Density Guide For Affordable Housing Developers

Southern California Association of Non-Profit Housing
3345 Wilshire Blvd. Suite 1005
Los Angeles, CA 90010
www.scanph.org

Table of Contents

Density and Affordable Housing

Typical Southern California residential development standards including (density, set-backs, lot coverage, building height, and parking requirements) tend to produce lower than average densities and deter multifamily and affordable housing development. A common perception is that high density and affordable housing will increase traffic, overcrowding and crime, strain public services and infrastructure, lower property values, and undermine community character. However there are several disadvantages to low density development. For example, in highly populated regions, low density can create an imbalance of housing, jobs and services, increasing vehicle mileage, traffic congestion and air pollution.

There are many benefits to and higher density development and "smart growth". Smart growth refers to land use development practices that promote efficient use of land and existing urban infrastructure; an alternative to sprawl. This reviews the benefits of higher density, and includes examples of policies that promote smart growth, as well as housing types associated with density ranges, and a sample of Southern California cities' maximum densities.

Benefits of High Density & Affordable Multifamily Housing - High density development can enhance a community's character, increase affordable housing, spur economic development, reduce costs, reduce vehicle travel and pollution and preserve farmland and open space.

- Smart Growth, High-Quality Design & Diversity - Smart growth design principles, which are often employed by affordable housing developers, call for higher density development, mixed uses, buildings that relate to streets, well defined open space, and buildings with individuality and a variety of color, texture, and materials. All of these strategies increase a neighborhood's walk-ability, sense of place, and character. Well-designed compact neighborhoods also have different housing types. By balancing lower, medium and higher-density projects, communities can offer a wider range of housing types for different populations including lower income households and renters.

- Safety, Property Values & Overcrowding - Studies have shown that high density development and affordable housing do not lower property values, cause overcrowding, or increase crime. The design and use of public spaces has a far more significant impact on crime than density or income levels. Affordable housing, which is often better maintained and designed than market rate housing, may even increase property values. In addition affordable housing developments are required by their funding sources to match ubit size to family size, thus preventing overcrowding.

- Reduces Traffic & Pollution - As a neighborhood increases in density vehicle mileage decreases because destinations are closer, so people can walk or bike to nearby services or take accessible public transit. Transit connections become more cost effective and common when neighborhood density increases. In addition, multifamily developments are known to have lower car ownership rates than single-family home tracts.

- Preserves Open Space & Reduces Costs - Cities can meet local and regional housing needs without consuming open space or agricultural land by building on vacant acres in already developed populated areas and increasing densities. Infill development - building on unused land within existing developed areas also decreases costs because it makes use of existing infrastructure. Infrastructure costs per housing unit drop dramatically as densities increase. Communities can also revitalize vacant run down commercial districts by bringing in local customers and increasing taxable sales. with new high-density mixed-use development in infill locations.

Density and Demographics

Density can be thought of in two ways: 1.The number of housing dwelling units within the land area (square miles or acres) or 2. Population by land area or housing unit. Density is most commonly referred to in the development world as the former, but the latter is critical in demonstrating the reality of density and is directly linked to overcrowding.

One common misconception is that higher densities and multifamily housing cause overcrowding. However, overcrowding often occurs because of the high cost and limited supply of housing regardless of the built environment. For this reason low-density single family residential communities can easily become overcrowded. Increasing densities and using infill development in these communities can relieve overcrowding by providing more housing. Furthermore, affordable rental housing keeps a limit on occupancy making overcrowding impossible.

Santa Ana, California, a predominantly single-family residential Orange County community, is a prime example of a low-density single family residential city with overcrowding problems. In fact Santa Ana has the most crowded households of any large U.S. city. The average household size in Santa Ana is 4.6 people per household, while the City of Los Angeles (a much denser city in terms of units per acre) has only 2.8 people per household. Santa Ana's population has increased more than three times fold in the past 40 years from 100,000 to 337,997. During this time the average density (housing units per acre) has remained very low going from 2.2 units per acre to 4.3 units per acre. Simultaneously, the number of people per acre rose from 7 to 19 per acre, and the number of people per housing unit increased by 43% from 3.22 to 4.6 per unit.

