

DRAFT DEVELOPMENT BONUS PROGRAM URBAN CODE DISTRICT AND URBAN CORE MASTER PLAN

Memorandum

To: Joint Review Commission, City of Tempe/ASU
From: BAE through Ambika P. Adhikari, Principal Planner, Community Development
Date: January 8, 2020
Re: **DRAFT Urban Code District Voluntary Development Bonus Program**

This Memorandum (memo) provides an overview of the City of Tempe Voluntary Development Bonus Program (DBP) for Urban Code District (UCD), and Urban Core Master Plan (UCMP). Several municipalities in Arizona use voluntary DBPs to encourage the incorporation of community benefits such as sustainable development, affordable/workforce housing, and park space in developments. Under a DBP, cities provide developers the opportunity to earn additional project value in exchange for developer contributions that result in community benefits. If the value of the developer contributions is less than the additional value created by the bonus for the development, the developer is incentivized to voluntarily participate in the program.

The City of Tempe has engaged BAE Urban Economics (BAE) to evaluate and assist in the development of a voluntary DBP that incentivizes developers to provide onsite, and off-site public amenities or in-lieu funds towards community benefits.

This memo provides a draft of the structure of the DBP, requirements for participating in the program, the participation process, and the substance of an associated Transfer of Development Rights (TDR) program applicable only for Historic Preservation bonus. This program is being prepared concurrently with the adoption process of the Urban Code District (UCD) and Urban Core Master Plan (UCMP) efforts to encourage developer participation when UCD and UCMP are implemented.

1. Structure of the DBP Program

Tempe's DBP is a voluntary program available within the UCD that would allow developers to achieve additional building heights and densities in exchange for a defined set of community benefits (Bonus Elements), including affordable and workforce housing, sustainability elements, historic preservation assurance (when applicable), and/or outdoor public gathering space and connections. The program requires developers to provide at least one category of community benefits or connectivity onsite. Developers can then use an Affordable Housing In-

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Lieu Fee to make up any gap required to achieve the minimum designated points required to obtain a development bonus.

The DBP also provides reference for calculating recommended building heights and densities when developers apply for UCMP heights through a Planned Area Development (PAD) or Development Agreement process.

Program Approach

Success of the DBP depends on voluntary developer participation. To incentivize developers to participate, the program is structured to seek bonus element contributions equal only to approximately half the additional project value that a developer would earn from building to higher maximum heights and/or densities (Incremental Project Value)¹.

Developers are often willing to share parts of additional project value with investments in the development towards community benefits. However, they need incentives in the form of additional profits to undertake any processes or requirements outside the normal courses of business. Developers are unlikely to make ongoing commitments to affordable housing, historic preservation – or to a lesser extent, public gathering space and sustainability improvements – without realizing greater financial gains than under base zoning entitlements.

In its experience negotiating developer community benefits agreements and creating special assessment districts across the United States, BAE notes that developers are most likely to participate in programs where the developers can retain more than fifty percent of the Incremental Project Value after they provide public benefits. Thus, as a general guideline, the DBP uses the following calculation to determine the value of Bonus Elements that a developer would be willing to contribute in exchange for additional development rights:

Maximum cost of developer contribution = 0.5 x (Bonus Project Value minus Base Project Value), or

Maximum cost of developer contribution = 0.5 x (Incremental Project Value)

Although the City is not extracting 100 percent of the developer's Incremental Project Value, it is achieving total public benefits that outweigh the costs to provide the bonus elements. For example, sustainability elements in a development contribute to a healthier urban environment and better air quality; outdoor gathering spaces increase mobility and vibrancy and contribute to placemaking efforts; historic preservation provides for the ongoing conservation of local neighborhood and/or cultural character; and affordable housing provides residential opportunities to lower income residents, increases educational outcomes, and enhances economic development potential for the City. The City will enjoy a total high value

¹ Incremental Project Value equals the value of a project under bonus development less the value of the project under a base development scenario.

because of the tangible and intangible benefits to the community. All the public benefits included in the DBP are among the priorities of the City as envisioned in the City’s Strategic Priorities.

