

Redwood City Community Benefits Program

# Community Benefits Program Brief

November 2014

Prepared by

**DYETT & BHATIA**

Urban and Regional Planners





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# I Introduction

For half a century, California municipalities used redevelopment programs established under State and, in some cases, federal law, to attract the kinds of development they want and to help pay for a variety of facilities and services. Since the State legislature eliminated this mechanism, cities and counties have been exploring alternative approaches to fill the void. One method that has been garnering increased attention is the concept of defined or structured benefits programs based on the principle that in exchange for granting planning entitlements that increase the value of property, the City and the community at large should receive benefits that are commensurate in value.

The City of Redwood City seeks to investigate amending its Zoning Ordinance to include provisions that will offer a comprehensive and structural approach for implementing such a community benefits program. In their most basic form, community benefits programs are a means by which new development is authorized to exceed a baseline floor area ratio, building height, or other specified requirement in exchange for incorporating project features that exceed the basic requirements imposed to implement plan policies. Land use regulations require development within a jurisdiction to meet minimum standards for the protection of public welfare and to help accomplish the goals set forth in adopted plans. Redwood City proposes to go a step farther, by establishing a more structured approach based on the principle that in exchange for granting planning entitlements, the community would receive benefits relative to the value added by the City's action.

The City has hired Dyett & Bhatia, Urban and Regional Planners, to work with City leaders, stakeholders, and the public to obtain input regarding the opportunities available for providing incentives to promote specific types of development that could generate such benefits. The input that is obtained from City leaders, stakeholders, and the community during the outreach process will be used to identify and evaluate alternative approaches and the types of benefits that are most desired by the community. Such programs must conform to both statutory and case law but also, for a defined benefits approach to work, the City must be able to entitle projects that will provide sufficient additional value to generate the types of benefits the community wants. This means that there must be additional capacity to accommodate development as well as market demand for the kinds of projects that will result.

## **I.1 Purpose of this Paper**

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The purpose of this paper is to help City leaders and the public understand what community benefits programs are about and how they differ from more traditional regulatory mechanisms that Redwood City and other municipalities use to relieve the community from burdens that new development may create and to attract the type of development they desire. The paper provides an overview of Redwood City's existing regulatory structure, including the policies, standards, and procedures that the City now uses to make decisions about new development. It also offers examples of some approaches to obtaining community benefits that other cities are employing and describes the features that these jurisdictions share, which are critical to an effective benefits program. This information, along with market studies and other economic data, will be used as a basis for identifying alternatives that may be appropriate for Redwood City. The results will be synthesized and organized as a basis for conducting stakeholder interviews, community workshops, and other meetings to inform the public and elected and appointed City officials about their options so they can provide feedback that the Consultant will use to craft an approach for the City to consider.

The sections that follow describe the legal basis and key features of community benefits programs; provide an overview of Redwood City's development policies, regulatory approaches, and programs; discuss what other cities are doing with regard to community benefits programs; and present the key questions identified for discussion with City leaders, stakeholders, and the public for development of a community benefits program.

## **2 Community Benefits Programs: Legal Basis and Key Features**

### **2.1 What Are Community Benefits Programs?**

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Community benefits programs provide a way for cities and counties to derive greater benefit from the granting of planning entitlements that increase the value of private property than would be possible from conventional development review procedures. These programs allow jurisdictions to obtain additional amenities or features from new development in exchange for granting incentives and concessions to developers. Traditional approaches to land use regulation have long required development to meet minimum standards enacted to protect public welfare and to help achieve the community's shared vision of a quality environment. California and other states have also authorized and, in some cases, mandated the use of incentive zoning to obtain certain benefits including affordable housing and child care. Since the State legislature eliminated traditional redevelopment programs, an increasing number of California municipalities have examined community benefits as a way to recoup some of the benefits once available as a result of tax-increment financing and other provisions of the prior State redevelopment law.

Starting with New York City in 1961, many major American cities have offered incentives for developers to incorporate desired features into their buildings. In most cases, the city offers the builder a "bonus" in terms of additional building height or building floor area (usually by increasing the floor area ratio or FAR), or reduced parking or fee payments, in order to change the building economics and make the desired features affordable. The State of California has expanded this approach by requiring local agencies to grant as-of-right density bonuses and other incentives to developers proposing to include affordable housing or child care facilities in their projects. According to the American Planning Association, at least ten states, including California, have enacted legislation expressly enabling local governments to adopt regulations offering bonuses and incentives to applicants who provide certain public benefits.<sup>1</sup>

While some cities require an individual hearing before granting any incentive, another practice is to agree on the bonus conditions ahead of time and then grant the bonus without discretionary (and sometimes time-consuming and controversial) review. Investors need the predictability of

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<sup>1</sup> Stuart Meck, Editor, *Growing Smart Legislative Guidebook: Model Statutes for Planning and the Management of Change*, American Planning Association, January 2002, pp. 9-99 <http://www.planning.org/growingSMART/guidebook/>

knowing that if they offer an amenity that meets the city's standards, they can budget on the additional height or space and avoid running the risk of having that reduced or denied in a discretionary hearing. This added certainty makes incentive programs work more effectively than if every detail has to be negotiated.

## **2.2 Authority for Community Benefits Programs**

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In California, the legal basis for community benefits programs is derived from a body of law that enables cities to regulate development to achieve three broad objectives:

- Ensure that approved projects do no harm by degrading existing conditions;
- Ensure that projects conform to local policies intended to achieve community objectives; and
- Achieve public benefits in exchange for providing incentives that increase development opportunities.

More specifically, California cities and towns can exercise their police power and statutory authority to:

- Enact regulations that require discretionary review and allow the imposition of conditions on in order to protect public health, safety, and welfare on a case-by-case basis and after making findings based on information in the record;
- Enact regulations that allow the granting of additional height, floor area, or other incremental increases in development intensity when requested by an applicant and in exchange for providing specific benefits; and
- Negotiate development agreements to obtain benefits for the community that exceed those required by adopted standards and regulations. In exchange for granting benefits, allow incremental increases in development intensity or alternative uses that are consistent with adopted general plan policies, but exceed or differ from what would be allowed solely through implementation of zoning standards otherwise applicable to the project.

While there is variation among the programs that municipalities have established to obtain community benefits, they typically have several characteristics in common:

- Ability to offer a regulatory development incentive (most commonly a density or floor area bonus) within the confines of existing General Plan land use policies;
- Existence of market demand for this added development potential (lacking such demand, the development incentive will have no current value);
- Availability of vacant or underutilized sites where the incentivized development can occur; and

- Evidence that the increment of real estate value created by the density bonus results in a “producer surplus” (i.e., that in addition to being incentivized to seek the density bonus, there is sufficient additional economic value that the developer is willing to contribute toward community benefits).

Moreover, all of these approaches are all rooted in the police power of the City to protect the public health, safety, and welfare of its residents. Because Redwood City is a charter city, its power to regulate land uses is derived directly from the federal and State constitutions, subject to limitations in the City’s Charter and enactments of the legislature on matters of statewide concern.

## **2.3 Establishing and Calculating Benefits and Incentives**

As the courts’ view of land use regulation as a legitimate exercise of policy power has broadened, so have the approaches local agencies devised to achieve the increasingly complex and comprehensive objectives of local plans. Many municipalities favor development agreements, which offer the greatest flexibility for both the applicant and the local authority. Under California law (Government Code 65864 et seq.), development agreements are voluntary contracts adopted through a legislative process that requires action by the City Council. Legislative actions are subject to a less stringent level of judicial scrutiny than benefit programs that are applied through a review process, such as for a conditional use permit or variance, which gives decision makers the ability to deny an application or impose conditions, but requires findings of fact based on information in the record to do so. In contrast to these “adjudicative” decisions, another approach that does not allow the exercise of discretion is based solely on a determination of compliance with specific standards. With such a “ministerial” (i.e., non-discretionary) program the applicant is automatically eligible for an increase in development intensity in exchange for providing a prescribed community benefit (e.g., a specified amount of affordable housing or open space).

Over-reliance on development agreements is problematic because these contracts are intended to be *voluntary* (emphasis). From a legal standpoint, therefore, a carefully crafted zoning approval process requiring a public hearing and Planning Commission approval or ministerial program that offers specific incentives in exchange for specific benefits is preferable. In both cases, the provisions must be designed to ensure that benefits are reasonably related and proportionate to the impact of a project and grounded in factual information expressed in legislative findings. Unless the program requires or offers the option of an in-lieu fee, a study documenting this relationship or nexus that meets the requirements of the State’s Mitigation Fee Act (see Section 3 and Government Code Sec. 66000 et seq.) is probably not necessary. This may change, however, depending on how the State Supreme Court decides some pending challenges to local inclusionary ordinances.

The process for determining how to implement Redwood City's approach to achieving public benefits must distinguish those basic requirements that are imposed on new development as baseline standards in the Zoning and Subdivision Ordinances versus those that the City imposes through discretionary review. All development, including projects that do not require discretionary review, have to comply with a wide variety of standards and requirements that are included in the Zoning Ordinance and other relevant sections of the Municipal Code. These include, but are no means limited to, requirements such as building height, setbacks, floor area ratio, lot size and coverage, energy conservation, pervious areas, and stormwater specifications, as well as requirements for providing amenities such as open space, sidewalks, landscaping and screening, trip reduction measures, streetscapes, etc. Projects subject to discretionary review are subject to an additional level of requirements imposed on a case-by-case basis to minimize the specific detrimental effects of new development through zoning and environmental review procedures.

