



## Council Agenda Report

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Item 7a

**Department:** Community Development  
**Cost Center:** 4003  
**For Agenda of:** 3/21/2023  
**Placement:** Public Hearing  
**Estimated Time:** 90 Minutes

**FROM:** Michael Codron, Community Development Director  
**Prepared By:** Kyle Bell, Housing Coordinator and Ryan Tomlinson, Intern

**SUBJECT:** INTRODUCE AN ORDINANCE AMENDING TITLE 17 (ZONING REGULATIONS) OF THE MUNICIPAL CODE TO IMPLEMENT HOUSING ELEMENT PROGRAM 2.15 AND POLICY 6.6 TO PROVIDE A DOWNTOWN FLEXIBLE DENSITY PROGRAM

### RECOMMENDATION

Introduce an Ordinance entitled, "An Ordinance of the City Council of the City of San Luis Obispo, California, amending Title 17 (Zoning Regulations) of the Municipal Code to incorporate a Downtown Flexible Density Program for qualifying residential projects. Project is consistent with the previous Mitigated Negative Declaration for the 2018 Comprehensive Zoning Regulations Update (Downtown Flexible Density Program, CODE-0017-2023)" and adopt an Addendum to the previous environmental review determination.

### POLICY CONTEXT

The proposed Downtown Flexible Density Program is intended to implement the City's General Plan 6<sup>th</sup> Cycle [Housing Element](#) Program 2.15<sup>1</sup> and Policy 6.6<sup>2</sup>. The program is also intended to implement policy objectives under the [Land Use Element](#), [Downtown Concept Plan](#), [Access and Parking Management Plan](#), [Active Transportation Plan](#), and [Climate Action Plan \(CAP\) for Community Recovery](#). For more detailed information on the policy context of the Downtown Flexible Density Program see Attachment B (Policy Context Summary).

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<sup>1</sup> **Housing Element Program 2.15:** Evaluate a flexible density pilot program and initiate an update of the Zoning Regulations and Community Design Guidelines to incorporate flexible density development options in Downtown Core and portions of Upper Monterey and Mid-Higuera Special Focus Areas to support the production of 50 smaller residential units (150 to 600 square feet) per year during the planning period.

<sup>2</sup> **Housing Element Policy 6.6:** Consistent with the City's goal to stimulate higher density infill where appropriate in the Downtown, Upper Monterey, and Mid-Higuera Special Focus Areas, the City shall consider changes to the Zoning Regulations that would allow for flexible density standards that support the development of smaller apartments and efficiency units.

## REPORT-IN-BRIEF

Updating the City of San Luis Obispo's Zoning Regulations (Municipal Code Title 17) to accommodate flexible density is a significant effort tied directly to the City's Major City Goal for Housing and Homelessness ([2021-23 Major City Goal](#)). The concept of the flexible density program was specifically identified throughout the 2020 Housing Element Update as an opportunity to incentivize housing production within the City's urban core and support the production of smaller residential units (Program 2.15 & Policy 6.6). The main goals of the program are to help address the local housing demand by facilitating increased higher density residential infill development in the downtown area near employment centers, incentivizing smaller units, and diversifying the City's housing stock.

The Downtown Flexible Density Program offers housing developers more "flexibility" from standard density limitations, without imposing any increase to the scale or height of structures within the Downtown. To further promote the program, qualifying housing units constructed under the Program would be exempt from the City's Inclusionary Housing Requirements. In addition, reduced parking requirements are recommended for the area outside of the Downtown parking district boundaries, where parking requirements are already significantly reduced.

