

ARAPAHOE COUNTY PLANNING COMMISSION
STUDY SESSION
December 3, 2024
6:30 P.M.

SUBJECT: STUDY SESSION ON CASE NO. LDC24-004 - AFFORDABLE HOUSING
LAND DEVELOPMENT CODE AMENDMENTS

KAT HAMMER, SENIOR PLANNER

PURPOSE AND REQUEST

This County-initiated project proposes amending the Land Development Code (LDC), specifically, Chapter 2, Zoning Districts, Chapter 3, Permitted Uses, Chapter 4, Development Guidelines and Standards, and Section 5-3.3 Zoning Procedures - Planned Unit Development. The proposed changes include the creation of Multi-Family Residential and Mixed-Use Zone Districts and standards, and incentives for affordable housing developments. The proposed draft language can be found in Attachment A.

Staff is requesting a Planning Commission discussion on the proposed changes.

BACKGROUND

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 has a local need for 2,270 housing units by 2032. Furthermore, Colorado needs to produce 6,800 units by 2050 to meet current and future regional housing needs. While housing is needed at all income levels, housing that is affordable to households earning less than 60 percent of Area Median Income 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 LDC amendments to promote affordable housing further and add standards and regulations for a multi-family zone district and a mixed-use zone district. Staff was directed to draft amendments, and create incentives for affordable housing as well as, revise the specific mobile home use regulations in the code and clarify that modular homes are permitted where single-family homes are permitted.

Staff is also recommending revisions to the parking requirements pursuant to House Bill 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 which include at least fifty percent of use for residential purposes and affordable housing developments. More information on HB24-1304 can be found in Attachment B.

Proposition 123 and House Bill (HB) 24-1313, Transit Areas, 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 access to 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 130 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 designates Arapahoe County as a Transit-Oriented Community (TOC) because the county is within a Metropolitan Planning Organization (MPO) near light or commuter rail stations and has unincorporated areas that are surrounded by municipalities. The bill sets housing goals based on transit stations and transit corridors and requires TOC to rezone transit areas based on an average density of 40 dwelling units per acre, with a minimum of 15 dwelling units per acre. The bill itself does not require local governments to ensure housing is built, there is no penalty in HB24-1313 if units are not built if Arapahoe County has zoned capacity. The preliminary report estimating the County's Housing Opportunity Goal is due to Department of Local Affairs (DOLA) on June 30, 2025, and the county must meet the Housing Opportunity Goal by December 17, 2027. The creation of Multi-Family and Mixed-Use Zone districts may help the County reach the goals of Proposition 123 and HB24-1313. More information on HB24-1313 and Proposition 123 can be found in Attachment D and E.

DISCUSSION AND PROPOSED CHANGES

Staff is proposing the following changes to the LDC:

Multi-Family Zone District:

The LDC includes a placeholder for a Residential Multi-Family (R-MF) Zone District, but no specific standards, so currently, all multi-family development requires a PUD process. The PUD process can be lengthy and include up to three public hearings. Staff is recommending establishing standards for a multi-family zone district that is geared toward higher-density multi-family housing and neighborhood-serving commercial uses. The R-MF district is intended to be conveniently located near collector and arterial streets, with easy access to major employment and activity centers, and public amenities or complementary uses and activities such as schools, parks, open space, and public transit and are intended to serve as transitional areas between non-residential areas and lower-density residential uses. The R-MF district is primarily intended for residential uses but may also include limited nonresidential uses that support the surrounding area. Staff is not proposing any rezoning to this zone district as part of this amendment.

The proposed rezoning criteria requires the subject property to be located within the Urban Area, excluding restricted areas within the Airport Influence Area, or Rural Town Center Planning Areas, as defined by Sub-Area Plans. The subject property must also be located near major arterials and transit systems (except for the Rural Town Center Planning Areas) and near neighborhood services and employment. Staff is proposing this zone district only allow single-family attached, 2-family, townhome, and multi-family dwelling units as permitted uses, single-family detached dwelling units are not permitted uses in this zone district. The proposed regulations have no minimum lot size per dwelling unit, and a maximum building height of 55

feet for multi-family and 40 feet for all other dwelling units. The proposed minimum density is 13 dwelling units per acre and the maximum density is 35 dwelling units per acre.

