DOWNTOWN AUSTIN PLAN PHASE ONE

DOWNTOWN DENSITY BONUS PROGRAM

DRAFT July 6, 2009

BASE ZONING SCENARIO: FAR 8.0

DENSITY BONUS SCENARIO: FAR 24.9

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EXECUTIVE SUMMARY

Study Purpose

The purpose of this study and report is to recommend a predictable density bonus system that is grounded in an understanding of current development economics, that can continue to support healthy growth in the Downtown, and that can result in clear community benefits.

If approved by the City Council, this new program would replace the existing Density Bonus Ordinance, as it pertains to the Downtown, which has been in place since January 2008.

Conclusion and Principles

The primary conclusion of the study is that a density bonus program can be an effective tool in promoting the fundamental goals of a sustainable, affordable, and authentic downtown, if it adheres to six fundamental principles:

1. **Density should be encouraged, not penalized.** *Developers should have an economic incentive to use the program. The density bonus program should be carefully calibrated to maintain the Downtown's competitive position in the region.*

2. **Existing zoning should be retained as the base for the density bonus program,** *in order to promote a stable and predictable real estate market.*

3. **High quality urban design should be required of all development.** *Properties seeking a density bonus should be subject to existing Urban Design Guidelines, and ultimately to the form-based development standards that will be developed as part of the Downtown Austin Plan.*

4. **There should be one, administrative and predictable pathway to a density bonus.** *The use of the CURE rezoning process to obtain additional density and height should be abolished and replaced with a new density bonus program.*

5. **Additional density should be allowed only where appropriate and compatible.** *Portions of the Downtown can support additional density; some areas are in danger of losing their unique character and should be preserved.*

6. **Community benefits derived from density bonuses should be focused on the most "at-risk" elements.** *These include: housing affordability, climate change and sustainability, preservation of historic resources, cultural vitality and diversity and Downtown open space and pedestrian facilities.* The density bonus program should not become a "catch-all" mechanism for all public objectives.

The Density Bonus Program cannot itself achieve all of the goals articulated in Phase One of the Downtown Austin Plan. To be fully effective, it must go hand in hand with:

- A proactive program of affordable housing and social services;
- Sustainability measures related to transportation, parking, green building, etc.;
- Public investment in a robust transit system and in improved parks and open space;
- Programs for the promotion of live music and cultural vitality; and
- Regulations that promote high quality urban design.

Study Process

The ROMA team tested the form and economic implications of potential density bonuses for three different building types (residential, office and hotel) on nine different sites – three in each of three different districts of the Downtown (the Core, the Uptown and Northwest Districts). The sites included all of the principal zoning designations of the Downtown (e.g., CBD, DMU, CS, GO). (See Appendix E.)

The team mapped and analyzed the three Districts and engaged stakeholders, both through an on-line survey and district-specific meetings, to gain an understanding of District issues and priorities and the development potential of the nine test sites. (See Appendix C.)

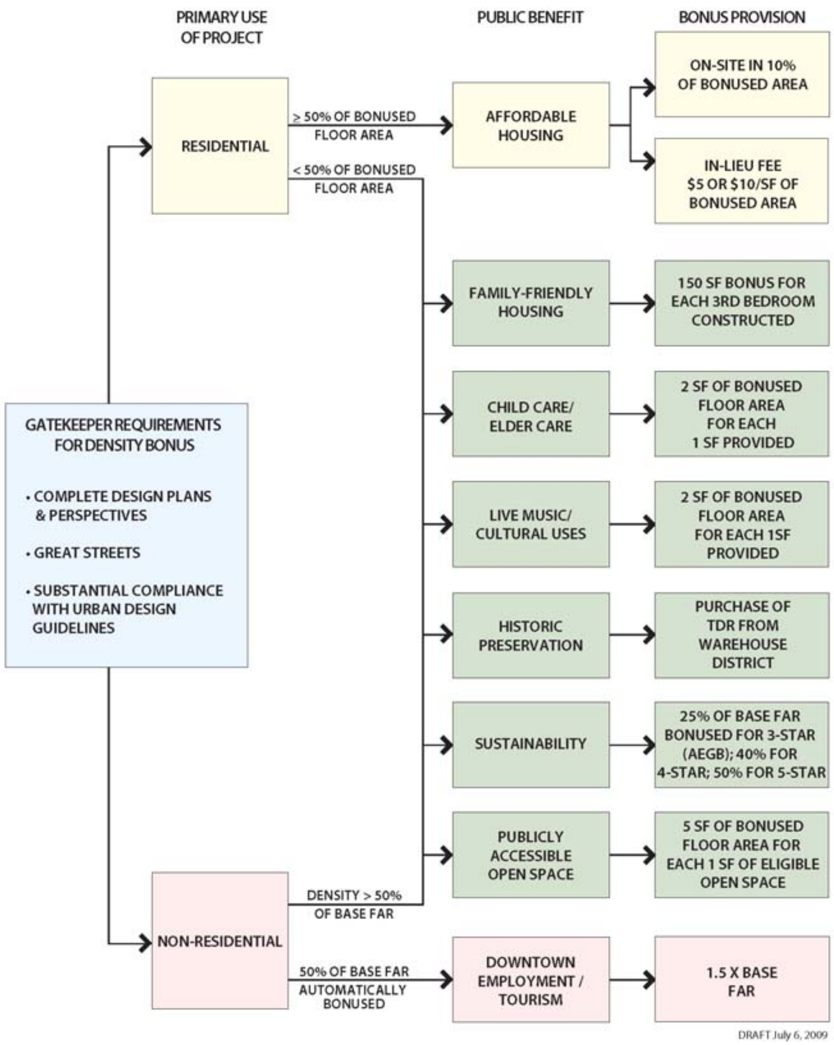
In order to understand the economic implications of the proposed density bonus scenarios, HR&A Advisors created test pro-forma models for the base zoning and bonused scenarios on each of the nine sites. (See Appendix F.)

Summary of Proposed Density Bonus Program

Gatekeeper Requirements: All projects seeking a density bonus above the Floor Area Ratios (FARs) currently permitted by the underlying zoning, will be required to meet certain "gatekeeper" requirements to ensure that basic urban design criteria are met. These gatekeeper requirements, which will ultimately be replaced by form-based development standards being prepared as part of the Downtown Austin Plan, include the following:

- *The site must be located within an area of Downtown, eligible for the density bonus program.*

- *Submittal of design plans that include schematic-level building elevations and three-dimensional simulations showing the existing context.*



PROPOSED DENSITY BONUS PROGRAM PATHWAYS

- *Substantial compliance with the Design Commission's Urban Design Guidelines*

- *Commitment to construct Great Streets*

On the basis of this review, City staff will present its recommendation to the Design Commission for any further input or comment. Once a project is deemed to be eligible to participate in the program, the following provisions will apply:

Non-residential Uses: In order to encourage and support office and hotel development vital to the sustainability and competitive success of Downtown Austin, additional density up to 50% of the baseline density is granted for these uses, with no additional provisions beyond those required under existing zoning and the gatekeeper requirements described above. For example, office and hotel development on properties with CBD zoning will be granted increased density from 8:1 FAR to 12:1. This recommendation is based on the economic analysis which found that bonuses provided to commercial developments do not consistently produce sufficiently high incremental returns or revenues to justify charging a public benefit fee.

Residential Uses: At least 50% of a residential development's bonused floor area shall be obtained through the provision of on-site affordable housing (as defined in the body of this report), *or* through the payment of an in-lieu fee to the Housing Assistance Fund. The fee shall be $5 per square foot of bonused floor area within the Northwest, Uptown, and Waller Creek districts of Downtown, and $10 per square foot of bonused floor area for the remaining districts of Downtown. This recommendation is based on the economic analysis which found that residential developments receiving a bonus do consistently gain sufficient value to support a public benefit fee, particularly those which result in increased height where price premiums can be realized.

All Uses: Additional density for both residential and non-residential development, beyond that described above, can be obtained by one or more of the following:

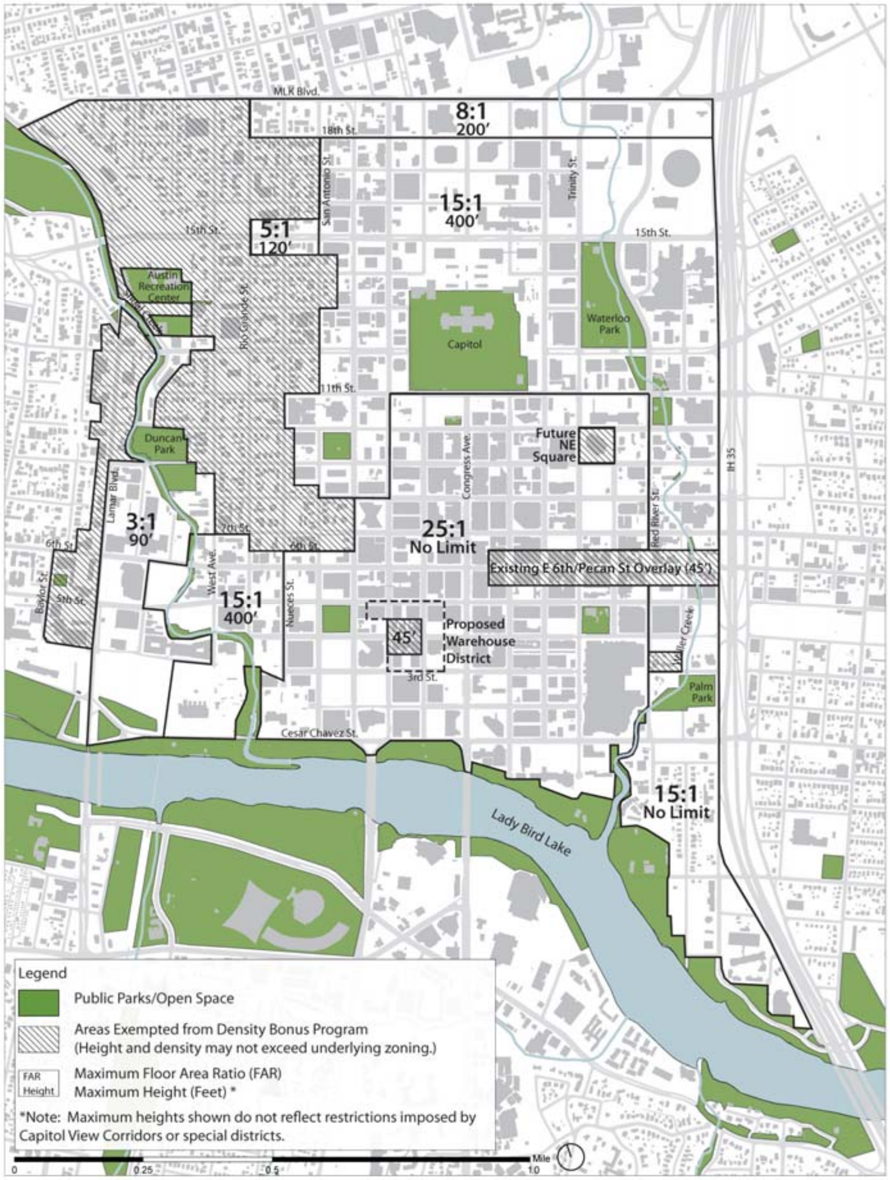
a) ***Green Building:*** Projects achieving a three-star Austin Energy Green Building Program (AEGBP) rating will be allowed additional density up to 25% of the baseline density. Projects achieving a four-star AEGBP rating will be allowed additional density up to 40% of the baseline FAR, and those with a five-star AEGBP rating will be allowed a bonus equivalent to 50% of the baseline density.

