Enhanced Bonus Density

A Tool to Create More of the Housing that is Most Needed Without Additional Public Subsidy

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Contact:
Matt Huerta, mhuerta@mbep.biz
Sibley Simon, sibley@envisionhousing.us

Objective

The intent of this white paper is to encourage the implementation of Enhanced Bonus Density ordinances in the Monterey Bay region to improve housing affordability and supply. Such ordinances can increase total housing production and significantly alter what is produced to include more lower-income affordable housing, rental housing, smaller housing units, and transit-oriented housing.

Summary

California's state-wide Density Bonus Law currently allows any housing development project to build a percentage amount of extra housing units above a local jurisdiction's maximum density for that location (and potentially receive other design incentives) in exchange for deed restricting a certain percentage of the project's housing units as long-term affordable housing units below certain income levels. This is a potentially powerful tool to obtain more affordable housing and more total housing production. Unfortunately, its use has been relatively rare in privately funded projects primarily because the trade-offs involved are seen as financially net negative.

The state law, however, allows jurisdictions to set these trade-offs and other specifics of local bonus density ordinances. Most jurisdictions have just implemented the required minimums, but a growing number of jurisdictions across California have taken advantage of the state law's allowance to enhance and refine this bonus density trade-off system to successfully motivate its use and to further affect the types of housing built. San Diego is the largest example we have studied - their policy has dramatically increased the use of bonus density and the total amount of affordable housing produced per year in San Diego**. In November 2018, Santa Cruz County became the first jurisdiction in the Monterey Bay region to implement an enhanced bonus density policy.**

We see this policy as one of the most effective ways to improve housing affordability over time in the Monterey Bay region that does not involve additional public subsidy and can be enacted quickly. It can be used to motivate the creation of smaller, less expensive rental housing units and more inclusionary affordable housing, as well as incrementally increase density in terms of unit count under existing zoning and general plans, all without a major new CEQA process for implementing the policy.

We hope this paper will serve as a guide to jurisdictions considering and implementing an enhanced bonus density policy in 2019.

Background

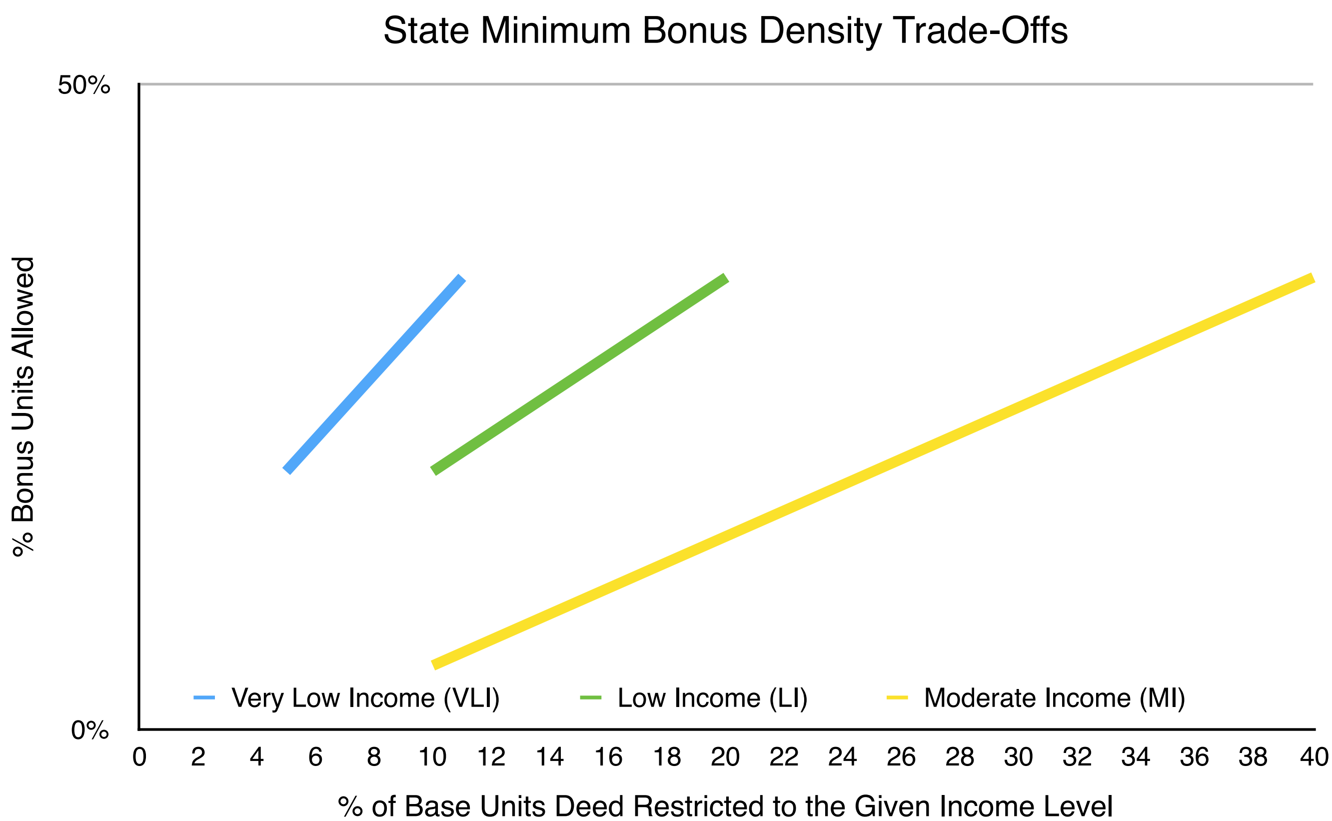
California law requires each jurisdiction to have a bonus density ordinance that *at least* meets certain minimum criteria. With very limited exceptions, previous to November 2018, every jurisdiction in the Monterey Bay region had implemented the exact minimum requirements set by the state for these ordinances. A good way to understand the subject is therefore to explain the state's minimum bonus density ordinance requirements. It is important to remember, though, that the state law provides for local control (and a CEQA exemption for the policy change) within a wide range of possible policies beyond these minimums.

