Public Benefit Bonus Policy Brief

Prepared by Chris Schildt
November 2012

Introduction

The City of Mountain View adopted a new General Plan in July 2012. The Land Use and Design element of the plan allows for additional height or floor area ratio (FAR) for new developments that provide significant public benefits in key areas. The City is now in the process of determining how best to implement a public benefit bonus program based on the guidelines laid out in the General Plan. This memo is intended to aid in this effort by providing an overview of important considerations, best practices, and recommendations for a public benefits bonus ordinance or policy based on a review of published materials and interviews with experts and practitioners from around the state. This report seeks to address some specific questions, including:

- How to balance public benefits with an appropriate amount of project bonus?
- How can a public benefits bonus policy be implemented?
- What are appropriate benefits and bonuses to include in a policy, and what is a good process to determine them?

This report is written in three parts. Part I provides a discussion of key components and best practices for structuring a public benefits bonus policy. Part II provides in-depth discussion of three case studies that highlight different approaches to public benefits bonuses in California: San Diego, Santa Monica, and Palo Alto. Part III provides recommendations for the City of Mountain View. Additional resources and examples from other cities are provided at the end of the report, in Appendix A.

This work has been made possible thanks to a grant to Greenbelt Alliance's partner Forterra from the U.S. Environmental Protection Agency Office of Sustainable Communities under the Building Blocks for Sustainable Communities Program.

MAIN OFFICE • 312 Sutter Street, Suite 510, San Francisco, CA 94108 • (415) 543-6771 • FAX: (415) 543-6781
SOUTH BAY OFFICE • 1922 The Alameda, Suite 213, San Jose, CA 95126 • (408) 983-0856 • FAX: (408) 983-1001
EAST BAY OFFICE • 1601 N. Main Street, Suite 105, Walnut Creek, CA 94596 • (925) 932-7776 • FAX: (925) 932-1970
NORTH BAY OFFICE • 555 5th Street, Suite 300 B, Santa Rosa, CA 95401 • (707) 575-3661 • FAX: (707) 575-4275
INFO@GREENBELT.ORG • WWW.GREENBELT.ORG

Structuring a Public Benefits Bonus Policy

Public benefits bonus policies are known by a variety of names: incentive zoning, community benefits, land value recapture, and more. For clarity and consistency, this report will use the term public benefits bonus. Essentially, public benefits bonus policies allow for specific incentives or bonuses to be granted to a developer in exchange for certain benefits or amenities for the community.[1] While a bonus is often in the form of increased density, height, or FAR, sometimes it can include an expedited permitting process, waived impact fees, reduced parking requirements, or other types of incentives in exchange for public benefits that are important to the local community. Structuring a public benefits program can take a variety of forms, but most of them have these common elements:

1. **Geographic Target.** A bonus program is often targeted in specific areas of a city where increased intensity of development is desired. The targeting can happen by inserting the bonus program into a specific zone or designating neighborhoods explicitly in the ordinance language. The ordinance in downtown San Diego, for example, includes a map delineating the specific parcels eligible to participate in their bonus program. The City of Mountain View could establish the geographic target(s) through their upcoming Precise Plan updates along El Camino Real and elsewhere.

2. **Public Benefits.** Determining which public benefits are priorities to local residents and to the City overall is an important first step. The list of possible benefits is nearly endless: parks and open space; affordable housing; larger size homes (e.g. 3-bedroom units); street and transportation improvements; art and community facilities; educational facilities and funding for local schools; green development (e.g. LEED or eco roofs); economic opportunities (e.g. prevailing wage or first source requirements); and more. Ideally the City can engage with residents from the beginning to determine their priorities. For example, in both San Diego and Santa Monica, the list of community priorities for public benefit was developed in public meetings as a part of plan updates for a downtown Community Plan and a General Plan, respectively. The initial list created through resident participation should be evaluated by the City for appropriate city-wide and regional public benefits to be added, if necessary. For example, San Diego included the state affordable housing density program as a part of the FAR bonus program, making it easier for developers to understand and use and for staff to administer.

3. **Bonus.** Determine which bonuses will be offered to developers. Oftentimes, the bonus for developers will be in the form of increased intensity of use, such as an increase in the maximum FAR or height or dwelling units per acre. The City of Berkeley's bonus program includes an expedited permitting process for projects that provide certain benefits. Most importantly, the bonus offered needs to add value for the developer at the site where it will be applied. If a neighborhood already has a height or FAR limit greater than there is market interest to develop, for example, a bonus that allows for even greater development will not likely get used. It is important that the city has a clear understanding of what type and intensity of development the market can support.