## DISCUSSION

### Background

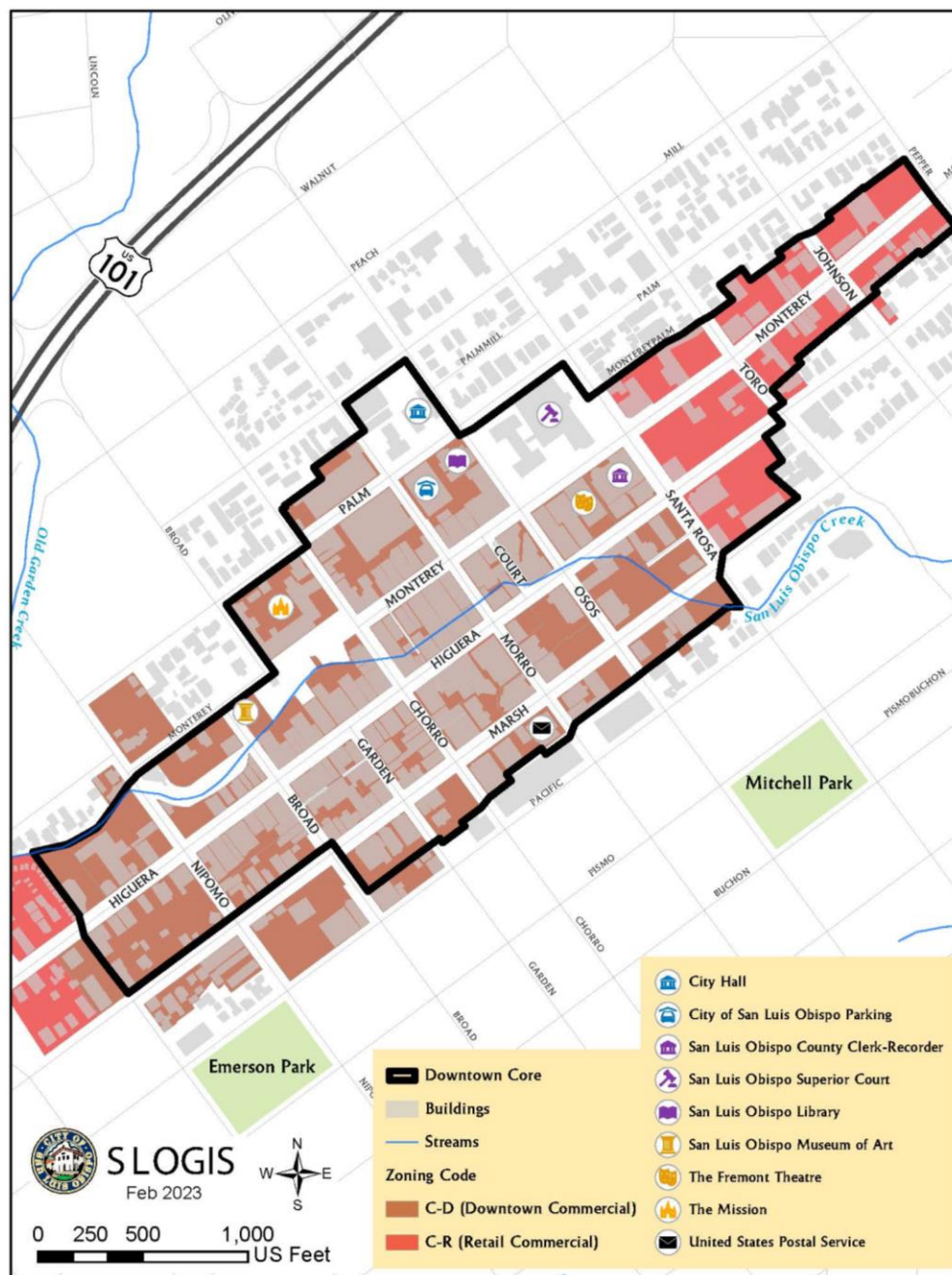
California is amid a housing crisis. Communities throughout the State are challenged with accommodating their fair share of housing production, many of which are exploring innovative solutions to that challenge. Housing is an essential element to a healthy downtown district. Providing for housing in the commercial core of a community generates a constant flow of foot traffic to support nearby retailers, services, restaurants, and other businesses. The concentrated mix of retail, office, and entertainment typical of a downtown locates residents within walking distance of most daily activities. The Downtown Flexible Density Program incorporates a higher density of residential uses that creates a more vibrant, desirable downtown economy without changing restrictions for building height and scale.

The concept of the alternative density thresholds for the City's Downtown was first envisioned through the 2014 Land Use Element (Program 2.15). In 2018, as part of the Comprehensive Update to the City's Zoning Regulations, the City's consultant working on the update (MIG Consultants) provided a White Paper detailing the concept of [Flexible Density](#). This concept was memorialized in the 2020 Housing Element Update as an opportunity to incentivize housing production within the City's urban core and support the production of smaller residential units (Program 2.15 & Policy 6.6). The flexible density program was also specifically identified under the [2021-23 Major City Goals](#) for Housing and Homelessness.