Bonus Tiers

The DBP offers two tiers of potential development bonus options: Tier 1 and Tier 2. Tiers of bonus development are achieved through the accumulation of Bonus Element Points (points). A developer may obtain a Tier 1 Bonus through the accumulation of minimum 60 points, while a Tier 2 Bonus is achieved through the accumulation of a minimum 100 points. As Table 1 shows, Tier 1 Bonus building heights represent about half of the allowable Tier 2 Bonus heights, and are only available in UCs 1 through 3. Because the City would like to encourage all developers to provide enough Bonus Elements to achieve Tier 2 bonus levels, points are weighted to promote Tier 2 Bonus participation. In addition, base and bonus development heights and densities are structured to minimize changes in construction types, which can have an adverse impact on profitability for developers.

Developers wishing to apply for the UCMP heights shown in Table 1 would first be required to comply with Tier 2 eligibility requirements as a prerequisite. Additional heights are contingent upon providing commensurate amount of public benefits provided by the developer and meeting all applicable UCMP design guidelines.

The UCMP heights are negotiated on a case-by-case basis.

Table 1: DBP Base and Bonus Development

Urban Code District	UCD Base	UCD Bonus- Tier 1 <i>requires 60 points</i>	UCD Bonus-Tier 2 <i>requires 100 points</i>	UCMP
UC-1	125 ft 65+ du/acre	140 ft 65+ du/acre	160 ft 65+ du/acre	250+ ft 65+ du/acre
UC-2	90 ft 65+ du/acre	110 ft 65+ du/acre	130 ft 65+ du/acre	130 ft 65+ du/acre
UC-3	90 ft up to 65 du/acre	110 ft up to 65 du/acre	130 ft 65+ du/acre	160-250+ ft 65+ du/acre
UC-4	70 ft up to 45 du/acre		90 ft up to 65 du/acre	130-250+ ft 65+ du/acre
UC-5	55 ft up to 25 du/acre		60 ft 25 to 45 du/acre	90 ft up to 65 du/acre
UC-6	40 ft up to 20 du/acre		45 ft up to 20 du/acre	none ft up to 25 du/acre
UCMP Only				250+ ft 65+ du/acre

Entitlement Review Benefits

The DBP provides more than just additional development potential. Projects participating in the DBP at the Tier 1 level will receive Administrative Review in UC-3 Zone. Developments in UC Zones 3-6 can also participate in Tier 2 through Administrative Review. All other

participation requires Council Review. The administrative review is for the calculations of heights and densities available according to the bonus points earned. All projects are required to go through a Development Plan Review (DPR) process to get approval for the design and site plan.

Even for the developments requiring Council Review, staff will recommend approval for those projects which meet the DBP and UCD requirements for heights and densities. This process is designed to provide certainty and predictability to the development community, and in most cases, reduce the need for Council project approvals and associated staff time.

2. Bonus Elements Menu and Points

The Bonus Elements menu provides flexibility to the development community in participating in the Bonus Program. A developer can participate in the DBP through the inclusion of one or more onsite Bonus Elements combined, if necessary, with an In-Lieu Fee payment. Points are assigned to each element to make participation easier for the developer who can choose the most suitable combination to earn bonus points for the development.

Table 2: Bonus Elements and Points by Zone

Bonus Elements and Points	Bonus Elements and Points by Zone							
	UC-1		UC-2		UC-3		UC-4	
	Public Benefit	Pts	Public Benefit	Pts	Public Benefit	Pts	Public Benefit	Pts
Affordable Housing, On-Site								
Up to 50% AMI	3%	100	3%	100	3%	100	3%	100
51% to 80% AMI	7%	100	7%	100	7%	100	7%	100
81% to 100% AMI	10%	100	10%	100	10%	100	10%	100
101% to 120% AMI	N/A	100	N/A	100	N/A	100	N/A	100
Housing In-Lieu Fee, Fee per Point	\$12,500	1	\$12,500	1	\$34,700	1	\$34,700	1
Public Outdoor Gathering Space All Zones provide the greater of 0.2 acres or 10% of lot coverage		10		10		18		18
Sustainability Elements, Points per \$250,000 in qualified expenditures		20		20		10		10

