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DENVER
THE MILE HIGH CITY

TO: Land Use, Transportation and Infrastructure Committee
FROM: Justin Montgomery, AICP, Senior City Planner
DATE: October 3, 2024
RE: Citywide ADUs: Denver Zoning Code Text Amendment, Denver Revised Municipal Code Amendment, and Map Amendment #2024I-00151

Staff Report and Recommendation

Based on the review criteria for map and text amendments set forth in the Denver Zoning Code (DZC), Sections 12.4.11 (Text Amendment) and 12.4.10 (Map Amendment), CPD staff recommends that the Land Use, Transportation, and Infrastructure (LUTI) Committee move the Citywide ADUs Text Amendment and Application #2024I-00151 forward for consideration by the full City Council. CPD also recommends that LUTI forward the proposed DRMC amendment for consideration by the full City Council.

Summary and Purpose

The proposed Citywide ADUs text and map amendments were initiated by City Council sponsors Sarah Parady (at-large), Darrel Watson (District 9), and Chris Hinds (District 10) and Community Planning and Development as part of the city's ongoing effort to expand housing availability and choice. This text amendment directly implements Blueprint Denver Land Use: Housing Recommendation #4, "Diversify housing choice through the expansion of accessory dwelling units throughout all residential areas" by proposing to update the Denver Zoning Code to allow accessory dwelling units (ADUs) in all residential areas of the city. A LUTI review draft of the proposed text amendment is available on the project's webpage and is included as an attachment to this staff report.

Background

According to Blueprint Denver, ADUs can add variety to the housing stock in low density residential neighborhoods without significantly changing the existing character. However, many Denver residents live in zone districts that do not currently allow ADUs. Those residents must undertake a costly and time-consuming rezoning process. This text amendment proposes to streamline the process for residents adding an ADU to provide rental housing or an additional unit for family members.

The Citywide ADUs text amendment builds upon the 2022-2023 ADUs in Denver text amendment, which updated zoning requirements for ADUs to remove zoning barriers to ADU construction and ensure they fit in to different neighborhood contexts around the city. Prior to those changes, the zoning code considered ADUs through a one-size-fits-all approach with little variation by neighborhood. Now, each zone district has specific design standards for ADUs related to setbacks, building height, bulk plane, and other design requirements. The contextual design requirements created through the ADUs in Denver will remain unchanged with this proposed text amendment.

Related ADU Requirements

In addition to the zoning requirements, ADUs must meet all applicable building and fire code standards for new construction. New building permits are reviewed by multiple agencies prior to approval.

Related State Law
In May 2024, the State of Colorado adopted legislation affecting ADUs across the state. This proposed text amendment will help bring Denver in compliance with state law.

Proposed Changes

The Citywide ADUs text amendment proposes the following changes to the DZC:

- **ADU Allowance & Detached ADU Building Form:** This text amendment proposes to allow ADUs in all single unit residential zone districts where they are not already allowed. Detached ADUs (separate structures as opposed to a basement ADU or other attached unit) will be allowed in these areas and would follow existing design requirements based on their neighborhood context.

- **Removal of Duplicative Zone Districts:** The proposed change to allow ADUs in all residential areas of the city would allow 16 zone districts within the DZC to be deleted since their sole purpose is to allow ADUs. These "1-districts" (zone districts that end with the number 1) are identical to their non-1 counterparts with the only difference being the allowance of ADUs. The proposed allowance for ADUs in all single unit zone districts means the "1-districts" are no longer needed. Removing 16 zone districts will help simplify the DZC.

- **Follow State Law on Owner Occupancy:** The new ADU state law, passed in May 2024, limits when jurisdictions can impose an owner occupancy requirement (that the owner of the property reside in either the primary home or ADU). To comply with state law, the Citywide ADUs text amendment would require owners to reside in the primary residence only at the time of ADU permit application.

