



Planning Commission Report

Meeting Date: February 14, 2013

Subject: Housing Element Implementation:
1.) State Density Bonus Program – Establish a List of Preferred Incentives
2.) Reduce Minimum Floor Area for Affordable Multi-Family Residential Units

Recommendation: Discuss possible changes to the City's Density Bonus Program to include a list of development incentives for affordable housing projects, and consider reducing the minimum floor area requirement for affordable housing units.

REPORT SUMMARY

The State requires all jurisdictions to develop programs in the Housing Element to address, to the extent feasible, the financial gap between construction costs and return on investment for affordable housing. Two programs from the City's Housing Element, Program 10.1 "Density Bonus" and 12.2 "Adjust Development Standards," address this issue. This report begins a discussion on implementing these two programs by 1.) Providing a list of incentives in the City's Density Bonus Ordinance (Beverly Hills Municipal Code Section 10-3-15.2); and by 2.) Reducing the City's minimum floor area requirement for affordable housing units.

BACKGROUND

Developing affordable housing is difficult due to the cost of land, permitting, and construction. When combined, these costs can be greater than the expected return on investment from affordable housing units. The State has recognized that affordable housing units can cost more than they can be rented or sold for, and so created the State Density Bonus Law in 1979. In 2004, the State revised the Law (SB1818) in an attempt to increase its use.

State Density Bonus Law

In summary, the State's Density Bonus Law is available to housing projects with five or more units. The Law allows up to a 35% dwelling unit density¹ bonus for housing projects that provide a percentage of units at affordable rates. The percentage of additional housing density granted is set by the State and based on the number of affordable units provided (Attachment 1 Provides a Summary of the Law). In addition to the housing density provided, a housing developer can request development incentives

¹ Density is the number of residential dwellings per acre of land.

Attachment(s):

1. Summary of the State Density Bonus
2. Beverly Hills Density Bonus Code (BHMC 10-3-15.2)
3. Density Bonus Incentive Lists in Other Cities
4. R-4 Height Districts Map

Report Author and Contact Information:

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intended to improve the feasibility of building the proposed affordable housing. The State defines the incentives that a developer may request, or the City may offer, to include:

- Reduced development standards (lot coverage, setbacks, parcel size)
- Approval of mixed use zoning
- Other regulatory incentives or concessions that would result in cost reductions

Granting Development Incentives / Incentive Lists

The State Density Bonus Law allows a developer to propose any incentive that they believe will help make the provision of affordable housing feasible. When an incentive, such as a reduced setback is requested and the request is coupled with the requisite number of affordable housing units, the city must grant the incentive unless a finding (based on substantial evidence) can be made that the incentive would:

Planning Commission Findings for Rejecting a Development Incentive

- Not be necessary to provide the affordable housing,
- Have a specific adverse effect on public health and safety, or
- Impact a historic structure with no feasible way of mitigating the impact

The City has the option of including a list of preferred incentives in its Density Bonus Program (BHMC 10-3-15.2, Attachment 2). Having a list would assist the Planning Commission in making, or not making, the first finding, that the incentive would, “not be necessary to provide that affordable housing.” Currently, without a list of incentives, the burden of providing “substantial evidence” is placed with the City and the City must conduct the background research and financial analysis necessary to substantiate whether a proposed incentive would be necessary to make up the costs of providing affordable housing.

Having a list does not prevent a developer from requesting any incentive they believed was necessary. What a list would do, however, is shift the burden of proof from the City to the developer when an incentive is proposed that is not on the list. In other words, a developer would need to prove that an incentive requested that is not on the list is needed to cover the costs of building the affordable units, that there is not incentive on the list that could also achieve this. The city may then deny the request if the applicant cannot prove that the off-list incentive is necessary.

Projects Using the City’s Density Bonus Program

Two projects have been entitled with a density bonus in the City of Beverly Hills (BHMC 10-3-15.2), and are summarized on the following page.

The Planning Commission reviewed and approved the following two projects with a Density Bonus, per City code. One project was entitled with three affordable units and a development incentive that was an additional story, allowing for a 45 foot tall project in an area with a 33 foot height limit. The other project was entitled with two affordable units and a development incentive that was a five foot decrease in the rear yard setback, which reduced the rear-yard setback from 15-feet to 10-feet.