### Applicability

The General Plan Land Use Element Figure 4 (Downtown Planning Area and Core) establishes the boundaries of the Downtown Core and Planning Area. The Downtown Core includes three zoning designations, Downtown Commercial (C-D), Retail Commercial (C-R), and Public Facilities (PF). It should be noted that not all C-D zoned properties are located within the Downtown Core (as shown in Figure 1 below).

To qualify under the Downtown Flexible Density Program, a subject property will need to be located within the Downtown Core and within either the C-D or C-R zoning districts.



**Figure 1: Map of the Downtown Core Boundaries**

### Program Overview

The City's existing development standards calculate residential capacity through fractional density allocations. While Density Units (du) are measured based on the area of a lot per acre (du/ac), the size of a dwelling unit is also a factor in the density allocation<sup>3</sup>. Studio and one-bedroom dwellings less than 600 square feet are equal 0.50 du, while a 2-bedroom is equal to 1.0 du. Table 1 describes the residential capacity of an example property under existing density standards.

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.

As part of the Downtown Flexible Density Program, density standards are proposed to be reduced from 0.5 du to 0.0 du for qualifying dwelling units that are less than 600 square feet in size (limited to studio or one-bedroom configurations), within the Downtown Core. The limit to the number of qualifying units under the proposed program would be determined by existing development standards that establish the building area potential of a property which is commonly referred to as maximum Floor Area Ratios<sup>4</sup> (FAR).

Standards for building intensity for non-residential uses such as mixed-use, commercial, and industrial development are measured by FAR. FAR is the relationship between the total amount of usable floor area in a structure and the total area of the lot on which a structure is built. The higher the ratio, the greater intensity of development. In the case of mixed-use developments<sup>5</sup>, density standards are only applied to the residential component of a project, while FAR standards are applied to the entire structure or development on the property. Table 2 provides a summary of the applicable development standards for properties within the Downtown Core in addition to FAR limitations.

<sup>3</sup> **Municipal Code (MC) Section 17.70.040.A.1 – Density Calculation – General.** Density Units are calculated based on the net area of a property subject to thresholds established per zone... different size dwellings have density unit values as follows: (a) Studio and one-bedroom dwellings less than 600 square feet = 0.50 unit; (b) One-bedroom dwellings between 601 and 1,000 square feet = 0.66 unit; (c) Two-bedroom dwelling = 1.00 unit; (d) Three-bedroom dwelling = 1.50 units; (e) Dwelling with four or more bedrooms = 2.00 units.

<sup>4</sup> **MC Section 17.158.017. F Definitions. Floor Area Ratio (FAR)** The net floor area of a building or buildings on a lot divided by the lot area.

<sup>5</sup> **MC Section 17.156.028- Mixed-Use Development.** A development that combines both nonresidential and residential uses, where residential uses are typically located above or behind the commercial.

Table 2 – Existing Development Standards for the Downtown Core		
Development Standards	C-D Downtown Commercial	C-R Retail Commercial
Maximum Density	36 du/acre	
Minimum Street Yard	No street setback	
Minimum Other Yard	As provided in zone of adjacent lot, or Edge Conditions	
Maximum Building Height	50-75 feet <sup>6</sup>	45 feet
Maximum Floor Area Ratio	3.0 – 4.0 FAR; varies with building height <sup>7</sup>	3.0 FAR
Maximum Lot Coverage	100%	
Minimum Lot Area (sf*)	3,000	9,000
Minimum Required Parking	Half the requirement of Table 3-4 <sup>8</sup>	Table 3-4: Parking Requirements by Use

\*sf = square feet

The proposed Program would modify the allocation of residential capacity from du/acre to FAR allowances of an individual property as the threshold for the maximum number of qualifying units. Table 3 outlines the example property's residential capacity under the proposed Program for qualifying units with an average size of 550 square feet by using FAR (excluding building area reserved for ground floor commercial).

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.

<sup>6</sup> **MC Section 17.32.020. Table 2-18 (C-D Zone Development Standards). Maximum Building Height.** Maximum height may be increased up to 75 feet with the provision of defined community benefits, as set forth in Section 17.32.030.E (Maximum Building Height in C-D Zone).

<sup>7</sup> **MC Section 17.32.020. Table 2-18 (C-D Zone Development Standards). Floor Area Ratio.** 3.0 – maximum allowed for buildings up to 50 feet in height. 3.75 – maximum allowed for buildings approved greater than 50 feet in height. 4.0 – maximum allowed for approved buildings over 50 feet in height with transfer of development credits for open space protection or historic preservation. See also Section 17.70.060 (FAR Measurement and Exceptions)

<sup>8</sup> **MC Section 17.72.030.D – Minimum Number of Spaces Required in the Downtown Core.** 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.