## **PROCEDURES FOR IDENTIFYING, CALCULATING, AND GRANTING BENEFITS**

Incentive systems should be predictable, equitable, and easy to administer, with bonuses that relate to the quality and value of the amenities desired and/or needed by a community or specific area. Deciding whether the community as a whole should derive benefits from an incentive program, rather than directing benefits to the areas most affected by a project or those with the greatest need, is one of the critical decisions that City officials have to make when establishing a community benefits program. To minimize subjectivity, an incentive program incorporated in the zoning approval process should avoid the type of project-by-project negotiations that typically apply to development agreements.

The American Planning Association recommends that an incentive ordinance describe the types of community benefits and amenities that would make a project eligible for additional height or floor area. Rather than listing specific community projects, the ordinance should establish a process for identifying specific projects such as neighborhood parks and street improvements that would be separate from the zoning approval process. The development review process for applicants willing to contribute to these projects could be shorter. The ordinance should also establish a format and methodology for how community benefits will be calculated and the bonus height/intensity rewarded, and provide a process to answer the following questions:

- *How will the relative value of benefits be calculated?* There are many ways that municipalities have allocated awards for community benefits, including: (1) a point system where projects qualify for bonus points based on whether the project meets certain criteria; (2) development value/pro forma-based where the bonus is related to the increase in the project's value, which requires an analysis that complies with the California Supreme Court's admonition that there must be a reasonable relationship between the community benefit cost and the public impact of various development intensity levels; or (3) pass/fail thresholds, a menu of benefit options

where bonus achievement is binary and ministerial. In each case, the points or thresholds are converted into a percentage increase in height or FAR, up to a defined maximum.

- *How will benefits be prioritized?* A City interested in establishing a community benefits program has to work with community stakeholders to determine what values these groups find to be most important and which should be given priority for different types of development. Certain benefits may be applicable to all areas, while others may be specific to only certain types of development. For example, while streetscape may provide an important benefit in highly utilized pedestrian areas, it may not be a high priority in other areas, such as residential neighborhoods. The community benefits program can allow for prioritization by district to ensure that the intent of the General Plan is met and the most relevant benefits achieved.
- *Who will decide?* The regulatory program will also need to define the decision-making process. Are benefits allowed through a ministerial process (e.g., a menu of options that is available by right with clear findings for staff review and determination) or discretionary review (i.e., through the determination by the Planning Commission or other body)? A number of the municipalities that have established benefits programs implement these requirements through the negotiation of development agreements, which must be approved by the City Council or Board of Supervisors.

## **CALCULATING THE VALUE OF BENEFITS AND INCENTIVES**

In order for incentives to work, they need to be grounded in local real estate economics—i.e., they need to really encourage developers to build what is wanted and they need to offer bonuses that exceed what would otherwise be available. Economic analysis may be used to assess the feasibility of incentives in comparison to the cost of providing community benefits.

The following table, which is included only for illustrative purposes, shows one approach to assigning value to specific benefits that uses a point system. By earning points, a project could be entitled to additional height, additional FAR, or a combination of elements that would increase the intensity and value of the project. As the table shows, values can be assigned based on their monetary value, physical size, or percentage of the site. An economic valuation study can help to establish the value for various components. Even if the provision of public open space, right-of-way improvements, and other exactions for public use are enacted by ordinance, there is a body of case law suggesting that incorporating such benefits may also require analysis to demonstrate not only that there is a reasonable relationship between and benefit and the subject project, but also that the assigned value is justified.<sup>2</sup>

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<sup>2</sup> See *San Remo Hotel v. City & County of San Francisco* (2002); *Ehrlich v. Culver City* (1996), *Building Industry Association v. City of Patterson* (2009)

**Table 2-1: Relative Value of Sample Bonus Features**

<i>Type of Benefit</i>	<i>Maximum Points</i>	<i>Basis for Calculating Points (Pts.)</i>
Public Open Space exceeding park-dedication standards	50	50 pts: 15 percent of site area (min. 2,000 sf) as privately owned open space 35 pts: 10 percent of site area (min. 1,600 sf) as privately owned open space. 20 pts: 5 percent of site area (min. 1,000 sf) as privately owned open space. 10 pts: Contribution to citywide parks fund
Sustainable Design	30	20 pts: If 75 percent of total building roof as accessible eco roof, provided eco roof and “eco landscape” together exceed 50 percent of total site area. 25 pts: LEEDTM Platinum or equivalent (third-party certification req’d) 20 pts: LEEDTM Gold or equivalent (third-party certification req’d)
Alternative Energy	20	20 pts: If 10 percent of total building energy load provided by solar panels or other on-site renewable sources, including co-generation.
Public Right-of-Way Improvements	30	Pts to be based on dollar value of off-site improvements x 10 divided by average development cost per square foot or other case-by-case determination.
Utility Undergrounding	20	Pts to be based on dollar value of undergrounding x 10 divided by average development cost per square foot or other case-by-case determination.
Transportation Demand Management	20	Pts based on meeting a menu of TDM elements (transit passes, bike lockers and showers, guaranteed ride home, etc.) 5-yr. TDM commitment required, and TDM obligations may be revised based on 5-year review
Family Friendly Development exceeding basic requirement in the zoning ordinance	20	Projects providing more than 10 percent of housing units as three bedroom or larger units: 15 pts: More than 50 percent of total gross floor area for residential use 12.5 pts: Less than 50 percent of total gross floor area in residential use 1 pt: For each 15 sq. ft. per unit of common area open space with amenities for children, teens or seniors that exceed minimum standards.
Neighborhood Centers Retail, restaurants/cafés, public uses, and flex spaces in designated Centers	15	7.5 pts: For each 15 percent increase in building frontage devoted to ground-floor space permanently reserved for neighborhood retail, restaurants/ cafés, flex spaces, public or art-related uses above a base requirement of 60 percent of the building’s principal frontage (with the min. depth for space required).
Small Businesses	15	7.5 pts: For each 15 percent of the total gross leasable area for non-residential uses in a building are devoted to small-businesses.
Recycled or gray water use	10	Allowed only for a project with dual plumbing to accommodate recycled/gray water for more than (50%) of building and site water use
Public Parking	30	One square foot of bonus floor area allowed for every square foot of public parking provided, above the minimum required by the Ordinance up to maximum bonus of 2.0 FAR. Parking must be permanently available for public use subject to easement with restrictions and covenants acceptable to City.
Total Points	100	(Theoretical maximum exceeds 100, but only a maximum of 100 points will be credited to the bonus FAR/bonus height calculation.)

## **3 Redwood City Development Policies, Regulations, and Programs**

Redwood City's General Plan establishes long-range goals and objectives and sets forth policies that provide the basis for regulating new development. Although the Plan does not contain specific information related to a defined community benefits program it does include policies that suggest the types of features that the City may want new development to incorporate. It also establishes some policies that establish parameters for new development. As noted in the previous section, in order for a community benefits program to work, the municipality must be able to offer development opportunities and incentives of sufficient value to developers to obtain benefits of value to the community. The development preferences and parameters that the general plan establishes will determine the type and magnitude of development incentives a municipality can offer. This section of the paper outlines Redwood City's development policies, as described in the City's General Plan. It also reviews the City's existing land use and development regulations and the various regulatory approaches and programs that it could incorporate in a community benefits program.

### **3.1 Development Policies**

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The General Plan that Redwood City adopted in 2010 is organized into five elements that incorporate the seven State-mandated elements and present goals, policies, and implementation actions reflecting the community's vision for its Neighborhoods, Corridors, the Downtown, and other Business Centers:

- Built Environment,
- Housing,
- Building Community,
- Public Safety, and
- Natural Resources.

Underlying the policies that comprise the Plan, is the City's goal of achieving a more sustainable community through conservation and the development of land use and transportation policies that will "meet the needs of the present, without compromising the ability of future generations to

meet their own needs.” To achieve this goal, the Plan is designed to prioritize new development near transit stations in the Downtown and along major corridors while conserving and enhancing established neighborhoods and centers and protecting the natural environment. The Plan also focuses growth and development into mixed-use activity centers and along corridors that will be pedestrian-friendly focal points linked to the regional transit system.

The General Plan policies provide guidance in several key areas that will inform the process of formulating a community benefits program. The policies can be divided into:

- Development opportunities and preferences;
- Measures to maintain and enhance community character and reduce development impacts;
- Proposals and preferences for community programs and facilities; and
- Implementation and review procedures.

Many of these policies are now being implemented by the City’s adopted specific plans and development regulations. For example, the performance criteria and standards listed in General Plan Policy BE-22.2 already apply to all new development projects and Section 53.7.B of the Zoning Ordinance establishes regulations that implement Policy BE-23.10, which allows development projects to exceed maximum densities if the development is within a designated planning area (such as certain precise plans) and the project incorporates specific features that provide significant community benefits.

A new community benefits program needs to incorporate standards and requirements that exceed or augment regulations that already apply to development. Ideally, these requirements would not exceed or conflict with policies and criteria in the General Plan. They could, for example, include benefits that exceed those now available to new development in Mixed-Use Corridor zones under Section 53.7.B. In areas where developers are offered the option of providing community benefits in exchange for an increase in density, floor area, or height, the City might also ask for features that go beyond what may be required to mitigate a project impact and could not, therefore, be imposed as a condition of development. To accommodate development that will accomplish these policies, it may be necessary to permit modifications to the Zoning Ordinance with regard to requirements such as increased densities, building heights, or floor area ratios to allow for development that is focused on meeting the City’s end goals of affordable housing, community facilities, or needed infrastructure. A community benefits program would provide for the modification of certain development requirements in exchange for identified community benefits.

The following list provides a sample of General Plan policies that may be particularly relevant to a community benefits program.

## **EXAMPLES OF GENERAL PLAN POLICIES RELEVANT TO COMMUNITY BENEFITS**

**Policy BE-3.1:** Provide high-quality public streetscapes in all neighborhoods, particularly in locations where new investment in historic property renovation and infill development are desired.

