



# COUNCIL REPORT

**DATE:** June 25, 2024

**CATEGORY:** Consent

**DEPT.:** Community Development

**TITLE:** **R3 Zoning District Update,  
Project 20-67—Professional Services  
Agreement and Funding Appropriation**

## **RECOMMENDATION**

1. Transfer and appropriate \$442,000 from the Land Use Documents Fee Reserve to R3 Zoning District Update, Project 20-67, increasing the project budget from \$1,455,000 to \$1,897,000. (Five votes required)
2. Authorize the City Manager or designee to execute an amendment to the professional services agreement with Opticos Design, Inc., a California corporation (Business Entity No. 2567406), increasing compensation by \$548,326 for an amount not to exceed \$1,696,203, for additional tasks supporting the R3 Zoning District Update.

## **BACKGROUND**

The R3 Zoning District Update project was identified in the 2019-2021 City Council Goals, to “review and propose revisions to the R3 Zone standards that consider form-based zoning, incentivizing stacked flats, and updated rowhouse guidelines.” It was originally funded with \$1 million from the Land Use Documents Reserve in the Development Services Fund through the 2019-2020 Capital Improvement Program (CIP).

On [November 12, 2019](#), the City Council authorized the City Manager to execute an agreement with Opticos Design, Inc. (Opticos), in an amount not to exceed \$1,150,000 and increased the CIP project budget to \$1,310,000. In addition, the City has received \$145,000 in state grant funds for this project, increasing the total budget to \$1,455,000.

On [April 11, 2023](#), the City Council adopted the 2023-2031 Housing Element (certified by the state in May 2023), which included several programs related to multi-family residential zoning, specifically Programs 1.3.a, 1.3.c, 1.3.e, and 1.3.h, which will be implemented as part of the R3 Zoning District Update project.

On [April 9, 2024](#), the City Council held a Study Session to provide direction on the R3 Zoning District Update project. At the Study Session, Council supported the following projects goals:

- Create opportunities for diverse unit types, including middle-income ownership and stacked flats;
- Produce better design that reflects the community’s vision through objective, form-based standards, including pedestrian-friendly neighborhoods with a focus on building and property frontages, respectful transitions and buffers between new development and lower-density neighborhoods, and increased tree canopy and landscaping;
- Create opportunities for neighborhood serving uses; and
- Update the R3 Zoning District to be consistent with state law and the General Plan while addressing Housing Element programs and improving the development review process.

Council also provided the following direction for the project’s next steps:

- Use density changes in targeted areas to achieve desired goals, focus on implementing changes to areas with large, rather than small, parcels, and increase the supply of housing;
- Consider a series of incentives for developers to increase densities that are more attractive than use of the State Density Bonus Law provisions;
- Encourage parcel aggregation;
- Complete the full project with all tasks integrated into a single sequence rather than phasing the project to segment out the state- and Housing Element-required tasks as a first phase;
- Use the proposed subdistricts framework to develop alternatives for the Environmental Planning Commission and City Council’s consideration in future meetings;
- Make the following changes for the criteria to be used to develop alternatives for locating higher-density development: opportunities for new open space/park land and replace the word “access” with “adjacent to” commercial and employment areas; and
- Add “create possible opportunities for live/work” to the criteria for developing alternatives for locating neighborhood-serving commercial uses.

The April 9, 2024 Study Session memorandum also provides a summary of the community outreach conducted and feedback received since the project was initiated in 2020.

## **ANALYSIS**

In 2019, the Council approved a scope of work for an agreement with Opticos for the project. Opticos has updated multi-family zoning codes using form-based codes in other communities, including the cities of Campbell, San Rafael, and Davis. The Opticos consultant team also includes Lisa Wise Consulting for economic analysis, Rincon Consultants for environmental review, Fehr & Peers for transportation and environmental review, and Konveio for website and community outreach support.

As noted in the April 9, 2024 Study Session memorandum, the project was put on hold in 2022 to allow staff to focus on developing the Housing Element and Displacement Response Strategy. While some tasks from the approved scope of work have been completed, many tasks have only been partially completed or not yet started. For example, the project team completed the existing conditions analysis, modeling of several development scenarios, and developing prototypes; however, environmental review and development of the form-based codes and design handbook, along with community outreach for these tasks, has not started.