The chart below demonstrates how a higher concentration of units per acre does not correlate with overcrowding. Both Santa Monica and Los Angeles have higher densities in terms of housing units per square mile than Huntington Park and Santa Ana, but the latter two cities have higher densities in terms of population (people per square mile and average household size). For example, Santa Monica has 13% more housing units per square mile than Huntington Park, but the household size in Huntington Park is more than double that of Santa Monica.

City	Population/sq. mi.	Units/sq. mi.	Average Household Size
Huntington Pk.	20,252	5,062	4.12
Santa Monica	10,179	5,794	1.83
Santa Ana	12,452	2,748	4.55
Los Angeles	7,877	2,851	2.83

* Source: U.S. Census Bureau

Smart Growth Policy & Project Examples

Several Southern California cities have taken steps to encourage higher density development and the production of more affordable housing by creating incentive programs and smart growth land use policies, and designating appropriate densities for residential uses to encourage the production of affordable housing. Below are some examples.

San Diego Urban Village Overlay Zone

The purpose of the San Diego Urban Village Overlay Zone is to allow a greater variety of uses and more flexibility in development regulations and density in order to create a mix of land uses in a compact area. This overlay zone may be applied as apart of a land use plan implementation program or at the request of an applicant. The Urban Village contains 3 components: Mixed - Use Core, Residential Land Use, and Public Land Use.

- Mixed - Use Core includes: public, commercial, and residential uses centrally located within the project area. Mixed - Use development regulations including Floor Area Ratio (FAR), height, and coverage requirements are determined by the base zone. A 50% FAR discount and a height bonus of one story may be applied to projects located within 2,000 ft. of existing or planned light rail. Building facades shall be varied and articulated, reduced parking ratios, reduced number and width of streets (Sections 1132.1101 - 132.1110).

- Residential Land Use includes: a mix of housing densities, ownership patterns, costs and building types. Residential units should be located so that the higher density units are closer to transit stops than the lower density units. Residential development regulations combine mixed use and residential components and have an average density of 18 dwelling units/acre. Maximum density is determined by the base zone density. A 10% density bonus may be applied to projects located within 2,000 ft. of existing or planned light rail.

(San Diego Municipal Code. http://clerkdoc.sannet.gov/Website/mc/mc.html)

San Diego Commercial Community Zones (CC zones)

Commercial Community (CC) zones accommodate community-serving commercial services, retail uses, and limited industrial. Some CC zones may include residential development.

- Zones CC-1-1 through CC- 1-3: allow a mix of community serving commercial and residential uses.

- Zones CC-3- 4 and CC-3-5: allow a mix of pedestrian-oriented, community serving commercial and residential uses.

- Zones CC-4-1 through CC-4-5: allow heavy commercial uses and residential uses.

- Zones CC-5-1 through CC-5-5: allow a mix of heavy commercial and limited industrial and residential uses.

Where residential development is permitted in the CC zones, the density requirements of Residential Multiple Unit (RM) zones: RM-1-1 (15 units/acre), RM-2-5 (29 units/acre), and RM-3-7 (44 units/acre) apply as appropriate. Other regulations: lot area, lot dimensions, setback, floor area ratio, and structure height requirements of the applicable commercial zone apply (Sections 131.0507 - 131.0556).
(San Diego Municipal Code. http://clerkdoc.sannet.gov/Website/mc/mc.html)

Policy & Project Examples, cont,

Santa Monica

The City of Santa Monica has developed a variety of land use policies that encourage mixed-use development and the development of affordable housing.

- Commercial zoning district development standards allow a 50% Floor Area Ratio (FAR) discount for floor area dedicated to residential uses. Structures containing at least one floor of residential use are allowed the maximum number of stories allowed in the underlying zoning district in each particular zone (Sections 9.04.08.14.060 - 9.04.08.30.060).

