



Washington Park East Neighborhood Association

TO: Denver Planning Board Members

FROM: Elizabeth Labrot, WPENA Zoning Committee

DATE: April 5, 2023

RE: Text Amendment ADU

The Washington Park East neighborhood association has followed the ADU's in Denver Project closely.

The neighborhood association hosted a meeting with Joshua Palmeri, Senior City Planner to review the proposed changes.

As a result, as part of the outreach to the residents, the association created a survey for it's residents to respond to the changes. 329 responses were received (a 10% response rate). A summary of the results are:

- While 70.06% respondents were aware that the City is recommending individual re-zoning for ADUs, only 52.47% are aware that the City was proposing an increase in the current allowable size for ADUs.
- 67.31% of respondents do not support the increase of the ADUs to 2 story
- 64.72% do not support the larger ADUs in a U-SU-B1 zoned lot
- 65.9% do not support the changes to increase the allowable bulk plane for ADUs
- 62.46% do not support the use of balconies on ADUs
- 69.75% do not support the removal of owner occupancy requirements
- While only 43.12% support ADUs in Washington Park, only 39.88% would support their neighbor in a request for an ADU.

Based on the survey responses there are several items in the proposed changes the Washington Park East Board has voted to oppose:

The increase of the originally proposed 35 sq ft deck to 100 sq ft. as well as the encroachment into the rear setback.

C. Supplemental Design Standard

1. Rooftop and/or Second Story Decks are prohibited in the rear 35% of the zone lot depth except with a Detached Accessory Dwelling Unit building form.
2. A Rooftop and/or Second Story Deck with a Detached Accessory Dwelling Unit building form is subject to the following limits:

5.3-38 |

DENVER ZONING CODE

June 25, 2010 | Republished July 1, 2021

DZC Text Amendment - ADUs in Denver
Planning Board Review Draft
3/29/2023

Article 5. Urban Neighborhood Context
Division 5.3 Design Standards

- a. Maximum floor area may not exceed 100 square feet;
 - b. Must be sited entirely within 15 feet of rear zone lot line abutting an Alley.
 - c. May encroach into a required setback only if the Rooftop and/or Second Story Deck complies with the additional standards stated in Sec 5.3.7.4 Setback Exceptions.; and
 - d. The upper walking surface of the Rooftop and/or Second Story Deck may not exceed 14 feet in height.
3. The Zoning Administrator may prohibit other similar structures in the rear 35% of the zone lot depth, including detached or freestanding structures but excluding the detached accessory dwelling unit building form where allowed, when the Zoning Administrator finds the structure would have similar adverse privacy impacts as the specifically prohibited Rooftop and/or Second Story Deck.

The initial proposed 35sq ft balcony increased to a 100sq ft balcony (almost 3x the original size) and the addition of the language "rooftop deck". This is a privacy issue for the neighbors across the alley and the language of *rooftop deck* needs to be removed and/or clarified to mean only a deck.

The intrusion into the 5ft rear setback for the deck as well as stairs does not meet the criteria for "minor" intrusion as outlined in section 5.3.7.4. Many of the alleys in our neighborhood are only 14.5' wide.

The conditional encroachment of dormers to penetrate the bulk plane by 3 feet. One of the many concerns that residents have is solar access, as well as privacy for the neighbors, as well as the additional increase in mass in the smaller lots.

CC: Tim McHugh
Councilman Paul Kashman



**Baker Historic Neighborhood
Association**
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March 16, 2023

To the Denver Planning Commission, and Councilmembers Jolon Clark, Debbie Ortega, and Robin Kniech,

The Baker neighborhood has participated in the process leading up to proposed changes to **Accessory Dwelling Unit** zoning through a neighborhood representative on the ADUs In Denver advisory committee and through participation by many neighbors in open houses and online surveys. ADU zoning issues had previously been a topic of discussion at neighborhood meetings for several years.

At the 14 February general membership meeting, the Baker Historic Neighborhood Association discussed the draft Strategy Report published 24 January, 2023, and voted, 21 in favor, zero opposed, to the following motion. Since the time of this vote, the Public Review Draft has been released. Neighborhood representatives have reviewed the Public Review Draft and found that the general membership's comments are still applicable. The motion was as follows:

To indicate general support for the zoning changes in the Strategy Report, intended to improve the constructability and livability of ADUs as a way of providing additional housing without disrupting the existing neighborhood fabric.