[1] See Stuart Meck, Editor. *Growing Smart Legislative Guidebook: Model Statutes for Planning and the Management of Change.*

4. **Balance of Benefits and Bonus.** Striking the right balance between the public benefits and project bonus of a policy is tricky but essential work. A third-party analysis of the cost of the benefits and the development market can provide valuable data to inform what a good balance is.

   The City of Menlo Park, for example, conducted a financial feasibility study that determined the potential for additional benefits from private development that receive a FAR bonus. The study, conducted in Spring 2012 by Strategic Economics, determines the amount of public benefit available based on a pro forma model that solves for land value, using tested calculations for development costs and return on investment. The study ran pro forma models for a range of development scenarios to understand which project types would be most feasible. The study also tested the impacts of proposed density bonuses on residential development, and found that bonus generated a higher residual land value, suggesting it would be possible to develop a successful public benefits program. A link to the study is available in Appendix A.

   In the City if Berkeley, the bonus level was determined based on a market analysis using a range of development types (condo, apartments, office), heights, and parcel sizes, with assumptions made about land value. They used a developer pro forma model, as well, to solve for each scenario and determine what types of bonuses would maximize developer return, and therefore maximize potential to extract public benefits. A link to the study is available in Appendix A.

   While these analyses can provide good starting points, ultimately the right balance between benefits and bonus will depend on the priorities and goals for each city. For example, The City of Tampa provides an additional bonus for the public benefits that are most important to the community. A city may also choose to start out with low benefits and high bonuses to gain developer buy-in to the program, and slowly increase the benefit requirements over time. The City of San Diego, for example, recently increased their benefit requirements as the program proved successful.

5. **Implementation.** It is important to establish a clear procedure to implement the policy. The City will need to work with developers to create a process that is transparent, predictable, and expedient. One common way to accomplish this is to create a points or percentage based system or a simple formula so that developers can calculate the amount of bonus they will receive for a given benefit. San Diego, Portland, and Seattle all use this method. Perhaps the simplest way to implement a bonus program is to make additional FAR available for purchase, such as in San Diego. In that scenario, the City must establish a spending plan to make transparent how the funds will support needed public benefits.

   Depending on the structure of the public benefit bonus ordinance, there may be certain legal requirements that need to be met. For example, the City of Santa Monica is conducting a nexus study to ensure any legal considerations of their incentive zoning bonus program is addressed. For more on this, see the Santa Monica case study below.

The ultimate success of a public benefits policy will depend on finding the “sweet spot” between maximizing the public benefits opportunity of a development and staying within the market bounds of what is feasible to build. The “sweet spot” will move over time, and sometimes disappear altogether, such as during the worst part of the last recession. It is important to have ongoing, open communications with developers and community members alike to stay ahead of market trends and be able to adjust the benefits and bonus over time in a transparent way. For example, the City of San Diego indexes their FAR purchase price to the Consumer Price Index, with adjustment made annually. This creates a predictable process for developers while ensuring the bonus keeps pace with inflationary trends.

A Note about Schools and Public Benefits

Like many communities throughout California, Mountain View is concerned about ensuring new development contributes to the quality of its schools and educational programs. The type of development – and public benefit – that occurs in the City has the potential to impact the local school system in a number of ways.

In San Francisco, new development in the Bayview/Hunters Point neighborhood must contribute fees to an education support fund. Although this education fee was negotiated as a part of a Community Benefits Agreement, it would be feasible to create a FAR purchase program such as the one in San Diego (see case study, below), with contributions going to support programs or facilities at a neighborhood school. To do this would require addressing jurisdictional logistics between the school district and the City.

In both Tampa and Santa Monica, public benefit bonus programs include additional bonuses for housing developments that include on-site or adjacent child care facilities. In Tampa, the bonus is calculated as the percentage of need met on-site for a child care center, based on the number of children generated by the project.

Beyond public benefit bonuses, school districts also have the ability to levy developer impact fees on new residential and commercial construction or to create Mello-Roos Community Facilities Districts to address the impacts of new students on existing school facilities.

