

Section IV (I) Density Bonuses.

A. Purpose, Applicability, and Incentives.

- (1) Purpose. Pursuant to §268-b of the New York State Town Law, the Town of Ancram hereby establishes a program to encourage the preservation of open space, to promote environmentally sustainable development, to enhance public access for recreation, and to promote development of affordable housing by providing incentive(s) to applicants seeking approval of a subdivision, special use permit, or site plan. The Planning Board may grant zoning incentives that are in compliance with the Town of Ancram Comprehensive Plan and with the provisions of this section.
- (2) Applicability.
 - (a) The incentives set forth herein shall be applicable to all permitted uses in all zoning districts in the Town for which an application for a subdivision, special use permit, or site plan approval has been submitted to the Town of Ancram Planning Board pursuant to this ordinance.
 - (b) Where an application seeks more than one type of approval, the project shall be considered in its entirety and incentives shall not be granted separately for more than one approval.
 - (c) Incentives shall be granted only when the community benefits or amenities offered would not otherwise be required or likely to result from the applicable planning process before the Planning Board.
 - (d) Incentives shall not be granted where the community benefits or amenities offered are already required under other provisions of this zoning ordinance or other Town of Ancram Law or State law, including any mitigation measures required pursuant to the State Environmental Quality Review Act.
- (3) Incentives. Notwithstanding any contrary provision of Town or State law or this ordinance that limits or restricts the maximum unit density of a proposed project or subdivision, an applicant may apply for an incentive adjustment to the total unit density pursuant to the Density Control Schedule of this Ordinance in exchange for the following benefits. In no case shall the total approved incentives exceed a 20% aggregate increase to the total unit density for the proposed project.
 - (a) Permanent Conservation of Natural Areas or Open Spaces. A bonus may be granted for the permanent preservation of open space lands when a subdivision is designed to preserve greater than 60% of the parcel as open space pursuant to Section V(I) of this ordinance. Up to a ten percent (10%) increase to the maximum unit density for the zoning district may be approved.
 - (b) Public Access or Recreational Uses. A bonus may be granted for the

creation of public recreational lands or facilities open to the public including but not limited to public access to streams, access to old railroad beds, access to other open space lands, the provision of fishing rights, or provision of trails and trail linkages. Up to a ten percent (10%) increase to the maximum unit density for the zoning district may be approved.

- (c) Affordable Housing. For the provision of houses or lots as residential units dedicated for use only by qualified Ancram residents who meet criteria and procedures as established by the Town Board for needing affordable housing, a density bonus of up to a twenty percent (20%) increase to the total unit density as allowed pursuant to the Density Control Schedule for the zoning district may be approved as follows:
- (1) When at least 15% of the total allowable units/lots in a proposed development are to be dedicated as affordable units/lots and provided on-site, up to a 20% bonus may be approved.
 - (2) When at least 15% of the total allowable units/lots in a proposed development are to be dedicated as affordable units/lots and are provided off-site, up to a 10% bonus may be approved.
- (d) Calculation of Density. To determine the total number of units or lots that may be approved:
- (1) Calculate the total number of units or lots that may be allowed in accordance with the Density Control Schedule of Section IV (B) (Area and Bulk Regulations).
 - (2) Use subsection A (3) to identify the maximum percentage of increase that may be approved for the benefit(s) being proposed. (The total of all incentives may not be more than a 20% increase).
 - (3) Multiply the number of units or lots determined from subsection (d)(1) by the total percent increase from subsection (d)(2). The total is rounded to the nearest whole number.
 - (4) Add the total bonus number of units or lots from subsection (d) 3) to the total number of units allowed by the Density Control Schedule (d)(1).

Reader Aid Box:

Example 1: if a developer is eligible for 25 lots in accordance with the Density Control Schedule and is awarded the maximum 20% bonus for providing benefit(s) in accordance with A(3), then they would receive 5 bonuses for a total of 30 units or lots. That is $25 \times 20\% = 5$ bonuses plus the original 25 = 30 total.

Example 2: When affordable housing is included in the density bonus request, and if a developer is eligible for 25 lots in accordance with the Density Control Schedule, 15% of those 25 units, or 4 units must be dedicated as affordable. Thus, 4 units would be affordable units and 21

would be regular units. If the 4 units were provided on-site, they would be eligible for up to 5 bonuses for a total of 30 units. If the 4 units were provided off-site, they would be eligible for up to 3 bonus units for a total of 28 units.

