

To: City Council Comprehensive Planning and Transportation Committee

From: City of Austin Planning Commission

Downtown Density Bonus Program Recommendations

Approved 8-0, May 25, 2010

The Planning Commission Executive Subcommittee has met in numerous meetings with stakeholders to discuss the Downtown Density Bonus Program. These meetings were open forums at which all persons were welcome and allowed to speak. After several months of study and discussion, the Planning Commission offers the several suggestions to improve the Program based on stakeholder and staff input, and the Commission members own diverse opinions. Below is a list of meeting dates and subjects, followed by the set of suggestions.

Meetings

Sat. 3/6/10 Kick-off and planning

Wed. 3/10/10 Open Space

Sat. 3/13/10 Housing Affordability

Mon. 3/15/10 Compatibility and District Benefits

Sat. 3/27/10 Historic Preservation and the Warehouse District

Wed. 3/31/10 Green Roofs

Sat. 4/3/10 Downtown Infrastructure

Sat. 4/10/10 CURE

Wed. 4/14/10 Downtown Impact on Surrounding Neighborhoods

Wed. 5/5/10 Housing Affordability

Mon. 5/17/10 Historic Preservation & the Warehouse District

The Planning Commission suggests the following changes to the Downtown Density Bonus Program.

Development Agreements

- 1) An issue that transcends all others in a density bonus plan is how any agreements will be entered into and tracked for compliance. First and foremost, the Planning Commission

recommends establishment of a standard operating procedure for downtown development agreements that clearly spell out 1) the density bonuses and height increases to be permitted and 2) the associated list, quantity, form, and, if possible, dollar-value of the public benefits to be provided by the developer.

Open Space and Parks

- 2) Density bonuses should be permitted in exchange for on-site open space that is publicly accessible and meets well-defined criteria or for fee-in-lieu that could be used to improve downtown parkland. The fee-in-lieu payments should go into a trust fund similar to the Housing Trust Fund for affordable housing. The trust fund should supplement, not supplant, the Parks and Recreation Department budget. Improvements involving use of trust fund dollars should be limited to the downtown area and should be spent within two to three years of receipt. City staff needs to clarify whether fee-in-lieu payments can only be used for park capital improvements or could also be used for operation and maintenance to enhance downtown parks, in which case PARD should have discretion for using the funds in either category.

Affordable Housing

- 3) Some residential and mixed use development has or will occur on City-owned land downtown. When an opportunity arises renegotiate the Poleyard, AMLI, Green Water treatment, and Seaholm agreements, then new more aggressive housing affordability goals should be set.
- 4) The Planning Commission is anxious to see more family-friendly housing Downtown. However, density bonuses should not be available in exchange for market-rate housing, even if advertised as family-friendly housing. Density bonuses for third bedrooms should be available only for residential housing priced according to the adopted Downtown affordability levels, or for units sized smaller than a size to be selected by the Community Development Commission.
- 5) As Housing Trust Funds accrue from the fee-in-lieu option, the spending should follow rules:
 - a) Spend funds as quickly as practical.
 - b) At least 50 percent of all fees must be spent in the Downtown.
 - c) Funds spent to create affordable housing units outside of Downtown should be concentrated on or near core transit corridors within roughly 2.5 miles of the intersection of Congress Ave. and 6th Street.

- d) Funds spent to provide affordable units outside of Downtown should be spent in cooperation with a local Community Housing Development Corporation if one operates in the neighborhood.
 - e) Exclude the UNO and Rainey Street Overlay areas from Downtown fee-in-lieu resources available in the Downtown Impact Area, as these areas already have affordable housing programs
- 6) The distribution of affordable housing downtown should attempt to align more with the income distribution of those working downtown. See the attached tables and graphs in Figure 1 (at end of report) showing the current statistical distributions of incomes for downtown workers and residents, and costs for rents provided by the Department of Housing and Community Development. Although there are rental units priced at ranges that many two-income families working Downtown can afford, the Density Bonus report suggests the trend is toward more expensive units.
 - 7) Measures of affordability need to include not only rent/mortgage, but also transportation and utilities.
 - 8) Efforts should be made to ensure there is no net loss of affordable housing units Downtown. The count of units at different price points by number of bedrooms and floor area should be reported to the City Council each year.
 - 9) Regarding specific details as to how a given development project would provide affordable units, the Planning Commission offers two suggestions:
 - a) The highest priority is to include the affordable housing on site. Second priority is nearby. Third priority is elsewhere Downtown. Fourth priority is on or near a core transit corridor within the boundaries described earlier.
 - b) During the week of May 17, the Planning Commission learned of a separate effort involving several organizations representing housing and business interests to create consensus collaboration on city-wide affordability housing strategy. Thus, the Planning Commission suggests a delay in adopting any changes away from the currently adopted density bonus program or CURE regulations until this other group has completed work.