This vote of support included two notes regarding details in the report:

- Page 37, 'Reuse of existing accessory structures', should specify a 'pre-existing date' to avoid creating a loophole for dodging setback requirements. (i.e., building a 'garage' to take advantage of the different setbacks and then immediately 'converting' it to an ADU.*
- Page 39, "Urban Neighborhood recommendations," should clarify that exterior stairs are not allowed in rear setbacks in order to avoid creating an unintentional incentive for exterior stairs, which are not optimal in Denver's climate and which could be damaged by alley traffic.*

On behalf of our BHNA Landmark Committee Chair, Ozi Friedrich and our membership, we appreciate the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads 'Mark Tabor'.

Mark Tabor
President
Baker Historic Neighborhood Association



November 22, 2022

Office of Councilwoman Amanda P. Sandoval
Council District 1
1810 Platt St.
Denver, CO

Re: Berkeley-Regis United Neighbors position on
Denver Community Planning and Development ADUs In Denver Project

Dear *Amanda and Joshua*,

At the 11/15/2022 Berkeley Regis United Neighbors (BRUN RNO) Board meeting a motion from the BRUN Zoning & Planning Committee (BRUN ZAP) was considered such as to establish BRUN's position on the above captioned topic. The comments and recommendations below are based on the proceedings to date of CPD's ADUs In Denver Project, BRUN ZAP's ADUs In Denver Assessment Report, dated 11/10/2022, and subsequent discussion and vote by the BRUN Board to establish its position on this topic.

As stated by Jeff Laws on 11/11/2021:

"My perspective from historical memory is that in the 2010 code rewrite negotiations, the way (the) ADU option was allowed, was to limit to minimum 5500 standard lot size to limit density impacts. Now we are looking for reasons to abrogate that agreement. What impact will an override have in broaching that original limitation agreement? Should the neighborhood be reengaged on this broad question before CCD and CPD establish the facts on the ground with spot zoning approvals?"

I am not necessarily opposed to a zoning code revision, but as the RNO & ZAP, BRUN should consider all impacts and consequences, especially long range. Caution should be the word in considering how ADU blanket approval will be implemented with flippers and developers, especially on smaller lots. Admittedly, the economics of square footage limitations based on lot size will forestall some ADU development to existing homeowners, but if a developer is starting with a blank lot and is building a garage anyway, then adding the ADU living space is a less economic impactful consideration to the development plan. The impact on neighbors and the neighborhood is a different calculus. This is not MX streetcar commercial block impact but SU zone blocks."

BRUN's position is as follows:

It is recognized that CPD's and the ADUs In Denver Project Advisory Committee's (AC) work is not complete, but advanced enough to submit comments and recommendations while there is still time for consideration and prior to issuance of any CPD final report and draft Denver Zoning Code (DZC) text amendment. BRUN is encouraged with the progress of CPD and the Advisory Committee towards identifying and eliminating/mitigating barriers to homeowners who want to develop ADUs. With the overall outcome being a future text amendment to the Denver Zoning Code, this effort will contribute to addressing the need for more housing units in Denver, as well as providing an economic assist to Homeowners. Comments and recommendations are as follows:

Neighborhood Impacts, Prioritization, and Equity

Throughout the six Advisory Committee meetings to date CPD has, at times, couched the discussion of various issues as prioritizing a "fix" to stated barriers over neighborhood integrity and adjoining neighbor's interest. Barriers that prevent reasonable development of ADUs AND impacts to neighborhood property can be addressed concurrently. This is a challenge but can be achieved on most all lot sizes. Since the approach to issues over various contexts is not a one-size-fits-all, revision to parameters governing ADU location on a given lot, especially small lots, may impact the adjoining neighbor, primarily regarding shadow and privacy. With the overall outcome of this effort being recommendations that will change ADU design parameters, it becomes ever more important that adjoining neighbors have an opportunity to weigh-in on these projects in a use-by-right scenario. Although there is a mechanism for notification within the Denver Building Code, it is felt that timing of this notification is too far along in the design process to allow for timely, efficient, and economical adjustments to the design in question. To truly



having an equitable process, for all parties involved, there needs to be a mechanism to identify and mitigate impacts to adjoining neighbor at the initial stages of the planning process.

Recommendation: BRUN supports the development and codification in the DZC of a mechanism for notifying the adjoining neighbors of an impending ADU project and having CPD Staff and the Applicant assess unique site conditions, and review adjoining neighbor comments, as they may relate to the adjoining property, during the site plan review process.

