



Arapahoe County

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Board Summary Report

File #: 25-184

Agenda Date: 3/25/2025

Agenda #:

To: Board of County Commissioners

Through: Bryan Weimer, Director, Public Works & Development

Prepared By:

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Presenter: Kat Hammer, Senior Planner, Public Works & Development

Subject:

3:15 PM *Affordable Housing Land Development Code Amendments

Purpose and Request:

In December 2023, the BOCC directed Planning staff to develop amendments to the Land Development Code (LDC) that would reduce zoning barriers and encourage the development of affordable housing. This County-initiated project proposes amendments to LDC Chapters 2 (Zoning Districts), 3 (Permitted Uses), 4 (Development Guidelines and Standards), 5 (Section 5-3.3 Zoning Procedures - Planned Unit Development), and Chapter 7 - Definitions. The proposed changes include the creation of new Multi-Family (MF) Residential and Mixed-Use (MU) Zone Districts and standards, changes to parking requirements, and incentives for affordable housing developments. The proposed draft language can be found in Attachment A.

Staff is seeking specific direction on a few options and authorization to conduct public outreach and proceed to public hearings.

Background and Discussion: Colorado has seen significant population growth in the last decade. Despite the rapid population growth, residential construction has been unable to keep up with demand. According to the Denver Regional Council of Governments (DRCOG) 2024 Regional Housing Needs Assessment, between now and 2032, Colorado needs to produce 216,000 new housing units and Unincorporated Arapahoe County will need to produce 2,270 housing units by 2032. While housing is needed at all income levels, housing that is affordable to households earning less than 60 percent of Area Median Income (AMI) represents the largest

share. There are many reasons for the underproduction of housing units, but one of the key contributing factors we hear from the development community is zoning barriers - i.e., limitations on density, location, and housing types in varying zoning districts.

Staff received direction from the Board of County Commissioners (BOCC) in December 2023 to draft proposed Land Development Code (LDC) amendments to further promote the development of affordable housing and add standards and regulations for a new Multifamily (MF) and new Mixed-Use (MU) Zone district. Currently, the Code does not permit multifamily housing as a use by-right; rather, those applications must go through a lengthy PUD (Planned Unit Development) process. Staff drafted new zoning districts that would allow multifamily as a use by right. Staff was also directed to draft amendments and create incentives for affordable housing, as well as revise the code to allow other housing types more easily.

Staff was not directed to amend the LDC to require inclusionary zoning as part of this effort. Although many cities throughout the Front Range have adopted inclusionary zoning regulations (those that require a certain percentage of residential units in a development to be rented or sold to a certain income level), there are some legal complexities that still need to be refined, such as fee-in-lieu of construction of affordable units. Staff was directed to hold off on this until the proposed regulations included in this staff report have been reviewed and discussed.

Minimum Parking Requirements - State Mandates

Staff is recommending revisions to the parking requirements pursuant to House Bill (HB) 24-1304, concerning Parking Requirements within Metropolitan Planning Organizations. The House Bill states that Arapahoe County shall not enact nor enforce regulations that establish a minimum parking requirement for multi-family residential development, adaptive re-use for residential purposes, or purposes that include at least fifty percent residential use, and affordable housing developments within a transit service area (properties located within ¼-mile of a transit stop). The Board held a study session on this item on February 18th and directed staff to amend the parking requirements section of the Code to reflect this State mandate. Attachment A includes the proposed code amendments to the parking requirements section of the code.

Proposition 123 & Transit-Oriented Communities State Legislation

Proposition 123 and HB24-1313, Housing in Transit Oriented Communities, will affect housing development. Proposition 123 focuses on housing production while HB24-1313 focuses on zoning capacity. Proposition 123 created the State Affordable Housing Fund which provides grant money to local jurisdictions. The initial step to qualify for these funds is a Local Government Affordable Housing Commitment, which includes a requirement to increase existing affordable housing units by three percent a year and an expedited review process for affordable housing developments. Arapahoe County Community Resources filed an Affordable Housing Commitment, including details of the county's goal of a 130-unit affordable unit increase (see Attachment C). Community Resources is working closely with municipalities and the state to identify how the County will meet this goal.

HB24-1313 requires local communities to increase zoning capacity (density) near transit areas, establish an

administrative approval process for multifamily projects on smaller parcels near transit, and sets housing goals based on transit stations and transit corridors. It requires TOCs to rezone transit areas based on an average density of 40 dwelling units per acre, with a minimum of 15 dwelling units per acre. Municipalities are required to develop a Housing Opportunity Goal (HOG) based on the amount of acreage within ¼-mile of all the transit areas in their jurisdiction, and measures such a rezoning of parcels to allow the level of density that would reach the HOG must be in place by December 2027. Arapahoe County has seven transit areas, which is approximately 796 acres of transit area, and our HOG is approximately 15,000 additional units.

In this suite of code amendments, staff is proposing to create a new Mixed Use (MU) zone adjacent to transit areas which would require a minimum density of 35 dwelling units per acre and allow for an administrative approval process for multifamily development. The Board held a study session on this legislation on February 11th and directed staff to focus code amendments on three of the seven transit areas: Dry Creek Light Rail Station, the Four Square Mile neighborhood, and the Federal Avenue bus route north of Highway 285. Staff will return with subsequent rezoning plans for these areas that would allow higher density with an administrative approval process. Approval of the proposed code amendments here that would create new Mixed -Use zones near transit centers which would facilitate the rezone efforts of these parcels near transit.