**Policy BE-10.1:** Require that Waterfront Neighborhoods provide public access along water edges, to public open spaces and trails and to vista points, as integral parts of neighborhood development.

**Policy BE-22.2:** Apply the following performance criteria and standards, as applicable, to all new development projects, with the level of application commensurate with the scale of development:

- The development must result in a net positive fiscal impact to the City unless the City Council identifies unique circumstances for waiving this requirement.
- Adequate long-term water supplies must be available to serve the new development without impinging upon service to established and approved uses and developments. Adequacy must be fully documented to the satisfaction of the responsible City departments.
- The City's adopted service standards for pedestrian, bicycle, public transit usage, and motorized vehicle mobility must be achieved. Any circulation improvements or programs needed to maintain the established level of service standard must be programmed and funding committed for construction or implementation at the appropriate time.
- New development must plan for access to public transportation, including the potential streetcar system, transportation hub, and ferry terminal, as appropriate.
- Limit new development within the floodplain or ensure new development incorporates extra precautions into the site and building design to account for floodplain location.
- Storm drain, sewerage, and similar infrastructure improvements necessary to serve the development must be fully funded at the appropriate time, and any such improvements shall not place burdens upon nor otherwise impact tributary facilities.
- Sufficient measures must be incorporated into project design and fully funded at the appropriate time to provide adaptation to and/or guard against potential damage from anticipated rises in sea levels.
- Minimize direct or indirect impact to sensitive biological resources while optimizing the potential for mitigation.
- Uses proposed must clearly be compatible with surrounding established and planned uses.
- Development must support the City's vision for the district or area in which it is proposed to be located.

- Development must incorporate sustainability features, including features that minimize energy and water use, limit carbon emissions, provide opportunities for local power generation and food production, and provide areas for recreation.
- The development must provide a measurable and/or clearly identifiable community benefit in the form of affordable housing, jobs generation, available parkland or open space, environmental hazard protection, and/or other criteria established by the City.
- Require new development to pay its fair share of the cost of public facilities, services, and infrastructure, including but not limited to transportation, incremental water supply, sewer and wastewater treatment, solid waste, flood control and drainage, schools, fire and police protection, and parks and recreation. Allow for individual affordable housing projects to be exempted from the full cost of impact fees, subject to meeting specified criteria.

**Policy BE-23.10:** Allow development projects to exceed maximum densities if the development is within a designated planning area (such as certain precise plans) and the project demonstrates some or all of the following features that provide significant community benefits:

- Superior design and integration of a mix of uses
- Incorporation of affordable housing
- Incorporation of public or community facilities
- Transportation demand management
- Innovative use of shared parking
- Efficient and innovative use of infrastructure and renewable resources
- Supportive of new transit such as streetcars

**Policy BE-25.6:** Ensure that the City's transportation impact fee program provides adequate funding for necessary transportation improvements that will benefit all travel modes, while also incentivizing development that is less dependent on expensive new transportation infrastructure.

**Policy H-4.3:** Provide regulatory incentives, such as density bonuses and reduced parking, to offset the costs of developing affordable housing.

## **PRECISE AND SPECIFIC PLANS**

*Downtown Precise Plan.* The Downtown Precise Plan (DTPP) was adopted in January 2011 to implement General Plan policies intended to reinforce the Downtown as the "heart of the city" and the center of business, culture, and living. The DTPP focuses on the form of buildings, how they address the street, and how they shape public spaces. The maximum height allowed within this district differs per location, but is limited to three stories or 35 feet along Main Street; 12 stories or 136 feet in the Courthouse area in the Downtown Core; and predominantly eight stories

or 92 feet throughout the remainder of the Plan area. The DTPP imposes a cap on building permits that limits the maximum allowable development (MAD) by type to 2,500 dwelling units, 500,000 gross square feet of office space, 100,000 gross square feet of retail space, and 200 lodging rooms. The Council must be informed when the MAD exceeds 80 percent of any category. The City is currently considering adjustments to these restrictions.

The DTPP places no restrictions placed on residential density or floor area ratios per individual sites. Specific parcels located within historic areas are also subject to extensive mitigation requirements that are applied as standards in order to preserve the historic resources and consistency with the Downtown character.

*Inner Harbor Specific Plan.* The proposed Inner Harbor Specific Plan will apply to an approximately 100-acre area located northeast of U.S. 101 along Redwood Creek. The diverse area includes a waterfront neighborhood and water-oriented recreation and open space along Redwood Creek as well as industrial, commercial, and public institutional uses, such as the Redwood City Police Department, the San Mateo County Women’s Jail, and an emergency housing facility. The Inner Harbor Specific Plan area includes properties currently zoned as Tidal Plain, Industrial Restricted, and General Industrial. Since June 2013, the Inner Harbor Task Force has held several meetings to identify and select a preferred development scenario. During its April 2014 meeting, the Task Force selected a scenario that includes designation of the former Granite Rock/Malibu Grand Prix property along the east side of the Bayshore Freeway for commercial office and retail use or technology and light industrial uses, a floating community, and publicly accessible open space areas. The planning process now underway may provide an opportunity for establishing a community benefits program tailored to the Specific Plan area, perhaps linked to taking advantage of any “upzoning” from existing lower density industrial and institutional uses to higher density office uses.

## **3.2 Development Standards**

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Zoning and subdivision regulations are the primary means municipalities use to regulate new development. State law requires that zoning codes, subdivision ordinances, and a variety of other municipal programs be consistent with the General Plan, but charter cities like Redwood City are exempt from the requirement for zoning consistency unless they have imposed this restriction themselves. Section 71 of the Redwood City Charter states that all of the State’s general laws applicable to municipal corporations and which are not in conflict with the Charter of any City resolutions or ordinance are applicable to the City. In addition, General Plan Policy (BE-22.1) states that the City will, “Strive for consistency between the General Plan and the Zoning Ordinance and other local regulatory documents that implement General Plan policies.” As a result, although incentives that modify zoning, subdivision, and other City regulations may be appropriate, the incentives may not conflict with the General Plan unless the Plan is amended.

The size and siting of buildings is typically regulated by development standards, such as:

- **Building Setbacks.** Minimum requirements for the size of front, side and rear yards.
- **Building Height.** Maximum vertical dimension, with exceptions for chimneys, antennas, towers, and similar architectural appurtenances.
- **Lot Coverage.** Maximum percentage of a lot that may be covered by buildings and other structures, which may apply to paved surfaces as well as buildings.
- **Building Intensity.** Limits on the number of dwelling units (residential density) or the amount of building floor area (floor area ratio) that may be constructed relative to the size of the lot.

FAR standards were originally conceived as a more precise way to limit the intensity of development than building height and setback limits because they provided some certainty about how much usable space (gross floor area) could be created on a lot, while still allowing considerable flexibility in architectural design to meet the needs of individual owners and building users. The FAR standard was an easy way to meet an important legal principle for zoning—treat similarly situated properties equally. Moreover, California law requires the general plan land use element to include standards for population density and building density that are applicable to the various districts and areas that the general plan covers.

In addition to distinguishing districts according to the proposed level of development, cities can also use this measure of development intensity to promote or discourage certain development features by excluding certain types of floor area from the calculation of FAR (e.g., subterranean parking, outdoor dining). While the plan must stipulate the maximum development intensity allowed in different areas, zoning regulations and specific plans may include standards that establish lower limits on development intensity in some areas or for certain types of development as a way to implement their policies. The potential for allowing increased FAR in exchange for providing community benefits is typically one of the major considerations when structuring a community benefits program. While some incentive programs allow greater height as a bonus, developers usually consider the additional value provided by allowing more floor area or, in the case of residential development, additional dwelling units, to be a more valuable benefit than additional height. Moreover, although some general plans, including Redwood City's, include policies that limit the maximum height of buildings in different areas, this is optional while State law specifically requires the land use element to specify development intensity.

The following subsections describe the purpose, permitted uses, and development standards associated with the zoning districts that have been identified as potential target districts for a Redwood City community benefits program. Table 3-1 summarizes the basic development standards, such as height, lot size/coverage, and floor area ratio restrictions, associated with these districts that seem to provide the greatest potential for application of a community benefits

program. In areas where the City has adopted a Precise Plan, that Plan replaces some or all of the standards and requirements in the Zoning Ordinance. The Precise Plan that is currently being developed for the Inner Harbor Area will specify how it will apply to that Plan area.

## **DOWNTOWN PRECISE PLAN**

The DTPP replaced the Central Business Retail (CBR) District and other zoning regulations applicable to the Downtown plan area. As noted above, the DTPP does not restrict either density or FAR on individual sites. It does, however, limit the maximum allowable development (MAD) by type (residential, officer, retail, lodging rooms) and, as noted above, requires notification to the Council when 80 percent of the MAD is exceeded. The DTPP establishes height limits ranging from three stories and 35 feet along Maple east of Caltrain and Main Street to 12 stories and 136 feet in the Downtown Core surrounding the courthouse. The DTPP also regulates types of uses as well as the frontage for buildings and individual establishments that vary depending on location in which of three sub-districts (Entertainment, Downtown Core, Downtown General) and corridor type. In order to mitigate potential impacts on the historic character of the Downtown, the DTPP establishes specific standards and design guidelines for individual sites designated as historic resources to ensure that new development conforms to the United States Secretary of the Interior's Standards for Preserving, Rehabilitation, Restoring and Reconstructing Historic Buildings. Other DTPP provisions govern building placement and landscaping, the number of parking spaces and design of parking facilities, and façade design. Use concessions, parking reductions, and modifications to front setback requirements are also available to help preserve the historic character of the Downtown.