Case Studies

Public benefit bonus programs began in large cities such as Chicago and New York City over 50 years ago, but became widely popular in cities and towns of all sizes during the development boom of the early and mid-2000s. Unfortunately, many policies that were created during that time have not met their potential, largely because of changing market conditions. The three case studies highlighted here – San Diego, Santa Monica, and Palo Alto – were chosen because they were considered particularly relevant for Mountain View, they demonstrate a range of program design and implementation options, and they have had some success to evaluate. While Santa Monica's program has not been implemented yet, their process and the studies commissioned are instructive.

Below is a snapshot summary of the three case studies:

	San Diego	Santa Monica	Palo Alto
Target Area	Select areas in downtown only	Neighborhoods as designated in the General Plan	City-wide
Public Benefits (partial list)	Affordable housing; 3-bedroom units; public open space; eco-roofs	Affordable housing; traffic reduction strategies; physical improvements; social and cultural amenities; historical preservation	Not pre-determined – benefits are proposed by developer for each development.
Bonus	FAR increase either for purchase or in exchange for benefits	Increased FAR and/or height	Not pre-determined – bonus is determined through zoning change process
Balance of benefits and bonus	Cost of purchasing FAR set at $15/sq ft in 2007 with annual increase based on CPI. Other benefits have predetermined ratio (e.g. 10% open space for 0.5 FAR increase).	The City established three tiers of bonus: Tier 1: No bonus, no benefit Tier 2: Increase in height/FAR for some benefits Tier 3: Additional increase in height/FAR for additional benefits	Negotiated by City case-by-case
Implementation	Select benefit and bonus from pre-determined list, with staff approval	Though not yet adopted, the City is considering three levels: Tier 1: Ministerial action Tier 2: Discretionary action Tier 3: Likely Development Agreement	Request change in zoning code (quasi-judicial)

San Diego, California: FAR Bonus Purchase Program

In 2006, San Diego developed a new downtown community plan. One of the primary goals in the plan was to both increase development intensity in the downtown area and ensure that these developments led to new community amenities. In order to achieve this, they created a FAR density bonus program in conjunction with the plan.

The program is administered by Civic San Diego, formerly the Centre City Development Corporation, which is an organization charged with the planning function for the downtown area, including all planning, zoning, and redevelopment activities. Originally under the Redevelopment Agency, Civic San Diego is now under the City directly but still maintains the same planning functions for the area.

How the program works: Within the downtown area, certain parcels were delineated as areas where developers could build above the maximum FAR in exchange for providing public benefits, including eco-roofs, urban open spaces, 3-bedroom units, and affordable units. The affordable units bonus is in compliance with the state density bonus program. See the table below for an overview of the program and how the benefits are calculated.

In addition to providing certain benefits, developers could purchase additional FAR in some parts of downtown where higher intensity development was acceptable. The purchase price was set at $15 per additional square foot in 2006, and has been adjusted annually according to the Consumer Price Index. The funds gathered through the FAR purchase program are restricted to the downtown area, and must be used for parks, open space, or acquiring additional right of way for parks and open space. Notably, Civic San Diego collects and administers the funds because of the role they play in administering planning functions in the downtown area, but in other cities this function could be played by the City directly.

The FAR density program was developed as a part of the Downtown Community Plan update with input from residents. The program is relatively easy for staff to administer; developers select the desired benefit and bonus from a pre-determined list, outlined in Section 156.0309 of the Municipal Code, available at: docs.sandiego.gov/municode/MuniCodeChapter15/Ch15Art06Division03.pdf

While the mix of amenities was developed through the community planning process, the amount of bonus a developer would receive, and the price per square foot, were determined by the city and staff. The City Council directed staff to establish the original FAR purchase price at $15 per additional square foot, and while there were some who felt that the price should have been set higher, there have not been any efforts to raise the price beyond the annual Consumer Price Index adjustments. To date, the purchasing of FAR has raised $1.7 million, with another $1.5 million in additional revenues to be generated if all current projects move forward. The funds are being used to build a new park in the downtown area.

In 2012, the FAR bonus program was amended in order to tighten the public benefit requirements. For example, the original ordinance allowed for a bonus FAR of 1.0 for an eco-roof, which has been amended to either 0.5 or 1.0 FAR depending on whether the eco-roof is accessible to residents. The 2012 amendment also included increases in the maximum FAR that some projects could receive.