- **ADUs in Site Development Plans:** The permitting process for ADUs on properties within an approved Site Development Plan (SDP) or Planning Building Group (Former Chapter 59's version of an SDP) requires a full SDP amendment, including the agreement of all property owners within the approved plan. This can be a significant barrier for individual property owners seeking to add an ADU. The Citywide ADUs text amendment proposes to ease the review process for ADUs within these plans. It would allow an ADU to be approved by a zoning permit if the ADUs doesn't expand the footprint of approved structures on the site. A new ADU or an ADU that increases the footprint of approved structures could be approved as an SDP modification.

In addition to the DZC text amendment, there are two other related proposals:

- **Denver Revised Municipal Code (DRMC) Amendment for Former Chapter 59 (FC59) Zone Districts:** The City Council sponsors for the Citywide ADUs text amendment and CPD staff introduced a related DRMC amendment to allow ADUs as accessory to single unit primary uses in all FC59 zone districts that allow single unit primary uses. ADUs are currently allowed only in the following FC59 zone districts: R-MU-20, R-MU-30, C-MU-10, C-MU-20, C-MU-30. The DRMC amendment will extend the allowance to the following FC59 districts: RS-4, R-X, R-0, R-1, R-2, R-2-A, R-2-B, R-3, R-3-X, R-4, R-4-X, R-5, B-1, B-2, B-3, B-4, B-5, B-5-T, B-7, B-8, B-8-A, B-8-G, B-A-1, B-A-3, B-A-4, CCN, MS-1, MS-2, MS-3, R-MU-20, R-MU-30, C-MU-10, C-MU-20, C-MU-30, H-1-A, H-1-B, H-2 and Gateway (within Gateway use areas allowing single unit dwelling uses) zone

districts. The location and design requirements for ADUs in FC59 districts will be the same as those for comparable DZC districts. Note that Planning Board does not make a recommendation on proposed amendments to the DRMC.

- **Proposed Charter Process Map Amendment:** The City Council sponsors for the Citywide ADUs text amendment introduced an amendment to the zoning map to change the zoning classification of properties located within zone districts that would be deleted by the proposed text amendment (see "Removal of Duplicative Zone Districts" above). This zoning map amendment will propose to change the zoning classification of all properties that are currently within one of the 16 "1-districts" to each zone district's non-1 counterpart. For example, a property currently zoned E-SU-A1 would be rezoned to E-SU-A since the proposed text amendment would allow ADUs in the E-SU-A zone district. The City Council sponsors introduced the proposed zoning map amendment with a request to follow the Charter process described in DRMC Section 3.2.9 rather than the DZC process. Note that Planning Board does not make a recommendation on map amendments that do not follow the DZC process.

  Current Zone Districts: S-SU-A1; S-SU-D1; S-SU-F1; S-SU-F1A; S-SU-F1x; S-SU-I1; S-SU-I1x; E-SU-A1 to E-SU-B1; E-SU-D1; E-SU-D1x; E-SU-G1; U-SU-A1; U-SU-A1, UO-1, UO-2; U-SU-A1, UO-3; U-SU-B1; U-SU-B1, UO-3; U-SU-B1, CO-8; U-SU-C1; U-SU-C1, UO-3; U-SU-C1, CO-6; U-SU-C1, CO-7; U-SU-C1, CO-8; U-SU-E1; U-SU-H1

  Proposed Zone Districts: S-SU-A, S-SU-D, S-SU-FA, S-SU-F, S-SU-Fx, S-SU-I; S-SU-Ix; E-SU-A; E-SU-B; E-SU-D; E-SU-Dx; E-SU-G; U-SU-A; U-SU-A, UO-1, UO-2; U-SU-A, UO-3; U-SU-B; U-SU-B, UO-3; U-SU-B, CO-8; U-SU-C; U-SU-C, UO-3; U-SU-C, CO-6; U-SU-C, CO-7; U-SU-C, CO-8; U-SU-E; U-SU-H

Outreach and Public Process

Community outreach for the Citywide ADUs project included an informational mailer, virtual town halls, and an online comment/question form. Here is a complete list of meetings and outreach points:

