

Provo City Planning Commission

Report of Action

July 10, 2024

Item 4 Development Services request Ordinance Text Amendments to the DT1 (General Downtown), DT2 (Downtown Core), and ITOD (Interim Transit Oriented Development) Zones in order to add housing density maximums. Citywide application. Aaron Ardmore (801) 8526404 aardmore@provo.org PLOTA20240162

The following action was taken by the Planning Commission on the above-described item at its regular meeting of July 10, 2024:

CONTINUED

On a vote of 5:0, the Planning Commission expressed support for encouraging for-sale housing in Provo, with the recommendation that a Technical Advisory Committee be formed to bring forward achievable alternatives to accomplish more for-sale housing in Provo.

Conditions of Approval:

Motion By: Melissa Kendall

Second By: Jonathan Hill

Votes in Favor of Motion:

Jeff Whitlock was present as Chair. Melissa Kendall, Jonathan Hill, Barbie DeSoto, Adam Shin, Jeff Whitlock

- The staff provided the Planning Commission with a memorandum that included seven options that may encourage more for-sale housing in Provo. The memorandum also included advantages and disadvantages for those options. Because of the complexity of this topic and potential for unintended consequences, staff suggested that a technical advisory committee be formed to include representatives from banking/finance, developers and homebuilders, state and local government representatives and citizens to bring forward thoughtful, realistic recommendations to encourage more for-sale housing.

RELATED ACTIONS

Formation of a Housing Technical Advisory Committee subject to City Council approval.

APPROVED/RECOMMENDED OCCUPANCY

Not applicable

APPROVED/RECOMMENDED PARKING

Not applicable

DEVELOPMENT AGREEMENT

Not applicable

TEXT AMENDMENT

The eventual outcome may be a text amendment. Option 5 of the memorandum is the only specific amendment currently proposed.

STAFF PRESENTATION

The memorandum to the Planning Commission provides options for the City Council to consider.

CITY DEPARTMENTAL ISSUES

- None identified at this point.
- Option 7, which is to encourage for-sale housing through the reduction of impact fees could have a significant impact on various departments.

NEIGHBORHOOD MEETING DATE

- City-wide application: all Neighborhood District Chairs received notification.

NEIGHBORHOOD AND PUBLIC COMMENT

- No Neighborhood District Chair was present.
- Matt Clewitt a representative of the Utah Central Association of Realtors, reiterated comments made in a letter sent to the Planning Commission. Matt emphasized the importance of creating incentives rather than mandates that may discourage development. Matt's letter is attached to this ROA.
- Leslie Jones, a realtor from Mapleton, supported options that were not hard mandates but rather ones that a developer, building would opt into, like Options 1, 2 and 6.
- Eileen Miller spoke on behalf of the Utah Valley Homebuilders Association in opposition to mandates.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Barbie DeSoto voiced the greatest hesitation with Option 5 and was more supportive of options that give developers and builders a choice. She wondered if the city's RDA could play a role in finding solutions.
- Jonathan Hill noted how much of the housing problem the city is facing is out of the city's control. He expressed the observation that historically home-ownership has been the middle-class's means to build wealth. He suggested the involvement of our local state legislators in this discussion and expressed support for an advisory committee.
- Jeff Whitlock suggested that an advisory committee should further refine the stated goal of increasing ownership to ensure it is achievable and that achieving the goal does not lead to undesirable consequences.
- All Planning Commission members expressed the need for more for-sale housing options in the city but that there was concern that if the city gets this wrong it could stifle new projects.

FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION

The Planning Commission identified the following findings as the basis of this decision or recommendation:

On a vote of 5:0, the Planning Commission continued the above noted application, with the recommendation that a Technical Advisory Committee be formed to bring forward achievable alternatives to encourage more for-sale housing in Provo.



Planning Commission Chair



Director of Development Services

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees to the Development Services Department, 445 W Center Street, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS



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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.

OPTION 3: 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



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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



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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.



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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 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.



July 3, 2024

Provo City Planning Commission and City Council
445 W Center St, Suite 400, Provo, Utah, 84601

To Whom It May Concern:

We appreciate the opportunity to engage with Provo City regarding the proposed ordinance aimed at increasing housing ownership within the DT1 zone. The proactive steps taken by Provo to address housing concerns reflect a commendable commitment to improving community stability and investment. However, we find this proposed ordinance to be problematic and believe that it will result in unintended consequences that will deter redevelopment and decrease the housing stock in Provo without making a meaningful impact on homeownership.