San Diego Program Overview

Public Amenity provided	FAR Bonus (added to maximum base FAR)	Notes	Number of developments that used this
Affordable Units	Based on state requirements	In compliance with state affordable housing density program.	5 (out of 34 eligible)
Urban Open Space 10% of site 20% of site	 0.5 FAR 1.0 FAR		2 (out of 18 eligible)
3-Bedroom Units	Up to 1.0 FAR	10% of units must be 3-bed or larger, with a minimum of 5 units.	3 (out of 18 eligible)
Eco-Roofs	Up to 1.0 FAR	To receive max bonus, roof must be accessible to residents.	10 (out of 18 eligible)
FAR Payment Bonus Program	Up to 5.0 FAR	Set in 2007 at $15 /sq ft, with annual CPI increases. Goes into a fund to create parks, open space, or acquire right-of-way.	10 (out of 15 eligible)

From San Diego Municipal Code Section 156.0309(e)

Program Effectiveness: The program has been well used by developers. Of the 18 eligible projects built, approved, or under review, 13 have chosen to use at least one of the FAR bonus options. Five of the projects have elected to use the affordable housing density bonus, which will lead to 141 new affordable units in the downtown area. Three projects have elected to build 3-bedroom units, creating 87 new units total. The popularity of some of the menu items, such as the eco-roofs, prompted staff to tighten the requirements in the latest round of program amendments. Also, affordable housing advocates are working with the City to explore creating an additional off-site affordable housing density bonus in collaboration with nonprofit housing developers to increase the use of the affordable housing density bonus option.

There has been little public opposition to the program. Although it is difficult to know definitively, interviewees suggested that the public success of this program is perhaps due in part to the public participation in the beginning as a part of the Community Plan update.

Santa Monica, California: Community Benefits and Incentives

In 2010, the City of Santa Monica updated their Land Use and Circulation Element (LUCE), which includes a community benefits program that allows for increased density in exchange for a range of benefits, including traffic reduction management strategies, affordable housing, physical improvements, social and cultural amenities, and historical preservation.

How it works: The LUCE establishes a three tiered system for determining development height. Tier 1 establishes a base height of 32 feet in most areas. If developers want to build above that, they can opt for a discretionary permit for increased height in exchange for providing public benefits, which is called Tier 2. Tier 3 is available in certain parts of the city where additional height is allowed in exchange for even more public benefits, most likely determined through a Development Agreement. The basic structure of the tier system is described in Chapter 2.1: Land Use Policy and Designations of the LUCE. The community benefits program is described in Chapter 3.2: Community Benefits of the LUCE. The entire LUCE is available at http://www.shapethefuture2025.net/

Residents participated in developing the community benefits program as outlined in the LUCE, including the categories of community benefits to include and the tiered system, through the three year-long public participation process for the LUCE. Before the LUCE was adopted, the City commissioned a financial feasibility study by KMR to determine if the three tiers they were hoping to establish would result in value enhancements, increasing the development potential of a site and therefore the potential for community benefits.[2] The study involved a case-by-case pro forma analysis using four different prototype developments.

The pro forma calculated:

- base construction costs;
- sales revenue or net operating income depending on project type;
- residual land value; and
- the value enhancement (difference between residual land value in base case compared to tiered proposal)

The analysis found that the tier structure proposed in the LUCE provides significant value enhancement for the prototypes studied. However, this analysis did not attempt to quantify the cost of the public benefits proposed in the LUCE to determine whether the tier structure provided value enhancement net the cost of the benefits.

Since the LUCE was adopted in 2010, the City has continued the process of designing and implementing the tiered development community benefits program. In Spring 2012, the City commissioned a study by Dyett & Bhatia on issues, options, and case studies for codifying community benefits into their zoning ordinance update.[3] This study discusses several legal considerations for Santa Monica as the City proceeds to incorporate the bonus program into the zoning code. The study notes that there is an existing body of law that requires cities to establish nexus and rough proportionality when incorporating community benefits into zoning standards. The

[2] The analysis is available for download at:
http://www.shapethefuture2025.net/PDF/luce_2009_documents/KMA_fiscal_analysis_benefits.pdf

[3] This study is available for download at
http://www.ci.berkeley.ca.us/uploadedFiles/Planning_and_Development/Level_3_-_Redevelopment_Agency/Santa%20Monica%20ZO%20Update-CB%20and%20Incentives.pdf

study cites several cases, including *San Remo Hotel v. City & County of San Francisco* (2002); *Ehrlich v. Culver City* (1996), and *Building Industry Association v. City of Patterson* (2009). It is unclear how this body of case law may apply to a voluntary public benefits bonus program, but this legal consideration should be taken into account when designing a program. The City of Santa Monica has already conducted nexus studies that will cover many of the public benefits to fulfill legal requirements with regards to establishing development impact fees. The City may conduct an additional study to establish a nexus for the tiered zoning structure they are considering adopting. The zoning code update is expected to be adopted by mid-2013.