On-Site Affordable Housing

Providing on-site affordable housing units automatically results in the achievement of a Tier 2 Bonus level. Although the City's Housing Services Division will provide ongoing monitoring for affordable housing units, the inclusion of rent or deed-restricted units can be generally outside of a developer's normal course of operations. The City recognizes that providing affordable

and workforce housing on site should provide 100 points to the developer without the need for the inclusion of other Bonus Elements. Table 2 shows a menu of options to provide onsite affordable housing, with varying percentages of affordable housing units at different affordability levels. The bonus points have been calibrated to be roughly equivalent to the developer's foregone revenue amounts, with requirements for a larger percentage of units to be provided at higher affordability levels to obtain the same amount of bonus points. To comply with this option, a developer would choose one of the percentages of housing units provided and corresponding affordability levels shown in the table and provide those units onsite in the same size, mix, and configuration as the overall project. In other words, the units provided as affordable units will have the same number of average bedrooms as the average number of bedrooms in the development. For example, a residential developer in UC-3 would provide either 3 percent of Total Project Units to households earning 50 percent of Area Median Income (AMI)², or 7 percent units to households earning 80 percent of AMI to achieve 100 points, but not both.

Onsite affordable housing benefits are not available to commercial uses or office development. These uses are not appropriate for affordable units and therefore cannot provide this Bonus Element to accumulate DBP points. Commercial project uses can provide other onsite benefits to earn points, including making up gaps in points through Affordable Housing In-Lieu Fee payments.

On-Site Public Outdoor Gathering Space

Under the DBP, an applicant that dedicates the greater of 0.2 acres or 10 percent of its net site area to public outdoor gathering space is eligible to earn bonus element points for public gathering space. Each additional increment of the net site coverage is eligible to earn additional points. Points can be earned in multiples of the base rate, and *may* be scaled, depending on ultimate program design. For example, a project in UC-3 can earn 18 points by providing 10 percent of its site for public gathering space or 36 points by providing 20 percent of its site area.

Eligible public gathering spaces are based on definitions and development standards listed in the UCD. Selected standards for outdoor gathering spaces are provided below:

1. Incorporates a minimum of three of the following pedestrian scale features:
 - Lighted bollards
 - Movable tables and chairs
 - Benches or swings
 - Seat walls and / or raised landscape planters

² The AMI for the Phoenix-Mesa-Scottsdale MSA in 2019 is \$72,900 (for a family of 4) (<https://www.huduser.gov/portal/datasets/il/il2019/2019summary.odn>).

- Shade trees
 - Pots or hanging baskets filled with seasons plant material
 - Informal kiosks
 - Stage, amphitheater, or other performance space,
 - Sculptures, or other public art features
 - Water features
2. Integrates landscaping and/or structures to provide shading for the outdoor gathering spaces.
 3. Provides direct access to sidewalks and pedestrian walkways.

On-Site Sustainability Elements

Under the DBP, a developer will earn points for every \$250,000 in spending on qualified (from the list below) sustainability expenditures. Points for sustainability can be obtained in multiples of the minimum points awarded for each \$250,000 in qualified expenditures but cannot be gradually scaled.

The following elements qualify for inclusion in the sustainability bonus element.

A. Resilience to Extreme Heat

1. Provide shade coverage on at least 30% of the east and west above-grade walls and retaining walls from grade level to a height of 20 ft or the wall height. Shade coverage shall be calculated at 10 am for the east walls, and 3 pm for the west walls on summer solstice. Any vegetation providing shading shall consist of biodiverse plantings of native plans and adapted plants.
2. At least 50% of the site hardscape that is not covered by solar energy systems shall be shaded by biodiverse planting of native and adapted plants. The shade coverage on hardscape shall be the arithmetic mean of the shade coverage at 10 am, noon, and 3 pm on summer solstice.
3. A minimum of 75% of the roof shall be covered with any of the following products.
 - a. Roof coverage materials with a three-year aged SRI value of 35.
 - b. Vegetative terrace or roofing system that consist of plants that are suitable for the microclimate, and which provide foliage to at least 50% of the designated area for vegetation.

Note: Photovoltaic solar installation shall be excluded from the required roof area calculations.

4. Site development incorporates minimum 3 ft. deep window overhang(s) or similar architectural features to shade 75% of all west facing windows and 50% of all proposed glazed windows. The shade coverage shall be the arithmetic mean of the shade coverage at 10 am, noon, and 3 pm on summer solstice.
5. Provide on at least 50% of the site hardscaped area, permeable paving, structured soil/grass, open grid paving or similar material which allows for water to permeate the surface to promote natural drainage and filtration.
6. Site development incorporates functional rainwater harvesting that irrigates at least 75 percent of the total landscape area.