## **COMMERCIAL PARK**

The Commercial Park Zoning District is intended to provide areas appropriate for large-scale corporate offices, research and technology offices, and administrative and professional offices in a campus-like environment, to promote the development of employment and administrative activities, and serve local and regional markets. Limited accessory financial, retail, service, and lodging uses are permitted. Development in the shoreline locations of the Commercial Park Zoning District should react to the Bay location and the provision of trails and pedestrian access to the shoreline is strongly encouraged. Hotels and administrative, professional, and business offices are permitted by right, excluding medical offices. Other uses, such as medical clinics and offices, child care centers that are not in conjunction with another business, public and private schools, and vehicle service stations are conditionally permitted subject to issuance of a Use Permit, as described in Section 16.2 of the Zoning Ordinance. In addition to the development standards listed in Table 3-1, there are no limitations on lot coverage for this district, although there are minimum yard requirements—25 feet for front and rear yards and 30 feet combined for both sides. A minimum pervious area of 40 percent is required, as well as adherence to stormwater regulations. Section 16.3.A of the Zoning Ordinance also allows for height-yard

modifications, whereby for each foot that the building exceeds 35 feet in height, one additional foot of front yard, rear yard, and each side yard is required.

A bonus FAR of up to 0.2 (not to exceed a total FAR of 1.0, excluding exceptions available per Section 16.3.B.1, for child care centers, incidental conference/meeting facilities open to public, mezzanine floor area under 25 percent of ground floor, and below-grade parking) may be permitted for projects that allow public access to the shoreline and Bay, provided that all of the following conditions are met:

1. Provide publicly accessible pedestrian and bicycle pathways along the water's edge, and connect to existing and planned networks.
2. Provide docks and/or develop pedestrian/bicycle networks to connect the project to existing marina(s) when possible.
3. Provide Quasi-Public or Public usable open space amounting to at least ten (10) percent of the project area adjacent to the water's edge. Usable open space shall include enhancements to support its use, such as benches, trails, and landscaping. Signage and appropriate public access to the usable open space shall be provided to clearly indicate that the space is available for public use.
4. A public access easement shall be recorded against the property that ensures public access to the portion of the project, which qualify it for the FAR Bonus.

## **INDUSTRIAL PARK**

The Industrial Park District is intended to provide a set of regulations which will ensure the creation of an environment exclusively for and conducive to the development and protection of modern, large-scale administrative facilities, research institutions, specialized manufacturing organizations, and specified retail establishments all of a type in which the architecture, landscaping, and operations of the uses is such that each is a credit to the other and investment in well-designed and maintained plants and grounds is secured by the maintenance of the highest standards throughout the district. Administrative, business, and professional offices with a gross floor area less than 10,000 square feet, as well as other uses such as research and development, light manufacturing, and warehousing and wholesale distribution/storage facilities are permitted by right. Other uses may be permitted subject to issuance of a use permit, as described in Section 18.4 of the Zoning Ordinance. In addition to the development standards listed in Table 3-1, minimum yard requirements of 25 feet for front yards, 15 feet for rear yards (10 feet for corner lots), and a minimum combined side yard width of 30 feet, with no width less than 10 feet shall also apply to this district. Section 18.9.B of the Zoning Ordinance also provides permissible height-side yard modifications. A minimum pervious area of 40 percent is required, as well as adherence to stormwater, landscaping, and other requirements.

## **GENERAL INDUSTRIAL**

The purpose of the General Industrial District is to provide a district exclusively for sound industrial development wherein manufacturing and other industries can locate and operate away from the restricting influences on non-industrial uses, while maintaining an environment free from offensive or objectionable noise, dust, odor, and other nuisances. Manufacturing, processing, fabricating, or assembly operations, as well as similar uses, such as public utility buildings and automobile or heavy equipment repair or service establishments are permitted by right. Other uses, such as manufacturing uses that primarily involve the production of products from raw materials, processing facilities, meat packing houses, breweries and distilleries, and public or quasi-public uses may be permitted subject to issuance of a Use Permit, as described in Sections 19.3 and 19.4. In addition to the development standards listed in Table 3-1, every lot shall have a minimum of 30 feet of frontage on a public street. There are no front or side yard requirements, except when a lot abuts any R District, a minimum width of 10 feet on the abutting side is required. A minimum depth of 15 feet is required for rear yards. A minimum of 10 percent of each lot shall be pervious area and adherence to stormwater regulations is also required in this district.

In addition to the 70 percent FAR allowed for electronic equipment facilities, an additional 30 percent bonus FAR may be awarded by the Planning Commission for buildings with modulated scale based on the following criteria: the building's massing shall be broken up by measures such as building articulation, a building step back at the second and third floors on facades with frontage on a street or Redwood Creek, windows on facades with frontage on a street or Redwood Creek, and substantial setbacks from adjacent streets provided the setbacks contain permanently-maintained trees.

## **MIXED-USE CORRIDOR**

The Mixed-Use Corridor (MUC) Zoning District is composed of five (5) sub-districts—El Camino Real, Veterans Boulevard, Redwood Creek, Streetcar Broadway, and Gateway Broadway, as established in Section 53.1.B of the Zoning Ordinance. The 5 MUC zoning sub-districts implement the Mixed-Use – Corridor land use category in the General Plan and provide opportunities for development that supports major transit and complementary land uses, with the goal of facilitating transit use, bicycle use, and pedestrian activity. The purpose of the MUC zoning sub-districts is to provide areas for a variety of activities, including commercial, office, and high-density residential uses, or a mixture thereof. Mixed-use means that residential and nonresidential uses may be integrated vertically or mixed horizontally. Single-use residential and nonresidential buildings are permitted in the MUC zoning sub-districts as well. Convenient transit access, innovative housing options, sensitivity to lower-intensity adjacent uses, on-site amenities, and pedestrian and street-oriented design are key considerations. This designation allows for the highest residential densities in Redwood City, with the exception of the Downtown Precise Plan.

In the MUC Zoning District, various uses are generally permitted by right, including business and research and development offices, personal services, small health and fitness centers, financial institutions, multiple-unit dwellings, and small family child and residential care. Other uses may be permitted subject to issuance of a use permit, as described in Section 53.2 of the Zoning Ordinance. In addition to the development standards listed in Table 3-1, specific regulations for each type of use, as well as for new streets and pathways; open space areas; sidewalk, setback, and landscaping; parking and storage areas; and for façade composition and architectural design apply in this district.

The Mixed-Use Corridor sub-districts allow residential densities up to 60 units per acre and FAR of 1.0 for mixed-use development. The zoning regulations allow heights in all of the sub-districts to increase from a base of four stories and 50 feet for residential and four and 60 feet for commercial development, subject to a number of requirements including the provision of “clear” public benefits (Zoning Ordinance, Sec. 53.7.B.3). The project features the Ordinance deems to provide such benefits include:

- Mixed-Use. The ground-floor frontage along all major streets will be occupied by retail or restaurant uses for a depth of no less than twenty (20) feet.
- Quasi-Public or Public open space. Usable open space that is open to the public will be provided which amounts to 0.25 acres or ten (10) percent of the project area, whichever is greater.
- Stringent transition height adjacent to residential zoning districts. Buildings will not intercept the forty-five (45)-degree daylight plane inclined inward from existing grade at the property line of the parcel adjacent to the residential district boundary line.
- New streets. New streets that are identified by the responsible review authority as necessary to improve walkability, reduce auto trip lengths, improve neighborhood connectivity, or result in blocks of less than four hundred (400) feet in length will be provided through the site.

The specific regulations applicable to the Broadway – Mixed Use Gateway (MUC-GB) and Veteran’s Boulevard – Mixed-Use (MUC-VB) districts Ordinance allow additional height increases to 125 feet at gateways on Veteran’s Boulevard and Broadway subject to approval of a use permit and compliance with additional requirements. These requirements do not appear to include the provision of additional community benefits.

**Table 3-1: Development Standards for Potential Community Benefits Opportunity Areas**

<i>Zoning District</i>	<i>Max. Height Restrictions</i>	<i>Lot Area/Width/Coverage</i>	<i>FAR</i>	<i>Notes</i>
General Commercial (CG)	75 ft	Min. area = 5,000 sf Min. avg. lot width = 50 ft Max. lot coverage = 60%	Generally 70% 40% on lots with frontage on El Camino Real or Woodside Road between El Camino Real and Alameda de las Pulgas	Section 15.12.D and E provide additional exceptions for FAR requirements.
Commercial Park (CP)	100 ft	Min. lot width = 100 ft	0.80	Section 16.3.D provides exemptions from FAR for specified community uses and parking and bonus up to .2 (not to exceed total of 1.0) for publicly-accessible paths, trails and other facilities
Industrial Park (IP)	3 stories/ 50 feet	Min. area = 20,000 sf Min. avg. lot width = 100 ft Max. lot coverage = 50%	40% *Except for uses permitted under Section 25.5.A, B, and C of the Zoning Ordinance in Combining District IP-V = 70%	A different minimum building site area may be established by adding a numerical suffix to the IP District designation in conjunction with zoning of any property per Section 18.6 of the Zoning Ordinance.
General Industrial (GI)	100 ft	Min. area = 20,000 sf Min. avg. lot width = 60 ft Max. lot coverage = 70%	10% for offices 70% for electronic equipment facilities	An additional 30% bonus FAR may be awarded by the Planning Commission for buildings with modulated scale based on the specifications outlined in Section 19.10.B of the Zoning Ordinance.
Mixed-Use Corridor (MUC)	Residential = 4 stories/50 ft Commercial = 4 stories/60 ft Bonus = 6 stories/85 ft *Min. Height = 2 stories/20 ft Up to 125 feet for gateway sites on Veterans' Boulevard and Broadway	*Max. density = 60 du/ac (Residential and Mixed-Use)	Max. FAR (Commercial only) = 0.5 Max. FAR (Mixed-Use) = 1.0 *FAR applicable only to commercial use.	