Projects Using the City's Density Bonus Program

Property	Density Bonus (Affordable Units)	Total units	Construction Incentive granted
309-325 S. Elm Drive Condominiums	5 (3)	30	Additional story (setback from edge of 3 rd floor)
9936 Durant Drive Condominiums	2 (2)	14	Decreased rear-yard setback (Reduced from 15 to 10 feet)

DISCUSSION

Incorporating a list of incentives into the density bonus program would provide the following:

- Benefits to the City:
 - Encourages appropriate incentives,
 - Allows City to require an applicant to provide substantial evidence that an off-list incentive is necessary, and that no on-list incentive could be substituted
 - Helps fulfill the City's housing element requirements.
- Benefits to Applicants:
 - Streamlines the process by allowing developers to choose incentives from the predetermined list, which can help with initial project planning and budgeting, and
 - Builds a sense of certainty and consistency in the development community by aligning our program with neighboring jurisdictions.

Offering a list of incentives could influence the incentives requested by applicants. Applicants could be inclined to make use of incentives on the list, knowing that substantial evidence would be required to use an off-list incentive. Offering a list ultimately expands the Planning Commission's ability to evaluate development incentives. A list however does not preclude a developer from proposing an alternate incentive.

Incentives

Staff has reviewed the incentives used in the Cities of Los Angeles, Santa Monica, and West Hollywood (Attachment 3). The number of incentives offered by these cities varies from two (Santa Monica) to eight (Los Angeles). To facilitate a discussion, the City's existing multiple-family residential project development standards are provided along with potential incentives the Planning Commission may wish to further explore. The potential incentives outlined on the following page are provided for discussion purposes only, and have not yet been studied in-depth. With direction from the Planning Commission, staff would analyze the benefits and feasibility of offering several of the proposed incentives.

Multiple-Family Residential Standards (BHMC 10-3-28)

Current Development Standards

Potential Incentives to
 Include on a List

**FOR DISCUSSION PURPOSES
 ONLY**

Front Setback*	<p>15 ft.</p> <p>*Unless established otherwise</p>	<p>Streets 30-Feet Wide or Less 2-foot reduction for first floor for 50% of the building front</p> <p>Streets Wider than 30-Feet 5-foot reduction for first floor for 50% of building front</p>
Modulation Requirement	<p>Lots 50-feet wide or less 5-feet modulation from front setback line</p> <p>Lots wider than 50-feet 10 feet modulation from front setback line</p> <p><u>Three stories or less:</u> 3% of aggregate principal building area or 1,500 sf (whichever is less)</p> <p><u>Four Stories:</u> 3.5% of aggregate principal building area or 1,500 sf (whichever is less)</p> <p><u>More than four stories</u> 4% of aggregate principal building area or 1,500 sf (whichever is less)</p>	<p>50% reduction</p>
Side Setback	<p><u>Three stories or less:</u> 8-feet (each side) 17-feet (minimum total for both sides)</p> <p><u>Four stories:</u> 8-feet (each side) 19-feet (minimum total for both sides)</p> <p><u>More than four stories:</u> 9-feet (each side) 23-feet (minimum total for both sides)</p>	<p>20% reduction for first floor</p> <p>10% reduction for additional floors</p> <p>Provided side yard does not abut single-family property</p>
Rear Setback	<p>15 feet (22.5 feet from the centerline of alley)</p>	<p>5-foot reduction for first floor 5-foot reduction for 50% of building rear for remaining floors</p> <p>Provided rear yard abuts an alley, or abuts commercial property</p>

Multiple-Family Residential Standards (BHMC 10-3-28) - Continued

Height	Established by the Height district*: <u>Height District A</u> Three stories (33-feet) maximum <u>Height District B</u> Four stories (45-feet) maximum <u>Height District C</u> Five stories (55-feet) maximum *Lots less than or equal to sixty (60) feet are limited to 3-stories, or 33-feet	<u>District A</u> No incentive proposed <u>District B & C</u> 1. Waive 3-story limit for lots less than 60-feet in width 2. Additional Story with 10 foot setbacks on all sides Height still limited to heights in General Plan, which in “B” and “C” is 60-feet
Building Width	Maximum of 175 feet	No incentive proposed
Outdoor Area	200 sf /unit 100 square feet can be counted towards required floor area (not to exceed 10% of required floor area).	Option to count all (200) square feet towards required floor area (can be combined as shared outdoor space)
Minimum Unit Size	See discussion below	

For the discussion on height and number of stories, a map of the City’s R-4 Zone is provided as Attachment 4. The City’s R-4 Zone is divided into three height districts in the zoning code. The maximum height and number of stories for each of the zoning code height districts is provided in the chart above. The R-4 zone is also identified and is given a maximum height of 60-feet on the City’s General Plan map. Those R-4 Zone areas included in Height District “B” and “C” in the City’s Zoning Code allows a height of 45-feet, and 55-feet, respectively (plus a 42” parapet wall). Allowing an additional story in Height District B and C could allow for 5-story and 6-story buildings (where currently 4-story and 5-story buildings can be built). It would not alter the maximum allowable height, and so the General Plan maximum height of 60-feet would still apply. Additionally, limiting this incentive to Height Districts B and C would protect single-family neighborhoods (SFR) from additional building height since Height Districts B and C are separated from SFR districts by either Height District A, or by commercial uses.