As described by Housing Element Program 2.15, the proposed Program is intended to incentivize the construction of smaller housing units within the City's Downtown Core. Specifically, the proposed Program includes incentives to increase residential density, partially reduce parking requirements, and exempt applicability of the Inclusionary Housing Ordinance for qualifying units. The program also expands ground floor residential use prohibition and clarifies density bonus applicability. Importantly, the program does not modify the recently implemented streamlined development review process or modify any other site development standards that would affect building area. Finally, the proposed Program includes a sunset provision that is consistent with the 6<sup>th</sup> Cycle of the Housing Element. A summary of the key features of draft ordinance has been provided below for City Council's consideration.

Summary of Draft Ordinance Key Features:

- 1) *Density Incentive*. Reduce residential density standards from 0.5 du to 0.0 du for qualifying dwelling units that are less than 600 square feet in size (limited to studio or one-bedroom configurations), within the Downtown Core. Housing units larger than 600 square feet in size shall be subject to standard density requirements.
- 2) *Ground Floor Uses*. Prohibit residential dwellings on the ground floor for properties in the C-R zone within the Downtown Core to be consistent with existing development requirements in the C-D zone, to ensure the commercial character of the Downtown.
- 3) *Applicability to Downtown Core*. Establish the Downtown Core as the *initial* boundary for properties zoned C-D and C-R as eligible under the Program.
- 4) *Parking Requirement Incentive*. Reduced parking requirements in the C-R zoned portion of the Downtown Core for qualifying dwelling units to match the current C-D zone parking requirements (1 space for every two units, plus 1 guest space for every 10 units). This parking reduction in the C-R zone would be limited only to qualifying units. All other units larger than 600 square feet, and all commercial areas shall be subject to standard parking requirements in the C-R zone. No changes are proposed to parking requirements in the C-D zone. Residents within the Downtown Core are eligible to participate in the [Downtown Residential Overnight Parking Program](#).
- 5) *Inclusionary Housing Exemption Incentive*. Exempt qualifying dwelling units from Inclusionary Housing Requirements as an incentive for property owners and developers to increase the number of residential units within the Downtown Core under the Program. Standard Inclusionary Housing Requirements shall apply to units larger than 600 square feet, and all new commercial space.
- 6) *Density Bonus Projects*. Projects which include a request for a density bonus in accordance with Government Code Section 65915 (Density Bonus Law) are not eligible for the Downtown Flexible Density Program. Density Bonus Law provides developers with powerful tools to encourage the development of affordable housing. The Downtown Flexible Density Program is designed as an alternative option to promote housing production in the commercial core of the community. Developers may choose to pursue an application to address residential capacities through density bonus or flexible density, not both.



Density Bonus and the Downtown Flexible Density Program provide similar objectives for increasing residential capacity, however, they are not compatible with one another. Staff does not recommend combining the two programs as the provisions that are afforded under the Downtown Flexible Density Program would be inconsistent with the provisions under Density Bonus Law, specifically regarding the elimination of applying density thresholds for units of less than 600 square feet.

- 7) Program Duration. Program is set to expire on January 1, 2029, consistent with the 6<sup>th</sup> Cycle Housing Element, or until 500 qualifying units are entitled or permitted under this program, whichever occurs first. This duration allows a measured approach for the program that allows opportunity to evaluate success in advance of setting the next stage of long-range land use and housing strategies.
- 8) Development Review Process. No changes to the development review process are proposed.
- 9) Site Development Standards (i.e. FAR, Lot Coverage, Setbacks, and Height). Other than density thresholds and parking requirements in the C-R zone, no other changes to development standards are proposed as part of the Program.
- 10) Vacation Rentals. Vacation Rentals<sup>9</sup> have been prohibited in the City of SLO since 2007 ([Ordinance No. 1500](#)). In 2015, the City Council adopted the Homestay Rental Ordinance ([Ordinance No. 1611](#)), that allows an owner-occupied unit to rent out bedrooms for fewer than 30 consecutive days at a time, subject to the provisions under MC Section 17.86.160 ([Homestay Rentals](#)). 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. The City is in contract with Host Compliance Services to identify and contact illegal vacation rentals and homestays throughout the community.