Owner-Occupancy (DZC Section 11.8.2.2)

One of the ADU Project goals is for allowing Property Owners to develop ADUs to accommodate aging relatives, extended family, provide for a caregiver, or act as a rental property to provide supplemental income - all good purposes that should be promoted and supported. Currently, the Property Owner who develops an ADU, must occupy one of the two structures. Councilperson Sandoval's office has noted that this rule is intended to keep ADUs as an owner-occupied investment and wealth building tool rather than a commercial business project. The removal of the Owner-Occupancy requirement creates a scenario for TU development in SU neighborhoods since the ADU ceases to be "accessory". The risk to the neighborhood is that the Property Owner could regard the property less as a "home" and more as a "business" with associated minimal maintenance and upkeep - a detriment to neighborhood integrity. Removal of this rule will also create an opportunity for commercial or institutional buyers to purchase homes - some being scraped and replaced with larger homes that are more out of the economic reach for most of the public.

However, it has been noted that if the Property Owner does not retain residency at the property, or if a person inherits a property with an ADU and chooses to not live at the subject property, the ADU must be decommissioned. Arguments have been made stating that these scenarios will decrease the ADU inventory. A study of a peer city, where there is no Owner-Occupancy rule, showed that less than 3% of ADU properties were not owner occupied. Removing this rule is seen as not having substantial negative impact on the stability of the ADU inventory.

Recommendation: BRUN supports removal of the Owner-Occupancy rule.

Infrastructure

There has been some note that adding ADUs to SU districts will impact the water and sewer systems. It has been noted by Denver Water and DOTI that the development of ADU Projects will have negligible impact of Denver's water supply and wastewater systems. However, it has also been noted in the Advisory Group discussions that utility fees for ADUs are a barrier to their development. Since the utility infrastructure is outside the scope of the ADU Project, a recommendation will probably be made that the associated departments consider reducing their utility connection fees for ADUs. Since utility connection fees are substantial some thought should be given to the economic impact on the budgets of those departments in considering such a fee reduction.

Recommendation: BRUN supports study of the economic impacts of reduced connection fees to Denver Water and DOTI.

Proposed Regulations

During discussions in Advisory Group meetings #5 & #6 there are several proposed regulations that stand out. They are:

- **Building Height** - The 1.5 Story Rule has always been bizarre, especially when applied to "third floor" of flat-roofed duplexes. This alone has created structures that tower over their neighbors, sometimes with relentless shadows, again depending on the block orientation, and should have been considered in past text amendments. In the context of an ADU the 1.5 Story Rule limits the usable square footage of the second floor.

Recommendation: The 1.5 Story Rule should be modified to allow for greater usable floor area on the second floor - but not at the expense of the adjoining neighbor where the effect of increased height can be mitigated. This will coincide with revisions to the Bulk Plane and Side Setback. (See Building Coverage below for parallel issue)



- **Rear and Side Setbacks** - Rear and Side Setbacks are a consideration of the Advisory Group. **Recommendation:** The Rear Setback should be reevaluated and possibly reduced or eliminated, in Urban and Urban Edge neighborhoods with alleys with alley width of 16' or greater. However, the Side Setback should remain - especially on north/south block orientations regardless of context. The minimum Side Setback for the primary structure is either 3' or 5' (depending on lot size) - so should a habitable ADU. Again, there should be consideration of neighbor impacts. Conversions of existing structures can be an exception dependent on there being no unique adjoining site conditions.
- **Bulk Plane** - It is recognized that current Bulk Plane rules sometimes produce strange geometric buildings. **Recommendation:** Applying a Bulk Plane to the building form design should continue. Even for Small Lots, it should not be eliminated. However, the current 10' Bulk Plane edge height limits the second story footprint size. Having a Bulk Plane is good, but it needs to be closely analyzed, and possibly raised - somewhere between 2' and 5'. However, small lots should be particularly analyzed from various orientations where a two-story structure could impact the adjoining neighbor. (The example shown in the CPD August Issues Identification Report is too simple a design and does not show the irregular form noted in the text. Keep in mind that increasing the Bulk Plane edge height will somewhat increase the cost of the structure.)
- **Minimum Lot Size - Recommendation:** Because of the variety of lot sizes throughout Denver current regulations are a barrier to ADU development. Removing minimum lots sizes should be considered if the adjoining neighbor is not impacted through reduced or zero Side Setback, expanded lot coverage, or other revised parameters.
- **Square Footage for Small Lots** - The 650 s.f. minimum area is restrictive. However, a revision exceeding 800 s.f. for lots less than 6,000 s.f., as discussed in Advisory Group meetings, is too much. This, after all, is an accessory dwelling, not a new primary dwelling. **Recommendation:** Increasing square footage to between 650 and 800 square feet is acceptable for lots less than 6,000 s.f. if % of Lot Coverage for the type lot is not exceeded and minimum 5' Side Setback is maintained.
- **Building Coverage** - Building Coverage needs to be decoupled from vehicle storage, especially for SU zone lots since off-street parking is not required. This will promote development of single-story ADUs, which will be a positive in addressing adjoining neighbor concerns because of their reduced height. However, this discussion needs to recognize the automobile is not going away anytime soon and that on-street parking is a problem - especially in neighborhoods where on-street parking is only on one side of the street. **Recommendation:** The Building Coverage requirement should be decoupled from vehicle storage for SU zone lots. Off-street parking requirements should be maintained for all TU and RH building forms.
- **ADUs On Other Than SU Zoned Lots - Recommendation:** The ability to develop ADUs on TU and RH zoned lots should be allowed, if all noted impacts above to adjoining neighbors are mitigated.
- **"Overcrowding Rule" (DZC Section 11.8.2.2) - Recommendation:** To allow for an acceptable quality of life the "Overcrowding Rule" should not be eliminated.
- **Upper-story Decks** - Upper-story Decks can contribute to as acceptable quality of life. **Recommendation:** Upper-story Decks should be allowed on all sides of the ADU.