### **3.3 Development Review Procedures**

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Traditional approaches to land use regulation have long required development to meet minimum standards intended to protect public welfare and to help achieve the community's shared vision of a quality environment. Municipalities use a variety of procedures to review and make decisions about proposed development. These include use regulations that specify which land uses and development types are permitted by right and which are subject to discretionary review and procedures enacted to ensure that development proposals are planned and executed to implement policies and to mitigate the effects of new development on the community. Such procedures include design review and environmental review, public review, and notification to neighborhood and community groups, as well as mechanisms such as disposition and development agreements, planned development, and similar mechanisms employed to mitigate impacts or achieve additional benefits. Some jurisdictions offer expedited development review as an incentive, but another approach is to change the required level of development through the revision of use regulations. These incentives may include increasing the uses and development that are permitted by right, allowing Staff-level approval (in some cases with appeal to the Planning Commission) for actions that currently require a hearing before the Planning Commission or other appointed body, or shortening the time allowed for review by advisory bodies. Eliminating requirements for discretionary review are particularly attractive to applicants because projects that can be approved without discretionary review are also exempt from environmental review.

#### **ARCHITECTURAL PERMITS**

Article 45.3 of the City's Zoning Ordinance requires an Architectural Permit to verify compliance with design review requirements for portions of structures facing upon a public street or place; portions of the sides of a structure, and the rear in the case of a corner lot, within 50 feet of any portion of the structures that face upon a public street or place; and roof overhangs, roofing materials, and siding materials only, in the case of single- or two-family dwellings. The Zoning Administrator may approve, deny, or conditionally approve the Architectural Permit application based on conformance with the architectural standards outlined in Section 45.8 of the Zoning Ordinance. These requirements include criteria such as providing sufficient variety in design to avoid monotony, proportionality between the structure and the site to present a harmonious appearance, the use of excessive ornamentation and extent to which temporary or second-hand materials are to be used, as well as requirements for landscaping and screening, parking accessibility, and drainage features, among other factors. Because this review is already conducted at the Staff level, the potential for establishing an expedited process is probably limited to eliminating the requirement for an Architectural Permit altogether or replacing the current process with a checklist approach that quantifies attributes, such as avoiding monotony and proportionality to ensuring an harmonious appearance.

## **CONDITIONAL USE PERMITS**

Conditional Use Permits are required for approval of those uses that are consistent with the purposes of a zoning district but may, under certain circumstances, be detrimental to existing or proposed permitted uses in the district. The Zoning Administrator is authorized to review and make decisions on applications for Use Permits that do not require environmental review. All others require action by the Planning Commission. Notice and a public hearing on the application is required in all cases. The approving party may approve, conditionally approve, or deny an application based on findings listed in Section 42.3.B of the Zoning Ordinance and information in the record. A community benefits program could offer an expedited approval process that allows for Zoning Administrator approval in all cases. Amending the Zoning Ordinance to allow certain uses in specified districts or locations by right would eliminate the need for environmental review, which would also expedite project approval.

## **PLANNED DEVELOPMENT PERMITS**

The process for review and approval of Planned Development (PD) Permits is similar to the process for obtaining a Conditional Use Permit. The PD Permit allows for additional flexibility in design and development of land to promote its most appropriate use; to encourage innovative projects with high-quality architectural solutions, building materials, and landscaping; to promote functional and aesthetic relationships between different types of uses; and to encourage development of quality open space and recreational opportunities within projects. The current Zoning Ordinance allows for certain types of modifications to the required development standards, such as maximum height, lot coverage, or setbacks. However, no density increases for residential uses or reduction of open space requirements are allowed through a PD Permit.

The Zoning Administrator approves PD permits for projects that are less than one acre in size, while the Planning Commission approves PD permits for projects that are one acre or more in size. Likewise, notice and a public hearing is required and the approving party may approve, conditionally, approve, or deny the application. A use permit is not otherwise required for uses or structures that are permitted pursuant to an approved PD Permit. An expedited process allowing Zoning Administrator approval for PD permits for projects on sites larger than one acre in specific areas might be offered as an incentive to obtain community benefits.

## **PLANNED COMMUNITY DISTRICTS/PERMITS**

Redwood City uses the Planned Community District and Permit as an alternative to the Specific Plan procedure established by Government Code Section 65450 et seq. Adoption of a Precise Plan and establishment of the associated area as a Planned Community (P) District may provide for uses or a combination of uses that appropriately require flexibility under controlled conditions that are not otherwise attainable under the other zoning districts. The Precise Plan is used to delineate uses, relationships to other areas, intensity of use, circulation, design criteria, procedures for development review, and special conditions, and is typically used by the City for larger-scale

projects that may involve a variety of uses or that require more flexibility than what is typically permitted by a Planned Development Permit. Unless otherwise specified in Section 52.4 of the Zoning Ordinance, a Planned Community (PC) Permit is required prior to developing any use within a P District for which a Precise Plan has been prepared. The Planned Community District/Permit process is distinguished from other permit processes, in that it requires legislative, rather than adjudicative, approval, which allows rezoning of the subject site as a new P District.

### **3.4 Other Regulations and Programs**

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#### **BENEFIT AND BONUS PROGRAMS**

The legal basis for community benefits programs is derived from a body of law that enables cities to regulate development to ensure that approved projects will not create detriment and will be developed to implement policies intended to achieve community objectives. State law also allows cities to obtain public benefits in exchange for providing incentives that increase project value. Legal scholars have described incentive zoning as a “market-based regulatory approach” that “expressly enlists market forces by offering developers a choice of regulatory incentives that either increase revenue or reduce costs.” In contrast to more traditional “command-and-control” schemes, which typically restrict what a landowner can do with her property, incentive zoning makes it attractive for developers to provide the amenities that cities want by generating greater profits, which becomes “the quid pro quo for providing the amenity or design sought by the community.”

In addition to the specific incentives that California law (Government Code Section 65915 et seq.) provides to developers who include affordable housing and child care facilities, the courts have long recognized that local agencies can require developers to provide other improvements and facilities of benefit to the community when they are reasonably related to the project’s effects. Like the impact fees and exactions discussed below, this approach is also rooted in the authority municipalities have under the federal and State constitutions to use their police power to protect the public health, safety, and welfare of its residents.

Section 32.19 of Redwood City’s Zoning Ordinance sets forth the criteria used to provide density bonuses for affordable housing (other than condominium conversions). The City shall grant a density bonus and at least one of the incentives referenced in Government Code Section 65915 (j), or provide other equivalent financial value, for developers with a minimum of five dwelling units who agree/propose to construct the specified percentage of housing for low or very-low income households, or senior citizens. A density bonus of at least 25 percent is permitted for affordable housing developments, while a 10-percent bonus is permitted for condominium projects in which at least 20 percent of the total dwelling units are reserved for moderate-income households.

In addition to the density bonuses available under Section 32.19 in compliance with the State’s density bonus law, the Zoning Ordinance currently includes some provisions to allow the City to

grant bonus FAR in exchange for specified development features and benefits in several Zoning Districts. The Commercial General-Residential District allows bonus FAR for lots fronting specific areas along El Camino Real and Woodside Road. Bonus FAR is also permitted in the Commercial Park District for projects that allow public access to the shoreline and the Bay, if certain conditions, such as the installation of publicly accessible pedestrian bicycle pathways, are satisfied. The General Industrial District also includes a provision that the Planning Commission may award an additional 30-percent increase in the FAR for electronic equipment facilities for buildings with modulated scale. The required criteria include modifications, such as including building stepbacks on second and third floors with frontage on a street or Redwood Creek and substantial setbacks from adjacent streets that include permanently maintained trees.

The City's Zoning Ordinance also allows for a bonus height maximum for projects in the Mixed-Use Corridor District that provide "clear public benefits" or that have severe and unusual frontage constraints, as specified in the Zoning Ordinance. Increases in maximum height to six stories and 85 feet from a base of four stories and 50 feet for Residential uses, and from four stories and 60 feet for Commercial Uses may be permitted upon a showing of such benefits. As more fully described in the Development Standards section of this paper, project traits or characteristics considered to provide clear public benefits include, but are not limited to, mixed-use developments with ground-floor retail or restaurant uses along public streets; a specified amount or percentage of quasi-public or public open space; stringent transition height adjacent to residential zoning district; and new streets necessary to improve walkability and neighborhood connectivity. An additional height increase to 125 feet may also be permitted for Gateway areas, subject to additional conditions for rental residential leasing offices and conversion of multi-family rental dwellings to condominiums or community apartments without the requirement that additional benefits be provided.

The City could amend its existing density bonus provisions in Section 32.19 to provide additional incentives for developers to confer specific types of affordable housing, such as larger units for families or housing targeted to meet the particular needs of its downtown work force. The City could also revise the provisions applicable to the Mixed Use Corridor District to enhance the benefits that are required in exchange for allowing additional height or establish similar bonus regulations applicable areas that are likely to be especially attractive for new development.

## **IMPACT FEES AND EXACTIONS**

The California State Constitution authorizes cities and counties (collectively referred to as "municipalities") to require the payment of fees or the dedication of land as a condition of development approval Article XI, Sec. 7). Municipalities impose such requirements to defray the cost of a wide variety of public facilities, services, and infrastructure. The most common uses of these include schools, parks and recreation, water and sewer transportation and treatment, and streets and roads. When imposing fees or requiring the dedication of land municipalities must be careful to exercise their authority in reasonable manner making sure that the fee imposed bears a

“reasonable relationship” to the public need the proposed development creates. The importance of establishing the “nexus” or relationship between the impact of the development on public facilities and infrastructure has been defined in both State law and in a variety of State and federal court decisions, which have further defined and clarified the extent and nature of this requirement. When an agency imposes a fee that exceeds the reasonable cost of providing the service or facility for which the fee is imposed, the courts may consider the fee to be a special tax. This means the fee is subject to the limitations imposed by Propositions 13, 62, and 218 including the requirement for a two-thirds vote of approval.