REDUCING THE MINIMUM FLOOR AREA REQUIREMENT FOR AFFORDABLE HOUSING

One of the programs included in the Housing Element focuses on adjusting the development standards for multi-family housing projects. The City’s required minimum floor area for apartments and condominiums presents a challenge to building affordable housing, because it does not allow a developer to reduce costs by reducing residential unit size.

Reducing the minimum floor area requirement could be separate and apart from the incentives proposed for the Density Bonus Program. The reasoning behind this is to offer this incentive regardless of whether a project proposes a density bonus. Separating this incentive from the Density Bonus

Program could allow for affordable housing without the need to request added unit density or development incentives.

Another reason to explore reducing the minimum floor area requirement is that, Beverly Hills is unique in this requirement; most cities do not set minimums for residential unit size. Additionally, the City in the past has reduced unit sizes for housing for seniors or disabled persons, and for reuse of existing buildings. Presented on the following page are the City’s current minimum unit size requirements.

Required Minimum Floor Area for Multi-Family Housing

Number of Bedrooms	Market Rate Units (R-4)** BHMC 10-3-2802	Senior/Disabled Housing Incentive BHMC 10-3-12.5	Adaptive Reuse C-3 (AR) BHMC 10-3-19.6	Mixed Use M-PD-2 BHMC 10-3-19.3
0 (Studio)	600 sf	Maximum allowable floor area under Federal Section 202 Funding	600 sf	600 sf
1 Bedroom	1,000 sf		600 sf	800 sf
2 Bedrooms	1,300 sf		1,000 sf	1,300 sf
3+ Bedrooms	1,500 sf		1,400 sf	1,500 sf

** 100 square feet of required outdoor living space can be counted towards required floor area (not to exceed 10% of required floor area).

For perspective and to further discussion, the City of West Hollywood’s Maximum Floor Area Limits are provided below:

Maximum Floor Area of Multi-Family Units Allowed in the City of West Hollywood

Maximum average size of all dwelling units with a new residential project shall be no greater than 1,200 square feet in the R4 district.

The City of West Hollywood limits residential unit size in the R4 (Multi-family District allowing four or more units per lot). If most units in a project were 1-, or 2-bedroom units, using the Beverly Hills “Adaptive Reuse” minimum floor area would essentially result in an average unit size that would be similar to the West Hollywood maximum average unit size. West Hollywood has had some success in reducing constraints on the development of affordable housing. This indicates that establishing a minimum unit size for affordable units that are within the range of unit sizes previously allowed in the City of Beverly Hills (Adaptive Reuse C-3 and Senior/Disabled Housing) could reduce constraints to development of units, while also maintaining the City’s character.

Based on the following, a reduction in the minimum floor area for affordable units is proposed as follows:

Proposed Reduction in Required Floor Area for Affordable Units

Number of Bedrooms	Moderate Income Units	Very Low/ Low Income Units
0 (Studio)	600 sf	Maximum allowable floor area under Federal Section 202 Funding
1 Bedroom	600 sf	
2 Bedrooms	1,000 sf	
3+ Bedrooms	1,400 sf	

GENERAL PLAN CONSISTENCY

Adding a list of incentives in the Density Bonus Ordinance is consistent with the objectives, principles, and standards of the General Plan. General Plan Policy H 2.1 “Affordable Housing Incentives” calls for the zoning ordinance to be amended to include a list of incentives for projects that are eligible for a density bonus due to the development of affordable units. General Plan Implementation Program 10.1 “Accessible Housing” requires revisions to the zoning ordinance to include a list of development incentives that will be made available to qualified developments. Implementation Program 12.2 “Adjust Development Standards” requires the City to reduce its minimum unit size requirements to incentivize the construction of smaller, more affordable units for the City’s workforce. The General Plan also includes Implementation Program 2.1, “Update Zoning Code and Development Regulations,” which requires that the City’s Zoning Code be updated and amended to promote the development of affordable housing.