b) ***Historic Preservation of the Warehouse District:*** All developments that enter into an agreement with the City of Austin to purchase and transfer development rights from the Warehouse District will be awarded one square foot for each square foot transferred. (Transfer of Development Rights [TDR] provisions are described in the body of the report.)

c) ***Live Music and Cultural Uses:*** All developments that enter into an agreement with the City of Austin to provide the following uses will be awarded two square feet of additional floor area for each square foot provided:

    - ***Cultural Uses*** (e.g., theater, performance space, gallery space, museum, etc.) leased for at least 10 years to a non-profit approved by the Director of the Economic Growth and Redevelopment Services Office (EGRSO); or

    - ***Live Music Venue*** of at least 2,500 square feet, leased to an operator approved by the Director of the EGRSO for at least 10 years, and which meets the City's to-be-determined sound-proofing *specifications*.



PROPOSED DENSITY BONUS PROGRAM: MAXIMUM DENSITIES AND HEIGHTS

d) ***Family-Friendly Housing:*** For every residential dwelling unit, 150 square feet of bonused floor area will be allowed for each additional bedroom over two bedrooms.

e) ***Child or Elder Care Facilities:*** All developments that provide child care or elder care facilities will be awarded two square feet of additional floor area for each square foot provided. This bonus will be subject to the facility's adherence to applicable State codes, and to the City of Austin's approval of the operator and the lease terms.

f) ***On-Site Publicly Accessible Open Space:*** Developments which provide on-site publicly accessible open space contributing to the quality of the Downtown pedestrian experience will be awarded five square feet of bonused floor area for each square foot of eligible open space area provided.

g) ***Waterfront Overlay Zone and Other District-Specific Bonuses:*** Developments may also be awarded additional floor area for providing District-specific benefits, to be determined as part of the Downtown Austin Plan Phase Two district planning process. In addition, bonus provisions may also be developed as part of a future revised Waterfront Overlay Zone Ordinance.

The Downtown Density Bonus Program is applied only to areas of the Downtown defined for additional density, up to the maximums prescribed on the map to the left. Areas where additional density is deemed to be inappropriate are ineligible for the Program. A mechanism for calibration and recalibration of the bonuses needs to be established to ensure that the fees and community benefits remain in balance over time. It is recommended that this recalibration occur on a five-year cycle.

CONTEXT

Introduction and Purpose

The first phase of the Downtown Austin Plan (DAP) established a clear vision for the Downtown. The community supports the continued healthy growth and diversification of Downtown's resident and worker population and the creation of a compact, vibrant and sustainable Downtown. One of the first phase recommendations of the DAP was to establish a transparent and understandable system for awarding additional density, above that which is allowed by established zoning. The City Council acted on this recommendation by directing staff and the DAP consultants to undertake this study and return to Council with a proposed Density Bonus program.

This study is aimed at fulfilling this direction from Council, by developing a predictable density bonus system that is grounded in an understanding of current development economics, that can continue to support growth in the Downtown, and that can result in clear community benefits. If approved by the City Council, this new program would replace the existing Density Bonus Ordinance, as it pertains to the Downtown, which has been in place since January 2008.

What Are Density Bonuses And How Are They Used?

A density bonus is an incentive-based tool, which permits developers to increase the maximum allowable floor area or height on a property in exchange for helping the community achieve public policy goals. Density bonuses are used by municipalities across the country, in conjunction with their zoning ordinances, to achieve a wide range of community benefits, including preservation of historic buildings and sensitive environmental resources, provision of affordable or special-needs housing, higher levels of urban design, provision of public open space, arts and cultural uses and special amenities, etc. Typically, a density bonus program is tied to clear public objectives, providing specific quantities of additional floor area above an established maximum, in return for prescribed community benefits.

Density bonuses work best in mature urban areas where there is strong development pressure and limited land availability. As such, they are most commonly used in established downtown areas and inner-city districts, where additional density is most appropriate, real estate values are high, and where undeveloped land is scarce and at a premium.

Density bonuses are effective when they result in clear benefits to *both* the property developer and the community. The property owner and developer benefit by additional land value and net project revenues, and the community benefits by a project that includes valued public amenities - or one that contributes monetarily to specific programs (e.g., affordable housing, open space, etc.). *For a density program to work effectively, however, bonuses need to be calibrated so that sufficient incremental value is produced for private developers, over and above any community benefits charged, to incentivize the additional development in light of increased risk and cost. Without such calibration, developers will have little incentive to utilize the density bonus, and the Downtown could lose an opportunity to award density and to achieve other benefits.*

Density bonuses can be structured to produce desired on-site amenities or features (e.g., plazas, affordable housing units, underground parking, etc.) and/or to generate revenues for specific community programs (e.g., affordable housing, parks and streetscapes, etc.). Density bonuses have also been used as part of a Transfer of Development Rights (TDR) program, where developers are incentivized to purchase unused development rights from historic building sites or districts that have important community value (e.g., theaters). Density bonuses are also tailored to achieve specific objectives in different parts of a downtown, for example, to prioritize a particular land use like retail shops or restaurants along particular street frontages, or to contribute to a system of public spaces or amenities.

Density Bonus Programs in Other Cities

Many density bonus systems are facilitated administratively, with specific formulas for additional floor area and community benefits established. Some cities, like Vancouver, British Columbia, use a more discretionary approach, where the value of the additional floor area is calculated and negotiated on a project-by-project basis in relation to the public benefit offered. The following provides a sampling of the kinds of density bonuses offered in other cities to achieve community benefits:

- San Diego exempts ground floor retail uses along designated streets from Floor Area Ratio (FAR) calculations, as well as uses in preserved historic buildings. It also provides additional density for on-site open space, green roofs, streetscape improvements, family-oriented dwelling units, etc.

- Portland's Central City Bonus Program offers 18 density bonus options, ranging from incentives for affordable, middle-income and family housing to specific provisions for public art, eco-roofs, child care and public art. In addition, Portland employs a robust "Transfer Program" which allows for the transfer of density from one site to another, to preserve historic buildings, single-room occupancy hotels and existing residential development.

- Seattle exempts retail and entertainment uses from the FAR calculation in certain downtown districts and provides a density bonus for LEED Silver-rated projects.

Bonus for Retail in Target Area (1 bonus sf for each sf of retail)

Bonus for Moderate Income Housing (3 bonus sf for each 1 sf)

Bonus for Housing in CBD (up to 3.0 FAR)

Bonus for Underground Parking (2 bonus sf for each 1 sf of underground parking)

DENSITY BONUSES: PORTLAND, OREGON

- Vancouver provides density bonuses to interior public spaces devoted to public, social or recreational uses with a demonstrated need. Special "Heritage Bonuses" are provided on a case-by-case basis for projects that reuse/preserve historic buildings.

Density Bonuses Targeting Affordable Housing: Many cities utilize a density bonus to incentivize affordable housing. Typically this incentive can be achieved either by providing a portion of developed area as affordable housing ("on-site"), or in some cases by charging a fee, in lieu of constructing on-site affordable housing. Municipalities then use the fees to fund affordable housing or other public benefits at other locations. This fee may be structured as a flat fee, or it may be tied to the cost or the value of market units. The table to the right lists a range of cities which provide different types of density bonuses aimed at supporting affordable housing.

These cities have various solutions to tackle their affordability needs and illustrate potential policy options that Austin could pursue. A review of bonus programs across the country indicates that bonus and fee-in-lieu mechanisms are often available for residential developments, but are less common for commercial development. This is likely due to the more volatile nature of economic returns on commercial development, and the desirability of downtown commercial density as an end in itself.

In some cases, cities set a fixed fee per square foot of bonused area, updated on a regular schedule, in order to provide a transparent, reliable process for charging for bonused area:

- Boulder, which has a compulsory requirement for the inclusion of affordable housing within a project (i.e., "an inclusionary requirement") charges a fixed fee-in-lieu that allows developers the option of paying into a housing fund; the fee is calibrated in proportion to the on-site affordable requirement generated by a bonus, and varies its fee based on whether a unit is attached or detached.

- San Diego charges a fixed fee of $7.31 per square foot for units in buildings of 10 units or more, and $3.65 per square foot for units in buildings of less than 10 units. (San Diego adjusts its fee-in-lieu annually based on 50% of the gap between the area median home price and supportable housing expenses for those earning median family income.)

- Seattle charges an average fee of $18.94 per square foot of bonused area.