Palo Alto, California: Planned Community Zoning

Planned Community (PC) zoning is a flexible zoning designation used in many cities throughout California, primarily for large-scale new residential developments. The City of Palo Alto uses the PC rezoning process in creative and sometimes controversial ways to maximize the public benefits of higher intensity infill projects.

How the program works: Public benefits are built into the PC zoning designation; in order to qualify for a PC, the Planning Commission and City Council must find that "development of the site under the provisions of the PC planned community district will result in public benefits not otherwise attainable."[4] In Palo Alto, developers will choose to pursue a PC zoning change if they want to build a project at a greater height, density or FAR, or with a different mix of uses than is allowed under the current zoning designation for a site. The zoning change application must go through review by the Planning Commission, Architectural Review Board, and the City Council.

The Planning Department reviews several requests for a PC zone change from developers each year. The developers propose which public benefits the project will include in their application to the city for the zoning change. The final package of public benefits gets negotiated with staff and ultimately the City Council before the project is approved. This can often be a lengthy and uncertain process; one development took over 15 years to get a PC approved.

The City does not have a standard process to determine the cost of the community benefits, nor the increased value of the zoning changes. There is no explicit community process about the public benefits, although the city does encourage developers to host public meetings to get resident input. Types of community benefits from past projects include traffic studies, public art, public plazas, public meeting rooms, tree plantings, grocery stores, and affordable housing.

The City has not tried to quantify the cumulative impacts of the public benefits over the years, but two projects from the last 10 years help illustrate both the benefits and perils of this approach.

The first project is 800 High Street, a multi-use development approved in 2003. 800 High Street includes 60 units, 10 of which are below market rate, on what was previously an old dry-cleaning site near a Caltrain station. The original zoning designation for the site was for much lower density, making the project infeasible for the developer. The City Council granted a rezone from Downtown Commercial Service and Pedestrian Overlay to Planned Community in February 2003. However, resident concerns about the increased density were so great that the rezone was put to a referendum in the fall of 2003. The referendum failed, and the project was built.

[4] From Palo Alto Municipal Code 18.28.050

Project name: 800 High Street
Year approved: 2003

Original zoning code	Final project under PC rezone	Public Benefits
Downtown Commercial Service Pedestrian Overlay (CD S (P)) • Max 26 housing units, with some additional BMR units	• 60 units • Underground parking • 1,900 sq ft of retail • ~800 sq ft public plaza	• 10 below market rate units • Public plaza • 57 public parking spaces • Retail

Source: Author calculations from city documents

The second project is called Alma Plaza. In 2007, the City approved a PC zone change that allowed the developer to replace an underutilized retail space with retail and 51 homes, 14 of them below market rate. In addition to the affordable housing, the public benefits include: preserving 15,000 sq ft of the retail space specifically for a neighborhood-serving grocery store, a 0.2 acre public open space, LEED Silver design, a public community room, and off-site transportation improvements. The project is nearly complete and is expected to be fully open in early 2013.

Project name: Alma Plaza
Year approved: 2007

Original zoning code	Final project under PC rezone	Public Benefits
Original Planned Community: • Commercial retail only	• 51 housing units • ~24,000 sq ft retail • 0.2 acre public park • Parking	• Guaranteed neighborhood grocery in retail space • 14 below market rate units • 1,300 sq ft public community room • Public park • LEED silver development • Off-site street improvements

Source: Author calculations from city documents

Program effectiveness: Many of these PC rezonings have faced a good deal of controversy. Some residents have expressed concerns that the PC designation is getting overused by the City, and that determining public benefits in this way is too unpredictable and does not include robust community input. There are also concerns that these zoning changes amount to a "give-away" for developers, and that the City is not receiving enough public benefits in return. The PC rezoning process also takes up a significant amount of city staff resources.

The PC rezone maximizes the City control of a project and their ability to extract benefits. It allows for the greatest amount of flexibility for the City to work with developers to create a project that works for everyone. This flexibility allows for the City to look at each development on a case-by-case basis and determine what is appropriate for each.

