



TO: Denver City Council Land Use, Transportation and Infrastructure Committee
FROM: Joshua Palmeri, Senior City Planner
DATE: April 13, 2023
RE: Denver Zoning Code Text Amendment – ADUs in Denver

Staff Report and Recommendation

Based on the review criteria for text amendments set forth in the Denver Zoning Code (DZC), Section 12.4.11 (Text Amendment), Community Planning and Development (CPD) staff recommends approval of the ADUs in Denver Text Amendment to the Denver Zoning Code.

Summary and Purpose

CPD initiated the ADUs in Denver Text Amendment to revise and update regulations for accessory dwelling units (ADUs). This text amendment directly implements Blueprint Denver Land Use: Housing Recommendation #5, “Remove barriers to constructing ADUs and create context sensitive form standards.” This amendment does not change where in the city ADUs are allowed. It modifies building form standards to address how ADUs fit in with different types of neighborhoods and block patterns, and to reduce zoning barriers to creating ADUs. draft of the proposed text amendment is available on the CPD website [Text Amendments to the Zoning Code - City and County of Denver \(denvergov.org\)](http://www.denvergov.org/CPD), and is included as a supplement to this staff report.

The proposed text amendment aims to remove barriers to constructing ADUs and create context sensitive form standards in the following ways:

- Removing minimum lot size requirements for the Detached Accessory Dwelling Unit building form.
- Allowing the reuse and conversion of existing structures to ADUs when they do not meet current setback requirements.
- Extending the current building coverage exemption of up to 500sf for ‘vehicular storage and parking’ to also apply to detached ADUs that do not contain vehicle parking, including one-story ADUs.
- Increasing the maximum gross floor area (GFA) allowance for an ADU use from 650sf to 864sf on the smallest lot size category lots.
- Allowing ADUs to be accessory to more primary uses than just single unit dwellings, including duplexes and row houses.
- Tailoring maximum height and minimum setbacks by neighborhood context with more flexibility in the Urban context and less in the Suburban context.
- Relaxing setback and bulk plane restrictions on narrow Urban and Urban Edge lots where ADU development is currently constrained.
- Allowing specific additional design elements like dormers and second story decks, where appropriate.
- Creating Suburban neighborhood context zone districts that would allow an ADU use within context-specific height and setback rules. The ADUs in Denver project will not

propose to rezone properties into these new districts, but they would be available to support City Council or property-owner initiated rezonings in the future.

The proposed text amendment is the culmination of a one-year effort initiated by CPD to implement Blueprint Denver policy recommendations around ADUs. In March of 2022 an Advisory Committee was formed to assist staff with identifying the existing zoning barriers to ADU construction, share community concerns, and help inform recommendations for context sensitive building form standards. The Advisory Committee wrapped up in December of 2022, helping staff to produce the final draft recommendations found in the ADUs in Denver Strategy Report. Public outreach on the recommendations has continued to inform staff's direction on the final proposed text amendment.

Background

ADUs are becoming increasingly popular throughout Denver. Whether it's for distant in-laws to visit, as a rental property, or an expanded family arrangement, the need for accessory housing is more pressing than ever. With the plan guidance in Blueprint Denver, updated in 2019, many single unit residential properties are eligible for a rezoning to allow ADUs. However, rezoning is only the first hurdle. Zoning, design, permitting, and construction all present challenges to creating ADUs.

This project is intended to make zoning regulations simpler and more cost-effective. Denver's current building form standards for a detached ADU include several overlapping rules and can impose cost implications that make for difficult design decisions in building an ADU. This project reviewed which restrictions can be lifted or alleviated, while also promoting ADU designs that fit in with different neighborhood conditions that are more compatible with the character of surrounding development.

The Denver Zoning Code regulates where detached and attached ADUs are allowed. It also includes building form standards regarding height, minimum lot size and depth, setbacks, parking, floor area, and structure length. In addition, the zoning code specifies use limitations that further define the circumstances under which ADUs can be built. These regulations are summarized below and were re-evaluated to consider alternative standards that could improve design and help reduce barriers to ADU construction.