Under the minimum ordinance, if a housing project includes at least certain percentages of its units as legally and long-term restricted affordable housing units for certain low-income levels (or age-restricted senior housing), then the project can take advantage of certain variances to the zoning and design rules otherwise in place, including:

- A percent increase in the density of units that can be built in the project over that allowed by the local jurisdictions zoning ordinance (with that bonus percent rising as high as 35% if enough income-restricted affordable units are built);
- A reduction in the minimum parking requirements to a certain level specified by state law, if desired;
- The right to have a limited number of other limited or partial deviations from local zoning (e.g. setback requirements) under certain circumstances and/or potential waiving of a zoning standard that would physically preclude the construction of the units;
- If the project is close enough by walking distance from a major public transit hub or has sufficiently high transit service then a further reduction in the required amount of parking is automatically granted.

The chart on the following page illustrates the trade-offs that are at the core of bonus density law -- i.e. what percentage of additional units are allowed in a development beyond the site's local zoning density in exchange for given percentage of units deed restricted.

For example, if local zoning allows a site to have 100 units and 10% of those are deed restricted to low-income levels (i.e. 10 units), then the project may include an additional 20% (i.e. 20 units), where all of the additional units can be market rate. The core idea is that these additional market rate units can pay for the project's financial loss taken on the lower income level units (and we note that particularly in the case of rental projects, the additional supply of market-rate units are also a benefit to the region's overall housing affordability). In practice, this has often not sufficiently born out to be used by developers, especially for the larger, for-sale units that have, for other reasons, typified most new construction in recent decades in California.