ENVIRONMENTAL REVIEW

The Code amendments contemplated are being assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. It is anticipated that the inclusion of a list of incentives in the Density Bonus Ordinance, and reduction in the minimum floor area requirement for affordable housing would not have a significant environmental impact and are exempt from CEQA pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

NEXT STEPS

With Planning Commission direction, staff will evaluate the benefit and feasibility of providing a list of incentives in the City’s Density Bonus code language and an ordinance amending the City’s Density Bonus Program and floor area requirements for affordable housing will be brought to the Planning Commission for formal consideration.

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Jonathan Lait
City Planner



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Rear Setback	<p>15 feet (22.5 feet from the centerline of alley)</p>	<p>5-foot reduction for first floor 5-foot reduction for 50% of building rear for remaining floors</p> <p>Provided rear yard abuts an alley, or abuts commercial property</p>

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Building Width	Maximum of 175 feet	No incentive proposed
Outdoor Area	200 sf /unit 100 square feet can be counted towards required floor area (not to exceed 10% of required floor area).	Option to count all (200) square feet towards required floor area (can be combined as shared outdoor space)
Minimum Unit Size	See discussion below	

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Program could allow for affordable housing without the need to request added unit density or development incentives.

Another reason to explore reducing the minimum floor area requirement is that, Beverly Hills is unique in this requirement; most cities do not set minimums for residential unit size. Additionally, the City in the past has reduced unit sizes for housing for seniors or disabled persons, and for reuse of existing buildings. Presented on the following page are the City’s current minimum unit size requirements.

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Based on the following, a reduction in the minimum floor area for affordable units is proposed as follows:

Proposed Reduction in Required Floor Area for Affordable Units

Number of Bedrooms	Moderate Income Units	Very Low/ Low Income Units
0 (Studio)	600 sf	Maximum allowable
1 Bedroom	600 sf	floor area under
2 Bedrooms	1,000 sf	Federal Section 202
3+ Bedrooms	1,400 sf	Funding

GENERAL PLAN CONSISTENCY

Adding a list of incentives in the Density Bonus Ordinance is consistent with the objectives, principles, and standards of the General Plan. General Plan Policy H 2.1 “Affordable Housing Incentives” calls for the zoning ordinance to be amended to include a list of incentives for projects that are eligible for a density bonus due to the development of affordable units. General Plan Implementation Program 10.1 “Accessible Housing” requires revisions to the zoning ordinance to include a list of development incentives that will be made available to qualified developments. Implementation Program 12.2 “Adjust Development Standards” requires the City to reduce its minimum unit size requirements to incentivize the construction of smaller, more affordable units for the City’s workforce. The General Plan also includes Implementation Program 2.1, “Update Zoning Code and Development Regulations,” which requires that the City’s Zoning Code be updated and amended to promote the development of affordable housing.

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NEXT STEPS

With Planning Commission direction, staff will evaluate the benefit and feasibility of providing a list of incentives in the City’s Density Bonus code language and an ordinance amending the City’s Density Bonus Program and floor area requirements for affordable housing will be brought to the Planning Commission for formal consideration.

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Jonathan Lait
City Planner

Attachment 1
Summary of State Density
Bonus Law

STATE DENSITY BONUS ALLOWANCES

State Density Bonus Law/Senate Bill 1818 (SB 1818)

The density bonus granted to a project varies according to the amount by which the percentage of affordable housing exceeds the State’s established minimum percentage, but generally ranges from 20-35 percent above the specified General Plan density. The following table summarizes the Density bonus calculations outlined in the State Density Bonus Law (Government Code § 65915).

Affordability Category	% Affordable Units in Project	Eligible Density Bonus	Eligible Additional Development Incentives
Very Low Income¹	5%	20%	One
	6% and above	2.5% add'l bonus for each 1% increase in affordable units, up to 35% max	Two to Three
Lower Income²	10%	20%	One
	11% and above	1.5% add'l bonus for each 1% increase in affordable units, up to 35% max	Two to Three
Moderate Income³	10%	5%	One
	11% and above	1% add'l bonus for each 1% increase in affordable units, up to 35% max	Two to Three

SB1818 also provides a density bonus for setting aside land for child care facilities, donating land for affordable housing, and providing senior housing.