B. Greenhouse Gas Emissions Reduction

1. Ensure 80% of all parking spaces are EV charger ready (wiring) and with 10% of spaces with EV chargers installed.
2. Site development at grade and roof incorporates solar panels which cover 20 percent of the net site area, with a minimum size of 250 watts for each panel.
3. Allocate space and pathways for future installation of on-site renewable energy systems including solar panels and battery deployment.
4. Any other sustainability feature (s) from the International Green Construction Code (IgCC) 2018 or updated IgCC codes adopted by City of Tempe to enhance the sustainability of the development, to be reviewed and accepted by the Community Development Director or designee.
5. Achieve energy conservation levels that are at least 50% of the baseline energy consumption in the project, and get it certified by a third party.
6. Provide for on-site microgrid (local energy grid with control capability powered by distributed generators, batteries or renewable resources) investment for critical uses (30% of expected summer electrical load).

Affordable Housing In-Lieu Fee Payment

To achieve additional bonus points even after providing onsite community benefits, a developer may pay an affordable housing in-lieu fee to make up the difference to reach the Tier 1 or Tier 2 Bonus levels. In-lieu fee payment can only yield bonus points which have defined maximum limits. Developers can only earn a maximum of 42 points from in-lieu fees towards achieving a Tier 1 Bonus, or a maximum of 70 points towards achieving a Tier 2 Bonus. In-lieu fee amounts per point vary by UC zone, and are based on the preferential value given to the Tier 2 Bonus development. The amounts are paid on a per bonus point basis. For

example, if a developer needs thirty points to achieve the required total of 100 bonus points, that developer would pay 30 times the amount of the in-lieu fee per point for its associated UC zone. Table 2 shows the in-lieu fee amount for each bonus point by UC zone.

Historic Preservation

The DBP can also be accessed through historic preservation on properties that are Historic Eligible, Historic Registered, and National Registered properties. Because many of the parcels containing historic preservation properties do not have enough site space to accommodate additional development, the DBP provides developers an opportunity to earn development bonus points through a Transfer of Development Rights (TDR) program. To receive the TDR credits, the owner of historic property would need to provide the City with a perpetual historic and façade conservation easement, sign a Development Agreement with the City, and commit to one of the following three historic preservation treatments acceptable to the Historic Preservation Commission (HPC):

- **Preservation** focuses on the maintenance and repair of existing historic materials and retention of a property's form as it has evolved over time.
- **Rehabilitation** acknowledges the need to alter or add to a historic property to meet continuing or changing uses while retaining the property's historic character.
- **Restoration** depicts a property at a particular period of time in its history, while removing evidence of other periods.

Although the Secretary of Interior standards includes Reconstruction as a preservation treatment, Reconstruction of historic properties is not eligible to earn bonus points under the DBP.

Like on-site affordable housing, historic preservation alone automatically can result in a Tier 2 bonus level and does not require additional on- or off-site community benefits to enjoy the benefits of Tier 2 bonus.

The next section provides a description of Transfer of Development Rights process for historic preservation.

Transfer of Development Rights (TDR) Program

Tempe enjoys a rich multi-cultural heritage evident through its historic buildings, neighborhoods and structures. Less visible, but equally important, are the archaeological resources of Tempe's past. Protection and enhancement of Tempe's heritage is critical to preserving the unique identity of our community. The blending of the past with the present enriches our city and all of its citizens. However, the tools available for historic preservation are limited and the development of a regulatory structure that favors preservation is critical to protecting Tempe

past, both historic or prehistoric. The goal of the Transferable Development Rights (TDR) regulations is to allow for the preservation/protection of significant historic properties and archaeological sites while allowing for additional growth in the appropriate locations.

As part of the DBP, the City of Tempe is also creating a TDR program to promote voluntary historic preservation. TDR allows owners of historic eligible, local historic register, and national historic register properties to obtain Incremental Project Value in exchange for voluntarily committing to the preservation of Tempe's historic properties. The City can protect historic resources and establish a process and procedure by which a landowner can transfer the development rights of a certain property with historic structures or historic significance and apply the rights to another property that is eligible to receive additional development rights. Projects eligible to participate and that voluntarily participate in the DBP via Historic Preservation will receive bonus development rights in the form of TDR. TDR transfers with the sending property until sold to a receiving property, where the rights will reside once purchased.