A regulatory program that relies on impact fees means that the community benefits being sought must relate and be proportionate to the impact of the development. In 1987, the State Legislature codified the reasonable relationship nexus requirements with the adoption of in the State Mitigation Fee Act (Government Code Sec. 66000 et seq.). The Mitigation Fee Act states that a development impact fee is not a tax or special assessment, but rather a fee that must be reasonably related to the type of development project on which the fee is imposed and the need for the public facility for which the fee will be used. Under this law, fees imposed on development projects are considered exactions and are limited to funding public facilities. Under current law, the City may impose other exactions that are not subject to the Mitigation Fee Act's public facilities requirements (e.g., affordable housing fees), so long as the fee is reasonably related to the project's impact and the fee's use. There are also specific procedures and reporting requirements in State law that the City must follow in terms of accounting for fees collected, time limits on when those fees are used, and how they are spent.

The law requires the local agency to determine that both “the fee’s use” and “the need for the public facility” are reasonably related to the type of development project on which the fee is imposed. In addition, the local agency must “determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.” The law defines “public facilities” as including “public improvements, public services, and community amenities” but a recent decision expanded its requirements to include in-lieu fees that are required as an alternative to providing residential development affordable to low- and moderate-income households. (*Sterling Park LP v City of Palo Alto* (2013) 57 C4th 1193).

The Quimby Act (Government Code Section 66477) permits municipalities to enact an ordinance requiring the dedication of land, or the payment of in-lieu fees for park and recreational purposes as a condition of the approval of a subdivision. The ordinance must include specific standards for determining the proportion of a subdivision to be dedicated and the amount of any fee to be paid. This dedication or payment cannot be more than what is necessary to provide three acres of park area per 1,000 persons residing within a subdivision, unless the amount of existing neighborhood and community park area already exceeds that limit, in which case the fee can be increased to the amount needed to pay for up to five acres per 1,000 persons. Some municipalities, including

Redwood City, have also established community/recreation facility impact fees that apply to all new residential development, including units that do not require subdivision approval, and even to nonresidential development. These fees must meet the requirements of the Mitigation Fee Act.

### **REDWOOD CITY'S CURRENT DEVELOPMENT FEES**

Redwood City's Municipal Code currently includes provisions for the payment of several types of public fees to pay for facilities, services, and infrastructure. Table 3-2: Redwood City Development Fees provides an overview of the types and current amounts of fees required by the City, including impact fees, as well as the purpose/use of the fees, their relationship to various types of developments and the relationship between the development fee, and cost of the facility or service to which the fee is applied. Permit fees are not included in Table 3-2.

**Table 3-2: Redwood City Development Fees**

<i>Fee Type</i>	<i>Current Fee Amount(s)</i>	<i>Authority/Use</i>	<i>How It Is Applied</i>	<i>Fee/Cost Relationship</i>
<b>Sewer</b>				
Wastewater Treatment Capacity Fee	\$2,135.70 – R-1; \$3,480.40 – R-2; \$1,423.80/du – Multi-Dwelling Units; \$2,135.70 x (gal. per day to be discharged/avg. gal. per day per residential structure)	Redwood City Municipal Code (RCMC) § 27.101.A To connect to sewerage facilities or to a sewer lateral	Based on additional need from new development, by use type and volume of waste or wastewater	By use type and volume of waste or wastewater
Facilities Fee	\$960/du – R (based on “Equivalent Dwelling Units” [EDUs]). 1 EDU = 2,000 sq. ft. \$960 x sq. ft / 2,000 – C, I	RCMC § 27.101.B To provide for the use and construction of existing and future sanitary sewerage system capital facilities (in accordance with a capital improvements program duly approved by the City Council)	Based on additional need from new development, by use type/size	By use type/size
Sewer Lateral Construction Costs	\$2,500 for 4-inch-diameter \$2,550 for 6-inch-diameter, as appropriate	RCMC § 27.102 To connect a property to the sewer line.	Based on need for connection, by diameter of sewer lateral to be installed for a particular use	By diameter of sewer lateral to be installed for a particular use
Special Benefit Reimbursement Fee	\$2,650/connection for benefits/service to properties on both sides of the street/right-of-way \$4,580/connection for benefits/service to only properties on only one side of the street	RCMC § 27.103 For construction of new sewer line serving properties on both sides of the street or public right-of-way by the City from monies in the Sewer Fund or general funds of the City	Based on need for new lines, by benefit/service to abutting properties	By extent of benefit/service to abutting properties
<b>Water</b>				
Water Service Installation Charge	\$150 - \$450 for meters up to 2 inches Amount set by Director of Public Works for meters larger than 2 inches Minimum Tap fee = \$350	RCMC § 38.10 For the City to install metered services	Based on the additional need from new development, by type/size of meter required per use	By type/size of meter required per use

**Table 3-2: Redwood City Development Fees**

<i>Fee Type</i>	<i>Current Fee Amount(s)</i>	<i>Authority/Use</i>	<i>How It Is Applied</i>	<i>Fee/Cost Relationship</i>
Fire Service Line Installation Charge	\$350 - \$450 for 4 to 10-inch lines Cost of installation for lines 12+ inches	RCMC § 38.10.1 For the City to connect the water main to the property line	Based on the additional need from new connections, by size of line to be connected for use	By size of line to be connected for use or cost of installation
Water Service Annexation Fee	\$500	RCMC §§ 38.11, 38.12 For connections to new water system facilities paid for from the Water Fund or general funds of the City; For connections for water service to properties in water service Areas 2 and 4 (outside the City)	Based on the need for new connections to establish connections to new (not replacement) water system facilities	To establish connections to new (not replacement) water system facilities, paid by connections outside City limits
Water System Capital Facilities Fee	\$1,787/dwelling unit equivalent (DUE) DUE = avg. consumption of water pertaining to a single-family residence served by a 5/8-inch by 3/4-inch water meter	RCMC § 38.14 For the use and construction of existing and future water system capital facilities	Based on the need for new capital facilities from additional usage	Based on the number of residential dwelling units for residential uses; Based on the DUE for avg. use of nonresidential uses
Water Capacity Charge	\$11.58/gallon/day of projected consumption of water on the property to be connected to the water system per Attachment Q of the City's Engineering Standards	RCMC § 38.15 For capital facilities that improve the City's ability to supply water within the City's service area, by increasing the supply available and reducing demand for potable water	Based all new water demand on the City's water system, except additions to or the rebuild of an existing single-family house (not new/significant amount required)	Based on estimated gallon per day usage per use type
<b>In-lieu Undergrounding Fee</b>	\$100.00/lineal foot of property frontage	RCMC § 18.242 For undergrounding utilities associated with the new construction/substantial remodeling of a new commercial building	Payable to the City's Utility Undergrounding Fund in lieu of the developer having utilities placed underground along frontage of commercial areas	Fee not to exceed the costs associated with the required undergrounding;

**Table 3-2: Redwood City Development Fees**

<i>Fee Type</i>	<i>Current Fee Amount(s)</i>	<i>Authority/Use</i>	<i>How It Is Applied</i>	<i>Fee/Cost Relationship</i>
<b>Impact Fees</b>				
Transportation Impact Fee	\$172.31 - \$1,501.59/du for Residential/housing uses; \$4.97 - \$27.65/sq. ft. for retail and food-service uses; \$210.22/seat for theaters; \$11,050.18 - \$12,024.71/fueling position for service stations; \$44.37/sq. ft. for convenience stores; \$915.97/room for hotel/motel; \$300.32/student for private schools; \$0.99/sq. ft. for churches; \$3.45/sq. ft. for offices; \$0.77 - \$0.90/sq. ft. for Industrial/Warehouse use; \$45.05/storage unit for self-storage facilities	RCMC § 18.244 For the construction of capital facilities and traffic reduction measures to alleviate the effect upon traffic of new development	Fees obtained from developments that increase PM peak hour trips, used to finance road improvements and related facilities	Fees not to exceed the costs of providing additional rights-of-way, road construction, road improvements, pedestrian bicycle and transit improvements, and traffic reduction measures necessitated by the new land developments. Based on use categories and number of dwelling units, square footage, etc. Multiple land uses within the same development are additive. Credits may be applied for the prior permitted use/occupancy of existing structures.

**Table 3-2: Redwood City Development Fees**

<i>Fee Type</i>	<i>Current Fee Amount(s)</i>	<i>Authority/Use</i>	<i>How It Is Applied</i>	<i>Fee/Cost Relationship</i>
Parks Impact Fee	Impact Fee = Sum of Base amounts - pre-existing impact credits for the development - affordable housing credit. The base amount is for each residential use included in a development. Base amount (for Residential) = Planned # of dwelling units x then-applicable rates for the use, as provided in the Impact Fee Schedule.	RCMC § 18.260 For any development, except those that are exempt by virtue of the U.S. or California Constitutions or other applicable State or Federal law.	The relationship between the need for the improvements and impacts of pending/anticipated new development to be reviewed annually by the Administrator and recommendations provided to the City Council for necessary adjustments.	To be reviewed annually by the Administrator and recommendations provided to the City Council for necessary adjustments. A credit against the fee may be given for dedications of park improvements constructed/provided at private expense for value of land dedicated if the land/improvement is on the Impact Fee Project List, and it will not cause the City to delay the implementation of the program.
School Impact Fee*	\$2.97/sq. ft. for Residential use (>500 sq. ft.); \$0.47/sq. ft. for Commercial or Industrial uses	California Education Code § 17620 For residential additions greater than 500 square feet and for commercial and industrial development	Based on the employment density for each type of commercial or industrial building and the size of unit for residential uses	By square footage per use type

\* These fees have been established by the Redwood City Elementary School District and the Sequoia Union High School District and are a condition of approval of building permits for new construction, remodels, and additions for residential and commercial/industrial development projects.