¹ Very Low Income – Not exceeding 50% of Area Median Income (AMI)

² Lower Income – Not exceeding 80% of AMI

³ Moderate Income - Not exceeding 120% of AMI. Maximum yearly expenditure on housing is 28-35% of 120% of AMI

Attachment 2

Beverly Hills Density Bonus
Code (BHMC 10-3-15.2)

BHMC 10-3-15.2

Article 15.2. Residential Density Bonus

- 10-3-1520: Purpose**
- 10-3-1521: Definitions**
- 10-3-1522: Density Bonus Permit Required**
- 10-3-1523: Applicability Of Other Regulations**
- 10-3-1524: Applications**
- 10-3-1525: Review Of Application**
- 10-3-1526: Grant Of Density Bonus**
- 10-3-1526.5: Grant Of Construction Incentives**
- 10-3-1527: Land Donations; Childcare Facilities**
- 10-3-1528: Occupancy Priority**
- 10-3-1529: Eligibility Guarantees**
- 10-3-1529.5: Waivers**
- 10-3-1530: Appeals**
- 10-3-1530.5: Guidelines**

10-3-1520: PURPOSE:

This article specifies the method of providing developer incentives pursuant to California Government Code sections 65915 and 65915.5, or any successor statutes thereto, and provides procedures for waiving or modifying development procedures which would otherwise inhibit the utilization of density bonus incentives on specific sites. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1521: DEFINITIONS:

Unless the context otherwise requires, the following definitions shall govern the construction of this article:

CHILDCARE FACILITY: Shall have the same meaning ascribed to that term by California Government Code section 65915, or its successor statute.

DENSITY BONUS: Shall have the same meaning ascribed to that term by California Government Code section 65915, or its successor statute.

ELIGIBLE HOUSEHOLDS: Includes lower income households, persons and families of low or moderate income, qualifying senior residents, and very low income households.

ELIGIBLE UNITS: Dwelling units that are restricted to occupancy by eligible households.

LOWER INCOME HOUSEHOLDS: Shall have the same meaning ascribed to that term by California Health and Safety Code section 50079.5, or its successor statute.

PERSONS AND FAMILIES OF LOW OR MODERATE INCOME: Shall have the same meaning ascribed to those terms by California Health and Safety Code section 50093, or its successor statute.

QUALIFYING SENIOR RESIDENT: Shall have the same meaning ascribed to the term "qualifying resident" by section 51.3 of the California Civil Code, or its successor statute.

SENIOR CITIZEN HOUSING DEVELOPMENT: Shall have the same meaning ascribed to that term by section 51.3 of the California Civil Code, or its successor statute.

VERY LOW INCOME HOUSEHOLDS: Shall have the same meaning ascribed to that term by California Health and Safety Code section 50105, or its successor. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1522: DENSITY BONUS PERMIT REQUIRED:

No developer shall be granted a density bonus or other incentive pursuant to this article unless that developer has been issued a density bonus permit pursuant to the procedures set forth in this article. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1523: APPLICABILITY OF OTHER REGULATIONS:

Except as otherwise specifically authorized by a density bonus permit, no development shall be constructed pursuant to this article except in compliance with each provision of this chapter that is applicable to the zone in which the development is located, including any requirement for discretionary review of a development project, such as development plan review. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1524: APPLICATIONS:

In addition to any other discretionary review required for a proposed housing project, applications for a density bonus permit shall be filed with the director of community development on a form approved by the director. The application shall be filed concurrently with an application for a development plan review. The fee for processing a density bonus permit application shall be one-half ($\frac{1}{2}$) the fee for processing a development plan review application. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1525: REVIEW OF APPLICATION:

The planning commission shall process the application for a density bonus permit in the same manner as, and concurrently with, the application for a development plan review that is required by article 31 of this chapter for development of a density bonus project. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1526: GRANT OF DENSITY BONUS:

A. Section 65915 Projects: Except as otherwise provided in this article, the planning commission shall grant a density bonus permit to any project for which a density bonus and incentives or concessions are required pursuant to California Government Code section 65915. The density bonus permit shall provide for a density bonus and at least one of the construction incentives described in section 10-3-1526.5 of this article in accordance with the following criteria:

1. Base Density Bonus:

a. The planning commission shall grant a density bonus permit that authorizes development of a project with a twenty percent (20%) density bonus and at least one of the construction incentives set forth in section 10-3-1526.5 of this article when the applicant for a housing development agrees to construct at least any one of the following:

(1) Five percent (5%) of the total units of a housing development for very low income households; or

(2) Ten percent (10%) of the total units of a housing development for lower income households; or

(3) A senior citizen housing development.

b. The planning commission shall grant a density bonus permit that authorizes development of a project with a five percent (5%) density bonus and at least one of the construction incentives set forth in section 10-3-1526.5 of this article when the applicant for the housing development agrees to construct ten percent (10%) of the total dwelling units in a condominium project, as defined in subdivision (f) of section 1351 of the California Civil Code or its successor statute, or in a planned development, as defined in subdivision (k) of section 1351 of the California Civil Code or its successor statute, for persons and families of moderate income.

