

MEMORANDUM

TO: Members of the Denver City Council LUTI Committee

FROM: Jill Jennings Golich, Deputy Director of Community Planning and Development

DATE: April 11, 2023

SUBJECT: **Proposed Amendment to Denver Zoning Code Ordinance 20220424 and DRMC Ordinance 2022-0426 regarding Expanding Housing Affordability**

Denver City Council, through its LUTI Committee, will be considering an amendment to its June 2022 adopted zoning ordinance, Ordinance No. 2022-0424, and well as its June 2022 companion Denver Revised Municipal Code (DRMC) ordinance, Ordinance No. 2022-0426. These ordinances adopted the Expanding Housing Affordability (EHA) policy which included amendments to Chapter 27 of the DRMC and numerous provisions of the Denver Zoning Code related to parking and height incentives when building affordable units on-site. The DRMC ordinance, Ordinance No. 2022-0426, was amended previously in November 2022 via Ordinance No. 2022-1355 to change the date by which projects subject to a building permit must receive approval.

The proposed amended ordinance, a copy of which is attached to this memo (also attached is the original 2022-0424 ordinance), will allow the City to continue to review submitted site development plans under the effective date provision of these two ordinances which for projects subject to a site development plan (SDP), allowed them to continue under the prior affordable housing linkage fee if a concept site plan was submitted on or before June 30, 2022 but must receive formal SDP approval by either August 30, 2023 or December 31, 2023 (if the project is also subject to large development review or a subdivision). The amendments to these ordinances will extend the date by which a project must receive formal site development plan approval as follows.

1. For projects subject to an SDP only (or SDP amendment):
 - Change approval deadline from August 30, 2023, to **May 17, 2024**
 - If a project has received by that date (May 17, 2024) consolidated review comments from their CPD project coordinator that will require a 4th round or more of formal SDP review, **allow the project until August 31, 2024**, to receive SDP approval. Note: this is only for projects that are at the fourth round of review or later, indicating they are close to completion and a redesign at that stage would require considerable investment and re-work. Projects in earlier review cycles (3rd round or fewer) that are not approved by May 17, 2024, would become subject to the EHA requirements.
2. For projects subject to an SDP plus LDR/subdivision:
 - Change approval deadline from December 31, 2023, to **September 13, 2024**
 - If a project has received by that date (September 13, 2024) consolidated review comments from their CPD project coordinator that will require a 4th round or more of formal SDP review, **allow the project until December 31, 2024**, to receive SDP approval for the same reasons as stated above.
3. The amendment to the DRMC also includes amending the required number of times that CPD must report out to Council from four to seven and extends the final report out date to February 7, 2025.

4. The amendment to the zoning ordinance also includes a change to the date by which projects subject only to a building permit must be approved from December 31, 2022 to June 16, 2023 to make it align with the November 2022 approved DRMC ordinance, Ordinance No. 2022-1355 which modified that date in the DRMC effective date section.

These changes are in keeping with the intent of the EHA ordinances which allowed projects submitted by June 30, 2022 to continue forward under the prior linkage fee so long as they obtained approval by a certain point in time. The DRMC ordinance required that CPD report out to City Council on the status of our reviews for these projects. This was further elaborated on in a memo dated April 21, 2022 from CPD Executive Director Laura Aldrete, regarding the effective dates for EHA and what and when we would be reporting out on to City Council. When the policy was adopted, it was premature to consider an extension to the approval deadlines agreed to in October 2021. We are now at a point when it is clear that with the tremendous increase in submittals that were received, particularly in May and June 2022, our staff are not able to keep up with the number of reviews received essentially at once. Thus we are requesting City Council amend these ordinances to allow projects already received more time to receive approval.

We believe extending this approval timeline is the fair response to a difficult situation that is impacting customers through no fault of their own. While review times are starting to decrease as a result of our strategic efforts over the past year, we expect it will continue to take time to return to target timeframes. We believe the proposed extension time is as accurate as possible, and keeps with the spirit and intent of the deadlines initially proposed in the EHA policy. I will note that review times do continue to vary over time based on the number of submittals we have at one time, staff absences, vacancies, etc. That is why we have proposed that projects farther along in the SDP process have additional time, hence the additional 15 weeks of time being proposed if a project needs to make a 4th (or more) SDP submittal.

As a reminder, projects moving forward under the older rules do still pay the affordable housing linkage fee which continue to be adjusted by the CPI-U. These funds go to HOST to use to fund affordable housing.

BY AUTHORITY

ORDINANCE NO. 20220424
SERIES OF 2022

COUNCIL BILL NO. CB22-0424
COMMITTEE OF REFERENCE:
Land Use, Transportation & Infrastructure

A BILL

For an ordinance amending the Denver Zoning Code.