The National Association of Cities and the American Planning Association recently released a joint policy handbook entitled the *"Housing Supply Accelerator Playbook"* (QR code below) highlighting actions municipalities should take to resolve housing-related issues in their communities. In the playbook, the associations explicitly state the need for municipalities to refrain from imposing density caps in multi-family zones. We concur with the playbook's recommendation and believe that Provo's unique demographics would exasperate some of the consequences that may arise.

Provo's unique demographic challenge is highlighted by its status as having the highest student population in the state, with 43.3% of its 101,147 residents enrolled in undergraduate and graduate programs. This large student population significantly contributes to the high demand for rental housing. By mandating for-sale products in the most dense zones throughout the city, we predict that Provo may see a significant decrease in willingness on the part of developers to make the capital and time investment in Provo's future. This lack of willingness to develop within the DT1, DT2, and ITOD zones could lead to a slowdown in new housing developments and cause negative impacts on the local economy, contrary to the intention of the ordinance.

Furthermore, a density cap could undermine efforts to expand transit-oriented communities, which rely on higher density to support efficient public transportation systems and reduce reliance on cars. Limiting density may also restrict the diversity of housing types, such as multifamily or mixed-use developments, which are essential for meeting the diverse needs of residents,

particularly those requiring affordable housing options. The most significant point of contention with the ordinance, however, results from the failure of the proposed ordinance to provide the ownership incentives it seeks to provide. Instead of incentivizing ownership products, this draft will make it much more difficult to develop anything at all, with no additional benefit.

Due to these potential drawbacks, we recommend exploring incentive-based solutions. Implementing incentive-based zoning could offer bonuses such as increased height limits or reduced square footage requirements for developments that include a certain percentage of for-sale housing units. Providing impact fee reductions or expedited approval processes for for-sale products could encourage developers to include ownership units in their projects without the need for restrictive density limits. For example, reducing impact fees or granting additional building stories for developments that provide over a certain percentage of for-sale units can make these projects more financially attractive. These strategies not only support the creation of ownership units but also ensure a balanced approach to urban development that aligns with Provo's long-term vision.

On the following pages, you will find resources, statistics, concerns, and alternate solutions as you consider your options in addressing this challenge. Our coalition—comprising the Utah Central Association of Realtors® (UCAR), Utah Rental Housing Association (URHA), Utah Association of Realtors® (UAR), and Utah Valley Home Builders Association (UVHBA)—is eager and willing to work collaboratively with Provo City to assist in finding viable ways to encourage homeownership opportunities. We are committed to engaging in productive discussions and offering our expertise to help shape policies that support sustainable growth and address the housing needs of all Provo residents. We believe that through collaboration, we can develop innovative solutions that benefit the community, attract investment, and ensure the availability of diverse and affordable housing options.


Thank you for considering our perspective. We look forward to the opportunity to continue this important dialogue and contribute to the development of effective housing solutions for Provo.

Best regards,

Peter Christensen

Peter Christensen

CEO, Utah Central Association of Realtors®

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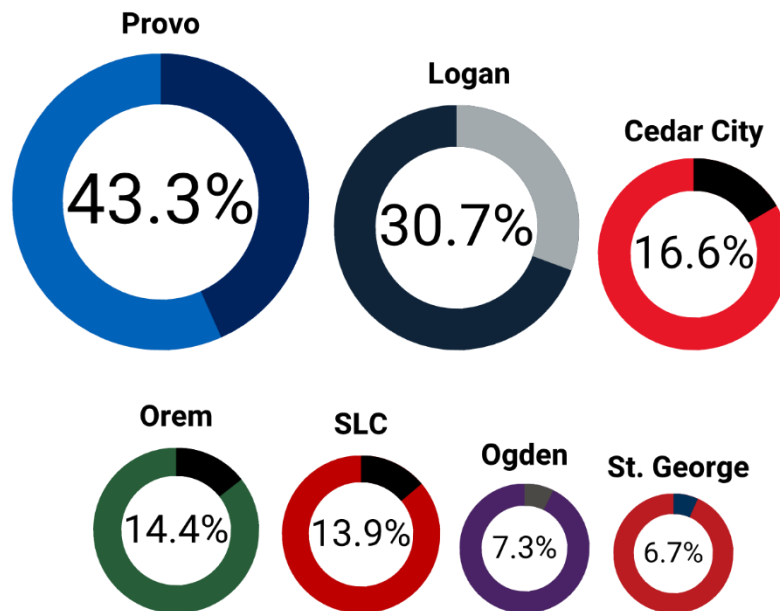
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Resources For Decision Makers

Housing Supply Accelerator Playbook



College Student Percent of City Population



U.S. Census Bureau. "Selected Social Characteristics in the United States." American Community Survey, ACS 5-Year Estimates Subject Tables, Table DP02, 2022

Potential Consequences of the Ordinance

Limited Housing Diversity

The ordinance may discourage the development of varied housing types, such as multifamily or mixed-use developments, which are essential for meeting the diverse needs of residents, particularly those requiring affordable housing options.