2. Additional Density Bonus: In addition to the base density bonus granted by the planning commission pursuant to subsection A1 of this section, a density bonus permit issued pursuant to this article shall authorize an additional density bonus under the following circumstances:

a. For each one percent (1%) increase in the number of units above the initial five percent (5%) threshold of units affordable to very low income households, the density bonus shall be increased by two and one-half percent (2.5%) up to a maximum of thirty five percent (35%); or

b. For each one percent (1%) increase in the number of units above the initial ten percent (10%) threshold of units affordable to lower income households, the density bonus shall be increased by one and one-half percent (1.5%) up to a maximum of thirty five percent (35%); or

c. For each one percent (1%) increase in the number of units in a condominium development above the initial ten percent (10%) threshold of units affordable to moderate income households, the density bonus shall be increased by one percent (1%) up to a maximum of thirty five percent (35%).

B. Section 65915.5 Projects: If the city is required to issue a density bonus under California Government Code section 65915.5, the density bonus permit shall authorize development of a project with either a twenty five percent (25%) density bonus or with other incentives that are of equivalent financial value to the twenty five percent (25%) density bonus. Such other incentives shall be limited to financial incentives or any combination of density bonus, financial incentives, and construction incentives set forth in this section and section 10-3-1526.5 of this article.

With regard to construction incentives granted pursuant to this section, any requirement to designate units for lower income or very low income households may be satisfied by designating such units for persons and families of low and moderate income. Similarly, for the purpose of construction incentives granted pursuant to this section, any reference in section 10-3-1526.5 of this article to units designated for lower and very low income households shall include units designated for persons and families of low and moderate income.

C. Fractional Units: For the purposes of this section, all density calculations resulting in fractional units shall be rounded up to the next whole number. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1526.5: GRANT OF CONSTRUCTION INCENTIVES:

A. Number Of Incentives: In addition to the density bonus granted pursuant to section 10-3-1526 of this article, an applicant for any project for which a density bonus and incentives or concessions are required pursuant to California Government Code section 65915 shall be entitled to receive the following number of construction incentives:

1. One incentive for a project that includes at least ten percent (10%) of the total units for lower income households, at least five percent (5%) for very low income households, or at least ten percent (10%) for persons and families of moderate income in a condominium or planned development.
2. Two (2) incentives for a project that includes at least twenty percent (20%) of the total units for lower income households, at least ten percent (10%) for very low income households, or at least twenty percent (20%) for persons and families of moderate income in a condominium or planned development.
3. Three (3) incentives for a project that includes at least thirty percent (30%) of the total units for lower income households, at least fifteen percent (15%) for very low income households, or at least thirty percent (30%) for persons and families of moderate income in a condominium or planned development.

B. Qualifying Incentives: The exact construction incentive(s) to be offered to a project that qualifies for a density bonus pursuant to Government Code section 65915 and section 10-3-1526 of this article shall be determined by the planning commission as part of its review of each application:

C. Exceptions: Notwithstanding the requirements of this section, with regard to developments that qualify for a construction incentive pursuant to California Government Code section 65915, the planning commission need not provide a construction incentive in addition to the applicable density bonus if the commission makes a written finding, based upon substantial evidence, that either:

1. The requested incentive is not required to encourage the provision of housing at affordable housing costs as defined in California Health and Safety Code section 50052.5 nor is the incentive necessary to encourage the provision of housing at rents that are set as specified in California Government Code section 65915; or
2. The requested incentive would have a specific adverse impact, as defined in California Government Code section 65589.5 or its successor statute, upon public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources, and for which there

is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low and moderate income households. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1527: LAND DONATIONS; CHILDCARE FACILITIES:

A. Land Donations: If an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the city as provided in California Government Code section 65915, or its successor statute, the planning commission shall grant a density bonus permit that authorizes a density bonus as required by section 65915, or its successor statute.

~~B.~~ Childcare Facilities: If the applicant for a project that qualifies for a density bonus pursuant to section 10-3-1526 of this article proposed to include a childcare facility on the premises of, as part of, or adjacent to, the project, the planning commission shall grant the applicant one of the following:

1. An additional density bonus in an amount equal to or greater to the square footage in the childcare facility; or
2. An additional construction incentive set forth in section 10-3-1526.5 of this article that contributes significantly to the economic feasibility of the construction of the childcare facility.