An amendment to the agreement with Opticos is recommended to expand and modify the scope of work based on Council's direction from the April 2024 Study Session. The expanded scope of work also includes the tasks necessary to be compliant with the latest state laws and implement the relevant Housing Element requirements. The recommended project scope amendments are summarized below and provided in Attachment 1.

### **Part 1—Analysis and Recommendations for Changes to R3 (new tasks)**

**Task A** is a Density Opportunity Analysis and includes the following:

- Formalize criteria to identify target areas for intensification of the allowed housing density;
- Prepare preliminary heat maps of target areas based on criteria and identify target areas for intensification;
- Update building prototypes for R3-A through R3-D.2;
- Calculate net capacity increases for each of the target areas; and
- Analyze neighborhood serving commercial/live-work opportunities in targeted areas.

**Task B** will focus on Local Density Bonus Analysis and includes the following:

- Density Feasibility Analysis, including the approach and outline of the potential bonus floor area ratio (FAR) program;
- Community Benefits Analysis, including open space and streetscape improvements;
- Small Lots Analysis to assess development feasibility and identify development constraints; and
- Medium and Large Lots Analysis to identify criteria for feasibility of stacked flats and diverse unit sizes and study the potential for community benefits.

**Part 2—Develop Form-Based Code and Design Handbook:** This section of the scope amendments modifies and updates the tasks in the current scope of work related to development and adoption of the form-based code and design handbook, including the adoption hearings.

The remaining uncompleted elements of the current project scope, such as additional community workshops and the environmental review, remain unchanged.

The consultant fee for the expanded and modified scope of work, along with the extended time to deliver the project since the original agreement was approved in 2019, is \$548,326, which includes \$400,352 for basic services and \$147,974 for contingency. Staff considers the fee to be fair and reasonable for the scope of work required. If approved by Council, the new total not-to-exceed amount for the agreement with Opticos will be \$1,696,203.

The estimated timeline for completion of the project is Q2 2026.

### **FISCAL IMPACT**

The total cost for updating the R3 Zoning District is estimated to be \$1,897,000 (Table 1). This includes the recommended consultant agreement for a new total not-to-exceed amount of \$1,696,203, an increase of \$548,326, as well as City CIP administrative costs of \$123,305, an increase of \$38,155. It is not necessary to increase the additional project-related costs budget, which could cover noticing, interpretation, and legal advice.

**Table 1: R3 Zoning District Update Total Cost**

<b>Purpose</b>	<b>Current Budget</b>	<b>Recommended Budget</b>	<b>Change</b>
Consultant Services	\$1,074,607	\$1,474,959	\$400,352
Contingency	73,270	221,244	147,974
<b>Total Consultant Services</b>	<b>\$1,147,877</b>	<b>\$1,696,203</b>	<b>\$548,326</b>
Additional Project-Related Costs	76,973	76,973	0
Administrative Overhead	85,150	123,305	38,155
<b>Total Overall Cost</b>	<b><u>\$1,310,000</u></b>	<b><u>\$1,897,000</u></b>	<b><u>\$587,000</u></b>
Total Funding Available	\$1,455,000	\$1,455,000	
Over (Shortfall)	\$145,000	(\$442,000)	

The R3 Zoning District Update (Project 20-67) is currently funded with \$1,310,000 from the Development Services Fund’s Land Use Document Fee Reserve and \$145,000 from a state grant for a total project budget of \$1,455,000. The estimated project cost for the amended scope of work and extended project timeline is \$1,897,000, resulting in a budget shortfall of \$442,000. Staff recommends appropriating \$442,000 from the Land Use Document Fee Reserve to the project budget. The Land Use Document Fee Reserve is intended for new and updated land use documents, such as the Zoning Code. The current Land Use Document Fee reserve balance is approximately \$6.5 million; therefore, there are sufficient funds in this reserve for the project.

**ALTERNATIVES**

1. Do not appropriate additional funding to the R3 Zoning District Update CIP project and direct staff to evaluate options to complete the project in accordance with direction received at the April 9, 2024 Study Session without additional funding.
2. Do not authorize the recommended amendment to the existing agreement with Opticos Design, Inc., and direct staff to modify the proposed scope of work and to renegotiate the contract value if needed to reflect the modified scope of work.
3. Provide other direction.

**PUBLIC NOTICING**

The City Council agenda is advertised on Channel 26, and the agenda and this Council report appear on the City’s website. The interested parties email list was also notified of this item.

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Attachment: 1. Recommended Consultant Scope of Work