Mixed-Use Zone District:

The LDC does not include a Mixed-Use (MU) Zone District, so all mixed-use development requires a PUD process. Staff is recommending amending the LDC to include a mixed-use zone district. Staff is not proposing any site-specific rezoning to this zone district as part of this amendment. The MU zone district is intended to include a mix of commercial and higher density residential land uses adjacent to transit and major road corridors in an urbanized area to offer greater opportunities to live, work and recreate within close proximity. The district is intended to include easy multi-modal access for higher density residential uses to a full range of office, retail and service uses. The proposed regulations only allow multi-family and live-work dwelling units permitted in this zone district. The proposed maximum building height is 75 feet, and the minimum density is 35 dwelling units per acre. The MU zone district requires the subject property to be located within the Urban area and within one-quarter mile of arterial streets and transit systems and in proximity to neighborhood services and employment. This zoning would facilitate the density needed in the Transit Oriented Communities legislation.

Incentives for Affordable Housing Development:

Staff is recommending a two-tiered incentive option for development which includes a minimum of 10% of the total units as affordable units. Affordable housing includes any development project that includes affordable units that utilize federal low-income housing tax credits (LIHTC), pursuant to Section 42 of the Internal Revenue Code or County incentives per a written agreement, which would have a recorded deed restriction. Below is the proposed table describing the possible incentives for developments including affordable, deed restricted units.

Table 3-3.2.2: Affordable Housing Development Incentives		
	Tier One	Tier Two
Description	A minimum of 10% of the units are affordable units	A minimum of 50% of total units are affordable units
Density Bonus	10% above the maximum residential density allowed in the zone district	50% above the maximum residential density allowed in the zone district
Increased Height	1 story not to exceed 15 feet	2 stories not to exceed 30 feet (the overall building height shall not exceed 75 feet)
Reduced Setbacks	No reductions	Setbacks may be reduced up to 50% of the zone district. ¹

Reduced On-site Unobstructed Open Space	No reduction	On-site unobstructed open space may be reduced by up to 10% for affordable units An additional reduction of 50% may be approved if the site is located within 1/2 mi of a public park or open space.
Public Land Dedication for Public Parks	No reduction	Dedication of land or cash-in-lieu is waived for affordable units
Expedited Process	All development with affordable housing qualifies for the two-step Planned Unit Development process	No guest parking is required for affordable units Neighborhood meeting requirements are waived for projects with a minimum of 50% affordable units
Reduced Fees	Planning and Engineering Review Fees shall be reduced by a percentage equal to the percentage of affordable and/or attainable units provided in the development (not to exceed a 50% reduction of the fees)	Planning and Engineering Review Fees shall be reduced by a percentage equal to the percentage of affordable units provided in the development
Reduced Land Use Application Review Timeline	No reduction	1st Review: 20 business days Applicant must attend a comment review meeting with staff prior to resubmitting. 2nd Review: 10 business days 3rd and all other additional reviews: 5 business days
Reduced Building Permit Review Timeline	No reduction	Applicant/developer may submit building permit after the second round of staff comment for Planning and Engineering review
Landscape		
Tree Preservation 4-1.3	No reduction	Waive tree preservation requirements

Landscaping and Screening 4-1.4	No reduction	New development or redevelopment regulations do not apply to 100% affordable and/or attainable housing developments.
Landscaping Design Standards and Guidelines 4-1.4 E.1. c. All development sites excluding single-family detached, shall feature consistently landscaped areas along the front, sides, and rear property line.	No reduction	Remove side landscaping requirement.
<p>1. All projects must comply with all regulations and codes that are general in nature and are applicable to all property subject to the jurisdiction of Arapahoe County, including the International Building Code, as adopted and amended by Arapahoe County; and each applicable fire, plumbing, electrical, and mechanical code in effect on the date a permit is applied for pursuant to each of those codes.</p>		

Staff researched other jurisdictions, including jurisdictions with inclusionary zoning regulations, which require affordable units as part of development, to determine the proposed incentives. The proposed incentives are consistent with what other municipalities are offering to encourage affordable housing development. The City of Centennial held a round table with developers in June of 2023 to discuss inclusionary zoning which provided insight on incentives that are most valuable to developers, the notes on this round table can be found in Attachment F.

Staff has prepared language describing the required agreements for development including the number of affordable units and specific incentives. The affordable units must carry a deed restriction, restrictive covenant, or other form of affordability restrictions that must be recorded in the real property records of the Arapahoe County Clerk and Recorder’s Office. A residential development seeking incentives must provide a Memorandum of Agreement (MOA) with Arapahoe County Public Works and Development, which shall include:

- i. The total number of affordable units being provided and what percentage such units represent within the overall development.
- ii. The type of affordable units being provided (i.e. for sale or rental).
- iii. The type of residential product being provided and number of units per foundation (i.e. single-family, townhome, multi-family).
- iv. The approximate size of the units, number of bedrooms, and estimated market price or rent for each unit.
- v. A summary of the ownership covenants or rental covenants being placed on each affordable unit, including the length of the deed restriction.