	Bonus for residential	Bonus for commercial	Fee in lieu for residential	Fee in lieu for commercial	Inclusionary Requirement
Arlington, VA	✓		✓		
Boulder	✓		✓		✓
Chicago	✓		✓		
Denver	✓		✓		✓
San Diego	✓	✓	✓	✓	✓
Seattle	✓	✓	✓	✓	

In cases where real estate costs and values fluctuate substantially, some cities have created systems for modifying fees charged based on market conditions:

- New Jersey's Council on Affordable Housing required developers to pay 2.5% of total project costs for all non-residential housing constructed as part of the project into a fund for affordable housing. (Note: this charge was temporarily suspended by the state legislature recently in light of current economic conditions.)

- Chicago, IL sets the fee-in-lieu to be paid for each square foot of bonused area by periodic appraisal of land values.
- Arlington, VA requires developers to pay 1% of total construction costs into an affordable housing reserve fund.
- Annapolis, MD charges a fee equal to 4% of construction costs quoted on the project's building permit application.

Existing Density Bonuses in Austin

In Austin, various types of density bonuses are being used to achieve public objectives. As early as the 1980s, the Waterfront Overlay District Ordinance contained some provisions for developers to increase allowable FAR in exchange for higher quality development. Most of Austin's density bonus incentives are much more recent, and all are primarily aimed at achieving affordable housing in specific planning areas. Some programs include "gatekeeper" requirements such as the provision of enhanced streetscapes, green-building, etc. The bonus programs, which have been developed over the past ten years to address specific issues and areas have had varied success:

The CURE Ordinance (1996): The City's CURE (Central Urban Redevelopment) Ordinance allows for site development regulations (such as density and height) to be modified by the City Council in order to promote "sustainable redevelopment" in Downtown and in near-Downtown areas and corridors. Almost all high-rise projects have pursued increased entitlements through this re-zoning process, and the City Council has systematically approved increased density and height, in support of the City's desire for dense, compact and sustainable development. (See Appendix A for copy of CURE Ordinance.)

In an "exchange" for these increased entitlements, developers have agreed to provide certain community benefits. These have been relatively modest in scope and have typically been contributions to the Austin Parks Foundation and/or to the Affordable Housing Trust Fund and construction of "Great Streets" streetscapes improvements.

This ad-hoc and unpredictable approach to granting increased development rights in exchange for community benefits has created concern on the part of both the development community and the public. From the developer's point of view, there is uncertainty in terms of the time, cost and outcome of the re-zoning process. From the community's point of view, there is uncertainty as to the levels of community benefits that are appropriate in relation to the entitlements offered, as well the unpredictability of how and when the City Council will act on a given project. This lack of transparency and predictability has engendered some mistrust of the CURE re-zoning system. For this reason, City Council directed the Design Commission to review density bonus programs in other cities and provide recommendations for a specific program for Austin.

University Neighborhood Overlay (UNO) Ordinance (2004): As part of the City's neighborhood planning process an overlay was created that covered significant portions of West Campus. The goal of the UNO overlay was to create a dense and walkable neighborhood adjacent to the University of Texas. In order to gain increased building heights and densities, residential developments must: achieve the One Star Austin Energy Green Building (AEGB) rating, provide streetscape improvements and comply with district design guidelines. In addition developments must construct 10% of bonused residential floor area to be affordable to families earning 80% MFI and 10% of the bonused area at 65% MFI, or pay a fee-in-lieu amounting to $0.50 per square foot of rentable floor area in the development. *So far, 239 on-site affordable units have resulted from a total of 2,393 residential units, as well as almost one million (fee) dollars.*

Rainey Street Ordinance (2005): This district of the downtown was substantially up-zoned from Single-Family, General Office (GO), etc., to CBD zoning, as a result of the desire to see this area redevelop as a dense residential, mixed-use neighborhood. However, in order to obtain CBD zoning entitlements, developers must build 5% of all housing units in a residential project on site at 80% MFI. *So far, only 19 affordable housing units have been produced from this density bonus program, probably due to the disaggregated ownership of properties likely to redevelop.*

Vertical Mixed Use Corridors (VMU) (2007): As part of the City's Commercial Design Standards initiative, the VMU Ordinance was passed to encourage denser, mixed-use development along key transit corridors. In order to obtain increased FAR, reduced parking ratios, etc., at least 10% of all residential units in a residential project must be constructed on site to be affordable to families earning 80%-100% of MFI (for ownership housing) or to families renting at 60-80% of MFI. *No affordable units have been produced from this program thus far.*

Transit Oriented Development Districts (TOD) (2008): This program is aimed at increasing affordable housing adjacent to the new MetroRail stations. Three "Station Area Plans" (SAPs) and their associated Regulating Plans were adopted by Council in late 2008 and early 2009 to regulate development in the one-half mile area around each new rail station. Density bonuses are included as part of the Regulating Plans to incentivize the construction of on-site affordable housing. Generally, in order to obtain increased FAR, density, height, and relief from Compatibility Standards, at least 10% of the entire square footage of the development must be built to be affordable to owners earning 60 to 80% of MFI, and for renters at 50-60% of MFI. A fee-in-lieu of affordable housing may be granted subject to the approval of the City Council if a compelling reason for not providing housing on-site is demonstrated. The fee is

West Campus: 21 Rio Apartments

Rainey Street: Milago Condominiums
Both the University Neighborhood Ordinance (UNO) and the Rainey Street Ordinance provide bonus density for the provision of affordable housing.

set at $10 per square foot of bonus area. *No affordable units have been produced from this program thus far.*

Recently Revised Planned Unit Development (PUD) Ordinance (2008): This substantial revision to the existing PUD ordinance was created to set clearer parameters to achieving the required "superior" development associated with PUDs. As part of this revision, affordable housing parameters were set, along with required green building standards, open space, etc. In order to obtain the PUD zoning (with potentially increased FAR, height and/or building coverage), a project must demonstrate superiority to what would be required under conventional code. One of several ways to demonstrate superiority would be to include an affordable housing component that stipulates that at least 10% of rental units must be affordable at 80% MFI or 5% of for-sale units must be affordable at 80% MFI. *No affordable units have been produced from this program thus far.*

North Burnet Gateway Area Program: This previously industrial area of northwest Austin is undergoing a transformation to become a high-density mixed-use community that will be served by two rail lines. Adopted in November 2007, the neighborhood plan/master plan recommended development of a design-based zoning code and density bonus system for the area. The Regulating Plan for the area was adopted in March 2009 and includes density bonus provisions to incentivize the construction of affordable housing and new collector streets as redevelopment occurs. In order to obtain increased FAR and height, at least 10% of the bonused area must be built for families earning 80% MFI for sale or for 60% rental. A fee-in-lieu of affordable housing may be granted administratively for $6 per square foot of bonus area. In addition, a select group of smaller properties (less than 5 acres in size) may be eligible for a density bonus for constructing new collector streets as identified on the adopted North Burnet/Gateway collector plan. *No affordable units have been produced from this program thus far.*

The North Burnet Gateway Plan includes a density bonus for on-site affordable housing, and an in-lieu fee.

Density Bonus Ordinance (2008): In anticipation of a more economically-grounded density bonus program to be developed by the ROMA/HR&A team as part of this study, the City Council adopted a Density Bonus Ordinance in January 2008, setting up an administrative process for granting increased entitlements in exchange for community benefits, with a particular focus on affordable housing. The ordinance is the result of considerable effort, particularly by the Council-appointed Affordable Housing Incentive Task Force (AHITF) and the Design Commission. Both groups shared a central goal: the desire to ensure that a fair share of community benefits be derived in exchange for increased entitlements awarded to projects, i.e., greater building height and/or density. (See Appendix B: Density Bonus Ordinance.)

The Density Bonus Ordinance reflects the recommendations developed in the AHITF Report, as well as certain provisions recommended by the City's Design Commission. For Downtown properties zoned CBD and DMU, the ordinance requires that, in addition to meeting the City's Design Guidelines (as judged by the Design Commission) and constructing "Great Streets" streetscapes, a development must meet the following:

For residential developments:

- Provide affordable housing in 10% of the floor area exceeding the floor-area-ratio limitation of the existing zoning (the bonused area), *or*

- Pay a fee to the Housing Assistance Fund equal to $10 per square foot of the bonused area.

For commercial or mixed use developments:

- Pay a fee to the Housing Assistance Fund equal to $5 per square foot of the bonused area, *and*

- Pay a fee to the Community Benefits Fund equal to $5 per square foot of the bonused area. (The Community Benefits Fund could then allocate funds to support a number of purposes, such as open space, child care, transit, green building, historic preservation, live music, etc.)

A key incentive to participate in the Density Bonus is the provision that the City waive all development fees for the project, if the developer elects to pay a fee instead of providing on-site affordable housing. (If the developer is providing on-site affordable housing, then the development fees are already waived as part of S.M.A.R.T. Housing incentives.)

Since adoption in January 2008, however, no Downtown developers have chosen to avail themselves of the Density Bonus Ordinance. The more direct and less costly route to increased entitlements still exists through the CURE re-zoning process, which is in effect a loophole in the Density Bonus Program, allowing developers to revert to the discretionary, Council-driven, re-zoning process. Four such CURE zoning cases have taken place since the passage of the ordinance (January 2008), which have received significant increases in FAR in exchange only for construction of Great Streets sidewalk improvements – far less than what would have been required of these projects if they had participated in the current or proposed Density Bonus Program.

Evaluation of Austin's Density Bonuses: The density bonus program that has received the most response from the development community is that of UNO, where there has been a convergence of pent-up demand for student housing, with bonuses that offer substantially greater entitlements than the base zoning. In addition, the in-lieu fees being charged for affordable housing are set at a level that does not deter developers from building at greater heights and densities.

Greater Density Does Not Always Mean Greater Value

It must be understood that the ability to develop with increased or bonused density does not always generate increased or "incremental value" to a developer sufficient to incentivize the additional development. The following statistics were generated by an analysis the team performed of twenty recent developments in Austin's CBD from 2002 through 2009 with the CURE regime in place. (See Appendix D: Recent Downtown Austin Projects Comparison.)