HB24-1313 also mandates municipalities to implement two “standard affordability” strategies and one “long term” affordability strategy from a menu, which might include establishing incentives for development of affordable housing (such as the proposed code amendments attached), or making a commitment for affordable housing under Proposition 123. This suite of code amendments serves to implement those housing strategies mandated by the State.

Residential Occupancy Limits - State Legislation

The Land Development Code has a limitation on number of residential occupants per household. In the allowable uses section of the code, residential uses are broken out by “single-family”, or “multifamily”. In the Definitions section of the code, the term “Family” is described as “An individual or two or more persons related by blood, marriage or adoption residing under one head of household, or a group of not more than five persons, who need not be related, living as a single housekeeping unit.” The original intent on limiting the number of unrelated persons in a single household was tied to neighborhood impacts such as parking, when a large group of roommates rented a home. This is more prevalent in college towns in Colorado, such as near CU Boulder or CSU in Fort Collins. The limitation on number of unrelated household residents was adopted by many municipalities, including Arapahoe County. In 2024, the state legislature passed HB24-1007, which prohibits municipalities from placing zoning limitations on the number of unrelated residents in one home. Thus, in order to comply with this legislation, the draft code amendments include a change to the definition of “Family” and has removed the limitation on the number of unrelated occupants.

Planning Commission Study Session

Staff brought this topic to the Planning Commission on January 7, 2025, for discussion at a study session. The Planning Commission had concerns regarding the following issues:

-Impacts that the increased zoning could have on infrastructure and roadway;

- Whether adequate funds would be accessible to developers;
- Concerns for the marketability of affordable units once completed;
- Enforcement and monitoring of affordable units;
- The proposed code amendment would allow affordable housing projects to bypass a neighborhood meeting requirement in order to streamline the process. The Planning Commission recommended that the proposed changes be modified to require neighborhood meetings before formal application, regardless if the development included affordable housing units.

Summary of the Proposed Changes:

Please see the attached Planning Commission staff report for a more detailed explanation of the proposed changes. The redlined version of the draft code amendments is located in Attachment A.

Creation of Multi-Family (MF) Zone District - Locational Criteria for this Zone:

- Geared towards higher-density multi-family housing and neighborhood serving commercial uses;
- Conveniently located near collector and arterial streets;
- Easy access to major employment and activity centers and public transit;
- Intended to serve as transitional areas between non-residential and lower-density residential uses;
- Single-family *attached*, 2-family, townhome and multi-family dwelling units as permitted uses by-right;
- Density ranges from 13-35 dwelling units per acre.

Creation of Mixed-Use (MU) Zone District - Locational Criteria for this Zone:

- Easy multi-modal access for higher density residential uses to a full range of office, retail, and service uses;
- Property must be located within one-quarter mile of arterial streets and transit systems;
- Only allow multi-family and live-work dwelling units; can be horizontally or vertically mixed with commercial uses;
- Maximum building height of 75 feet;
- Minimum density of 35 dwelling units per acre.

Incentives for Affordable Housing Development

- Two-Tiered approach option:
 - Tier One must have a minimum of 10 percent affordable units
 - Tier Two must have a minimum of 50 percent affordable units

- Streamlined PUD Process;
- Project must include affordable units that utilize federal low-income housing tax credits (LIHTC);
- Affordable for sale units must be deed restricted;
- Affordable rental units must submit a summary of the cost of rent an annual basis;
- A Memorandum of Agreement (MOA) must be provided for development seeking incentives.

Parking Regulations

- Remove minimum parking requirements to align with HB24-1304, as discussed above.

Removal of Residential Occupancy Limits

- Changed definition of “Family” in LDC to remove limits on household occupancy to align with HB24-1007, as discussed above.

Introduction to Additional Types of Residential Uses

- Live-Work Dwelling Unit and Assisted Living Facilities
- Overnight Shelter and Transitional Housing

Revised Manufactured Home Definitions

- Revised definitions to define and address other types of homes, such as modular and tiny homes in addition to manufactured and mobile homes.

Revisions to Mobile Home Parks or Subdivision Regulations

- Reduce parking requirements and adjust access requirement.

Fiscal Impact: In 2022, the BOCC adopted reduced Planning review fees for land use applications which incorporated affordable housing into their plans. The fee reductions are a percentage of the land use application, based on a sliding scale depending on the amount of affordable units in the project, but no more than 50% reduction in Planning application fees. To date, there have not been any projects that have taken advantage of this offer. Staff is looking at bringing forth fee reductions for engineering review fees with land use applications.

Alternatives: Staff is requesting discussion on the proposed LDC amendment related to affordable housing. If the BOCC would like additional information, staff can schedule an additional study session prior to drafting

additional regulations and sending/publishing the draft regulations for comment.

Alignment with Strategic Plan:

- ☒ Be fiscally sustainable
- ☒ Provide essential and mandated service
- ☒ Be community focused

Staff Recommendation: N/A

Concurrence: PWD and Community Resources have reviewed the proposed changes to the LDC.