Table 3-2: Redwood City Development Fees provides an overview of use of the fees, how the fees are applied, and the relationship between the fee and cost of development for each type of development or impact fee required by the City. Redwood City is one of 21 San Mateo County jurisdictions collaborating on a “Grand Nexus Study”—a multi-jurisdictional affordable housing nexus and impact fee feasibility study—that is being prepared under the auspices of the San Mateo County Department of Housing to determine the appropriate impact fee that each jurisdiction can charge for new ownership and rental housing development. To date, the consultant(s) preparing the Grand Nexus Study have identified the income cut-off levels for the nexus analysis, and have conducted the housing affordability gap analysis for very-low-, low-, and moderate-income households. The next step in the study is to design two analytical models—one for residential housing and one for commercial development—in order to estimate the increase in demand for affordable housing associated with new development, in accordance with recent court decisions. The study is scheduled for completion by the end of 2015.

## 4 What Other Cities are Doing

Benefit programs are widely accepted and an integral part of many present day zoning and planning initiatives in urban locales throughout the United States. A wide variety of municipalities, including places as diverse as Miami, Anchorage, Cincinnati, Tampa, Portland, and Austin have established some type of benefits program. Like the jurisdictions themselves, the programs vary widely, usually premised on a community's specific priorities and needs, regulatory structure, and market conditions.

The community benefits approach has garnered particular interest in California since 2011 when the Legislature terminated the redevelopment programs enacted under California statutes. The State law allowed city and county redevelopment agencies to capture a share of property taxes generated in locally designated redevelopment districts and use those funds to pay for infrastructure improvements and a wide variety of other projects and programs. The impact of eliminating this source of funding has had a particularly detrimental effect on the ability to finance affordable housing development.

This part of the paper takes a look at the benefit programs that have been established or are being considered by several California jurisdictions that have adopted or are considering benefit programs, as well as the City of Seattle. The sample cities have been selected for closer review because their regulatory approaches and/or the types of benefits they obtain appear to warrant closer examination as Redwood City considers its options. Although San Francisco has established a complex series of community benefits requirements, a number of these involve separately negotiated agreements codified in Article 4 of the San Francisco Planning Code. A number of other California cities rely on negotiated development agreements, which require a substantial investment of time and Staff resources.

**Table 4-1: Characteristics of Sample Cities**

City	Area (Square Miles)	2014 Population	Population Density (Persons per Square Mile)
Redwood City	19.4	80,768	3,956
Emeryville	1.2	10,491	8,743
Santa Monica	8.4	92,185	10,974
San Diego	325.2	1,345,895	4,139
Seattle	83.8	640,500	7,645
San Jose	176.5	1,000,536	5,669

Source: California Department of Finance; Washington State Office of Financial Management, Forecast; Dyett & Bhatia.

## 4.1 Emeryville

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The City of Emeryville allows additional floor area ratio, height, and/or residential density in exchange for a variety of amenities, including public open space, sustainable design, public improvements, and public art. Bonuses are allowed based on a point system, such that a project may qualify for a series of bonuses, up to a limit for the provision of qualifying public benefits, and subject to Conditional Use Permit approval by the Planning Commission.

Qualifying public benefits are assigned a number of points based on the cost of providing the benefit and the correlated potential economic value of additional development potential. The basic idea is that a developer would be willing to invest in a bonusable feature if the added revenue from the additional floor area that could be built would cover the added costs. Table 4-2 below provides a sample of the public benefits and bonus points.

Points are awarded for each public benefit provided as part of the project, up to a maximum of 100 points. There is also a limit to the number of points that can be awarded for each category of public benefit (i.e., Public Open Space). The allowed bonus amount for the project is calculated based on percent of points provided out of the maximum of 100 points. For example, if a bonus of 1.0 FAR is available and the project provides benefits resulting in 50 points, the allowed bonus amount is .5 FAR (1.0 FAR x 50%).

In approving a Conditional Use Permit for a bonus, the Planning Commission must find that in the Medium Density Residential Zone, the proposed project is compatible with the surrounding neighborhood with regard to building scale, form, and materials, and street orientation. For bonus height over 100 feet, additional findings related to view, wind, and shadow impacts and building separation must also be made.

**Table 4-2: Emeryville Public Benefits and Bonus Points (Sample)**

<i>Public Benefit</i>	<i>Maximum Points</i>	<i>Point (Pt.) Calculation</i>	<i>Requirements</i>
Public Open Space	50	50 pts.: 15 percent of site area or 2,000 s.f., whichever is greater. 35 pts.: 10 percent of site area or 1,500 s.f., whichever is greater. 20 pts.: 5 percent of site area or 1,000 s.f., whichever is greater. Contribution to Citywide Parks Fund: 10 pts. for every 1 percent of project construction valuation up to 50 pts.	Must be in addition to what is required by Article 3 of this chapter. Design must comply with applicable provisions of the Emeryville Design Guidelines and be approved as part of design review for the project. Open space must be accessible to the general public at all times. Provision must be made for ongoing operation and maintenance in perpetuity.
Sustainable Design	35	35 pts.: LEED™ Platinum or equivalent. 25 pts.: LEED™ Gold or equivalent. 10 pts.: LEED™ Silver or equivalent.	Compliance of schematic design to be confirmed by Chief Building Official. LEED™ or equivalent third-party certification required prior to issuance of certificate of occupancy.
Alternative Energy	50	50 pts.: 100 percent of energy load (zero net energy). 35 pts.: 50 percent of energy load. 20 pts.: 30 percent of energy load. 10 pts.: 15 percent of energy load.	Percent of total building energy load measured as kilowatt per s.f. provided by solar panels, wind turbines, or other renewable sources. No less than 50 percent may be in the form of Renewable Energy Credits (RECs) in compliance with California State laws and procedures. Any RECs must be available for the life of the project as evidenced by a long-term contract.
Water Efficiency	35	20 pts.: Graywater reuse system.	Reuse of domestic wastewater from plumbing fixtures such as showers, dishwashers, and clothes washers, but not including toilets and garbage disposals, to be used for toilet flushing and irrigation. System must comply with the requirements of the Emeryville Plumbing Code in Chapter 3 of Title 8.
		15 pts.: Rainwater capture system.	System that captures and store water from at least 75 percent of the project roof area for landscape irrigation and/or indoor water use. The storage system must be sized to hold all water from a 1-inch rainfall event (equivalent to 0.62 gallons per s.f. of roof area used for capture). System must comply with all applicable codes and regulations.
Flexible Public Benefit	N/A	The Planning Commission or City Council, as the case may be, shall determine the number of pts. To granted for the proposed public benefit.	Currently undefined public benefit proposed by the applicant that is significant and substantially beyond normal requirements.

Source: Emeryville Municipal Code Section 9-4.204; Dyett & Bhatia.

## 4.2 Santa Monica

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Santa Monica's 2010 Land Use and Circulation Element (LUCE) generally establishes a maximum base height of 32 feet and, in some cases, a maximum density or Floor Area Ratio (FAR), in areas where the LUCE directs future growth. In order to exceed these base standards, projects would have to incorporate features that will contribute to the community's overall social, cultural, physical, transportation and environmental goals. The LUCE identified five categories of Community Benefits and provided examples of measures that fell into each category:

- Trip Reduction and Traffic Management
- Affordable and Workforce Housing
- Community Physical Improvements
- Social and Cultural Facilities
- Historic Preservation

The LUCE also established three approval tiers or procedural tracks to regulate development. The tiers, which are tied to the type, location, and level of development, provide for ministerial or by-right approval of projects that meet all applicable requirements and do not exceed the base standards and two discretionary tiers, both of which would require applicants to provide community benefits in order to receive approval to increase the project's height and/or floor area. Projects eligible for Tier 2 would typically be subject to a Conditional Use Permit, while Tier 3 projects require the developer to enter into a development agreement with the City. Projects that include affordable housing on site in compliance with the City's existing Affordable Housing Production Program or within close proximity to transit corridors are eligible for a four- to seven-foot height bonus, allowing for an additional floor of housing.

Housing projects that include only affordable units are eligible to receive incentives, such as a building height that does not exceed the maximum height at the highest tier, as well as reduced parking requirements and potential reductions in required ground-floor, pedestrian-oriented uses, which may include community services, arts, and similar uses. Housing projects with 50 units or less that are affordable to households earning no more than 80 percent of median income are not subject to discretionary review but, like most new development, do require design review. (SMMC Sections 9.32.120 and 9.32.170). These incentives are provided in addition to the bonuses available on State law. Both residential and nonresidential projects are also subject to Santa Monica's Affordable Housing Production Program (SMMC Chapter 9.56), which is supported by a nexus study documenting the impact of both types of development on the need for affordable housing.

The Planning Commission initially expressed interest in exploring a point and menu approach for Tier 2 projects that would be part of a simple and flexible adjudicative process. At subsequent

meetings they concluded that a point and menu system would be too complex to administer and that it would be difficult to ensure that benefits were proportionate to impacts associated with incremental increases in floor area. There was also concern that if the system were too complex, the only benefits achieved would be projects that were the most easily approved, which would miss opportunities for some preferred community benefits. Moreover, the point and menu system might require too much negotiation, which should be limited to those projects approved with a development agreement.

