in terms of providing housing affordable to the income levels it was intended to serve (“workforce housing” is defined in the General Plan as Middle to Upper Middle income households (120-200% of the AMI). The majority of the projects being proposed and constructed today are residential projects at higher densities allowed by the AUD program. The non-residential community benefits program works for regulating growth and has been successful by providing some economic development and maintaining the City’s sale tax revenue source from automobile sales.

In 1989 the City originally had an ordinance in place that limited the amount of new non-residential square footage that would be allocated over a 20 year horizon for new development. The original program allowed additional square footage allocations as an incentive for community-based uses, such as non-profits and local neighborhood uses. The program was extended and expanded in 2013, implementing key actions in the 2011 General Plan. The new program added an economic development allocation that included a new automobile sales category to the non-residential growth management program.

Importantly it also created a new program for the creation of residential workforce housing - Average Unit-Size Density Incentive Program (AUD). The AUD program created 3 tiers of density: medium-high, high, and a priority housing overlay. A residential project using the priority housing overlay program provides reduced sized workforce rental housing in perpetuity (or Employer Housing and CO-OP housing also qualifies) – and then has the ability to build at the highest density allowed (63 du/ac) in certain multi-family and commercial zones. An additional bonus for all AUD developments is an allowed reduction in parking. Parking is reduced to only one space per unit. There has been some push back on the parking reduction recently from people concerned about street parking capacity, so Council directed staff to amend the code to require units with three or more bedrooms be required to have two spaces on-site if located in areas outside the downtown core. Another amendment being worked on is to make sure the AUD units cannot be converted to short-term vacation rentals in the future.

#### **Have any projects used the program? If so, how did the process work?**

Within the AUD program 89 units have been constructed in the High Density/Priority Overlay and 22 units within the Medium-High Density tier. An additional 270 or so units have been approved but not built at this time. The AUD program and housing are major priorities for the city. The process has worked well, though a housing task force was established to study amendments to the ordinance to focus on getting inclusionary housing units in larger projects that use the incentive program.

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Projects that demonstrate they are a “Community Benefit Housing” in the C-G, Commercial General and M-C, Manufacturing Commercial zones can propose to exceed 45’ to get to 60’ max. building height, but have to meet specific conditions (30.140.100.B) and receive Planning Commission approval. Height continues to be a very big issue with residents of the City, and make public hearing interesting.

### **How receptive were applicants to the incentives?**

Applicants have been very receptive to the incentive programs, more than the City could have anticipated. The City is taking a step back now to consider how to leverage the AUD program to gain affordable units, rather than simply work-force housing that is still priced at upper-middle incomes.

### **What is the ease of administering the program?**

With the new incentive programs in 2013, there was concern from the Design Review Board that projects were introducing land use issues and needed additional review. Thus, a policy decision was implemented for the AUD program that any project on a lot over 15,000 SF in the high -density tier or priority overlay requires Planning Commission review for consistency with broad planning goals and compatibility. But the Planning Commission does not have the authority to approve or disapprove a project, they only provide comments. Ultimately, the Design Review Board makes the final decision. The review process can be lengthy and cumbersome for projects. Pre-submittals meetings are encouraged and require an initial review by the Design Board. A project then goes to the Planning Commission for additional comments and feedback, before going back to the Design Review Board for consideration and a decision. The approval process is discretionary, as they can still deny a project if it’s not compatible with the planning goals or the neighborhood. While the program has been successful, administering it consumes a majority of staff’s times and resources.

### **What else should we know about your program, what would you have done differently, and anything else that we should be thinking about with our study?**

We’ve been surprised at how successful the program has been, and the development community’s use of it, since we had not seen market-rate rental housing projects in the community in over 40 years. The most difficult challenge is the back and forth review steps between the Design Review Board and the Planning Commission. Ideally, the review process could be streamlined to either give the Planning Commission the approval authority, or simply run the process through the Design Review Board as they currently exercise the decision-making authority for the program. Per recent discussion at City Council, the City is also looking to consider allowing increased residential density in the downtown core, and especially along State Street, with a potential reduction in parking requirements. This is an area that was primarily retail. The City has had many vacancies in the last couple of years and some in the community and on the Council want this area to be incentivized to more of a mixed-use corridor through AUD amendments

## Community Benefit Case Studies

### Community Benefits (City of Santa Barbara)

Community Benefits	Metric	Additional Criteria
<p><b>Workforce rental housing</b> Average Unit-Size Density incentive program (AUD)</p>	<p><u>Reduced Residential Unit Size</u> Medium - High Density Tier: 905 to 1,450 SF - depending on number of units per acre being developed</p> <p>High Density Tier: 970 to 1,245 SF - depending on number of units per acre being developed</p> <p>Priority Housing Overlay: 811 to 970 SF - depending on number of units per acre being developed</p>	<p>Must meet criteria related to 1) Demonstrated Need for Project; 2) Exemplary Design; 3) Livability, and 4) Sensitivity to Context</p> <p>Final Approval is still discretionary based on additional criteria</p>
<p><b>Community Priority Project</b> (e.g. museums, child care facilities, health clinics)</p> <p>Non-Residential Growth Management Program</p>	<p>Negotiated</p>	<p>Must meet criteria related to 1) Demonstrated Need for Project; 2) Exemplary Design; 3) Livability, and 4) Sensitivity to Context</p>
<p><b>Economic Development Project</b></p> <p>Non-Residential Growth Management Program</p>	<p>Negotiated</p>	<p>Must meet criteria related to 1) Demonstrated Need for Project; 2) Exemplary Design; 3) Livability, and 4) Sensitivity to Context ; and Must meet at least one of the following:</p> <ul style="list-style-type: none"> <li>a. Support diversity and balance in the local or regional economy; or</li> <li>b. Provide new recreational, educational, or cultural opportunities for City residents and visitors; or</li> <li>c. Provide products or services which are currently not available or are in limited supply either locally or regionally; or</li> </ul>

## Community Benefit Case Studies

<i>Community Benefits</i>	<i>Metric</i>	<i>Additional Criteria</i>
		d. Support a small and local business in the Santa Barbara community which is being started, maintained, relocated, redeveloped or expanded.
<p><b>Planned Development -</b> New Automobile Sales Project</p> <p>Non-Residential Growth Management Program</p>	Negotiated	<p>Must meet criteria related to 1) Demonstrated Need for Project; 2) Exemplary Design; 3) Livability, and 4) Sensitivity to Context ; and</p> <p>Must be located within a Planned Development Zone that proposes a project involving new automobile sales, rental and leasing.</p>

### Case Study 11

#### ⇒ City of Seattle, WA: Program for Green Building and Affordable Housing

##### *Program Summary*

The City of Seattle allows bonus building intensity and height for both commercial and residential buildings in exchange for LEED certification (or equivalent), affordable housing, child care, and other amenities. To receive the first bonus increment of FAR above the base, developers must achieve LEED Silver certification (although this is will soon be a base requirement). To receive the second bonus increment of FAR for commercial developments, applicants must participate in a combination bonus/TDR option: 75 percent of the additional floor area must be earned through affordable housing/child care options, and the remaining 25 percent through other menu options. For residential buildings, the next increment of building height may be obtained through the provision of affordable housing or in lieu fees (although the latter is only an option for residential buildings over 85 feet).

