

MEMORANDUM

TO: Provo City Planning Commission
FROM: Bill Peperone
SUBJECT: Ordinance Text Amendment for For-Sale Housing
DATE: July 2, 2024

In the June 26 Planning Commission meeting, an Ordinance Text Amendment (OTA) was introduced that was intended to increase for-sale housing in the downtown areas. Based on the Planning Commission discussion and continued discussions within the staff, staff suggest the following options for ordinance text amendments.

OPTION 1: In the DT1, DT2 and ITOD zones, the minimum unit size is 500 square feet and the average square footage for all the units is 800 square feet. It has been common for developers to ask to reduce these standards. Therefore, one proposal would be to allow developers to deviate from these standards if 10% or 20% of the units were for-sale housing. Planning Commission and City Council discussion would determine the appropriate percentage for any OTA.

OPTION 2: Also, in the DT1, DT2 and ITOD zones there is a requirement for a minimum habitable floor depth along the street frontages of 30'. Again, it has not been unusual for developers to ask if this standard can be reduced. Staff suggests allowing for a reduction in this 30' standard if the appropriate percentage of housing is for-sale product.

OPTION3: The State has mandated six areas in Provo along the UVX bus route for Station Area Plans. These areas are required to be rezoned to allow for mixed-use development that includes high-density housing. Because this zone has not been written or applied to any location, the zone could be written to require 10% or 20% of the housing to be for sale. Because these zones have not been established on land, there is no expectation of property rights.

OPTION 4: Similarly, staff suggests that multi-family zone change requests outside of the downtown areas not be approved unless the developer is willing to proffer an acceptable percentage of the units as for-sale product. The percentage of for-sale housing could vary depending on the housing type, the housing density and the location.

OPTION 5: An Ordinance Text Amendment to apply to the DT1, DT2 and ITOD zones which would establish a density cap in these zones for the first time. To exceed the density cap, some percentage of for-sale housing would be required. Typically, apartment buildings in these zones exceed 80 units per acre and some exceed 100 units per acre.

14.21A.050 Lot Standards (staff has adjusted the percentages below to be consistent with the recommendations above but all percentages are to be determined as a legislative act)

- (1) Minimum Lot Area: 10,000 square feet
- (2) Housing density maximum: fifty (50) units per acre*
- (3) Minimum Lot Width: 65 feet
- (4) Minimum Lot Depth: 90 feet
- (5) Minimum Lot Frontage: 65 feet
- (6) Minimum Lot Coverage: No requirement

*Housing density may exceed 50 u/a with the following percentages of for sale housing:

50.1- 75 u/a	10%
75.1 and over	20%

Options 1 and 2 are truly discretionary for the developer. If a reduction in ordinance requirements is sought the city would receive a desired benefit. In both cases, developers have expressed a desire for relief from specific code requirements. Whether these requirements are onerous enough to provide for-sale housing has yet to be determined.

In Options 3, the requirement for for-sale housing could be written into the zone. The property owners will receive the benefit of increased property value when the land is zoned to facilitate the Station Area Plans. However, the purpose of the Station Area Plans is to locate high-density housing in proximity to mass transit stations. A requirement for for-sale housing within the zone may discourage redevelopment for additional housing.

In Option 4, because a rezoning is being requested, there is no expectation of property rights. When upzoning takes place the value of the property increases. It is appropriate for the city to enjoy some public benefit for upzoning land. If a developer is not willing to proffer a sufficient percentage of for-sale housing, then the zone change should not be approved. However, if the zone change request offers some other tangible benefit the city would receive, like work-force housing, then the zone change may be justified even without for-sale units.

Option 5 would introduce a density maximum in these zones for the first time. However, this option includes land that is already zoned and, therefore, has an expectation of property rights. Staff are concerned that a requirement that is too restrictive will discourage new projects or will encourage underutilization of the land. There are two redevelopment projects in downtown being considered by developers currently.

OPTION 6: This could be an expedited approval process for projects that include for-sale products. This would only be possible for projects that do not require a zone change. In Provo, project plans go before the Design Review Committee and the Planning Commission not by state law but by city ordinance. Projects that include an acceptable percentage of for-sale housing could be permitted to bypass these hearings and be approved by staff only. Because Provo's approval process for zoned land is already compact, staff is unsure if this is sufficient motivation to achieve additional for-sale housing.

OPTION 7: A reduction in impact fees could be offered if for-sale housing is included in a project. To pursue this option, an analysis would be necessary to determine to what degree a reduction would be needed to accomplish for-sale housing. This is the only option that has a direct budget impact for the city.

FINANCING: If a building is a mix of for-sale and for rent units, the entire building would have to be a condominium which means condo financing would be necessary. If the developer uses FHA financing, which the city would consider beneficial, 50% of the units must have been sold or under contract for sale to primary residence or second home purchasers. Additionally, there are restrictions regarding one individual, or group, from owning more than 20% of the building. This could be an insurmountable restriction on mixed for-sale and for-rent buildings.

CONCLUSION: Staff have strong trepidation regarding a code amendment either to existing zones or future zones that would require a percentage of for-sale housing. The primary fear is that such an amendment would thwart new projects. The downtown area has benefitted from more residents living in an urban, walkable environment. Downtown businesses and restaurants provide a significant contribution to the city's economy.

Of the options listed above, Options 1, 2, 4 and 6 have the least potential for unintended consequences. Options 1 and 2 are truly opt in choices that would be made by the developer. Option 4 would suggest that a developer offer some percentage of for-sale housing in exchange for the increase in property value that a zone change creates. Option 6 is also very much opt in by the developer but staff is unsure if this would be sufficient motivation to achieve additional



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for-sale housing. Staff have the least comfort with Options 3, 5 and 7 for the reasons stated in the text.

If the desire is for increased for-sale products, perhaps the question the city should be asking is what it would take to incentivize condominium buildings as opposed to apartment buildings. However, a condominium is no guarantee of owner occupancy, obviously. In fact, essentially every condominium is a combination of owners and renters.