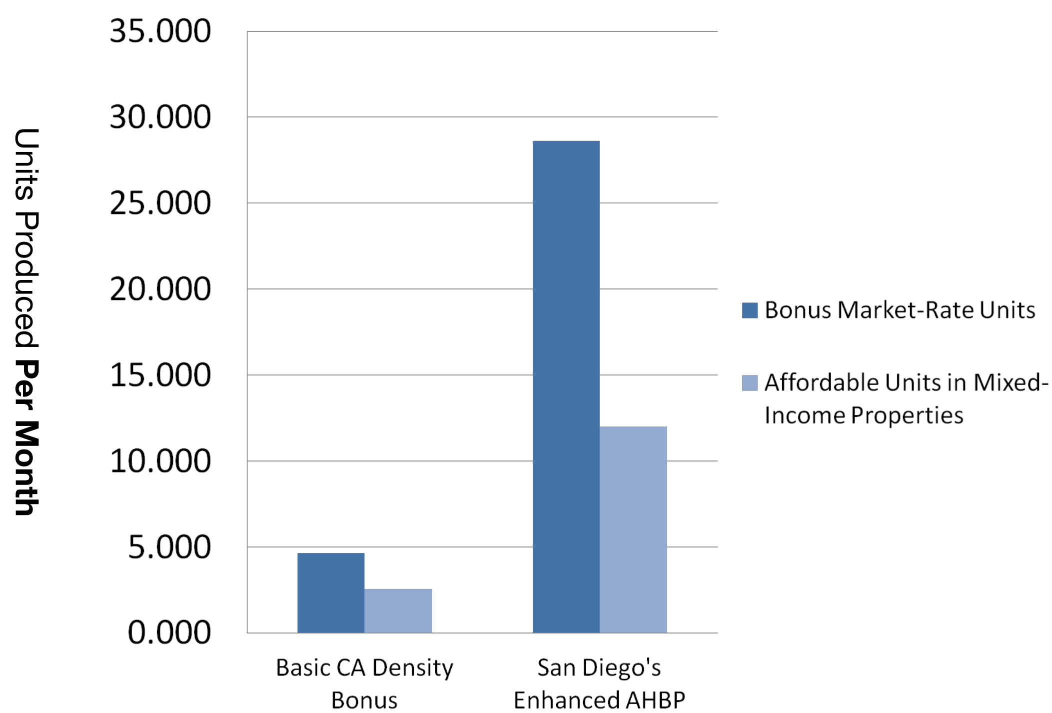
Local Enhancements: San Diego

Across California, bonus density ordinances have been relatively rarely used outside of 100% affordable projects that are indeed subsidized with public dollars. San Diego's analysis concluded that the structure of the law is sound, but often the expense of providing the on-site affordable housing units is greater than the financial benefit of the incentives provided. Their solution -- to amend their ordinance to be more effective -- shows one example of how this bonus density structure can be enhanced to the point that it greatly increases the production of affordable housing units. Key points from San Diego's example include:

