

Incentive Zoning/Density Bonus and Public Benefit Zoning

Summary and Benefits:

Incentive Zoning/Density Bonus and Public Benefit Zoning are two “market-based strategies” that confer property rights (such as additional density) to a developer in exchange for public benefits to the community. Incentive Zoning, also known as “Density Bonus,” grants developers the right to build additional space in exchange for providing community amenities. This will work if the developer calculates that the value of the incentive provided is greater than the cost of providing the amenity. It is, therefore, voluntary. In addition to higher densities, other incentives commonly include reduced parking or modifications to height and setback requirements. Benefits range from affordable housing to accessible roof gardens, ground level public plazas, public art, miniparks and other desired amenities.

Public benefit zoning (PBZ) – also known as Land Value Recapture - is based on the premise that land use changes and enhancement enacted by a public agency contribute to increased real estate values. It is reasonable to expect that if a private landowner benefits from public action that benefits are extended towards the community as well.. In addition to the value created by the upzoning for the developer (as under incentive zoning) additional value is extracted from the landowner and dedicated to community benefits.

Both PBZ and Incentive Zoning can be based on negotiations, adjudicative and discretionary approvals, and ministerial entitlement based on compliance determination. But for PBZ, development agreements – in the case of significant developments - and areawide application, as in specific plans, work best. The tool of “tiers” of additional density/height has been utilized, with additional requirements for each additional tier. The benefits for PBZ are very similar to those of incentive zoning. In both cases, these benefits are in addition to existing Development Impact Fees, Inclusionary Housing, and Commercial Linkage Fees.

Potential Policies:

- For localities with Inclusionary Housing and/or Commercial Linkage Fees, both mechanisms can lead to additional units or fees required over existing regulations, either on a case-by-case basis or on the basis of a plan.
- For localities without, PBZ can lessen political opposition to Inclusionary Housing and/or Commercial Linkage Fees by tying those programs to increased densities and plan changes that increase the value of the land.

Model Ordinances/Useful Sources:

- Nico Calavita & Alan Mallach. 2009. Inclusionary Housing, Incentives and Land Value Recapture,” in *Land Lines*, January 2009 (Available in the Lincoln Institute of Land Policy Website)
- Dyett & Bathia. 2012. “Santa Monica Zoning Ordinance Update. Community Benefits and Incentives: Issues, Options, and Case Studies;” Prepared for the City of Santa Monica, August 2012.
- Patrick J Rohan & Eric Damian Kelly. 2013, *Incentive & Bonus Zoning*. Matthew Bender & Co Inc.
- <http://affordableownership.org/events/webinar-12613-using-upzoning-to-increase-affordability/>
It includes a presentation on the differences and similarities between Incentive Zoning and LVR

Additionally, a White Paper on the Theory, Economics and Practice of Land Value Recapture is being finalized for publication in March 2014. The paper, authored by Nico Calavita and Marian Wolfe, is being prepared for the East Bay Housing Organizations and the Metropolitan Transportation Commission.