Seattle is also currently exploring allowing FAR bonuses and height additions in exchange for art and cultural spaces and rooftop cultural spaces and streamlined permitting for cultural space projects. This can be reviewed in a report entitled the [CAP Report: 30 Ideas for the Creation, Activation & Preservation of Cultural Space](#).

Seattle's Office of Planning & Community Development (OPCD) is currently [proposing to update the existing Incentive Zoning program](#). Incentive zoning is a tool that allows new development in certain areas to voluntarily achieve extra floor area in exchange for providing certain public benefits. Incentive Zoning is one way that the City ensures that new development contributes to infrastructure investments in growing neighborhoods.

OPCD released an initial draft proposal for updating the program in May 2018. They are receiving feedback on the proposal through fall of 2018 and anticipate finalizing the legislation and sending it to their City Council for their consideration in mid-2019.

##### OPCD Incentive Zoning Project Goals

Incentive zoning has been implemented piecemeal in different zones and geographic areas over the last 20 years with significant expansions in the last 5 years. Consequently, specific standards and processes vary substantially by zone and location. As a result, incentive zoning is confusing for potential users and difficult to administer. It also means that some provisions may not be achieving their stated goals.

The goal of the update is to:

- create a clear and consistent program;
- achieve better outcomes in the public benefits provided; and
- improve the City's permitting, tracking, and enforcement processes.

## Community Benefit Case Studies

The City is not proposing to implement incentive zoning in any additional geographic areas or change the amount of extra floor area that can be achieved in any zone as part of this update. OPCD anticipates submitting legislation to City Council for consideration in mid-2019. This legislation would change the standards that would apply to new development proposing to achieve extra floor area through incentive zoning.

### ***Community Benefit Triggers (City of Seattle)***

<b>Trigger</b>	<b>Base Maximum</b>	<b>Bonus Maximum</b>
Residential floor area above the base height and/or base floor area ratio (FAR) may be achieved as an incentive to provide for affordable housing.	Above base FAR & 85 feet	290 feet
Commercial floor area above the base floor area ratio (FAR) may be achieved as an incentive to provide for affordable housing and childcare facilities.	Above base FAR & 85 feet	290 feet
Above 290 feet downtown requires LEED Certification	Above 290 feet	400 feet

### ***Approval Process (City of Seattle)***

The bonus program is implemented through a development review process, which authorizes the Director of the Office of Housing to accept and execute a covenant as a condition of approval prior to issuance of a building permit. In practice, applicants have only achieved bonuses through the payment of in-lieu fees. The City is considering ways to prioritize the production of affordable housing over in-lieu payments. In addition, the applicability of different requirements and priorities to various locations and districts in the City has proven to be onerous for staff and complicated for applicants. The City is looking to consolidate the program into one set of provisions.

### ***Lessons Learned (Interview) (City of Seattle)***

#### **How's the update process going with the program, and what are the reasons for it?**

The update to the incentive zoning program is a minor update, no changes to the base or maximum heights. Only consolidating the various programs into a more clear and cohesive program that can produce a consistently high public benefits across Seattle. It will also serve to simplify the TDR market. Regarding the Incentive Zoning program, the City has prioritized Affordable Housing first and foremost. Development 85 feet or less in height must use only the affordable housing incentive. A new update called Mandatory Housing Affordability Implementation, going on concurrently with the incentive zoning update, will make mandatory that all qualifying development provide affordable housing or pay an in-lieu fee.

## Community Benefit Case Studies

### **Is the program working the way you envisioned, when was it implemented?**

Implemented first in the 1980's, updated and expanded in early 2000's, and within the last 4 years incentive zoning has been expanded to new areas of the city. Yes, the program is working as envisioned. Developers have been using the program for greater density, and the city has been getting a variety of public benefits out of those projects; including a significant amount of affordable housing, green buildings, childcare facilities and green street improvements.

### **Have any projects used the program? If so, how did the process work?**

Approx. 250 projects including mostly smaller townhome type projects that only utilized the green building incentives. 50 projects or so have provided affordable housing incentive zoning. And lesser number of high-rise developments in downtown that have utilized the broader menu of incentives zoning. Simply part of the development review process. Specifics vary by district, zone and project type.

### **How receptive were applicants to the incentives?**

Overall very receptive to the incentive zoning. Developers and community agree it is a good tool to achieve the goals of the community and still allowing dense development. Developer complaints that it is too complicated, thus we are working to streamline the regulations with the update. Key being that the zoning balances growth with a greater supply of affordable housing, and commercial development as well.

### **What is the ease of administering the program?**

Simply incorporated into the development review process. An administrative review process, starting at the Master Use Permit (conceptual plan) phase of a project. Must demonstrate the project's intention on utilizing the incentives. By building permits must have all covenants and deed restrictions recorded and all fees paid. Before Certificate of Occupancy everything must be constructed as required by the approved incentive development plans. Simply an administrative review process. Design boards do look at designs of open space, but simply administrative. The process ensures the community benefit is consistent with the vision of the regulations in a clear and consistent manner, and avoids undue interference from the public (not a discretionary review process).

### **What else should we know about your program, what would you have done differently, and anything else that we should be thinking about with our study?**

Predictability is the key thing to our approach. More consistency and certainty for the development community so they know what that can be built. Creating a clear program upfront also allows the broader public to have a conversation about what public benefits they want to have; rather than having these conversations on a project-by-projects basis where only a small group of people will weigh in. Having voluntary incentive zoning allows us to have conversation up-front with developers about the community's priorities for the neighborhood. An economic study helps to ensure the incentives will be used and the city will receive the appropriate amount of benefits. TDR won't really work unless you have a big active market. TDR works well in Downtown, but not in smaller districts - need more sites and large market to allow sellers and buyers to find each other. Having a menu of options has been good. It allows developers to figure out what's most important to their site, whether onsite open space, green street improvements, public bathrooms, etc.

## Community Benefit Case Studies

### Community Benefits (City of Seattle)

Community Benefits	Metric	Additional Criteria
<b>LEED Certification (Silver)</b>	-Above base FAR in Downtown, LEED Certification is required  -Above 290 feet downtown	
<b>Open Space Amenities</b> (neighborhood open space, green street setbacks and improvement, mid-block corridors and hillside terraces)	Floor Area, varies by district. A specified amount of extra floor area is gained per square foot of open space amenity.	May be provided as performance, either on or off-site, and in limited cases in-lieu
<b>Transferable Development Potential and Rights (TDP and TDR)</b> from sites such as designated landmarks, low-income housing developments, major performing arts facilities, Public open space, vulnerable masonry structures	Floor Area, varies by site and district. An amount equal to the extra floor area being gained through TDP or TDR as a 1:1 ratio.	
<b>Regional Development Credits (RDC)</b> - transfers development capacity from farms and working forests to projects within certain areas of downtown and others-SLU zones)	Credits, calculated as the square feet of extra floor area divided by the RDC square footage value (as defined per code).	
<b>Affordable Housing</b>	-Extra/bonus residential floor area as rental housing affordable to households with incomes up to 80% of the area median income (AMI) or in-lieu fees.  -Between 85 feet and 290 feet  - 14% of the gross bonus residential floor area or 8% of the gross bonus residential floor area if housing is deed restricted to households with incomes no higher than 50 percent of median income, or  -300 net residential square feet; or  -any minimum floor area specified in the provisions of the zone.	75% of the additional of the additional floor area must be earned through affordable housing/child care options and remaining 25% as transfer of development rights for open space, landmarking and public amenity features.