Modeling

Although it is recognized that solutions cannot be developed to address all concerns, it would have been helpful in the overall process if modeling considered all common block orientations – especially where alleys exist. Unfortunately, by the time this was recognized it had become too late in the process to add more modeling time. In assessing neighbor impacts the Advisory Group's emphasis has been on larger lots at the expense of smaller lots that exist in many of the close-in neighborhoods – primarily lots less than 6,250.0 s.f.



Summary

Statistics presented in Advisory Group Meeting #6 noted that approximately 440 ADUs have been developed since 2010. In comparison to the total number of lots where ADUs are allowed, development is less than 10% of available lots. To understand the relevance of this number as it would relate to development barriers, it would be interesting to compare units completed against the number of inquiries to develop ADUs where the Applicant has backed out for a zoning process or cost reason. It would also be interesting to know if the number of ADUs developed in the years since recent area rezonings have taken place have exceeded the average number of units developed from previous years.

Will any of the CPD/Advisory Group's efforts make a measurable difference? Perhaps. BRUN supports the recommendations noted above. Barriers, where pragmatically considered, should be removed, but not at the expense of the adjoining neighbor where such impacts can be mitigated. It must be remembered that the purpose of having a zoning code is defining and managing expectations - for all parties concerned. Regardless, the two greatest factors in the development equation are not within the scope of the ADUs In Denver Project. They are one, construction cost, and two, capacity within the construction industry to build a substantial number of units per year to make a positive impact. If, however, because of this project the process is made easier, then this will be a substantial achievement. In a comprehensive approach to Denver's housing shortage every available solution should be developed and is why this project is worth the effort.

Sincerely,

Scott Danenhauer

President
Berkley Regis United Neighbors
(BRUN RNO)

CC: Via Email
Joshua Palmeri Denver Community Planning and Development
INC Board
INC ZAP

Planning Board Comments



Submission date: 4 April 2023, 6:18PM
Receipt number: 499
Related form version: 3

Your information

Name	Ozi Friedrich
Address or neighborhood	528 W 1st Ave, Baker neighborhood
ZIP code	80223
Email	ozi@radix.design

Agenda item you are commenting on

Zoning Code Text Amendment

Rezoning

Address of rezoning
Case number

Draft plan

Plan area or neighborhood

Proposed text amendment

Project name	ADUs in Denver
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Historic district application

Name of proposed historic district

Comprehensive Sign Plan

Address of comprehensive sign plan

Case number

DURA Renewal Plan

Address of renewal project

Name of project

Other

Name of project your would like to comment on

Submit your comments

Would you like to express support or opposition to the project? **Strong support**

Your comment:

I wish to strongly support the proposed ADUs in Denver text amendment to the zoning code. I am an architect who designs ADUs as a major focus of my practice. I also represent my neighborhood on the Baker Landmark and Zoning committees. ADUs are a way of providing new development and additional density without damaging the historic fabric of neighborhoods like Baker. They offer residents additional sources of income, flexibility to help support complex modern families, and contribute to the safety of the alleys by providing eyes on the street. The currently existing zoning code is excessively restrictive and results in 'cookie cutter' ADU forms that do not reflect the diversity and creativity of our neighborhoods.