Besides zoning requirements, ADUs must meet all applicable building and fire code standards for new construction.

Proposed Citywide Changes

The ADUs in Denver text amendment proposes the following changes to zone districts that allow ADUs within each neighborhood contexts (Suburban, Urban Edge, etc.). In some cases, the changes would not be applicable to all zone districts that allow ADUs (for example, the proposed allowance for ADUs accessory to more than just single unit dwelling uses would only be applicable to zone districts that allow primary uses other than single unit).

- **Remove minimum zone lot size:** Currently, the detached ADU building form is only allowed on lots that meet a minimum lot size requirement that varies by zone district. For example, the U-SU-C1 zone district that allows urban houses and detached ADUs requires a minimum zone lot size of 5,500sf – A 5,499sf lot would not be allowed to have a detached ADU. In many cases, the minimum zone lot size required by the zone district is larger than an existing lot's size. In the case of a 2021 Sloan Lake legislative rezoning to allow ADUs, about 1/3 of the properties do not

meet the current minimum lot size for the zone district. For those lots, only an attached ADU is allowed. Removing the minimum lot size restriction will make all properties that are zoned to allow an ADU use eligible to build a detached ADU.

- **Allow the reuse and conversion of existing structures:** Many Denverites that are interested in adding ADUs to their properties would like to do so by reusing an existing structure, like a garage or converting a portion of their existing garage into an ADU. Today, that is not allowed, unless the existing structure meets all the requirements of the detached ADU building form, including having at least 5' setbacks from all property lines. Many older garages are built right on the alley or within less than 5' of an adjoining property line and would not comply with this requirement. This causes many existing structures to be demolished, rather than reused. The proposed amendment would allow the reuse of existing structures if upgraded to meet all applicable building and fire code requirements. Any additions to the existing structure would have to comply with the new detached ADU building form standards. For example, a second story addition to a detached garage that is located very near to a neighboring property would have to meet setback and bulk plane standards for a detached ADU, meaning that the portion of the structure located closest to the neighbor would likely have to remain one story.
- **Extend building coverage exception to ADUs, regardless of whether they contain vehicle parking:** Today the zoning code allows an exemption of up to 500sf to the maximum building coverage of a lot for vehicle storage and parking. This exception applies to garages and to detached ADUs that are built above a garage or parking area. This exemption does not apply to detached ADUs that do not contain parking, including single-story ADUs, which tend to be less expensive to build than two-story ADUs. The proposed amendment would extend this 500sf maximum building coverage exemption to detached ADUs, regardless of whether they contain vehicle parking to reduce barriers to this more affordable housing option.
- **Increase ADU floor area allowance for the smallest lots:** In single unit zone districts, the current allowance for an ADU use is limited in gross floor area (GFA) by lot size. The code allows up to a 650sf ADU on a lot that is 6,000sf or smaller; an 864sf ADU on a lot that is 6,001-7,000sf; and up to a 1,000sf ADU on a lot greater than 7,000sf. The detached ADU building form also has building footprint size maximums that match the current GFA allowance, based on lot size. The proposed text amendment matches maximum building footprint limits to maximum floor area limits to promote one-story ADUs.
- **Allow ADUs as accessory to more than just single unit dwelling uses:** Currently ADUs are allowed in all zone districts that are higher intensity than single unit (SU), like two unit (TU), multi-unit (MU) and mixed use (MX), but only as accessory to primary single unit dwelling uses. An ADU may be added to a single unit home in an MX district, but not to a duplex or row house in the same district. The proposed amendment would allow detached ADUs with two unit dwelling and multiunit dwelling uses, but only with the duplex, row house and town house building forms. One ADU per primary residential dwelling unit would be allowed. For example, each unit of a duplex could have its own detached accessory dwelling unit at the rear of the property.