However, the process can be incredibly long and uncertain for the developer. The Alma Plaza project has taken over 15 years to complete, and the developer said he is unlikely to ever pursue a PC rezone in Palo Alto again. This has likely created a chilling effect on other developers interested in building in Palo Alto.

Conclusion and Recommendations

A number of best practices and recommendations for the City of Mountain View emerged in the process of research and analysis for this report. These are:

1. **Adopt a public benefits bonus policy in conjunction with an upzoning process to capture market demand for increased development intensity and increase public participation**. Tying these two processes together can make it easier for the City to gain input from residents about what benefits are most important for them, and provides a way to attain those benefits through the zoning code. In Oakland, residents were interested in pursuing public benefits density bonus program, but after the City had already dramatically increased FAR and height limits in the neighborhood. It is unlikely that there will be demand from developers to build beyond what is already allowed under the new zoning, undermining the City's ability to create a public benefits bonus program. Once a city has already increased development intensity in an area, it can become both politically and legally difficult to reduce zoning to establish a public benefits bonus program.

2. **Work with residents ahead of time to determine their list of priorities for public benefits**. To varying degrees, each of the case studies had some process to get community input into which public benefits were most important for residents. This step helps establish trust with residents that they will receive something important to them in exchange for the development incentives, and helps dispel concerns that the bonus is a "give-away" for developers. This critique is often heard in Palo Alto, which only allows residents give input on public benefits at a project-by-project level.

3. **Commission an independent analysis of market conditions to determine the right balance of benefits to bonus**. Nearly every case study reviewed for this report included a third party independent study. At a minimum, these studies should involve a feasibility analysis of likely projects under base zoning and bonus scenarios in order to determine whether or not the bonus will enhance development feasibility. In establishing what the right balance is, be aware that public benefits that are easier to obtain are more likely to be selected by the developers, if they have a choice. For example, building below market rate homes is going to be more complicated for a developer than simply purchasing additional FAR for a set price per square foot. The ratio for each benefit should be established with these considerations in mind.

4. **Make the program simple to understand and easy to use.** Because this is a voluntary program, developers are most likely to use it if they can understand it and easily see the benefit of opting to use it. Also, tight municipal budgets demand that the program be easy to administer in order to save on city costs. The City of Tampa is in the process of changing their bonus program from a quasi-judicial zoning amendment to a simple administrative act. This makes it easier for the developers to use, and less costly for the City to implement. However, with this change comes less oversight by the Planning Commission and City Council. The City of Palo Alto has kept their bonus program embedded in a zoning change in order to keep this level of oversight on individual projects.

5. **Recognize that benefit priorities and ratios will change over time**. Many of the cities examined here have made changes to their programs since they were established. In San Diego for example, the original bonuses were so popular with developers that the cities felt they could increase the public benefit requirements without dampening developer interest. A program should be designed with some amount of flexibility in mind.

Appendix A: List of other ordinances

Within California and around the country, the variety in public benefit bonus policies is incredibly rich. The three case studies in this report were selected because they were considered particularly relevant or instructive for the City of Mountain View; however, the other places we examined may also be useful for the City as it constructs its own processes and policies. Below are brief summaries of these other cities' ordinances and programs, with links to relevant documents and codes.

A good general resource for land use incentives, including a model ordinance for California cities, is provided in Chapter 9 of the American Planning Association's *Growing Smarter Legislative Guidebook: Model Statutes for Planning and the Management of Change*. The guidebook is accessible online at: http://www.planning.org/growingsmart/guidebook/

Within California

Berkeley

In Spring 2012, the City of Berkeley adopted the Green Pathway program, which allows developers to opt in to a streamlined entitlement process if they meet certain requirements. The number of requirements varies depending on the project height, but includes: at least 20 percent affordable housing to people who earn 50 percent or less of AMI; at least 30 percent local workers for construction; waive the right to state density bonus law; 16 percent of construction workers be apprentices; and all construction and hotel (if applicable) workers be paid state prevailing wage. In exchange, the city will agree to plan approval as a matter of right if the project complies with applicable zoning and plan requirements and standards. The Green Pathway program is described in detail in Municipal Code 23B.34 (available at http://codepublishing.com/ca/berkeley/)

The City also developed a downtown development feasibility study to determine the extent to which new development can support public benefits and remain financially viable. AECOM's presentation of both their method and results are available at:
http://www.mtc.ca.gov/planning/smart_growth/tap/DT_Berk_City_Council_101011.pdf

Mammoth Lakes
The Town of Mammoth Lakes is in the process of developing a Community Benefits Incentive Zoning policy as a part of their Zoning Code Update. The 2007 General Plan directs the Town to "ensure appropriate community benefits are provided through district planning and development projects." Since then, the Town has completed several neighborhood district planning studies to define desired community benefits. They commissioned a paper by Dyett & Bhatia to examine key areas of consideration and recommendations for creating a defined program. The study recommends the Town create a "menu, formula, or point system" to assign values to desired community benefits ahead of time, making the program simple and transparent for developers to use.