- 55% of developments did not seek additional zoning rights;

- Only 57% of the sites that did receive additional development entitlements made use of them when they developed their projects; and

- Of the projects that proceeded with the additional entitlements, only 77% of the bonused floor area was ultimately built.

There can be a number of reasons that a private developer may not be able to achieve a sufficiently higher return under a bonus density to justify the increased risk or cost taken on to build a larger building:

- Higher per unit costs due to a change in construction type (i.e., change from mid-rise to high-rise)

- Longer construction and absorption periods

- Exposure to additional types of market risk

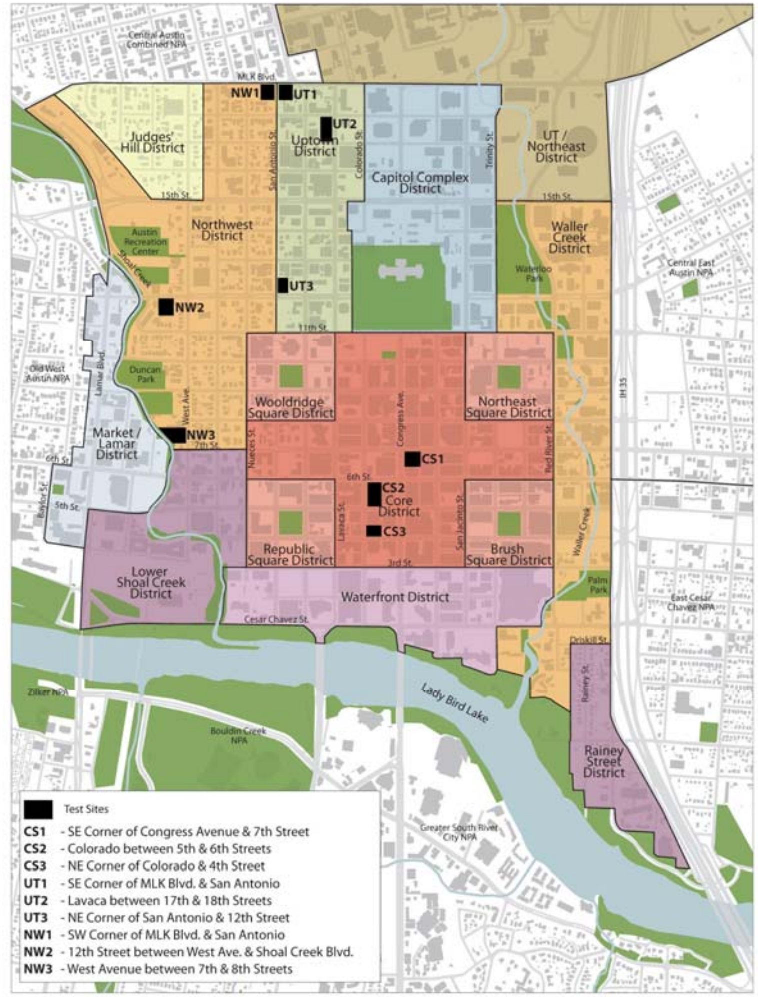
On the other hand, opportunities for higher base revenues and certain construction related economies of scale are available, so there are cases where sufficient incremental value is created to justify a charge for a density bonus. One such case is in high-rise residential development, where the value of units increases with additional height.

STUDY PROCESS AND FINDINGS

In order to devise an economically-grounded density bonus regime that would also result in appropriate and compatible built form for different areas in downtown, the ROMA team tested potential density bonuses for three different building types (residential, office and hotel) in three different districts of the Downtown. The three districts, as identified in DAP Phase One, are the Core, the Uptown and Northwest Districts, which include a diversity of zoning designations from CBD with an FAR of 8.0 and unlimited height, to DMU with an FAR of 5.0 and a maximum height of 120 feet, and GO with a maximum FAR of 1.0 and a height of 60 feet. As such, nine development sites were selected - outside of existing Capitol View Corridors - to be the subjects for testing the implications of increased density, both from a physical form and a development economics standpoint. (See map to right.)

Form and Character Analysis of Test Districts

In order to understand the character of these three sample districts and the three test sites within them, the team mapped and analyzed the areas and engaged stakeholders, both through an on-line survey and in district-specific meetings, to study the following: historic resources, unique built and environmental qualities, areas and buildings to preserve and enhance, location of retail/restaurant and cultural uses and finally, what areas within each district could accommodate increased density above their existing zoning. This analysis informed the team's *physical* modeling or three-dimensional massing of proposed bonused development on each of the nine test sites. The team also queried district stakeholders about their priorities for redevelopment, both in terms of types of buildings and uses and what improvements should be made in the district, such as enhanced open space, better streetscapes, trail connectivity, etc. (See Appendix C: Core, Uptown and Northwest district: Form and Character Analysis.



TEST SITES FOR PROPOSED DENSITY BONUS PROGRAM

Nine "test sites" in three downtown districts were analyzed for their ability to accommodate additional density

For each of the sites, the team then developed three-dimensional simulations of the maximum envelope of development under *existing* zoning regulations and a corresponding scenario illustrating the maximum compatible envelope that might be developed if a density bonus were allowed. (See sample simulations on the following page, and all of the test sites in Appendix E: Physical Form Analysis of Test Sites.)

Parking Assumptions: It is important to note that in all cases, it was assumed that parking would be provided consistent with current market practice in Downtown developments, rather than the full reduction allowed for the downtown by the Land Development Code. Therefore, all the scenarios, except one, reflect the following:

- Residential: 1.8 spaces average per unit assumed; whereas Code permits 1.2 spaces per 2 bedroom unit

- Office, Retail: 1 space per 400 square feet (SF) assumed; whereas Code permits 1 space per 1375 SF

- Hotel: 1 space per room assumed; whereas Code permits 0.22 spaces per room)

In addition, it was assumed that the bonused projects would only park a maximum number of three levels underground and no more than ten levels above grade, which is consistent with current practice Downtown, from a practicality standpoint.

Summary Findings of Form Analysis: From the district form analysis and the testing of each of the nine sites, the team has made the following findings:

- There are opportunities for increased density in many areas, without compromising the scale and character of the surrounding district. Such increases in density should be guided by development standards that promote compatibility. These standards should be developed in conjunction with key stakeholders in Phase Two of the DAP; in the meantime, existing compatibility standards should prevail.

- There are some areas of Downtown where increased density and/or height beyond the current zoning limits should not be allowed, such as in much of the Northwest, Judges' Hill, the East 6th Street and Warehouse districts. *These areas should be excluded from the Downtown Density Bonus Program.*

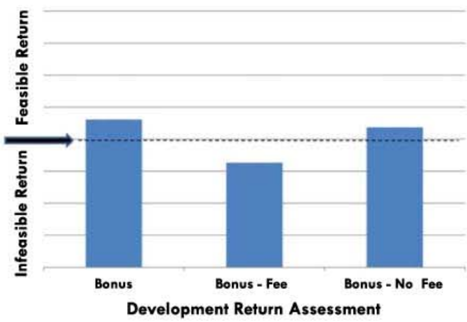
- It will be difficult to take advantage of a density bonus if the subject site is less than one-quarter block, as incorporating structured parking becomes extremely inefficient (space consumed per parking space yield is very high) and therefore costly. Off-site parking provisions made possible through a parking management or enterprise may change this in the future.

- Current market and financing-driven parking practices which lead to high numbers of on-site parking spaces being required and built limit the ability for projects to achieve densities significantly above what the existing zoning prescribes. This is due to a number of things. First, few developments will build more than nine or ten floors of parking, as beyond this, accessing parking becomes cumbersome and inconvenient for the building users. Second, providing suburban or near-suburban parking quantities can cause projects to reach their height maximums sooner, which has the effect of reducing the amount of habitable space possible. Third, at some point the sheer cost of providing on-site structured parking becomes a deterrent to providing more habitable space/density.

CORE DISTRICT - SITE 2

(Reduced On-Site Parking)
Colorado between 5th & 6th Streets

Existing Zoning = CBD
Maximum FAR = 8.0
Site Area = 43,827 sf
Maximum Floor Area = 350,614 sf
Maximum Height = Unlimited
Maximum Impervious Cover = 100%



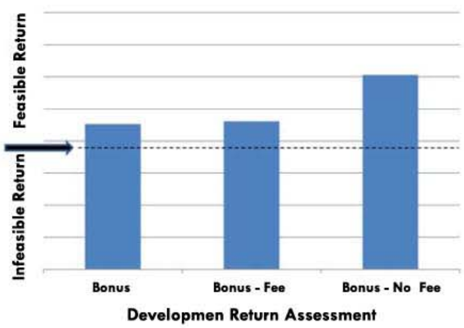
BASE ZONING SCENARIO
Office
350,100 sf (FAR 8.0)*
190 ft (13 Floors)

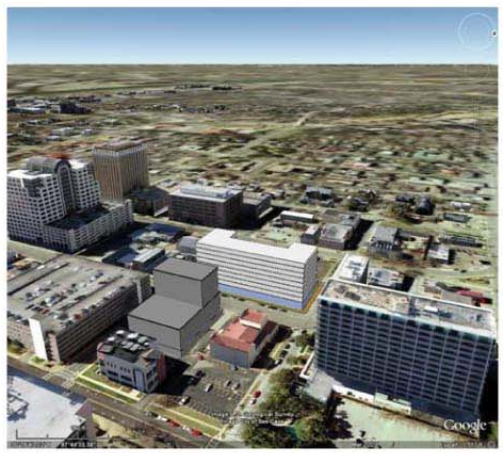
DENSITY BONUS SCENARIO
Office
1,092,600 sf (FAR 24.9)*
540 ft (37 Floors)

UPTOWN DISTRICT - SITE 2

Lavaca between 17th and 18th Streets

Existing Zoning = DMU
Maximum FAR = 5.0
Site Area = 35,806 sf
Maximum Floor Area = 179,032 sf
Maximum Height = 120'
Maximum Impervious Cover = 100%





BASE ZONING SCENARIO
Residential
178,200 sf (FAR 5.0)*
118 ft (9 Floors)

DENSITY BONUS SCENARIO
Residential
305,600 sf (FAR 8.5)*
304 ft (24 Floors)

TWO SAMPLE TEST SITES

(for remaining Test Site Studies see Appendix E.)