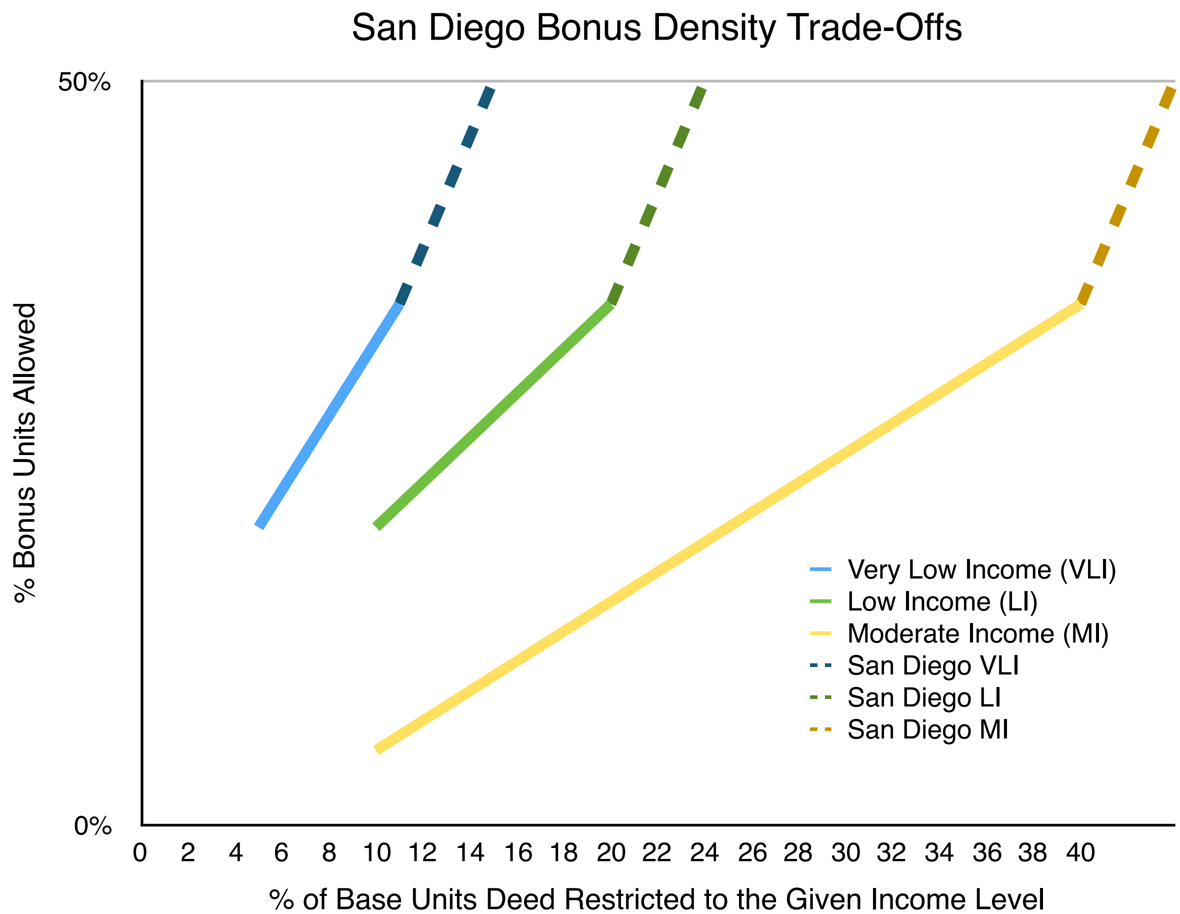
- Strategically, San Diego did not reduce the affordable housing requirement to achieve bonus density nor alter the state's bonus incentives for the typical inclusionary housing percentages. Rather, they altered their law to provide a larger bonus density reward for inclusionary housing *above and beyond* the highest levels rewarded by the state minimums. So a project that maxes out the state bonus density incentive by providing 20% of its baseline number of units as low-income affordable units can then provide *even more* inclusionary housing, with more bonus per unit up to a 50% density bonus. By making the bonus much larger for the modest additional incremental affordable housing at the top of the scale, projects are most likely to find a sweet spot of positive financial trade-off at the top end of the scale.

- Similarly, projects going beyond the state density bonus requirement earn more of the minor zoning concessions, up to a five concessions maximum.
- **By late 2017, this policy resulted in a 900% increase in the rate of housing projects applying for bonus density and 470% increase in the inclusionary housing units in the production pipeline.** The increase in affordable and bonus market-rate units is shown in the chart below (courtesy Circulate San Diego at http://region.circulatesd.org/ahbpreport)

Bonus & Inclusionary Units Produced Per Month in San Diego Before & After Bonus Density Law Change



The following chart illustrates the primary way that San Diego achieved this success. For each income level, the trade-off line is steeper at the extended, top end -- i.e. projects going beyond the state mandated minimum trade-off line by providing some additional affordable units get a larger relative bonus, up to a maximum 50% bonus.



San Diego's Small Unit Bonus

San Diego has followed a best practice of setting goals, devising policies such as enhanced bonus density ordinances that are projected to help meet those goals, measuring outcomes, and then further refining policies where goals are not met. This has led to annual adjustments and innovations in some of its housing policies based on rigorous criteria. We highly recommend that more jurisdictions in the Monterey Bay region take this overall approach to improving housing affordability.

One of the 2018 changes to San Diego's housing ordinances to come out of this process is a bonus specific to small housing units. This ordinance gives a 100% bonus on total unit count for those projects that:

- Do not exceed the maximum footprint for buildings on a site under the local zoning code;[1]
- Have an average unit size of no more than 600 square feet;
- Have a largest unit of no more than 800 square feet.