Sending Properties

Properties that participate in the UCD and meet DBP Historic Preservation eligibility requirements (i.e., have structures that are listed on the National Register of Historic Places (NR), Tempe Historic Property Register (THPR), Tempe Historic Eligible (HE), and structures which are fifty (50) years or older and upon review are deemed eligible for the National Register of Historic Places) can become sending properties. In addition to opting into the UCD, the property owner must also undertake the following:

- Provide a permanent historic conservation easement on the property to the City
- Preserve the historic property to Historic Preservation Commission (HPC) standards
- Sign a Development Agreement with the City

Prior to exercising the rights of the TDR, the sending property must grant an historic conservation easement to the City and sign the Development Agreement. Once the TDR is approved, the development rights of the sending properties will be severed from the property.

Receiving Properties

Any property within UCs 1-5 that is eligible to receive a Bonus under the DBP — and has opted-in to the UCD and met the baseline requirements - is eligible to purchase and receive TDR, including the sending property if it is large enough to accommodate both the historic building and new development. A Receiving Property does not need to acquire Bonus Points to build to the development potential obtained through TDR. However, under no circumstances can a receiving property exceed its specific UCMP heights and densities. A receiving property must use the processes specified under the Development Bonus Program pursuant to its Zone to obtain additional bonus entitlements.

Procedure for Transfer

The procedure for the TDR shall be in accordance with the TDR ordinance which will describe how a sending and receiving properties will be required to document the transfer.

TDR Calculation

The TDR on a property will be calculated as follows:

1. Determine the existing height (at building eave, not apex), and floorplate of the existing building in the sending property to calculate existing volume (in cubic feet) of development.
2. Determine the development potential (cubic feet) in the sending property under the corresponding Tier 2 Bonus using the bonus height times the square footage of the sending site's maximum developable floorplate (i.e., site size less any required set backs, open space, etc.).
3. Subtract the development potential cubic feet from the existing building cubic feet. This is the amount of TDR available to be sent to a receiving property.

The calculation established above can be summarized in through the following formula:

Cubic Feet of Bonus Development Potential (sending site max floorplate Sq. Ft. x Tier 2 bonus height)	-	Existing Building Cubic Feet (existing floorplate Sq. Ft. x existing building height at roof eave)	=	Total permitted development transfer in cubic feet
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An ordinance will be developed for TDR, that will include the elements discussed above.

3. Examples of Achieving Bonus Points

This section provides some examples of how a developer could voluntarily participate in the DBP to achieve Tier 2 and Tier 1 Bonus levels.

Tier 2 Bonus: UC-3 Multifamily

Assume a Development Bonus Potential on a Site: A maximum of 130 ft and 65+ du/acre (100 points required)

Example parcel: 5 acres

- Base Development: 317,260 Square Feet, or 325 units
- Bonus Development: 383,500 Square Feet
- Bonus Increment: 66,240 Square Feet, or 100 units
- Potential Value Capture: \$2.9 million

Path to Tier 2 Bonus

- Provide 20% of net lot area as outdoor public gathering space (36 points)
- Provide \$1 million in qualified sustainability expenditures (40 points)
- Total onsite element points: 76
- Total Bonus Points Required: 100
- Gap: 24 points obtained through in-lieu fee payment of \$34,700 per bonus point.

Table 3: Tier 2 Bonus, UC-3 Multifamily

	UC-3 Multifamily		Points
	Base	Tier 2 Bonus	
Parcel Size (acres)	5.0	5.0	
Project Size (sf)	317,260	383,501	
Profits	\$7,364,349	\$13,193,200	
Potential Value Capture		\$2,914,425	
Required Points		100	
Open Space		\$871,200	36
<u>Sustainability Element Expenditures</u>		<u>\$1,000,000</u>	<u>40</u>
<i>Subtotal</i>		<i>\$1,871,200</i>	76
<u>Gap Required Through Affordable Housing In-Lieu</u>		<u>\$832,800</u>	<u>24</u>
Total		\$2,704,000	100

Source: BAE; 2019.

