

MEMORANDUM

TO: Members of the Denver City Council LUTI Committee

FROM: Emily Collins, Expanding Housing Affordability Administrator

DATE: April 9, 2024

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. Both ordinances were last amended in May 2023 to extend the approval deadlines as outlined below using the best information we had at the time:

1. For projects subject to an SDP only (or SDP amendment):
 - **May 17, 2024**
 - However, 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:
 - **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.

The proposed amended ordinance will allow the City to continue to review submitted site development plans under the effective date provision of these two ordinances. Thus, allowing projects subject to a site development plan (SDP) to continue under the prior affordable housing linkage fee if a concept site plan was submitted on or before June 30, 2022. The amendments to these ordinances will extend the date by which a project must receive formal site development plan approval as follows:

1. For all projects subject to an SDP (or amendment), including LDR/Subdivision requirement:
 - **April 18, 2025**

- The ordinance also establishes that all projects under the effective date provisions must re-submit to within 90 days after the date CPD sends consolidated review comments. This requirement shall apply to any re-submittal made to CPD after May 17, 2024.

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 former CPD Executive Director Laura Aldrete, regarding the effective dates for EHA. When the policy was first adopted, it was premature to consider an extension to the approval deadlines agreed to in October 2021. Delays in city review time due to the influx of submittals in 2022 and 2023 delayed the ability for many projects to make significant process in moving forward to approval. While we continue to see improvements in city review time, there are still areas of the city that due to a great influx of submittals are taking more time to provide comments and thus, we are requesting City Council amend these ordinances one more time to allow projects already submitted additional 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 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.

As a reminder, projects moving forward under the older rules do still pay the affordable housing linkage fee which continue to be adjusted annually by the CPI-U, as well as certain residential projects within prior height incentives areas such as along Brighton Boulevard and Golden Triangle will be providing affordable units. These funds go to HOST to use to fund affordable housing.