- Special Housing Development Standards for Affordable Housing: (Section 9.04.10.14.030)
    - Height Bonus: In non-residential districts the height of an affordable housing project may exceed the maximum number of feet allowed in the underlying zoning district by 10 feet.

    - Density Bonus: Affordable housing projects located in non-residential zones may have a FAR equal to the applicable FAR plus 0.5 times the floor area devoted to such units.

    - Affordable housing projects located in residential districts which meet the requirements for the state density bonus of 25%, are entitled to an additional local density bonus of 25%, equaling a total density bonus of up to 50%.

    - Additional regulatory incentives for the production of lower income and senior housing include reduced parking requirements and eligibility for a variance to setback and parcel coverage requirements. (Section 9.04.10.14.040).

- Inclusionary Housing Program: All new housing developments with 2 or more dwelling units at least 30% of total dwelling units (excluding density bonus units) must be affordable to low and moderate income households (Section 9.28.030).

(Santa Monica Municipal Code. http://pen.ci.santa-monica.ca.us/municode/codemaster)

Los Angeles Affordable Housing Incentives Ordinance (AHIO)

The City of Los Angeles Affordable Housing Incentives Ordinance (AHIO) creates a procedure which allows density increases for projects requesting the statute mandated 25% density bonus to apply directly for a building permit unless a discretionary permit or action is required. Incentives also include reduced parking and expedited processing for affordable housing developments.

Additional incentives include:

- A new Residential/Accessory Service Zone intended to revitalize some of the sagging commercial boulevards by encouraging mixed-use development

- Increased by-right density bonuses for affordable housing to 35% in areas well served by public transportation or near an employment center

(The City of Los Angeles Consolidated Plan 2003-2008. http://www.ci.la.ca.us/CDD/conplan/VIf.pdf)

Policy & Project Examples, cont,

City of Brea Downtown Revitalization Plan

The Brea Downtown Revitalization Plan (a master plan by a private developer) created a new 60-acre mixed use downtown district from scratch. The project features:

- Birch Street Promenade - A pedestrian oriented central main-street with 100,000 square feet of retail, shops, restaurants, 2 cinemas, and 2 parking structures. The project also includes infill housing including the Birch Street loft apartments - 62 one-bedroom units above retail shops with over half set aside for low to moderate income households. The densities average 75 dwelling units/acre. Each building on Birch Street has its own unique architectural style providing a varied appearance among the buildings on the block, fountain, outdoor seating and dining areas.

- Super Block I &II - includes 90,000 Square feet of commercial space and 40 town homes averaging 25 dwelling units per acre

- The Ash Street Cottages - 96 neo-traditional single family homes - downtown neighborhood immediately adjacent to Birch Street

(*Brea Downtown Revitalization Plan*. http://www.ci.brea.ca.us/page.cfm?name=econ_dev_redev)

Ventura Downtown Housing Strategy

As a part of a two year action plan the City of Ventura is putting together a downtown housing strategy to create an incentive package for developers that will facilitate the production of mid to high density well-designed market-rate and affordable housing for a broad range of local residents and workers in the downtown area. The first phase in creating the downtown housing strategy, an evaluation of existing housing incentives, has been completed. This study evaluates existing incentives and barriers to residential development in the downtown area, presents a housing incentives "toolbox", and recommends changes to city policies. Recommended workable land use policies include:

- Providing flexible or reduced parking requirements, and higher densities and building heights

- Increasing maximum densities to 80 units per acre

- Allowing single family detached and attached housing with densities up to 20 units per acre in the "Neighborhood Residential District"

- Providing for density bonus of up to 50% to facilitate the development of affordable units

(*City of Ventura Downtown Housing Strategy*. http://www.ci.ventura.ca.us/depts/cd/dp/dp.asp)

Housing Types Associated with Various Density Ranges

The chart below demonstrates the housing types associated with density ranges. The pictures of different affordable housing developments show what density looks like.