- (4) Where the plat falls within two or more contiguous districts, the Planning Board may approve an incentive development as follows:
 - (a) The total density allowed shall be calculated by summing the total number of residential lots allowed in all such districts together with the incentive density,
 - (b) The Planning Board may authorize actual construction to take place in all or any portion of one or more such districts.
- (5) Affordable units constructed on-site shall be compatible with the design or use of the remaining units in terms of appearance, materials, and finish quality. Affordable units off-site shall be compatible with the finished quality of on-site units and also compatible in appearance with the off-site neighborhood.
- (6) Procedures and Criteria for Approval of Incentives.
 - (a) Authorization of density incentives is subject to the approval by the Town Board prior to the grant of preliminary plat, special use, or site plan approval by the Planning Board. Applicants may seek non-binding input from the Planning Board prior to application to Town Board as to whether the proposal is worthy of consideration prior to the preliminary plat, special use, or site plan application. The Town Board, together with the Planning Board, may schedule a workshop to discuss the incentive application with the applicant. The intent of that workshop is to share information between the applicant, the boards and interested members of the public. The workshop will not supplant the formal hearing which will be conducted later in the review process.
 - (b) Methods to achieve community benefit. The Town Board shall approve, in its sole discretion, the method or combination of methods that shall be used to achieve the community benefit based on the unique characteristics of the application being reviewed and based on a recommendation of the Planning Board. Community benefits may be accomplished by:
 - (1) Use of permanent conservation easements.
 - (2) Donations of land in fee simple for conservation and other community benefit purposes.
 - (3) Construction of amenities, serving a Town-wide need, accessible to the general public, above and beyond that required to mitigate proposed

impacts in accordance with SEQRA and the Town law.

- (4) Construction or improvement to public works above and beyond that required to mitigate proposed impacts in accordance with SEQRA and the Town law.

- (5) The following methods could be used to provide affordable housing:

- (a) Construction of affordable housing on site;
- (b) Construction of affordable housing off site within the Town;
- (c) Rehabilitation of substandard housing to standard affordable housing;
- (d) Provision of affordable lots on site;
- (e) Provision of affordable lots off site; and
- (f) A combination of the above.

- (c) Applications for incentives in exchange for amenities shall be submitted to the Town Board. In order to preliminarily evaluate the adequacy of amenities to be accepted in exchange for the requested incentive, the following information shall be submitted by the applicant:

- (1) The requested incentive.

- (2) The proposed amenity.

- (3) The estimated cash value of the proposed amenity.

- (4) A narrative which describes the benefits to be provided to the community by the proposed amenity.

- (5) A site plan and narrative information showing all information required in Article V, Section 3 (A) of the Town of Ancram Subdivision Regulations (Major Subdivision Preliminary Plat and Accompanying Data). Further, the submittal shall contain a narrative which describes the method and adequacy of sewer, water, transportation, waste disposal and emergency service protection facilities in the zoning districts in which the proposal is located and a description on what additional demands the incentive and amenity, if it is an on-site amenity, may place on these facilities beyond the demand that would be placed on them as if the district were developed without the density bonus.

- (6) A narrative that explains how the amenity helps implement the physical, social or cultural policies of the Town of Ancram Comprehensive Plan.

- (d) The Town Board may engage an attorney, engineer, planning or other consultant to assist in review of the application, the cost of which will be borne

by the applicant. The Town shall establish an escrow account to fund such costs pursuant to Local Law #4 of 2004 (Reimbursement of Taxpayers for Fees and Expenses). If an escrow account has already been established for a particular application, such account may also be used to cover costs related to review of a density bonus request provided that additional funds shall be deposited in such account to cover costs related to the review of the bonus request above and beyond those needed for other site plan, special use, or subdivision reviews.