## Community Benefit Case Studies

Community Benefits	Metric	Additional Criteria
<p><b>Childcare Facilities</b></p>	<p>For each square foot of nonresidential bonus floor area allowed applicant shall provide fully improved child care facility space sufficient for 0.000127 of a child care slot. The minimum interior space in the child care facility for each child care slot shall comply with all applicable state and local regulations governing the operation of licensed childcare providers.</p>	<ul style="list-style-type: none"> <li>-Must be approved by the state</li> <li>-At least 20 percent of the number of child care slots for which space is provided as a condition of bonus nonresidential floor area shall be reserved for, and affordable to, families with annual incomes at or below the U.S. Department of Housing and Urban Development Low Income Standard for Section 8 Housing based on family size or, as determined by the Director of Human Services based on specific criteria</li> <li>-The Human Services Director shall review the design and proposed management plan for any child care facility</li> <li>-Must be in place for at least a 20 year period</li> </ul>

**Case Study 12**

⇒ **City of Emeryville, CA: Quantitative Bonus System**

**Program Summary**

The City of Emeryville, CA adopted their initial density bonus program in 2013 based upon a quantitative set of parameters and development bonus options. It was updated in 2015 with a major overhaul that reduced the number of available bonuses from 18 to six, lowered the base FAR/density limits to ensure more development would require a development bonus, and revised their affordable housing requirements based on the community’s desires. The resultant system is a clear and straightforward program where additional floor area, building height and/or residential density may be provided in exchange for a specific set of amenities (or payment into designated community benefit funds) that the community has prioritized, including: affordable housing, public open space, zero net energy, public improvements, utility undergrounding, family-friendly units, small businesses and other flexible benefits. The amount of bonus and community benefit is allowed through a point system and subject to a Conditional Use Permit approval by the Planning Commission.

At least half of the bonus points must be earned by affordable housing and no more than half of the points must be earned by other community benefits. The number of points required, up to a maximum of 100 points, is calculated as follows:

$$\frac{\text{Bonus Requested}}{\text{Bonus Increment}} \times 100 = \text{Points Required}$$

**Community Benefit Triggers (City of Emeryville)**

Trigger	Base Maximum	Bonus Maximum
Floor Area	Depends on area. Base/bonus floor area includes: 0.5 base: up to 1.0 1.0 base: up to 1.6 1.5 base: up to 3.0 2.0 base: up to 4.0 3.0 base: up to 6.0	

## Community Benefit Case Studies

Trigger	Base Maximum	Bonus Maximum
Building Height	<p>Depends on area. Base/bonus height includes:</p> <p>30 Feet: No Bonus            30 Feet: Up to 55 feet            40 Feet: Up to 75 feet            50 Feet: Up to 100 feet            75 Feet: Up to 100+ feet</p> <p>Projects Over 100 feet must:</p> <ul style="list-style-type: none"> <li>• Earn at least 100 points.</li> <li>• Minimize impacts on public views, wind, and shadows at the street level.</li> <li>• Be separated by an adequate distance from any other building with a height greater than one hundred feet (100') as specified in Section 9-4.202(f); that code section requires buildings taller than 100 feet to be separated by other buildings over 100 feet no less than the height of the taller building.</li> </ul>	
Residential Density	<p>Depends on area. Base and bonus dwelling units per acre (du/a) includes:</p> <p>20 du/a: up to 35            35 du/a: up to 60            50 du/a: up to 100            70 du/a: up to 135            85 du/a: up to 170</p>	

### Approval Process (City of Emeryville)

- Conditional Use Permit approved by the Planning Commission
- Projects seeking a flexible community benefit (i.e. one not on the “list”) must receive City Council approval.
- The city verifies that the community benefits proposal has been achieved prior to issuance of a certificate of occupancy. In the event that the project has a shortfall in the amount of required community benefit, the applicant must then contribute 0.1% of the construction valuation per point of shortfall to the Citywide Parks Fund.

To grant a conditional use permit for bonus floor area ratio, height, or residential density, the following findings must be made in addition to base findings required by their Code:

(1) In the RM Medium Density Residential zone:

- a. That the proposed project is compatible with the surrounding neighborhood with regard to building scale, form, and materials, and street orientation.
- b. That the proposed project has been designed to minimize the appearance from the street of driveways, parking spaces, maneuvering aisles, and garage doors as much as possible given the size and shape of the lot, and that at least 70% of the street

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frontage is devoted to active non-parking related uses, except that a driveway of up to ten feet in width shall be allowed.

(2) In all other zones:

- a. That the proposed project will provide community benefits sufficient to earn the number of points required for the bonus amount requested, pursuant to the code.
- b. That the proposed community benefits for the project are significant and clearly beyond what would otherwise be required for the project under applicable code provisions, conditions of approval, and/or environmental review mitigation measures.
- c. That the proposed community benefits for the project are acceptable and appropriate in this case, and will provide tangible benefits to the community.

(3) Bonus height over 100 feet:

- a. That the proposed project will provide community benefits sufficient to earn at least 100 points pursuant to the code.
- b. That the proposed project will minimize impacts on public views, wind, and shadows at the street level.
- c. That the proposed project will be separated by an adequate distance from any other building with a height greater than 100 feet as specified in the code.

### ***Lessons Learned (Interview) (City of Emeryville)***

#### **Is the program working the way you envisioned?**

So far, the greatest success story has been the Sherwin Williams project, approved in November 2016, which resulted in 85 affordable units (out of 500) plus \$7 million worth of community benefits. Of course, there have been some glitches. The “Nady Site” project got off easy because they used the State Density Bonus System (always an option in California). The Doyle Street Mews project was an anomaly because it was less than 10 units, so it didn’t require affordable units, which meant that all 100 bonus points had to come from other bonus categories. So there are a few tweaks that can still be made, but, overall, we’re pretty happy with the way it has evolved.

#### **Have any projects used the program? If so, how did the process work?**

10 projects using various versions of the system since 2009. (Actually only nine used our system, since the “Nady Site” project used the State Density Bonus System instead).

#### **How receptive were applicants to the incentives?**

We don’t really think of them as “incentives”. They’re what a developer has to do to get a development bonus. Typically an applicant will ask how big a project they can build with all bonuses, we will tell them, and then we will tell them what they have to do to get the bonuses. They are usually fine with it. As I’m sure you know, the thing that developers value most is predictability. A common theme among developers is “just tell me what the rules are”. As long as they can play by the rules and you don’t change the rules on them, they’re happy. It’s unpredictability that drives them nuts.

#### **What is the ease of administering the program?**

It’s a simple mathematical calculation to figure out how many bonus points a project needs. For a rental housing project that needs a full bonus of 100 points, a developer typically must provide 17% affordable

## Community Benefit Case Studies

units at various income levels (3.9% very low income, 5.9% low income, 7.2% moderate income) plus community benefits worth 5% of construction valuation. Any project that needs a bonus requires approval from the Planning Commission or City Council (depending on the situation). So we will explain the calculation in our staff report. The number of affordable units required is a no-brainer; it's just however the math works out. Generally the discussion focuses on the other community benefits that the applicant proposes to provide. Our projects typically have two or three study sessions at the Planning Commission, and discussion questions usually include "what community benefits would the Commission like to see from this project?" By the time the project comes for public hearing, the issue of development bonuses and community benefits has usually already been decided.