The study, completed in Fall 2012, is available for download at:
http://mammothlakes.granicus.com/MetaViewer.php?view_id=2&event_id=5&meta_id=25338

Menlo Park

The City of Menlo Park is pursuing a public benefits strategy as a part of their El Camino Real/Downtown Specific Plan. In Spring 2012, Strategic Economics completed a memo for the City that outlines the financial feasibility of various development types under the proposed base FAR and bonus density. The study found that the density bonus for residential development is likely to generate a higher residual land value than the base level, suggesting it is possible to pursue a public benefits program in exchange for increased density.

The study is available for download at: http://www.menlopark.org/departments/pln/ecr-d/fsp-memos/ecr-d_fsp-memos_g.pdf

Outside California

Chicago, Illinois

The City of Chicago offers a downtown density bonus program that grants residential developers additional square footage in exchange for a variety of benefits, including: affordable housing, public open space, green roofs, and transit station improvements. To calculate the bonus, a formula is applied that pegs the amount of bonus to the amount of benefit directly. For example, the affordable housing bonus is established at four square feet of bonus for every one square foot of affordable housing provided. If the developer opts for an in lieu fee, it is equal to the bonus floor area multiplied by 80 percent of the land value of one square foot of buildable area.

The Floor Area Bonus is in 17-4-1000 of the Municipal Code, available at: http://www.amlegal.com/nxt/gateway.dll/Illinois/chicagozoning/chicagozoningordinanceandlanduseordinanc?f=templates$fn=default.htm$3.0$vid=amlegal:chicagozoning_il

Portland, Oregon

The City of Portland offers an Amenity Bonus for multi-family developments in order to promote "family oriented multi-dwelling developments" in certain neighborhoods. Additional units are allowed based on a calculation of the sum of amenities provided; each amenity is assigned a certain bonus percentage amount as defined in the ordinance. Amenities include outdoor recreation facilities, children play areas, 3-bedroom units, storage areas, sound insulation, crime prevention, solar water heating, and larger outdoor areas.

The Amenity Bonus is described in section 33.120.265 of the municipal code, available at http://www.portlandonline.com/auditor/index.cfm?c=28197&a=53296

Seattle, Washington

The City of Seattle offers incentives for both residential and non-residential development. Residential developments can receive density and/or height increases (depending on the zone) in exchange for either providing affordable housing or purchasing bonus square feet at an established rate per square foot. Non-residential developments have the option to either purchase additional square feet or provide affordable housing or childcare facilities. To incentivize workforce housing, the City also offers property tax exemptions for up to 12 years.

Full details of these incentive programs are available at:
http://www.seattle.gov/housing/incentives/default.htm

Tampa, Florida

The City of Tampa has passed two ordinances that allow for density bonuses in exchange for a range of public benefits. The first ordinance applied solely to Planned Development areas. It was expanded in 2007 to include the Central Business District periphery area. In each neighborhood where the density bonus is in effect, the City worked with Neighborhood Associations in order to determine the public benefit priorities. A partial list of public benefits includes:

- Affordable housing*
- Public open space*
- Transit support subsidy*
- Enhanced public access to waterfront*
- Enhanced streetscape design*
- Increased sidewalk area/width*
- Artist studio and indoor-outdoor performance space*
- Child care center space
- LEED Certified Construction.
- Neighborhood serving commercial/retail floor area

For most of these benefits, the bonus is calculated at a 10:1 ratio; for each $1 of benefit the project receives $10 worth of bonus. Starred (*) items in the above list are high priority for the City; they receive an additional 0.1 FAR bonus beyond the 10:1 ratio calculations.

The two ordinances (Sec. 27-328 and Sec. 27-329) are described in detail in the Municipal Code under Chapter 27, Article XIII, available at:
http://library.municode.com/index.aspx?clientId=10132