- vi. Identification of the specific units or lots being restricted as affordable units; or in a phased development a summary of the process to be used for identifying the specific units or lots to be restricted as affordable prior to the issuance of the first building permit within any given phase of development.
- vii. The process for determining eligible home buyers or rents and an outline of how the affordable housing program will be administered.
- viii. A requirement to submit to Community Resources/Planning Division on an annual basis a summary of the number of affordable units sold in the preceding twelve (12) months and the sale price of each affordable unit sold.

The proposed changes also include design standards and access regulations, timing of construction and violation and penalty. The purpose of the design standards and access regulations and timing of construction are to ensure that the designated affordable units are constructed concurrently or prior to the market-rate units, include comparable construction materials, and have equal access to all amenities within the development. A draft of a MOA for rental units can be found in Attachment G. The final MOA will require additional research and approval from the County Attorney's Office.

Parking Regulations:

House Bill 24-1304 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 which include at least fifty percent of use for residential purposes, and affordable housing developments. Staff is recommending revising the parking regulations to comply with HB24-1304. Staff is recommending one parking space per unit for affordable housing that does not meet the HB24-1304 definition of regulated affordable housing below.

“Regulated Affordable Housing” means Affordable Housing that has received loans grants equity bonds or tax credits, property with restricted use covenant, or similar recorded agreement to ensure affordability, or has been income-restricted as part of inclusionary zoning or another program.”

Additional Types of Residential Uses:

Staff is proposing including additional types of residential uses within the permitted use table to address alternative types of housing, specifically:

- Live-Work Dwelling Unit (permitted use in R-MF and MU)
- Assisted Living Facility (permitted use in R-MF and MU)
- Overnight Shelter (permitted use in R-MF, MU, B-1, B-2, B-3 and I-1)
- Transitional Housing (permitted use in R-MF and MU)

The definitions for these types of residential uses will be drafted after the study session with the BoCC.

Manufactured Home Definitions:

The LDC currently includes definitions for manufactured homes and mobile homes but does not define/address other types of homes like modular or tiny homes. Staff is recommending revising the definition of a manufactured home to include mobile, modular, tiny, and other preconstructed dwelling units or a combination of preconstructed dwelling units constructed in compliance with

federal manufactured home construction safety standards. Manufactured homes do not include recreational vehicles. The proposed regulations would allow for manufactured homes constructed on a foundation (except mobile homes) by right in all residential zone districts. The proposed regulations would also allow for mobile homes in the A-1 and A-E zone districts.

Colorado HB22-1242 regulates tiny homes, which are typically manufactured, where no other construction standards otherwise exist. A tiny home is defined as a structure that is permanently constructed on a vehicle chassis and is designed for long-term residency. The structure shall include electrical, mechanical, or plumbing services that are fabricated, formed, or assembled at a location other than the site of the completed home. The structure shall not be self-propelled and shall not have a square footage of more than 400 square feet. Attachment H includes the proposed definitions of these types of homes and illustrations.

Mobile Home Parks or Subdivision Regulations:

Staff is recommending amending Section 2.3-1.3 R-M, Residential – Manufactured/Mobile Home and Section 3-3.2.C Manufactured/Mobile Home Parks or Subdivision of the LDC to alleviate some barriers to creating Manufactured/Mobile Home Parks and/or Subdivisions. Staff researched other jurisdictions and is recommending reducing parking and access requirements. Currently, the LDC requires manufactured/mobile home parks or subdivisions to abut or have access to streets and highways no less than 60 feet wide for two-way traffic and two off-street parking spaces for each residence. Staff is recommending removing this requirement and including standards for internal access drives. Staff is also recommending reducing the required number of off-street parking to one space per residence.

ACTION REQUESTED

The attached PowerPoint presentation highlights specific areas for which staff requests Planning Commission discussion and recommendations. Staff expects to take this proposal to the Board of County Commissioners for discussion and direction in the first quarter of 2025. After receiving direction from the Board of County Commissioners staff will make any necessary revisions prior to conducting public outreach, including the development community, and preparing this item for public hearing with the Planning Commission and the Board of County Commissioners.

ATTACHMENTS

- A. LDC Affordable Housing Proposed Amendment
- B. HB24-1304 Minimum Parking Requirements
- C. Arapahoe County Affordable Housing Commitment
- D. HB24-1313 Housing in Transit-Oriented Communities
- E. Proposition 123 Affordable Housing Programs
- F. Centennial Round Table Notes
- G. Draft Memorandum of Agreement
- H. Manufactured Homes Definitions and Illustrations