We have recognized that a flaw in our overall zoning approach in California is the fact that residential density is often set in terms of units per acre without accommodation for the units' size, bedroom count, etc. Many housing projects then skew toward the largest possible units attainable under other zoning rules because that is how a project can be profitable given unit count-based density limits. Allowing projects with smaller units to have more total units will enable projects to be financially feasible and serve the part of the market that has not been built over the last few decades.

Clearly the point of this policy is that smaller units with fewer bedrooms do not have all of the same density impact as much larger units. We particularly see implementing a version of this policy for rental housing projects otherwise meeting enhanced bonus density requirements to be a best practice.

Local Enhancements: Santa Cruz County[2]

In November, 2018, Santa Cruz County updated a few aspects of its housing production-related ordinances, including moving payment of impact fees to the time of occupancy permit, removing in lieu fee options for for-sale projects over 7 units, and implementing an enhanced bonus density ordinance.

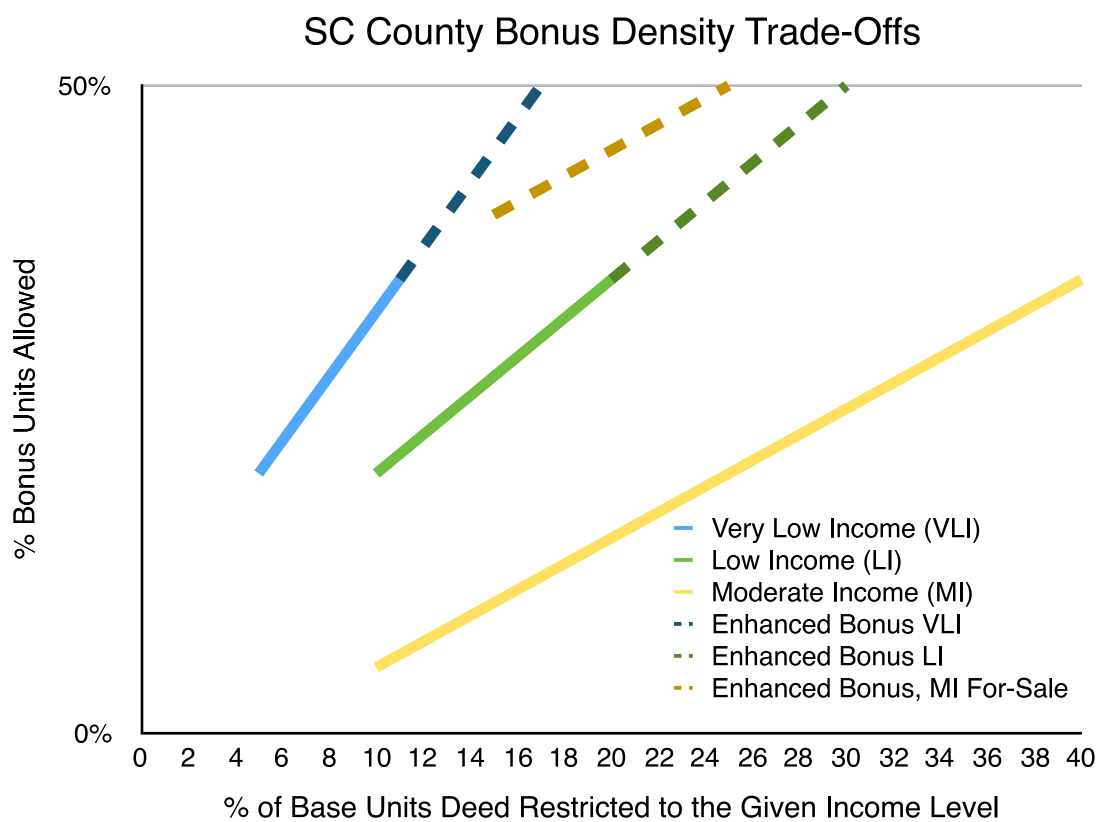
In unincorporated Santa Cruz County, there were a few context points regarding the market, typical developments, and policies that led the County to implement a different enhanced bonus density trade-off structure than San Diego. Those context points were generally:

- Most multi-family residential projects in unincorporated Santa Cruz County are small in total unit count – i.e. in the 5-30 unit range. This makes rounding have a

[1] Notably, this means if the project qualifies for bonus density based on inclusionary affordable units or other means, it is not using one of its potential concessions to have an expanded footprint onsite beyond the local zoning maximum.