### **What else should we know about your program, what would you have done differently, and anything else that we should be thinking about with our study?**

That's a big question. As you can see, our program has been through several iterations, so we had a number of chances for a "do over". Off the top of my head, I can think of three things that probably need tweaking: (1) for projects that use the State Density Bonus Law, charging an Affordable Housing Impact Fee equal to the difference between the number of units that we would have gotten using our system versus the number that result from the State system (this probably is not an issue in Colorado); (2) figuring out how to address affordable housing requirements for projects of less than 10 units that need a development bonus; and (3) adding an inclusionary requirement for rental projects that do not need a development bonus back into the code, since the State passed a "Palmer fix" law last year.

Concerning your study, I think you probably should do some market analysis to see what your circumstances can support, including interviews and discussions with developers. Emeryville is in the fortunate position of being in a highly desirable location with a pretty efficient development process, so developers want to be here and are willing to give the community lots of "goodies" to be able to build here. We realize it's not like that everywhere. Also, I recommend that you have lots of study sessions with your Commission and Council, and community workshops with developers and residents, to develop your system. Ours was developed based on lots of community discussion.

The responses to your questions are complicated. Our bonus system has evolved over time, with different rules and procedures at various times. The way it has evolved, we are pretty happy with it. Here is a brief background:

- **1988-2009: Development Bonuses with No Community Benefits.** Under our previous Zoning Regulations, adopted in 1988, every height district allowed the height to be increased with a conditional use permit. The 40' district could go up to 55', the 55' district could go up to 80', and the 95' district could go up to 175'. The finding required for this use permit was "that the increased height is compatible with the surrounding area and does not impose any significant additional burden upon public services and facilities, including but not limited to the road system." Not a very high bar! Also, since we had inclusionary zoning, any residential project of 30 units or more had to include affordable units, and, if a project provided affordable units, they automatically got a 25% density bonus. Since all residential projects required use permits anyway, developers would just assume that they were going to get the higher height and, of course, the density bonus (which they always did). In those days, FAR did not apply to residential projects (as it does now), so FAR was not an issue. Many projects were approved with development bonuses under these regulations. When

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we embarked on our General Plan Update in 2004, staff, the Planning Commission, and City Council began to ask, “what is the community getting in return for allowing developers to get bigger buildings”? So the idea was born that we should have some kind of a point-based system for development bonuses, with larger bonuses resulting in more “goodies” for the community.

- **2009-2013: Qualitative Bonus System.** Our new General Plan was adopted in October 2009, and it called for a point-based density bonus system to be included in the Planning Regulations. However, it took another four years for us to completely overhaul our Planning Regulations, including the point-based bonus system. In the meantime, we adopted “Interim Zoning Regulations”, based on the Land Use Map in the General Plan, as a stop-gap measure. The Interim Zoning Regulations included a qualitative development bonus system that was not based on a point system. It listed 13 categories of public benefits plus an undefined “Alternative Public Benefit” that could be considered on a case-by-case basis by the City Council on advice of the Planning Commission. Under this system, each category of public benefit was worth one-third of the development bonus. (i.e. in the 75’/100’ height district, each category would be worth 8.33’ of additional height above 75’, which is one-third of the bonus height increment of 25’.) To earn the full bonus, three categories of public benefits were required. Two development projects were approved under this development bonus system: the Emery Station West/Transit Center and City Storage projects.
- **2013-2015: Quantitative Bonus System.** Our new Planning Regulations, which were a complete overhaul of our previous Zoning Ordinance, were adopted in March 2013. Five categories of public benefits were added, for a total of 18 categories plus the “Flexible Public Benefit”, which allowed the Planning Commission or City Council, as the case may be, to determine the point value of a previously undefined public benefit proposed by the applicant. Categories were worth between a maximum of 20 and 50 points. The regulations spelled out how these points were calculated and the requirements that must be met to be eligible for points. Three projects were approved under this development bonus system: The Intersection Mixed Use Project at 3800 San Pablo Avenue, the Emeryville Center of Community Life, and the Estrella Vista affordable housing project at 3706 San Pablo Avenue.
- **2015-Present: Quantitative Bonus System with Affordable Housing Requirement.** As you may have heard, there was a landmark court decision in California in 2009, called the “Palmer” decision, that basically outlawed inclusionary rental housing. (Inclusionary ownership housing was still OK, but, since no one is building ownership housing these days, it was basically a ban on inclusionary housing.) For several years, the City Council had been wrestling with how to address this, and we finally adopted an Affordable Housing Impact Fee in July 2014 (which took effect in September of that year). But we would have rather had developers actually build affordable units than give us money. In 2015, several things came to a head: a desire for more “family friendly” housing, a general feeling among the City Council that our current development bonus system was too liberal and awarded points for things that developers should be doing anyway, and a desire to make developers provide affordable units again. One key point was that it was still legal to require inclusionary affordable units in a project if it was in exchange for the developer receiving a development bonus. This all culminated in an ordinance that mandated unit-mix and family-friendly design requirements for all residential projects of 10 units or more, and did a major overhaul on our development bonus system. The ordinance was adopted on November 3, 2015, and took effect on December 3, 2015.

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It's the regulations that are in effect today. One of the major aspects of it was to reduce our "base" levels in all districts for residential density, FAR, and building height, while keeping the bonus levels the same. This ensured that more projects would require a development bonus, while not reducing the overall development potential. The new regulations stipulated that half of the required bonus points had to come from the provision of affordable units in the project, while the other half had to come from providing community benefits. The number of eligible community benefits was reduced from 18 to six, and now includes (1) Public Open Space, (2) Zero Net Energy, (3) Public Improvements, (4) Utility Undergrounding, (5) Additional Family Friendly Units, and (6) Small Business Fund Contribution. There is also a "Flexible Community Benefit" for anything that the developer might propose, but that requires City Council approval of the entire project. To date, five projects have been approved under this revised system: the "Nady Site", Sherwin Williams Mixed Use Project, Artistry Addition, Doyle Street Mews, and Adeline Springs.

### Community Benefits (City of Emeryville)

Community Benefits	Metric	Additional Criteria
<p><b>Affordable Housing</b></p>	<p>Medium Density Zone: Projects over 10 units must provide affordable units and community benefits.</p> <p><b>Residential Projects:</b> At least 50% of the bonus points must be earned through affordable housing. Points are scaled for three types of rental units (very low, low and moderate income) and ownership projects (moderate income only).</p> <p><b>Non-residential Projects:</b> Must pay an additional affordable housing impact fee. Bonus points are scaled to the amount of additional impact fees paid (e.g. 10% additional fee generates five bonus points; 100% additional fee generates 50 bonus points).</p>	
<p><b>Public Open Space</b> Must meet Article 3, comply with design provisions. Open space must be accessible to the general public at all times. Provision must be made for ongoing operation and maintenance in perpetuity.</p>	<ul style="list-style-type: none"> <li>• 15% of site area or 2,000 square feet, whichever is greater: 50 points</li> <li>• 10% of site area or 1,500 square feet, whichever is greater: 35 points</li> <li>• 5% of site area or 1,000 square feet, whichever is greater: 20 points</li> <li>• Contribution to Citywide Parks Fund: 10 points for every 1% of project construction valuation up to 50 points</li> </ul>	