Public Meetings

- Virtual Town Hall – August 8, 2024
- Virtual Town Hall – August 21, 2024

Planning Board and City Council

- City Council Budget and Policy Committee update – March 18, 2024
- City Council Briefings – July 2024
- Planning Board info item – August 7, 2024

Adoption Process Timeline

- Text Amendment Initiated – March 18, 2024
- Text Amendment Internal Agency Referral #1 – April 15, 2024
- Text Amendment Internal Agency Referral #2 – June 17, 2024
- Notice of Text Amendment Public Review & Proposed DRMC Amendment – July 26, 2024
- Planning Board Hearing Public Notification – August 20, 2024
- Planning Board Public Hearing – September 4, 2024 (recommended approval unanimously)
- Sponsors Proposed Map Amendment – September 26, 0224
- LUTI Committee – October 8, 2024

- Mayor Council – October 23, 2024*
- City Council First Reading – October 21, 2024*
- City Council Public Hearing – November 18, 2024*

* Anticipated dates are confirmed during the legislative review process and subject to change.

Written comments: Comments and questions were encouraged through on online form on the project's webpage and were also provided via email. Staff received 716 comments and questions, prior to the cutoff time for this report (10/1/24 at 5pm) from the public on this project. Approximately 62% of the comments received expressed support for the text amendment, 15% were questions, and 23% expressed opposition to the text amendment. The comments are attached to this staff report.

Informational Postcard: Postcards were mailed to the owners of all properties within the zone districts proposed to gain the ADU allowance. The 93,560 property owners were informed of the proposed text amendment and how to read the public review draft, submit comments, and find information about public meetings. The postcard included a QR code with the words "scan me" in 12 languages that linked to a webpage of the postcard content, where individuals can set their language preference to access the information.

Virtual Town Halls: The City Council sponsors and CPD staff hosted two virtual town halls that focused on providing information about the Citywide ADUs text amendment. For each event, there where over one-hundred people registered, and the sponsors and staff answered dozens of questions verbally and in writing. These town halls were recorded and made available on the project's webpage.

Review Criteria and CPD Staff Evaluation

The criteria for review of a proposed map and text amendment are found in Sections 12.4.10.7 and 12.4.11.4 of the DZC respectively. CPD analyzed the proposed text and map amendments 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 and map amendments are consistent with the following adopted plans, strategies and policies:

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

Comprehensive Plan 2040
The proposed text and map amendments are consistent with many of the adopted *Comprehensive Plan 2040* strategies, which are organized by vision element.

Equitable, Affordable, and Inclusive vision element:

- Equitable, Affordable and Inclusive Goal 2, Strategy B "Ensure city policies and regulations encourage every neighborhood to provide a complete range of housing options." (p. 28)
- Equitable, Affordable and Inclusive Goal 3, Strategy B "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. 28)

- 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 the text and map amendments will help to create equitable, affordable, and inclusive neighborhoods by adding to the housing options available in all residential neighborhoods. The proposed land use regulations encourage private development by removing a regulatory hurdle for thousands of property owners who would otherwise have to rezone before adding an ADU. ADUs also provide a housing option for seniors to age in place and receive income by renting out their primary home.

Strong and Authentic Neighborhoods vision element:

- Strong and Authentic Neighborhoods Goal 3, Strategy E to "Support the stewardship and reuse of existing buildings." (p. 34)

Staff finds that the text and map amendments will aid in creating strong and authentic neighborhoods through the preservation and reuse of existing structures as they would now be allowed to be repurposed as ADUs, where they previously were not. Peer city research has shown that ADUs can 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, which could lead to a scrape of the entire site.

Blueprint Denver (2019)
The proposed text amendment is consistent with the following *Blueprint Denver* policies:

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

- Land Use and Built Form: General, Policy 11: "Implement plan recommendations through city-led legislative rezonings and text amendments."