Notwithstanding the foregoing, the planning commission shall not grant an additional density bonus or construction incentive for a childcare facility if, the commission finds, based on substantial evidence, that the community is already served by adequate childcare facilities. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1528: OCCUPANCY PRIORITY:

A. Displaced Tenants: If tenants are required to vacate existing dwelling units so that an owner or developer may perform any construction, renovation or addition pursuant to a density bonus permit, then each tenant shall be given a right of first refusal to occupy any unit for which the tenant qualifies in the newly constructed or renovated building. Tenants shall be offered the units in the following priority:

1. Households in which at least one member is sixty two (62) years of age or older;
2. Households with the lowest annual income.

B. Lower And Very Low Income Households: After accommodating displaced tenants as provided in subsection A of this section, during the affordability period described in section 10-3-1529 of this article for rental units designated for lower and very low income households, and subject to any limitations imposed by federal or state law, the owner or developer shall offer the designated affordable units in the following priority:

1. Qualified households in which at least one member is:
 - a. Employed by the Beverly Hills Unified School District as a state certified classroom teacher; or

- b. Employed by the Beverly Hills police department as a sworn law enforcement officer; or
 - c. Employed by the Beverly Hills fire department as a sworn firefighter;
2. Households with the lowest annual income;
 3. All other qualified households.

C. Moderate Income Households:

During the initial sale of units designated for sale to moderate income households, and subject to any limitations imposed by federal or state law, the owner or developer shall offer the designated units in the following priority:

1. Qualified households in which at least one member is:
 - a. Employed by the Beverly Hills Unified School District as a state certified classroom teacher; or
 - b. Employed by the Beverly Hills police department as a sworn law enforcement officer; or
 - c. Employed by the Beverly Hills fire department as a sworn firefighter;
2. Households with the lowest annual income;
3. All other qualified households. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1529: ELIGIBILITY GUARANTEES:

Prior to the construction of a development project pursuant to a density bonus permit, the developer shall ensure continued affordability of units designated for lower and very low income households to the satisfaction of the city attorney and as required by California Government Code section 65915 or its successor statute.

Also prior to the construction of a development project pursuant to a density bonus permit, with regard to dwelling units designated for qualifying senior residents, the developer shall ensure continued restriction of those units to qualifying senior residents and qualified permanent residents to the satisfaction of the city attorney and as provided in California Civil Code section 51.3 or its successor statute.

Additionally, prior to the issuance of a density bonus permit for a development in which the units will be sold to moderate income households, the developer shall ensure that the initial occupants of such units meet the applicable income limits to the satisfaction of the city attorney and as required by California Government Code section 65915 or its successor statute. In addition, the developer shall ensure that, upon resale, the city recaptures its proportionate share of the appreciation of such units to the satisfaction of the city attorney and as required by California Government Code section 65915 or its successor statute. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1529.5: WAIVERS:

In addition to any construction incentive requested by an applicant pursuant to section 10-3-1526.5 of this article, if an applicant for a density bonus permit demonstrates that certain zoning or development standards are the sole reason that eligible units cannot be developed in an economically feasible manner on a specific site, and the applicant demonstrates that no other incentive provided in this article will cause development of the eligible units to become economically feasible, then the planning commission may grant a waiver of the subject zoning or development standards as part of the density bonus permit. The applicant shall bear the burden of proving, through substantial evidence, that the waiver or modification is necessary to make the affordable housing units economically feasible. At a minimum, any request for a waiver of zoning or development standards pursuant to this section shall be accompanied by a pro forma or other financial analysis prepared by a qualified expert demonstrating that the proposed waiver or modification is necessary to make the affordable units economically feasible. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1530: APPEALS:

Any decision of the planning commission made pursuant to this article may be appealed by the applicant or any other interested party as provided in title 1, chapter 4, article 1 of this code. (Ord. 05-O-2482, eff. 9-16-2005)

10-3-1530.5: GUIDELINES:

All applications for a density bonus permit shall be processed pursuant to the guidelines for density bonus permit applications approved by the city council and on file in the department of community development. (Ord. 05-O-2482, eff. 9-16-2005)

Attachment 3

Density Bonus Incentive Lists in Other Cities

Density Bonus Incentive Lists – Case Studies

Under the State Density Bonus Law, jurisdictions must provide incentives for the development of affordable housing. Incentives, in this case, are modifications from the development standards in the zoning code, which could make the development of affordable housing more economically feasible.