- (e) Compliance with SEQRA. All applicable requirements of the State Environmental Quality Review Act shall be complied with as part of the review and hearing process.
 - (1) Every decision by the Town Board concerning an application for use of incentive zoning on a particular project will fully comply with the provisions of SEQRA.
 - (2) The applicant will submit an Environmental Assessment Form, Part 1, to the Planning Board.
- (f) The Town Board shall, before taking action, refer the proposal for review and comment to the Planning Board (pursuant to Sub-section B of this section). The Town Board shall also refer the proposal to the Ancram Conservation Advisory Council, and may refer to other governmental agencies, and other boards and officials in the Town, for review and comment. The Planning Board shall review the proposal pursuant to the criteria of this section and advise the Town Board as to whether a zoning incentive should be approved, approved with conditions or disapproved.
- (g) The Town Board shall hold a public hearing, noticed in the official newspaper of the Town of Ancram. Within 45 days of the close of the public hearing and upon receipt of the advisory opinion from the Planning Board and completion of the SEQRA process, the Town Board may approve, approve with modifications or conditions, or deny the proposed incentive zoning application. A written statement of the findings will be prepared by the Town Board documenting the basis of its decision. The findings will include, but not be limited, to the following:
 - (1) That the proposed density adjustments would not have a significant adverse impact on the property, or to adjoining property, or to the neighborhood in which the property is situated.
 - (2) That proper easements, surety or performance guarantees, if necessary, between the applicant and the Town is or will be in existence as of the date the final plat map is signed by the Chairman of the Planning Board.

- (3) That the necessary water and septic requirements can be met with the proposed density adjustments.
 - (4) That the proposed amenity provides sufficient public benefit to provide the requested incentive.
 - (5) SEQRA. That all requirements of SEQRA have been met, including the required findings under that law.
 - (6) Development capacity. That the proposed project, including the incentive, can be adequately supported by the public facilities available or provided as a result of the project, including but not limited to sewer, water, transportation, waste disposal and fire protection, without reducing the availability of such facilities for projects permitted as of right under the Town of Ancram Zoning Ordinance.
 - (7) Public benefit. That the public benefit realized by the amenity provided by the applicant is commensurate with the incentive granted by the Town Board.
 - (8) Project quality. That the project is in harmony with the purpose and intent of this ordinance, and with the stated objectives and will promote the purposes herein, that the project is sufficiently advantageous to render it appropriate for grant of an incentive and that the project will add to the long-term assets of the Town of Ancram.
 - (9) Comprehensive Plan. That the use of an incentive for the particular project is consistent with the Comprehensive Plan.
- (h) The Planning Board may recommend, and the Town Board impose, conditions on a project to ensure that the above findings are ensured through the subsequent plan review and construction phases of the project.
 - (i) In no circumstances shall the Town Board be compelled to approve any amenity/incentive proposal and it may deny any such proposal.
 - (j) Upon approval by the Town Board, the Planning Board is authorized to act on the application for preliminary and final approval pursuant to the Subdivision Regulations, Special Use Permit Regulations and/or Site Plan Review pursuant to this ordinance.
 - (k) Certificates of occupancy shall be issued for market rate dwellings in the development only when the required percentage of affordable dwellings or lots have been created, constructed, acquired, or provided for to the satisfaction of the Town of Ancram Town Board.

- (l) Notes shall be placed on any site plan or final subdivision plan reciting the affordable housing obligations of the application in conjunction with the plan. If affordable lots or units are on-site, the final plan shall include the recording of notes indicating which lots or sites are to be set aside for the construction of affordable housing. The Town Board shall also require the imposition of deed restrictions ensuring that future use of the lot or units whether on-site or off-site are limited to the construction and use as affordable housing.

B. Referral Process.

- (1) Within thirty (30) days of receipt of the application for the incentive, the Town Board shall refer the application to the Planning Board and Conservation Advisory Council for comment. The Planning Board's referral to the Town Board shall include a report with the following information:
 - (a) An evaluation of how the incentive would benefit the site and how increased density relates to adjacent uses and structures. The Planning Board shall assess whether such benefits would not otherwise result as provided in the provisions of the Town's laws. (This evaluation is not intended to serve as a site plan or subdivision review, which would otherwise occur after a final decision of the Planning Board on the incentive application.)
 - (b) A SEQRA determination as to whether the proposal will have a significant impact on the environment.
 - (c) An assessment that there are adequate resources, sewer, water, transportation, waste disposal, and emergency service facilities to serve the proposed incentive development and that such development will not substantially and deleteriously impact upon the development prerogatives of neighboring lands pursuant to local law.
- (1) The Planning Board and CAC shall review the application and report and, within sixty-two (62) (62) days of their receipt, transmit advisory comments and any suggested modifications to the Town Board for its consideration.
- (2) If after receiving the advisory comments from the Planning Board and CAC on the application, the Town Board decides to further consider the application for incentives, a public hearing shall be held. The public hearing related to the incentive application may be combined with any public hearing the Town Board holds pursuant to SEQRA or any other state or local law. At least five days notice (fourteen (14) days if a draft environmental impact statement or supplemental environmental impact statement is required) of the time and place of a hearing will be published in an official newspaper of the Village.