Context-Sensitive Changes

The proposed text amendment updates the detached ADU building form standards in all zone districts with specific variations by zoning context. Generally, the Urban context will see a relaxation of regulations, with a focus on removing barriers. The Urban Edge context has considerations for its unique lots, with and without alleys. In the Suburban neighborhood context, the amendment creates new zone districts that are sensitive to common features of Suburban areas, such as shallower lots without alleys. Proposed rules for the Urban, Urban Edge and Suburban neighborhood contexts are summarized below. Note that the ADUs in Denver text amendment also proposed updated rules for other neighborhood contexts (General Urban, Urban Center, Industrial, Master Planned) consistent with the overall approach to allow greater flexibility in areas with a more intense existing pattern of development.

The Urban context has seen the majority (77%) of the ADUs built to date, even though these are some of the smallest lots in the city with an average lot size of 5,800 sf. Added flexibility is needed on the smallest lots, those that are less than 40' in width, to enable a feasible and livable square footage of an ADU while also accommodating space for parking in a garage. Larger lots have enough width to accommodate comfortably-sized ADUs, and the new regulations won't differ much from what is allowed today.

The Urban Context will allow for a full two stories at up to 24' in height, which will allow the second story to have the same square footage as the first story. The rear setback will be 5' when a garage door is present on the alley or 0' without a garage door, which is the same as the current garage allowance. On lots greater than 40' wide, the regulations will remain as is with a side setback of 5' and a bulk-plane starting point of 10'. On narrower lots, side setbacks will be more flexible at 3', and the bulk-plane starting point will be raised to 12'. These changes will allow for more habitable space in the ADU where ceilings are at least 6' high.

The Urban Edge context is essentially a mix of Urban and Suburban lot conditions. This context has a unique approach for lots *with public alleys* and *lots without public alleys* with different regulations for each.

Lots with public alley access. For lots with alleys, the regulations will be closer to the Urban context standards. The maximum height will be two stories and 24' with a 5' rear setback and side setbacks that match the minimum setbacks required for the primary structure. On narrower lots, the bulk plane starting point will be raised to 12' to allow for more habitable space in the ADU where ceilings are at least 6' high.

Lots without public alley access. For lots without public alleys, the regulations will be closer to the Suburban context standards but adjusted to better fit the Urban Edge context. In this context, the lot sizes are smaller than Suburban lots at a citywide average of 7,300sf. Primary structures tend to sit closer to the center of the lot depth with deeper front setbacks, and the maximum building coverage allowed, 37.5%, is less than that of the Suburban context (50%). All of these site constraints require a bit more flexibility for detached ADUs. The strategy moving forward is to allow a single-story ADU at up to 17' tall, with 5' rear setbacks, and side setbacks that match the minimum setbacks required for the primary structure. A two-story, 24' tall ADU will be allowed with a 12' rear setback to accommodate for the lack of an alley, and side setbacks that match the minimum setbacks required for the primary structure.

The Suburban context has the largest lot sizes in the city, with an average lot size of 9,500sf citywide. This lot size and 50% building coverage allowance can more easily accommodate a single-story detached ADU and a detached garage, each in separate structures.

To balance concerns around privacy, shadows, and spacing in Suburban neighborhoods, the recommended strategy includes a single-story ADU up to 17' tall, with a 10' rear setback, and side setbacks that match the minimum setbacks required for the primary structure. In addition, a two-story ADU up to 24' tall would be allowed with a rear setback of 20', which would place the ADU within the same building envelope that is allowed for the primary structure, the Suburban House building form.

The result is an ADU that is tailored to this context and allows Suburban neighborhood homeowners to invest in their properties while creating additional housing options. Because the Denver Zoning Code currently provides only one Suburban zone district that allows ADUs (the specialty S-SU-F1 district for areas with especially deep lots), implementing the draft strategy for Suburban neighborhoods will require the creation of several new zone districts. The ADUs in Denver project will not propose to rezone properties to these new zone districts. However, property owners or City Council members could propose to use the new zone districts for future rezonings. See “Recommendations for Technical Code Adjustments to Support the Strategy” on page 46 of the Strategy Report for more information.