## Community Benefit Case Studies

Community Benefits	Metric	Additional Criteria
<p><b>Net Zero Energy</b> Percent of total building energy load measured as kilowatt per square foot provided by solar panels, wind turbines, or other renewable sources.</p>	100% of energy load (zero net energy): 50 points	
<p><b>Public Improvements</b> Does not include improvements along project frontage that are normally required. Examples include curb, gutter, and sidewalk; pedestrian and bicycle paths; sanitary and storm sewers; and street trees, beyond what would normally be required.</p>	10 points for every 1% of project construction valuation up to 50 points	
<p><b>Utility Undergrounding</b> Does not include utility undergrounding that is normally required.</p>	Contribution to Citywide Underground Utility Fund: 10 points for every 1% of project construction valuation up to 50 points	
<p><b>Additional Family-friendly Units</b> 3- and 3-bedroom units that meet design guidelines</p>	5 points for each additional 5 percent of total units that have 2 or more bedrooms, of which at least 1 percent of total units must have 3 or more bedrooms	
<p><b>Small Businesses</b></p>	Contribution to Citywide Fund to Support Small Local-Serving Businesses: 10 points for every 1% of project construction valuation up to 50 points	
<p><b>Flexible Community Benefit</b> Currently undefined community benefit proposed by the applicant that is significant and substantially beyond normal requirements. An example would be universal design features beyond those required by applicable building codes.</p>	The City Council shall determine the number of points to grant for the proposed community benefit based on 10 points for every 1% of project construction valuation	



### Case Study 13

#### ⇒ **City of Vancouver, Canada: Community Benefits from Development**

##### *Program Summary*

The City of Vancouver, Canada has a robust [community benefits program](#) whereby public amenities may be incorporated directly into a given development project, or payments are made to help fund growth-related community amenities. Examples of amenities include childcare facilities, parks, and affordable housing. The program is structured with three different development contribution approaches, that correspond with updates made to the program over time. In the early 1990s, new legislation allowed Vancouver to introduce Development Cost Levies (DCLs) on all new development to help fund new parks, childcare, replacement of affordable housing and expanded roads or water and sewer infrastructure.

In 2003, Vancouver approved a city-wide financing growth policy that established a comprehensive system of DCL areas across the city (DCLs are enabled through the Vancouver Charter) as well as established a new city-wide Community Amenity Contribution (CAC) system (CACs are enabled through City Council). CACs were established to be incremental to DCLs and to be allocated to a wider range of community benefits. This policy provided a way to help address the cost of growth as well as a comprehensive guide for the collection and spending of DCLs and CACs.

To simplify and provide clarity to the various community benefits regulations, Vancouver has moved to establish fixed rate target CACs to more areas of the city, reducing the need for negotiation at the time of each rezoning. In addition, the City has recently moved to reduce the large number of small DCL areas in the city by integrating them into a single, city-wide DCL district.

Density bonus zoning has recently been introduced by the City as a new tool. This tool involves a form of zoning which allows the city to define a base and an upper density limit within a zoning by-law, thus allowing new development with the option to achieve the upper density in exchange for providing needed community amenities such as childcare, cultural facilities, and affordable housing. This approach reduces the need for individual site rezoning which reduces the cost and time involved in new development.

Development Cost Levies (DCL) – applies to all development in all zones. Funds Parks, childcare facilities, replacement housing, and infrastructure. Generally spent on projects within each DCL district. Projects built through city's capital program. A flat rate per square foot of floor space built. (\$3 - \$20 per square foot)

Community Amenity Contributions (CAC) – applies only to development being rezoned. Can be provided in-kind or payment in-lieu that funds parks, community centers, childcare facilities, parks, and more. Various fee structures including fixed-rate targets and site-specific negotiations.

## Community Benefit Case Studies

Density Bonus Zoning (DBZ) – applies to any development seeking additional density within prescribed zones. Can be provided in-kind or payment in-lieu that funds affordable housing and public amenities as described within the respective precinct plans’ benefits strategies. A flat rate per square foot of bonus density to be built.

### *Community Benefit Triggers (City of Vancouver)*

Trigger	Base Maximum	Bonus Maximum
DCL - any development at time of building permit	N/A	N/A
CAC – any development at time of rezone	Existing zoning entitlements (varies)	Proposed Rezoning entitlements (varies by development)
DBZ - increase in density within certain zones, at time of building permit	Varies by zones and district .7 - 3.0 FAR	Varies by zones and district Up to 2.0 - 6.0 FAR

### *Approval Process (City of Vancouver)*

Payments are made at time of building permits for Development Cost Levies (DCL and Density Bonus Zoning (DBZ) projects. Projects that provide a community benefit in-kind include binding agreements (for commitments such as affordable housing) at such time. Payments for Community Amenity Contributions (CAC) occur before a development is officially rezoned. In-kind development may also be incorporated in to a given development with Council approval. CAC payments and benefits may be negotiated with a development agreement on a case-by-case basis with Council approval. The City administers and allocates funding for building community benefits based upon the Public Benefits Strategy in the City’s various Precinct Plans.

### *Lessons Learned (Interview) (City of Vancouver)*

**Is the program working the way you envisioned, how is it structured (development agreements and/or menu of bonus options), and when was it implemented?**

The framework for our development contribution system, which currently includes Development Cost Levies (DCLs), Community Amenity Contributions (CACs), and Density Bonus Zoning, originates from the [Financing Growth](#) report, approved by Council in 2004. Within that report, you’ll find that our history with DCLs and CACs goes back a little further.

- DCLs are payable on most development in Vancouver and are collected at Building Permit issuance. Rates are payable on the type of uses proposed. Refer to our [DCL bulletin](#) for more details.
- CACs are a voluntary contribution that is offered by developers for rezonings. The value of the CAC is determined through a negotiated process or calculated through a fixed rate CAC target depending on where the project is located. The CAC itself can come in the form of either cash or “in-kind” contributions. Cash CACs are typically paid prior to Council enactment of rezonings, while in-kind contributions are usually delivered upon completion of the project. These are secured through our Conditions of By-law Enactment, which may be found in [Appendix B in this sample rezoning report](#). Refer to our [CAC bulletin](#) for more details.

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- Density Bonus Zoning applies to existing zoning and is available under certain zones in our Zoning & Development Bylaw. These zones are essentially set up with a base max density and a further FSR ceiling that cannot be exceeded. Developers seeking the density bonus pay fixed rate cash [affordable housing and/or amenity shares](#). Density Bonus Zoning is usually introduced as an implementation piece from a larger Community Plan process (e.g. [RM-9](#) as part of the [Joyce-Collingwood Station Precinct Plan](#)), but it can be done outside of that process as well (e.g. [Mount Pleasant Industrial Area](#)). Refer to our [Density Bonus Zoning page](#) for more details.

The development contribution system generates hundreds of millions in cash and in-kind contributions that go toward a range of [new and upgraded facilities](#) to serve growth. We produce annual reports available to the public for each of these mechanisms to provide transparency into how much we are collecting/securing. These may be found on our [CAC page](#), [DCL page](#), and [Density Bonus Zoning page](#).