### **Planning Commission Recommendation (Reduced Parking Requirements)**

On February 22, 2023, the Planning Commission (PC) reviewed the draft Downtown Flexible Density Program and unanimously recommended the City Council adopt the ordinance (Attachment D), with a recommendation for staff to explore options to reduce or remove parking requirements for qualifying units under the Program as a method to reduce housing costs (vote 4-0-2) ([2.22.23 PC Report](#) and [Meeting Minutes](#)).

Response: The Program as presented to the PC did not include any changes to existing parking requirements for the development of properties within the [Parking In-Lieu Fee District](#). However, staff is recommending that the parking requirements be reduced by half for qualifying units in the C-R zone, which is outside of the in-lieu fee district, for program consistency throughout the Downtown Core.

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<sup>9</sup> **MC Section 17.156.044 (V Definitions). Vacation Rentals.** A dwelling or part of a dwelling or recreational vehicle, where lodging is furnished for compensation for fewer than 30 consecutive days...

As discussed during the PC hearing, 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 District<sup>10</sup>.

Based on the complete build-out of the 500 residential units under the Program there is an estimated increase in parking demand of between 100 – 200 parking spaces (under existing parking requirements) within the Parking In-Lieu Fee District boundaries. If property owners chose to provide parking through the In-Lieu Fee District rather than providing parking on-site, this could generate approximately \$3.4 – \$6.9 million<sup>11</sup> in new revenues that would be dedicated for providing for the development or maintenance of parking facilities (e.g. Cultural Arts District Parking Structure). Removing or reducing parking requirements for properties within the In-Lieu Fee District would increase demand on the existing parking facilities and result in deficiencies of funding for new parking facilities and maintenance of existing facilities.

In consideration of the 2023 Access and Parking Management Plan Strategy 1.B.3 “*Evaluate the current parking in lieu fee program*” was identified as a strategy to provide further evaluation of the effectiveness of the In-Lieu Fee program and consider opportunities to allocate fees towards active transportation programs. 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 program is completed.

In response to PC’s direction, staff is not recommending any further parking reductions for the program at this time. This is due to the loss of revenue to the City’s Parking Fund that has occurred over the last several years from the effects of the pandemic, inflation, and rising construction costs. However, projects proposed within the Downtown Core can currently benefit from existing regulations that allow for discretionary parking reductions in accordance with MC Section 17.72.050.C (Other Parking Reductions)<sup>12</sup>.

## PUBLIC ENGAGEMENT

According to the [Public Engagement and Noticing \(PEN\) manual](#), the process for the ordinance adoption would typically fall under inform/consult because the program is specifically identified in the Housing Element as a Policy and Program, and included as a work program item in the 2021-23 Financial Plan Housing & Homelessness Major City Goal.

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<sup>10</sup> **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.

<sup>11</sup> The \$3.4 - \$6.9 million revenue range was identified by projecting between 33-66% of the 500-unit build-out of the Program to occur within the Parking In-Lieu Fee District and that new developments would take advantage of paying the in-lieu fee rather than providing parking on-site.

<sup>12</sup> **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.



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However, the public engagement approach for this program followed the consult/collaborate approach due to the sensitivity of downtown and interest in housing needs for the community. The engagement efforts are summarized below;

- a) Consultations were held with the Planning Division, Utilities Department, Transportation & Parking Divisions, for collaboration and coordination on the components of the Draft Ordinance.
- b) The Draft Ordinance was reviewed by the City's Fire Department, Utilities Department, Building Division, Engineering Division, Parking Division, and Transportation Division.
- c) The Program was posted on Open City Hall to provide a community forum discussion regarding increasing housing opportunities downtown. The survey has received 304 responses (58% in favor, 42% opposed). All public comments and recommendations from the survey are summarized in Attachment C.
- d) A news release was published on January 23, 2023. Interviews have been provided for: The Tribune, Cal Poly Mustang News, New Times, KSBY, and the Agenda Breakdown podcast.
- e) Four stakeholder group interviews were conducted with 14 different interest groups. All stakeholder comments and recommendations are summarized in Attachment C.
- f) A presentation was provided for the Downtown Association (February 14<sup>th</sup>), the Chamber of Commerce (February 16<sup>th</sup>), the Regional Housing Team (February 16<sup>th</sup>), and the Developer's Roundtable (March 1<sup>st</sup>) to introduce the concepts of the program and facilitate discussion.
- g) A public hearing was held by the Planning Commission (February 22<sup>nd</sup>) that received public input on the various components of the proposed program.