WHEREAS, the City Council desires to amend the Denver Zoning Code to implement the land use recommendations of the Expanding Housing Affordability project, which implementation creates various incentives, such as height flexibility and parking reductions, for developments that provide affordable housing; and

WHEREAS, an amendment to chapter 27 (Housing), Denver Revised Municipal Code is also being processed with this ordinance in order to create affordable housing requirements for residential development in the city;

WHEREAS, a map amendment to rezone certain property in the 38th & Blake station area is being processed contemporaneously herewith in order to eliminate the 38th & Blake Incentive Overlay (IO-1) District and adjust underlying base zone districts for certain properties within the IO-1 district, and will have a public hearing at City Council on the same night as the public hearing on this Ordinance; and

WHEREAS, City Council further desires to amend the Denver Zoning Code to correct minor errors and omissions, including clarifying rules of measurement for the Downtown Golden Triangle (D-GT) zone district, correcting Accessory Dwelling Unit use allowances in the Urban Edge Single Unit B1 (E-SU-B1) zone district, and make other minor corrections to the Denver Zoning Code; and

WHEREAS, the City Council has determined on the basis of evidence and testimony presented at the public hearing that amending the Denver Zoning Code as set forth herein is consistent with the City’s adopted plans, furthers the public health, safety and general welfare, and will result in regulations and restrictions that are uniform within the applicable zone districts.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. The changes to the Denver Zoning Code as set forth in Clerk File No. 20220052 as filed with the Denver City Clerk on April 27, 2022, and available in the office and on the web page of City Council are hereby adopted and made an official part of the Denver Zoning Code. The changes amend certain provisions of the Denver Zoning Code to create incentives in certain zone

1 districts for developments that provide various amounts of affordable housing; make corrections to
2 the E-SU-B1 zone district; clarify a rule of measurement for the D-GT zone district; and correct
3 various minor substantive and clerical revisions to other articles of the Denver Zoning Code; all in
4 furtherance of implementation of Comprehensive Plan 2040 and Blueprint Denver 2019.

5 **Section 2. Effective Date.**

6 1. Except as otherwise provided herein, this ordinance shall be effective on July 1,
7 2022.

8 2. The amendments to the Denver Zoning Code enacted in this ordinance shall not
9 apply to any applicant under the following circumstances, and an applicant may submit a site
10 development plan or building permit as further described below that complies with both the version
11 of the Denver Zoning Code and zone district designation of its property prior to the enactment of this
12 ordinance:

13 a. An applicant who, prior to close of business on Thursday, June 30, 2022, (i) has
14 submitted to the Department of Community Planning and Development (“CPD”) a site development
15 concept plan, (ii) CPD has assigned a concept number for the site development concept plan, and
16 (iii) obtains site development plan approval by August 30, 2023. If any of the conditions of this
17 subsection are not satisfied, the amendments enacted by this ordinance shall be applicable to an
18 applicant.

19 b. An applicant who, prior to close of business on Thursday, June 30, 2022, (i) has
20 submitted to CPD an amendment to an approved site development plan, (ii) CPD has assigned a
21 record number for the site development plan amendment, and (iii) obtains site development plan
22 amendment approval by August 30, 2023. If any of the conditions of this subsection are not satisfied,
23 the amendments enacted by this ordinance shall be applicable to an applicant.

24 c. An applicant for an individual site development plan who, prior to close of
25 business on Thursday, June 30, 2022, (i) has been notified in writing by the Development Review
26 Committee that a large development framework is required for its project, (ii) has submitted to CPD
27 a site development concept plan, (iii) CPD has assigned a concept number for the site development
28 concept plan and (iv) obtains site development plan approval by December 31, 2023. If any of the
29 conditions of this subsection are not satisfied, the amendments enacted by this ordinance shall be
30 applicable to an applicant.

31 d. An applicant for an individual site development plan within the legally described
32 property of an active subdivision application, who, prior to close of business on Thursday, June 30,
33 2022, (i) has submitted to CPD a site development concept plan, (ii) CPD has assigned a concept

1 number for the site development concept plan; and (iii) obtains a site development plan approval by
2 December 31, 2023. If any of the conditions of this subsection are not satisfied, the amendments
3 enacted by this ordinance shall be applicable to an applicant.

4 e. An applicant who, prior to close of business on Thursday, June 30, 2022, (i) has
5 submitted to CPD a building permit application with associated permit drawings, (ii) paid all
6 applicable plan review fees, (iii) CPD has logged-in such submission for review by CPD, and (iv)
7 obtains the building permit approval by December 31, 2022. If any of the conditions of this
8 subsection are not satisfied, the amendments enacted by this ordinance shall be applicable to an
9 applicant.

10 3. An applicant allowed to comply with the previous provisions of the Denver Zoning
11 Code. due to subsection 2 of section 4, may instead choose to comply with the amendments to the
12 Denver Zoning Code enacted by this ordinance.

13 COMMITTEE APPROVAL DATE: April 26, 2022

14 MAYOR-COUNCIL DATE: May 3, 2022

15 PASSED BY THE COUNCIL: June 6, 2022

16 *David Filmon* - PRESIDENT

17 APPROVED: _____ - MAYOR *Mike Johnston* Jun 9, 2022

18 ATTEST: *Paul Spivey* - CLERK AND RECORDER,
19 EX-OFFICIO CLERK OF THE
20 CITY AND COUNTY OF DENVER

21 NOTICE PUBLISHED IN THE DAILY JOURNAL: May 12, 2022 ; June 9, 2022

22 PREPARED BY: Adam C. Hernandez, Assistant City Attorney DATE: May 5, 2022

23 Pursuant to Section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of
24 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
25 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to
26 § 3.2.6 of the Charter.

27 Kristin M. Bronson, Denver City Attorney

28 BY: *Anshul Bagga* , Assistant City Attorney DATE: May 5, 2022