- If Downtown projects were able to provide substantially less on-site parking, there would be greater potential for increased floor area densities, which could create higher levels of community benefits associated with a density bonus program. Reducing the amount of on-site parking in developments would also increase the effectiveness of transit and help to foster a more sustainable Downtown. It would also result in buildings with less bulk and "dead" space, and more habitable floor area, making developments more attractive and human-scaled. As Austin's transit system is expanded, and as centralized shared parking becomes more prevalent in the downtown, the amount of on-site parking will be able to be reduced, and smaller sites (e.g., less than one-quarter block in size) will become more viable for redevelopment.

Economic Analysis of Test Sites

In order to understand the economic implications of the proposed density bonus scenarios, HR&A created test pro-forma models for the base zoning and bonused scenarios on each of the nine sites. (See Appendix F.) This process involved the following:

- Generating the net and gross floor area for each site under existing zoning and the proposed density bonus.

- Determining construction costs and timing through a combination of information gathered from developer interviews, and baseline construction cost estimates of different construction types corresponding with different building types.

- Obtaining appropriate operating information through a combination of national brokerage reports, local market studies, information from local developers, and asking rents and prices from publicly available sites. Information included income, expenses and absorption.

- Obtaining financing information from various market sources and interviews with developers.

- Developing a sources and uses and cash flow/returns schedule resulting from the data for each use and corresponding bonus use.

- Obtaining projected returns from each development, in the form of a net present value calculation to determine the dollar amount of returns and an internal rate of return calculation in order to determine the relative risks and returns.

- The modeling did not assume that any development fees were waived apart from currently available S.M.A.R.T. Housing benefits.

General returns were compared for the base and bonus developments and then aggregated in order to determine the efficacy of a density bonus across product types and across different Downtown districts. It must be noted that although market conditions may change and assumptions may change, the critical factor is *the relationship between base and bonused densities*, which can be estimated at this time. As market conditions change, the analysis should be updated periodically.

Summary Findings of Density Bonus Development Economics: The initial findings are as follows:

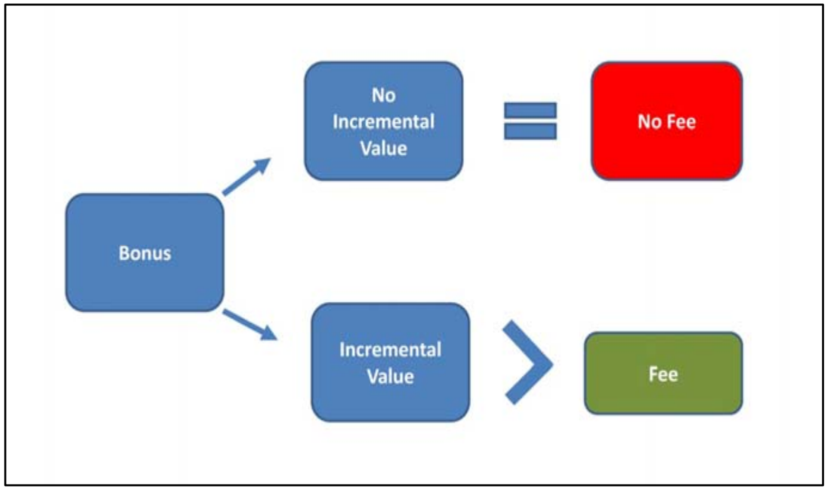
- Residential developments receiving a bonus appear to gain sufficient incremental value to support a public benefit in each downtown district. This is due largely to the added value of high-floor residential units.

- For residential projects, the incremental value created varies by district within downtown, with residential development in the Core, Waterfront, Lower Shoal Creek, and Rainey Street districts producing the highest value. The analysis suggests that residential projects in these districts could support a $10 per square foot fee-in-lieu, while residential projects in other districts could support a $5 per square foot fee-in-lieu.

- At this time, commercial development does *not* produce sufficiently high incremental returns on additional building area that could be gained through a density bonus to justify charging a public benefit fee. Office product does not command sufficiently higher rents for additional density to produce significant incremental value, and hotel programs are not easily amenable to scaling, which would be required to take advantage of bonusable areas.

- Bonuses that result in a more expensive construction type (i.e., shifting from mid-rise to high-rise) typically do not yield additional returns high enough to justify their usage. In some cases, however, additional density makes a project feasible where it was not feasible under base zoning. This is particularly the case for commercial (office and hotel) developments outside of the Core, Lower Shoal Creek, Rainey Street and Waterfront districts, which depend on a sufficient density to support the high cost of constructing parking.

- There are limits to the amount of bonus area that will be used for any given site, even assuming strong market conditions and reduced parking requirements. Market absorption time (i.e. the period in which a project's units are sold or its spaces completely rented) lengthens for projects over a certain size to the point where returns are no longer sufficient to justify the bonused floor area. Except in special circumstances, more than a 50% floor area increase over base zoning does not produce sufficient incremental returns. This is less likely to be the case in the Core district, where stronger demand has accelerated residential absorption and where office developments will have a more rapid lease-out period.



A fee is justified only where incremental value is created.

Potential Value of Density Bonus Fee: Given these considerations, HR&A analyzed the potential value that a density bonus fee-in-lieu could generate for the City of Austin and found that a fee-in-lieu, if implemented now and used by the development community, could generate a substantial fund for creation of public goods, but not one of a magnitude that could solve - for example - Austin's Downtown affordable housing challenges on its own.

Based on an analysis of developable land downtown, HR&A concluded that a density bonus for residential projects in all parts of Downtown could generate $30 million in funds over a 20 to 30 year period, assuming:

- 50% of developable sites of a quarter-block or more were developed;

- All of those sites used a density bonus with an average bonused FAR of 3.0 for 50% of the bonused area, and paid a fee of $5 per square foot for residential development in the Northwest, Uptown and Waller Creek districts of Downtown, and $10 per square foot in the rest of Downtown.

HR&A estimates that these funds would be sufficient to produce about 130 to 200 units of affordable ownership housing Downtown using public funds to subsidize units (assuming units geared to 120% of median family income), or 275 to 330 units of affordable rental housing Downtown (assuming units geared to 80% of median family income). (See Appendix F: Detailed Findings from Economic Analysis of Test Sites.)

FOUNDATIONAL PRINCIPLES

While not a single solution or "silver bullet", the density bonus program can be an effective tool in promoting the community's core values of a more sustainable, diverse and livable Downtown. As the Downtown matures, the program is likely to yield increased returns over time. The following six principles are recommended to promote a simple, clear and predictable density bonus system that offers a level of certainty to all stakeholders:

1. **Density should be encouraged, not penalized.**
2. **Existing zoning should be retained as the base for the density bonus program.**
3. **High quality urban design should be required of all development.**
4. **There should be one, administrative and predictable pathway to a density bonus.**
5. **Additional density should be allowed only where appropriate and compatible.**
6. **Community benefits derived from density bonuses should be focused on the most "at-risk" elements.**

Principle 1: Density should be encouraged, not penalized. Developers should have an economic incentive to use the Density Bonus Program. The program must not penalize or discourage increased density, which in itself can result in an increased tax base, and a more compact and sustainable city center that is supportive of transit. Rather, the Density Bonus Program should be structured in a way that economically incentivizes developers to use the program, and in doing so, to develop projects that result in additional community benefits.

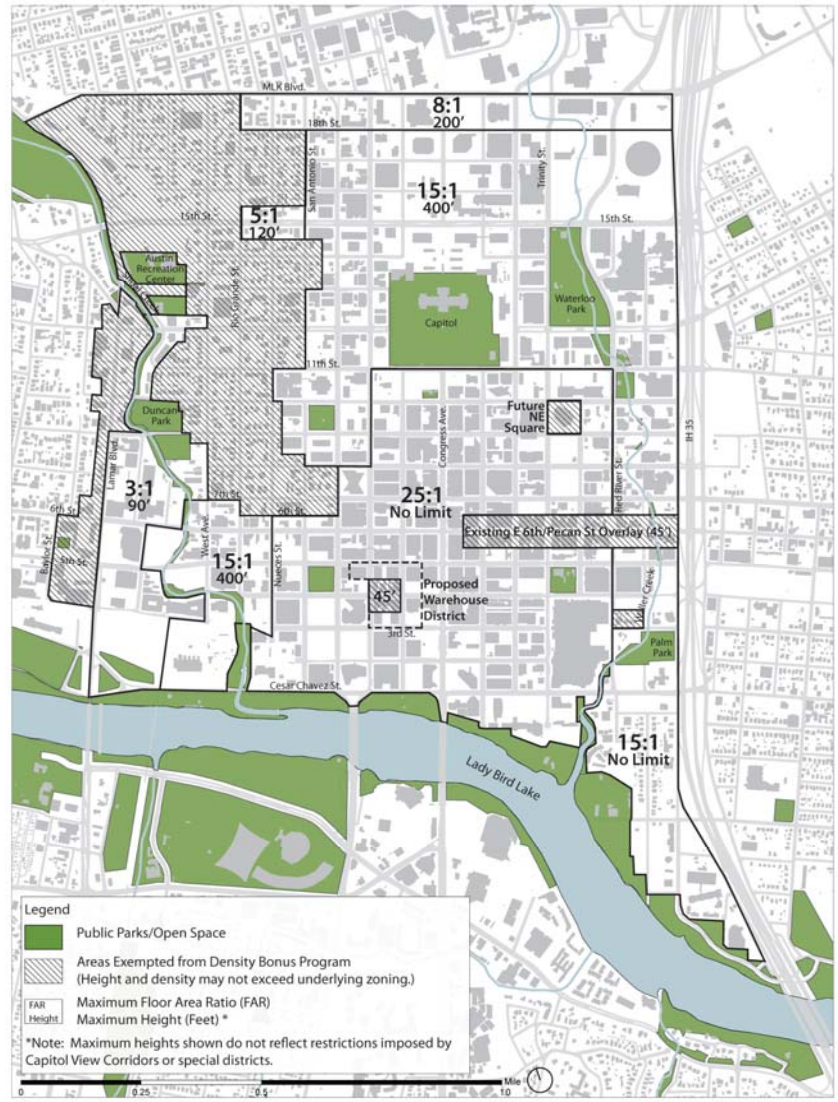
"Charging" for a density bonus, whether through on-site benefits or as a fee-in-lieu can be justified only where sufficient incremental value is created for a private developer to take on the additional risk of building a larger project. The public may feasibly exact a portion, but not all, of the incremental value created from bonus density. In order to incentivize use of a density bonus, private developers must be left with some measure of incremental value for choosing to build the additional density.