Housing Type	Density (dwelling units/acre)	Example
Large to medium lot single-family detached homes	1-10 du/acre	 Vecino Self-Help Project, Indio, CA (4.5 du/acre)
Small to medium lot single-family detached attached homes	10-20 units/acre	 Lohart Homes Program, Montebello, CA (14 du/acre)
Single-family attached/town homes and low density multifamily developments	20-35 units/acre	 Hermosa Village, Anaheim, CA (20 du/acre)  San Felipe Home, Los Angeles, CA (36 du/acre)

Medium density multi-family developments - apartments and condominiums	35-50 du/acre	 Heritage Court Apartments, Downey, CA (50 du/ acre)
Medium to high density multi-family developments- apartments and condominiums	50 - 100 du/acre	 Hismen Hin-nu Terrace, Oakland, CA (80 du/acre)
		 Colorado Court, Santa Monica, CA (142 du/acre)
High density apartments and condominiums	150 - 300 du/acre	 Lincoln Hotel, Los Angeles, CA (214 du/acre)

Sample of Southern California Maximum Densities

Below is a survey of Southern California cities' maximum densities (units/acre) for both residential zone and commercial zones that allow residential development. Densities are based on either gross or net dwelling units per acre. Net acreage refers to all densities that are calculated on the basis of net lot area, which is the existing lot area minus any dedications for public right-of-way (streets or alleys) to meet minimum city standards. Municipalities are listed from the highest allowable densities to the lowest.

San Diego (population: 1,223,400)

Land Use Category	Zoning District	Max. du/acre (gross)
Residential Estate	RS-1-1	10 acre lot
Residential Estate	RS-1-2	5 acre lot
Residential Estate	RS-1-3	1 acre lot
Residential Single Unit	RS-1-1 to RS-1-7	1 to 9
Residential Small Lot	RX-1-1	11
Residential Small Lot	RX-1-2	15
Residential Townhouse	RT-1-1	12
Residential Townhouse	RT-1-2	15
Residential Townhouse	RT-1-3	17
Residential Townhouse	RT-1-4	20
Residential Multiple Unit (lower density)	RM-1-1	15
Residential Multiple Unit (lower density)	RM-1-2	17
Residential Multiple Unit (lower density)	RM-1-3	22
Residential Multiple Unit (medium density)	RM-2-4	15
Residential Multiple Unit (medium density)	RM-2-5	29
Residential Multiple Unit (medium density)	RM-2-6	15
Residential Multiple Unit (medium density/limited commercial)	RM-3-7	44
Residential Multiple Unit (medium density/limited commercial)	RM-3-8	54
Residential Multiple Unit (medium density/limited commercial)	RM-3-9	73
Residential Multiple Unit (high density/limited commercial)	RM-4-10	109
Residential Multiple Unit (high density/limited commercial)	RM-4-11	218
Residential Multiple Unit (medium density/visitor accommodations)	RM-5-12	44
Commercial Neighborhood	CN-1-1 [1]	29
Commercial Neighborhood	CN-1-2 to CN-1-3 [1]	15
Commercial Regional	CR-1-1 [1]	29
Commercial Office	CO-1-1 [1]	43
Commercial Office	CO-1-2 [1]	29
Commercial Visitor	CV-1-1 to CV-1-2 [1]	29
Commercial Community	CC (1-5) [1]	29

1. Residential use is permitted only as part of mixed use.

Southern California Maximum Densities, cont.