ADU Allowances in Former Chapter 59 Zone Districts

Some areas of the city remain zoned within ‘Former Chapter 59’ zone districts that predate the adoption of the Denver Zoning Code in 2010. The Denver Zoning Code text amendment described in this staff report will not directly impact FC59 districts. However, to ensure that residents FC59 zone districts can benefit from updated citywide recommendations for ADUs, a ‘bridge amendment’ to amend Section 59-2 of the Denver Revised Municipal Code is proposed to bring Former Chapter 59 properties that currently allow ADUs up to the proposed Denver Zoning Code allowances. This includes increasing the ADU use gross floor area allowance to match that of the DZC, removing the 200 square foot per occupant requirement, and removing a requirement for materials to architecturally match the primary structure. The draft Denver Revised Municipal Code amendment is attached to this staff report.

Outreach and Public Process

Community outreach for the ADUs in Denver project included an Advisory Committee, community open houses, focus groups, on-line surveys, presentations to neighborhood groups, and a range of other opportunities. The Advisory Committee was made up of a diverse group of community representatives and knowledgeable ADU experts to guide staff in making decisions on zoning code updates to ADUs. Eight Advisory Committee meetings were held. Earlier meetings focused on better defining barriers to constructing ADUs while subsequent meetings explored alternative design solutions around context sensitivity and recommended strategies. Staff also held focus group meetings; conducted surveys and held open houses with the general public; provided regular updates to Planning Board and City Council members and committees; and presented to neighborhood groups and industry organizations. The project included the following meetings and outreach points:

Advisory Committee Meetings

- Meeting #1 – March 3, 2022
- Meeting #2 – April 7, 2022
- Meeting #3 – May 5, 2022
- Meeting #4 – June 9, 2022
- Meeting #5 – August 4, 2022
- Meeting #6 – September 8, 2022
- Meeting #7 – November 3, 2022
- Meeting #8 – December 15, 2022

Focus Groups

- Suburban Context focus group – June 16, 2022
- AIA Focus Group – July 27, 2022
- Urban Edge Context focus group – October 2022
- Suburban Context focus group – October 2022

Public Meetings

- Public Survey – ADUs issues/concerns – May 2022
- In Person Open House – August 25, 2022
- Online Open House – August 25-September 16, 2022
- In Person Open House – Swansea – January 25, 2023
- In Person Open House – La Alma Lincoln Park – January 26, 2023
- Office Hours – January 30 - February 2, 2023
- In Person Open House – Montbello – February 1, 2023
- In Person Open House – Virginia Village – February 2, 2023
- Online Open House – February 7, 2023
- In Person Open House – Bear Valley- February 9, 2023

Planning Board and City Council Meetings

- Planning Board info item – May 4, 2022
- City Council Budget and Policy Committee update – May 9, 2022
- City Council LUTI Committee information item – August 16, 2022
- City Council Briefings – November 2022
- City Council Budget and Policy Committee update – January 2023
- City Council Briefings – February 2023
- City Council LUTI Committee information item – April 4, 2023
- Planning Board Public Hearing – April 5, 2023
- City Council Public Hearing – June 15, 2023
- Planning Board Public Hearing – April 5, 2023

Presentations to Neighborhood Groups (by request)

- INC ZAP – April 23, 2022
- University Park Community Council – May 4, 2022
- Washington Park East Neighborhood Association – May 11, 2022
- Bellevue-Hale Neighborhood Association – May 31, 2022

- Harvey Park Community Organization – Aug 27, 2022
- INC ZAP – September 24, 2022
- Washington Park East Neighborhood Association – Nov 8, 2022
- West Highlands Neighborhood Association – Jan 3, 2023