Compatibility and District Benefits

- 10) Density bonuses should not be available in the Northwest District.
- 11) The Planning Commission supports the Judge's Hill-specific compatibility standards.

- 12) Applicants that receive density bonuses should be required to comply with compatibility standards triggered by properties outside the boundaries of downtown, or should seek a variance.
- 13) Administrative density bonuses should not be allowed on portions of lots within a 25 or 100 year flood plain. Density bonuses may be sought through a public hearing process, however.
- 14) The lists of public benefits – aside from affordable housing – associated with density bonuses should be tailored for individual districts, and specific lists for districts may be developed over time. The Planning Commission is concerned that too long a list will result in a dilution of benefits, and suggests a structure such as the following:
 - Create a master list of all possible public benefits
 - Limit the list within any district to six in number
 - Treat the overall master list and by-district sub-lists as guidelines that may be administratively altered.
- 15) Any density bonus policy in the Waterfront Overlay part of downtown should be addressed by the Waterfront Planning Advisory Board.

Historic Preservation and the Warehouse District

- 16) TDRs should be transferable independently of any particular receiving site. ROMA says this is their intention, though it is not spelled out yet in their report. This would allow a *TDR market* to develop, before the time when specific projects are ready to break ground. It would allow a developer to buy TDRs for a prospective project, knowing that they could be resold if the project does not go forward or is reduced in scale. It would provide protection for sending sites, through individual landmarking, at the time TDRs are sold. Note that this creates the potential for a speculative market in Austin TDRs – which would be a good thing, if it harnessed private investment capital to create a market and create incentives for protecting downtown Austin landmarks.
- 17) TDRs should be certified and their ownership registered by the City. This is necessary as a corollary of #16. If TDRs can be detached from their sending sites before they are attached to any receiving site, there needs to be an instrument recording their existence and ownership. In theory this could all be handled by private options and contracts, but this will not work well for two reasons:
 - ◇ the transaction costs of creating and enforcing those private contracts;
 - ◇ the potential for fraud or confusion as to the validity of a TDR.Other jurisdictions have addressed the question of validity by *certifying* TDRs, which can be

done independently of any proposed sale. Certification makes a public determination that this property, with this building on it, is eligible to transfer this many square feet of TDRs.

- 18) The City of Austin should purchase some TDRs. The purpose is to help make a market. There are two parts to this: first, creating the mechanisms of the market – the documents, the procedures for certifying TDRs and maintaining records of them. No one wants to be the guinea pig. Second, the infusion of some early funding will help establish a price for TDRs. This is not a public payment in compensation for a regulation. It is a public investment in a market created and maintained through public actions. The City (like any investor in Austin TDRs) would recoup its investment by selling the TDRs later when demand increased. Unlike other investors, the City has the potential to destabilize the market by changing its rules; this would give a tangible interest in maintaining market stability.
- 19) Future landmarked properties may participate in the TDR market.

Green Roofs

- 20) Green Roofs are a worthy public benefit and should be included in the Density Bonus Plan.

Downtown Infrastructure

- 21) The Planning Commission suggests that the Downtown Infrastructure Study be used to assess needs for capital improvements and additional requirements on new development. The Study should be completed to determine if there are portions of downtown that can not accommodate additional density without significant infrastructure upgrades.
- 22) Infrastructure costs to the downtown developer should not be counted as fee-in-lieu for density bonuses.