Los Angeles (City) (population: 3,694,820)

Land Use Category	Zoning District	Max. du/acre
Suburban	RA	2.5
Residential Estate Zones	RE9 - RE40	1-5
Suburban	RS	6
One Family Zone	R-1	9
Residential Urban	R-U	12
Residential Zero Side Yard	RZ2.5	17
Residential Zero Side Yard	RZ3	15
Residential Zero Side Yard	RZ4	11
One-Family Res. Waterways	RW1	19
Two-Family Res. Waterway	RW2	38
Two-Family	R2	17
Restricted Multiple Dwelling	RD2	29
Restricted Multiple Dwelling	RD3	15
Restricted Multiple Dwelling	RD4	11
Restricted Multiple Dwelling	RD5	9
Restricted Multiple Dwelling	RD6	12
Multiple Dwelling Zone	R3	54
Residential Accessory	RAS 3	54
Multiple Dwelling Zone	R4	109
Residential Accessory	RAS 4	109
Multiple Dwelling Zone	R5	218
Limited Commercial	CR [1]	Same as R4
Limited Commercial	C1 [1]	Same as R3
Limited Commercial	C1.5-C5 [1]	Same as R4
Commercial Manufacturing	CM [1]	Same as R3

1. Residential is a permitted use in the above commercial zones.

Southern California Maximum Densities, cont.

Long Beach (population: 461,522)

Land Use Category	Zoning District	Max. du/acre (net)
Single-family small lots	R-1-S	18
Single-family moderate lots	R-1-M	12
Single-family standard lots	R-1-N	7
Single-family large lots	R-1-L	4
Single-family townhouse district	R-1-T	15
Two-family small lots	R-2-S	9
Two-family intensified development	R-2-I	9
Two-family standard lots	R-2-N	7
Two-family standard lots	R-S-A	7
Two-family large lots	R-S-L	5
Three-family residential	R-3-S	7
Four-family residential	R-3-4	10
Townhouse small lot	R-3-T	15-18 [1]
Multifamily high density (building ht. restriction)	R-4-R	14-30 [1]
Multifamily high density	R-4-N	14-45 [1]
Multifamily high density	R-4-H	14-? [1]
Multifamily high density	R-4-U	14-109 [1]
Neighborhood Commercial Residential	CNR [2]	Same as R-3-T
Community Commercial	CCR [2]	Same as R-4-R
Community Commercial	CCN [2]	Same as R-4-N
Commercial Office	CO [2]	Same as R-4-N
Commercial Tourist	CT [3]	Same as R-4-N

1. R-3-T - R-4-U: maximum dwelling units per acre depends on site area (Sq. Ft.) and site width (Ft.)
2. Residential is a permitted use in the above commercial zones.
3. Only multifamily residential permitted in CT zones.

Southern California Maximum Densities, cont.

Pasadena (population: 133,936)

Land Use Category	Zoning District	Max. du/acre (gross)
Single Family	RS-1	1
Single Family	RS-2	2
Single Family	RS-4	4
Single Family	RS-6	6
Multifamily (2 units per lot)	RM-12	12
Multifamily (City of Gardens)	RM-16	16
Multifamily (City of Gardens)	RM-16-1	14
Multifamily (City of Gardens)	RM-16-2	16
Multifamily (City of Gardens)	RM-32	32
Multifamily (City of Gardens)	RM-48	48
Multifamily (Urban)	RM-32	60
Multifamily (Urban)	RM-48	87
Commercial Office	CO [1]	Same as R-48 (Urban)
Limited Commercial	CL, CL2 [1]	Same as R-32 (Urban)
Central District Sub districts	CD [1]	Same as R-48 (Urban)

1. Residential is a permitted use in the above commercial zones.

Ventura (City) (population: 100,916)

Land Use Category	Zoning District	Max. du/acre (gross)
Single Family	R-1, R-1-B	7
Single Family Beach	R-1-B	14
Two Family	R-2	15
Two Family Beach	R-2, R-2-B	27
Multiple Family	R-3-1	54 [1]
Multiple Family	R-3-2	36
Multiple Family	R-3-3	27
Multiple Family	R-3-4	22
Multiple Family	R-3-5	18
Mobile Home Park	MHP	14
Residential Planned Development	R-P-D	30
Limited Commercial	C-1 [2]	Same as R-3
Intermediate Commercial	C-1-A [2]	Same as R-3
Commercial	C-2 [2]	Same as R-3
Planned Mixed Development	M-X-D	Same as R-3-3

1. With a density bonus the maximum density in R-3-1 zones can be above up to 54 units per acre.
2. Residential is a permitted use in the above commercial zones.

