



Council Agenda Correspondence

DATE: March 21, 2023

TO: City Council

FROM: Michael Codron, Community Development Director

VIA: Kyle Bell, Housing Coordinator

SUBJECT: ITEM 7A – DOWNTOWN FLEXIBLE DENSITY PROGRAM (CODE-0017-2023) – AGENDA CORRESPONDENCE MEMO 2

DISCUSSION

The following memorandum provides City staff responses to comments received from a Council member regarding the Downtown Flexible Density Program. Staff determined it would be helpful to provide this memo to all Council Members and the public, as the responses offer clarification regarding the proposed program.

1. **Residential Capacity.** *“On page 261 of the staff report, it explains that the Flexible Density program modifies the allocation of residential capacity from du/acre to FAR allowances of individual property as the threshold for the maximum number of qualifying units. But, Table 3 only gives an example based on FAR, so it’s not clear to me what the previous” way of calculating units would yield, in terms of allowable units. Can you clarify how this change works?”*

Response: Table 1 (Residential Capacity Under Existing Density Standards) in the Council Agenda Report for the Downtown Flexible Density Program identifies the yield under the current density allowances for an example property within the Downtown Core. Under the example property, the maximum yield was identified as 16 units, which is also reflected in Table 3.

Table 1 – Residential Capacity Under Existing Density Standards					
C-D or C-R zone	Lot Area (sf*)	Acres	Density Allowance	Available Density	Maximum Number of Units Less than 600 sf
Example Property	10,000	0.23	36 du/acre	8.26**	16

*sf = square feet

**Density allocations round only to the nearest hundredth.

Table 3 - Residential Capacity Under the Downtown Flexible Density Program					
C-D or C-R zone: Example Property	Lot Area (sf*)	3.0 FAR (sf)	Ground Floor Commercial (sf)	Remaining Building Area (sf)	Maximum Number of Units w/ Average size of 550 sf
Existing Standards	10,000	30,000	10,000	20,000	16 units
Proposed Change	10,000	30,000	10,000	20,000	36 units**

* sf = square feet

** This example is intended to provide a simplification of the residential capacity of a property under the proposed Program and is not intended to represent the actual number of units that could be built on a property, which may be more limited due to Building Code Standards such as life safety and access requirements.

2. ***Inclusionary Housing Exemption.*** “Could you explain perhaps with an example, how this program is inconsistent with IHO, and why you wouldn’t recommend layering them on top of each other? This was discussed at both the Planning Commission, and we have gotten questions about it.”

Response: Qualifying flexible density units under the Program are not inconsistent with the IHO but rather exempt in order to provide an incentive, consistent with direction provided by the City Council when the Inclusionary Housing Ordinance was updated on August 16, 2022. As part of the update, Council eliminated Table 2A (Inclusionary Housing Adjustment Factors) and advised staff to explore other options for incentivizing housing production of smaller units. The Downtown Flexible Density Program is intended to accomplish this by allowing more residential density comprised of smaller units, without increasing affordable housing requirements for those smaller units. However, exempting smaller units would not exempt the entire project from the Inclusionary Housing Ordinance. Inclusionary Housing Requirements would remain in effect for all other components of a project utilizing flexible density, including the commercial linkage fee for retail floor area, and the in-lieu fee for the residential units that are larger than 600 square feet.

3. ***Parking Requirements.*** “On page 262, there is mention of the parking requirements in both C-D and C-R Zones. Am I understanding correctly that all units built under this program will be subject to the lower parking requirements of the C-D Zone, no matter which zone they are in? (1 space for every two units, plus 1 guest space for every 10 units) What would be the impact of reducing this further to, say, 1 space per 3 units? This was suggested in some of the public feedback during the outreach sessions.”

Response: It is correct that qualifying units under the program would be subject to the same parking rate of one space for every two, and one guest space for every 10 units, regardless of zone. The reason the report states that there is no change to parking requirement in the C-D zone is due to the fact that the existing Zoning Regulations already provide for one half that required in the Table 3-4 (Parking

Requirements by Use) for all residential uses in the C-D zone, see Section 17.72.040.D (Minimum Number of Spaces Required in Downtown Core)¹.