Reduced Developer Interest

Developers may be less inclined to invest in projects with stringent density caps, potentially leading to a slowdown in new housing developments and economic activity in the downtown area.



Challenges for Transit-Oriented Development

Limiting density may undermine efforts to develop transit-oriented communities, which rely on higher density to support public transportation systems and reduce reliance on cars.



Difficulty Meeting Future Housing Needs

As the population grows, the city may find it challenging to meet future housing needs within the confines of the density cap, necessitating frequent amendments to zoning laws and potentially leading to inconsistent urban planning.



Reduced Housing Supply

Implementing a density cap of 50 units per acre could limit the total number of new housing units, exacerbating existing housing shortages and making it difficult to meet the demand for new homes.



Increased Housing Costs

With fewer units being built, the cost of land and construction will be distributed among fewer units, likely leading to higher prices for both rental and ownership housing, reducing affordability.



Inovative and Impactful Alternate Solutions

Incentive-Based Zoning

Rather than imposing a maximum density cap, the city could implement incentive-based zoning. By providing these incentives, developers are encouraged to incorporate ownership units into their projects without the need for restrictive density limits. Below are four alternate solutions, including three mock ordinance text amendments, which may be far more impactful than maximum density restrictions:

1. Minimum/Average Square Foot Adjustment

The proposed amendment to the right would allow developers who meet a certain percentage of for-sale product to receive a reduction in the minimum/average unit size requirement imposed by Provo. Currently, this zone requires a minimum of 500 square feet with an average of 800 square feet.

14.21A.090 Minimum and Average Residential Unit Size.

- (1) Except as provided in Subsection (2) of this Section, each development that includes a residential use shall provide a minimum unit size of no less than five hundred (500) square feet and a minimum average unit size of no less than eight hundred (800) square feet. This requirement shall not apply to institutional housing units (i.e., elderly housing, assisted living facilities, etc.).
- (2) Mixed-use developments with ground floor commercial fronting Center Street or developments with x% of for-sale product shall provide a minimum residential unit size of no less than five hundred (500) square feet and a minimum average unit size of no less than six hundred (600) square feet.

2. Height incentive

Increased height allowances are a great way to incentivize specific housing types. In Salt Lake City's recent Affordable Housing Incentives, for example, developments that allowed for a certain percentage of affordable housing units were granted additional height in the form of between one and three additional stories, depending on zoning. This could be an excellent way to provide Provo developers a similar opportunity to be given greater flexibility for projects as well as provide Provo with more for-sale product.

14.21A.070 Building Height.

Except as otherwise provided in Section 14.21A.080, Provo City Code, building height, measured from the top of the street curb, shall be determined by the following standards:

- (1) Total Maximum Building Height:
100 feet
- (2) Minimum Number of Building Stories:
2 stories
- (3)-(6)....
- (7) Section 14.34.090, Provo City Code, Height Limitations and Exceptions, shall be adhered to within the DT1 zone.
- (8) One additional story shall be permitted if between 20% - 49% of a development is offered as for-sale housing.
- (9) Two additional stories shall be permitted if greater than 50% of a development is offered as for-sale housing.
- (10) The maximum height per story of additional building height shall not exceed 12 feet.

3. Impact fee incentive

This proposed addition to the DT1 code would provide an attractive incentive for developers to provide some sort of for-sale housing product in exchange for a reduction in impact fees for the development. These savings could equate to tens of thousands of dollars, or more, which could provide the necessary financial motivation to invest in these types of housing.

4. Expedited Approval Process

Beyond code-based text amendments, Provo could change internal building department policy to allow for faster approval processes for for-sale products in DT1 developments. This could include a variety of tactics including:

- fast-tracking review timelines
- no required planning commission approval
- priority review of city departments

14.21A.220 Impact Fee Reduction

A residential or mixed-use development in this zone shall have impact fees reduced or waived on the residential portion of the development by certain percentages should they provide for-sale housing in the development. The percentages are outlined below:

- (1) No reduction of impact fees if less than 20% of the development is offered as for-sale housing.
- (2) 20% reduction of impact fees if between 20% and 35% of the development is offered as for-sale housing.
- (3) 35% reduction of impact fees if between 35% and 50% of the development is offered as for-sale housing.
- (4) 50% reduction of impact fees if greater than 50% of the development is offered as for-sale housing.



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