Southern California Maximum Densities, cont.

Santa Monica (population: 84,084)

Land Use Category	Zoning District	Max. du/acre (gross)
SFR	R-1	9
Low Density MFR	R2R	29
Low Density MFR	R2	29
Medium Density MFR	R3	35
High Density MFR	R4	48
Residential-Visitor Serving Commercial	RVC	29 [1]

1. Maximum density in RVC zone is 29 units per acre on parcels 4,000 units or greater. Residential is not a permitted use on parcels less than 4,000 sq. ft.
2. Residential development is allowed in 9 of Santa Monica's 10 commercial zones. All residential densities in commercial zones are based on Floor Area Ratio.

Anaheim (population: 328,013)

Land Use Category	Zoning District	Max. du/acre (net)
Residential Agricultural	RS-A-43,000	1
Single family Hillside	RS-HS- 43,000	1
Single Family Hillside	RS-HS-10,000	4
Single Family	RS-10,000	4
Single Family	RS - 7,200	6
Single Family	RS - 5,000	9
Multiple Family	RM - 3,000	15
Multiple Family	RM - 2,400	18
Multiple Family	RM - 1,200	36
Multiple Family	RM - 1,000	44

Irvine (population: 143,072)

Land Use Category	Zoning District	Max. du/acre (gross)
Estate	Estate	1
Low	Low	5
Medium	Medium	10
Med-High	Med-High	25
High	High	40
MU	Multi-Use	40
TOD	Transit Oriented Development	40
Neighborhood Commercial	Neighborhood Commercial [1]	(density not specified)

1. Neighborhood Commercial zones provide areas for commercial centers (as a permitted use) located within residential neighborhoods.

Southern California Maximum Densities, cont.

San Bernardino (population:185,401)

Land Use Category	Zoning District	Max. du/acre (gross)
Residential Estate	RE	1
Residential Low	RL	3.1
Residential Suburban	RS	4.5
Residential Urban	RU-1,2	8
Residential Medium	RM	12
Residential Medium-High	RMH	21
Residential High	RH	31
Residential Student Housing	RSH	20
Commercial Office	CO -1,2	47 Sr. [1]
Commercial General	CG-2 [2]	12-21 [3]
Commercial Downtown	CR-2 [2]	47 [3]

1. Only residential use allowed in CO - 1,2 zones is senior housing.
2. Multifamily residential is a conditional use in CG-2 and CR-2 zones.
3. A density bonus allows up to 18-31 residential units per acre in CG-2 zones and 130 residential units per acre in CR-2 zones for senior housing.

References

Access municipal code language for all cities listed via the internet.

Anaheim
Sections: 18.21.060 - 18.35.060 (residential zones)
Website: http://www.amlegal.com/anaheim_ca/

Irvine
Sections: 3.37.11 - 3.37.18 (residential zones), 3.37.19-3.37.20 (commercial zones)
Website: http://www.ci.irvine.ca.us/depts/cd/planningactivities/zoning_ordinance.asp

Long Beach
Sections: 21.31.205 (residential zones), 21.32.235 (commercial zones)
Website: http://www.ci.long-beach.ca.us/cityclerk/lbmc/table-of-contents.htm

Los Angeles
Chapter 1, Article 2, Sections: 12.07 - 12.12 (residential zones)
Website: http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=alp:lamc_ca

Pasadena
Sections: 17.20.030 (residential zones), 17.28.070 & 17.33.070 (commercial zones)
Website: http://www.ci.pasadena.ca.us/cityclerk/municode.asp

San Bernardino
Sections: 19.04.02 (residential zones), 19.06.02 (comercial zones)
Website: http://www.ci.san-bernardino.ca.us/site/htm/DevelopmentCode2002.htm

