



John Hall, Lira Filippini, Co-chairs

To: Sarah Neuse, sneuse@santacruzca.gov
From: John Hall, jrhall103@mac.com
Lira Filippini, lirafilippini@gmail.com

Re: Comments on the Downtown Expansion Area Plan Draft EIR

Dear Ms. Neuse:

Thank you for the opportunity to comment on this project. Our Downtown, Our Future is a grassroots group that seeks to bring informed urban planning and community-based improvements to the heart of the Santa Cruz community – our downtown. Because changes downtown affect the wider city, our agenda broadly includes concern for Santa Cruz as a whole as well.

1. The EIR Project Objectives fail to incorporate the policy of the City Council

Our Downtown, Our Future is composed of Santa Cruz residents who in 2022 sponsored a ballot measure that would have limited new parking garages Downtown, called for renovation of the library at its current location, and dedicated several city surface parking lots to affordable housing, while preserving Lot 4 for the Farmers Market. At their meeting of January 10, 2023, the City Council unanimously adopted the following motion:

- Revise the building height provisions in the draft Downtown Expansion Area Plan Amendment to provide for a maximum of 1,600 dwelling units, with a 20%

affordability requirement on the total number of units and with no single building being more than 12 stories, inclusive of any density bonus incentive.

- Continue to study the 1,800 units that have been evaluated in the Environmental Impact Report (EIR) technical analyses since June of 2022, and direct Planning Department staff to study an alternative in the EIR that includes the parameters noted above in Item #1.

The Project Objectives omit:

- the goal that 1600 units be a maximum of the project
- the goal that 20% of total units developed be affordable
- that no single building exceed 12 stories, inclusive of any density bonus

The EIR needs to revise the Project Objectives to align with the City Council policy.

2. The EIR needs to evaluate an alternative that includes the City Council's parameters:

A. Number of Units

Once the EIR Project Objectives are revised to include the Council policies, the EIR's Alternatives Analysis needs to evaluate how well each alternative achieves the City Council's goal of 1600 units maximum.

The EIR estimates that the project would result in 1800 units, assuming developers will choose a density bonus of 50% on some sites:

“Changing the General Plan designations would [result] in an estimated residential development capacity of 1,310 units exclusive of any density bonus, and up to 1,800 units assuming some sites pursue density bonus projects increasing development capacity by 50% or more.” (P 17-9)

However, the assumption that developers would pursue a 50% density bonus is outdated. AB 1287, effective January 2024, offers up to a 100% density bonus. Hence, the project could result in several hundred units beyond 1800—significantly beyond the Council's goal of 1600 units.

Specifically, the EIR should be revised to reflect a valid projection of the number of units that, on the basis of AB 1287, the Downtown Plan Expansion would make possible and evaluate the Downtown Plan Expansion alternative on that basis.

The EIR estimates that the No Project Alternative (keeping the current zoning) would result in 1047 residential units, not counting any density bonus. The EIR should estimate what number of units could result from keeping the current zoning in the real-world scenario of developers choosing the density bonus offered by AB 1287. It is reasonable to conclude that counting a density bonus of up to 100%, the No Project Alternative would result in a number of units that is closer to the Council's goal of 1600 units than would the project.

In short, the Downtown Plan Expansion project, conceived by City staff before the passage of AB 1287, is no longer necessary to achieve the Council's housing goals.

The project is not necessary to achieve the 2023-2031 Housing Element City-wide goal of 3736 residential units. The Housing Element assumes that the project area would contribute 1047 units *under existing zoning*:

“As part of the 6th Cycle RHNA Sites Inventory (see Appendix G of the City's 2023 – 2031 Housing Element), the project area was identified as a key area to accommodate future housing and was determined to accommodate a total of 1,047 units (105 Very Low and Low Income; 105 Moderate Income, and 837 Above Moderate Income). For the purpose of the Housing Element, only the existing zoning capacity of the area was included.” Draft EIR p 3-2

The City's ability to meet RHNA targets in future cycles is well served by AB 1287, which allows tall and massive buildings throughout the City.

Impact of prioritizing Regional Visitor Commercial over Residential

The project would change the General Plan designation of blocks B and D from high density residential to Regional Visitor Commercial. (Figure 3-11) Additionally, Block H would change from Medium Density Residential to Regional Visitor Commercial. The EIR should analyze whether encouraging the development of hotels in these areas would detract from the project objective #1 “Increase the total number of housing units that can be built in the City by adding capacity for multi-family housing, consistent with General Plan Land Use Element Policy 2.2 and Program 2.2.2.”