[2] Note that the policy summary here and the reasoning for these policies was produced by the authors, not any jurisdiction staff or elected officials.

much bigger effect, and so just having a wider range on a bonus density trade-off scale makes it more likely that a project can find a financially positive way to use bonus density.



- The County doesn't have denser downtowns, where larger projects are zoned for and are desirable but are more expensive to construct.
- Santa Cruz County has already explicitly encouraged the use of rental housing subsidy vouchers in affordable inclusionary units and there is very high demand for units that accept those vouchers. These vouchers currently pay significantly more in Santa Cruz County than they do in Monterey or San Benito Counties, which is material for finding a trade-off with bonus density that works and for how many bonus units are needed to "pay for" the income restricted units.
- A policy goal of the jurisdiction is to create more moderate income, for-sale units. A part of pursuing this goal was to reinstate an inclusionary requirement for for-sale projects without an in lieu fee option, but to do so in a way that does not prevent most projects from being financially possible at all.
- The sites that are large enough to build enough units to make a tax-credit funded, 100% affordable housing project feasible under today's competitive public funding programs (generally 50+ units) are very rare in unincorporated Santa Cruz County. Therefore, increasing the density allowed for these projects

in particular will have the important additional effect of increasing the number of potential sites for these developments.

Given these points of context, Santa Cruz County decided to:

1. Extend linearly the trade-off between affordable units and bonus units up to a potential 50% bonus for both very low-income and low-income, assuming that these will primarily be used for rental housing projects.
2. Significantly change the trade-off for for-sale projects that include moderate income units and pair this trade-off with a 15% inclusionary requirement without an in lieu fee option. The state trade-off line for moderate income units would still apply as an option to rental projects (which tend to favor including low or very low-income units), but for-sale projects would have the entirely new trade-off line shown as the brown dotted line in the above chart. This would always provide bonuses of 40-50% for qualifying projects. We also note that bonuses at this level for many of the locations and densities in unincorporated Santa Cruz County would push projects from being single-family homes into being townhouses or otherwise tip toward more affordable sizes and unit types. This will incrementally increase the positive affect on overall housing affordability that the market-rate units have.
3. The County also implemented a new bonus of 75% exclusively for non-profit owned, 100% affordable housing projects that are receiving public funds (and hence beholden to the many quality and income-related requirements of those funding programs). This isn't represented on the following chart, but will have an effect of allowing some new affordable housing projects in places that previously would not have been feasible.

Recommendations

We recommend that all jurisdictions in the Monterey Bay region implement versions of the policies below, making adjustments and defining details in a way that will have the greatest local effect on housing affordability within the local context.

1. Implement an enhanced bonus density ordinance with unit count bonuses up to 50%. For cities in particular, we recommend the trade-off percentages used by San Diego.
2. Implement a larger bonus for small rental unit projects. We recommend a variation in which projects that qualify for enhanced bonus density, are rental projects, and have units under a given size are granted twice the generally applicable potential enhanced bonus density (i.e. ranging from 70-100% in unit counts).

3. Explicitly allow a preference for subsidy voucher-holders in inclusionary units within projects that have not received public funding.
4. For jurisdictions that have few projects over 50 units, implement a separate and larger bonus amount for all-affordable projects, such as the 75% used by Santa Cruz County.
5. Set the expectation that these and other housing policies will be frequently updated specifically based on analysis of efficacy toward improving housing affordability and meeting housing production goals (such as RHNA goals). Then, have a committee or group with the time to perform that analysis and make annual policy improvement recommendations that are strongly considered.
6. Additionally look at the number of incentives/concessions allowed under enhanced bonus density. While we did not cover this detail in this paper, it is notable that some jurisdictions, including San Diego, have also used additional zoning concessions at the top end of the inclusionary percentage scale to further make projects with high affordability possible.
7. In jurisdictions where significant projects have been approved but not built, create a straightforward process for and specifically encourage those projects to make the necessary adjustments to their plan to take advantage of enhanced bonus density in order to improve their feasibility and likelihood of implementation.