San Diego
Sections: 131.0401 - 131.0465 (residential zones), 131.0507 - 131.0556 (residential zones)
http://clerkdoc.sannet.gov/Website/mc/mc.html

Santa Monica
Sections: 9.04.08.02.070 - 9.04.08.12.060 (residential zones), 9.04.08.14.060 - 9.04.08.30.060 (commercial zones)
Website: http://pen.ci.santa-monica.ca.us/municode/codemaster

Ventura (City)
Sections: 24.21.060 - 24.222.060 (residential zones), 24.232.060 - 24.244.060 (comercial zones)
Website: http://livepublish.municode.com/3/lpext/dll?f=templates&fn=main-j.htm&vid=10135

Reports

Compact Development for More Livable Communities
Dave Davis, Local Government Commission Center for Livable Communities. Sacramento, 2003.
www.lgc.org.

Creating Great Neighborhoods: Density in Your Community
Adhir Kackar, Ilana Preuss, Local Government Commission. Sacrameneto, 2003
http://www.epa.gov/livability/density.htm

Myths & Facts about Affordable Housing and High Density Housing
California Planning Roundtable California Department of Housing and Community Development. Sacramento, 1997.
http://www.planningcenter.com/resources/forceframes.html?/resources/publications.html

Promoting Mixed-Use Development
Peter Katzlberger, American Planning Association - Cal Planner. Santa Cruz, 2003.

Smart Growth Case Study: Western Riverside County
Western Riverside County Council of Governments. Riverside, 2003.
http://www.wrcog.cog.ca.us/publications/.%5CSMART2.pdf

Smart Growth Zoning Codes: A Resource Guide
Steve Tracy, Local Government Commission.
http://www.lgc.org/bookstore/land_use/publications/sg_zoning_codes.html

The Case for Multifamily Housing
Richard M. Haughey, Urban Land Institute Washington. D.C., 2003.
http://research.uli.org/Content/Reports/PolicyPapers/PUB_C62.pdf

CHANGES TO THE STATE'S DENSITY BONUS LAW HAVE TAKEN EFFFECT, BUT MANY LOCALITIES HAVE NOT YET UPDATED THEIR ZONING CODES. GETTING LCOAL LAWS UP TO DATE COULD MAKE THE DIFFERENCE.

DENSITY BONUS LAW AS OF JANUARY 2004

The state's density bonus law requires cities (or counties) to let developers build above local density limits when a development includes affordable units. The law allows rental developers to build at least 25 percent more units. For condo developments, at least 10 percent more units. The law has recently been updated by the State Legislature to increase its use, but most cities have not yet changed their municipal code to reflect this.

ELIGIBILITY FOR DENSITY BONUS

Rental housing is eligible if the developer builds at least 20 percent of units restricted to lower income households; at least 10 percent to very-low income households; or at least 50 percent for senior citizens. Condos are eligible if at least 20 percent of units are restricted to households of moderate income. The bonus applies to new construction, to the conversion of commercial buildings to residential use, and rehabilitation projects where there is a net increase in residential units. The law applies to developments of five or more units.

ADDED INCENTIVES

Developers are allowed to request a second incentive in addition to the density bonus, if they can demonstrate that it is needed to make the proposed project financially feasible. In turn, development standards—which in theory include height limits, parking regulations, set-backs and open space requirements—can be required by cities only to the extent that they do not prevent the use of density bonuses.

Developers can ask for a third incentive if the proposed development includes at least 10 percent units restricted to very-low income households, AND ALSO at least 20 percent restricted to lower income households. There is another, more limited incentive if there is a child care facility, where the developer can receive a density bonus equivalent in square footage to the size of the child care facility.

The definition of incentive (or concession) includes "all local ordinances, general plan elements, specific plans, charter amendments, or other conditions, laws, policies, resolutions or regulations." Examples include set-backs, parking requirements, lot size, height limits, open space requirements or architectural design requirements that exceed minimum standards. Other incentives include granting an additional density bonus beyond the state mandate or approval of mixed-use zoning.