In analyzing existing and potential downtown development, it has been concluded that *residential* developments receiving a bonus appear to gain sufficient incremental value to support a public benefit in each downtown district. On the other hand, *commercial* (office and hotel) developments at this time do not produce sufficiently high incremental returns to justify a fee.

Principle 2: Existing zoning should be retained as the base for the density bonus program. Existing zoning designations (e.g., CBD, DMU, CS, GO, etc.) and their specific height and density provisions should be maintained as the baseline for the proposed Density Bonus Program, in order to foster a stable and more predictable real estate market. These entitlements provide a wide spectrum of densities depending on their locations, with Floor Area Ratios (FARs) ranging from 1:1 at the edges of the Downtown (GO: General Office) to 8:1 in the Core (CBD: Central Business District). Height limits under existing zoning range from 60 feet (CS: Commercial Services and GO) to 120 feet (DMU: Downtown Mixed Use) and to unlimited height on properties designated with CBD zoning. This entitlement structure has been in effect for many years and has the status (and benefit) of a norm. Amending the baseline zoning at this point could be disruptive and time-consuming.

Principle 3: High quality urban design should be required of all development. Before developing a program for awarding density, it is important first to determine what should be required of all development. As concluded in the DAP Phase One Issues and Opportunities report, all development within Downtown should be designed to reinforce the community's fundamental goals for a livable, sustainable, diverse and engaging city center that is respectful of its history and culture. As such, high quality design should be a prerequisite for *all* new development within the Downtown, *not just those projects seeking additional density*. It is not wise to depend on developers participating in a density bonus program to achieve fundamental urban design objectives, when it is not known how many projects will choose to take advantage of the program. As part of the DAP Phase Two effort, existing development codes will be refined to respond more purposefully to the unique form and activity characteristics of Downtown and its Districts, as well as to create more sustainable development, independent of the density bonus program. In the meantime, the Design Commission's Urban Design Guidelines should be used as a basis for the review of projects seeking additional density.

Principle 4: There should be only one, administrative and predictable path to receiving a density bonus. The City's CURE (Central Urban Redevelopment) Ordinance provides a mechanism to obtain additional density and height beyond the maximum permitted by the base zoning that is awarded at the discretion of the City Council. The use of CURE to obtain additional density and height should be replaced by a formalized and prescriptive density bonus system that can be processed administratively, and that can provide all stakeholders, including developers and community members, with more certainty and predictability. As evidenced by the non-participation in the 2008 Density Bonus Ordinance, the CURE re-zoning process has proven to be a "loophole" that has rendered the existing Density Bonus Program ineffective for Downtown.



PROPOSED DENSITY BONUS PROGRAM: MAXIMUM DENSITIES AND HEIGHTS

Principle 5: Additional density should be allowed only where appropriate and compatible. Certain areas of the Downtown should be excluded from the Density Bonus Program, because additional density could threaten the area's historic or neighborhood character and integrity. As shown on the map on the opposite page, the following areas are proposed for exclusion:

- The Judges' Hill Neighborhood;
- Portions of the Northwest and Uptown districts, not including portions of the MLK Boulevard, West 15th Street and West 12th Street corridors;
- The blocks including and surrounding the Bremond Block National Register Historic District;
- The East Sixth Street National Register Historic District, which already has a 45-foot height limit;
- All properties west of Lamar Boulevard;
- The Waterloo compound along East Third Street east of the Convention Center, a potential historic district; and
- The most intensive concentration of historic warehouse structures along Fourth Street between Lavaca and Colorado streets. (See discussion of Warehouse District below.)

(Note: The boundaries of these excluded areas may be refined further, as a result of more detailed district planning that will occur during the second phase of the DAP.)

Additional density beyond what is currently permitted by zoning is desirable in many parts of the Downtown, particularly when such density further reinforces goals for a more livable, diverse and sustainable city center that is supportive of transit. The map presented here provides a recommended allocation of maximum densities (FARs) and heights. As part of the Phase 2 District plans, these height and density limits may be refined and adjusted further, and specific development standards will provide further guidance on the form of buildings and their relationship with existing features or conditions within the various districts of the Downtown. In the meantime, it is recommended that all projects seeking additional density be subject to the City's existing Compatibility Standards and to the Design Commission's Urban Design Guidelines as interpreted by the Urban Design Division of the Neighborhood Planning and Zoning Department.

Principle 6: Benefits derived from density bonuses should be targeted to "at-risk" elements and areas of Downtown and the "Downtown Impact Area". The density bonus program should not become a "catch-all" mechanism for the achievement of all public objectives. A recent report evaluating the efficacy of Portland's density bonus system concluded that the most important improvements that could be made would be to enhance the program's:

- ***simplicity,*** in the number of bonus options, and how they work;
- ***clarity,*** in how these options are interpreted and implemented; and its
- ***certainty,*** that developers have access to cost effective options for reaching the maximum density potential, while contributing to public goals.

(Source: Evaluation of Entitlement Bonus and Transfer Portland's Central City: Report on Findings, Johnson Gardner, November 2007.)

While the channels for achieving increased density need to provide a sufficient number of cost-effective options, the number of options should not be so excessive as to dilute the program's ability to produce real benefits. In addition, the density bonus program should not be utilized to achieve benefits that could be more effectively achieved through other means. For instance, density bonuses should not be used as the primary tool for achieving fundamental urban design objectives, which can more effectively be realized through development standards. Similarly, streetscape enhancements should be required of all new development. The density bonus program is also not an effective or appropriate mechanism for funding downtown parks and open space improvements, or for the expansion of the transit system, both of which require their own robust implementation and financing strategies. Rather, it is recommended that the program be strategically focused to mitigate the most significant risks facing Downtown and bring focus to these in the community. In response to the DAP Phase One findings and stakeholder input, the Density Bonus Program fees and/or benefits should be targeted to bolster five principal needs:

- ***Affordable Housing:*** The need for more affordable housing, including housing suitable for families and others with special needs;

- ***Green Building:*** The need for higher levels of sustainably-designed buildings that conserve energy and natural resources;

- ***Historic Preservation of the Warehouse District:*** The need to preserve the last remaining structures of the historic Warehouse District as a unique place within the Downtown;

- ***Live Music and Cultural Facilities:*** The need to preserve and expand viable live music venues and cultural facilities that provide an important creative, social and economic base to the community; and

- ***Downtown Open Space and Pedestrian Facilities:*** The need for high quality open space that is publicly accessible and that contributes to the pedestrian experience and vitality of the downtown.

PROPOSED DENSITY BONUS PROGRAM

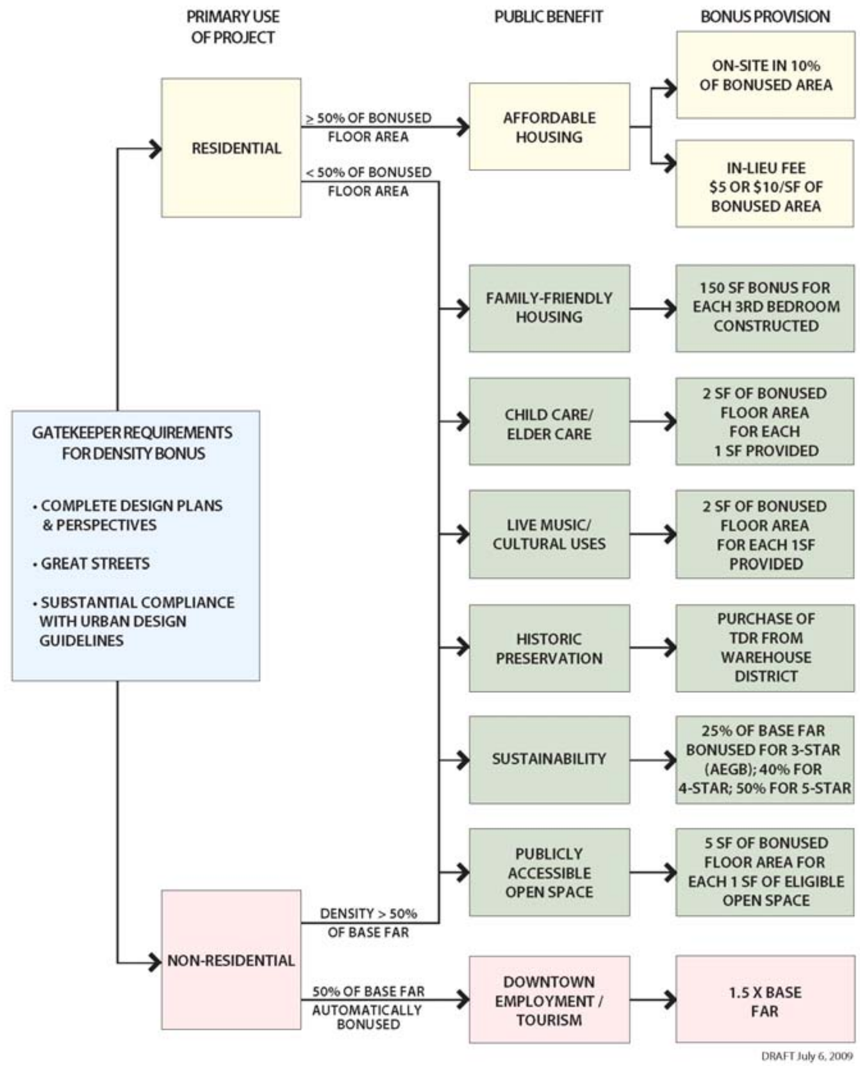
The following density bonus program is based on the six principles described above and the physical form and economic analyses. As discussed, the intention is to create a clear and transparent system, which can be implemented administratively, and which results in clear benefits to the community. Benefits are targeted to the four areas of particular need: affordable and special needs housing, higher levels of green-building and sustainable development, retention and creation of live music venues and cultural facilities and historic preservation of the Warehouse District. The proposed Program is depicted on the adjacent diagram and structured per the following:

Gatekeeper Requirements

All projects seeking a density bonus above the Floor Area Ratios (FARs) currently permitted by the underlying zoning, will be required to file an application with the City and to meet certain "gatekeeper" requirements to ensure that basic urban design criteria are met. The Urban Design Division of the City's Neighborhood Planning and Zoning Department will review each project to determine its eligibility for the density bonus program, based on the following gatekeeper requirements:

Location: The project must be located within an area of the Downtown eligible for the density bonus program (See map on page 20).