We would welcome the opportunity to work with any jurisdiction in the region on applying these recommendations. If we can provide further information or be helpful, please contact Matt Huerta at mhuerta@mbep.biz or Sibley Simon at sibley@envisionhousing.us.

Potential Outcomes

Widespread implementation of these policies in the Monterey Bay region, with careful calibration for efficacy, can play a major role in improving the housing crisis that we face. Based on our research for MBEP's previous white paper (*What Realistic Policy Changes Could Improve Housing Affordability in the Monterey Bay Region?,* available on the MBEP website), we estimate that effective bonus density ordinances like those already employed elsewhere in CA could reduce the cost of housing production by $50,000-100,000 per unit in many cases. This can be achieved because once bonus density works well in a given context, then projects using it are made more economical by:

a) Allowing more units to share the fixed costs of a given project;
b) Reducing the parking requirements to those in current bonus density law;

c) Using the current bonus density law's concession/incentive structure to specifically employ the variances that improve financial feasibility.

Bonuses specific to smaller rental units would produce even less expensive units by dividing projects up into a larger number of smaller units.

By increasing the total number of units per project, and increasing the amount of affordable housing for lower income levels in projects, these policies can move the region closer to meeting its established regional Housing Needs Assessment (RHNA) goals (12,624 units region wide during this 9-year cycle, with the goal of 7,320 of those for moderate and lower income levels). While no single policy is enough to meet our housing needs, we estimate that complete adoption of these policies within the region could boost our total housing production by at least 15%, increase production of housing within subsidized, all-affordable projects by up to 20%, and increase our inclusionary affordable housing production by at least 20%. Further, given that the policy may also make new projects feasible that were not previously, the impact could be much greater than these estimates to an unknown extent.

Addendum: Bonus Density Tables

The following tables show in more detail how much bonus density is granted for given income levels and percentages of base units restricted as affordable housing under current CA state minimum requirements for local jurisdiction ordinances, under San Diego's enhanced bonus density ordinance, and under Santa Cruz County's enhanced bonus density ordinance.

	Minimum % Bonus Units Jurisdictions Must Allow Under CA State Law		
% of Base Units Restricted	**If Restricted Units are for Very Low Income (VLI)**	**If Restricted Units are for Low Income (LI)**	**If Restricted Units are for Moderate Income (MI)**
5	20%		
6	22.5%		
7	25%		
8	27.5%		
9	30%		
10	32.5%	20%	5%
11	35%	21.5%	6%
12		23%	7%
13		24.5%	8%
14		26%	9%
15		27.5%	10%
16		29%	11%
17		30.5%	12%
18		32%	13%
19		33.5%	14%
20		35%	15%
21			16%
22			17%

23			18%
24			19%
25			20%
26			21%
27			22%
28			23%
29			24%
30			25%
31			26%
32			27%
33			28%
34			29%
35			30%
36			31%
37			32%
38			33%
39			34%
40			35%

	San Diego Enhanced Bonus Density		
% of Base Units Restricted	**If Restricted Units are for Very Low Income (VLI)**	**If Restricted Units are for Low Income (LI)**	**If Restricted Units are for Moderate Income (MI)**
12	38.75%		
13	42.5%		
14	46.25%		
15	50%		
21		38.75%	
22		42.5%	
23		46.25%	
24		50%	
30-33		additional concessions	
41			38.75%
42			42.5%
43			46.25%
44			50%

	Santa Cruz County Enhanced Bonus Density		
% of Base Units Restricted	If Restricted Units are for Very Low Income (VLI)	If Restricted Units are for Low Income (LI)	If Restricted Units are for Moderate Income FOR-SALE ONLY (MI)
12	37.5%		
13	40%		
14	42.5%		
15	45%		
16	47.5%		41%
17	50%		42%
18			43%
19			44%
20			45%
21		36.5%	46%
22		38%	47%
23		39.5%	48%
24		41%	49%
25		42.5%	50%
26		44%	
27		45.5%	
28		47%	
29		48.5%	
30		50%	