### **Are there height limits in addition to the density bonuses and how do the two constraints work together (i.e. are projects required to stay within the base zoning height regulation, or can they exceed it)?**

- See above for how our Density Bonus Zoning works.
- Additional density through rezonings (and by extension, CACs) are evaluated according to our rezoning policies. Rezoning policies vary across the city, but there are usually specific FSR, height, frontage, and/or form limitations. For an example of some of our rezoning policies, please take a look at Chapter 6 in the [Grandview-Woodland Community Plan](#).

### **How many projects used the program? If so, how is the process working?**

- In recent years, rezoning and density bonus zoning projects combined account for 40-50 projects each year. Most of these projects would have been rezonings because Density Bonus Zoning is a relatively new tool in some areas of the city. Several of the Density Bonus Zones currently available were introduced in 2016 or later.
- See answers to first question for how each process works.

### **How receptive were applicants to the incentives?**

The development industry is generally supportive of predictable, transparent changes to our development contribution system. This includes the expansion of our fixed rate CAC target areas and Density Bonus Zoning as well as annual inflationary adjustments to our development contribution rates.

### **What is the ease of administering the program, and how does the review process work?**

DCLs and Density Bonusing are the easier of the three contribution types to administer. Both are fixed rate contributions that are handled through our usual permitting processes.

CACs take time to administer and review. As mentioned previously, the value of the CAC may either be negotiated or calculated through a fixed rate CAC target depending on where the project is located. Our CAC policy also contains exemptions for rental and social housing, which requires a review from our Housing colleagues.

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All fixed rate contributions (DCLs, CACs, Density Bonus Zoning) are adjusted annually for inflation using a custom blend of local inflation in the non-residential construction price index and local assessed property values to ensure that the City maintains its purchasing power from year-to-year.

### What else should we know about your program, what would you have done differently, and anything else that we should be thinking about with our study?

It was hinted at earlier, but the cash we receive from these development contributions does not simply go into general revenue:

- For DCLs, the cash goes toward the growth component of replacement housing, childcare, parks, transportation infrastructure, and utilities.
- For CACs and Density Bonusing, the cash helps to fund Public Benefit Strategies (PBS) found in our Community Plans (see Chapter 16 of the Grandview-Woodland Community Plan for an example) and/or goes toward citywide reserves to be spent on affordable housing, childcare, or heritage.

### Community Benefits (City of Vancouver)

Community Benefits	Metric	Additional Criteria
<b>Development Cost Levies (DCL)</b> – Amenities including but not limited to: community centers, libraries, parks, childcare centers, affordable housing.	Varies, (\$3 - \$20 per square foot)	Generally spent on projects within each DCL district. Projects built through city’s capital program.
<b>Community Amenity Contributions (CAC)</b> – Amenities including but not limited to: community centers, libraries, parks, childcare centers, affordable housing.	Various fee structures including fixed-rate targets and site-specific negotiations.	Allocation of funds towards various community benefits is determined through each respective Precinct Plan’s Public Benefits Strategy.
<b>Density Bonus Zoning</b> – Amenities including but not limited to: community centers, libraries, parks, childcare centers, affordable housing.	Varies by precinct and zone. \$3 – \$67 per square foot of bonus floor space built	Allocation of funds towards various community benefits is determined through each respective Precinct Plan’s Public Benefits Strategy.  Density Bonuses may only be available to targeted uses to incentivize those uses within specific precincts and zones – for example mixed-uses that include affordable housing, or manufacturing uses, or local retail uses.

### Case Study 14

#### ⇒ **City of San Diego, CA: Civic San Diego's Floor Area Ratio Bonus Program & The Civic San Diego Community Benefits Consensus Project**

##### *Program Summary*

The City of San Diego has implemented a floor area ratio (FAR) bonus program to incentivize development in the downtown area, specifically in [the Centre City Planned District](#). The goal of this Planned District is to implement to the goals of the Downtown Community Plan including instituting the FAR Bonus Program to ensure that new development creates new community amenities. The FAR Bonus Program allows bonus floor area in specified amounts depending on what community benefit is included in the project. Community benefits are required in perpetuity. Civic San Diego, a non-profit public benefit corporation created by the city, is tasked with administering all land use permitting including the FAR Bonus Program within downtown.

In 2015, San Diego also launched a project called the [Civic San Diego Community Benefits Consensus Project](#) to explore how community benefits could be applied to other areas of the city beyond downtown. As part of the outreach process, the following broad community benefits were identified:

1. Accountability
2. Community Engagement and Empowerment
3. Cooperation /Collaboration
4. Economic investment and development
5. Employment (temporary, long term and permanent)
6. Environment, energy and water conversation, bio-diversity
7. Housing
8. Local participation and workforce development.
9. Parklands, open spaces, recreation
10. Planning and design
11. Physical Infrastructure (roadways, sidewalks, brick and mortar upgrades)
12. Public services and facilities (libraries, schools, police and fire stations, hospitals)
13. Quality of Life (health and wellness, social connectivity, entertainment, restaurants, arts, culture walk-ability)
14. Social services
15. Transit, traffic and transportation

After further discussion the following themes were also developed:

1. Retain local residents, business and services in the community
  - Diverse housing
  - Local hiring
  - Local contracting
  - Non-profit and community-based organizations

## Community Benefit Case Studies

### 2. Create capacity to promote economic prosperity in local communities

- Business attraction
- Economic prosperity
- Local business expansion, retention and relocation
- Youth workforce development

### 3. Create vibrant, livable and balanced neighborhoods

- Complete communities and mobility
- Fresh, healthy and affordable foods
- Sustainability
- Arts and Culture

The term “community benefits” is used to describe the variety of quality of life improvements, amenities, and/or mitigations that may be provided to neighborhoods impacted by development projects occurring there. Prior to the Consensus Project, the universe of local ideas and priorities regarding community benefits was largely unexplored; nor was there a shared understanding of what stakeholders might best represent the values and priorities of impacted neighborhoods.

#### ***Community Benefit Triggers (City of San Diego)***

Trigger	Base Maximum	Bonus Maximum
Building above the FAR	Dependent on zone, ranges from 3.0 to 10.0 FAR	0.5 to 2.0 FAR bonus per category dependent on type of community benefit (see below). Affordable Housing max. bonus of 35%.  Max. FAR with all incentives/bonuses and TDR's: ranges from 4.0 to 20.0 FAR

#### ***Approval Process (City of San Diego)***

Civic San Diego, a non-profit public benefit corporation created by the city, administers all land use permitting including the FAR Bonus Program within downtown. The FAR Bonus Program requires compliance through the typical development and permitting processes of a given project. Covenants, Conditions, and Restrictions (CC&Rs) are required before building permit approval to ensure dedication and acceptance of the required community benefits.

## Community Benefit Case Studies

### *Lessons Learned (Interview) (City of San Diego)*

#### **Is the program working the way you envisioned, how is it structured (development agreements and/or menu of bonus options), and when was it first implemented?**

Yes, the program has been very successful at getting the density downtown, and getting privately funded affordable housing. The program works well when the economy is well. After the recession financing wasn't available for large buildings over six or seven stories, so no one used the program during that time. In addition, the cost of construction materials and land impacts the programs success. When the economic and market conditions are good here, it works great.