Presentations to Industry Organizations

- Presentation to AARP – April 20, 2022
- Panel discussion on ADUs for Mile High Hosts – April 28, 2022
- Presentation to Near SE Plan Steering Committee – May 12, 2022
- Presentation to CNU Colorado – May 12, 2022
- Presentation to ULI Housing Committee – June 7, 2022

Written comments: Feedback summaries for each phase of the project (1-5) are available on the [project web site](#). Following release of the Public Review Draft on March 8, 2023, the official written public comment period for Planning Board began. The comment period ended on March 28, 2023. The written comments received during this period are captured in the phase 5 feedback summary, attached to this document. Only six written email comments were received: a letter of support from the Baker Historic Neighborhood Association, BRUN, and three members of the public and one letter from WPENA. Staff has responded to a concern in the BHNA letter and has removed exterior stairs as an allowed encroachment into the rear setback, in order to not incentivize exterior stairs for ADUs. Staff has also added height restrictions on the Second Story deck allowance, to prohibit the use Rooftop Decks above a second floor.

Text Amendment Process Timeline

Key process dates for the proposed text amendment are summarized below.

- Text Amendment Initiated – January 31, 2023
- Text Amendment Internal Agency Referral #1 – January 31, 2023
- Text Amendment Internal Agency Referral #2 – March 7, 2023
- Text Amendment Public Review Draft – March 8, 2023
- Planning Board Hearing Courtesy Notification – March 15, 2023
- Planning Board Hearing Public Notification – March 22, 2023
- Planning Board Public Hearing – April 5, 2023
- LUTI Committee – April 18, 2023
- Mayor Council – April 25, 2023
- City Council First Reading – May 8, 2023
- City Council Public Hearing – June 5, 2023

Planning Board Recommendation

At a public hearing on April 5, 2023, the Planning Board unanimously recommended approval of the ADUs in Denver text amendment. Planning Board also plans to forward documentation of their deliberation to City Council. This documentation of deliberation will request that CPD Planning Services and City Council continue to examine both best practice and documented outcomes related to the ongoing requirement in single unit zone districts that either the primary residence or the ADU must be owner-occupied. The formal documentation of deliberation will be provided to City Council prior to the City Council public hearing for the ADUs in Denver text amendment.

Review Criteria and CPD Staff Evaluation

The criteria for review of a proposed text amendment are found in Section 12.4.11.4 of the DZC. CPD analyzed the proposed text amendment for compliance with the review criteria stated below and finds that the proposed text amendment satisfies each of the review criteria:

1. Consistency With Adopted Plans

The proposed Text Amendment is consistent with the following adopted plans, strategies and policies:

- *Comprehensive Plan 2040* (2019)
- *Blueprint Denver* (2019)

Denver Comprehensive Plan 2040

The proposed text amendment is consistent with many of the adopted *Denver Comprehensive Plan 2040* strategies, which are organized by vision element.

Equitable, Affordable, and Inclusive vision element:

- Equitable, Affordable and Inclusive Goal 3, Strategy B to “Use land use regulations to enable and encourage the private development of affordable, missing middle and mixed-income housing, especially where close to transit.” (p. 29).
- Equitable, Affordable and Inclusive Goal 3, Strategy D to “Develop and promote programs to help individuals and families, especially those most vulnerable to displacement, access affordable housing” (p. 29).
- Equitable, Affordable and Inclusive Goal 8, Strategy D to “Expand the supply of housing accessible to seniors and people with disabilities, including more housing choices for seniors to age in place” (p. 30).

Staff finds that this text amendment will help to create Equitable, Affordable, and Inclusive Neighborhoods by adding to the housing options available in residential neighborhoods. Currently in Denver’s Suburban Context neighborhoods, an ADU zone district isn’t available to rezone into on most lot sizes. By making single-story ADUs easier to build, we can expand the supply of housing accessible to seniors and people with disabilities. ADUs are also an ideal housing option for seniors to age in place and receive income by renting out their primary home. While this text amendment isn’t directly developing programs for affordable housing, it is creating ways to lower the cost of ADU construction and aiding in the development of DHA (Denver Housing Authority) and HOSTs (Department of Housing and Stability) collaboration to build more ADUs as affordable housing units.