The Commission, therefore, decided to focus on a community benefits approach that requires Tier 2 projects to contribute through increases in fees or by providing additional on-site housing, both areas where contributions towards capital improvements can be measured. Other kinds of benefits that include a programming or operational component (e.g., senior and youth services) or an entire facility (e.g., a bike center) would be negotiated through Tier 3 development agreements.

As a result, Santa Monica is currently considering a community benefits requirement that includes both additional on-site affordable housing and higher fees for Tier 2 projects. Based on a recent nexus study that examined 14 prototype development scenarios and took into consideration all existing and proposed fees, Tier 2 projects would have to provide 50 percent above the base requirement for on-site affordable housing as well as pay transportation impact, affordable housing commercial linkage, and parks and recreation fees that are 14 percent higher than the fees imposed on Tier 1 projects. The Planning Commission forwarded this recommendation to the City Council with the proposed revisions to the zoning ordinance at the in October. A Townhall Meeting is scheduled for the public to provide comments on the Redline Public Review Draft Zoning Ordinance later this month.

### **4.3 San Diego Downtown**

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The San Diego Downtown Community Plan, adopted in 2006, anticipated tripling of downtown population to 90,000, and a total of 165,000 jobs, together with several thousand new hotel rooms and public facilities in one of the most intense planned settings in the country. In order to ensure that new development led to new community amenities, the City created an FAR bonus program where development may exceed the maximum allowable base FAR for certain sites in the Downtown if the applicant provides certain public benefits or development amenities. All applicants participating in the FAR bonus program are required to have restrictions recorded on the property to ensure that benefits or amenities provided to earn the bonus are maintained in perpetuity.

The public benefits and development amenities that may earn an FAR bonus are the following:

**Table 4-3: San Diego FAR Bonus Program**

<i>Public Benefit/Development Amenity</i>	<i>FAR Bonus (to be added to maximum Base FAR)</i>	<i>Notes</i>
Affordable Housing	Consistent with the State Density Bonus Law	
Urban Open Space 10% of site 20% of site	0.5 1.0	Must meet certain criteria and be open to the general public between 6:00 a.m. and 10:00 p.m.
Three-bedroom units	0.5 1.0	10% of the units must be three or more bedrooms
Eco-Roofs	Up to 1.0	Bonus based on amount of roof area that is planted or landscaped and designed to sustain and support vegetation
Employment Uses	Up to maximum bonus FAR for providing 100% employment uses Up to 50% maximum bonus FAR for providing 50% employment uses	
Public Parking	1 sq ft for every 1 sq ft of public parking area	
FAR Payment Bonus Program	Up to 2.0	
Green Building	Up to 2.0	Incentives for buildings that exceed CALGreen standards

Source: San Diego Municipal Code Section 156-0309-A; Dyett & Bhatia.

In addition, in certain areas, additional FAR can be purchased and development rights can be transferred in order to provide new parkland and open space. The provision of new parkland and open space to match the increased intensities was an important objective of the Downtown Community Plan; acquisition and development of these was expected to cost approximately \$200 million. To provide funding for these, a FAR “purchase” and a system of bonused Transfer of Development Rights (TDRs) for sites designated as public parks was established. Funds collected through this program must be used for parks, open space, or acquiring additional right of way for parks and open space in the Downtown.

## 4.4 Seattle Bonus Program for Green Building and Affordable Housing

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The City of Seattle allows bonus building intensity and height for both commercial and residential buildings in exchange for providing affordable housing (for residential developments) or making a cash contribution to the City for low-income housing (for nonresidential and high-rise residential developments): <http://www.seattle.gov/housing/incentives/LandUseCode.htm>. To receive a bonus increment of FAR above the base, residential developers must provide affordable housing or make a contribution of approximately \$15 per gross square foot to the City to fund new affordable housing. In high-rise zones (greater than 85 feet), 25 to 40 percent of all additional floor area must be achieved through non-housing options, such as Landmark Transferable Development Rights/Transferable Development Rights Potential (TDR/TDP), Open Space TDR/TDP, and bonuses for on-site amenities.

### HOW IT WORKS

The bonus program is implemented through a process, which authorizes the Director of the Office of Housing to accept and execute a covenant as a condition of approval prior to issuance of a building permit. In practice, applicants have only achieved bonuses through the payment of in-lieu fees. The City is considering ways to prioritize the production of affordable housing over in-lieu payments. The City recently consolidated the program into one set of provisions—Chapter 23.58A.

## 4.5 San Jose

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The City of San Jose has evaluated alternative financing strategies for a series of urban villages to be developed under new specific plans. Each strategy focused on “value-capture” approaches that capitalized on the increased development and land values associated with zoning changes, rather than requiring direct City funding or pursuit of competitive and uncertain intergovernmental funding. EPS created *pro forma* analyses that demonstrated the property value increases associated with proposed multi-family housing, with and without mixed-use components, compared to current commercial/industrial zoning or existing buildings. EPS and an associated development consultant also illustrated how various tools and negotiations could ensure that the rezoning did not simply yield a windfall to landowners or developers, but rather provided funding sources for the desired public improvements. Examples included development agreements, impact fee programs, community facilities districts, business improvement districts, and an innovative but untested approach to auctioning the “public development rights” similar to a transferrable development rights (TDR) program. EPS met with developers to vet these concepts and related calculations, and presented the merits and challenges of various value-capture approaches to San Jose’s City Council.

Following its initial study of potential traditional and innovative financing strategies for San Jose, EPS was retained by the City of San Jose to further investigate approaches for estimating and justifying a “complete streets” impact fee on infill development in San Jose’s urban villages. Two different options were identified by EPS—(1) establishing an area-specific traffic impact fee that includes “complete streets” improvements in addition to roadway improvements, or (2) creating a unique impact fee for pedestrian/bike/transit facilities. Either approach would require estimating associated increases in trips from the urban village due to residents, employees, and patrons of new development and charging fees differentiated by land use as determined by each land use’s trip generation factor. Additional questions to be assessed include identifying the appropriate trip generation rates for the area in question; determining the current and required infrastructure capacity as well as the cost of the required infrastructure improvements; identifying the area and population served by the infrastructure; calculating the maximum nexus-based fees for various land uses based on trip generation rates; and assessing the feasibility for development in these areas to financially support the maximum fee level.

## **Appendix A: Redwood City Existing Incentive and Bonus Programs**

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## Section 16.3.A: CP (Commercial Park) Development Standards

### B. Floor Area Ratio – Additional Regulations

1. Exemptions from FAR Calculation. The following uses may be excluded from floor area when calculating total FAR:
  - a. Child care centers. The floor area of child care centers that operate in conjunction with onsite or adjoining businesses and are consistent with Article 39 shall be exempt from the computation of FAR, provided that all of the following conditions are met:
    - i. The subject child care center shall include at least two thousand (2,000) square feet of indoor area, and at least three thousand (3,000) square feet of outdoor space and shall be of adequate size to accommodate at least forty (40) children;
    - ii. A deed restriction shall be recorded against the property to ensure the long term use of the portion of the development for child care.
  - b. Conference facilities and meeting rooms that are incidental to a primary use and are open to the public for rental or complementary use shall be exempt from the computation of FAR.
  - c. Mezzanine floor area. Mezzanine floor area that overhangs less than twenty-five (25) percent of the ground floor area shall be exempt from the computation of FAR.
  - d. Parking garages, carports, and parking structures, including underground parking areas that are located below finished grade or finished floor of habitable space.
2. Incentive-Based FAR Bonus. A bonus FAR of up to 0.2 (not to exceed a total FAR of 1.0, not including exceptions as applicable in Section 16.3(B)(1) above) may be permitted for projects that allow public access to the shoreline and Bay, provided that all of the following conditions are met:
  - i. Provide publicly-accessible pedestrian and bicycle pathways along the water's edge, and connect to existing and planned networks.
  - ii. Provide docks and/or develop pedestrian/bicycle networks to connect the project to existing marina(s) when possible.
  - iii. Provide Quasi-Public or Public usable open space amounting to at least ten (10) percent of the project area adjacent to the water's edge. Useable open space shall include enhancements to support its use, such as benches, trails, and landscaping. Signage and appropriate public access to the usable open space shall be

provided to clearly indicate that the space is available for public use.

- iv. A public access easement shall be recorded against the property that ensures public access to the portion of the project which qualify it for the FAR Bonus.

(Ord. No. 1130-359, § 3(Exh. C), 4-8-13)

### **Section 53.7.B.3: Mixed-Use Corridor**

#### 3. Bonus Height

The bonus height maximum limits stated in Table 53-3 shall be permitted for projects that (1) provide clear public benefits or (2) which have severe and unusual frontage constraints as described in Subsections 53.7.B.3.a below.

- a. **Public Benefit.** A project may be permitted to rise to the Bonus Height if it provides a clear public benefit. Project traits or characteristics considered as a public benefit shall include, but not be limited to, the following:
  - i. **Mixed-Use.** The ground-floor frontage along all major streets will be occupied by retail or restaurant uses for a depth of no less than twenty (20) feet.
  - ii. **Quasi-Public or Public open space.** Usable open space that is open to the public will be provided which amounts to 0.25 acres or ten (10) percent of the project area, whichever is greater.
  - iii. **Stringent transition height adjacent to residential zoning districts.** Buildings will not intercept the forty-five (45)-degree daylight plane inclined inward from existing grade at the property line of the parcel adjacent to the residential district boundary line.
  - iv. **New streets.** New streets that are identified by the responsible review authority as necessary to improve walkability, reduce auto trip lengths, improve neighborhood connectivity, or result in blocks of less than four hundred (400) feet in length will be provided through the site.

(Ord. No. 1130-353, § 1(Exh. E), 6-27-11)



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