The first iteration of *Civic San Diego* was a redevelopment district covering downtown - a nonprofit public benefit organization created in 1975. In 1992 it's authority was expanded by the City to include planning and permitting in downtown San Diego. The FAR Bonus Program was implemented in 2006 and was developed as part of the Downtown Community Planning update and process. Then in 2012 state redevelopment districts were eliminated in California, and the San redevelopment district morphed into today's *Civic San Diego*. With the 2006 update to the community plan, the city and Civic San Diego prioritized doubling the number of residents living downtown from 46,000 to over 90,000 by 2040. The FAR Bonus Program allows the city to leverage increased density to ensure defined public benefits are realized, not just up-zoning development. The bonus program also expanded upon the affordable housing state mandated bonus.

A key point is we don't want to make the bonus menu too big, else the city won't get much of anything. As a result, the city settled on the present bonus menu of options, except we eliminated a previously existing Enhanced Street Improvements bonus. That bonus didn't function well, wasn't used much, and the FAR payment bonus is better able to accomplish the same end-result through funding.

We've also have had to tweak the eco-roofs bonus, it was far too generous at first. It's been tweaked to a sliding scale calculation, and to create usable spaces by residents/tenants rather than simply landscaped roofs that could be viewed but not occupied.

#### **Approximately how many projects used the program? If so, how does the process work and is it working well?**

As of June 2017, FAR Bonus Program Report - 51 projects built using FAR Bonus - 34 additional projects approved using FAR bonus. The FAR payment program is the most used. The affordable housing and LEED certification bonuses are also popular. State mandates for affordable housing and green construction makes these two bonuses relatively easier and/or cheaper for developers to achieve.

#### **How receptive were applicants to the incentives?**

Before the FAR Bonus Program there were many up-zonings of some downtown properties. The city had to pull back on the up-zonings, and so developed a bonus program that was tied more directly to the community planning goals and to the benefits received from development projects. The development community understood the politics and optics, and were generally on-board with the FAR Bonus Program. When the program was first implemented the only issue that arose was a false issue – the Builder's Association viewed the FAR payment bonus as an additional fee on top of the existing development impact fees. But the FAR payment bonus is actually voluntary not mandatory, and it was

## Community Benefit Case Studies

ultimately understood as such and implemented. Since then developers have been receptive to the program and incentives, although they typically choose the easiest option, and the FAR Payment bonus has been the most popular.

In 2012 the program was amended to allow FAR Payment bonuses to account for up to half of a project's bonuses. The FAR Payment bonus was also increased up to a 20.0 FAR max limit. This greater FAR Payment bonus was largely instituted to make up for funding losses due to a California court decision that terminated Redevelopment Districts and tax-increment financing (TIF).

### **What is the ease of administering the program, and how does the review process work?**

It's a straightforward review process, it doesn't add more time or burden to the review process or staff. It's a prescriptive bonus system, if you provide the benefit then you receive the FAR bonus. The review is tied into the normal entitlement and design review process. The bonus FAR is documented through the design review and permitting. It's an administrative function, it does not require any additional board approval.

### **What else should we know about your program, what would you have done differently, and anything else that we should be thinking about with our study?**

It's a useful tool, a little disappointed some of the bonus categories haven't been used as much. Developers will go to the least expensive option. Some projects have used a variety, and every bonus has been used at least once.

Public Parking was only used when it was basically mandated for a project, otherwise it hasn't been used and would be the first bonus to go or be revised. Parking is so expensive to build that the return isn't there for the developer. And private development also prefers not to have a public facility in the middle of their project.

The Three-Bedroom Units bonus is proposed to be revised for a greater FAR bonus and to increase the current 1,300 SF size limitation. This is designed to encourage its use by developers as there is a shortage of families and family-units in downtown. Currently most projects being constructed consist of studio and one-bedrooms - less viability as family units. When the Three-Bedroom bonus is used in conjunction with affordable housing projects, those units have indeed been occupied by families. But the market-rate projects have been occupied mostly by singles with roommates, as the market pricing is still too expensive to attract family buyers. In fact, there seems to be more dogs than children in downtown - so much so that dog parks are the top open space goal of downtown residents.

In California, the State has a separate mandatory inclusionary housing fee required for all projects. However, the fee generally isn't enough for the city to actually build affordable housing units. Thus the city's FAR bonus for additional affordable housing (up to 50%-60%) atop the State's mandate, helps make up the difference by offering greater density for a greater affordable housing payment or for including affordable units in your development. The Civic Sand Diego design review board also applies pressure to developments to provide affordable units within the development, though it's not required or forced on them.



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### Community Benefits (City of San Diego)

Community Benefits	Metric	Additional Criteria
<b>Affordable Housing</b>	Percentage of restricted units in the base (pre-bonus) FAR	Resulting Bonus FAR ranges from 10% to 35%.  Must meet all requirements of San Diego affordable Housing regulations
<b>Urban Open Space</b> (public park or plaza)	10% reservation of site as urban open space earn .5 FAR bonus 20% reservation of site as urban open space earn 1.0 FAR bonus	Must be open to the general public (6am-10pm). Must be designed to meet the Downtown Design Guidelines.
<b>Three-Bedroom Units</b> (at least 10% of units must be 3-bedroom units)	0.5 or 1.0 FAR bonus  Development providing at least 50% of the gross floor areas as residential earn a FAR Bonus of .5  Development with at least 80% of the gross floor area as residential earn a bonus of 1.0	There must be at least five 3-bedroom units in the development. Each 3-bedroom unit used to attain bonus FAR cannot be greater than 1,300 square feet, and each bedroom must be at least 70 square feet with additional area for a closet.
<b>Eco-Roofs</b> FAR bonus based on the size of the roof area devoted to landscaped eco-roofs	Square footage of the eco-roof - the greater the landscaped area the greater the ratio of derived bonus square feet: ranges from 1:1 up to 1:3 square foot calculation. May achieve up to 1.0 FAR bonus	
<b>Employment Uses</b>	Up to maximum bonus FAR for providing 100% employment uses --Up to 50% maximum bonus FAR for providing 50% employment uses	
<b>Public Parking</b>	1 sf bonus for every one square foot of public parking area	Public easement required.

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Community Benefits	Metric	Additional Criteria
<b>Green Building</b>	Performance Level or Prescriptive points based - number of points must exceed either 45 CCG points (CalGreen or LEED) Up to 2.0 FAR bonus	Incentives for buildings that exceed CALGreen standards
<b>FAR Bonus Payment</b>	Varies, up to a 5.0 FAR bonus	Exclusive of bonuses for affordable housing.
<b>In-lieu fee</b> to purchase parks and open space (TDR)	Up to 2.0 FAR bonus	

## Case Study 15

### ⇒ City of Nashville, TN: The Nashville Downtown Code - Bonus Height Program

#### *Program Summary*

The [Downtown Code](#) (DTC) Bonus Height Program was established in 2010 to allow additional building height in Downtown in exchange for contribution to specified programs that provide benefits to the public. The Bonus Height shall be permitted if the proposed development contributes to specific public benefits in the amount allowed by the DTC.

Bonus Height shall be permitted in exchange for the following public benefit contributions: Leadership in Energy and Environmental Design (LEED) certification of individual buildings, LEED for Neighborhood Development, pervious surface, Historic Building Preservation, publicly-accessible Open Space, Inclusionary Housing (no longer a viable option due to state law), Civil Support Space, upper level garage liners, and underground parking.