After years of discussing issues with ADU zoning in our neighborhood meetings, the Baker Historic Neighborhood Association [BHNA] asked me to represent the neighborhood in the Advisory Committee process that helped to inform the proposed text amendment. BHNA has subsequently voted to support the text amendment.

The Advisory Committee and the parallel public outreach process had many strong voices advocating for various approaches and details in the text amendment. While I do not agree with every detail and line of the text amendment, I believe it fairly represents the very extensive public process and synthesizes many of the most important suggestions of the Advisory Committee. My architectural practice has studied the new text amendment in two of our projects and we have found that it allows us to greatly enhance both the neighborhood compatibility and the livability of the resulting ADUs. I hope that the Planning Commission will approve the text amendment -- with fine-tuning as it deems necessary -- and I look forward to seeing the alleys of Denver flourish as a place for creative and liveable dwellings.

If you have an additional document or image that you would like to add to your comment, you may upload it below. Files may not be larger than 5MB.

Planning Board Comments



Submission date: 5 April 2023, 8:31AM
Receipt number: 500
Related form version: 3

Your information

Name	Darcy Wilson
Address or neighborhood	Cole
ZIP code	80205
Email	dw@stanmarinc.com

Agenda item you are commenting on

Zoning Code Text Amendment

Rezoning

Address of rezoning
Case number

Draft plan

Plan area or neighborhood

Proposed text amendment

Project name	ADU code revision
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Historic district application

Name of proposed historic district

Comprehensive Sign Plan

Address of comprehensive sign plan

Case number

DURA Renewal Plan

Address of renewal project

Name of project

Other

Name of project you would like to comment on

Submit your comments

Would you like to express support or opposition to the project? **Strong support**

Your comment:

After building an Accessory Dwelling Unit and the lenght of time it took to move through the permitting process took too long. This added to the construction cost. Hopefully, we have eliminated most of the common hurdles that may arise in the future reducing cost for the typical homeowner making it more affordable

If you have an additional document or image that you would like to add to your comment, you may upload it below. Files may not be larger than 5MB.

Planning Board Comments



Submission date: 5 April 2023, 8:47AM
Receipt number: 501
Related form version: 3

Your information

Name	Rosemary Stoffel
Address or neighborhood	2275 S. Monroe St.
ZIP code	80210
Email	rosemary.stoffel@gmail.com

Agenda item you are commenting on

Zoning Code Text Amendment

Rezoning

Address of rezoning

Case number

Draft plan

Plan area or neighborhood

Proposed text amendment

Project name	ADUs in Denver
--------------	----------------

Historic district application

Name of proposed historic district

Comprehensive Sign Plan

Address of comprehensive sign plan

Case number

DURA Renewal Plan

Address of renewal project

Name of project

Other

Name of project your would like to comment on

Submit your comments

Would you like to express support or opposition to the project? **Neutral**

Your comment:

To: Members of Denver Planning Board
Re: Official Text Amendment, ADUs in Denver
From: Rosemary Stoffel

As a member of the ADU Advisory Committee, I'm concerned that the initial 35 sq ft landing/balcony morphed into a potential full width deck without public input on the latest illustration, available only yesterday after I requested it. I'm concerned that others, like me, haven't seen a graphic of what the 100 sq ft. "deck" looks like vs. the "landing space" balcony discussed by the committee. Page 43 of the Strategy Report illustrates the "landing space" as a 35 sq ft space, as discussed by the committee. This is the illustration seen in outreach efforts so far, as I understand it.

I realize that the draft text allows 100 sq ft, which I had read and interpreted as a mere calculation issue to include the stairs/landing area, after an explanation by CPD. Unless someone is an architect or zoning code nerd, I doubt that the text alone would lead the reader to envision a deck running the full width of the ADU. I understand the need for livable ADUs and the desire for outdoor space, but the impacts on adjacent properties in urban neighborhoods need consideration, too.

Please consider the need for additional public outreach which includes this latest illustration as the draft moves through city processes.

If you have an additional document or image that you would like [ADU concern2.docx](#) to add to your comment, you may upload it below. Files may not be larger than 5MB.

To: Members of Denver Planning Board
Re: Official Text Amendment, ADUs in Denver
From: Rosemary Stoffel

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Draft Recommendations for Urban Neighborhoods