Design Plans: All projects seeking density bonuses should include conceptual building elevations and three-dimensional simulations, which describe the urban design character of the proposal in relation to its context. This will enable the City to understand the potential effect that the project could have on the downtown environment.



PROPOSED DENSITY BONUS PROGRAM PATHWAYS

Substantial Compliance with Existing Urban Design Guidelines: All projects seeking density bonuses should comply with the Design Commission's Urban Design Guidelines. These guidelines will ultimately be replaced by the form-based development standards being prepared as part of the Phase Two of the Downtown Austin Plan, which will apply to all downtown development.

Great Streets*:* All projects seeking density bonuses will be required to implement streetscape improvements adjacent to the property, consistent with the Downtown Austin Plan streetscape standards, or the Great Streets program, whichever applies.

On the basis of this review, City staff will present its recommendation to the Design Commission for any further input or comment. Once a project is deemed to be eligible to participate in the program, the following provisions will apply:

Non-Residential Uses

In order to encourage and support office and hotel development vital to the sustainability and competitive success of Downtown Austin, additional density up to 50% of the baseline density is granted for these uses, with no additional provisions beyond those required under existing zoning and the "gatekeeper requirements" described above. For example, office and hotel development on properties with CBD zoning will be granted increased density from 8:1 FAR to 12:1. This recommendation is based on the economic analysis, which found that commercial developments at this time do not consistently produce sufficiently high incremental returns to justify charging a public benefit fee. Non-residential projects seeking additional density, beyond this 50% FAR bonus, will not be subject to a fee, but will be required to provide community benefits as described below for *All Uses*.

Residential Uses

At least 50% of a residential project's bonused floor area must be achieved by either:

- constructing on-site affordable housing in 10% or more of the bonused square footage; or by

- paying a fee to the Housing Assistance Fund as provided below.

Up to 50% of the remaining bonused floor area of a residential project may be achieved by complying with the community benefit requirements described below for *All Uses*.

On-Site Affordable Housing: The following provisions must be met to qualify for affordable on-site housing:

- An owner-occupied affordable unit must be available for occupancy for a period of not less than 99 years by an occupant whose gross household income does not exceed 120% of the median family income (MFI) for the Austin metropolitan statistical area.

- An affordable rental unit must be available for occupancy for a period of not less than 30 years by an occupant whose gross household income does not exceed 80% of the median family income (MFI) for the Austin metropolitan statistical area.

Buildings which achieve Austin Energy Green Building ratings will be awarded additional density.

Affordable Housing In-Lieu Fee: The in-lieu fee to be paid for each square foot of gross floor area of residential development above the baseline density will be established by ordinance and adjusted annually in accordance with the Consumer Price Index All Consumers, US City Average, All Items (1982-84=100), as published by the Bureau of Labor Statistics of the United States Department of Labor. On the basis of the economic analysis performed as part of this study and presented in Appendix F, the following fees are recommended for residential development:

- Within the Core and Historic Squares, Lower Shoal Creek, Rainey Street and Waterfront districts, the fee shall be $10 per gross square foot of additional space above the baseline density.
- Within all other Districts of the downtown, the fee shall be $5 per gross square foot of bonused space (additional space above the baseline density).
- This fee shall be allocated to the Housing Assistance Fund.

It is recommended that the City Manager adjust the fee amounts every five years through analysis of economic feasibility and report the new fee amounts to City Council. The methodology for determining economic feasibility is described more specifically on page 29. It would involve pro-forma financial analysis to determine if sufficient incremental value is created to justify a certain fee amount.

All Uses

Additional density for both residential and non-residential development, beyond that described above, can be obtained by one or more of the following:

a) Green Building: Projects achieving a three-star Austin Energy Green Building Program (AEGB) rating will be allowed additional density up to 25% of the baseline density. Projects achieving a four-star AEGB rating will be allowed additional density up to 40% of the baseline FAR, and those with a five-star AEGB rating will be allowed a bonus equivalent to 50% of the baseline density.

b) Historic Preservation of the Warehouse District: All developments that enter into an agreement with the City of Austin to purchase and transfer development rights from the Warehouse District will be awarded one square foot of bonused floor area for each square foot transferred. (Transfer of Development Rights provisions are described in the following section of this report.)

c) ***Live Music and Cultural Uses***: All developments that enter into an agreement with the City of Austin to provide the following uses will be awarded two square feet of additional floor area for each square foot provided:

- ***Cultural Uses*** (e.g., theater, performance space, gallery space, museum, etc.) leased for at least 10 years to a non-profit approved by the Director of the Economic Growth and Redevelopment Services Office (EGRSO); or

- ***Live Music Venue*** of at least 2,500 square feet, leased to an operator approved by the Director of the EGRSO for at least 10 years, and which meets the City's to-be-determined sound-proofing *specifications.*

d) ***Family-Friendly Housing:*** For every residential dwelling unit, 150 square feet of bonused floor area will be allowed for each additional bedroom over two bedrooms.

e) ***Child or Elder Care Facilities:*** All developments that provide child care or elder care facilities will be awarded two square feet of additional floor area for each square foot provided. This bonus will be subject to the facility's adherence to applicable State codes, and to the City of Austin's approval of the operator and the lease terms, which shall be for no less than ten years.

f) ***On-Site Publicly Accessible Open Space:*** Developments which provide on-site publicly accessible open space which contributes to the quality of the Downtown pedestrian experience will be awarded five square feet of bonused floor area for each square foot of eligible open space area

New live music venues are incentivized with the density bonus program.

provided. Eligible open space may be in the form of plazas, gardens, paseos, courtyards, or other useable urban spaces that meet the following criteria:

- ***Public Use:*** The space is open to the public for at least 12 hours each day, to be enforced by a deed restriction.

- ***Accessibility and Visibility:*** The space is accessible and visible from the public sidewalk with a grade change no greater than 18 inches from the sidewalk.

- ***Size***: The space has a minimum area of 600 square feet with no dimension less than 15 feet.

- ***Solar Access and Shade:*** At least 75% of the space is open to the sky, and the space provides adequate solar access and shade.

- ***Usability:*** The space includes amenities and features that will promote pedestrian use and activity, including public seating, adjacent retail or restaurant use, through-block connectivity, public art, etc.

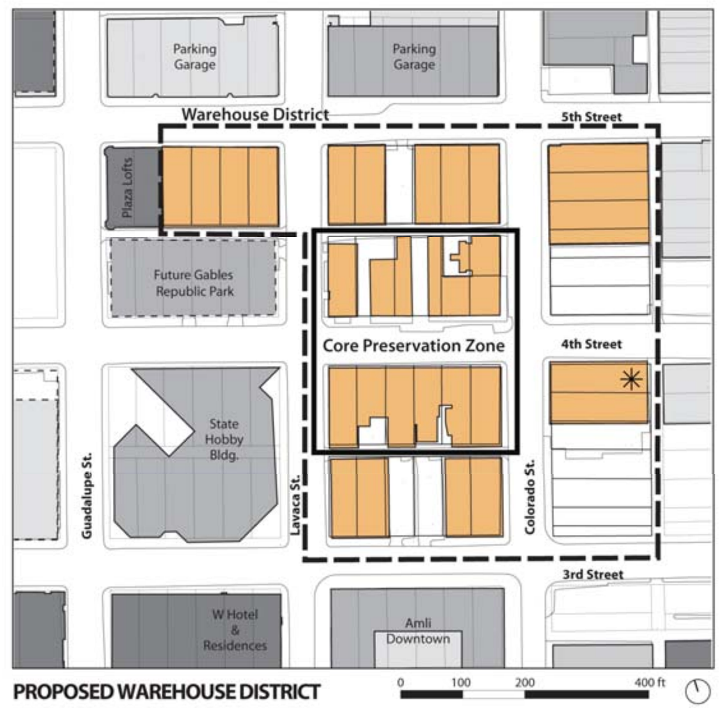
Alternative compliance to the criteria above is permitted, if the Urban Design Division of the City's Neighborhood Planning and Zoning Department finds that the proposed open space will positively contribute to the pedestrian experience of the Downtown and to its life and vitality.

g) ***Waterfront Overlay Zone and Other District-Specific Bonuses:*** Developments may also be awarded additional floor area for providing District-specific benefits, to be determined as part of the Downtown Austin Plan Phase Two district planning process. In addition, bonus provisions may also be developed as part of a future revised Waterfront Overlay Zone Ordinance. Such bonuses could include provision of public open space, ground level retail or restaurant uses along particular street frontages, etc.

Note: The density bonus requirements described in this section (i.e, "All Uses") are based on an understanding of the downtown real estate market, an empirical review of recent downtown projects, and interviews with developers and sustainability specialists. They are not based on the economic analysis performed to determine the basis for the affordable housing in-lieu fee or the bonus for office and hotel development.