  Strategy B: "Text amendments and large legislative rezonings should be guided by the equity concepts and maps in Chapter 2." (p.79)

Staff finds that the text and map amendments are guided by the key equity concepts. These amendments will improve access to opportunity by introducing a new housing option in many of our existing neighborhoods. They will reduce vulnerability to displacement by allowing existing property owners to remain in their homes while reinvesting in their property. The amendments will make construction of ADUs a more feasible option for Denverites, which expands housing and jobs diversity. Unlike primary homes, ADUs have a maximum size, so they may serve as a one- or two-bedroom rental in a neighborhood where only larger single-unit homes currently exist.

- Land Use and Built Form: Housing, Policy 4: "Diversify housing choice through the expansion of accessory dwelling units throughout all residential areas." (p. 84) Blueprint Denver Land Use and Built Form Housing Policy 4 includes the following additional guidance that is relevant to this

proposed text amendment to allow the expansion of accessory dwelling units throughout all residential areas:

- "Accessory dwelling units (ADUs) can add variety to the housing stock in low density residential neighborhoods without significantly changing the existing character. As Denver allows ADUs throughout the city, it is important to understand impacts in areas vulnerable to displacement."
- "Identify strategies to prevent involuntary displacement —especially in areas that score high for Vulnerability to Displacement —in conjunction with expanding the allowance for ADUs."
- "Study and implement a citywide program to expand access to ADUs as a wealth-building tool for low- and moderate-income homeowners."
- "Study and implement incentives or requirements for income-restricted ADUs, so they are more likely to provide affordable housing options, and tools to encourage the use of ADUs for long-term housing options, rather than short term rentals."

Staff finds that the proposed text and map amendments are consistent with Blueprint Denver Land Use and Built Form Housing Policy 4. The proposed text and map amendments build on the 2023 ADUs in Denver text amendment by extending the allowance for ADUs throughout all residential areas and is unlikely to result in involuntary displacement of existing residents.

CPD staff has researched concerns that ADUs could result in involuntary displacement of existing residents. Communities that already allow ADUs citywide, such as Portland, Oregon, report that they have not experienced displacement issues related to ADUs. They note that ADUs are typically built by existing homeowners, who are sometimes able to either move into their ADU or use rental income provided by their ADU to remain in the neighborhood when rising prices or changing life circumstances could otherwise cause them to move.

The city continues to support the Denver Housing Authority's existing West Denver Single Family+ ADU Pilot Program, which has now expanded to support ADUs wherever they are allowed citywide. The ADU Pilot Program seeks to stabilize homeowners to minimize involuntary displacement, provide wealth building opportunities, create long term affordable units, and promote equitable access to ADU zoning & development. By expanding ADU allowances citywide, this proposed text amendment will support use of the existing Single Family+ ADU Pilot Program to provide income restricted ADUs across a wider range of neighborhoods. Note that ADUs supported by the existing Single Family+ Pilot Program may not be used as short-term rentals.

As noted in "Related State Law" above, the proposed text and map amendments will help bring Denver into compliance with state ADU law. Communities that comply with state ADU law can be certified as an "ADU supportive jurisdiction" to become eligible for Colorado's new accessory dwelling unit fee reduction and encouragement grant program. Grants may be used to provide financial assistance and offset costs related to permitting and building ADUs that will be affordable, accessible/visitable, or provide for other demonstrated housing needs in the community. Potential future grant funds made possible partly through the proposed amendments could be used to address Blueprint Denver's policies to prevent involuntary displacement and promote provision of income restricted ADUs.

2. Public Health, Safety and Welfare

The text and map amendments further the public health, safety and welfare of Denver residents, landowners, and community members by implementing the city's adopted plans. The proposed amendments remove an inequitable regulatory barrier by eliminating the need for individual property owners to rezone their property to obtain the right to apply for an ADU.

3. Uniformity of District Regulations and Restrictions

The text and map amendments will result in updated regulations that are uniform within each zone district.

Attachments

1. LUTI review draft of the Citywide ADUs text amendment
2. Comments and Questions received from the public