A jurisdiction may provide a list of incentives for density bonus-eligible housing projects. These lists include incentives that have been pre-selected by the City as appropriate incentives to encourage affordable housing. Having a list of incentives is beneficial to a City, as it provides more control over the types of incentives granted for Density Bonus projects. Having a list of incentives is also beneficial for developers because the list of incentives has been pre-selected by the City, and therefore, utilizing incentives from the list could reduce the City approval process and review timeline.

The municipal codes of Los Angeles, Santa Monica, and West Hollywood were reviewed and the density bonus incentives offered by each city are summarized below.

Listed Incentives for Development of Affordable Housing

Incentive	Los Angeles	Santa Monica	West Hollywood
Front/Back/Side Yard Setback	Up to 20% decrease*	Up to a 15% deviation from one side yard setback requirement or up to 15% deviation from rear yard setback requirements	10% reduction in the minimum rear, front, or side (1 side) yard setback
Lot Coverage	Up to 20% increase*	Up to a 10% increase in first floor parcel coverage	
Lot Width	Up to 20% decrease*		
Floor Area Ratio	Percentage increase in allowable Floor Area Ratio equal to the percentage of Density Bonus for which the housing project is eligible, not to exceed 35%		
Height	Percentage increase in feet equal to the percentage of Density Bonus for which the housing project is eligible; shall be applicable over the entire parcel regardless of the number of underlying height limits		An additional story, not to exceed 10 feet of total project height
Open Space	Up to 20% decrease*		10% reduction in common open space or 10% reduction in private open

Incentive	Los Angeles	Santa Monica	West Hollywood
Density Calculation	The area of any land required to be dedicated for street or alley purposes may be included as lot area for purposes of calculating the maximum density permitted by the underlying zone in which the project is located		space for up to 50% of the units
Other	Additional Density Bonus for senior housing with low/very low income units: 15% more than the 20% for regular senior housing, to a maximum of 35%		Result in identifiable, financially sufficient, and actual cost reductions

**provided that the landscaping for the project is sufficient to qualify for the number of landscape points equivalent to 10% more than otherwise required by Landscape Ordinance Guidelines*

Granting and Approval of Incentives

The granting and approval of incentives for eligible projects varies across jurisdictions. Some review incentives chosen off of a list differently than incentives proposed by a developer. Others have requirements that projects must meet in order to be eligible to utilize an incentive included on the predefined list. The municipal codes of Los Angeles, West Hollywood, and Santa Monica, all of which include a list of incentives, were examined and summarized below.

Los Angeles

Incentive included on the list: In order to be eligible to request an “on-menu” incentive, a project must meet certain requirements. These requirements address façade design, building orientation, and the building of projects in hillside areas or in very high fire hazard severity zones. When the developer of a project meets these requirements and requests an incentive included on the city list, the Director of the Department of City Planning has the decision-making authority to approve or deny the request.

Incentive not included on the list: When a developer requests an incentive not included on the list, the developer must submit a pro forma or other documentation that proves the incentive is needed to make the affordable housing units economically feasible. The request is then reviewed at a public hearing held by the Planning Commission.

Santa Monica

Incentive included on the list: If a developer requests an incentive that is included on the list, the City does not require the filing of an application for Variance, GPA, Zone Change or any other discretionary

approval. Requests for density bonuses with incentives are reviewed by the Director of Planning or designee.

Incentive not included on the list: For all incentives requested not on the list the applicant must demonstrate that the request will result actual cost reductions. The cost of reviewing financial data submitted during this process is borne by the developer. The incentive(s) requested are reviewed at a public hearing held by the Planning Commission.

West Hollywood

Incentive approval: Concessions that are requested by a developer are reviewed and approved by the review authority unless there is substantial evidence that the incentive is not required in order to provide for affordable housing, it would have an adverse impact on health, safety, the environment or a historic resource, or it is contrary to State or Federal law. The Director is the review authority for residential projects with 4 or fewer units in R1, R2, or R3 zones and 8 or fewer units in R4 zones. The Planning Commission is the review authority for residential projects with 5 or more units in R1, R2, or R3 zones or 9 or more units in R4 zones.

The Municipal Code of the City of West Hollywood does not indicate that the review process differs for concessions that are on or off the list of “available concessions” outlined in the code.

Attachment 4

R-4 Height Districts Map



Height Districts in Multiple-Family Residential Zones
 BHMC 10-3-2804