A more detailed overview of the public engagement efforts is provided in Attachment C (Public Engagement Summary), which includes a summary of the ideas and suggestions that came from public engagement efforts as they pertain to the scope of the proposed Program. Listed below are additional suggestions and ideas that are not considered to be within the scope of this Program, although, they are included in other staff work-programs.

- a) Expand down payment assistance programs throughout the City (BEGIN Program).
- b) Expand the DROP program and provide discounts for low-income residents (included in approved Access and Parking Management Plan).
- c) Provide a bike share program (Included in Active Transportation Plan).
- d) Identify options for rental protection beyond State programs (Tenant Protection Act).
- e) Consider expanding No Net Loss Housing Programs (Chapter 17.142) to further prevent displacement of existing households.
- f) Create a local-preference homebuyer program (Housing Element Policy 6.7).

Public notice of this hearing has been published in a widely circulated local newspaper, and hearing agendas for this meeting have been posted at City Hall, consistent with adopted notification procedures. Email notices have been provided for each public meeting to those on the interested parties list.

## **CONCURRENCE**

Staff comments from Public Works, Utilities, Transportation, Parking, Fire, and Building and Safety, have been incorporated into the draft Downtown Flexible Density Program.

It should be noted that all proposed residential projects must comply with all objective City policies, thresholds of significance, development standards, and design standards for all City departments as established in, but not limited to, the General Plan, City Standard Specifications and Engineering Standards, Building and Fire Code Requirements, Active Transportation Plan, Transportation Impact Study Guidelines, Climate Action Plan, Community Design Guidelines and the City's Municipal Code.

## **ENVIRONMENTAL REVIEW**

Pursuant to CEQA Guideline 15164, an addendum to the Initial Study / Negative Declaration for the Zoning Regulations Update (GENP-0327-2017) was prepared for the proposed Downtown Flexible Density Program (Attachment A, Exhibit A). The addendum concluded the following:

- i. Pursuant to Section 15162 of the State CEQA Guidelines, a subsequent environmental impact report is not required because:
  - a) The project changes do not result in new or more severe environmental impacts,
  - b) The circumstances under which the project is undertaken will not require major changes to the adopted Negative Declaration, and
  - c) The modified project does not require any new mitigation measures.
- ii. The proposed Downtown Flexible Density Program, including proposed amendments identified in this Addendum, would make revisions, additions, corrections and clarifications to various sections of the Zoning Regulations to ensure consistency and successful implementation of the Housing Element. The proposed Downtown Flexible Density Program and associated amendments to Municipal Code Title 17 are consistent with the scope of the previously approved Comprehensive Zoning Regulations Update.
- iii. The changes are consistent with State Law, the City of San Luis Obispo Climate Action Plan, and the City of San Luis Obispo General Plan.

**FISCAL IMPACT**

Budgeted: Yes

Budget Year: 2022-23

Funding Identified: Yes

<b>Funding Sources</b>	<b>Total Budget Available</b>	<b>Current Funding Request</b>	<b>Remaining Balance</b>	<b>Annual Ongoing Cost</b>
General Fund	\$N/A	\$	\$	\$
State				
Federal				
Fees				
Other:				
<b>Total</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>

The implementation of Housing Element Programs was adopted as a part of the 2021 - 2023 Financial Plan. No additional Funding was allocated for implementation of Housing Element Program 2.15. However, all staff time and contract environmental review costs in the amount of approximately \$60,000 required to develop the program are reimbursable through Senate Bill 2 (Building Homes and Job Act of 2017).

**ALTERNATIVES**

1. ***Continue the Project.*** An action continuing the project should include direction to the staff on pertinent issues that need further consideration.
2. ***Modify the Project.*** Council could amend the draft ordinance by adding, modifying, or removing incentives or features of the program. Staff does not recommend modifications to the 500-unit limit or expanding the program boundaries, as these changes may require further environmental review.
  - a. Change the project or program based on public input at the hearing. The Council should provide specific direction related to any changes requested by the public and agreed to by Council. Depending on the nature of changes, they can either be accommodated at the meeting or Council can continue the item to later date for further review.
3. ***Deny the Project.*** Council could direct staff not to pursue the Downtown Flexible Density Program.

**ATTACHMENTS**

- A - Draft Ordinance approving a Downtown Flexible Density Program
- B - Policy Context Summary
- C - Public Engagement Summary
- D - Planning Commission Resolution No. 1070-23