As described in the Council Agenda Report on page 263, under the section titled ‘Planning Commission Recommendation (Reduced Parking Requirements)’, there are challenges related to further decreasing the parking requirements for qualifying units under the program, specifically regarding the potential fiscal impact associated with properties subject to the Parking In-Lieu Fee District². Staff does not advise any additional reductions to parking requirements within the In-Lieu Fee program until a more detailed and comprehensive evaluation of the in-lieu program is completed. However, projects would still be able to apply for parking reductions to reduce the amount of parking on-site³, subject to evidence provided through a Parking Demand Study or a Vehicle Trip Reduction Plan.

4. **Vacation Rentals.** *“On page 263, it mentions that “Vacations rentals would continue to be prohibited under the Downtown Flexible Density Program, however, owner-occupied condominiums created through this program may be eligible for the Homestay program on a case-by-case basis, subject to discretionary review.” How do you see this as possible and can this be prevented by adding language to do so?”*

Response: As proposed, the Downtown Flexible Density Program allows for ownership units to be created; however, it is expected that the vast majority of units will be rentals due to the size of these units. Rental units are not eligible for the Homestay Program. In the event that a condominium project is approved in association with the flexible density program, a homestay application may be permitted under the existing Zoning Regulations where the owner of the unit is the primary occupant.⁴

¹ **Zoning Regulations Section 17.72.040.D. Minimum Number of Spaces Required in Downtown Core.** Within the downtown-commercial (C-D) zone, the following parking standards and incentives shall apply: ... (3) Residential uses, hotels and motels, and bed and breakfast inns: One-half that required in Table 3-4: Parking Requirements by Use.

² **MC Section 4.30.015. Parking In-Lieu Fee Area.** Properties located within the area enclosed by a bold solid line on the parking in-lieu fee area map may pay parking in-lieu fees as established by council, in lieu of providing required on-site parking spaces as outlined in Sections 17.16.060 and 17.42.020 of this code.

³ **MC Section 17.72.050.C. Other Parking Reductions.** Required parking for any use may be reduced by up to 10 percent through Director approval of a Director’s Action. Required parking may be reduced by more than 10 percent through Planning Commission approval. However, no reduction shall be made in addition to any reductions for shared parking permitted through subsection B (Shared Parking Reduction) of this Section, above.

⁴ **MC Section 17.86.160. Homestay Rentals.** ...The operator of the homestay shall annually provide verification of primary residence through the homeowner’s property tax exemption or other appropriate documentation.

5. ***Inclusionary Housing Requirements.*** “Can you give an example of how a project could have both be part of the Flexible Density Program but still be required to meet the IHO for commercial spaces or housing units larger than 600 sq ft?”

Response: In consideration of the example project site that was identified in the Council Agenda Report and as further described in Tables 1 and 3, staff has prepared an example scenario of a project under the flexible density program that would also be subject to the Inclusionary Housing Ordinance. In the example project, the base density allowance was identified as 8.26 density units, which could provide for eight two-bedroom units at 1,000 square feet each, for simplicity it can be assumed that the ground floor of 10,000 square feet would be dedicated to commercial uses, and all remaining area of the project could be provided for flexible density units. By using an average unit size of 500 square feet for simplicity, the example project could provide for 24 flexible density units, see Table A below for how this example project would be evaluated under the Inclusionary Housing Requirements;

Table A - Inclusionary Housing Requirements Example Project					
Example Project	Number of Units	Size of Units	Fee Ratio	In-lieu Fee	Inclusionary Requirement
Flexible Unit	24	500 sf*	N/A	\$ -	0
Standard Rental Unit	8	1,000 sf	\$20/sf	\$ 160,000	In-lieu fee or provide 1 Unit
Commercial Space	10,000 sf		\$5/sf	\$ 50,000	N/A
			Total:	\$ 210,000	1 Unit

* sf = square feet

Under the Inclusionary Housing Ordinance, a developer can choose to pay the in-lieu fee or provide the required inclusionary unit within the project. The commercial linkage fee is not an in-lieu fee and must be paid upon building permit issuance.

6. ***500-Unit Limit.*** “There was concern in some of the public feedback received that because the number of units allowed in this program are so small, that a few developers would scoop up all the allowed units in a short period of time and monopolize the market. Is this possible and can it be prevented?”

Response: Staff intends to bring the program back to Council once half the units under the program are either entitled or permitted. The 500-unit limit was provided as a smart growth strategy to ensure that public services and associated infrastructure remain available for all uses throughout the Downtown Core. Any changes to the program that may increase the 500-unit limit would require additional environmental review to assess any impacts to public services or utilities.