The law calls for developers to pick the incentive they think is necessary, and puts the burden of proof on cities or counties who reject the incentive to produce a document demonstrating a valid health, safety or environmental concern as to why that incentive is unacceptable. If the city does reject an incentive, the city must agree to a replacement incentive that is financially equivalent.

USE HAS BEEN LIMITED

The preferences of cities have often prevented developers from using state density bonus law. Cities often adopt development standards that make it impossible to use the density bonus. Perhaps they push incentives that do not have much impact on the project's financial feasibility pro forma. Often, cities have not given ministerial approval for a density bonus, which means a project must go before elected officials or their appointees for a more complicated, public approval process.

WHAT HAS CHANGED
Assembly Bill 1866

This bill calls for cities to waive any development standard that other prevents the density bonus from being used. Development standards are defined as "any ordinance, general plan element, specific plan, charter amendment, or other local law, policy or regulation."

No density bonus shall be denied that meets the affordability criteria and is at least five units in size (bonus units excluded).

Requires that cities or counties grant the incentive(s) requested by a developer, or make a written finding that the concession would have an adverse impact on the health, safety or environment that cannot be mitigated; or have an adverse effect on any property listed in the California Register of Historic Resources.

Clarifies how the number of density bonus units should be calculated. (i.e., by rounding up). The rental density bonus is calculated as 25 percent of the maximum allowable residential density, rounded up and added to the maximum density. When the density is 8 units per acre, the density bonus is at least 2 units per acre, for a minimum of 10 units. When the density is 9, 10, 11 or 12 units per acre, the density bonus shall be at least 3 units per acre, yielding a total allowable density (with the bonus) of 12, 13, 14, or 15 units per acre, respectively.

EXAMPLES OF HOW IT SHOULD WORK

A TAX CREDIT DEVELOPMENT
A tax credit project, 100 percent lower income, is proposed for a neighborhood with a 25-unit density limit and a 36-foot height limit. The developer requests a density bonus that allows 25 percent more units. The developer is approved for 32 units, since the 25 percent bonus allows for a 6.25 unit bonus that is then rounded upward. The developer request as incentive an exemption from the city's height limits for the neighborhood.

… WITH CHILD CARE
The same project is reconfigured to have 90 percent lower income units, 10 percent very-low income units and a 3,000 square-foot child facility. Because of the income threshold, the developer is eligible for a density bonus, two additional incentives and another incentive for the child care facility. The developer request reduced set-backs, an exemption from height limits and the waiver of off-site improvements in order to offset the cost of the child care facility.

In this case, the city makes a written finding declining the request to waive all off-site improvements because lighting and improved drainage are required by safety and health concerns, and because some traffic mitigation is necessary. Instead, the city and developer negotiate concessions that have the same effect on developer's pro forma. The city waives the requirement to have the developer improve the adjacent alley, but requires the other improvements, and then provides an exemption from a specific plan for the area that bans tuck-under parking configurations.

MARKET CONDOMINIUMS

A market-rate developer proposes a 38-unit condominium project, with 20 percent of units set aside for households of moderate income. The density limit is 30 units. The developer uses the density bonus to receive a 10 percent condo bonus and requests an additional density bonus for a total of 20 percent. The bonus on 30 units is 7.5, which is rounded to 8 bonus units.

The developer demonstrates in the pro forma that with the density bonuses and affordable component, the project earns a slightly higher return on equity that it would have otherwise; but without the density bonuses, the affordable component would lower return on equity below what the equity investors would accept.

EXAMPLES OF CITY ORDINANCES

The updated state density bonus law as codified by cities will frame any project-specific discussions, but finding a good model ordinance for cities to work with is difficult. Here is an example of a recently approved update.

http://www.ci.santa-rosa.ca.us/City_Hall/City_Council/documents/2003/030916pdf/Item11.5.pdf