The **Strong and Authentic Neighborhoods** vision element:

- Strong and Authentic Neighborhoods Goal 3, Strategy B to “Ensure city policies and regulations support historic preservation and eliminate barriers in city processes to help all neighborhoods preserve what matters most.” (p. 34)
- Strong and Authentic Neighborhoods Goal 3, Strategy E to “Support the stewardship and reuse of existing buildings.” (p. 34)

Staff finds that this text amendment will aid in creating Strong and Authentic Neighborhoods through the preservation and reuse of existing structures, which could be more easily repurposed as ADUs. Peer city research has shown that ADUs also aid in preserving the existing primary structure.

When homeowners are able to reinvest in their property to remain in place, they are less likely to sell their property or demolish and rebuild.

Blueprint Denver (2019)

The following *Blueprint Denver* policies provide guidance specific to the ADUs in Denver text amendment:

- Blueprint Denver Key Equity Concepts: “The city will use the equity concepts and their related measurements to ... guide implementation actions, including regulatory changes...”(p.31)
 - improving access to opportunity, reducing vulnerability to displacement, and expanding housing and jobs diversity.

Staff finds that this text amendment considers and addresses each key equity concept. This text amendment will reduce vulnerability to displacement by allowing existing property owners to remain in their homes by reinvesting in their property. Staff finds that this text amendment will improve access to opportunity by introducing a new housing option in many of our existing neighborhoods. The ADU building form, being limited in square footage, may serve as a one- or two-bedroom housing in a neighborhood where only three- and four-bedroom homes currently exist.

- Land Use and Built Form: General, Policy 11: “Implement plan recommendations through city-led legislative rezonings and text amendments.” (p.79)
 - Strategy B: “Text amendments and large legislative rezonings should be guided by the equity concepts and maps in Chapter 2.
 - Strategy C: Use a robust and inclusive community input process to inform city-led rezonings and zoning code text amendments.

Staff finds that this is an example of a city-led text amendment to implement policy based on a robust and inclusive community input process.

- Land Use and Built Form: Housing, Policy 5: “Remove barriers to constructing accessory dwelling units and create context-sensitive form standards.” (p. 84)
 - Strategy A. Evaluate existing barriers to ADU permitting and construction and revise codes and/or fees to remove or lessen barriers for homeowners. Consider programs and resources to help reduce barriers to ADUs for homeowners, especially in neighborhoods that score high in Reducing Vulnerability to Displacement.
 - Strategy B. Revise the zoning code to allow ADUs as accessory to more uses than only single unit homes.
 - Strategy C. Revise detached ADU form standards to be more context-sensitive, including standards for height, mass and setbacks.

Staff finds that this text amendment is consistent with the cited policies above and will result in removal of barriers to constructing ADUs, the creation of context sensitive ADU form standards and allowances for ADUs as accessory to more uses than only single unit homes.

2. Public Health, Safety and Welfare

The text amendment furthers the public health, safety and welfare of Denver residents, land-owners, and community members by implementing the city's adopted plans through regulations that are responsive to current community needs. This proposed text amendment provides greater flexibility to address evolving needs like accessibility, housing options, and preservation of existing structures by removing barriers to ADU construction such as allowing the reuse of existing structures, enabling greater allowances for single-story ADUs, and creating appropriate zone districts for any future rezonings in Suburban context neighborhoods.

3. Uniformity of District Regulations and Restrictions

The text amendment will result in updated regulations for all ADU use and building form types that are uniform within each zone district.

Attachments

1. ADUs in Denver Strategy Report
2. LUTI review draft of ADUs in Denver text amendment
3. Draft Denver Revised Municipal Code 'Bridge' Amendment for Former Chapter 59 Zoning
4. Feedback Summary Phase 5
5. Combined Comments Received