B. Building Height

In an agenda report for the City Council meeting of October 22, 2024, staff explained that the Council's goal of limiting building height cannot be accomplished by height limits:

“There can be no specific height limit in place for a project that uses the State Density Bonus. Once a base project is calculated using existing development standards, those development standards can be waived if they help a project achieve its proposed bonus units. Typically, waivers will apply to site standards that regulate building massing – height, floor area ratio (FAR, which is a measure of building area compared to site area), setbacks, open space, and parking are the most common.” (Agenda 10-22-2024)

The EIR should incorporate the above explanation that developers can obtain waivers of height, FAR, setbacks, open space and parking in its analysis of how well the project would meet the project goals, including:

“Provide a balanced mix of residential and commercial uses in the project area that integrate into the rest of downtown and surrounding neighborhoods and provide a safe and attractive environment for living and working consistent with the City’s General Plan Land Use Element.” p 3-3

“Provide land uses and high-quality architecture that complement existing, adjacent land uses and development.” p 3-3

“Ensure that new development minimizes the obstruction of important views and viewsheds and complements the overall skyline of the greater downtown area consistent with General Plan Land Use Element.” p 3-5

An example of a proposed project that exceeds City height limits is a developer’s pre-application for an 18-story building at 2020 N. Pacific Ave, near the Town Clock, proposing to utilize the 100% density bonus. The City’s current zoning allows a height of 55 ft. Hence the height of the proposed 18 story building would be 3.5 times the City’s height limit.

With the state allowing a 100% density bonus and waivers on height and FAR, the only limit to the resulting height and mass of a new residential building is the base zoning. Increasing the base zoning South of Laurel will result in buildings that are higher and more massive than if the bonus were applied to the current zoning. This is contrary to the City Council goals.

The Downtown Plan Amendments propose a City density bonus with the goal of supporting “a compact urban core while achieving a higher-than-average rate of below-market-rate housing units, promoting high-quality design, and generally encouraging building heights of twelve stories or less.” (p 103)

However, the EIR's argument for why developers would have an incentive to choose the City's density bonus is based on an outdated assumption of a state density bonus of 50%. The EIR states:

“The proposed bonus would offer more development potential than could be achieved through the 50% State Density Bonus.”

AB 1287 now offers a 100% density bonus, making the EIR's argument moot.

It is hard to conceive of an incentive that would attract developers to a) limit building heights and b) build more below-market rate units, when both those goals would reduce developer profits. Indeed, the EIR presents no argument that the City density bonus would be more attractive to developers than the state density bonus other than the outdated argument just cited. On the contrary, it is reasonable to infer that developers would find it more onerous to comply with the City's density bonus requirements to meet “the required development standards as delineated below in parts h and i and complies with the requirements for Architectural Review.” (p 103 Downtown Plan Amendments)

The only incentive we can imagine for developers to opt for the City's density bonus might be to avoid building as many units as required by state legislation. (see next section)

C. Percentage of Affordable Units

The City's proposed Downtown Density Bonus amendment to the Downtown Plan could result in fewer affordable units being built than under the existing state density bonus legislation. That's because the Downtown Density Bonus proposal would allow developers to opt out of building required affordable housing and instead pay a fee to the City's Affordable Housing Trust Fund. “Said fee will be calculated at a rate of \$60 per square foot of in-dwelling-unit leasable area”. (Downtown Plan Amendments) This amount of fee does not come close to the cost of providing the number of affordable units required under state density bonus law. See example in footnote.^[1]

Without an estimate of development potential under AB 1287, it is unwarranted for the EIR to conclude that “The Downtown Density Bonus would create a greater number and greater percentage of housing units that are restricted to below-market rate costs than would be created by projects using the State Density Bonus to build similar projects.” P 17-5

4. The Alternative Analysis’s claim that the Downtown Density Bonus better meets project goals than the state density bonus incentives is based on information that pre-dates AB 1287:

“The incentive structure in existing State Density Bonus policy and in state and federal funding currently focuses on creating and supporting these lower-income households, leaving Moderate Income households with few options in high-cost areas.

While excluding the Downtown Density Bonus would meet most of the project objectives, it would not fully promote development of downtown housing for more diverse economic segments of the community. As such, this No Downtown Density Bonus alternative was determined to be infeasible as a policy because it is inconsistent with the City’s decision makers’ prior direction and intent for the implementation of the Downtown Density Bonus and therefore it was eliminated from further consideration.” P 17-5

AB 1287 (2023) provides additional incentives for including moderate-income units. If up to 44% of the allowed units are reserved for moderate-income households, a bonus of up to 50% must be awarded. (Section 65915 of the Government Code) Hence the Alternatives Analysis needs to correct the false conclusion that the state density bonus leaves moderate-income households with few options.

[1] Example:

a. *State density bonus*: A building with 100 units under base zoning earns a 100% state density bonus by building 5 low income, 5 very low income, and 20 moderate income units. The result is a 200 unit building with a total of 30 below-market rate units. Source: [https://www.santamonica.gov/media/Document%20Library/Project/6th%20Cycle%20Housing%20Element%20\(2021-2029\)/AB1287%20FAQ.pdf](https://www.santamonica.gov/media/Document%20Library/Project/6th%20Cycle%20Housing%20Element%20(2021-2029)/AB1287%20FAQ.pdf)

b. *City’s Density Bonus*: A developer could get a 75% FAR bonus if they pay \$60 per square foot of in-dwelling-unit leasable area. A building with 100 units under base zoning could become 175 units. For an average apartment size of 900 sq ft. the developer would pay a fee of \$54,000 per unit, or \$9,450,000 total. Assuming a new affordable unit costs \$600,000, this would purchase 16 units offsite, compared to the 30 units that would be built on-site under the state density bonus.