#### Bonus Height Standards:

- Upon providing a binding commitment for the specified public benefit, the proposed development project is allowed to build within the restrictions of the Subdistrict, up to the Bonus Height Maximum.
- Multiple height bonuses may be compounded insofar as the total additional height does not exceed the Bonus Height Maximum for the Subdistrict.
- Additional development rights achieved through the BHP may be transferred to another site within the DTC one time to one receiving site, provided the transferred height does not exceed the Bonus Height Maximum of the receiving site. By-right height may not be transferred; only bonus height received through the BHP may be transferred. Bonus height transfers shall be based on the square footage of the sending site, not the receiving site.
- No building permit can be issued for bonus height until the Planning Commission has certified compliance with the provisions of this section, upon referral and assurance of compliance from applicable departments.

#### *Community Benefit Triggers (City of Nashville)*

Trigger	Base Maximum	Bonus Maximum
Additional stories above the by-right building height per DTC subdistrict.	Varies by DTC subdistrict, 3 stories to 30 stories.	Varies by DTC subdistrict, 1 additional story to unlimited stories.

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### ***Approval Process (City of Nashville)***

Use of the Bonus Height Program requires the projects declare their intention to use the Bonus Height during the Final Site Plan step of the project, generally this should be throughout the pre-application process as well. Documentation includes an application Letter and exhibits detailing the bonus uses and in compliance with the DTC BHP provisions.

Prior to obtaining Building Permits the Bonus Height utilization must be certified the Planning Commission for compliance with standards. This requires an application, letter and exhibits detailing the bonus uses and compliance with the DTC BHP provisions and calculations. Documentation such as LEED precertification is required at this step. The compliance submittal then goes to the Planning Commission as an administrative memo for their approval. Binding commitments such as deed restrictions and easements for public elements must be approved and recorded with the Register of Deeds before final building permit issuance.

### ***Lessons Learned (Interview) (City of Nashville)***

#### **Is the program working the way you envisioned?**

Yes for the most part projects are able to achieve greater building height and intensity in the downtown urban core, in exchange for the bonuses as prescribed in the code. However, the bonuses are not equally achievable, thus most projects go for the easier to achieve bonuses. In addition, many projects and applicants think the bonus height program caps are still too limiting and have actively sought even greater height allowances through other means, such as height modifications and even rezonings in some cases.

#### **Have any projects used the program? If so, how did the process work?**

Yes, approximately 15 projects have used the program. The program works well as a perfunctory review as part of the site plan/permitting process. If you meet the standards, then you get the bonus height. This has provided clarity and more certainty for developers and public.

**How receptive were applicants to the incentives?** Applicants have been very receptive to the incentives. However they usually go for the low hanging fruit such as parking bonuses, rather than bonuses that might benefit the city to a greater extent, such as historic preservation or open space.

#### **What is the ease of administering the program?**

One person can administer the program, or simply the planner assigned to the development review case. It's relatively straightforward, however, obtaining the necessary easement and deeded restrictions can be a lengthier process. Tracking of the cases and bonuses is something that needs to be stronger as well.

#### **What else should we know about your program, what would you have done differently, and anything else that we should be thinking about with our study?**

The Bonus Program currently has too many easily achieved bonuses, such as public parking, that are often the first and only bonus choice for developers. Other Bonuses that would be more beneficial TO the city more are often not chosen. Ideally the program would be restructured to better incentivize more meaningful bonuses., and possibly include mandatory requirements to be eligible to utilize the

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bonus height. For instance, all projects using bonus height must be a LEED certified project, or have all parking located underground. Too many bonus options mean that city’s top priorities might not be implemented through the program. Keeping the bonus categories to a smaller group would have a greater positive impact on the priority community needs.

### *Community Benefits (City of Nashville)*

Community Benefits	Metric	Additional Criteria
<b>Leadership in Energy and Environment Design (LEED), and LEED Neighborhood Development (LEED ND)</b>	LEED Silver or higher certification. LEED ND certification. Used up to the Bonus Max. stories: vary by DTC subdistrict, generally 1 to 12 stories	
<b>Pervious Surface</b> Includes green roofs, bio-swales, and pervious pavements.	Pervious Surface square feet x 2. Used up to the Bonus Max. stories: vary by DTC subdistrict, no more than 2 bonus stories	Green roofs used to meet LEED certification do not count.
<b>Historic Building Preservation</b>	Number of by-right stories entitlement less the actual number of stories of the historic building, times the square feet of the historic building footprint.  Used up to the Bonus Max. stories: vary by DTC subdistrict, generally 1 to 8 stories	Requires a recommendation from the Historical Commission on the worthiness of preserving a given building outside of a Historic Overlay District. And a recommendation on the actual on the historic building footprint square footage. Must provide a binding commitment on the preservation of the building.
<b>Open Space</b>	Open Space square feet x 7, if in an open space deficiency area.  Open Space square feet x 4, if outside an open space deficiency area.  Used up to the Bonus Max. stories: vary by DTC subdistrict, generally 1 to 8 stories	Must be publicly accessible. Must be design to the DTC Open Space standards. Plazas are not eligible

## Community Benefit Case Studies

Community Benefits	Metric	Additional Criteria
<p><b>Inclusionary Housing</b> (no longer viable due to newly passed state law that forbids Inclusionary Housing)</p>	<p>Used up to the Bonus Max. stories: vary by DTC subdistrict, generally 1 to unlimited bonus stories</p>	<p>Per Title 17.40.780 Inclusionary housing section of the Zoning Code. Percentage of units dependent on AMI levels, unit mix, in-lieu fee options.</p>
<p><b>Civil Support Space</b> Community oriented uses and spaces such as daycares, cultural centers, as well as other Institutional and Education spaces, Transportation and Waste Management facilities, and Recreational, Entertainment and other community uses and spaces.</p>	<p>Civil Support square feet x 2. Used up to the Bonus Max. stories: vary by DTC subdistrict, generally 1 to 8 stories</p>	<p>Loosely defined, thus potentially negotiable.</p> <p>Should generally be located on the ground floor.</p> <p>Minimum of 15 years of use/operation. Restrictive covenant or other binding agreements may be required.</p>
<p><b>Upper Level Garage Liner &amp; Underground Parking</b></p> <p>Either, or both options may be used.</p>	<p>Upper Level Garage Liner square feet x 2.</p> <p>Underground Parking square feet x 2.</p> <p>Used up to the Bonus Max. stories: vary by DTC subdistrict, generally 1 to 8 stories</p>	<p>Upper Level Garage Liners must be at least 20' in depth, and mask a structure from view along public streets and open space.</p>
<p><b>Public Parking</b> Parking can be paid, or simply free</p>	<p>Public Parking square feet x 2. Includes all stalls, and their associated drive lanes and aisles. Used up to the Bonus Max. stories: vary by DTC subdistrict, generally 1 to 2 stories</p>	<p>Shall be clearly marked as public, and be accessible to the public at all hours the garage is open for the lifetime of the building. Requires an approved restrictive covenant.</p>

### Other Requirements

Additional height above the Bonus Height Maximums could be achieved through a discretionary review for “Exceptional Design”. This requires that the project make all reasonable efforts to use the Bonus Height Program first, conduct a community meeting, and receive discretionary approval from the Planning Commission. Exceptional Design is broadly defined as including, but not limited to, unique architecture, exceptionally strong streetscapes, and improvement of the project’s relationship to surround properties (e.g. context sensitive design and/or adding value to a given neighborhood).