Warehouse District Transfer of Development Rights (TDR) and Design Standards

The Warehouse District is a unique concentration of early 20th century industrial buildings, situated along the freight rail lines between Third and Fourth Streets. Originally stretching from IH-35 to MoPAC, the greatest remaining concentration of these one and two-story buildings is now confined to an area west of Congress Avenue to Lavaca Street and between 3rd and 5th Streets. (See map below.) The area has evolved into a unique restaurant and entertainment district, and contributes to the vitality and destination appeal of the downtown. It is also one of the downtown's most significant venues for live music.



The following policies are proposed to promote historic preservation, adaptive reuse, and complimentary new development within the Warehouse District:

a. ***Core Preservation Zone:*** Properties within the Warehouse District fronting Fourth Street between Lavaca and Colorado streets (i.e. the "Core Preservation Zone") shall be limited to a maximum height of 45 feet in order to promote preservation and adaptive reuse of this unique cluster of existing warehouse structures. (See map on page 27.)

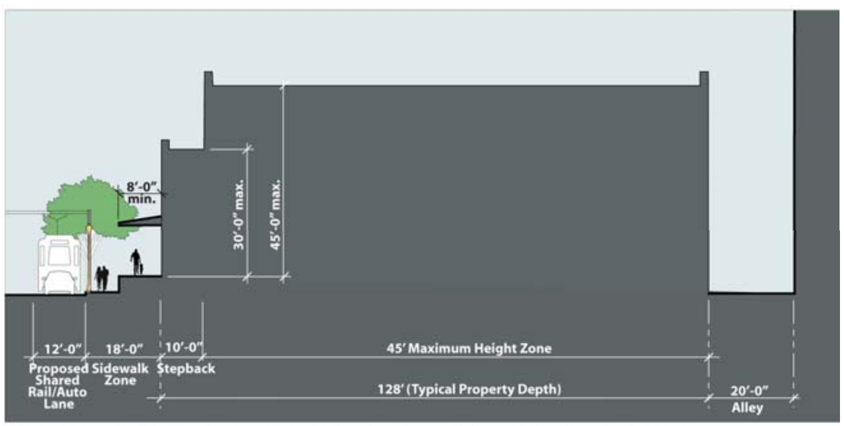
b. ***Transfer of Development Rights:*** Property owners within the Core Preservation Zone will be permitted to sell unused floor area to other properties seeking a density bonus in Downtown. Within the Core Preservation Zone, the maximum FAR for purposes of the Transfer of Development Rights program will be 25.0. Property owners within the Warehouse District, but outside of the Core Preservation Zone, will be permitted to sell unused floor area up to the existing CBD-zoned FAR of 8.0. Any property selling unused floor area shall be required to adhere to the following provisions:

- If the property has an existing building over 50 years, the "sending" property will be required to pursue a City of Austin historic landmark designation, which will result in the historic zoning of the property. This will also make the property eligible for property tax and rehabilitation incentives offered by the City.

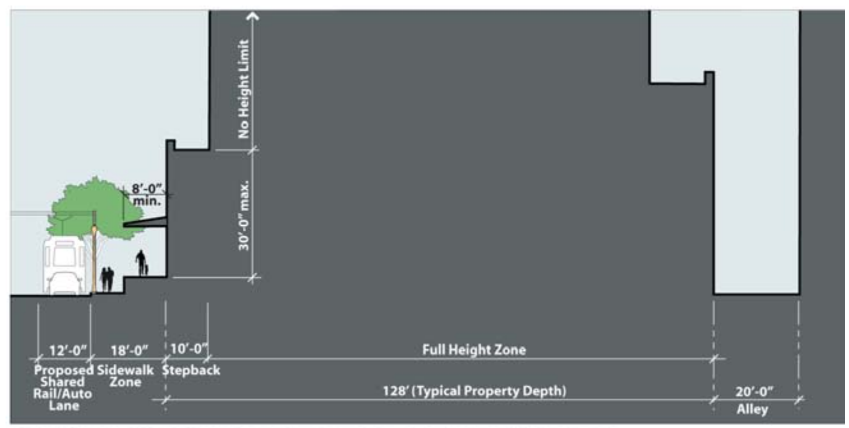
- A restrictive covenant shall be recorded against the deed of the "sending property", documenting the reduced FAR for the property, which will be equivalent to the amount sold to the "receiving property".

- The purchase of the floor area by the "receiving property" will be documented as part of the City's approval of the project, and its receipt of the density bonus.

- The cost of transferable floor area will be determined by the parties involved in the transaction.



PROPOSED WAREHOUSE DISTRICT CORE PRESERVATION ZONE HEIGHT LIMITS



PROPOSED WAREHOUSE DISTRICT OVERALL DISTRICT HEIGHT LIMITS

Warehouse District property owners will be permitted to transfer underutilized FAR in return for preserving historic structures.

c. ***Density Bonus Program:*** Properties within the boundaries of the Warehouse District, but outside of the Core Preservation Zone are eligible to participate in the Density Bonus program up to a maximum FAR of 25.0.

d. ***Design Standards:*** In order to promote development that is compatible in scale and character with the historic fabric of warehouse structures, all new development and modifications to existing development within the Warehouse District must adhere to the following design standards:

- ***Building Stepback and Streetwall Height:*** A 10-foot building stepback shall be required at a maximum building height of 30 feet, for at least 60% of the property frontage in order to maintain a streetwall height that is compatible with the historic fabric of the district. Hotel developments may be eligible to exceed the maximum streetwall height by up to 20 feet (or a maximum height of 50 feet), if such hotel is providing ballroom and meeting room facilities, and if the architectural treatment of the building is found by the Urban Design Division of the City's Neighborhood Planning and Zoning Department to be compatible with the character of the Warehouse District. (See Diagrams on page 28).

- ***Awnings and Canopies:*** A minimum of 75% of the building frontage is required to be protected by awnings or canopies that have a minimum eight-foot horizontal projection from the face of the building at the property line. (See Diagrams on page 28).

- ***Existing Elevated Sidewalks:*** All development must preserve the remaining elevated sidewalks that originally served as loading docks in the district.

- ***Curb Cuts:*** Access to service and parking areas shall be from alleys. Curb cuts along street frontages will be permitted if no other access alternatives are possible, and/or if the Urban Design Division of the City's Neighborhood Planning and Zoning Department finds that such curb cuts are compatible with the character of the Warehouse District.

Mixed Use Residential Developments

A residential project, which has 25% or more of its floor area in non-residential uses, will be considered a mixed-use residential development under the provisions of this density bonus program. A residential project with less than 25% of its floor area in non-residential uses will be subject to the density bonus provisions for residential projects, described above.

Mixed-use residential projects will be permitted to pursue density bonuses, using the formulas for both residential and non-residential projects in the same proportion as the floor area to be provided. For example, a 300,000 square foot hotel/condominium development on a 20,000 square foot site would equate to an FAR of 15.0, which exceeds the baseline CBD zoning by an FAR of 7.0 or 140,000 square feet of additional floor area. Assuming that half of the project's bonused floor area is in residential space, and the other half is in hotel space, 50% of the bonused floor area (i.e., 70,000 square feet) would need to be achieved through the residential requirements, and the other 50% through the non-residential requirements. In this example, all of the additional floor area for the hotel portion of the development (i.e, 70,000 square feet) could be achieved through the bonus for non-residential uses, since the 50% bonus for non-residential FAR equates to 80,000 square feet (20,000 square feet x 8.0 x 50%). At least half of the residential portion of the bonused floor area (i.e., 35,000 square feet) would need to be achieved through the affordable housing requirements, with the remaining portion (up to 35,000 square feet) achieved through the affordable housing requirements and/or the other requirements pertaining to all uses.

Properties Seeking Additional Height

There may be instances where a downtown property owner does not require additional density, but wishes to seek additional height above which is allowed by the base zoning. This could occur on all zoned sites except those with a CBD designation, which has no height limit. Under this density bonus program, the total floor area above the prescribed height limits shall be subject to the requirements of the particular land use described above.

For example, a 100,000 square foot residential development on a 20,000 square foot DMU designated site would be within the maximum 5.0 FAR of the baseline zoning. Assuming that this project wished to build to a height of 160 feet, with three floors or 30,000 square feet above the 120-foot height limit, that additional floor area would need to be obtained through the residential requirements of the density bonus program. At least half of the space (i.e., 15,000 square feet) would be subject to the affordable housing requirements, and the other half would be subject to the affordable housing requirements and/or the other requirements pertaining to all uses.

IMPLEMENTATION

If the City Council chooses to proceed with the recommendations of this report, the Density Bonus Program would be codified into an ordinance, which would replace the existing Density Bonus Ordinance as it pertains to the Downtown.

Simultaneous with the Downtown Density Bonus Ordinance, the CURE Ordinance would need to be repealed, if the Program is to have the intended effect.

The proposed ordinance would be heard by the Planning Commission and City Council, and if passed by Council, could take effect immediately in the Downtown. As district planning advances in Phase Two of the DAP, amendments may be made to the ordinance as necessary. For example, provisions could incentivize specific uses along specific streets, or respond to specific District needs and issues. Further economic analysis may also be warranted.

Finally, a mechanism for calibration and recalibration of the bonuses needs to be established to ensure that the fees and community benefits associated with the Program maintain an appropriate balance over time. In each case the City should use a combination of pro forma financial analysis and outreach to stakeholders within the development community to determine:

1. Whether a bonus produces incremental value for a developer/property owner, such that the bonused area is likely to be constructed (assess based on whether rates of return on investment are higher after a bonus).

2. Whether a bonus produces sufficient incremental value to justify charging a proposed fee (assess based on whether rates of return on investment remain higher after payment of a fee-in-lieu, so as to provide additional incentive for a developer to risk more capital to develop a larger building).

The ROMA team has provided pro forma models for three Downtown districts demonstrating this analysis (see Appendix F), and has also provided a pro forma template that may be used by an economic or real estate financial analyst to perform the analysis on new districts and recalibrate the bonus periodically. This methodology can also be utilized to establish density bonus policies in other parts of the city as appropriate.

The Density Bonus Program, in conjunction with other programs and measures, can be an effective tool in promoting the fundamental goals of a sustainable, affordable and authentic downtown.