Tier 1: UC-1 Commercial Office

Assume a Development Bonus Potential on a Site: 140 ft (60 points required)

Example parcel: 1.5 acres

- Base Development: 170,000 Square Feet
- Bonus Development: 200,000 Square Feet
- Bonus Increment: 30,000 Square Feet
- Potential Value Capture: \$527,000

Path to Tier 1 Bonus

- Provide \$500,000 in qualified sustainability expenditures (56 points)
- Total onsite element points: 56
- Amount Required: 60
- Gap: 4 points obtained through in-lieu fee payment of \$12,500 per bonus point.

Table 4: Tier 1 Bonus, UC-1 Commercial Office

	UC-1 Commercial		Points
	Base	Tier 1 Bonus	
Parcel Size (acres)	1.5	1.5	
Project Size (sf)	160,000	190,000	
Profits	\$3,569,374	\$5,326,185	
Potential Value Capture		\$878,405	
Value Capture @ 60%		\$527,043	
Open Space		\$0	0
<u>Sustainability Element Expenditures</u>		<u>\$500,000</u>	<u>56</u>
<i>Subtotal</i>		<i>\$500,000</i>	<i>56</i>
Gap Required Through Affordable Housing In-Lieu		<u>\$50,000</u>	4
Total		\$550,000	60

Source: BAE; 2019.

Tier 2: UC-2 Historic Preservation through TDR

Development Bonus Potential: 140 ft

Existing Building

- Height: 30 Feet
- Floorplate: 4,500 Square Feet
- Total Existing Volume: 135,000 Cubic Feet (cft)

Bonus Development Potential

- Height: 130 Feet
- Floorplate: 4,500 Square Feet
- Total Bonus Volume: 585,000 Cubic Feet (cft)

TDR

- Height: 100 Feet (130'-30'), if the floor plate at the sending and receiving properties are the same
- Volume: 450,000 Cubic Feet (585,000 cft – 135,000 cft)
 - 30,000 Square Feet at an average 15 ft ceiling height
 - 37,500 Square Feet at an average 12 ft ceiling height

Table on the next page shows Pathways to Achieve Bonus Heights and Densities.

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Pathways to Achieve Bonus Heights and Densities

Bonus Achieved/Bonus Elements	UCD Base Height and Density	UCD Base Height and Density + Bonus Height and Density (Tier 1)	UCD Base Height and Density + Bonus Height and Density (Tier 2+)	UCMP Heights and Densities	Remarks
Affordable/Workforce Housing	By opting in and meeting base UCD requirements	Unavailable. Participation results in Tier 2 bonus.	Onsite Affordable Housing achieves Tier 2 Bonus	Opt-in to the available UCD, provide bonus, and meet all applicable design guidelines. Apply for UCMP heights through a PAD or Development Agreement process.	Tier 2 bonus provided for onsite units available without Council Review.
Sustainability	By opting in and meeting base UCD requirements for sustainability	Meet IgCC-related base requirements, spend at least \$250K on qualified expenditures (or multiples of \$250K), and provide some other combination of bonus elements as needed to achieve 60 points	Meet Tier 1 requirements, provide additional combination of bonus elements to achieve 100 points, and apply for maximum heights through Development Agreement Process	Opt-in to the available UCD, provide bonus, and meet all applicable design guidelines. Apply for UCMP heights through a PAD or Development Agreement process.	
Public Gathering Space	By opting in and meeting base UCD requirements for public space	Provide minimum amount of onsite public space beyond base requirements and provide some other combination of bonus elements to achieve 60 points	Meet Tier 1 requirements, provide additional combination of bonus elements to achieve 100 points, and apply for maximum heights through Development Agreement Process	Opt-in to the available UCD, provide bonus, and meet all applicable design guidelines. Apply for UCMP heights through a PAD or Development Agreement process.	
Historic Preservation	By opting in and meeting base UCD requirements for HP	Unavailable. Participation results in Tier 2 bonus.	Opt into UCD, go through Historic Preservation Review and Development Agreement, provide historic/façade easement. Obtain TDR equal to Tier 2 bonus height times floorplate (sq. ft.) less existing building.	Receiving properties can use TDR to achieve UCMP heights if it also opts-in to the available UCD and meets all applicable design guidelines.	Purchasers/Users of TDR cannot exceed maximum heights or densities within each UCD.

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