



To: City Council and Planning Commission

From: Jeff Brasel and Heather Vidlock, Community Development

Subject: Land Development Code Update – Joint City Council and Planning Commission Study Session

Date: April 14, 2025

Background:

The City is currently in the process of updating the Land Development Code which is the zoning and subdivision regulations for the City. For the last two years, Kendig Keast Collaborative, the consultant for the Land Development Code (LDC) update has been working on the draft code and working with staff, City Council, and Planning Commission to receive direction and edits on the draft code. The draft code sections were reviewed by Council on January 27, 2025 and Planning Commission on January 28, 2025. This joint study session will focus on two main items:

- **Development Review Procedure Changes:** The January meetings provided an overview of Modules 1–4, focusing on changes to development review procedures. These include streamlining the process by replacing Use By Permits with new Limited Use Permits, allowing more uses to be approved administratively instead of by the Board of Adjustments. Improvements were also discussed to give the community, City Council, and Planning Commission earlier input through new Preliminary Plat and Master Development project types. Due to differing feedback from separate discussions with Council and Planning Commission, staff will revisit these topics in this joint session to ensure alignment.
- **State Land Use and Housing Laws:** A key goal of this LDC update is to align with recent state housing and land use bills passed in 2024. This study session will review those bills, discussing their intent, requirements, and the proposed adjustments to the LDC.

Development Review Procedure changes:

Some notable proposed changes to the Development Review Procedures are as follows:

- Use By Permits will be replaced with Limited Use Permits and would no longer go to Board of Adjustments.

Limited uses are considered uses that are allowed within a zone district but are subject to specific design or operational standards that must be met for the use to be allowed. The

standards are specified in the code and provide for a more predictable outcome for classified limited uses, rather than relying on negotiation on a case-by-case basis.

Because the use standards are documented in the code and that a use or development must demonstrate compliance prior to approval, Limited Use Permits would be Administrative. If a proposed use does not or cannot meet the standards, it would not be allowed.

This would streamline the process for simpler land uses that do not require a Conditional Use Permit. Conditional Use Permits will still be subject to recommendation by Planning Commission and final action by City Council. Conditional uses are generally uses that may be permitted within a zone district, but due to certain operational aspects of the use, the use may have impacts to adjacent properties unless properly mitigated. Potential impacts often vary depending on the specific proposal and locational factors. Given that adequate mitigation might depend on factors specific to the proposed use, the use warrants additional scrutiny and vetting in a public manner. Both Limited Use Permits and Conditional Use Permits would run with the land.

Examples of Limited uses include:

Places of Worship in Residential
Day Care Uses
Doggy Day Care in Commercial
Car Wash
Community Garden
Brewpub in Commercial
Fuel Sales
Marijuana Use
Vehicle Servicing minor in Commercial/major in industrial
Above Ground Storage Tanks
Self Storage
Outdoor Storage in Industrial

Examples of Conditional Uses Include:

Above Ground Storage Tanks greater than 48,000 gallons
Electric Substations
Major Utilities

Hazardous Waste Collection

Landfill Disposal Site

Vehicle Sales greater than 3 acres

Commercial Parking in Commercial Zones

- Introduction of the Preliminary Plat application type. A Preliminary Plat shows the layout of lots, streets, and public spaces for future development. It is accompanied by preliminary engineering that allows the City to review the proposal at an early stage to determine compliance with the standards in the LDC as well as feasibility of engineering. The Preliminary Plat would be forwarded to Planning Commission for recommendation and City Council for action earlier in the development process in exchange for eliminating the option of Council calling up Final Plats. The development community supports this change because it takes away the uncertainty from the Final Plat process when costly final engineering design of construction plans has occurred, while at the same time allowing for public review of the proposal earlier in the process before significant expense is incurred and it is harder to change the design.
- Introduce the Master Development Plan project type for larger developments to coordinate between multiple filings and complex mixed-use developments. The Master Development Plan shows how different filings of a subdivision coordinate on a residential development plan. For a mixed-use development the Master Development Plan shows the layout of streets, block patterns and land uses. The Master Development Plans would be subject to Planning Commission recommendation and City Council approval. This new development plan supports the movement away from PUDs to straight zoning.

State Housing and Land Use Laws

Several housing and land use bills were passed by the state in 2024 that have shaped specific standards in the land development code. The following is an abbreviated summary of these laws that will be discussed in greater detail at the study session:

- **Refinements to Residential Occupancy Limits (HB 24-1007).** To make it easier to share homes between un-related occupants and address housing affordability issues, this law prohibits occupancy requirements based on family relationships but permits limits based solely on health and safety standards (e.g., building codes, fire regulations, public health, water quality) or state/federal affordable housing guidelines. Our current building code (which is referenced in our LDC) limits occupancy to three unrelated adults per home, which conflicts with the law. To align with the law while ensuring health and safety, staff recommends adopting International Property Maintenance Code standards that base occupancy limits on bedroom size.

- **Exemptions to Minimum Off-Street Parking Requirements (HB 24-1304).** To allow the potential for more housing to be built and align the parking requirements with market needs, this law prohibits minimum off-street parking requirements within transit service areas, as defined by the state, for multi-family developments. Municipalities have the option of requiring one parking space per unit for projects with 20+ units or affordable housing. The city may impose this requirement only if the city conducts an analysis showing a substantial negative impact on pedestrian, bicycle, or emergency access, and that the city's parking management strategies would not mitigate the identified impact.
- **Allowance of Accessory Dwelling Units (HB 24-1152).** An accessory dwelling unit (ADU) is a smaller dwelling on the same lot as a primary unit, whether attached, enclosed, or detached. To increase housing options for smaller and lower-income households, this law requires municipalities to allow one ADU where single-family detached units are permitted. Municipalities cannot mandate owner occupancy for ADUs, except in limited cases.
- **Ban on Non-Functional and Artificial Turf (HB 24-005).** To reduce water use and promote drought-tolerant plants, this law bans nonfunctional turf, artificial turf, and invasive species on commercial, institutional, industrial, common interest community properties, and rights-of-way. Nonfunctional turf is defined as grass not used for active recreation, such as sports fields or playgrounds.
- **Housing in Transit-Oriented Communities (HB 24-1313).** To increase housing affordability and supply near transit stops, this law requires a housing goal and zoning districts in place to support it near transit stations. Commerce City has one station area at 72nd Avenue and Colorado Blvd. The law also requires municipalities to identify affordability and displacement mitigation strategies. Staff is currently assessing housing goal and coordinating with Adams County for the unincorporated areas. A follow-up study session will be scheduled in the coming months to discuss this law in greater detail.

Next Steps:

The LDC as currently drafted is in a rough draft format. Staff is working with the consultant team to refine the draft code into a public draft. Our next steps will be to work with the consultant to create the public draft of the LDC with staff's comments and launch the draft LDC on the City's web site. We will use the web page in conjunction in person and virtual opportunities to engage with the public, the development community and our government partners on the draft code.

The public draft of the code will be made available in May followed by community engagement throughout the summer with tentative plans to have additional joint study sessions with City Council and Planning Commission to discuss input received through the public engagement process and ask for feedback on the draft code from Planning Commissioners and Council Members prior to advancing the code for adoption. Public Hearings before Planning Commission and City Council on the draft LDC are planned for late summer.

Actions:

Provide feedback on Development Review Procedures and State Housing and Land Use laws.