Parking

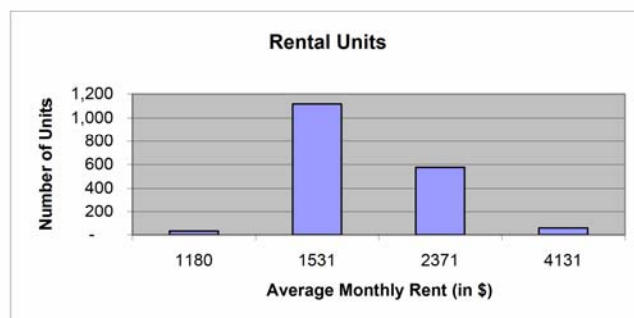
- 23) Examine University Neighborhood Overlay (UNO) language on transportation items such as charging separately for parking spaces, reduced parking, reduced parking for car shares, etc. for applicability for Downtown Density Bonus applications.

Figure 1 Statistics on housing and income Downtown 2009-2010

UNIT MIX SUMMARY (All)

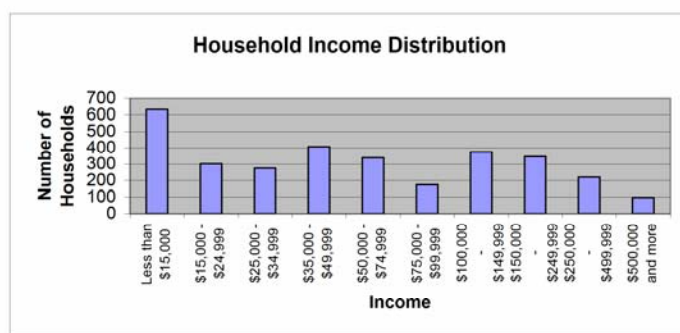
Floorplan Quantity Avg Rent/Month Avg Size Avg Rent/Sq. Ft.

Efficiency	33	\$1,180	636	\$1.86
1BR	1,121	\$1,531	845	\$1.81
2BR	576	\$2,371	1358	\$1.75
3BR	59	\$4,131	2278	\$1.81
All Units	1,789	\$1,881	1054	\$1.78



Floorplan	If Monthly Rent is:	...then Annual Income Must be At Least:	...meaning hourly must be:
Efficiency	\$1,180	\$47,200	\$23.60
1BR	\$1,531	\$61,240	\$30.62
2BR	\$2,371	\$94,840	\$47.42
3BR	\$4,131	\$165,240	\$82.62
OVERALL	\$1,881	\$75,240	\$37.62

Description	Polygon 1	%
2009 Est. Households by Household Income	3,179	
Less than \$15,000	634	19.94
\$15,000 - \$24,999	302	9.50
\$25,000 - \$34,999	277	8.71
\$35,000 - \$49,999	406	12.77
\$50,000 - \$74,999	341	10.73
\$75,000 - \$99,999	176	5.54
\$100,000 - \$149,999	374	11.76
\$150,000 - \$249,999	348	10.95
\$250,000 - \$499,999	221	6.95
\$500,000 and more	99	3.11



2009 Jobs	Earnings	Hourly Earnings
1,316	\$8.58	\$9.09
6,392	\$9.11	\$9.75
1,063	\$10.87	\$12.04
312	\$12.63	\$12.94
156	\$11.00	\$14.36
289	\$13.03	\$14.38
408	\$13.49	\$14.74
1,004	\$14.70	\$15.86
838	\$15.16	\$15.92
8,858	\$15.01	\$15.98
6,817	\$12.99	\$16.26
1,025	\$17.13	\$17.92
2,754	\$15.44	\$18.15
1,098	\$18.69	\$20.59
916	\$21.25	\$22.73
5,114	\$20.30	\$23.85
772	\$27.03	\$29.77
1,264	\$29.23	\$31.46
4,598	\$27.41	\$31.74
446	\$32.88	\$32.74
2,192	\$32.62	\$34.97
3,947	\$35.10	\$40.21
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51,585	\$18.56	\$20.89

